

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 20,630, 21 ta' Mejju, 2021

Taqsim A

MALTA

ATT Nru XXII tal-2021

ATT maħruġ b'ligi mill-Parlament ta' Malta.

ACT No. XXII of 2021

AN ACT enacted by the Parliament of Malta.

ATT sabiex jemenda l-Att dwar l-Intrapriżi ż-Zghar, Kap. 512.

AN ACT to amend the Small Business Act, Cap. 512.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

21 ta' Mejju, 2021

ATT Nru XXII tal-2021

Att sabiex jemenda l-Att dwar l-Intrapriżi ż-Żgħar, Kap. 512.

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

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2021 li jemenda l-Att dwar l-Intrapriżi ż-Żgħar u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar l-Intrapriżi ż-Żgħar, hawn aktar 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.

Kap. 512.

2. Fis-subartikolu (1) tal-artikolu 2 tal-Att prinċipali, it-tifsira "entitajiet pubbliċi li joffru servizz lin-negozji" għandha tiġi sostitwita b'dan li ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

" "entitajiet pubbliċi li joffru servizz lin-negozji" tfisser l-Awtorità responsabbli għall-Ippjanar, l-Awtorità responsabbli għall-Ambjent u r-Riżorsi, Jobsplus, il-Kummissarju tat-Taxxi, id-Dipartiment responsabbli għall-Kummerċ, l-Intrapriża ta' Malta, ir-Regolatur għas-Servizzi tal-Energija u l-Ilma, l-Awtorità dwar il-Mediċini, l-Awtorità għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, l-Awtorità dwar il-Komunikazzjoni, id-Dipartiment tad-Dwana, l-Awtorità responsabbli għas-Servizzi Finanzjarji, l-Awtorità responsabbli għal-Logħob, l-Aġenzija għar-Registru tal-Kumpaniji, Business First, l-Awtorità responsabbli għat-Transport, u kull entità oħra kif tista' tiġi identifikata minn żmien għal żmien mill-Ministru;"

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Sostituzzjoni tal-artikolu 4 tal-Att prinċipali.

3. L-artikolu 4 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"4. (1) Fil-funzjoni tagħhom tat-twettiq ta' valutazzjoni tal-impatt skont l-artikolu 3(2)(a):

(a) f'każ ta' leġislazzjoni primarja kif ukoll sussidjarja, dipartiment tal-gvern, entità tal-gvern jew aġenzija tal-gvern għandhom jimlew l-*Impact Assessment Framework* kif muri fl-Iskeda I, jew kif jista' jkun ulterjorment stabbilit taht xi leġislazzjoni oħra;

(b) kull strument li jiġi meqjus li ser ikollu effett fuq l-SME għandu jiġi akkumpanjat minn rapport dwar ir-riżultat ta' Test SME li għandu jsir mid-dipartiment tal-gvern, entità tal-gvern jew aġenzija tal-gvern konċernata skont il-proċedura stabbilita fl-Iskeda II.

(2) L-applikazzjoni tat-Test SME taht is-subartikolu (1)(b) għandha ssir b'koordinament mal-entità ċentrali identifikata taht l-artikolu 5, liema entità għandha tkun responsabbli biss sabiex tissorvelja l-implimentazzjoni tat-Taqsima 6 tal-*Impact Assessment Framework*.

(3) *L-Impact Assessment Framework* imsemmi fis-subartikolu (1)(a) u mwaqqaf permezz tal-Iskeda I għandu jiġi ppubblikat fil-verżjoni bl-Ingliż biss."

Emenda tal-artikolu 10 tal-Att prinċipali.

4. Is-subartikolu (2) tal-artikolu 10 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafu (b) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(b) sittax (16)-il membru ieħor li jirrapreżentaw l-entitajiet jew Ministeri responsabbli għall-intrapriża jew li l-ambitu tagħhom huwa relevanti għas-settur, li huma:

(i) id-Dipartiment responsabbli għall-Kummerċ;

(ii) l-Intrapriża ta' Malta;

(iii) l-Awtorità għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;

(iv) id-Direttorat responsabbli għall-Politika fi hdan il-Ministeru responsabbli għall-Ekonomija;

(v) id-Divizjoni tal-Politika dwar l-Ekonomija fi hdan il-Ministeru responsabbli għall-Finanzi;

(vi) id-Dipartiment responsabbli għall-Gvern Lokali;

(vii) il-Ministeru responsabbli għal Għawdex;

(viii) l-Awtorità responsabbli għat-Turiżmu;

(ix) l-Awtorità responsabbli għall-Ippjanar;

(x) il-Ministeru responsabbli għall-Affarijiet Rurali;

(xi) l-Uffiċċju Nazzjonali tal-Istatistika;

(xii) il-Kummissarju tat-Taxxi;

(xiii) il-Ministeru responsabbli għall-Edukazzjoni;

(xiv) l-Awtorità responsabbli għall-Ambjent u r-Riżorsi;

(xv) l-Aġenzija għar-Registru tal-Kumpaniji;

(xvi) *Business First*"; u

(b) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(ċ) għaxar (10) membri maħtura minn rappreżentanti minn korpi kostitwiti, primarjament il-Kamra tal-Kummerċ, l-Industrija u l-Intrapriża ta' Malta, il-Malta Chamber of SMEs, l-Assoċjazzjoni Maltija għal-Lukandi u Ristoranti, il-Kamra tan-Negozju għal Għawdex, l-Assoċjazzjoni tat-Turiżmu għal Għawdex, l-Assoċjazzjoni Maltija ta' Min Ihaddem, il-Kunsill Nazzjonali tan-Nisa, l-Assoċjazzjoni Maltija tan-Nisa fin-Negozju, il-Fondazzjoni tan-Nisa fin-Negozju u l-Istitut tal-Financial Services Practitioners; u".

