

MALTA

ATT Nru. IX ta' l-1993

ACT No. IX of 1993

ATT mahruġ b'liġi mill-Parlament ta' Malta.

AN ACT enacted by the Parliament of Malta.

ATT biex jemenda l-Att dwar l-Iżvilupp Industrijali, Kap. 325.

AN ACT to amend the Industrial Development Act, Cap. 325.

Nagħti l-kunsens tiegħi.

(L.S.)

ĊENSU TABONE
President

2 ta' April, 1993

ATT Nru. IX ta' l-1993

ATT biex jemenda l-Att dwar l-Iżvilupp Industrijali, Kap. 325.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, mlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareġ b'ligi dan li ġej:—

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1993 li jemenda l-Att dwar l-Iżvilupp Industrijali, u għandu jinqara u jiftiehem haġa waħda ma' l-Att dwar l-Iżvilupp Industrijali, hawnhekk aktar 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor
u bidu fis-sehh.
Kap. 325.

(2) Id-dispożizzjonijiet ta' dan l-Att għandhom jitqiesu li bdew isehhu fl-1 ta' Jannar, 1992.

2. L-artikolu 2 ta' l-Att prinċipali għandu jigi emendat kif ġej:

Emenda ta'
l-artikolu 2
ta' l-Att
prinċipali.

(a) minnufih wara t-tifsira ta' "*accountant* u uditur pubbliku ċertifikat", għandha tidhol it-tifsira ġdida li ġejja:

“bejgh esportat” ifisser:

(a) il-valur tal-prodotti esportati minn kumpanija kwalifikanti meqjus *free on board*; jew

(b) il-valur skond il-fattura ta' prodotti jew servizzi mibjugħa jew mogħtija, skond il-każ, minn kumpanija kwalifikanti lil kumpanija kwalifikanti oħra permezz ta' kuntratt bil-miktub li jipprovdi espressament li l-

kumpanija kwalifikanti li qed tixtri l-imsemmija prodotti jew servizzi se tesporthom jew l-istess kif xtrathom, jew soġġetti għall-ipproċessar ulterjuri jew inkorporati fi prodotti jew servizzi oħra, dejjem jekk din l-esportazzjoni tkun fil-fatt saret:

Iżda dan l-imsemmi kuntratt irid jipprovdi wkoll illi uffiċjal debitament awtorizzat biex jiffirma għan-nom tal-kumpanija li qed tixtri jagħti lill-kumpanija li qed tbiegħ dikjarazzjoni bil-miktub li tikkonferma li l-imsemmija prodotti jew servizzi kienu ġew esportati flimkien ma' kopja awtentikata minnu tad-dokumenti relattivi ta' l-esportazzjoni u l-ghoti ta' xi benefiċċju a bażi ta' dak li jipprovdi dan il-paragrafu huwa suġġett għal kundizzjoni li l-benefiċjarju jipproduci din id-dikjarazzjoni u dokumenti flimkien ma' ċertifikat ta' l-udituri tal-kumpanija li qed tixtri li jikkonferma li d-dikjarazzjoni ta' l-uffiċjal imsemmi hija sostanzjalment korretta; jew

(ċ) il-valur ta' servizzi mogħtija jew imwettqa minn kumpanija kwalifikanti li jkunu esportati mill-istess kumpanija;”;

(b) wara t-tifsira ta' “bejgħ esportat” għandha tidhol din it-tifsira ġdida:

“ “dhul minn bejgħ esportat” ifisser “bejgħ esportat”;”;

(ċ) fit-tifsira ta' “kumpanija Maltija”, minflok il-kliem “fi tqassim; u” għandu jidhol il-kliem “fi tqassim; jew”; u

(d) minnufih wara t-tifsira ta' “preskritt” għandha tidhol it-tifsira li ġejja:

“ “programm ta' riċerka u żvilupp” tfisser programm ta' stharrig jew riċerka sistematiki mwettqa f'kull kamp tax-xjenza jew tat-teknoloġija permezz ta' esperimentazzjoni jew analiżi, u jinkludi:

(a) riċerka bażika li tikkonsisti f'attivitajiet magħmula għall-avvanz ta' l-għerf xjentifiku jew teknoloġiku;

(b) riċerka applikata li ssir bl-iskop li finalment tiġi applikata b'mod speċifiku;

(ċ) żvilupp li jinvolvi l-użu ta' riżultati ta' riċerka bażika u applikata kif imsemmi qabel bl-iskop li jiġi maħluq materjal ġdid jew jiġi mtejjeb materjal, metodi, prodotti jew proċessi eżistenti, iżda ma jinkludix id-disinn, il-provi u l-analiżi ta' rutina jew li jsir minn żmien

ghal żmien ta' tagħmir jew prodotti għall-fini ta' kontroll tal-kwalità jew tal-kwantità, u t-tibdil ta' rutina jew li jsir minn żmien għal żmien ta' prodotti jew proċessi li diġà jeżistu.”.

3. L-artikolu 3 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 3 ta' l-Att prinċipali.

(a) fis-subartikolu (1), paragrafu (b) tiegħu, minflok il-kliem “impjant, makkinarju jew tagħmir.”; għandu jidhol il-kliem “impjant, makkinarju jew tagħmir; jew”

(b) minnufih wara l-paragrafu (b) tas-subartikolu (1) tiegħu għandhom jidhlu l-paragrafi li ġejjin:

“(ċ) akwakultura fuq skala kbira; jew

(d) ortikoltura fuq skala kbira; jew

(e) l-ġhoti ta' servizzi minn kumpanija lil persuni mhux residenti, kemm jekk is-servizz jiġi mwettaq jew mogħti f'Malta jew minn Malta, iżda servizz bħal dan irid ikun ġie stabbilit mill-Ministru bħala servizz għall-esportazzjoni kwalifikanti; jew

(f) l-ġhoti ta' servizz ta' appoġġ kwalifikanti kif jista' jiġi stabbilit mill-Ministru; jew

(g) l-esportazzjoni ta' prodotti jew servizzi prodotti jew mogħtija skond il-każ, minn kumpaniji kwalifikanti ohra; jew