5. Il-paragrafu (b) tas-subartikolu (2) tal-artikolu 13 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Emenda tal-artikolu 13 tal-Att prinċipali.

"(b) dsatax (19)-il membru nominati mill-Gvern, li jirrapreżentaw lir-rappreżentanti tal-gvern fil-korpi kostitwiti,

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jigifieri l-Awtorità responsabbli għas-Servizzi Finanzjarji, l-Awtorità responsabbli għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, id-Dipartiment tad-Dwana, l-Awtorità responsabbli għal-Logħob, ir-Regolatur responsabbli għas-Servizzi tal-Energija u l-Ilma, l-Awtorità responsabbli għat-Turiżmu, l-Awtorità responsabbli għall-Komunikazzjoni, l-Awtorità responsabbli għas-Saħħa u s-Sigurtà fuq il-Post tax-Xogħol, l-Awtorità responsabbli għall-Ippjanar, l-Awtorità responsabbli għall-Ambjent u r-Riżorsi, id-Dipartiment responsabbli għas-Saħħa Ambjentali, id-Direttorat responsabbli għas-Saħħa tal-Pjanti, id-Direttorat responsabbli għar-Regolamentazzjoni Veterinarja, id-Direttorat responsabbli għall-Kontroll fis-Sajd, l-Awtorità responsabbli għall-Mediċini, id-Dipartiment responsabbli għall-Kummerċ, l-Aġenzija għar-Registru tal-Kumpaniji, l-Awtorità responsabbli għat-Transport, u l-Kummissjoni għad-Drittijiet tal-Persuni b'Diżabilità."

Emenda tal-artikolu 15 tal-Att prinċipali.

6. Il-paragrafu (b) tal-artikolu 15 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"(b) jirraporta lill-Ministru annwalment fuq ix-xogħol imwettaq; u".

Emenda tal-artikolu 16 tal-Att prinċipali.

7. Is-subartikolu (1) tal-artikolu 16 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"(1) L-affarijiet amministrattivi tal-Kulleġġ għandhom ikunu ġestiti mis-Segretarjat tal-Kulleġġ, u għandhom jaqgħu fil-kompetenza tad-Direttorat responsabbli għall-Politika fi ħdan il-Ministeru responsabbli għall-Ekonomija."

Sostituzzjoni tal-artikolu 17 tal-Att prinċipali.

8. L-artikolu 17 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"17. Il-Ministru jkollu s-setgħa li jagħmel regolamenti ġeneralment sabiex:

(a) jemenda, iħassar jew jissostitwixxi kwalunkwe Skeda li tinsab ma' dan l-Att; u

(b) jagħti effett lid-dispożizzjonijiet ta' dan l-Att, u sabiex jitwettqu aħjar id-dispożizzjonijiet u l-għanijiet ta' dan l-Att."

Sostituzzjoni tal-Iskeda I tal-Att prinċipali.

9. L-Iskeda I li tinsab mal-Att prinċipali għandha tiġi sostitwita b'dan li ġej:

"Skeda I (Artikolu 4)

Formula tal-*Impact Assessment Framework*

Formula tal-*Impact Assessment Framework* għal-legiżlazzjoni primarja

1. Summary				
Title	<i>Full title of BILL</i>			
Rationale:	<i>Identify a clear need which is in the national interest for government to address.</i>			
Objectives of proposed legislation:	<i>Clearly state what the proposal intends to achieve.</i> <ul style="list-style-type: none"> <i>Objectives should be in line with the SMART¹ principle.</i> <i>Objectives should demonstrate that they encapsulate the principles of Transparency, Accountability, Proportionality, Consistency and be targeted at cases where action is needed</i> 			
Options considered:	<i>A wide set of options should be considered including the 'do nothing' option and the 'alternative to regulation' options.</i>			
Preferred option:	<i>Indicate the preferred option and the reason for this being the preferred option on the basis of the Impact Assessment including at least the following considerations:</i> <ul style="list-style-type: none"> <i>Short listing from all options considered</i> <i>Outcome of consultation</i> <i>Outcome of other assessments</i> 			
Compelling reason for publication:	<i>State the current situation and the valid reasons for publication of the proposed Bill.</i>			
Deadline for publication:			Deadline due to:	
.....	.....	20.....	EU commitment <input type="checkbox"/>	National Agenda <input type="checkbox"/>
Does the legislation emanate from an EU Directive?	No <input type="checkbox"/> Yes <input type="checkbox"/>	<i>Insert Name of Directive</i>		
Does the Bill go beyond the Directive's minimum requirements?	No <input type="checkbox"/> Yes <input type="checkbox"/>	<i>Give reasons why it was necessary to go beyond minimum provisions of Directive</i>		

¹ SMART - Specific, Measurable, Achievable, Relevant, and, Time-bound.
Further reading: European Commission, 2009. Impact Assessment Guidelines. HM Government, 2011. IA Toolkit.