(h) programmi ta' riċerka u ta' żvilupp.”;

(ċ) is-subartikoli (2), (3), (4) u (5) tiegħu għandhom jiġu enumerati mill-ġdid bħala (5), (6), (7) u (8) rispettivament;

(d) minnufih wara s-subartikolu (1) tiegħu, għandhom jidhlu dawn it-tliet subartikoli ġodda li ġejjin:

“(2) Minkejja kull dispożizzjoni ohra f'dan l-Att, f'każ ta' attivitajiet imsemmija fil-paragrafi (ċ), (d), (e), (f), (g) u (h) tas-subartikolu (1) ta' dan l-artikolu, l-inċentivi u l-benefiċċji kontemplati b'dan l-Att ikunu biss dovuti lejn u jinkisbu minn kumpanija wara l-approvazzjoni tal-proġett mill-Korporazzjoni, u fl-ġhoti ta' din l-approvazzjoni kif imsemmi, il-Korporazzjoni tista' timponi dawk il-kundizzjonijiet li jidhrilha xierqa.

(3) Minkejja kull dispożizzjoni ohra f'dan l-Att, l-inċentivi u l-benefiċċji mogħtija bl-artikolu 4 u 5 ta' dan l-Att ma jkunux dovuti u ma jinkisbux minn kummerċ jew negozju li jikkwalifika taht il-paragrafu (g) tas-subartikolu (1) ta' dan l-artikolu.

(4) Kumpanija li tikkwalifika taht il-paragrafu (h) tas-subartikolu (1) ta' dan l-artikolu tikkwalifika biss ghal dawk l-incentivi u beneficiċċi kkontemplati b'dan l-Att skond kif jista' jistabbilixxi l-Ministru. B'zieda ma' dawn l-incentivi, il-Ministru jista' wkoll jistabbilixxi incentivi u beneficiċċi speċjali oħra, li jinkludu ghotjiet ta' flus, li jistghu jinghataw lil dawn il-kumpaniji.”;

(e) fis-subartikolu (5) tiegħu kif enumerat mill-ġdid, minflok il-kliem “s-servizz imsemmi fil-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu”, ghandhom jidhlu l-kliem “is-servizzi msemmija fil-paragrafi (b), (f) u (g) tas-subartikolu (1) ta' dan l-artikolu”;

(f) fis-subartikolu (7) tiegħu kif enumerat mill-ġdid, minflok il-kliem “subartikolu (3)” ghandhom jidhlu l-kliem “subartikolu (6)”;

(g) fis-subartikolu (8) tiegħu kif enumerat mill-ġdid, minnufih wara l-kliem “magħmul wara dik id-data” ghandu jidhol dan il-proviso li ġej:

“Izda, minkejja kull dispożizzjoni oħra ta' dan l-Att fir-rigward ta’:

(a) proġetti approvati mill-Korporazzjoni taht il-paragrafi (ċ), (d), (e), (f), (g) u (h) tas-subartikolu (1) ta' dan l-artikolu; jew

(b) it-thaddim tal-paragrafi (b) u (d) tat-tifsira ta' “bejgħ esportat” fl-artikolu 2,

l-incentivi u l-benefiċċi kkontemplati f'dan l-Att ma jkunux dovuti rigward attivitajiet li jsehhu qabel l-1 ta' Jannar, 1992, u fir-rigward ta' qliegh jew profitti magħmula qabel dik id-data.”;

(h) minnufih wara s-subartikolu (8) tiegħu kif enumerat mill-ġdid ghandu jidhol is-subartikolu ġdid li ġej:

“(9) Il-Ministru ghandu f'Jannar ta' kull sena jippubblika lista fil-Gazzetta ta' kumpaniji li hadu beneficiċċi taht il-paragrafu (h) tas-subartikolu (1) ta' dan l-artikolu flimkien ma' deskrizzjoni ġenerali ta' l-attivitajiet tal-kumpanija u ta' xi *cash grants* li tibbenefika minnhom il-kumpanija skond dan l-Att.”.

Emenda ta'
l-artikolu 4
ta' l-Att
prinċipali.

4. L-artikolu 4 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) minflok il-paragrafu (b) tas-subartikolu (1) tiegħu ghandu jidhol dan li ġej:

“(b) bla hsara ghad-disposizzjonijiet tas-subartikolu (5) ta’ dan l-artikolu, iddahhal minn bejgh esportat mhux anqas minn hamsa u disghin fil-mija tad-dhul kollu mill-bejgh, u”;

(b) fis-subartikolu (2) tieghu, minflok il-kliem “tesporta anqas minn hamsa u disghin fil-mija tal-produzzjoni” ghandhom jidhlu l-kliem “iddahhal minn bejgh esportat anqas minn hamsa u disghin fil-mija tad-dhul mill-bejgh; u

(c) fis-subartikolu (5) tieghu, minflok il-kliem “f’kull linja partikolari ta’ produzzjoni jew manifattura” ghandhom jidhlu l-kliem “f’kull linja partikolari ta’ produzzjoni, manifattura jew servizz”.

5. L-artikolu 5 ta’ l-Att princġipali ghandu jiġi emendat kif ġej:

Emenda ta’
l-artikolu 5
ta’ l-Att
princġipali.

(a) minnufih wara l-paragrafu (c) tas-subartikolu (3) tieghu, ghandu jidhol dan il-paragrafu li ġej:

“(d) fejn kumpanija ma kenitx kostitwita matul sena ta’ stima kompriża fi żmien bażi, il-kumpanija titqies bħala li kellha profitt zero matul dik is-sena ta’ stima.”; u

(b) is-subartikolu (7) tieghu ghandu jiġi mħassar.

6. Minnufih wara s-subartikolu (5) ta’ l-artikolu 7 ta’ l-Att princġipali ghandu jidhol dan is-subartikolu ġdid li ġej:

Emenda ta’
l-artikolu 7
ta’ l-Att
princġipali.

“(6) Kumpanija tista’ tikkwalifika għall-*allowance* taht dan l-artikolu għall-perijodu ta’ hamsa u għoxrin sena konsekuttivi li jibdeu mis-sena ta’ stima 1988 fil-każ ta’ kumpaniji reġistrati qabel l-1 ta’ Ġunju, 1987 u mill-ewwel sena ta’ stima fil-każ ta’ kumpaniji reġistrati fi jew wara l-1 ta’ Ġunju, 1987:

Iżda l-Ministru jista’ minn żmien għal żmien b’avviż fil-Gazzetta jżid l-imsemmi perijodu b’perijodu jew perijodi ohra li ma jaqbzux il-hamsa u għoxrin sena.”.

7. Fis-subartikolu (1) ta’ l-artikolu 11 ta’ l-Att princġipali, minflok il-kliem “mija u għoxrin fil-mija” ghandhom jidhlu l-kliem “mija u erbgħin fil-mija”.

Emenda ta’
l-artikolu 11
ta’ l-Att
princġipali.

8. Minflok l-ewwel paragrafu għas-subartikolu (1) ta’ l-artikolu 12 ta’ l-Att princġipali ghandu jidhol dan il-paragrafu introdutturju ġdid li ġej:

Emenda ta’
l-artikolu 12
ta’ l-Att
princġipali.

“Fil-każ ta’ kumpanija kwalifikanti, li ma tkunx kumpanija li taqa’ taht il-paragrafu (h) tas-subartikolu (1) ta’ l-artikolu 3 ta’ dan l-Att, id-dispożizzjonijiet tal-paragrafu (h) u (i) tas-subartikolu (1) ta’ l-artikolu 13 ta’ l-Att dwar it-Taxxa fuq l-*Income* ghandhom għal xi sena li fiha l-kumpanija tkun intitolata għal tnaqqis taht dawk il-paragrafi mis-sena ta’ stima 1988 —”.

9. L-artikolu 16 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “għall-akkwist ta' mpjant, makkinarju u attivi fissi ġodda oħra, iżda esklużi art u bini”, għandhom jidhlu l-kliem “għall-akkwist ta' mpjant, makkinarju u attivi fissi oħra, iżda esklużi art u bini”;

(b) minflok il-paragrafu (a) tas-subartikolu (2) tiegħu għandu jidhol dan li ġej:

“(a) ikunu ġodda u jiġu akkwistati mill-kumpanija mhux użati u mhux *second hand*, u”;

(ċ) minnufih wara paragrafu (ċ) tas-subartikolu (2) tiegħu għandhu jidhol dan il-proviso li ġej:

“Izda, il-Korporazzjoni tista' tagħti self kif provdut fis-subartikolu (1) ta' dan l-artikolu għall-akkwist ta' mpjant, makkinarju u apparat li jkun ġie attrezzat jew kundizzjonat mill-ġdid u sew jekk użat jew *second hand* skond it-termini u l-kundizzjonijiet speċifikati fil-paragrafi (b) u (ċ) ta' dan is-subartikolu, iżda r-rata ta' imghax mitluba mill-Korporazzjoni fuq self mogħti taħt dan il-proviso għandha tkun ir-rata massima li tista' tintalab fuq self bħal dan skond id-direttivi mahruġa minn żmien għal żmien mill-Ministru responsabbli għall-finanzi taħt l-Att dwar il-Kummerċ Bankarju.”;

Kap. 215.

(d) minflok is-subartikolu (5) tiegħu għandu jidhol dan li ġej:

“(5) Il-hlas lura tal-kapital kif ukoll il-hlas ta' l-imghax fuq kull self mogħti taħt dan l-artikolu għandu jiġi sugġett għal ipoteka ġenerali fuq il-proprjetà tal-kumpanija li tircievi s-self, b'żieda ma' kull garanzija oħra li tista' titlob il-Korporazzjoni:

Izda għall-finijiet tat-Title XXIII tat-Taqsima II tat-Tieni Ktieb tal-Kodiċi Ċivili, il-Korporazzjoni tista' tippermetti li d-debitu dwar self dovut lil jew faċilità bankarja oħra mogħtija minn istituzzjoni finanzjarja f'Malta għandu jiġi eżatt qabel l-ipoteka ġenerali jew garanzija oħra favur il-Korporazzjoni dwar dak is-self;

Izda wkoll il-Korporazzjoni tista' wkoll taċċetta garanzija ta' bank ewlieni jew garanzija oħra simili dwar is-self mogħti minnha minflok jew b'żieda ma' l-ipoteka ġenerali msemmija qabel.”;

(e) minflok il-proviso għas-subartikolu (6) tiegħu għandu jidhol dan li ġej:

“Izda sakemm il-Korporazzjoni ma tipprovdi mod ieħor, tul l-ewwel sentejn wara l-ewwel hlas mis-self, il-Kumpanija għandha thallas biss l-imghax fuq is-self.”; u

(f) fis-subartikolu (10) tiegħu, il-kliem “ta' l-1972” għandhom jithassru u minflokhom għandhom jiżiedu l-kliem “Kap. 233” fil-margini.

10. Fil-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 17 ta' l-Att prinċipali, minnufih wara l-kliem "fis-subartikolu (1) ta' l-artikolu 3 ta' dan l-Att" għandhom jidhlu l-kliem "u biex jiġu inkorporati fi prodotti għall-esportazzjoni"; u immedjatament wara s-subartikolu (1) ta' l-artikolu 17 ta' l-Att prinċipali għandu jidhol dan il-proviso ġdid li ġej:

Emenda ta' l-artikolu 17 ta' l-Att prinċipali.

"Iżda fejn jidhriha xieraq fir-rigward ta' xi tip ta' attività l-Korporazzjoni tista' tohrog ċertifikat ta' eżenzjoni jew riduzzjoni skond il-paragrafu (b) ta' dan is-subartikolu minkejja illi l-bejgħ ta' prodotti ma jkunx għall-esportazzjoni.";

u minflok il-kliem "Kap. 265" fin-nota marginali tas-subartikolu (4) ta' l-artikolu 17 ta' l-Att prinċipali, għandu jidhol il-kliem "Kap. 337".