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2. Consultation Process² (In line with Directive 6 issued under the PAA) See also Part 9

A matrix indicating proposals received and how these were integrated into the proposal. In the case of rejection of proposals, the reason behind such rejection is to be provided.

Internal Consultation	Yes <input type="checkbox"/>		
	No <input type="checkbox"/>		
External Consultation	Yes <input type="checkbox"/>		
	No <input type="checkbox"/>		
Feedback received	Attached	Yes <input type="checkbox"/>	
		No <input type="checkbox"/>	
No feedback	Yes <input type="checkbox"/>		

² Proponents are to ensure that the Consultation Exercise is in conformity to Directive 6 issued under the Public Administration Act and its official Guideline entitled 'Parameters for Consultation Exercises with Stakeholders' available at <http://intra.gov.mt/file-attachments-2011-2/others/directive-6-consultation-exercises-with-stakeholders>



3. Processing of Personal Data

(In line with article 36(4) of the General Data Protection Regulation 2016/679)

Does the Bill being proposed relate to the processing of personal data?

Yes

No

If yes, has a Data Protection Impact Assessment (DPIA) been drawn up?

Yes Attached: Yes

No

No (The DPIA is an obligation on the part of the Data Controller and has to be carried out in accordance with article 35 of the GDPR)

If yes, has a Prior Consultation exercise been held with the Information and Data Protection Commissioner?

Yes

No (Prior Consultation with the supervisory authority is an obligation on the part of the Data Controller in accordance with article 36 of the GDPR)

Please provide or explain the feedback obtained from the Information and Data Protection Commissioner in this section below or within the contents of the Cabinet Memo.



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4. Social Impact³	
<p>Are there any envisaged social impacts on citizens (positive or negative) in any of the following areas?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Where possible quantify the monetary value of each impact (costs and benefits)⁴</p>	
Social benefits:	
Health:	
Education:	
Spending power:	<i>Apart from a qualitative description, the equivalent cost should be calculated using 'Supply Chain Management'</i>
Administrative burden⁵:	<i>Apart from a qualitative description, the financial burden should be calculated using 'Supply Chain Management'</i>
<p>Impact on Government⁶</p> <p><i>Outline any implications to government's policy on social issues</i></p>	


³ **Examples:** demographic & economic changes, social impacts on lifestyle, quality of life and general well-being.

⁴ Monetary values should be quantified with respect to the 'do nothing' scenario.

⁵ Proponents should seek the guidance of the Management Efficiency Unit.

⁶ Such as: prevention approaches, sustainability, improvement of efficiency, capacity building & partnerships with NGOs.

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6. Impact on Small and Medium Sized Enterprises⁹

In conformity with the **Small Business Act, Cap. 512**

Does this Bill affect the business environment?

Yes No

If yes, please attach **SME Test report** as endorsed by the Policy Implementation (Central Unit) within the Ministry responsible for the Economy, *together with the Explanatory Notes and Usr Guidelines*

If No, please attach endorsement by the Policy Implementation (Central Unit), within the Ministry for the Economy

7. Gozo's Regional Impact¹⁰

Social impact:	<i>Outline qualitatively and where possible quantitatively the social impacts on the region, such as reducing insularity, logistical costs, business continuity and functions.</i>
Economic impact:	<i>Outline qualitatively and where possible quantitatively the economic impacts on the region, such as value-added industry.</i>
Environmental impact:	<i>Outline qualitatively and where possible quantitatively the environmental impacts on the region, such as agro-tourism, employment and social assistance.</i>

⁹ Includes, but is not limited to, legislation related to agriculture, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use.

¹⁰ Applicable only to legislation related, but not limited, to agriculture, fisheries, general energy & alternative energy, industry, transport, waste management, water management & separation management, telecommunications, tourism, town & country planning, noise pollution, chemical hazards or land use.



8. Enforcement and Implementation¹¹	
How will this Bill be communicated?	
Who will enforce this Bill?	
Are skills required available?	
Risks:	

¹¹ This section should take into consideration the adoption of risk-based approaches, data sharing, the use of administrative data, e-government, interaction and collaboration between departments and government entities, and the use of administrative fines.



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9. Conclusion

NOTE - Political Summary

This document presumes that the Minister and the Permanent Secretary have discussed the contents hereof. There is a presumption that the Minister will set out an Executive Summary of the Consultation Report in the Memo to be presented in Cabinet.

The Executive Summary for the purposes of the Impact Assessment is to include, as a minimum:

- **A shortlist of options presented during consultation, with an explanation of the selection process conducted to create the shortlist.**
- **Internal and external stakeholders consulted.**
- **Timing of consultation.**

The scope of the statement in the Memo is to ensure that there is political ownership of the proposals. This is of vital importance in particular where no meaningful feedback or where, due to cogent reasons that need to be spelt out, the stakeholder feedback cannot be taken on board.