11. L-artikolu 18 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 18 ta' l-Att prinċipali.

(a) fil-paragrafu (ċ) tas-subartikolu (2) tiegħu il-kliem "ta' l-1959" għandhom jithassru u l-kliem "Kap. 158" għandhom jiżiedu fil-margini; u

(b) minnufih wara s-subartikolu (4) tiegħu għandu jiżied is-subartikolu li ġej:

"(5) B'effett mill-1 ta' Jannar, 1993, ebda taxxa ma għandha tithallas taht l-Att dwar it-Taxxa fuq Dokumenti dwar xi kuntratt jew skrittura ohra li permezz tagħhom isir trasferiment ta' art skond id-dispożizzjonijiet ta' dan l-artikolu."

Kap. 294

12. L-artikolu 19 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 19 ta' l-Att prinċipali.

(a) is-subartikoli (2) u (3) tiegħu għandhom jiġu rispettivament enumerati mill-ġdid bħala (6) u (7);

(b) wara s-subartikolu (1) tiegħu għandhom jidhlu dawn is-subartikoli li ġejjin:

"(2) Meta l-Korporazzjoni tkun sodisfatta illi nhar jew wara l-1 ta' Jannar, 1993, persuna impjegata *full time* fi grad ta' *supervisor* jew oghla u li tkun ilha hekk impjegata mal-kumpanija għal mill-inqas tliet snin, li tattendi għal programm ta' taħriġ li jwassal għal ċertifikat fit-taħriġ jew fis-sengħa tat-taħriġ approvat minn qabel mill-Korporazzjoni u li għandu x'jaqsam ma' l-attivitajiet tal-kumpanija, il-Korporazzjoni tista' tagħti għotja għal taħriġ lill-kumpanija li tkun ekwivalenti għal nofs l-ispiza attwali tat-taħriġ mhallsa mill-kumpanija.

(3) Meta l-Korporazzjoni tkun sodisfatta illi, nhar jew wara l-1 ta' Jannar, 1993, persuna impjegata *full-time* għal perijodu indefinit minn kumpanija kwalifikanti tattendi programm ta' taħriġ sabiex takkwista sengħa ġdida meħtieġa

mill-kumpanija minhabba introduzzjoni ta' teknoloġija jew metodi ta' produzzjoni godda u dan il-programm ta' taħriġ jiġi approvat minn qabel mill-Korporazzjoni, il-Korporazzjoni tista' tagħti għotja għal taħriġ lill-kumpanija ekwivalenti għal nofs il-paga minima fil-ġimgħa skond il-liġi għal kull ġimgħa ta' taħriġ attwali sa żmien li ma jkunx aktar minn tmienja u erbghin ġimgħa:

Iżda kumpanija għandha tikkwalifika għal għotja bħal din fir-rigward biss ta' impjegati li ma jkunux ibbenefikaw taht din, l-iskema matul is-sentejn li jiġu qabel is-sena li għaliha għandha tithallas din l-għotja.

(4) Meta l-Korporazzjoni tkun sodisfatta illi nhar jew wara l-1 ta' Jannar, 1993, persuna *full-time* impjegata fil-*management* li tkun ilha hekk impjegata ma' kumpanija kwalifikanti għal mill-inqas tliet snin u li jew tkun kwalifikata f'kamp speċifiku ta' *management* jew teknika jew ikollha mhux inqas minn tliet snin ta' esperjenza manigerjali jew teknika, tattendi għal kors fil-*management development training* jew kors ta' *technical upgrading* li jkun gie approvat minn qabel mill-Korporazzjoni, il-Korporazzjoni tista' tagħti għotja li tkun ekwivalenti għal nofs l-ispiza attwali tat-taħriġ mhallsa mill-kumpanija.

(5) Meta l-Korporazzjoni tkun sodisfatta illi nhar jew wara l-1 ta' Jannar, 1993 persuna impjegata *full-time* għal perijodu indefinit minn kumpanija kwalifikanti tattendi għal programm ta' taħriġ li jkun neċessarju minhabba tibdil totali fl-impieg tagħha fil-kumpanija, liema programm ikun gie approvat minn qabel mill-Korporazzjoni, il-Korporazzjoni tista' tagħti għotja lill-kumpanija ekwivalenti għal nofs il-paga minima fil-ġimgħa skond il-liġi għal kull ġimgħa ta' taħriġ attwali magħmul minn dak l-impjegat sa żmien li ma jkunx iktar minn tmienja u erbghin ġimgħa.”;

(ċ) fis-subartikolu (6) tiegħu kif enumerat mill-ġdid, minflok il-kliem “tal-paga minima fil-ġimgħa skond il-liġi” għandhom jidhlu l-kliem “tal-paga minima skond il-liġi jew ta' l-ispiza attwali tat-taħriġ skond il-każ li jkun”.

Emenda ta' l-artikolu 20 ta' l-Att prinċipali.

13. Fis-subartikolu (1) ta' l-artikolu 20 ta' l-Att prinċipali minflok il-kliem “mhux aktar minn Lm350,000” għandhom jidhlu l-kliem “mhux aktar minn Lm600,000”.

Emenda ta' l-artikolu 23 ta' l-Att prinċipali.

14. L-artikolu 23 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (2) tiegħu għandu jidhol dan is-subartikolu li ġej:

“(2) Il-Korporazzjoni għandha tagħti għotja lil kumpanija Għawdxija biex tkopri l-ispejjeż attwali, addizzjonali u meħtieġa għat-trasport li tkun hallset il-kumpanija biex tittrasporta:

(a) bejn Malta u Ghawdex makkinarju, impjant, materjal, merkanzija jew prodotti li ghandhom x'jaqsmu ma' l-attivitajiet taghha f'Ghawdex konnessi ma' l-esportazzjoni;

(b) minn Malta ghal Ghawdex materjal li ghandu x'jaqsmu ma' l-attivitajiet taghha f'Ghawdex kemm jekk dawn l-attivitajiet ikollhom x'jaqsmu ma' l-esportazzjoni jew le.”;

(b) is-subartikolu (5) tieghu ghandu jigi mhassar; u

(c) is-subartikolu (6) tieghu ghandu jigi enumerat mill-gdid bhala s-subartikolu (5).

15. Minflok l-artikolu 24 ta' l-Att prinċipali ghandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 24 ta' l-Att prinċipali.

“Inċentivi lil negozju żgħir.

24. (1) Il-Korporazzjoni tista', fid-diskrezzjoni taghha, taghti lil negozju żgħir:

(a) helsien mid-dazju skond l-artikolu 17 ta' dan l-Att; u

(b) bini, strutturi u art industrijali b'dawk il-kundizzjonijiet li l-Korporazzjoni tista' minn żmien ghal żmien tiddeċiedi;

minkejja li dak in-negozju żgħir ma jkunx kumpanija kwalifikanti.

(2) Fis-subartikolu (1) ta' dan l-artikolu “negozju żgħir” tfisser persuna li mhix kumpanija, li tmexxi jew teżerċita kummerċ jew negozju maħsuba fil-paragrafi (a) sa (h) tas-subartikolu (1) ta' l-artikolu 3 ta' dan l-Att.”.

16. L-artikolu 36 ta' l-Att prinċipali ghandu jigi emendat kif ġej:

Emenda ta' l-artikolu 36 ta' l-Att prinċipali.

(a) minflok is-subartikoli (1), (2) u (3) tieghu ghandhom jidhlu dawn is-subartikoli li ġejjin:

“(1) Kumpanija kwalifikanti li tkun qeghda tircievi xi wiehed mill-inċentivi u beneficiċċji msemmija fis-subartikolu (4) ta' dan l-artikolu ghandha, fi tmiem il-perijodu ta' kontegġ li matulu l-inċentiv jew il-benefiċċju ghandu jitnizzel fil-kotba, tittrasferixxi u turi fil-karta tal-bilanċ taghha fid-data msemmija riserva li tissejjah “Riserva dwar Inċentivi u Benefiċċji” f'somma li tkun daqs l-ammonti li hemm jintwerew. Din ir-riserva ghandha turi kull ammont trasferit taht il-paragrafu (a) tas-subartikolu (4) u kull ammont trasferit taht il-paragrafu (b) tas-subartikolu (4) ta' dan l-artikolu separatament.

(2) Għall-finijiet tas-subartikolu (1) ta' dan l-artikolu, il-profitti disponibbli għal trasferiment lil dik ir-riserva għandhom ikunu l-profitti kkalkulati skond id-dispożizzjonijiet ta' l-Att dwar it-Taxxa fuq l-*Income* u ta' dan l-Att, u meta fi tmiem ta' xi perijodu ta' kontegġ kif intqal qabel, il-profitti hekk ikkalkulati huma tali li r-riserva, jew l-ammont kollu tagħha, ma jistax jitwarrab f'dak il-perijodu, l-obbligu li jiġu trasferiti l-profitti ġewwa r-riserva għandu jingieb 'il quddiem, f'parti minnu jew kollu kemm hu, skond il-każ, għall-perijodu ta' kontegġ sussegwenti u għandu jitqies bhala obbligu għal dak il-perijodu, u jibqa' għaddej b'dan il-mod għall-perijodi ta' wara:

Iżda meta kumpanija tinghata rata ta' taxxa ta' *income* mnaqqsqa taht l-artikolu 6 ta' dan l-Att u l-kumpanija ma tistax tittrasferixxi għar-Riserva dwar l-Inċentivi u Benefiċċji somma ekwivalenti għall-ammont totali ta' profitti approvati wara li jitnaqqsu l-ammont ta' taxxa b'applikazzjoni ta' l-artikolu 6 fi żmien sentejn li jiġu wara l-perijodu ta' investment relevanti, il-kumpanija minnufih ikollha obbligu li thallas taxxa fuq din id-differenza skond id-differenza bejn ir-rata normali ta' taxxa u r-rata ta' taxxa mnaqqsqa.

Iżda wkoll l-ammont shih ta' xi differenza bhal din fit-trasferimenti għar-riserva dwar Inċentivi u Benefiċċji u l-*contingent liability* ta' taxxa relattiva, għandhom jintwerew separatament b'nota fil-karta tal-bilanċ sakemm id-dispożizzjonijiet ta' dan l-artikolu jiġu osservati.

(3) Riserva magħmula skond id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għandha, sakemm mhux provdut mod iehor f'dan l-artikolu, tinżamm separatament fil-karta tal-bilanċ tal-kumpanija u ma għandhiex tiġi distribwita jew konvertita f'azzjonijiet tal-kumpanija. Anqas ma għandha r-riserva msemmija tiġi ridotta biex issir tpaċija ma' telf tal-kumpanija, kemm jekk dan it-telf ikun ta' natura ordinarja jew ta' natura straordinarja, jew jekk dan it-telf ikun ta' xorta kapitali jew ta' xorta ta' dħul:

Iżda minkejja dak kollu li jinghad f'dan is-subartikolu, kull ammont trasferit fir-Riserva dwar Inċentivi u Benefiċċji taht il-paragrafu (a) tas-subartikolu (4) ta' dan l-artikolu jista', wara li jgħaddu tmien snin mill-eghluq tal-perijodu ta' investment approvat, jiġi applikat mill-kumpanija biex jiġi thallas maħruġa biex jinħarġu bhala *bonus shares* imħallsa għal kollox. Din id-distribuzzjoni ma tkunx taxxabli.”; u

(b) minflok l-ewwel paragrafu tas-subartikolu (5) tiegħu għandu jidhol dan li ġej:

“(5) Tqassim magħmul lill-membri ta’ kumpanija fil-kors ta’ l-istralċjar tal-kumpanija minn xi riserva mwaqqfa skond id-dispożizzjonijiet ta’ dan l-artikolu ma għandux ikun sugġett għal taxxa taht l-Att dwar it-Taxxa fuq l-*Income*:”.