Compliance to/Strategies of Government as may be applicable:

10. Sunset Clause


Sunset clauses are part of Government's commitment; is it envisaged that the proposed Bill contains a sunset clause or sunset clauses?

Yes No

Kindly indicate hereunder which article etc., of the proposed Bill is subject to a sunset clause:

Ministry/Entity responsible to carry out an evaluation:



11. Signatories		
Contact Details:	<i>Contact details of PERSON RESPONSIBLE in case of queries</i>	
Name of official responsible:	<i>Name of TECHNICAL PERSON RESPONSIBLE for the drafting of the Bill</i>	
Ministry/entity responsible:		
Telephone number:		
Email:		
Signature of OFFICIAL responsible for drawing up this document	Signature of DIRECTOR responsible for policy	Signature of PERMANENT SECRETARY
Date:		
FOR CABINET OFFICE USE		
Date received:		
Date checked:		
Checked by:		
Assessment:		
Action:	<i>For Cabinet use ONLY</i>	
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Formula tal-*Impact Assessment Framework* għal-legiżlazzjoni sussidjarja

1. Summary				
		<i>Full title of proposed legislation including document referencing (e.g. EU Directives, etc).</i>		
Parent Act:		..... Act (Cap.)		
Subsidiary Legislation:		S.L.		
Rationale:		<i>Identify a clear need which is in the national interest for government to address.</i>		
Objectives of proposed legislation:		<i>Clearly state what the proposal intends to achieve.</i> <ul style="list-style-type: none"> • Objectives should be in line with the SMART¹ principle. • Objectives should demonstrate that they encapsulate the principles of Transparency, Accountability, Proportionality, Consistency and be targeted at cases where action is needed 		
Options considered:		<i>A wide set of options should be considered including the 'do nothing' option and the 'alternative to regulation' options.</i>		
Preferred option:		<i>Indicate the preferred option and the reason for this being the preferred option on the basis of the Impact Assessment including at least the following considerations:</i> <ul style="list-style-type: none"> • Short listing from all options considered • Outcome of consultation • Outcome of other assessments 		
Compelling reason for publication:		<i>State the current situation and the valid reasons for publication of proposed legislation.</i>		
Deadline for publication:			Deadline due to:	
.....	.....	20	EU commitment <input type="checkbox"/>	National Agenda <input type="checkbox"/>
Does the legislation emanate from an EU Directive?		No <input type="checkbox"/> Yes <input type="checkbox"/>	<i>Insert Name of Directive</i>	

¹ SMART - Specific, Measurable, Achievable, Relevant, and, Time-bound.
 Further reading: European Commission, 2009. Impact Assessment Guidelines. HM Government, 2011. IA Toolkit.



3. Processing of personal data*(In line with the General Data Protection Regulation 2016/679)**Further information may be obtained from the respective Data Protection Officer*

Does the legislative or regulatory measure being proposed relate to the processing of personal data?

Yes No

If yes, has a Data Protection Impact Assessment (DPIA) been drawn up?

Yes Attached: Yes No

No (The DPIA is an obligation on the part of the Data Controller and has to be carried out in accordance with Article 35 of the GDPR)

If yes, has a Prior Consultation exercise been held with the Information and Data Protection Commissioner?


Yes

No (Prior Consultation with the supervisory authority is an obligation on the part of the Data Controller in accordance with Article 36(4) of the GDPR)

Please provide or explain the feedback obtained from the Information and Data Protection Commissioner in this section below or within the contents of the Cabinet Memo.



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4. Social Impact⁴	
<p>Are there any envisaged social impacts on citizens (positive or negative) in any of the following areas?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Where possible quantify the monetary value of each impact (costs and benefits)⁵</p>	
Social benefits:	
Health:	
Education:	
Spending power:	<i>Apart from a qualitative description, the equivalent cost should be calculated using 'Supply Chain Management'</i>
Administrative burden⁶:	<i>Apart from a qualitative description, the financial burden should be calculated using 'Supply Chain Management'</i>
<p>Impact on Government⁷</p> <p><i>Outline any implications to government's policy on social issues</i></p>	
<p><small>4 Examples: demographic & economic changes, social impacts on lifestyle, quality of life and general well-being.</small></p> <p><small>5 Monetary values should be quantified with respect to the 'do nothing' scenario.</small></p> <p><small>6 Proponents should seek the guidance of the Management Efficiency Unit.</small></p> <p><small>7 Such as: prevention approaches, sustainability, improvement of efficiency, capacity building & partnerships with NGOs.</small></p>	
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6. Impact on Small and Medium Sized Enterprises¹⁰

In conformity with the Small Business Act, Cap. 512

Does this legislation affect the business environment?

Yes No

If Yes, please attach SME Test report as endorsed by the Policy Implementation (Central Unit), within the Ministry responsible for the Economy, together with the Explanatory Notes and User Guidelines.

If No, please attach endorsement by the Policy Implementation (Central Unit), within the Ministry for the Economy.

7. Gozo's Regional Impact¹¹

Social impact:	<i>Outline qualitatively and where possible quantitatively the social impacts on the region, such as reducing insularity, logistical costs, business continuity and functions.</i>
Economic impact:	<i>Outline qualitatively and where possible quantitatively the economic impacts on the region, such as value-added industry.</i>
Environmental impact:	<i>Outline qualitatively and where possible quantitatively the environmental impacts on the region, such as agro-tourism, employment and social assistance.</i>

¹⁰ Includes, but is not limited to, legislation related to agriculture, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use.


¹¹ Applicable only to legislation related, but not limited, to agriculture, fisheries, general energy & alternative energy, industry, transport, waste management, water management & separation management, telecommunications, tourism, town & country planning, noise pollution, chemical hazards or land use.




8. Enforcement and Implementation¹²	
How will this legislation be communicated?	
Who will enforce this legislation?	
Are skills required available?	
Risks:	

12 This section should take into consideration the adoption of risk-based approaches, data sharing, the use of administrative data, e-government, interaction and collaboration between departments and government entities, and the use of administrative fines.

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9. Conclusion
NOTE - Political Summary
<p><i>This document presumes that the Minister and the Permanent Secretary have discussed the contents hereof. There is a presumption that the Minister will set out an Executive Summary of the Consultation Report in the Memo to be presented in Cabinet.</i></p> <p>The Executive Summary for the purposes of the Impact Assessment is to include, as a minimum:</p> <ul style="list-style-type: none"> ➤ A shortlist of options presented during consultation, with an explanation of the selection process conducted to create the shortlist. ➤ Internal and external stakeholders consulted. ➤ Timing of consultation. <p><i>The scope of the statement in the Memo is to ensure that there is political ownership of the proposals. This is of vital importance in particular where no meaningful feedback or where, due to cogent reasons that need to be spelt out, the stakeholder feedback cannot be taken on board.</i></p>
<p>Compliance to/Strategies of Government as may be applicable:</p>
10. Sunset Clause
<p>Sunset clauses are part of Government's commitment; is it envisaged that the proposed legislation contains a sunset clause or clauses?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Kindly indicate hereunder which article/clause/regulation/rule etc., of the proposed legislation is subject to a sunset clause:</p>
<p>Ministry/Entity responsible to carry out an evaluation:</p>
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Emenda tal-
Iskeda III tal-Att
prinċipali.

10. Il-partita (ii) tal-Iskeda III li tinsab mal-Att prinċipali għandha tiġi sostitwita b'dan li ġej:

"(ii) Id-dipartiment tal-gvern, entità tal-gvern jew aġenzija tal-gvern li jisponsorjaw l-istrument huma responsabbli biex jabbozzaw in-noti ta' spjegazzjoni annessi. L-Uffiċċju tal-Avukat tal-Istat għandu japprova l-abbozz u jikkonferma jekk huwiex konsistenti mal-istrument."

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 462 tat-18 ta' Meju, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

21st May, 2021

ACT No. XXII of 2021

AN ACT to amend the Small Business Act, Cap. 512.

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:-

- 1.** The short title of this Act is the Small Business (Amendment) Act, 2021, and this Act shall be read and construed as one with the Small Business Act, hereinafter referred to as "the principal Act".

Short title.
Cap. 512.
- 2.** In sub-article (1) of article 2 of the principal Act, the definition "public sector entities offering services to business" shall be substituted by the following:

Amendment of
article 2 of the
principal Act.

" "public sector entities offering services to business" means the Authority responsible for Planning, the Authority responsible for the Environment and Resources, Jobsplus, the Commissioner for Revenue, the Department responsible for Commerce, the Malta Enterprise, the Regulator responsible for Energy and Water Services, the Authority responsible for Medicines, the Authority for Competition and Consumer Affairs, the Authority for Communications, the Customs Department, the Authority responsible for Financial Services, the Authority responsible for Gaming, the Registry of Companies Agency, Business First, Authority responsible for Transport, and any other

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entity as may be identified by the Minister from time to time;".

Substitution of
article 4 of the
principal Act.

3. Article 4 of the principal Act shall be substituted by the following:

"4. (1) In its function of carrying out an impact assessment in terms of article 3(2)(a):

(a) in case of primary and subsidiary legislation, a government department, government entity or government agency shall fill in the Impact Assessment Framework as set out in Schedule I, or as may be further established under any other legislation;

(b) any instrument which is determined to have an effect on SMEs shall be accompanied by a report on the outcome of a SME Test which shall be carried out by the government department, government entity or government agency concerned following the procedure set out under Schedule II.

(2) The application of the SME Test under sub-article (1)(b) shall be carried out in coordination with the central entity identified under article 5, which entity shall solely be responsible for overseeing the implementation of Section 6 of the Impact Assessment Framework.

(3) The Impact Assessment Framework referred to in sub-article (1)(a) and set out in Schedule I shall be published in the English version only."

Amendment of
article 10 of the
principal Act.

4. Sub-article (2) of article 10 of the principal Act shall be amended as follows:

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

"(b) sixteen (16) other members representing the entities or Ministries responsible for enterprise or whose remit is relevant to the sector, namely:

(i) the Department responsible for Commerce;

(ii) Malta Enterprise;

(iii) the Authority responsible for Competition and Consumer Affairs;

(iv) the Directorate responsible for Policy within the Ministry responsible for the Economy;

(v) the Economic Policy Division within the Ministry responsible for Finance;

(vi) the Department responsible for Local Government;

(vii) the Ministry responsible for Gozo;

(viii) the Authority responsible for Tourism;

(ix) the Authority responsible for Planning;

(x) the Ministry responsible for Rural Affairs;

(xi) the National Statistics Office;

(xii) the Commissioner for Revenue;

(xiii) the Ministry responsible for Education;

(xiv) the Authority responsible for the Environment and Resources;

(xv) the Registry of Companies Agency;

(xvi) Business First;"; and

(b) paragraph (c) thereof shall be substituted by the following:

"(c) ten (10) members nominated by representative from constituted bodies, namely the Malta Chamber of Commerce, Enterprise and Industry, the Malta Chamber of SMEs, the Malta Hotels and Restaurants Association, the Gozo Business Chamber, the Gozo Tourism Association, the Malta Employers' Association, the National Council of Women, the Maltese Association of Women in Business, the Foundation for Women Entrepreneurs, and the Institute of Financial Services Practitioners; and".

5. Paragraph (b) of sub-article (2) of article 13 of the principal Act shall be substituted by the following:

Amendment of article 13 of the principal Act.

"(b) nineteen (19) members nominated by Government, representing the government representatives on the constituted

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bodies, namely the Authority responsible for Financial Services, the Authority responsible for Competition and Consumer Affairs, the Customs Department, the Authority responsible for Gaming, the Regulator responsible for Energy and Water Services, the Authority responsible for Tourism, the Authority responsible for Communications, the Authority responsible for Occupational Health and Safety, the Authority responsible for Planning, the Authority responsible for the Environment and Resources, the Department responsible for Environmental Health, the Directorate responsible for Plant Health, the Directorate responsible for Veterinary Regulation, the Directorate responsible for Fisheries Control, the Authority responsible for Medicines, the Department responsible for Commerce, the Registry of Companies Agency, the Authority responsible for Transport, and the Commission for the Rights of Persons with Disability."

Amendment of article 15 of the principal Act.

6. Paragraph (b) of article 15 of the principal Act shall be substituted by the following:

"(b) report to the Minister once a year on the work carried out; and".

Amendment of article 16 of the principal Act.

7. Sub-article (1) of article 16 of the principal Act shall be substituted by the following:

"(1) The administrative affairs of the College shall be managed by the College Secretariat, and shall fall within the competence of the Directorate responsible for Policy within the Ministry responsible for the Economy."

Substitution of article 17 of the principal Act.

8. Article 17 of the principal Act shall be substituted by the following:

"17. The Minister has the power to make regulations generally:

(a) to amend, cancel or substitute any of the Schedules to this Act; and

(b) for giving effect to the provisions of this Act, and for the better carrying out of the provisions and objects of this Act."

Substitution of Schedule I to the principal Act.

9. Schedule I to the principal Act shall be substituted by the following:

**"Schedule I
(Article 4)
Impact Assessment Framework Form**

Impact Assessment Framework Form for primary legislation

1. Summary				
Title		<i>Full title of BILL</i>		
Rationale:		<i>Identify a clear need which is in the national interest for government to address.</i>		
Objectives of proposed legislation:		<i>Clearly state what the proposal intends to achieve.</i> <ul style="list-style-type: none"> <i>Objectives should be in line with the SMART¹ principle.</i> <i>Objectives should demonstrate that they encapsulate the principles of Transparency, Accountability, Proportionality, Consistency and be targeted at cases where action is needed</i> 		
Options considered:		<i>A wide set of options should be considered including the 'do nothing' option and the 'alternative to regulation' options.</i>		
Preferred option:		<i>Indicate the preferred option and the reason for this being the preferred option on the basis of the Impact Assessment including at least the following considerations:</i> <ul style="list-style-type: none"> <i>Short listing from all options considered</i> <i>Outcome of consultation</i> <i>Outcome of other assessments</i> 		
Compelling reason for publication:		<i>State the current situation and the valid reasons for publication of the proposed Bill.</i>		
Deadline for publication:			Deadline due to:	
.....	.....	20.....	EU commitment <input type="checkbox"/>	National Agenda <input type="checkbox"/>
Does the legislation emanate from an EU Directive?		No <input type="checkbox"/> Yes <input type="checkbox"/>	<i>Insert Name of Directive</i>	
Does the Bill go beyond the Directive's minimum requirements?		No <input type="checkbox"/> Yes <input type="checkbox"/>	<i>Give reasons why it was necessary to go beyond minimum provisions of Directive</i>	

¹ SMART - Specific, Measurable, Achievable, Relevant, and, Time-bound.
Further reading: European Commission, 2009. Impact Assessment Guidelines. HM Government, 2011. IA Toolkit.



3. Processing of Personal Data

(In line with article 36(4) of the General Data Protection Regulation 2016/679)

Does the Bill being proposed relate to the processing of personal data?

Yes

No

If yes, has a Data Protection Impact Assessment (DPIA) been drawn up?

Yes Attached: Yes

No

No (The DPIA is an obligation on the part of the Data Controller and has to be carried out in accordance with article 35 of the GDPR)

If yes, has a Prior Consultation exercise been held with the Information and Data Protection Commissioner?

Yes

No (Prior Consultation with the supervisory authority is an obligation on the part of the Data Controller in accordance with article 36 of the GDPR)

Please provide or explain the feedback obtained from the Information and Data Protection Commissioner in this section below or within the contents of the Cabinet Memo.



6. Impact on Small and Medium Sized Enterprises⁹

In conformity with the **Small Business Act, Cap. 512**

Does this **Bill** affect the business environment?

Yes No

If yes, please attach **SME Test report** as endorsed by the Policy Implementation (Central Unit) within the Ministry responsible for the Economy, *together with* the Explanatory Notes and Us Guidelines

If No, please attach endorsement by the Policy Implementation (Central Unit), within the Ministry for the Economy

7. Gozo's Regional Impact¹⁰

Social impact:	<i>Outline qualitatively and where possible quantitatively the social impacts on the region, such as reducing insularity, logistical costs, business continuity and functions.</i>
Economic impact:	<i>Outline qualitatively and where possible quantitatively the economic impacts on the region, such as value-added industry.</i>
Environmental impact:	<i>Outline qualitatively and where possible quantitatively the environmental impacts on the region, such as agro-tourism, employment and social assistance.</i>

⁹ Includes, but is not limited to, legislation related to agriculture, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use.

¹⁰ Applicable only to legislation related, but not limited, to agriculture, fisheries, general energy & alternative energy, industry, transport, waste management, water management & separation management, telecommunications, tourism, town & country planning, noise pollution, chemical hazards or land use.



8. Enforcement and Implementation¹¹	
How will this Bill be communicated?	
Who will enforce this Bill?	
Are skills required available?	
Risks:	

¹¹ This section should take into consideration the adoption of risk-based approaches, data sharing, the use of administrative data, e-government, interaction and collaboration between departments and government entities, and the use of administrative fines.



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9. Conclusion

NOTE - Political Summary

This document presumes that the Minister and the Permanent Secretary have discussed the contents hereof. There is a presumption that the Minister will set out an Executive Summary of the Consultation Report in the Memo to be presented in Cabinet.

The Executive Summary for the purposes of the Impact Assessment is to include, as a minimum:

- **A shortlist of options presented during consultation, with an explanation of the selection process conducted to create the shortlist.**
- **Internal and external stakeholders consulted.**
- **Timing of consultation.**

*The scope of the statement in the **Memo** is to ensure that there is political ownership of the proposals. This is of vital importance in particular where no meaningful feedback or where, due to cogent reasons that need to be spelt out, the stakeholder feedback cannot be taken on board.*

Compliance to/Strategies of Government as may be applicable:

10. Sunset Clause


Sunset clauses are part of Government's commitment; is it envisaged that the proposed Bill contains a sunset clause or sunset clauses?

Yes No

Kindly indicate hereunder which article etc., of the proposed Bill is subject to a sunset clause:

Ministry/Entity responsible to carry out an evaluation:



11. Signatories		
Contact Details:	<i>Contact details of PERSON RESPONSIBLE in case of queries</i>	
Name of official responsible:	<i>Name of TECHNICAL PERSON RESPONSIBLE for the drafting of the Bill</i>	
Ministry/entity responsible:		
Telephone number:		
Email:		
Signature of OFFICIAL responsible for drawing up this document	Signature of DIRECTOR responsible for policy	Signature of PERMANENT SECRETARY
Date:		
FOR CABINET OFFICE USE		
Date received:		
Date checked:		
Checked by:		
Assessment:		
Action:	<i>For Cabinet use ONLY</i>	
<div style="display: flex; justify-content: space-between; align-items: flex-start;"> Page 9 of 10  </div>		

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Impact Assessment Framework Form for subsidiary legislation

1. Summary				
		<i>Full title of proposed legislation including document referencing (e.g. EU Directives, etc).</i>		
Parent Act:		..... Act (Cap.)		
Subsidiary Legislation:		S.L.		
Rationale:		<i>Identify a clear need which is in the national interest for government to address.</i>		
Objectives of proposed legislation:		<i>Clearly state what the proposal intends to achieve.</i> <ul style="list-style-type: none"> • Objectives should be in line with the SMART¹ principle. • Objectives should demonstrate that they encapsulate the principles of Transparency, Accountability, Proportionality, Consistency and be targeted at cases where action is needed 		
Options considered:		<i>A wide set of options should be considered including the 'do nothing' option and the 'alternative to regulation' options.</i>		
Preferred option:		<i>Indicate the preferred option and the reason for this being the preferred option on the basis of the Impact Assessment including at least the following considerations:</i> <ul style="list-style-type: none"> • Short listing from all options considered • Outcome of consultation • Outcome of other assessments 		
Compelling reason for publication:		<i>State the current situation and the valid reasons for publication of proposed legislation.</i>		
Deadline for publication:			Deadline due to:	
.....	.....	20	EU commitment <input type="checkbox"/>	National Agenda <input type="checkbox"/>
Does the legislation emanate from an EU Directive?		No <input type="checkbox"/>	<i>Insert Name of Directive</i>	
		Yes <input type="checkbox"/>		

¹ SMART - Specific, Measurable, Achievable, Relevant, and, Time-bound.
 Further reading: European Commission, 2009. Impact Assessment Guidelines. HM Government, 2011. IA Toolkit.



3. Processing of personal data*(In line with the General Data Protection Regulation 2016/679)**Further information may be obtained from the respective Data Protection Officer*

Does the legislative or regulatory measure being proposed relate to the processing of personal data?

Yes No

If yes, has a Data Protection Impact Assessment (DPIA) been drawn up?

Yes Attached: Yes No No (The DPIA is an obligation on the part of the Data Controller and has to be carried out in accordance with Article 35 of the GDPR)


If yes, has a Prior Consultation exercise been held with the Information and Data Protection Commissioner?

Yes No (Prior Consultation with the supervisory authority is an obligation on the part of the Data Controller in accordance with Article 36(4) of the GDPR)


Please provide or explain the feedback obtained from the Information and Data Protection Commissioner in this section below or within the contents of the Cabinet Memo.



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4. Social Impact⁴	
<p>Are there any envisaged social impacts on citizens (positive or negative) in any of the following areas?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Where possible quantify the monetary value of each impact (costs and benefits)⁵</p>	
Social benefits:	
Health:	
Education:	
Spending power:	<i>Apart from a qualitative description, the equivalent cost should be calculated using 'Supply Chain Management'</i>
Administrative burden⁶:	<i>Apart from a qualitative description, the financial burden should be calculated using 'Supply Chain Management'</i>
<p>Impact on Government⁷</p> <p><i>Outline any implications to government's policy on social issues</i></p>	
<p><small>4 Examples: demographic & economic changes, social impacts on lifestyle, quality of life and general well-being.</small></p> <p><small>5 Monetary values should be quantified with respect to the 'do nothing' scenario.</small></p> <p><small>6 Proponents should seek the guidance of the Management Efficiency Unit.</small></p> <p><small>7 Such as: prevention approaches, sustainability, improvement of efficiency, capacity building & partnerships with NGOs.</small></p>	
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6. Impact on Small and Medium Sized Enterprises¹⁰	
<p>In conformity with the <u>Small Business Act, Cap. 512</u></p> <p>Does this legislation affect the business environment?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p><i>If Yes, please attach SME Test report as endorsed by the Small Business Act Implementation Unit, within the Ministry responsible for the Economy, together with the Explanatory Notes and User Guidelines.</i></p> <p><i>If No, please attach endorsement by the Small Business Act Implementation Unit, within the Ministry for the Economy.</i></p>	
7. Gozo's Regional Impact¹¹	
Social impact:	<i>Outline qualitatively and where possible quantitatively the social impacts on the region, such as reducing insularity, logistical costs, business continuity and functions.</i>
Economic impact:	<i>Outline qualitatively and where possible quantitatively the economic impacts on the region, such as value-added industry.</i>
Environmental impact:	<i>Outline qualitatively and where possible quantitatively the environmental impacts on the region, such as agro-tourism, employment and social assistance.</i>
<p>¹⁰ Includes, but is not limited to, legislation related to agriculture, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use.</p> <p>¹¹ Applicable only to legislation related, but not limited, to agriculture, fisheries, general energy & alternative energy, industry, transport, waste management, water management & separation management, telecommunications, tourism, town & country planning, noise pollution, chemical hazards or land use.</p>	
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8. Enforcement and Implementation¹²	
How will this legislation be communicated?	
Who will enforce this legislation?	
Are skills required available?	
Risks:	

12 This section should take into consideration the adoption of risk-based approaches, data sharing, the use of administrative data, e-government, interaction and collaboration between departments and government entities, and the use of administrative fines.

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9. Conclusion
NOTE - Political Summary
<p><i>This document presumes that the Minister and the Permanent Secretary have discussed the contents hereof. There is a presumption that the Minister will set out an Executive Summary of the Consultation Report in the Memo to be presented in Cabinet.</i></p> <p>The Executive Summary for the purposes of the Impact Assessment is to include, as a minimum:</p> <ul style="list-style-type: none">➤ A shortlist of options presented during consultation, with an explanation of the selection process conducted to create the shortlist.➤ Internal and external stakeholders consulted.➤ Timing of consultation. <p><i>The scope of the statement in the Memo is to ensure that there is political ownership of the proposals. This is of vital importance in particular where no meaningful feedback or where, due to cogent reasons that need to be spelt out, the stakeholder feedback cannot be taken on board.</i></p>
Compliance to/Strategies of Government as may be applicable:
10. Sunset Clause
<p>Sunset clauses are part of Government's commitment; is it envisaged that the proposed legislation contains a sunset clause or clauses?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Kindly indicate hereunder which article/clause/regulation/rule etc., of the proposed legislation is subject to a sunset clause:</p>
Ministry/Entity responsible to carry out an evaluation:
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Amendment of
Schedule III to
the principal
Act.

10. Item (ii) of Schedule III to the principal Act shall be substituted by the following:

"(ii) The government department, government entity or government agency sponsoring the instrument is responsible for drafting the explanatory notes to accompany it. The draft must be agreed with by the Office of the State Advocate, which will check that it is consistent with the instrument."

Passed by the House of Representatives at Sitting No. 462 of the 18th May, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