17. L-artikolu 45 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’
l-artikolu 45
ta’ l-Att
prinċipali.

(a) minflok il-kliem “Ordinanza ta’ l-1959 dwar l-Għajnuna lill-Industriji”, kull fejn jidhru, għandhom jidhlu l-kliem “Ordinanza dwar l-Għajnuna lill-Industriji” u l-kliem “Kap. 159” għandhom jidhlu fil-margini biswit fejn jinsabu l-kliem “Ordinanza dwar l-Għajnuna lill-Industrija” għall-ewwel darba; u

(b) fis-subartikolu (1) tiegħu minflok il-kliem “fil-paragrafi (a) jew (b) tas-subartikolu (1)” għandhom jidhlu l-kliem “fis-subartikolu (1)”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 119 tas-17 ta’ Marzu, 1993.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

ĈENSU TABONE
President

2nd April, 1993

ACT No. IX of 1993

AN ACT to amend the Industrial Development Act, Cap. 325.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

Citation
and date of
commencement.
Cap. 325.

1. (1) This Act may be cited as the Industrial Development (Amendment) Act, 1993, and shall be read and construed as one with the Industrial Development Act, hereinafter referred to as “the principal Act”.

(2) The provisions of this Act shall be deemed to have come into force on the 1st January, 1992.

Amendment of
section 2
of the
principal
Act.

2. Section 2 of the principal Act shall be amended as follows:

(a) immediately after the definition of “Corporation” there shall be added the following new definition:

“export sales” means:

(a) the value of goods exported by a qualifying company calculated free on board; or

(b) the invoiced value of goods or services sold or rendered, as the case may be, by a qualifying company to another qualifying company under a written contract which clearly stipulates that the said goods or services are to be exported by the latter company whether as so sold, or as subjected to further processing or incorporation in other goods or services, and provided such export has actually taken place:

Provided that the said contract shall also stipulate that an officer duly authorised to sign on behalf of the buying company shall furnish the supplying company with a written declaration confirming that the said goods or services had been exported together with a copy authenticated by him of the relative export documents and the grant of any benefit on the basis of the provisions of this paragraph shall be conditional upon the production by the beneficiary of such declaration and documents together with a statement by the auditors of the buying company that confirms that the declaration of the said official is substantially correct; or

(c) the value of services rendered and performed by a qualifying company which are exported by the same company;

(b) in the definition of "Maltese company," for the words "in a distribution; and" there shall be substituted the words "in a distribution; or";

(c) after the definition of a "qualifying company" there shall be added the following definition:

" "research and development programme" means a programme for systematic investigation or research carried out in any field of science or technology through experiment or analysis, and includes:

(a) basic research comprising activities undertaken for the advancement of scientific or technological knowledge;

(b) applied research where a final specific application is in view;

(c) development involving the use of the results of basic or applied research as aforesaid for the purpose of creating new or of improving existing material, devices, products or processes, but excludes routine or periodic design, testing and analysis of equipment or products for the purposes of quality or quantity control, and routine or periodic alterations to existing products or processes;"; and

(d) after the definition of "research and development programme" there shall be added the following new definition:

" "sales revenue derived from export" means "export sales";".

3. Section 3 of the principal Act shall be amended as follows:

(a) in paragraph (b) of subsection (1) thereof, the words “plant, machinery or equipment.” shall be substituted by the words “plant, machinery or equipment; or”

(b) immediately after paragraph (b) of subsection (1) thereof there shall be added the following paragraphs:

“(c) large scale aquaculture; or

(d) large scale horticulture; or

(e) the rendering of a service by a company to non-resident persons, whether the service is performed or rendered in Malta or from Malta, provided such service is prescribed by the Minister to be a qualifying export service; or

(f) the rendering of a qualifying support service as may be prescribed by the Minister; or

(g) the export of goods or services produced or provided, as the case may be, by other qualifying companies; or

(h) research and development programmes.”;

(c) subsections (2), (3), (4) and (5) thereof shall be respectively renumbered (5), (6), (7) and (8);

(d) immediately after subsection (1) thereof there shall be inserted the following new subsections:

“(2) Notwithstanding any other provision of this Act, in the case of activities or classes of activities referred to in paragraphs (c), (d), (e), (f), (g) and (h) of subsection (1) hereof, the incentives and benefits contemplated by this Act shall only be due to and obtained by a company subject to the approval of the project by the Corporation, and in granting its approval as aforesaid, the Corporation may impose such conditions as it may deem fit.

(3) Notwithstanding any other provision of this Act, the incentives and benefits granted by section 4 and 5 of this Act shall not be due to or obtained by a trade or business qualifying under paragraph (g) of subsection (1) of this section.

(4) A company qualifying under paragraph (h) of subsection (1) of this section shall qualify only for those incentives and benefits contemplated by this Act as the Minister may prescribe. In addition to such incentives the Minister may also prescribe other special incentives and benefits, including cash grants, that may be given to such companies.”;

(e) in subsection (5) thereof as renumbered, for the words “the services referred to in paragraph (b) thereof” there shall be substituted the words “the services referred to in paragraph (b), (f) and (g) thereof.”;

(f) in subsection (7) thereof as renumbered, for the words “subsection (3)” there shall be substituted the words “subsection (6)”; and

(g) in subsection (8) thereof as renumbered, after the words “earned after that date” there shall be added the following proviso:

“Provided that, notwithstanding any other provision of this Act in respect of:

(a) projects approved by the Corporation under paragraphs (c), (d), (e), (f), (g) and (h) of subsection (1) of this section; or

(b) the operation of paragraphs (b) and (d) of the definition of “export sales” in section 2,

the incentives and benefits contemplated by this Act shall not be due in respect of activities happening before 1st January, 1992, and in respect of gains or profits earned before that date.”;

(h) immediately after subsection (8) thereof as renumbered there shall be added the following new subsection:

“(9) The Minister shall in January of every year publish in the Gazette a list of companies that have benefitted under paragraph (h) of subsection (1) of this section together with a general description of the activities of the company and of any cash grants from which the Company benefits under this Act.”.

4. Section 4 of the principal Act shall be amended as follows:

Amendment of
section 4
of the
principal
Act.

(a) paragraph (b) of subsection (1) thereof shall be substituted by the following:

“(b) subject to the provisions of subsection (5) of this section, derives from export sales not less than ninety five per cent of its total sales revenue, and”;

(b) in subsection (2) thereof for the words “exports less than ninety five per cent of its production”, there shall be substituted the words “derives from export sales less than ninety five per cent of its sales revenue.”; and

(c) in subsection (5) thereof for the words “in any particular line of production or manufacture” there shall be substituted the words “in any particular line of production, manufacture or service”.

Amendment of section 5 of the principal Act.

5. Section 5 of the principal Act shall be amended as follows:

(a) immediately after paragraph (c) of subsection (3) thereof there shall be added the following paragraph:

“(d) where a company was not in existence during a year of assessment comprised in a base period, the company shall be deemed to have had zero profits for that year of assessment,”; and

(b) subsection (7) thereof shall be deleted.

Amendment of section 7 of the principal Act.

6. Immediately after subsection (5) of section 7 of the principal Act there shall be added the following new subsection:

“(6) A company may qualify for the allowance granted under this section for a consecutive period of twenty five years commencing from the year of assessment 1988 in case of companies registered before 1st June, 1987 and from the first year of assessment for companies registered on or after 1st June 1987:

Provided that the Minister may from time to time by notice in the Gazette increase the said period by a further period or periods not exceeding twenty five years.”.

Amendment of section 11 of the principal Act.

7. In subsection (1) of section 11 of the principal Act the words “one hundred and twenty per cent” shall be substituted by the words “one hundred and forty per cent”.

Amendment of section 12 of the principal Act.

8. For the first paragraph of subsection (1) of section 12 of the principal Act there shall be substituted the following new introductory paragraph:

“In the case of a qualifying company, other than a company contemplated in paragraph (h) of subsection (1) of section 3 of this Act, the provisions of paragraphs (h) and (i) of subsection (1) of section 13 of the Income Tax Act, shall in any year in which the company is entitled to a deduction thereunder as from the year of assessment 1988 —”.

Amendment of section 16 of the principal Act.

9. Section 16 of the principal Act shall be amended as follows:

(a) in subsection (1) thereof for the words “for the acquisition of new plant, machinery and other fixed assets, but excluding land and buildings” there shall be substituted the words “for the acquisition of plant, machinery and other fixed assets, but excluding land and buildings”;

(b) for paragraph (a) of subsection (2) thereof there shall be substituted the following:

“(a) are new and are acquired by the company unused and not second hand, and”;

(c) after paragraph (c) of subsection (2) thereof there shall be added the following proviso:

“Provided that the Corporation may grant loans as provided under subsection (1) of this section for the acquisition of refurbished or reconditioned used or second hand plant, machinery and equipment in accordance with the terms and conditions specified in paragraphs (b) and (c) of this subsection, but the rate of interest charged by the Corporation on loans granted under this proviso shall be the maximum chargeable on such loans in terms of directives issued from time to time by the Minister responsible for finance under the Banking Act.”.

Cap. 215.

(d) for subsection (5) thereof there shall be substituted the following:

“(5) The repayment of the principal as well as the payment of interest on any loan granted under this section shall be secured by a general hypothec over the property of the company receiving the loan in addition to any other security which the Corporation may require:

Provided that for the purposes of Title XXIII of Part II of Book Second of the Civil Code, the Corporation may allow a hypothecary debt in respect of a loan or other banking facility granted by a financial institution situated in Malta to rank immediately prior to the general hypothec or other security of the Corporation relative to such loan;

Provided further that the Corporation may accept a prime bank guarantee or other similar security in respect of its loan instead of or in addition to a general hypothec as aforesaid.”;

(e) for the proviso to subsection (6) thereof there shall be substituted the following:

“Provided that, unless otherwise stipulated by the Corporation, for the first two years following the first loan payment the company shall only pay interest on the loan.”; and

(f) in subsection (10) thereof the words “1972” shall be deleted and the marginal note “Cap. 233” shall be added thereto.

10. In paragraph (b) of subsection (1) of section 17 of the principal Act, immediately after the words “for any of the purposes referred to in subsection (1) of section 3 of this Act” there shall be added the words “and to be incorporated in products for export”; and immediately after subsection (1) of section 17 of the principal Act there shall be added the following new proviso:

Amendment of section 17 of the principal Act.

“Provided that wherever it deems fit in regard to a certain type of activity the Corporation may issue a certificate of exemption or reduction in terms of paragraph (b) of this subsection notwithstanding that the sale is not for export.”;

and the words “Cap. 265” in the marginal note to subsection (4) of section 17 of the principal Act shall be substituted by the words “Cap. 337”.

Amendment of section 18 of the principal Act.

11. Section 18 of the principal Act shall be amended as follows:

(a) in paragraph (c) of subsection (2) thereof the words “1959” shall be deleted and the marginal note “Cap. 158” shall be added thereto; and

(b) immediately after subsection (4) thereof there shall be added the following subsection:

Cap. 294.

“(5) With effect from 1st January, 1993, no duty shall be payable under the Duty on Documents Act in respect of any deed or other instrument whereby any land is transferred pursuant to the provisions of this section.”.

Amendment of section 19 of the principal Act.

12. Section 19 of the principal Act shall be amended as follows:

(a) subsections (2) and (3) thereof shall respectively be renumbered subsections (6) and (7);

(b) after subsection (1) thereof there shall be inserted the following new subsections:

“(2) Where the Corporation is satisfied that, on or after 1st January, 1993, a full-time employee who has been employed in a supervisory or higher capacity by the company for at least three years undergoes a training programme leading to a certificate in instruction or training skills approved by the Corporation in advance and related to the activities of the company, a training grant may be given by the Corporation to the company equivalent to one half of the actual tuition fees incurred by the company.

(3) Where the Corporation is satisfied that, on or after 1st January, 1993, a full time employee engaged for an indefinite period by a qualifying company undergoes a training programme in order to acquire new skills required by the company due to the introduction of new technology or methods of production and such training programme has been approved by the Corporation in advance, a training grant may be given by the Corporation to the company equivalent to one half the statutory weekly minimum wage for every week of actual training undergone by such employee up to a maximum of forty eight weeks:

Provided that the company shall qualify for such grant only in respect of employees who have not benefitted from this scheme during the two years preceding the year in respect of which such grant shall be paid.

(4) Where the Corporation is satisfied that, on or after 1st January, 1993, a full time management employee who has been so engaged by a qualifying company for at least three years and is either qualified in a specific management or technical area or has not less than three years managerial or technical experience, undergoes a course in management development training or a technical upgrading course which has been approved by the Corporation in advance, a training grant may be given by the Corporation to the company equivalent to one half of the actual tuition fees incurred by the company.

(5) Where the Corporation is satisfied that, on or after 1st January, 1993, a full time employee employed by a qualifying company for an indefinite period undergoes a training programme which is necessary in view of a complete change in his employment within the company, which programme has been approved by the Corporation in advance, a training grant may be given by the Corporation to the company equivalent to one half of the statutory weekly minimum wage for every week of actual training undergone by such employee up to a maximum of forty eight weeks.”;

(c) in subsection (6) thereof as renumbered, for the words “statutory weekly minimum wage” there shall be substituted the words “statutory weekly minimum wage or of the actual tuition fees, as the case may be”.

13. In subsection (1) of section 20 of the principal Act the words “not exceeding Lm350,000” shall be substituted by the words “not exceeding Lm600,000”.

Amendment of section 20 of the principal Act.

14. Section 23 of the principal Act shall be amended as follows:

Amendment of section 23 of the principal Act.

(a) for subsection (2) thereof there shall be substituted the following subsection:

“(2) The Corporation shall give a grant to a Gozo company to cover the actual, additional and necessary transport costs incurred by the company in transporting:

(a) between Malta and Gozo machinery, plant, materials, goods or products connected with its activities in Gozo related to export;

(b) from Malta to Gozo material connected with its activities in Gozo whether such activities are related to export or not.”;

(b) subsection (5) thereof shall be deleted; and

(c) subsection (6) thereof shall be renumbered as subsection (5).

Substitution of section 24 of the principal Act.

15. For section 24 of the principal Act there shall be substituted the following:

"Incentives to small business.

24. (1) The Corporation may, at its discretion, grant to a small business:

(a) relief from customs duty as provided in section 17 of this Act; and

(b) industrial buildings, structures and land on such conditions as the Corporation may from time to time determine;

notwithstanding that that small business is not a qualifying company.

(2) In subsection (1) of this section "small business" means a person other than a company, who carries on or carries out a trade or business contemplated under paragraphs (a) to (h) of subsection (1) of section 3 of this Act."

Amendment of section 36 of the principal Act.

16. Section 36 of the principal Act shall be amended as follows:

(a) for subsections (1), (2) and (3) thereof, there shall be substituted the following subsections:

"(1) A qualifying company in receipt of any of the incentives and benefits indicated in subsection (4) of this section shall, at the end of the accounting period during which the incentive or benefit stands to be accounted for, transfer to and show in its balance sheet as on the said date a reserve to be called the "Incentives and Benefits Reserve" in a sum equal to the amounts therein specified. This reserve shall show separately any amounts transferred under paragraph (a) of subsection (4) and any amounts transferred under paragraph (b) of subsection (4) of this section.

(2) For the purposes of subsection (1) of this section, profits available for transfer to that reserve shall be the profits computed in accordance with the provisions of the Income Tax Act, and of this Act, and where at the end of any accounting period as aforesaid the profits so computed are such that the reserve, or the full amount thereof, cannot be set aside in that period, the obligation to transfer profits to a reserve shall be,

in part or in full, as the case may be, carried forward to the subsequent accounting period and deemed to be an obligation for that period, and so on for subsequent periods:

Provided that where a company has been allowed reduced rates of tax in accordance with section 6 of this Act and the company is unable to transfer to the Incentives and Benefits Reserve a sum equal to the total approved profits less the amount of tax paid upon application of section 6 within two years following the relevant investment period, the company shall be immediately liable to tax on this shortfall at the difference between the standard rate and the reduced rate of tax.

Provided further that the full amount of any such shortfall of transfers to the Incentives and Benefits Reserve and the relative contingent tax liabilities, shall be shown separately by way of note to the balance sheet until such time as the provisions of this section have been complied with.

(3) A reserve created under the provisions of subsection (1) of this section shall, except as otherwise provided for in this section, be retained separately in the balance sheet of the company and shall not be distributable or convertible into share capital of the company. The said reserve shall also not be reduced to take account of any losses incurred by the company, whether such losses are of an ordinary or extraordinary nature, or capital or revenue in character:

Provided that, notwithstanding anything in this subsection, any amount transferred to the "Incentives and Benefits Reserve" under paragraph (a) of subsection (4) of this section may, after the lapse of eight years from the end of the approved investment period, be applied by the company in paying up unissued shares of the company to be allotted to members of the company as fully paid bonus shares. Such distribution shall not be chargeable to tax."; and

(b) for the first paragraph of subsection (5) thereof there shall be substituted the following:

"(5) Distributions made to the members of a company in the course of winding up the company out of any reserve created in accordance with the provisions of this section shall not be liable to tax under the Income Tax Act:".

17. Section 45 of the principal Act shall be amended as follows:

Amendment of
section 45 of the
principal Act.

(a) for the words "Aids to Industries Ordinance, 1959" wherever they occur therein there shall be substituted the words "Aids to Industries Ordinance" and the marginal note "Cap. 159" shall be inserted where the words "Aids to Industries Ordinance" first occur; and

(b) in subsection (1) thereof for the words "paragraphs (a) or (b) of subsection (1)" there shall be substituted the words "subsection (1)".

Passed by the House of Representatives at Sitting No. 119 of the 17th March, 1993.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives

