

MALTA

**ATT Nru XXIV tal-2022**

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

**ATT sabiex jipprovdi għat-traspożizzjoni parzjali tad-Direttiva (UE) 2019/1023, isahħaħ il-qafas leġislattiv dwar l-insolvenza u jipprovdi għal affarijiet relatati u konnessi mal-insolvenza.**

**ACT No. XXIV of 2022**

AN ACT enacted by the Parliament of Malta.

**AN ACT to provide for the partial transposition of Directive (EU) 2019/1023, to strengthen the legislative framework relating to insolvency and to make provision with respect to matters ancillary thereto or connected therewith.**



Nagħti l-kunsens tiegħi.

(L.S.)

**GEORGE VELLA**  
**President**

23 ta' Diċembru, 2022

**ATT Nru XXIV tal-2022**

*ATT sabiex jipprovdi għat-traspożizzjoni parzjali tad-Direttiva (UE) 2019/1023, isaħħaħ il-qafas leġislattiv dwar l-insolvenza u jipprovdi għal affarijiet relatati u konnessi mal-insolvenza.*

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.** (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2022 ta' Qabel l-Insolvenza. Titolu fil-qosor u skop.

(2) L-għan ta' dan l-Att huwa sabiex jipprovdi qafas modern, dwar it-twissija bikrija ta' sinjali ta' insolvenza u proċeduri ta' ristrutturar intiżi sabiex jevitaw l-insolvenza, u sabiex jittrasponu parzjalment id-Direttiva (UE) 2019/1023 tal-Parlament Ewropew u tal-Kunsill tal-20 ta' Ġunju 2019 dwar oqfsa ta' ristrutturar preventiv, dwar il-ħelsien mid-dejn u l-iskwalifiki, u dwar miżuri sabiex tiżdied l-effiċjenza tal-proċeduri li jikkonċernaw ir-ristrutturar, l-insolvenza u l-ħelsien mid-dejn, u li temenda d-Direttiva (UE) 2017/1132 (Direttiva dwar ir-ristrutturar u l-insolvenza).

TAQSIMA I  
DISPOŻIZZJONIJIET PRELIMINARI

Tifsir. 2. F'dan l-Att, u fi kwalunkwe regolamenti magħmula tahtu, sakemm il-kuntest ma jitlobx mod ieħor:

L.S. 595.27. "awtorità kompetenti" tfisser is-Servizz ta' Insolvenza u Ricevitur fi ħdan ir-Registru dwar in-Negozju ta' Malta stabbilit mill-Ordni li jistabbilixxi r-Registru dwar in-Negozju ta' Malta bħala Aġenzija;

Kap.16. "debitur" tfisser kwalunkwe persuna fiżika li twettaq kummerç, negozju, sengħa jew professjoni fi jew minn Malta, jew kwalunkwe organizzazzjoni ġuridika skont it-Tieni Skeda tal-Kodiċi Ċivili, inkluża, iżda mhux limitata għal, kwalunkwe soċjetà kummerċjali ffurmata u rreġistrata skont l-Att dwar il-Kumpaniji, u teskludi espressament:

Kap. 386.

(a) impriži tal-assigurazzjoni jew impriži tar-rijassigurazzjoni kif imfissra fil-punti (1) u (4) tal-Artikolu 13 tad-Direttiva 2009/138/KE;

(b) istituzzjonijiet ta' kreditu kif imfissra fil-punt (1) tal-Artikolu 4(1) tar-Regolament (UE) Nru 575/2013;

(ċ) ditti tal-investment jew impriži ta' investment kollettiv kif imfissra fil-punti (2) u (7) tal-Artikolu 4(1) tar-Regolament (UE) Nru 575/2013;

(d) kontropartijiet ċentrali kif imfissra fil-punt (1) tal-Artikolu 2 tar-Regolament (UE) Nru 648/2012;

(e) depożitorji ċentrali tat-titoli kif imfissra fil-punt (1) tal-Artikolu 2(1) tar-Regolament (UE) Nru 909/2014;

(f) istituzzjonijiet u entitajiet finanzjarji oħra elenkati fl-ewwel subparagrafu tal-Artikolu 1(1) tad-Direttiva 2014/59/UE;

(g) korpi pubbliċi skont il-liġi nazzjonali; u

(h) persuni fiżiċi fir-rigward ta' djun mhux imgarrba fit-twertiq ta' kummerç, negozju, sengħa jew professjoni;

"detentur tal-ekwità" tfisser persuna li jkollha interess proprjetarju f'debitur jew negozju ta' debitur, inkluż azzjonist, dment li d-detenturi tal-ekwità li jkollhom pretensjonijiet separati kontra d-debitur, minkejja dan, jibqgħu intitolati li jiġu ttrattati separatament bħala kredituri tad-debitur;

"dispożizzjoni ta' close-out netting" għandu jkollha l-istess tifsira mogħtija lilha fl-Att dwar Tpaċija u *Netting* f'każ ta' Insolvenza jew regolamenti maħruġa taħtu; Kap. 459.

"kuntratt eżekutorju essenzjali" tfisser kuntratt bejn debitur u kreditur wiehed (1) jew aktar tiegħu, li, fiż-żmien meta tingħata jew tiġi applikata sospensjoni ta' azzjonijiet ta' infurzar individwali, il-partijiet ikunu taħt obbligu li jwettqu, u li t-twettiq tiegħu għandu jkun meħtieġ għall-kontinwazzjoni tan-negozju ta' kuljum tad-debitur, inklużi kuntratti għal provvisti jew servizzi li, jekk jiġu sospizi, iwasslu biex l-attivitajiet tad-debitur jiġu interrotti, jew affettwati materjalment u b'mod detrimental, jew inkella jitnaqqsu sostanzjalment, iżda għandhom jeskludu kuntratti ta' impjeg kif irregolati mill-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali; Kap. 452.

"Ministru" tfisser il-ministru responsabbli għar-registrazzjoni ta' soċjetajiet kummerċjali;

"partijiet affettwati" tfisser kredituri, detenturi tal-ekwità, jew impjegati inkluż rappreżentanti tal-impjegati, li l-pretensjonijiet jew l-interessi tagħhom huma, jew jistgħu jkunu, affettwati direttament minn pjan ta' ristrutturar;

"prattikant fl-insolvenza" tfisser persuna awtorizzata biex taġixxi bħala prattikant fl-insolvenza kif kontemplat fl-Att tal-2022 dwar il-Prattikanti fl-Insolvenza; Att Nru XXV tal-2022.

"Qorti" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ);

"ristrutturar" tfisser l-implimentazzjoni ta' kwalunkwe miżura mmirata lejn il-preservazzjoni jew ir-restawr tal-vijabbiltà ekonomika tad-debitur, li tista' tinkludi tibdil fil-kompożizzjoni, il-kondizzjonijiet jew l-istruttura tal-attiv u passiv tad-debitur jew kwalunkwe parti oħra tal-istruttura finanzjarja tad-debitur, il-bejgħ ta' assi jew partijiet tan-negozju, il-bejgħ tan-negozju bħala negozju avvjat, kif ukoll kwalunkwe bidla operazzjonali meħtieġa, jew il-konkorrenza ta' kwalunkwe minn dawn l-elementi;

"test tal-aħjar interess tal-kredituri" tfisser test li jiġi ssodisfat jekk il-Qorti tkun raġonevolment sodisfatta li l-ebda kreditur li ma jaqbilx ma jkun aghar, skont il-pjan ta' ristrutturar speċifiku, milli kieku tali kreditur kien ikun, kieku tiġi applikata l-gradwazzjoni normali tal-prijoritajiet ta' likwidazzjoni, jew fil-każ tal-aħjar xenarju alternattiv li jkun imiss, jekk il-pjan ta' ristrutturar ma jkunx ikkonfermat;

"uffiċjal tad-debitur" tfisser:

A 574

Kap. 386. (a) fir-rigward ta' debitur li jkun kumpanija ffurmata u rreġistrata skont it-Taqsima V tal-Att dwar il-Kumpaniji, jew li tkun kumpanija b'responsabbiltà limitata rreġistrata skont l-Ordinanza dwar Soċjetajiet Kummerċjali, jew kwalunkwe direttur, jew persuna oħra, bi kwalunkwe isem li jista' jissejjaħ, li jwettaq sostanzjalment l-istess funzjonijiet fir-rigward tad-direzzjoni tal-kumpanija bħal daww imwettqa minn direttur;

Kap.386. (b) fir-rigward ta' debitur li jkun soċjetà kummerċjali ffurmata u rreġistrata skont it-Taqsima III tal-Att dwar il-Kumpaniji jew l-Ordinanza dwar is-Soċjetajiet Kummerċjali fejn applikabbli, kwalunkwe soċju li fih huma vestiti l-amministrazzjoni u r-rappreżentanza tas-soċjetà;

(c) fir-rigward ta' debitur li jkun organizzazzjoni ġuridika mhux imsemmija fil-paragrafi (i) jew (ii), għandha tinkludi kwalunkwe persuna, irrISPETTIVAMENT mill-ħatra li taħtha tista' topera, li, sew jekk waħidha kif ukoll ma' oħrajn, tkun inħatret mid-dokumenti kostituttivi tal-organizzazzjoni ġuridika jew kwalunkwe strument, deċiżjoni, ordni jew arrangament ieħor li jorbot lill-organizzazzjoni ġuridika, bħala dik il-persuna vestita bl-amministrazzjoni u r-rappreżentanza tagħha, jew li permezz tagħha, qiegħda jew tista' tiġi eżerċitata:

Iżda, fejn id-debitur ikun persuna fiżika, kwalunkwe referenza għall-uffiċjali tad-debitur għandha tinftiehem bħala referenza għad-debitur innifsu.

## TAQSIMA II

### GHODOD TA' TWISSIJA BIKRIJA U PREVENZJONI TA' KRIŻI

Setgħa tal-Ministru li jagħmel regolamenti.

**3.** Id-debituri għandhom ikunu intitolati għal aċċess għall-ghodod ta' twissija bikrija maħsuba biex jippermettu lid-debituri jidentifikaw ċirkostanzi li jistgħu jwasslu għall-probabbiltà ta' insolvenza u li jindikaw lid-debitur il-ħtieġa li jaġixxu mingħajr dewmien, kif il-Ministru jista', fuq parir tal-awtorità kompetenti, minn żmien għal żmien jippreskrivi permezz ta' regolamenti magħmula taħt dan l-Att.

Disponibbiltà ta' informazzjoni dwar ghodod ta' twissija bikrija.

**4.** L-awtorità kompetenti għandha tkun responsabbli biex tiżviluppa u żżomm informazzjoni rilevanti u aġġornata dwar id-disponibbiltà ta' ghodod ta' twissija bikrija, kif ukoll dwar il-proċeduri ta' ristrutturar preventiv disponibbli skont dan l-Att, liema informazzjoni għandha tkun disponibbli pubblikament b'dak il-mod li l-awtorità kompetenti tqis xieraq u adegwat għall-iskop maħsub.

5. L-uffiċjali tad-debitur għandhom, b'referenza għall-għodod ta' twissija bikrija u kwalunkwe informazzjoni oħra raġonevolment disponibbli lilhom, jissorveljaw kontinwament l-iżviluppi li jistgħu jesponu lid-debitur għall-probabbiltà ta' insolvenza u, fejn tali żviluppi jiġu identifikati, jieħdu kontromiżuri xierqa bil-ħsieb li jevitaw l-insolvenza u jiżguraw il-vijabbiltà ekonomika tan-negozju:

Dmirijiet tal-uffiċjali tad-debitur biex jissorveljaw is-sinjali ta' twissija bikrija ta' insolvenza.

Iżda, dan l-artikolu ma għandux jippreġudika d-dispożizzjonijiet ta' kwalunkwe liġi oħra maħsuba biex tirregola l-imġiba tal-uffiċjali tad-debitur, inkluż iżda mhux limitat għal każijiet fejn huma kienu jafu, jew kellhom ikunu jafu, li ma kien hemm l-ebda prospettu raġonevoli li tiġi evitata l-insolvenza tad-debitur.

6. (1) Fejn l-uffiċjali tad-debitur isiru konxji li d-debitur huwa espost għall-probabbiltà ta' insolvenza, jew bħala riżultat ta':

Dmirijiet tal-uffiċjali tad-debitur meta d-debitur ikun espost għall-probabbiltà ta' insolvenza.

(a) informazzjoni u data li tpoġġiet għad-dispożizzjoni tagħhom bis-saħħa tal-għodod ta' twissija bikrija; jew

(b) kwalunkwe reviżjoni finanzjarja magħmula mill-awdituri tad-debitur; jew

(ċ) kwalunkwe talba minn kreditur jew kredituri, jew mir-rappreżentant tal-impjegati tad-debitur, jew mid-detentur tal-obbligazzjonijiet jew tal-ekwità, biex jikkunsidraw is-sitwazzjoni finanzjarja tagħhom; jew

(d) ċirkostanzi prevalenti li b'xi mod ieħor jesponu lid-debitur għall-probabbiltà ta' insolvenza,

l-uffiċjali għandhom minnufih, u fi kwalunkwe każ, mhux aktar tard minn tletin (30) ġurnata minn meta jsiru konxji dwar dan, isejjhu laqgħa tal-uffiċjali, bil-għan li jirrevedu l-pożizzjoni tad-debitur u jiddeterminaw x'passi għandhom jittieħdu biex tiġi ttrattata s-sitwazzjoni, b'kont meħud tal-interessi tal-kredituri, id-detenturi tal-ekwità, l-impjegati, u partijiet interessati oħra tad-debitur, u inkluż, iżda mhux limitat għal, konsiderazzjoni dwar jekk id-debitur għandux jikkonsulta ma' prattikant fl-insolvenza u, jew, jagħmel rikors ta' ristrutturar preventiv skont l-artikolu 9.

(2) Mingħajr preġudizzju għas-subartikolu (1), fejn id-debitur huwa kummerċjant waħdu, għandu jkun biżżejjed għall-kummerċjant li jiddokumenta r-reviżjoni u d-determinazzjoni tiegħu skont is-subartikolu (1), u jzomm kont ta' tali dokumentazzjoni kif stabbilit fl-artikolu 13 tal-Kodiċi tal-Kummerċ.

Kap. 13.

(3) Il-minuti tal-laqgħa skont is-subartikolu (1) għandhom jinkludu reviżjoni dettaljata tal-kwistjonijiet finanzjarji tad-debitur u

d-determinazzjoni magħmula, u għandhom jinżammu fl-uffiċċju tad-debitur.

(4) Meta l-laqqha tissejjaħ wara talba minn kwalunkwe persuna elenkata fil-paragrafu (ċ) tas-subartikolu (1), id-debitur għandu sa mhux aktar tard minn erbatax (14)-il gurnata wara l-laqqha msemija, jikkomunika bil-miktub lil tali persuna, u lill-awtorità kompetenti, jekk il-laqqha msemija fis-subartikolu (1) seħhitx.

Detenturi tal-ekwità.

7. L-ebda detentur tal-ekwità tad-debitur ma jista', minkejja kwalunkwe haġa li tinsab fl-istrumenti kostituttivi tad-debitur jew kwalunkwe strument anċillari għalihom, ifixkel, direttament jew indirettament, lill-uffiċjali tad-debitur milli jieħdu kwalunkwe azzjoni legalment attribwibbli lilhom skont dan l-Att.

### TAQSIMA III

#### DHUL FI PROCEDURA TA' RISTRUTTURAR PREVENTIV

Eligibbiltà għal ristrutturar preventiv.

8. Meta debitur ikun, jew l-uffiċjali tad-debitur ikunu, sew b'referenza għall-artikolu 6, jew inkella b'mod raġonevoli ddeterminaw li d-debitur huwa espost għall-probabbiltà ta' insolvenza, b'kont meħud għaċ-ċirkostanzi tan-negozju tad-debitur u l-attiv u l-passiv attwali, kontingenti u prospettivi tiegħu, tista' ssir talba permezz ta' rikors għal ristrutturar preventiv lill-Qorti sabiex tqiegħed lid-debitur taħt procedura ta' ristrutturar preventiv, dment li d-debitur:

(a) ikollu prospetti raġonevoli ta' vijabbiltà, jiġifieri l-vijabbiltà ekonomika tad-debitur x'aktarx li tista' tiġi ppreservata jew restawrata bħala riżultat tat-tqegħid taħt procedura ta' ristrutturar preventiv;

Kap. 12.

(b) ma jkunx sar responsabbli għall-ħlas ta' dejn li jkun baqa' mhux sodisfatt, kompletament jew parzjalment, wara erbgha u għoxrin (24) ġimgħa mill-infurzar ta' titolu eżekuttiv kontra d-debitur permezz ta' kwalunkwe mill-atti eżekuttivi speċifikati fl-artikolu 273 tal-Kodiċi ta' Organizzazzjoni u Procedura Ċivili, jew inkella jkun ġie ddikjarat mill-qorti li ma jkunx jista' jhallas id-djun tiegħu; u

(ċ) ma jkunx diġà ġie ammess precedentement għall-proċeduri ta' ristrutturar preventiv fit-tliet (3) snin ta' qabel id-data tar-rikors.

Tipi ta' proċeduri ta' ristrutturar preventiv.

9. (1) Talba ta' ristrutturar preventiv, hawn aktar 'il quddiem f'dan l-artikolu imsejha t-"talba", issir permezz ta' rikors lill-Qorti u għandha ssir jew tiġi approvata minn prattikant fl-insolvenza.

(2) Il-prattikant fl-insolvenza li jagħmel jew japprova, skont il-

każ, it-talba msemmija fis-subartikolu (1) għandu, bis-saħħa ta' dan, kif soġġett biss għad-dispożizzjonijiet tal-artikolu 13, jiġi nnominat bħala l-prattikant fl-insolvenza responsabbli biex jassisti lid-debitur fil-proċedura ta' ristrutturatur preventiv, u l-obbligi kollha ta' praktikant fl-insolvenza applikabbli skont dan l-Att għandhom japplikaw għall-imsemmi praktikant fl-insolvenza sakemm il-prattikant fl-insolvenza jibqa' hekk mahtur.

(3) It-talba msemmija fis-subartikolu (1) għandha tinkludi rikjesta lill-Qorti biex id-debitur jitqiegħed fi proċedura ta' ristrutturatur preventiv taht waħda mit-tipi speċifiċi ta' proċeduri ta' ristrutturatur preventiv li ġejjin:

(a) proċedura bażika ta' ristrutturatur preventiv għall-formulazzjoni tal-pjan ta' ristrutturatur skont ir-rekwiżiti tat-Tieni Skeda, u li għandha tiġi sottomessa għall-adozzjoni mill-partijiet affettwati skont it-Taqsima VI;

(b) proċedura ta' ristrutturatur preventiv ifformulata minn qabel, għas-sottomissjoni tal-pjan ta' ristrutturatur ifformulat skont ir-rekwiżiti tat-Tieni Skeda, għall-adozzjoni mill-partijiet affettwati skont it-Taqsima VI; jew

(ċ) proċedura ta' ristrutturatur preventiv approvata minn qabel, għall-konferma tal-pjan ta' ristrutturatur ifformulat skont ir-rekwiżiti tat-Tieni Skeda, li diġà tkun kisbet l-approvazzjoni meħtieġa għall-adozzjoni mill-partijiet affettwati skont l-artikolu 41 jew 42.

**10.** Il-prattikant fl-insolvenza li jagħmel jew japprova, skont il-każ, it-talba permezz ta' rikors imsemmija fl-artikolu 9(1) għandu jehmeż magħha, id-dokumenti li ġejjin:

Kontenut tar-rikors.

(a) sommarju tan-negożju tad-debitur u l-mod li bih jiġi operat, u dikjarazzjoni tal-fatti, iċ-ċirkostanzi u r-raġunijiet kollha li wasslu lid-debitur biex ikun espost għall-probabbiltà ta' insolvenza;

(b) dikjarazzjoni dwar il-proċeduri ta' ristrutturatur preċedenti li daħal għalihom id-debitur u l-eżitu ta' tali proċeduri;

(ċ) dikjarazzjoni motivata dwar il-prospetti ta' vijabbiltà ekonomika tad-debitur, meta jitqies ukoll l-attiv u l-passiv attwali, kontingenti u prospettiv, inkluża konsiderazzjoni dwar kif ir-ristrutturatur preventiv jista' raġonevolment jelimina jew inaqqas sostanzjalment il-probabbiltà ta' insolvenza tad-debitur, u jippermetti li tiġi ppreservata jew restawrata l-vijabbiltà

ekonomika tad-debitur;

(d) dikjarazzjonijiet finanzjarji verifikati, jew kontijiet ta' ġestjoni, jekk ir-rapporti finanzjarji verifikati ma jkunux disponibbli, għall-aħħar sentejn (2) finanzjarji sħaħ, jew, jekk id-debitur ikun ilu jinnegozja għal perjodu ta' żmien iqsar, għal tali perjodu iqsar, u magħmula sa mhux inqas minn tletin (30) ġurnata qabel id-data tar-rikors;

(e) dikjarazzjoni tal-attiv u l-passiv tad-debitur, magħmula sa data mhux qabel xahrejn (2) mid-data tar-rikors, inkluż valur attribwit lill-attiv u l-passiv elenkati fl-opinjoni motivata tal-uffiċjali tad-debitur;

(f) lista tal-kredituri tad-debitur, li jkun fiha l-ismijiet, l-indirizzi, u l-indirizzi tal-posta elettronika tagħhom, flimkien ma' indikazzjoni tal-ammont dovut lil kull wieħed minn dawn il-kredituri u l-garanzija, jekk ikun hemm, li jgawdu l-kredituri rispettivi;

(g) dikjarazzjoni mal-preżentata ta' ristrutturar preventiv magħmula fil-forma stabbilita fl-Ewwel Skeda;

(h) jekk id-debitur qed japplika għal ammissjoni għar-ristrutturar preventiv bażiku:

(i) dikjarazzjoni dwar kif il-mekkaniżmi mqiegħda għad-dispożizzjoni tad-debitur skont il-proċeduri bażiċi ta' ristrutturar preventiv jistgħu jippermettu li s-sitwazzjoni finanzjarja u ekonomika tad-debitur titjeb fl-interessi tal-kredituri tiegħu, tad-detenturi tal-ekwità, tal-impjegati, ta' partijiet interessati oħra u, jekk applikabbli, tad-debitur innifsu bħala negozju avvjat vijabbli; u

(ii) identifikazzjoni ta' kwalunkwe kuntratti eżekutorji essenzjali tad-debitur;

(i) jekk id-debitur qed japplika għal ammissjoni għar-ristrutturar preventiv ifformulat minn qabel:

(i) pjan ta' ristrutturar, imħejji skont ir-rekwiziti tat-Tieni Skeda, li għandu jiġi sottomess għall-approvazzjoni mill-partijiet affettwati;

(ii) jekk disponibbli, konferma bil-miktub tal-approvazzjoni kontingenti tal-pjan ta' ristrutturar sottomess għall-adozzjoni mill-partijiet affettwati skont is-subparagrafu (i), mill-partijiet affettwati li japprovaw; u

(iii) identifikazzjoni ta' kwalunkwe kuntratti eżekutorji essenzjali tad-debitur;

(j) jekk id-debitur qed japplika għall-ammissjoni għar-ristrutturar preventiv approvat minn qabel:

(i) pjan ta' ristrutturar, imħejji skont ir-rekwiżiti tat-Tieni Skeda, li jkun ġie adottat mill-partijiet affettwati, sabiex ikun jista' jiġi ppreżentat lill-Qorti għall-konferma skont l-artikolu 41;

(ii) konferma bil-miktub tal-approvazzjoni tal-pjan ta' ristrutturar sottomess għall-adozzjoni mill-partijiet affettwati skont is-subparagrafu (i), mill-partijiet affettwati li japprovaw; u

(iii) dokumentazzjoni u dikjarazzjonijiet ta' appoġġ xierqa, fejn applikabbli, kif jista' jkun meħtieġ sabiex ikun hemm evidenza li l-pjan ta' ristrutturar issodisfa l-kriterji għall-applikazzjoni furzata fuq klassijiet differenti skont l-artikolu 42.

**11.** (1) Waqt is-smiġħ tar-rikors, li għandu jsir f'mhux aktar minn tletin (30) ġurnata mill-preżentata tiegħu, il-Qorti tista', wara li teżamina ċ-ċirkostanzi u l-possibiltajiet kollha disponibbli, jew tiċhad it-talba jew toħroġ ordni ta' ristrutturar preventiv, u tilqa' t-talba u tqiegħed lid-debitur taħt il-proċedura ta' ristrutturar preventiv mitluba.

Smiġħ tar-rikors u l-ħruġ ta' ordni ta' ristrutturar preventiv.

(2) Il-Qorti għandha tiddeċiedi minnufih jekk tilqax it-talba magħmula b'rikors, u b'hekk tqiegħed lid-debitur taħt il-proċedura ta' ristrutturar preventiv u toħroġ ordni ta' ristrutturar preventiv, kemm-il darba tkun sodisfatta:

(a) li t-talba li tressqet mill-prattikant fl-insolvenza hija kompluta u fiha l-annessi kollha meħtieġa skont l-artikolu 10;

(b) li t-tip ta' ristrutturar preventiv li jkun qiegħed jintalab ikun adattat għaċ-ċirkostanzi tad-debitur u tal-kredituri tiegħu; u

(ċ) li l-ħruġ tal-ordni, fil-każ ta' talba għall-proċedura bażika jew preformulata ta' ristrutturar preventiv, x'aktarx jiffaċilita l-konferma ta' pjan ta' ristrutturar li jissodisfa r-rekwiżiti tal-artikolu 43(2) u li għandu jippermetti lid-debitur jirristruttura, bil-ħsieb li jipprevjeni l-insolvenza u jiżgura l-vijabbiltà ekonomika tiegħu, b'kont meħud għall-interessi tal-kredituri, id-detenturi tal-ekwità, l-impjegati, u partijiet interessati oħra tad-debitur.

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Notifika tal-ordni ta' ristrutturatur preventiv.

**12.** (1) Il-prattikant fl-insolvenza għandu jinnotifika lill-kredituri elenkati fit-talba skont l-artikolu 10(f), lill-awtorità kompetenti u lir-Registratur tal-Qrati, bil-ħruġ tal-ordni ta' ristrutturatur preventiv skont din it-Taqsima, mingħajr dewmien żejjed, bl-ispejjeż għad-debitur.

(2) Il-prattikant fl-insolvenza għandu jipubblika avviż dwar il-ħruġ tal-ordni ta' ristrutturatur preventiv fuq sit elettroniku miżmum mill-awtorità kompetenti għal dan il-għan, mhux aktar tard minn erbatax (14)-il ġurnata mill-ħruġ tal-ordni.

Ħatra ta' prattikant fl-insolvenza alternattiv.

**13.** (1) Kwalunkwe kreditur tad-debitur jista', fi kwalunkwe waqt, jippreżenta rikors lill-Qorti għall-ħatra ta' prattikant fl-insolvenza alternattiv, fejn il-kreditur:

(a) għandu raġunijiet raġonevoli sabiex jemmen li l-prattikant fl-insolvenza huwa soġġett għal kunflitt ta' interess jew inkella ma jstax iwettaq il-funzjonijiet tiegħu b'mod imparzjali; jew

(b) huwa tal-opinjoni li l-prattikant fl-insolvenza ma għandux il-kompetenza, l-esperjenza jew ir-riżorsi speċifiċi meħtieġa biex jippartecipa b'mod adegwat fil-proċeduri ta' ristrutturatur preventiv.

(2) Meta jsir rikors skont is-subartikolu (1), id-dokumenti li ġejjin għandhom jiġu annessi miegħu:

(a) il-konferma bil-miktub tal-prattikant fl-insolvenza alternattiv propost, li huwa disponibbli u ppreparat li jippartecipa fil-proċeduri ta' ristrutturatur preventiv skont l-ordni ta' ristrutturatur preventiv;

(b) dikjarazzjoni mal-preżentata ta' ristrutturatur preventiv magħmula skont l-Ewwel Skeda; u

(ċ) il-konferma bil-miktub ta' mhux inqas minn ħamsin fil-mija (50%) tal-kredituri tad-debitur kif elenkati fl-artikolu 10(f), b'referenza kemm għan-numru ta' kredituri individwali u għall-valur ekonomiku tal-pretensjonijiet tagħhom, li tali kredituri japprovaw il-ħatra tal-prattikant fl-insolvenza alternattiv.

(3) Meta l-Qorti, wara li tisma' lill-prattikant fl-insolvenza, tkun sodisfatta li jissussistu r-reqwiżiti tas-subartikolu (1), il-Qorti għandha tilqa' t-talba ppreżentata skont dan l-artikolu u għandha toħroġ ordni li jtemm immedjatement il-ħatra tal-prattikant fl-insolvenza u tikkonferma l-ħatra tal-prattikant fl-insolvenza alternattiv:

Iżda l-Qorti għandha tagħti kopja tal-ordni lir-Registratur tal-Qrati u lill-awtorità kompetenti, u din tal-aħħar għandha tiddetermina liema azzjoni, jekk ikun il-każ, tista' tkun ġustifikata fiċ-ċirkostanzi fir-rigward tal-prattikant fl-insolvenza.

(4) Il-preżentata ta' rikors skont ta' dan l-artikolu ma għandu jkollha l-ebda effett sospensiv jew negattiv fuq l-istatus tad-debitur bħala li jkun taht proċeduri ta' ristrutturar preventiv, jew fuq il-protezzjonijiet mogħtija lid-debitur bis-saħħa li jkun ammess fi proċeduri ta' ristrutturar preventiv, jew fuq kwalunkwe azzjoni meħuda mill-prattikant fl-insolvenza qabel id-data tal-ħruġ tal-ordni msemmi fis-subartikolu (3).

(5) Fejn, fil-kuntest ta' proċedura ta' ristrutturar preventiv, il-prattikant fl-insolvenza ma jkunx jista' jeseġwixxi aktar ir-responsabbiltajiet imposti skont dan l-Att, kemm jekk b'riżultat ta' riżenja, interdizzjoni, inabilitazzjoni, mewt, jew mod ieħor, id-debitur għandu, fi żmien tmienja u erbgħin (48) siegħa minn meta jsir jaf b'dan il-fatt, b'rikors lill-qorti, jitlob il-ħatra ta' Prattikant fl-insolvenza alternattiv:

Iżda tali rikors għandu, *mutatis mutandis*, jikkonforma mar-rekwiżiti tas-subartikoli (2)(a) u (2)(b):

Iżda wkoll id-debitur għandu jkun ipprojbit, mingħajr l-approvazzjoni espressa minn qabel tal-Qorti, milli jieħu kwalunkwe azzjoni li t-twettiq tagħha għandu jirrikjedi l-involviment tal-prattikant fl-insolvenza skont dan l-Att jew kif il-Qorti tista' b'xi mod ieħor tistipula fl-ordni ta' ristrutturar preventiv maħruġ skont l-artikolu 11, sakemm il-Qorti tikkonferma l-prattikant fl-insolvenza l-ġdid.

**14.** (1) Għall-perjodu li jibda mill-preżentata ta' rikors sar-rinunzja tar-rikors, jew it-terminazzjoni tal-ordni ta' ristrutturar preventiv skont liema minnhom jiġi l-ewwel:

L-effett tal-ordni ta' ristrutturar preventiv.

(a) kwalunkwe obbligu tad-debitur li jagħmel talba għall-ftuħ ta' proċedimenti li jistgħu jirriżultaw f'sentenza li tiddikjara l-falliment tad-debitur, jew ix-xoljiment jew l-istralċ tad-debitur skont il-liġi, għandu jiġi sospiż;

(b) kwalunkwe att jew proċedimenti li jistgħu jirriżultaw f'sentenza li tiddikjara l-falliment tad-debitur, jew ix-xoljiment jew l-istralċ tad-debitur skont il-liġi, għandhom jiġu sospiżi; u

(ċ) l-ebda att jew proċedimenti godda li jistgħu jirriżultaw f'sentenza li tiddikjara l-falliment tad-debitur, jew ix-xoljiment jew l-istralċ tad-debitur skont il-liġi, m'għandhom jittieħdu jew jinbdew kontra d-debitur.

(2) Il-Qorti għandha tissospendi, twaqqaf jew ma tippermettix tali att jew proċediment *ex officio* malli ssir taf li hemm fis-seħħ ordni ta' ristrutturar preventiv.

TAQSIMA IV  
DISPOŻIZZJONIJIET ĠENERALI DWAR IL-PROĊEDURA TA'  
RISTRUTTURAR PREVENTIV

Attivitajiet normali tad-debitur u parteċipazzjoni tal-kreditur.

**15.** (1) Matul il-proċedura ta' ristrutturar preventiv, id-debitur ma għandux, mingħajr l-approvazzjoni minn qabel tal-prattikant fl-insolvenza:

(a) itemm l-impjeg ta' kwalunkwe impjegati tad-debitur abbażi ta' redundancy;

(b) ibiġh jew b'xi mod jiddisponi minn, jew jorbot billi jipprovdi bħala garanzija, kwalunkwe assi jew proprjetà tad-debitur; jew

(ċ) jidhol fi kwalunkwe rbit fit-tul:

Iżda għall-finijiet odjerni, irbit fit-tul għandu jfisser kwalunkwe impenn kuntrattwali għal tul ta' żmien ta' aktar minn sitt (6) xhur:

Iżda wkoll impenn kuntrattwali li jsir fi żmien sitt (6) xhur mit-terminazzjoni ta' impenn kuntrattwali preċedenti, għandu jitqies bħala kontinwazzjoni tal-impenn kuntrattwali preċedenti jekk l-obbligi li jkunu qed jiġu kkuntrattati jkunu sostanzjalment l-istess.

(2) F'kull waqt matul il-proċedura ta' ristrutturar preventiv, kreditur jew kredituri tad-debitur, jew rappreżentant tal-impjegati tad-debitur, jista' jitlob lill-prattikant fl-insolvenza sabiex jagħtihom informazzjoni dwar l-attivitajiet tad-debitur matul il-proċedura ta' ristrutturar preventiv, u l-progress li jkun sar fin-negozjati tal-pjan ta' ristrutturar.

(3) Il-prattikant fl-insolvenza li jkun irċieva talba skont is-subartikolu (2), għandu mingħajr dewmien żejjed jgħaddi l-informazzjoni mitluba lill-persuna jew persuni li jkunu għamlu t-talba, u dan sakemm fid-diskrezzjoni tal-prattikant fl-insolvenza l-għoti ta' dik l-informazzjoni jkun raġonevoli b'qies għall-interessi ta' dik il-persuna fil-proċedura tar-ristrutturar preventiv, u dment li l-għoti ta' dik l-informazzjoni ma jkunx ta' preġudizzju għall-proċedura ta' ristrutturar preventiv.

(4) F'kull waqt matul il-proċedura ta' ristrutturar preventiv, id-

debitur, jew il-prattikant fl-insolvenza bil-kunsens tad-debitur, jew it-tnejn flimkien, jistgħu jikkonsultaw ma' kull parti interessata, inkluż kull kreditur, jew kredituri, jew rappreżentant tal-impjegati tad-debitur, rigward kull azzjoni li tkun proposta biex tittiehed bl-intenzjoni li tirrestawra l-vijabbiltà ekonomika tad-debitur, jew biex jiġi negozjat il-pjan ta' ristrutturatur.

**16.** (1) Pjan ta' ristrutturatur ifformulat skont il-proċedura tar-ristrutturatur preventiv jista' jipproponi li jiġu ristrutturati l-pretensjonijiet, kemm jekk garantiti kif ukoll jekk mhux garantiti, li:

Pretensjonijiet li jistgħu jiffurmaw parti minn pjan ta' ristrutturatur.

(a) huma legalment inforzabbli kontra d-debitur fil-mument tas-sottomissjoni tal-pjan ta' ristrutturatur; u

(b) jirriżultaw minn:

(i) arrangamenti kuntrattwali, inklużi djun li huma kontingenti fuq l-okkorrenza ta' ċirkostanzi futuri jew li b'xi mod ieħor għadhom ma sarux dovuti;

(ii) ishma, ekwità jew drittijiet oħra ta' proprjetà fid-debitur, inklużi somom dovuti permezz ta' dividendi, profitti jew b' xi mod ieħor;

(iii) taxxi dovuti mid-debitur f'Malta, esklużi t-taxxi imposti fuq il-konsum, bħat-taxxi fuq il-valur miżjud, u esklużi t-taxxi dovuti li jkunu nżammu jew inkella ngabru mid-debitur f'isem kwalunkwe awtorità jew aġenzija tal-gvern; jew

(iv) kwalunkwe pretensjoni oħra li l-Qorti tista', fuq talba ta' kreditur interessat, tordna li tiġi inkluża fil-pjan ta' ristrutturatur:

Iżda l-pjan ta' ristrutturatur ma jistax, taħt l-ebda ċirkostanza, ikollu l-għan li jinkludi, jew jaffettwa l-gradwazzjoni ta' pretensjonijiet li jirriżultaw b'konnessjoni ma':

(a) pagi dovuti mid-debitur u li jikkostitwixxu jedd bi privileġġ fuq l-assi tad-debitur skont l-artikolu 20 tal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali;

Kap. 452.

(b) djun ċivili dovuti mid-debitur esklussivament bħala danni delittwali; u

(c) kwalunkwe multa jew ammenda dovuta mid-debitur skont il-liġi Maltija.

(2) Fejn il-pjan ta' ristrutturar jinkludi miżuri li jwasslu għal bidliet fl-organizzazzjoni tax-xogħol, fil-kondizzjonijiet tal-impjeg, jew fir-relazzjonijiet kuntrattwali mal-haddiema, l-applikazzjoni ta' tali miżuri għandha tkun mingħajr preġudizzju għal kwalunkwe rekwiżit tal-parti rilevanti li tiddiskuti ma', jew tinnotifika, il-miżuri lill-haddiema rispettivi, jew lir-rappreżentanti tagħhom skont il-każ, skont il-liġi jew kwalunkwe ftehim kollettiv.

(3) Kwalunkwe ftehim estranju għall-pjan ta' ristrutturar, irrispettivament minn kif huwa fformulat, li għandu l-għan li jeskludi jew jinkludi pretensjoni fil-kamp tal-applikazzjoni tal-pjan ta' ristrutturar b'mod li jmur kontra d-dispożizzjonijiet ta' dan l-artikolu, għandu jkun null u bla effett.

(4) Kwalunkwe dispożizzjoni kuntrattwali f'kuntratt eżekutorju konkluz mid-debitur, li għandha l-għan li tippermetti lil parti fil-kuntratt li teżerċita, għad-detriment tad-debitur, kwalunkwe dritt ta' terminazzjoni, jew kwalunkwe dritt ta' aċċellerazzjoni, emenda, żamma jew sospensjoni tat-twettiq tal-obbligi tagħha favur id-debitur, jew kwalunkwe dritt ta' pussess mill-ġdid ta' kwalunkwe proprjetà mikrija, mibjugħa jew mogħtija lid-debitur, esklussivament min-naħa tad-debitur ta' proċedura ta' ristrutturar preventiv jew kwalunkwe proċedura fil-kuntest ta' din il-proċedura, għandha tkun nulla u bla effett.

Għażla tal-partijiet affettwati.

**17. (1)** Id-debitur jista' jagħzel li jeskludi pretensjonijiet mill-pjan ta' ristrutturar fejn ikun evidenti li:

(a) il-pretensjonijiet esklużi mill-pjan ta' ristrutturar ikunu raġonevolment mistennija li jiġu totalment sodisfatti, jekk il-pjan ta' ristrutturar ma jiġix ikkonfermat; jew

(b) l-esklużjoni tkun ġustifikata fil-kuntest tar-realtajiet ekonomiċi tad-debitur, b'mod partikolari fejn id-dejn inkluż ikun garantit kontra l-assi tad-debitur.

(2) Il-kriterji użati għall-ġustifikazzjoni tal-esklużjoni ta' kwalunkwe pretensjoni skont dan l-artikolu għandhom jiġu spjegati f'dettall suffiċjenti fil-pjan ta' ristrutturar u l-Qorti trid tkun sodisfatta li l-esklużjoni proposta hija kompatibbli mal-għan ta' dan l-artikolu u ma tirriżultax fi preġudizzju ingust għal kwalunkwe kreditur eskluż.

(3) Il-kredituri kollha fir-rigward ta' pretensjonijiet li ma ġewx esklużi mill-pjan ta' ristrutturar skont dan l-artikolu għandhom jitqiesu bħala partijiet affettwati għall-finijiet tal-pjan ta' ristrutturar u xort'oħra għall-finijiet ta' dan l-Att.

**18.** (1) Il-partijiet affettwati kollha għandhom jiġu organizzati fi klassijiet, kif il-prattikant fl-insolvenza jista' jqis meħtieġ biex jiddistingwi bejn l-interessi ekonomiċi differenti tal-istess, u liema klassijiet għandhom, bħala minimu, jiddistingwu bejn:

Trattament tal-partijiet affettwati fi klassijiet.

(a) detenturi ta' pretensjonijiet garantiti;

(b) detenturi ta' pretensjonijiet mhux garantiti;

(c) detenturi ta' talbiet għall-ħlas ta' pagi li ma jikkostitwixxux jedd bi privileġġ fuq l-assi tad-debitur skont l-artikolu 20 tal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali;

Kap. 452.

(d) detenturi ta' pretensjonijiet subordinati, jiġifieri pretensjonijiet li, fil-każ ta' likwidazzjoni tal-assi tad-debitur, jibqgħu mhux imħallsa sal-ħlas totali tad-djun kollha mhux subordinati tad-debitur; u

(e) detenturi ta' ishma, ekwità jew drittijiet oħra ta' proprjetà tad-debitur.

(2) Il-prattikant fl-insolvenza għandu, meta jiformula l-klassijiet tal-partijiet affettwati, iqis b'mod partikolari l-protezzjoni ta' kredituri vulnerabbli, bħal haddiema u fornituri żgħar, u għandu wkoll jorganizza klassi ta' kredituri vulnerabbli, jew klassijiet, jekk il-prattikant fl-insolvenza jqis li dan huwa meħtieġ għall-protezzjoni tal-kredituri vulnerabbli.

(3) Il-partijiet affettwati għandhom jinqasmu ulterjorment fi klassijiet addizzjonali, kif jista' jkun meħtieġ sabiex issir distinzjoni bejn il-partijiet affettwati fl-istess klassi iżda li jkollhom pretensjonijiet ta' prijorità legali differenti fil-każ ta' likwidazzjoni tal-assi tad-debitur.

(4) Fil-każijiet kollha, il-klassijiet kollha tal-partijiet affettwati għandhom ikunu distinti b'mod ċar minn xulxin, u l-kriterji użati biex issir distinzjoni bejn il-partijiet affettwati jridu jiġu speċifikati b'mod ċar fil-pjan ta' ristrutturar.

**19.** (1) Il-partijiet kollha affettwati li huma parti minn klassi speċifika, għandhom jiġu ttrattati b'mod ugwali għall-finijiet tar-ristrutturar tal-pretensjonijiet tagħhom fl-ambitu tal-pjan ta' ristrutturar, sakemm it-trattament detrimental ma jkunx espressament miftiehem mill-partijiet affettwati li għalihom għandha tapplika din id-differenzazzjoni.

Trattament ugwali tal-partijiet affettwati.

(2) Fejn parti affettwata taqbel li tiġi ttrattata b'mod differenti minn partijiet affettwati oħra fl-istess klassi skont is-subartikolu

preċedenti, il-pjan ta' ristrutturar għandu jkun akkumpanjat minn dikjarazzjoni espliċita, bil-miktub, minn kull waħda mill-partijiet affettwati li għad-detriment tagħha għandha tapplika d-differenzjazzjoni fit-trattament.

(3) Kwalunkwe ftehim estranju għall-pjan ta' ristrutturar, tkun xi tkun il-formulazzjoni tiegħu, li jagħti, jew ikollu l-għan li jagħti, vantaġġ ingust lil parti affettwata, kemm jekk skont il-pjan ta' ristrutturar jew xort'oħra b'rabta mal-proċeduri ta' ristrutturar preventiv, għandu jkun null u bla effett.

Protezzjoni ta' finanzjament ġdid u interim.

**20.** (1) Kwalunkwe finanzjament interim miksub mid-debitur skont l-artikolu 31, jew kwalunkwe finanzjament ġdid li jifforma parti minn pjan ta' ristrutturar li huwa debitament ikkonfermat skont dan l-Att, għandu, fil-każ ta' kwalunkwe proċedura ta' insolvenza sussegwenti fir-rigward tad-debitur:

(a) ma jiġix iddikjarat null, annullabbli, jew mhux inforzabbli;

Kap. 386.

(b) ma jikkostitwixxi bazi għal kwalunkwe pretensjoni jew allegazzjoni ta' kummerċ hażin jew preferenza bi frodi, skont l-Att dwar il-Kumpaniji, li jistgħu jitressqu kontra d-debitur; u

(ċ) il-konċedenti ta' tali finanzjament ġdid jew interim m'għandhomx, minkejja xi haġa kuntrarja li tinsab f'xi liġi oħra, ikunu responsabbli għar-raġuni li tali finanzjament huwa ta' detriment għall-kredituri tad-debitur:

Kap. 16.

Iżda d-dispożizzjonijiet ta' dan is-subartikolu m'għandhom bl-ebda mod jillimitaw id-dritt ta' kreditur li jressaq azzjoni abbażi tal-artikolu 1144 tal-Kodiċi Ċivili.

(2) Kull ftehim, irrispettivament minn kif inhu fformulat, li għandu l-għan li jeskludi jew jillimita d-dispożizzjonijiet ta' dan l-artikolu, għandu jkun null u bla effett.

Protezzjoni ta' tranżazzjonijiet relatati mar-ristrutturar.

**21.** (1) Kwalunkwe tranżazzjonijiet li d-debitur ikun daħal għalihom b'mod raġonevoli, li huwa jista' jipprova li huma direttament meħtieġa għan-negozjar tal-pjan ta' ristrutturar matul il-proċeduri ta' ristrutturar preventiv, jew għall-implimentazzjoni tal-pjan ta' ristrutturar li jkun ġie kkonfermat skont dan l-Att, inklużi, mingħajr limitazzjoni, it-tariffi u l-ispejjeż fir-rigward:

(a) tan-negozjar, l-adozzjoni, jew il-konferma tal-pjan ta' ristrutturar;

(b) tal-għoti ta' pariri professjonali marbuta mill-qrib mar-ristrutturar;

(ċ) tal-ħlas tal-pagi tal-ħaddiema għax-xogħol li diġà sar; u

(d) ta' kwalunkwe ħlas u spejjeż magħmula fil-kors ordinarju tan-negozju tad-debitur,

ma għandhomx, fil-każ ta' kwalunkwe proċedimenti ta' insolvenza sussegwenti fir-rigward tad-debitur, jiġu ddikjarati nulli, annullabbli, jew mhux inforzabbli, jew jikkostitwixxu bażi għal kwalunkwe pretensjoni jew allegazzjoni ta' kummerċ ħażin, jew preferenza bi frodi skont l-Att dwar il-Kumpaniji, li tista' tingieb kontra d-debitur:

Kap. 386.

Iżda d-dispożizzjonijiet ta' dan is-subartikolu m'għandhom bl-ebda mod jillimitaw id-dritt ta' kreditur li jressaq azzjoni abbażi tal-artikolu 1144 tal-Kodiċi Ċivili.

Kap. 16.

(2) Mingħajr preġudizzju għall-protezzjonijiet stipulati fis-subartikolu (1)(a), ir-remunerazzjoni ta' prattikant fl-insolvenza, kif ukoll kwalunkwe spejjeż jew żborżament magħmula mill-prattikant fl-insolvenza fl-eżerċizzju tal-funzjonijiet tiegħu, għandhom jitqiesu bhala pretensjoni privileġġata fuq l-assi tad-debitur, li, minkejja kwalunkwe haġa li tinsab fi kwalunkwe liġi oħra, għandha tiġi b'prijorità qabel id-djun garantiti jew mhux garantiti kollha tad-debitur.

(3) Il-Ministru jista', b'konsultazzjoni mal-awtorità kompetenti msemmija fl-Att tal-2022 dwar il-Prattikanti fl-Insolvenza, jagħmel regolamenti dwar il-ħlas tal-ispejjeż u r-remunerazzjoni tal-prattikant fl-insolvenza.

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(4) Il-Qorti għandu jkollha s-setgħa tordna li ħlasijiet tal-ispejjeż u r-remunerazzjoni tal-prattikant fl-insolvenza jiġu mħallsa skont kif provdut f'regolamenti magħmula skont is-subartikolu (3).

(5) Kull ftehim, irrispettivament minn kif inhu fformulat, li għandu l-għan li jeskludi jew jillimita d-dispożizzjonijiet ta' dan l-artikolu, għandu jkun null u bla effett.

**22.** (1) Minkejja kwalunkwe haġa li tinsab fl-istrumenti kostituttivi tad-debitur jew kwalunkwe strument anċillari għalihom, kwalunkwe laqgħa msejja jew miżmuma skont dan l-Att tista' tinzamm validament b'mod virtwali skont dan l-artikolu:

Żamma ta' laqgħat.

Iżda meta laqgħa ma ssirx b'mod virtwali, kwalunkwe persuna intitolata li tkun preżenti fil-laqgħa tista' xorta waħda tattendi laqgħa b'mod virtwali, u r-rekwiżiti kollha applikabbli għaż-żamma

ta' laqgħa virtwali skont dan l-artikolu għandhom japplikaw fl-interess ta' dawk il-persuni li jattendu virtwalment.

(2) Għandha tkun ir-responsabbiltà tal-prattikant fl-insolvenza li jiżgura li jkunu disponibbli mezzi teknoloġiċi suffiċjenti, fil-post tal-laqgħa, biex kwalunkwe persuna li tattendi l-laqgħa virtwalment tkun tista' ssegwi u tipparteċipa b'mod effettiv fid-diskussjoni.

(3) Kwalunkwe persuna intitolata li tkun preżenti f'laqgħa għandha, minkejja kwalunkwe dispożizzjoni jew ftehim għall-kuntrarju, tkun intitolata li taħtar persuna oħra bħala l-prokuratur tagħha biex tattendi l-laqgħa u, jekk meħtieġ, tiegħu kwalunkwe deċiżjoni rilevanti għall-interessi tagħha, u tivvota għan-nom tagħha u f'isimha.

(4) Il-ħatra ta' prokuratur għandha tkun bil-miktub u tista' tiġi rreġistrata b'mod elettroniku, u għandha tiġi pprovduta prova ta' tali ħatra lill-prattikant fl-insolvenza qabel il-laqgħa.

(5) Kwalunkwe avviż li jsejjaħ laqgħa skont dan l-Att għandu jkun bil-miktub u jista' jiġi trażmess permezz tal-posta elettronika, sa mhux aktar tard minn sebat (7) ijiem mil-laqgħa u għandu jinkludi, bi prominenza raġonevoli:

(a) dikjarazzjoni li l-persuni jistgħu jattendu l-laqgħa b'mod virtwali;

(b) dikjarazzjoni li l-persuni għandhom ikunu intitolati jaħtru prokuratur li, biex jiġi evitat id-dubju, jista' wkoll jattendi l-laqgħa b'mod virtwali;

(ċ) dettalji dwar il-mezzi li għandhom jintużaw biex wieħed jattendi l-laqgħa b'mod virtwali; u

(d) il-proċedura li tirregola kif kwalunkwe persuna intitolata li tattendi tista' tipparteċipa fid-diskussjoni.

Ħatra ta' medjatur.

Kap. 474.

Kap. 474.

**23.** (1) Fi kwalunkwe stadju matul proċedura ta' ristrutturar preventiv, il-prattikant fl-insolvenza jista', bis-sanzjoni tad-debitur u b'maġġoranza fil-valur tal-partijiet kollha affettwati, jieħu l-passi meħtieġa sabiex jinħatar medjatur skont l-Att dwar il-Medjazzjoni, biex jiffacilita n-negożjati bejn id-debitur u l-partijiet affettwati għall-finijiet tal-formulazzjoni tal-pjan ta' ristrutturar.

(2) Minkejja dak kollu li jinsab fl-Att dwar il-Medjazzjoni, il-ħatra ta' medjatur skont dan l-artikolu ma għandhiex taffettwa l-applikazzjoni tad-dispożizzjonijiet l-oħra ta' dan l-Att u fil-każ ta' kwalunkwe inkonsistenza bejn dan l-Att u l-Att dwar il-Medjazzjoni,

id-dispożizzjonijiet ta' dan l-Att għandhom jipprevalu.

24. Jekk jitressqu żewġ talbiet jew iktar għar-ristrutturar preventiv quddiem il-Qorti, li huma konnessi fir-rigward tas-suġġett tagħhom, jew jekk id-deċiżjoni dwar waħda tista' taffettwa d-deċiżjoni tal-oħra, il-Qorti tista' tordna li d-diversi proċedimenti jinstemgħu u jiġu diskussi simultanjament.

Konnessjoni tal-proċedimenti.

## TAQSIMA V PROĊEDURA TA' RISTRUTTURAR PREVENTIV

### TITOLU I: PROĊEDURA BAŻIKA TA' RISTRUTTURAR PREVENTIV

25. (1) Mal-preżentata ta' rikors b'talba lill-Qorti sabiex tqiegħed lid-debitur taħt proċedura bażika ta' ristrutturar preventiv u sakemm ma tiġix miċhuda, u, fil-każ li l-Qorti tilqa' t-talba u toħroġ ordni ta' ristrutturar preventiv biex id-debitur jitqiegħed taħt proċedura bażika ta' ristrutturar preventiv, għall-perjodu ta' erba' (4) xhur wara d-data tar- rikors:

Sospensjoni ta' azzjonijiet ta' infurzar individwali.

(a) l-eżekuzzjoni ta' pretensjonijiet ta' natura monetarja kontra d-debitur, bl-esklużjoni biss tal-pretensjonijiet tal-ħaddiema, u kwalunkwe imgħax li b'xi mod ieħor jista' jakkumula fuqhom, għandhom jitwaqqfu;

(b) fir-rigward ta' kuntratti eżekutorji essenzjali konkluzi qabel l-ordni biex id-debitur jitqiegħed taħt proċedura ta' ristrutturar preventiv, l-ebda parti ma tista' teżerċita, għad-detriment tad-debitur, kwalunkwe dritt ta' terminazzjoni, jew kwalunkwe dritt li tħaffef, timmodifika, iżzomm jew tissospendi t-twettiq tal-obbligi tagħha favur id-debitur, jew kwalunkwe dritt li tiegħu lura kwalunkwe proprjetà mikrija, mibjugħa jew mogħtija lid-debitur, unikament minħabba l-fatt li ma tħallsux mid-debitur, jew bis-saħħa tad-dħul tad-debitur fi proċedura ta' ristrutturar preventiv;

(ċ) l-ebda att kawtelatorju jew eżekuttiv jew mandat imsemmi fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili m'għandu jsir jew jitkompla kontra d-debitur jew kwalunkwe proprjetà tad-debitur, inkluż kwalunkwe mandat skont l-artikolu 312 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili;

Kap. 12.

(d) l-ebda proċediment ta' arbitraġġ m'għandu jsir jew jitkompla kontra d-debitur jew kwalunkwe proprjetà tad-debitur; u

(e) minkejja dak kollu li jinsab f'dan is-subartikolu, l-

ebda proċedimenti ġudizzjarji ma għandhom jinbdew jew jitkomplew kontra d-debitur jew il-proprjeta' tiegħu, u kull qorti relevanti għandha tiċhad kull azzjoni ġudizzjarja ġdida kontra d-debitur, jew għandha *ex officio* tordna s-sospensjoni ta' proċedimenti ġudizzjarji li jkunu għaddejjin kontra d-debitur.

(2) Il-Qorti għandha tissospendi, twaqqaf jew ma tippermettix kwalunkwe att jew proċediment skont il-paragrafu (d) jew (e) tas-subartikolu (1), jew l-eżekuzzjoni ta' talbiet skont il-paragrafu (a) tas-subartikolu (1), skont il-każ, *ex officio*, malli ssir taf li tkun saret talba għar-ristrutturar preventiv u ma tkunx giet miċhuda, jew ikun fis-sehħ ordni ta' ristruttururar preventiv.

(3) Il-Qorti tista', skont talba permezz ta' rikors skont is-subartikolu (4), f'kull hin toħroġ ordni biex tneħhi l-protezzjonijiet kollha jew xi wħud minnhom mogħtija lid-debitur skont is-subartikolu (1), għal kollox jew parzjalment, u bla ħsara għal dawk it-termini li l-Qorti tqis xierqa li timponi.

(4) Rikors skont is-subartikolu (2) jista' jitressaq quddiem il-Qorti minn:

(a) debitur, wara, fejn applikabbli, deċiżjoni tal-uffiċjali tad-debitur;

(b) il-prattikant fl-insolvenza; jew

(ċ) kwalunkwe kreditur jew kredituri, sakemm ikun ippruvat għas-sodisfazzjon tal-Qorti:

(i) li l-protezzjonijiet mogħtija ma għadhomx jissodisfaw l-oġettiv li jappoġġaw in-negozjati tal-pjan ta' ristruttururar;

(ii) li l-protezzjonijiet mogħtija għandhom jikkawżaw ħsara sostanzjali jew diffikultà finanzjarja lill-kreditur;

(iii) li l-protezzjonijiet mogħtija għandhom jikkawżaw preġudizzju ingust lill-kreditur jew lill-klassi ta' kredituri fir-rigward ta' kwalunkwe kreditur ieħor jew klassi ta' kredituri; jew

(iv) li, meta l-kreditur jitlob lill-Qorti tneħhi l-protezzjoni mogħtija skont is-subartikolu (1)(b), li kuntratt konkluz bejn id-debitur u l-kreditur ma jkunx kuntratt eżekutorju essenzjali.

(5) Id-dispożizzjonijiet tas-subartikolu (1), mingħajr preġudizzju għall-ġeneralità tiegħu, m'għandhomx japplikaw sa fejn dawn jistgħu jkunu inkonsistenti ma', jew sa fejn dawn jistgħu jiġu interpretati bħala li jillimitaw jew jirrestringu:

Esklużjonijiet mis-sospensjoni ta' azzjonijiet ta' infurzar individwali.

(a) kwalunkwe azzjoni *in rem* kontra vapur jew bastiment tal-baħar;

(b) kwalunkwe azzjoni *in rem* kontra inġenju tal-ajru jew magna tal-inġenju tal-ajru;

(ċ) kwalunkwe proċedimenti li jistgħu jiġu istitwiti mid-detentur ta' ipoteka registrata jew kreditur privileġġjat fuq bastiment jew bastiment tal-baħar, jew kwalunkwe azzjoni jew proċedimenti oħra li għalihom bastiment jew bastiment tal-baħar jista' jkun soġġett skont l-Att dwar il-Bastimenti Merkantili;

Kap. 234.

(d) kwalunkwe proċedimenti li jistgħu jiġu istitwiti mid-detentur ta' ipoteka registrata jew kreditur privileġġjat fuq inġenju tal-ajru jew magna tal-inġenju tal-ajru, jew kwalunkwe azzjoni jew proċedimenti oħra li għalihom inġenju tal-ajru jew magna tal-inġenji tal-ajru jistgħu jkunu soġġetti skont l-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru;

Kap. 503.

(e) kwalunkwe mandat ta' arrest, sew *in personam* jew *in rem*, ta' bastiment tal-baħar;

(f) kwalunkwe mandat ta' arrest, sew *in personam* jew *in rem*, ta' inġenju tal-ajru jew magna tal-inġenju tal-ajru;

(g) kwalunkwe mandat ta' qbid ta' azjenda kummerċjali skont l-artikolu 848A tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili;

Kap. 12.

(h) kwalunkwe azzjoni li titressaq fir-rigward ta' dritt imsemmi f'xi wiehed mill-mandati ta' qabel, skont l-artikolu 843 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili; u

Kap. 12.

(i) kwalunkwe dritt ta' kreditur ta' securitisation kif definit fl-Att dwar is-Securitisation.

Kap. 484.

**26.** (1) Il-prattikant fl-insolvenza għandu, malajr kemm jista' jkun wara l-ħatra, jeżamina l-attiv, il-passiv, u l-affarijiet tad-debitur u jikklassifika l-pretensjonijiet kollha kontra d-debitur, preżenti jew futuri, ċerti jew kontingenti, aċċertati jew li jistgħu jkunu dovuti f'danni, b'referenza għall-prijorità u l-gradwazzjoni tad-djun tagħhom skont il-liġi li tkun fis-seħħ f'dak iż-żmien.

Il-gradwazzjoni tal-pretensjonijiet u l-formazzjoni tal-klassijiet.

(2) Mat-tnejnija tal-gradwazzjoni tal-pretensjonijiet kontra d-

debitur skont is-subartikolu (1), il-prattikant fl-insolvenza għandu jsejjaħ laqgħa tal-uffiċjali tad-debitur, għall-fini li:

(a) ipogġi quddiemhom għall-informazzjoni, ir-rieżami u l-konferma tagħhom, gradwazzjoni komprensiva tal-pretensjonijiet kontra d-debitur;

(b) issir diskussjoni dwar liema pretensjonijiet għandhom jintgħażlu għall-inklużjoni fl-ambitu tal-pjan ta' ristrutturar, b'kont meħud tad-dispożizzjonijiet tal-artikolu 17; u

(ċ) issir l-organizzazzjoni ta' dawn il-kredituri, fi klassijiet iffurmati, b'kont meħud tad-dispożizzjonijiet tal-artikolu 18.

Rieżami tal-gradwazzjoni tal-pretensjonijiet u l-formazzjoni ta' klassijiet mill-kredituri.

**27.** (1) Fi żmien tletin (30) ġurnata mill-ħatra tiegħu, il-prattikant fl-insolvenza għandu jsejjaħ laqgħa tal-kredituri tad-debitur, għall-fini li:

(a) iqiegħed quddiemhom għall-informazzjoni u r-reviżjoni tagħhom, gradwazzjoni komprensiva tal-pretensjonijiet kontra d-debitur;

(b) iqiegħed quddiemhom għall-informazzjoni u r-reviżjoni tagħhom, lista tal-partijiet affettwati u l-klassijiet li fihom ġew organizzati l-partijiet affettwati; u

(ċ) il-kredituri jithallew jitolbu aktar informazzjoni dwar is-sitwazzjoni finanzjarja tad-debitur u l-aspettattivi tad-debitur fir-rigward tal-eżitu tar-ristrutturar preventiv.

(2) Għandu jingħata avviż ta' mhux inqas minn sebat (7) ijiem dwar iż-żamma tal-laqgħa tal-kredituri tad-debitur, u l-prattikant fl-insolvenza jista' wkoll jibgħat kopja tal-avviż li jsejjaħ il-laqgħa lil kwalunkwe uffiċjal tad-debitur jew persuni oħra skont kif jista' jkun relevanti għall-kontenut tal-laqgħa.

(3) Il-prattikant fl-insolvenza għandu jippubblika avviż tal-laqgħa tal-kredituri f'żewġ (2) gazzetti ta' kuljum li jiċċirkolaw kompletament jew prinċipalment f'Malta, waħda ppubblikata bil-Malti u l-oħra bl-Ingliż, għas-spejjeż tad-debitur, mhux aktar tard minn sebat (7) ijiem qabel iż-żamma tal-laqgħa:

Iżda l-avviż li għandu jiġi ppubblikat f'gazzetta jista', soġġett għall-allinjament tal-perjodi ta' żmien applikabbli, ikun inkluż fl-avviż li għandu jiġi ppubblikat skont l-artikolu 12(2).

(4) Il-prattikant fl-insolvenza għandu jimpenja ruħu li jiżgura li

kwalunkwe avviż li jsejjaħ il-laqgħa tal-kredituri skont dan l-artikolu għandu jingħata wkoll lil kredituri magħrufa li huma residenti jew ibbażati barra mill-pajjiż.

**28.** (1) Kwalunkwe parti affettwata tista' toġġezzjona għall-gradwazzjoni proposta tal-pretensjonijiet u l-formazzjoni ta' klassijiet, bil-miktub, lill-prattikant fl-insolvenza fi żmien għoxrin (20) ġurnata mil-laqgħa li tkun saret skont l-artikolu 27:

Ogġezzjoni għall-gradwazzjoni tal-pretensjonijiet u l-formazzjoni tal-klassijiet.

Iżda n-nuqqas ta' oġġezzjoni għall-gradwazzjoni proposta tal-pretensjonijiet ma jikkostitwixxix l-aċċettazzjoni, mill-parti affettwata, tal-gradwazzjoni tal-pretensjonijiet għall-finijiet esterni għall-proċedimenti ta' ristrutturar preventiv, inkluż iżda mhux limitat għall-proċedimenti ta' insolvenza sussegwenti.

(2) Il-prattikant fl-insolvenza għandu jinvestiga kwalunkwe oġġezzjoni li jirċievi għall-gradwazzjoni proposta tal-pretensjonijiet u l-formazzjoni ta' klassijiet, u għandu jirrevedi l-gradwazzjoni tal-pretensjonijiet u l-formazzjoni ta' klassijiet kif jista' jqis meħtieġ f'diskussjoni mal-uffiċjali tad-debitur, u għandu jinnotifika kwalunkwe revizjoni lill-partijiet affettwati.

(3) Il-gradwazzjoni tal-pretensjonijiet tal-prattikant fl-insolvenza u l-formazzjoni ta' klassijiet skont is-subartikolu (2) jistgħu jigu kkontestati biss quddiem il-Qorti matul il-proċedura għall-konferma ta' pjan ta' ristrutturar mill-Qorti, kif stipulat fl-artikolu 43(1).

**29.** Il-prattikant fl-insolvenza jista', jekk iqis xieraq, wara li jikkunsidra kwalunkwe oġġezzjoni li rċieva u l-impatt ekonomiku ta' kwalunkwe revizjoni meħtieġa fuq il-partijiet affettwati, isejjaħ laqgħa oħra tal-kredituri tad-debitur skont, u f'konformità mar-rekwiziti tal-artikolu 27.

Is-setgħa li titlaqqa' mill-ġdid il-laqgħa tal-kredituri.

**30.** (1) L-uffiċjali tad-debitur għandhom, f'konsultazzjoni mal-prattikant fl-insolvenza, jirrevedu kwalunkwe kuntratt eżekutorju li jkun sar minn u bejn id-debitur u kwalunkwe kontroparti, u li l-prestazzjoni tiegħu ma tkunx ġiet konkluziva, u għandhom jevalwaw it-terminazzjoni jew in-negozjar mill-ġdid ta' kwalunkwe tali kuntratti eżekutorji li għandhom iwasslu għall-vijabbiltà ekonomika tad-debitur:

Terminazzjoni jew negożjar mill-ġdid ta' kuntratti.

Iżda fejn id-debitur ikun persuna fiżika, jistgħu jigu kkontestati biss kuntratti eżekutorji għall-kontinwazzjoni tal-kummerċ, in-negozju, is-sengħa jew il-professjoni tad-debitur għall-finijiet ta' dan l-artikolu:

Iżda wkoll in-negozjar mill-ġdid u t-terminazzjoni ta' kuntratti ta' impjieg għandhom, minkejja dak kollu li jinsab f'dan l-Att, ikomplu jiġu regolati mir-regoli stabbiliti fl-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali jew leġislazzjoni pertinenti oħra.

(2) Fejn jiġi identifikat li n-negozjar mill-ġdid jew it-terminazzjoni ta' kuntratt eżekutorju jkun ta' benefiċċju għall-prospetti tal-vijabbiltà ekonomika tad-debitur, il-prattikant fl-insolvenza jista' jistieden lill-kontroparti jew lill-kontropartijiet biex jidhlu f'negozjati *bona fide* mad-debitur, bil-għan li jintlaħaq ftehim reċiproku dwar in-negozjar mill-ġdid jew it-terminazzjoni tal-kuntratt eżekutorju.

(3) Jekk il-partijiet ma jkunux jistgħu jaslu għal ftehim reċiproku dwar in-negozjar mill-ġdid jew it-terminazzjoni tal-kuntratt eżekutorju rispettiv, id-debitur jista' jipproponi li jittermina unilateralment il-kuntratt eżekutorju bħala parti mill-pjan ta' ristrutturar sottomess għall-konferma skont it-Taqsima VI.

(4) It-terminazzjoni unilaterali ta' kuntratt eżekutorju għandha tirrendi lid-debitur responsabbli biss biex jikkumpensa lill-kontroparti għat-telf imġarrab, jekk ikun hemm, bħala riżultat tat-terminazzjoni unilaterali, jew kif jista' jiġi xort'oħra ddeterminat skont ir-regolamenti li għandhom isiru mill-Ministru, u talba għal tali telf tista' tiġi inkluża immedjatament fil-pjan ta' ristrutturar:

Iżda l-prattikant fl-insolvenza għandu jinnotifika kwalunkwe reviżjoni konsegwenzjali għall-gradwazzjoni tal-pretensjonijiet jew il-formazzjoni ta' klassijiet lill-uffiċjali tad-debitur u lill-partijiet affettwati, bil-miktub u mingħajr dewmien żejjed.

(5) Mal-konferma tal-pjan ta' ristrutturar, kwalunkwe terminazzjoni unilaterali ta' kwalunkwe kuntratt eżekutorju kif previst fih, għandha, hliet fejn ikun gie stipulat perjodu itwal fil-pjan ta' ristrutturar, tidhol fis-seħh awtomatikament skont liema minn dawn li ġejjin tokkorri l-ewwel:

(a) l-iskadenza ta' tliet (3) xhur mid-data tal-konferma tal-pjan ta' ristrutturar, minkejja kwalunkwe appell li jista' jiġi ppreżentat kontra l-konferma tal-pjan ta' ristrutturar; jew

(b) fejn il-kuntratt eżekutorju jipprovdi għal perjodu ta' notifika iqsar minn tliet (3) xhur, l-imsemmi perjodu iqsar.

(6) Id-dispożizzjonijiet ta' dan l-artikolu ma għandhomx jippermettu lid-debitur jipproponi t-terminazzjoni unilaterali ta' kuntratt eżekutorju meta t-terminazzjoni tirriżulta fin-nuqqas ta' infurzar ta' kwalunkwe dispożizzjoni ta' close-out netting jew

kwalunkwe dispożizzjoni oħra fi kwalunkwe kuntratt li jipprovdi għal jew li għandu x'jaqsam ma' tpaċija jew netting ta' somom dovuti minn kull parti lill-oħra fir-rigward ta' krediti reċiproċi, dejn reċiproku jew negozjar reċiproku ieħor.

**31.** (1) L-uffiċjali tad-debitur għandhom, f'konsultazzjoni mal-prattikant fl-insolvenza, jirrevedu jekk l-akkwist ta' finanzjament interim għandux ikun meħtieġ sabiex tiġi ppreservata l-vijabbiltà ekonomika tad-debitur sal-konferma ta' pjan ta' ristrutturar.

Akkwist ta' finanzjament interim.

(2) Jekk il-finanzjament interim jitqies li jkun meħtieġ, l-uffiċjali tad-debitur jistgħu jitolbu proposti minn partijiet terzi li jkunu lesti jipprovdu lid-debitur b'finanzjament interim, u għandhom iressqu kwalunkwe proposta li jixtiequ jaċċettaw lill-prattikant fl-insolvenza, inklużi kwalunkwe termini skont liema jkun propost fil-finanzjament interim.

(3) Fejn il-prattikant fl-insolvenza jkun sodisfatt li l-akkwist ta' finanzjament interim huwa meħtieġ sabiex tiġi ppreservata l-vijabbiltà ekonomika tad-debitur sal-konferma tal-pjan ta' ristrutturar u li l-aċċettazzjoni tat-termeni proposti ma tikser l-ebda dispożizzjoni ta' dan l-Att, il-prattikant fl-insolvenza għandu:

(a) jekk il-finanzjament interim propost ma jkunx garantit, japprova l-akkwist tal-finanzjament interim; jew

(b) jekk il-finanzjament interim propost ikun garantit, isejjaħ laqgħa tal-partijiet affettwati, jew il-klassijiet tagħhom, li jkunu sejrini jigu milquta hażin mill-akkwist tal-finanzjament interim garantit propost, bil-għan li jitressqu quddiemhom, u biex issir votazzjoni dwar, it-termeni proposti għall-akkwist ta' finanzjament interim garantit.

(4) Meta tissejjaħ laqgħa skont is-subartikolu (3)(b), għandu jingħata avviż ta' mhux inqas minn sebat (7) ijiem għall-organizzazzjoni tal-laqgħa, u l-prattikant fl-insolvenza għandu jibgħat ukoll kopja tal-avviż li jsejjaħ il-laqgħa, lil kwalunkwe uffiċjal tad-debitur.

(5) L-akkwist ta' finanzjament interim garantit għandu jiġi approvat soġġett għall-qbil ta' mhux inqas minn hamsin fil-mija (50%) tal-partijiet affettwati f'kull klassi, b'referenza għall-valur tal-pretensjonijiet rappreżentati minnha.

(6) Kwalunkwe finanzjament interim approvat skont dan l-artikolu għandu jiġi akkwistat mid-debitur u t-talba għall-ħlas lura tiegħu tista' tiġi inkluża immedjatament fil-pjan ta' ristrutturar, dment li l-ħlas lura ta' finanzjament interim, fil-każijiet kollha, ma jkunx

soġġett għall-ebda tnaqqis fl-ambitu ta' pjan ta' ristrutturar.

(7) Il-prattikant fl-insolvenza għandu jinnotifika kwalunkwe reviżjoni li tirriżulta b'konsegwenza ta' dan l-artikolu, għall-gradwazzjoni tal-pretensjonijiet jew il-formazzjoni ta' klassijiet lill-uffiċjali tad-debitur u lill-partijiet affettwati, bil-miktub u mingħajr dewmien żejjed.

Formulazzjoni tal-pjan ta' ristrutturar.

**32.** (1) L-uffiċjali tad-debitur għandhom, f'konsultazzjoni mal-prattikant fl-insolvenza, jifformulaw pjan ta' ristrutturar imħejji skont ir-rekwiżiti tat-Tieni Skeda, li għandu jiġi sottomess għall-adozzjoni mill-partijiet affettwati:

Iżda kwalunkwe kreditur tad-debitur jista' wkoll iħejji pjan ta' ristrutturar, jew proposti għall-inklużjoni fi pjan ta' ristrutturar, u jissottomettihom lill-prattikant fl-insolvenza għall-konsiderazzjoni tad-debitur.

(2) Kif jista' jwassal għall-formulazzjoni tal-pjan ta' ristrutturar, il-prattikant fl-insolvenza jista', fuq talba tad-debitur, jistieden parti affettwata, jew klassi ta' partijiet affettwati, biex tidhol f'diskussjonijiet *bona fide* mad-debitur b'rabta ma' kwalunkwe proposta ta' ristrutturar li l-prattikant fl-insolvenza, wara konsultazzjoni mad-debitur, jista' jikkunsidra bħala xieraq għall-inklużjoni fil-pjan ta' ristrutturar, għall-fini li jinstemgħu l-fehmiet tal-partijiet affettwati.

(3) Pjan ta' ristrutturar imħejji skont dan l-artikolu jista', kif soġġett għall-qbil tad-debitur, jiġi sottomess mill-prattikant fl-insolvenza għall-adozzjoni mill-partijiet affettwati skont it-Taqsima VI ta' dan l-Att, sakemm ikun raġonevolment evidenti li:

(a) il-partijiet affettwati b'interess komuni suffiċjenti fl-istess klassi jiġu ttrattati b'mod ugwali, u b'mod proporzjonat għall-pretensjoni tagħhom; u

(b) kwalunkwe finanzjament ġdid propost fil-pjan ta' ristrutturar huwa meħtieġ għall-implimentazzjoni tal-pjan ta' ristrutturar u ma jippreġudikax b'mod ingust l-interessi tal-partijiet affettwati.

Tul ta' żmien tar-ristrutturar preventiv bażiku.

**33.** (1) L-ordni li tqiegħed lid-debitur taħt ristrutturar preventiv bażiku għandu jintemm awtomatikament malli jiskadu erba' (4) xhur mid-data tar-rikors ipprezentat skont l-artikolu 9, sakemm it-tul ta' żmien tar-ristrutturar preventiv bażiku jista' jiġi estiż skont dan l-artikolu sa massimu ta' tmax (12)-il xahar mid-data tar-rikors.

(2) Il-prattikant fl-insolvenza jista' sa mhux aktar tard minn

erbatax (14)-il ġurnata qabel it-terminazzjoni tal-ordni preċedenti, jagħmel rikors lill-Qorti biex jestendi l-ordni ta' ristrutturar preventiv bażiku għall-perjodu ulterjuri ta' erba' (4) xhur wara t-terminazzjoni tiegħu, soġġett għall-qbil tad-debitur:

Iżda ir-rikors jista' jitlob ukoll li s-sospensjoni tal-azzjonijiet ta' infurzar individwali skont l-artikolu 25 tiġi estiża, kompletament jew parzjalment, għall-perjodu ulterjuri ta' erba' (4) xhur wara t-terminazzjoni tal-ordni, jew sat-terminazzjoni tal-ordni ta' ristrutturar preventiv skont l-artikolu 34, skont liema tiġi l-ewwel.

(3) Ir-rikors għandu, sa fejn ikun possibbli, jagħti l-fatti, iċ-ċirkostanzi u r-raġunijiet kollha li jagħtu lok għar-reqwiżit għal estensjoni u, fejn applikabbli, ir-reqwiżit għal sospensjoni estiża ta' azzjonijiet individwali ta' infurzar, kif ukoll ir-raġunijiet li għalihom l-estensjoni tkun ġustifikata b'mod raġonevoli fil-kuntest tas-sitwazzjoni finanzjarja u ekonomika tad-debitur u l-interessi tal-partijiet interessati tiegħu.

(4) Il-Qorti għandha, qabel id-data tat-terminazzjoni awtomatika tal-ordni ta' ristrutturar preventiv, tagħti deċiżjoni dwar jekk għandhiex testendi l-proċedura ta' ristrutturar preventiv u, fejn applikabbli, jekk testendix ukoll is-sospensjoni tal-azzjonijiet ta' infurzar individwali:

Iżda l-Qorti għandha ggedded biss is-sospensjoni tal-azzjonijiet ta' infurzar individwali jekk tkun sodisfatta li t-tiġdid ikun raġonevoli, b'kont meħud għall-prospetti ta' vijabbiltà ekonomika tad-debitur, l-interessi tal-partijiet affettwati u l-probabbiltà li t-tiġdid jiffacilita n-negozjar b'suċċess u l-konferma tal-pjan ta' ristrutturar, u ġeneralment ma jkunx ta' preġudizzju bla bżonn għall-interessi tal-kredituri milquta.

(5) Il-prattikant fl-insolvenza għandu jinnotifika l-estensjoni tal-proċedura ta' ristrutturar preventiv lill-partijiet affettwati, lill-awtorità kompetenti, u lir-Registatur tal-Qrati, għas-spejjeż għad-debitur, mingħajr dewmien żejjed.

**34.** (1) Jekk, fi kwalunkwe ħin li matulu jkun fis-seħħ ordni bażiku ta' ristrutturar preventiv, dan jirriżulta lill-prattikant fl-insolvenza:

Terminazzjoni preventiva ta' ristrutturar preventiv bażiku.

(a) li, wara konsultazzjoni mal-uffiċjali tad-debitur, l-affarijiet tad-debitur tjiebu sal-punt li d-debitur ma jkunx għadu espost għall-probabbiltà ta' insolvenza;

(b) li, wara konsultazzjoni mal-uffiċjali tad-debitur, l-affarijiet tad-debitur ikunu ddeterjoraw sal-punt li d-debitur ma

jkollux prospetti raġonevoli ta' vijabbiltà ekonomika; jew

(ċ) li, wara konsultazzjoni mal-uffiċjali tad-debitur u kwalunkwe kredituri tad-debitur kif il-prattikant fl-insolvenza jista' jqis raġonevolment xieraq, il-prattikant fl-insolvenza stabbilixxa li proporzjon sinifikanti tal-kredituri tad-debitur ma jappoġġawx il-kontinwazzjoni tan-negozjati u għandu jipprevjeni lid-debitur milli jikseb l-approvazzjonijiet meħtieġa għall-konferma tal-pjan tar-ristrutturar,

il-prattikant fl-insolvenza għandu minnufih jagħmel talba permezz ta' rikors lill-Qorti għat-terminazzjoni tal-proċedura ta' ristrutturar preventiv, li jkun fiha raġunijiet dettaljati u komprensivi għal dan.

(2) Fi kwalunkwe hin li matulu jkun fis-seħħ ordni bażiku ta' ristrutturar preventiv, l-uffiċjali tad-debitur, jekk ikunu sodisfatti li l-affarijiet tad-debitur ikunu tjebu sal-punt li d-debitur ma jkunx għadu espost għall-probabbiltà ta' insolvenza jew ikunu konvinti li l-affarijiet tad-debitur ikunu ddeterjoraw sal-punt li d-debitur ma jkollux prospetti raġonevoli ta' vijabbiltà ekonomika, jistgħu jipprezentaw talba permezz ta' rikors lill-Qorti li tikkonferma li huma hekk sodisfatti jew konvinti, u jitolbu lill-Qorti toħroġ ordni għat-terminazzjoni tal-proċeduri ta' ristrutturar preventiv, dment li l-Qorti ma għandhiex, mingħajr raġuni valida, tagħmel ordni ta' adeżjoni jew ta' ċaħda tar-rikors mingħajr ma l-ewwel tkun semgħet lill-prattikant fl-insolvenza, dejjem jekk dan ikun raġonevolment possibbli.

(3) Fi kwalunkwe hin li matulu jkun fis-seħħ ordni bażiku ta' ristrutturar preventiv, kwalunkwe kreditur jew kredituri tad-debitur, jekk jemmnu li ma jkun hemm l-ebda skop għall-kontinwazzjoni ta' proċeduri bażiċi ta' ristrutturar preventiv abbażi:

(a) li d-debitur ma għadux espost għall-probabbiltà ta' insolvenza jew ma għadx għandu prospetti raġonevoli ta' vijabbiltà ekonomika; jew

(b) li proporzjon sinifikanti tal-kredituri tad-debitur ma jappoġġawx il-kontinwazzjoni tan-negozjati u ma għandhomx jipprovdu l-approvazzjonijiet meħtieġa għall-konferma tal-pjan ta' ristrutturar,

jistgħu, wara li jinformat lill-prattikant fl-insolvenza, jipprezentaw rikors lill-Qorti fejn jitolbuha toħroġ ordni għat-terminazzjoni tal-proċeduri ta' ristrutturar preventiv, kemm-il darba l-Qorti ma għandhiex tipproċedi għall-ħruġ ta' ordni fejn tilqa' jew tirrifjuta dan ir-rikors mingħajr ma l-ewwel tkun semgħet lill-prattikant fl-insolvenza, dejjem jekk dan ikun raġonevolment possibbli.

(4) Fil-każ li l-Qorti tilqa' r-rikors għat-terminazzjoni preventiva ta' ordni bażiku ta' ristrutturar preventiv skont dan l-artikolu, hija għandha tistipola dawk id-dispożizzjonijiet u l-kondizzjonijiet, kif tqis meħtieġa fiċ-ċirkostanzi tal-każ.

TITOLU II: PROCEDURA TA' RISTRUTTURAR PREVENTIV  
IFFORMULATA MINN QABEL

35. Id-dispożizzjonijiet tal-artikoli 25, 30 u l-artikolu 34, kif applikabbli għall-proċedura bażika ta' ristrutturar preventiv għandhom, *mutatis mutandis*, japplikaw għall-proċedura ta' ristrutturar preventiv ifformulata minn qabel.

Applikabbiltà komuni tad-dispożizzjonijiet.

36. (1) Kif jista' jwassal għall-approvazzjoni tat-termini tal-pjan ta' ristrutturar ifformulat minn qabel, il-prattikant fl-insolvenza jista', fuq talba tad-debitur, jistieden lill-parti, jew klassi ta' partijiet affettwati, biex jidhlu f'diskussjonijiet *bona fide* mad-debitur b'rabta mal-proposta ta' ristrutturar ifformulata minn qabel, għall-fini li jinstemgħu l-fehmiet tal-partijiet affettwati.

Approvazzjoni tat-termini tal-pjan ta' ristrutturar ifformulat minn qabel.

(2) Pjan ta' ristrutturar ifformulat minn qabel jista', kif soġġett għall-qbil tad-debitur, jiġi sottomess mill-prattikant fl-insolvenza għall-adozzjoni mill-partijiet affettwati skont it-Taqsima VI ta' dan l-Att, sakemm ikun raġonevolment evidenti li:

(a) il-partijiet affettwati b'interess komuni suffiċjenti fl-istess klassi jiġu ttrattati b'mod ugwali, u b'mod proporzjonat għall-pretensjoni tagħhom; u

(b) kwalunkwe finanzjament ġdid propost fil-pjan tar-ristrutturar huwa meħtieġ għall-implimentazzjoni tal-pjan tar-ristrutturar u ma jippreġudikax b'mod ingust l-interessi tal-partijiet affettwati.

37. L-ordni li jqiegħed lid-debitur taħt ristrutturar preventiv ifformulat minn qabel għandu jintemm awtomatikament malli jiskadu erba' (4) xhur mid-data tar-rikors ippreżentat skont l-artikolu 9.

Tul ta' żmien tar-ristrutturar preventiv ifformulat minn qabel.

38. (1) Il-prattikant fl-insolvenza jista', fi kwalunkwe ħin li matulu jkun fis-seħħ ordni ta' ristrutturar preventiv ifformulat minn qabel, jippreżenta rikors lill-Qorti biex tikkonverti l-proċedura ta' ristrutturar preventiv ifformulata minn qabel f'ristrutturar preventiv bażiku, jekk jirriżulta lill-prattikant fl-insolvenza li:

Konverżjoni ta' proċedura ta' ristrutturar preventiv ifformulata minn qabel fi proċedura bażika ta' ristrutturar preventiv.

(a) wara konsultazzjoni mal-uffiċjali tad-debitur, il-vijabbiltà ekonomika tad-debitur hija aktar probabbli li tiġi ppreservata jew restawrata jekk titqiegħed taħt proċedura bażika

ta' ristrutturar preventiv; jew

(b) wara konsultazzjoni mal-kredituri tad-debitur, proporzjon sinifikanti ma jkunux favur il-pjan ta' ristrutturar ifformulat minn qabel, li x'aktarx jimpedixxi lid-debitur milli jikseb l-approvazzjonijiet meħtieġa għall-konferma tiegħu, u l-prattikant fl-insolvenza huwa tal-fehma li r-ristrutturar preventiv bażiku huwa aktar probabbli li jirriżulta fin-negozjar u l-konferma b'suċċess ta' pjan ta' ristrutturar.

(2) Il-prattikant fl-insolvenza għandu jehmeż ma' rikors magħmul skont is-subartikolu (1):

(a) kwalunkwe informazzjoni jew dokumentazzjoni sottomessa qabel, skont l-artikolu 10(a) sa 10(g), u l-artikolu 10(i)(iii), li, wara s-sottomissjoni inizjali tagħha, teħtieġ agġornament jew revizzjoni; u

(b) dikjarazzjoni skont l-artikolu 10(h)(i), li għandha tinkludi wkoll dettalji dwar kif il-konverżjoni tal-proċedura ta' ristrutturar preventiv ifformulata minn qabel fi proċedura bażika ta' ristrutturar preventiv għandha ttejjeb il-probabbiltà tad-debitur li jippreserva jew jirrestawra l-vijabbiltà ekonomika tiegħu.

(3) Fil-każ li l-Qorti tilqa' t-talba u toħroġ ordni biex tikkonverti l-proċedura ta' ristrutturar preventiv ifformulata minn qabel fi proċedura bażika ta' ristrutturar preventiv, għall-fini tad-determinazzjoni tat-tul massimu ta' kwalunkwe sospensjoni ta' azzjonijiet ta' infurzar individwali skont l-artikolu 25(1), u t-tul tal-ordni li jqiegħed lid-debitur taħt ristrutturar preventiv bażiku skont l-artikolu 33(1), il-perjodu għandu jitqies li beda jiddekorri mill-jum tas-sospensjoni u ordni msemmija fil-proċedura ta' ristrutturar preventiv ifformulata minn qabel.

## TAQSIMA VI KONFERMA TAL-PJAN TA' RISTRUTTURAR

Il-partijiet affettwati se jivvutaw dwar l-adozzjoni tal-pjan ta' ristrutturar.

**39.** (1) Pjan ta' ristrutturar ifformulat skont dan l-Att, minbarra pjan ta' ristrutturar approvat minn qabel li diġà kiseb l-approvazzjoni bil-miktub tal-partijiet affettwati kif meħtieġ għall-finijiet ta' konferma skont l-artikoli 41 jew 42, għandu jiġi pprezentat għall-adozzjoni f'laqgħa tal-partijiet affettwati li għandha tissejjaħ mill-prattikant fl-insolvenza.

(2) Għandu jingħata avviż ta' mhux inqas minn sebat (7) ijiem lill-partijiet affettwati dwar iż-żamma tal-laqgħa, u l-prattikant fl-insolvenza għandu jibgħat ukoll kopja tal-avviż lil kwalunkwe uffiċjal

tad-debitur:

Iżda fil-każ ta' proċedura ta' ristrutturar approvata minn qabel, għandu jkun biżżejjed li l-prattikant fl-insolvenza jipprovdi avviż lill-partijiet affettwati li pjan approvat minn qabel ikun kiseb l-approvazzjoni bil-miktub tal-partijiet affettwati kif meħtieġ għall-finijiet ta' approvazzjoni skont l-artikoli 41 jew 42, liema avviż għandu jingħata mhux inqas minn sebat (7) ijiem qabel il-preżentata ta' talba b'rikors lill-Qorti għall-konferma tal-pjan ta' ristrutturar skont l-artikoli 41(2) jew 42(2), skont il-każ, b'tali mod li kwalunkwe kredituri li ma jaqblux jistgħu, jekk ikunu jixtiequ, jikkomunikaw r-raġunijiet li bis-saħħa tagħhom ikunu qed jopponu l-adozzjoni tal-pjan tar-ristrutturar.

(3) L-avviż għandu jinkludi kopja tal-pjan tar-ristrutturar li għandu jiġi sottomess għall-adozzjoni waqt il-laqgħa, għall-konsiderazzjoni tal-partijiet affettwati, jew, fil-każ ta' proċeduri ta' ristrutturar approvati minn qabel, kopja tal-pjan ta' ristrutturar approvat minn qabel.

**40.** (1) Waqt il-laqgħa għall-adozzjoni tal-pjan ta' ristrutturar, il-partijiet affettwati għandu jkollhom l-opportunità li jiddiskutu l-pjan ta' ristrutturar u jitolbu kjarifika dwar il-kontenut tiegħu mill-prattikant fl-insolvenza.

Proċedura tal-laqgħa.

(2) Il-partijiet affettwati għandhom imbagħad jivvutaw dwar l-adozzjoni tal-pjan ta' ristrutturar, bil-wiri tal-idejn, u l-prattikant fl-insolvenza għandu jirreġistra r-rizultat tal-voti meħuda.

(3) Kwalunkwe parti affettwata tista' tittardja l-preżentazzjoni tal-vot tagħha, għal perjodu massimu ta' sebat (7) ijiem li għandu jiġi kkalkulat mill-jum ta' wara l-laqgħa, f'liema każ il-vot tagħha għandu jiġi ppreżentat, bil-miktub, lill-prattikant fl-insolvenza qabel l-iskadenza tas-sebat (7) ijiem imsemmija.

(4) Il-komunikazzjoni bil-miktub ta' vot trażmess mill-parti affettwata lill-prattikant fl-insolvenza skont is-subartikolu (3), għandha, taħt piena ta' nullità, tiddikjara b'mod espliċitu u inekwivoku jekk il-parti affettwata tixtieqx tadotta jew tirrifjuta l-pjan ta' ristrutturar, u tali vot jista' jiġi sottomess b'mod validu lill-prattikant fl-insolvenza b'mod elettroniku.

(5) Minkejja kwalunkwe ftehim għall-kuntrarju, kwalunkwe parti affettwata li ma tivvotax bil-mod imsemmi qabel m'għandhiex tiġi kkunsidrata għall-fini tal-valutazzjoni ta' jekk il-pjan ta' ristrutturar irċevix l-approvazzjoni meħtieġa għall-adozzjoni mill-partijiet affettwati skont l-artikolu 41 jew biex il-pjan ta' ristrutturar jiġi impost

skont l-artikolu 42.

Adozzjoni tal-pjan ta' ristrutturar.

**41.** (1) Il-pjan ta' ristrutturar għandu jiġi adottat mill-partijiet affettwati jekk ikun approvat minn mhux inqas minn żewġ terzi (2/3) tal-partijiet affettwati ta' kull klassi, b'referenza għall-valur tal-pretensjonijiet rappreżentati minnha.

(2) Meta pjan ta' ristrutturar jiġi adottat skont dan l-artikolu, il-prattikant fl-insolvenza għandu, mingħajr dewmien, jipprezenta rikors lill-Qorti għall-konferma tal-pjan ta' ristrutturar sabiex dan ikun jista' jsir effettiv u vinkolanti fuq il-partijiet affettwati kollha għall-finijiet kollha tal-liġi, li magħhom il-prattikant fl-insolvenza għandu jehmeż kopja tal-pjan ta' ristrutturar adottat u prova tal-adozzjoni tiegħu mill-partijiet affettwati, kif ukoll ir-raġunijiet, fejn dawn ikunu ddikjarati espressament, skont liema, kwalunkwe kreditur li ma jaqbilx ikun ivvota kontra l-adozzjoni tal-pjan ta' ristrutturar.

Applikazzjoni furzata fuq klassijiet differenti.

**42.** (1) Jekk il-pjan ta' ristrutturar ma jiġix adottat mill-partijiet affettwati skont il-limiti preskritti fl-artikolu 41, il-pjan ta' ristrutturar għandu, minkejja dan, jitqies li ġie adottat jekk, fil-fehma tal-prattikant fl-insolvenza, il-pjan ta' ristrutturar jissodisfa minn tal-inqas il-kondizzjonijiet li ġejjin:

(a) il-pjan ta' ristrutturar jissodisfa t-test tal-aħjar interess tal-kredituri;

(b) il-pjan ta' ristrutturar ma jirriżulta fl-ebda klassi ta' partijiet affettwati li jirċievu valur ekonomiku li jaqbeż l-ammont totali tal-pretensjonijiet tagħhom;

(c) il-pjan ta' ristrutturar jiżgura li kwalunkwe klassi ta' partijiet affettwati li ma taqbilx tiġi ttrattata mill-inqas bl-istess mod favorevoli daqs kwalunkwe klassi oħra ta' partijiet affettwati li l-pretensjonijiet tagħhom, kieku kellha tiġi applikata l-gradwazzjoni normali tal-prijoritajiet ta' likwidazzjoni, jikklassifikaw *pari passu* mal-pretensjonijiet tal-klassi li ma taqbilx, u b'mod aktar favorevoli minn kwalunkwe klassi oħra ta' partijiet li l-pretensjonijiet tagħhom, kieku kellha tiġi applikata l-gradwazzjoni normali tal-prijoritajiet ta' likwidazzjoni, jikklassifikaw taħt il-pretensjonijiet tal-klassi li ma taqbilx; u

(d) il-pjan ta' ristrutturar ġie approvat għall-adozzjoni minn tal-inqas klassi waħda (1) tal-partijiet affettwati li, kieku kellha tiġi applikata l-gradwazzjoni normali tal-prijoritajiet ta' likwidazzjoni, jiġu sodisfatti l-pretensjonijiet tagħhom, kompletament jew parzjalment.

(2) Meta pjan ta' ristrutturar jiġi adottat skont dan l-artikolu, il-prattikant fl-insolvenza għandu, kif soġġett għall-qbil tad-debitur u mingħajr dewmien żejjed, jagħmel rikors lill-Qorti għall-konferma tal-pjan ta' ristrutturar sabiex dan ikun jista' jsir effettiv u vinkolanti fuq il-partijiet affettwati kollha għall-finijiet kollha tal-liġi, li magħhom il-prattikant fl-insolvenza għandu jehmeż kopja tal-pjan ta' ristrutturar adottat u d-dokumentazzjoni u d-dikjarazzjonijiet ta' sostenn adegwati, kif jista' jkun meħtieġ, sabiex ikun hemm evidenza li l-pjan ta' ristrutturar ikun issodisfa l-kriterji tal-adozzjoni skont is-subartikolu (1), kif ukoll identifikazzjoni tal-kredituri li ma jaqblux u r-raġunijiet, fejn dawn ikunu ddikjarati espressament, li skonthom kwalunkwe kredituri li ma jaqblux ikunu vvotaw kontra l-adozzjoni tal-pjan tar-ristrutturar.

43. (1) Il-Qorti għandha, fi żmien tletin (30) ġurnata mid-data tan-notifika, tiddeċiedi jekk tapprovax jew tiċhadx il-pjan tar-ristrutturar:

Konferma tal-pjan tar-ristrutturar mill-Qorti.

Iżda, sa fejn ikun possibbli, il-Qorti għandha, qabel ma tagħmel dan, tisma' lill-uffiċjali tad-debitur u ta' kwalunkwe parti affettwata, skont kif jidhrilha xieraq billi tinnotifikahom b'notifika tal-proċeduri.

(2) Il-Qorti għandha tapprova u tikkonferma pjan ta' ristrutturar biss jekk tkun sodisfatta li:

(a) il-pjan ta' ristrutturar għandu prospetti raġonevoli li jiżgura li l-vijabbiltà ekonomika tad-debitur tiġi ppreservata jew restawrata;

(b) il-pjan ta' ristrutturar ikun ġie approvat għall-adozzjoni mill-partijiet affettwati skont dan l-Att;

(ċ) il-formazzjoni tal-klassijiet ta' votazzjoni, u l-attribuzzjoni ta' drittijiet tal-vot lilhom, ikunu twettqu skont dan l-Att;

(d) il-pjan ta' ristrutturar jiżgura li l-partijiet affettwati b'interess komuni suffiċjenti fl-istess klassi jiġu ttrattati b'mod ugwali, u b'mod proporzjonat għall-pretensjoni tagħhom;

(e) kwalunkwe finanzjament ġdid propost fil-pjan ta' ristrutturar huwa meħtieġ għall-implimentazzjoni tal-pjan ta' ristrutturar u ma jippreġudikax b'mod ingust l-interessi tal-partijiet affettwati; u

(f) in-notifika tal-pjan ta' ristrutturar ingħatat lill-

partijiet affettwati kollha skont l-artikolu 39.

(3) Wara li tirċievi rikors għall-konferma ta' pjan ta' ristrutturatur, il-Qorti tista' titlob kwalunkwe spjegazzjonijiet jew kjarifiki li tista' tikkunsidra xierqa għall-formulazzjoni tad-deċiżjoni tagħha, li għandhom jiġu pprovduti lilha jew verbalment jew bil-miktub, kif il-Qorti tista' tidderieġi.

(4) Jekk kreditur li ma jaqbilx jopponi l-approvazzjoni tal-pjan ta' ristrutturatur, abbażi:

(a) tan-nuqqas tal-pjan tar-ristrutturatur li jissodisfa t-test tal-aħjar interess tal-kredituri; jew

(b) tal-ksur tal-kondizzjonijiet għall-applikazzjoni furzata fuq klassijiet differenti skont l-artikolu 42(1),

il-Qorti għandha tappunta espert, li jkun prattikant fl-insolvenza sabiex fi żmien tletin (30) ġurnata mid-data tal-ħatra tiegħu huwa jagħmel, jew jieħu ħsieb li jsiru dawk l-istimi u proċeduri oħra meħtieġa sabiex l-espert ikun jista' jirrapporta bil-miktub lill-Qorti u jagħti l-motivazzjonijiet li jkunu wassluh għall-konkluzjoni dwar is-sussistenza, jew mod ieħor, tar-raġunijiet għall-oppożizzjoni tal-kreditur:

Iżda l-prattikant fl-insolvenza li jinħatar b'dan il-mod għandu, bl-approvazzjoni tal-Qorti, jaħtar kwalunkwe esperti li jista' jitqies meħtieġ biex jassisti f'dawk l-istimi u proċeduri oħra, u l-ispejjeż għandhom jiġu mġarrba mill-kreditur jekk l-oppożizzjoni ma tkunx fondata, jew mid-debitur jekk ir-raġunijiet jissussistu.

(5) Mingħajr preġudizzju għas-subartikolu (1), f'każ li l-pjan ta' ristrutturatur ikun oppost għar-raġunijiet imsemmija fis-subartikolu (4)(a) jew (4)(b), il-Qorti għandha fi żmien tletin (30) ġurnata mid-data li fiha jiġi rċevut ir-rapport finali mill-espert imsemmi fis-subartikolu (4), tgħaddi biex tiddetermina dwar is-sussistenza, jew xort'oħra, tar-raġunijiet għall-oppożizzjoni tal-kreditur, u l-Qorti għandha tiċhad il-pjan ta' ristrutturatur jekk xi waħda mir-raġunijiet imsemmija jissussistu.

(6) Hekk kif il-Qorti tapprova l-pjan ta' ristrutturatur, dan għandu jsir effettiv u vinkolanti għall-partijiet kollha affettwati għall-finijiet kollha tal-ligi.

Negozjar mill-  
gdid tal-pjan ta'  
ristrutturatur  
miċhud.

**44.** (1) Meta l-Qorti tiċhad pjan ta' ristrutturatur, hija tista' tipproponi emendi għall-pjan ta' ristrutturatur lill-uffiċjali tad-debitur u lill-partijiet affettwati, filwaqt li tindika r-rieda tal-Qorti li tikkonferma l-pjan jekk dawk l-emendi jiġu approvati b'vot separat tal-partijiet

affettwati miżmum skont l-artikolu 41 jew 42.

(2) Maċ-ċaħda tal-pjan tar-ristrutturar, l-uffiċjali tad-debitur jistgħu, f'konsultazzjoni mal-prattikant fl-insolvenza jew inkella skont dan l-Att, jiformulaw pjan ta' ristrutturar ġdid, jew rivedut, imhejji skont ir-rekwiżiti tat-Tieni Skeda, li għandu jiġi sottomess għall-adozzjoni mill-partijiet affettwati.

(3) Kwalunkwe ordni ta' ristrutturar preventiv maħruġ mill-Qorti għandu jkompli japplika sat-terminazzjoni awtomatika jew preventiva tiegħu skont dan l-Att, u kwalunkwe dritt li tintalab estensjoni tal-ordni ta' ristrutturar preventiv jista' jiġi eżerċitat kif xieraq mill-parti kompetenti.

## TAQSIMA VII APPELLI

**45.** (1) Kwalunkwe deċiżjoni tal-Qorti fil-kuntest ta' proċedura ta' ristrutturar preventiv, inkluż li tapprova jew tiċhad pjan tar-ristrutturar, għandha tkun soġġetta għall-appell quddiem il-Qorti tal-Appell, kostitwita skont l-artikolu 41(6) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawn aktar 'il quddiem f'dan l-artikolu msejha l-"Qorti tal-Appell":

Appelli mid-deċiżjoni tal-Qorti.

Kap. 12.

Iżda l-Qorti tal-Appell tista', minkejja li tkun laqgħet appell kontra l-konferma tal-pjan tar-ristrutturar, tikkonferma d-deċiżjoni tal-Qorti, u tipprovdi tali rimedju kif neċessarju, biex jiġi żgurat li l-appellant ikun protett mill-effetti tal-pjan ta' ristrutturar, jew debitament kumpensat, b'tali mod li l-appellant:

(a) għandu jkun intitolat li jirċievi ammont minn tal-inqas ekwivalenti għal dak li l-appellant kien ikun intitolat għalih li kieku l-gradwazzjoni normali tal-prijoritajiet ta' likwidazzjoni kienet applikata, jew fil-każ tal-aħjar xenarju alternattiv li jkun imiss, kieku l-pjan ta' ristrutturar ma kienx ġie kkonfermat; u

(b) għandu jiġu ttrattat mill-inqas bl-istess mod favorevoli daqs kwalunkwe kreditur ieħor fi kwalunkwe klassi tal-partijiet affettwati li l-pretensjonijiet tiegħu, kieku kellha tiġi applikata l-gradwazzjoni normali tal-prijoritajiet ta' likwidazzjoni, jikklassifikaw *pari passu* mal-pretensjonijiet tal-appellant, u b'mod aktar favorevoli minn kwalunkwe kreditur ieħor fi kwalunkwe klassi ta' partijiet affettwati li l-pretensjonijiet tagħhom, kieku kellha tiġi applikata l-gradwazzjoni normali tal-prijoritajiet ta' likwidazzjoni, jiggradwaw taħt il-pretensjonijiet tal-appellant.

(2) Appell li jsir skont is-subartikolu (1), jista' jsir mid-debitur

permezz ta' rikors ipprezentat lill-Qorti tal-Appell fi żmien għoxrin (20) ġurnata mid-deċiżjoni tal-Qorti.

(3) Appell li jsir skont is-subartikolu (1), jista' jsir ukoll minn kwalunkwe parti interessata, permezz ta' rikors ipprezentat lill-Qorti tal-Appell fi żmien għoxrin (20) ġurnata mid-deċiżjoni tal-Qorti:

Iżda l-Qorti tal-Appell għandha, qabel ma tisma' tali appell, taċċerta l-interess tal-appellant fid-deċiżjoni li kontriha jkun gie pprezentat l-appell.

(4) Kwalunkwe appell magħmul skont dan l-artikolu m'għandu jkollu l-ebda effett sospensiv fuq l-eżekuzzjoni ta' dik id-deċiżjoni, jew fuq l-eżekuzzjoni ta' kwalunkwe pjan ta' ristrutturar approvat fi hdan il-proċedura ta' ristrutturar preventiv li fiha tkun ittiedet dik id-deċiżjoni.

Ħatra ta' kuratur  
biex jagħti l-  
kunsens tiegħu  
f'isem kreditur.

**46.** (1) Mal-konferma ta' pjan ta' ristrutturar mill-Qorti, u jekk il-pjan ta' ristrutturar jidentifika l-bżonn li jingiebi l-kunsens ta' kreditur qabel it-trasferiment ta' kwalunkwe attiv, u, jew, fejn il-kreditur ikun meħtieġ li jidher fuq kwalunkwe att pubbliku pertinenti sabiex jagħti l-kunsens għall-kancellazzjoni ta', jew tnaqqis fi, kwalunkwe kawża ta' preferenza u r-registrazzjoni tal-istess, li jgawdi minnhom il-kreditur fuq l-attiv imsemmi, id-debitur jista', jekk ikun, jew jekk l-uffiċjali tad-debitur ikunu, tal-opinjoni li l-kunsens tal-imsemmi kreditur huwa miżmum, jew jista' jinżamm, jagħmel rikors lill-Qorti għall-ħatra ta' kuratur.

(2) Kuratur maħtur skont dan l-artikolu jista' taħt l-awtorità tal-Qorti, jagħti l-kunsens tiegħu għat-trasferiment tal-attiv u, jew, jidher fuq kwalunkwe att pubbliku pertinenti sabiex jagħti l-kunsens għal u f'isem il-kreditur imsemmi fis-subartikolu (1), għall-kancellazzjoni ta', jew it-tnaqqis fi, kwalunkwe kawża ta' preferenza, u r-registrazzjoni tal-istess, li jgawdi minnha l-imsemmi kreditur, bil-kondizzjoni li l-kuratur jirċievi dak il-porzjon tar-rikavat mill-bejgħ ta' attiv li, f'termini ta' liġi u soġġett għall-pjan ta' ristrutturar, jappartjeni għall-imsemmi kreditur, u li għandu jiġi applikat favur tiegħu skont is-subartikolu (3).

(3) Il-kuratur għandu jirċievi, għal u f'isem il-kreditur imsemmi fis-subartikolu (1), dak il-porzjon tar-rikavat mill-bejgħ tal-attiv imsemmi fis-subartikolu (2) li, f'termini ta' liġi u soġġett għall-pjan ta' ristrutturar, jappartjeni lill-imsemmi kreditur, u għandu jiżgura li fondi bħal dawk jew jitqassmu lill-imsemmi kreditur, jew, jekk dan ma jkunx raġonevolment prattikabbli, jiġu ddepożitati fil-Qorti għall-benefiċċju tal-istess kreditur.

TAQSIMA VIII  
MIXXELLANJI

47. Jekk fi kwalunkwe hin jidher li kwalunkwe azzjoni tad-debitur fil-kuntest ta' ordni ta' ristrutturar preventiv jew xort'ohra, b'rabta mal-proċess ta' ristrutturar preventiv, tkun twettqet bil-ħsieb li jigi frodat kwalunkwe kreditur tad-debitur, il-Qorti, fuq rikors tal-prattikant fl-insolvenza jew ta' kwalunkwe kreditur tad-debitur, tista', jekk taħseb li jkun xieraq li tagħmel hekk, tiddikjara li kwalunkwe persuna li kienet konxjament parti fit-twettiq tan-negozju bil-mod imsemmi hawn fuq, hija personalment responsabbli, mingħajr ebda limitazzjoni tar-responsabbiltà, għad-djun kollha jew għal kwalunkwe obligazzjonijiet ohra tad-debitur kif il-Qorti tista' tidderiegi.

Frodi.

48. (1) Mal-prezentata ta' rikors għar-ristrutturar preventiv, il-ħruġ ta' ordni ta' ristrutturar preventiv, il-ħatra u t-terminazzjoni tal-ħatra tal-prattikant fl-insolvenza u l-ħatra tas-sostitut tiegħu, il-prezentata ta' rikors għat-terminazzjoni ta' ordni ta' ristrutturar preventiv, jew l-ordni tal-Qorti li ttemm il-proċedura ta' ristrutturar preventiv għal kwalunkwe raġuni, ir-Registratur tal-Qrati għandu jipprezenta minnufih kopja ta' tali rikors, ordni tal-Qorti jew dokument relevanti ieħor lill-awtorità kompetenti.

Prezentata ta' dokumenti lir-Registratur għar-registrazzjoni.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1), il-kopja tal-pjan ta' ristrutturar, kif jista' jigi meħmuż ma' rikors jew ordni, ma għandhiex tintbagħat lir-Registratur flimkien ma' dan ir-rikors jew ordni.

49. (1) Id-dispożizzjonijiet ta' dan l-Att ma għandhomx japplikaw sa fejn dawn jistgħu jkunu inkonsistenti ma', jew sa fejn dawn jistgħu jigu interpretati bħala li jillimitaw jew jirrestringu, l-applikazzjoni tal-liġijiet jew strumenti li ġejjin, jew kwalunkwe liġi li tittrasponihom, kif jistgħu jigu emendati minn żmien għal żmien:

Relazzjoni ma' liġijiet ohra.

(a) il-Konvenzjoni dwar Interessi Internazzjonali f'Taġħmir Mobbli u l-Protokoll tagħha fi Kwistjonijiet Speċifiċi għat-Taġħmir tal-Ajruplani li nfethet għall-iffirmar f'Cape Town fis-16 ta' Novembru 2001, kif trasposta jew bħala infurzabbli skont il-liġi Maltija;

(b) id-Direttiva 98/26/KE tal-Parlament Ewropew u tal-Kunsill tad-19 ta' Mejju 1998 dwar finalità ta' settlement fis-sistemi ta' settlement ta' pagamenti u titoli, kif trasposta fil-liġi Maltija;

(ċ) id-Direttiva 2002/47/KE tal-Parlament Ewropew u tal-Kunsill tas-6 ta' Ġunju 2002 dwar arrangamenti finanzjarji kollaterali, kif trasposta fil-liġi Maltija;

(d) ir-Regolament (UE) Nru 648/2012 tal-Parlament Ewropew u tal-Kunsill tal-4 ta' Lulju 2012 dwar derivattivi OTC, kontropartijiet ċentrali u repożitorji tad-data dwar it-tranzazzjonijiet;

(e) ir-reqwiziti ta' salvagwardja ta' fondi għal:

(i) istituzzjonijiet ta' hlas stabbiliti taħt id-Direttiva (UE) 2015/2366 tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Novembru 2015 dwar is-servizzi ta' pagament fis-suq intern, li temenda d-Direttivi 2002/65/KE, 2009/110/KE u 2013/36/UE u r-Regolament (UE) Nru 1093/2010, u li tħassar id-Direttiva 2007/64/KE, kif trasposta skont il-liġi Maltija; u

(ii) istituzzjonijiet ta' flus elettronici stabbiliti taħt id-Direttiva 2009/110/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Settembru 2009 dwar il-bidu, l-eżerċizzju u s-superviżjoni prudenzjali tan-negozju tal-istituzzjonijiet tal-flus elettronici li temenda d-Direttivi 2005/60/KE u 2006/48/KE u li tħassar id-Direttiva 2000/46/KE, kif trasposta skont il-liġi Maltija;

L.S. 459.01.

(f) ir-Regolamenti dwar Financial Collateral Arrangements u kwalunkwe arrangament ta' kollateral finanzjarju f'termini tagħhom;

Kap. 459.

(g) l-Att dwar Tpaċija u Netting f'każ ta' Insolvenza;

Kap. 234.

(h) l-Att dwar il-Bastimenti Merkantili; u

Kap. 503.

(i) l-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru.

(2) Id-dispożizzjonijiet ta' dan l-Att ma għandhomx:

(a) japplikaw fejn xi liġi applikabbli tohloq patrimonju separat f'idejn persuna jew fejn persuna tkun vestita bi sjieda, tkun irregiġtrat f'isimha, ikollha, teżerċita kontroll jew setgħat ta' dispożizzjoni fuq proprjetà soġġetta għal obbligi fiduċjarji;

(b) ikollhom l-ebda impatt fuq kwalunkwe intitolament akkumulat għall-pensjoni okkupazzjonali.

Setgħat biex isiru regolamenti.

**50.** (1) B'żieda mal-materji li dwarhom il-Ministru jista' jippreskrivi regolamenti skont id-dispożizzjonijiet ta' dan l-Att, il-Ministru għandu wkoll is-setgħa li jagħmel tali regolamenti għat-tweqqif aħjar ta' kwalunkwe waħda mid-dispożizzjonijiet ta' dan l-Att, li l-Ministru jista' wkoll, b'konsultazzjoni mal-awtorità kompetenti, iqis neċessarju, meħtieġ jew xieraq biex jagħti effett lill-obiettivi u l-

għan tal-Att.

(2) Mingħajr preġudizzju għall-ġeneralità tas-subartikolu (1), il-Ministru għandu jagħmel regolamenti għall-użu ta' mezzi elettronici ta' komunikazzjoni fil-kors tal-proċeduri stabbiliti skont dan l-Att, inkluż dwar:

- (a) il-preżentazzjoni ta' talbiet u applikazzjonijiet;
- (b) is-sottomissjoni ta' pjan ta' ristrutturar propost, skont dan l-Att jew is-sottomissjoni tat-termini proposti ta' ftehim ta' dejn jew ordni ta' falliment skont il-Kodiċi tal-Kummerċ;
- (ċ) in-notifiki lill-kredituri;
- (d) iż-żamma ta' seduti u laqgħat;
- (e) votazzjoni fis-seduti jew laqgħat kollha; u
- (f) it-tressiq ta' kontestazzjonijiet, oġġezzjonijiet u appelli.

Kap. 13.

**51.** (1) F'każ ta' kunflitt bejn it-test Malti u t-test Ingliż ta' dan l-Att, għandu jipprevali t-test Ingliż.

Kunflitt bejn it-testi u l-lingwa.

(2) Kwalunkwe regola jew regolament magħmula skont kwalunkwe dispożizzjoni ta' dan l-Att għandhom isiru bil-lingwa Maltija u bil-lingwa Ingliża; madankollu fejn f'każijiet eċċezzjonali l-użu tal-lingwa Maltija jkun diffiċli minħabba terminoloġija teknika, tali regoli jew regolamenti jistgħu jsiru bil-lingwa Ingliża biss.

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L-EWWEL SKEDA  
DIKJARAZZJONI MAL-PREŻENTATA TA' RISTRUTTURAR  
PREVENTIV

Dikjarazzjoni mal-preżentata ta' ristrutturar preventiv

Dikjarazzjoni mal-preżentata ta' ristrutturar preventiv li għandha tiġi fformulata skont dan l-Att għandu jkun fiha:

- (a) stima tal-ispejjeż tal-prattikant fl-insolvenza bħala remunerazzjoni għas-servizzi provduti fir-rigward ta' proċedimenti ta' ristrutturar preventiv li daħal għalihom skont dan l-Att, inkluż l-baži li fuqha giet ifformulata l-istima;
- (b) dikjarazzjoni tal-prattikant fl-insolvenza, jew, fil-każ

li prattikant fl-insolvenza jkun persuna ġuridika, dikjarazzjoni mill-principal responsabbli biex jidderigi t-twettiq tal-impenn mill-persuna ġuridika, li tikkonferma li l-prattikant fl-insolvenza mhuwiex soġġett għal kwalunkwe kunflitt ta' interess fir-rigward tad-debitur jew tal-kredituri tad-debituri jew, fil-każ ta' kunflitt potenzjali ta' interess, il-miżuri proposti li l-prattikant fl-insolvenza beħsiebu japplika sabiex jipprevjeni kwalunkwe riskju li l-kunflitt ta' interess ikollu kwalunkwe effett fuq it-twettiq tar-responsabbiltajiet tal-prattikant fl-insolvenza, jew fuq ir-ristrutturar preventiv;

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tal-2022.

(ċ) konferma li l-prattikant fl-insolvenza huwa legalment awtorizzat li jaġixxi bħala tali skont l-Att tal-2022 dwar il-Prattikanti fl-Insolvenza, u li l-prattikant fl-insolvenza għandu r-riżorsi adegwati sabiex iwettaq b'mod xieraq il-funzjonijiet tiegħu skont ta' dan l-Att, b'kont meħud taċ-ċirkostanzi tad-debitur u tal-kredituri tiegħu.

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IT-TIENI SKEDA  
KONTENUT TAL-PJAN TA' RISTRUTTURAR

1. Kontenut tal-pjan ta' ristrutturar:

Pjan ta' ristrutturar ifformulat skont dan l-Att għandu jkun fih, bħala minimu, l-informazzjoni li ġejja:

(a) l-isem, in-numru ta' identifikazzjoni, l-indirizz tan-negożju, u l-informazzjoni ta' kuntatt, inkluż minn tal-inqas indirizz tal-posta elettronika, tad-debitur;

(b) dikjarazzjoni tal-attiv u passiv tad-debitur fil-mument tas-sottomissjoni tal-pjan ta' ristrutturar, korretti sa mill-inqas xahar (1) mis-sottomissjoni tal-pjan tar-ristrutturar għall-adozzjoni, inkluż valur attribwit lill-attiv u passiv elenkati fl-opinjoni motivata tal-uffiċjali tad-debitur;

(ċ) deskrizzjoni tas-sitwazzjoni ekonomika tad-debitur inkluż, b'mod partikolari, jekk għandux impjegati u ċ-ċirkostanzi ta' tali impjeg, u l-fatti, iċ-ċirkostanzi u r-raġunijiet kollha li jwasslu għar-reqwiżit għall-estensjoni u, fejn applikabbli, ir-reqwiżit għall-estensjoni tas-sospensjoni ta' azzjonijiet ta' infurzar individwali, kif ukoll ir-raġunijiet li għalihom estensjoni tkun ġustifikata b'mod raġonevoli fil-kuntest tas-sitwazzjoni finanzjarja u ekonomika tad-debitur u l-interessi tal-partijiet interessati tiegħu;

(d) dikjarazzjoni motivata dwar kif il-pjan ta' ristrutturar għandu prospett raġonevoli li jevita l-insolvenza tad-debitur u jiżgura l-vijabbiltà ekonomika tan-negozju, inklużi l-prekondizzjonijiet meħtieġa għas-suċċess tal-pjan ta' ristrutturar;

(e) lista tal-partijiet affettwati, kemm jekk imsemmija individwalment jew b'referenza għall-klassijiet tagħhom, kif ukoll il-pretensjonijiet jew l-interessi koperti mill-pjan ta' ristrutturar, u inkluż, fejn disponibbli, l-indirizz ġeografiku u l-indirizz tal-posta elettronika ta' kull parti affettwata;

(f) il-klassijiet li fihom il-partijiet affettwati ġew miġbura, għall-fini tal-adozzjoni tal-pjan ta' ristrutturar, u l-valuri rispettivi tal-pretensjonijiet u l-interessi ta' kull klassi;

(g) fejn applikabbli, il-kredituri u l-pretensjonijiet tagħhom, kemm jekk imsemmija individwalment jew deskritti b'kategoriji ta' dejn, li ġew esklużi mill-pjan ta' ristrutturar, flimkien ma' deskrizzjoni tar-raġunijiet li għalihom dawn il-pretensjonijiet ġew esklużi, u inkluż, fejn disponibbli, l-indirizz ġeografiku u l-indirizz tal-posta elettronika ta' kull kreditur bħal dan;

(h) l-isem, in-numru ta' identifikazzjoni, l-indirizz tan-negozju, u l-informazzjoni ta' kuntatt, inkluż minn tal-inqas indirizz tal-posta elettronika, tal-prattikant fl-insolvenza;

(i) il-mod kif il-pjan ta' ristrutturar jipproponi r-ristrutturar tan-negozju tad-debitur, inkluż, b'mod partikolari:

(i) il-miżuri mmirati lejn ir-ristrutturar tan-negozju tad-debitur li jinkludu t-tibdil fil-kompożizzjoni, il-kondizzjonijiet jew l-istruttura tal-attiv u passiv tad-debitur jew kwalunkwe parti oħra tal-istruttura kapitali tad-debitur, bħall-bejgħ ta' assi jew partijiet tan-negozju, il-bejgħ tan-negozju bħala negozju avvjat, kif ukoll kwalunkwe bidla operazzjonali meħtieġa, jew il-konkorrenza ta' kwalunkwe minn dawn l-elementi;

(ii) fejn applikabbli, it-tul ta' żmien propost ta' kwalunkwe miżura ta' ristrutturar proposta;

(iii) l-arrangamenti għall-provvista ta' informazzjoni u konsultazzjoni lir-rappreżentanti tal-impjegati f'konformità mal-liġi applikabbli;

(iv) fejn applikabbli, il-konsegwenzi ġenerali

mistennija ta' kwalunkwe miżura ta' ristrutturar proposta fir-rigward tal-impjiegi, bħal sensji, arrangamenti ta' xogħol b'ħinijiet iqsar, jew arrangamenti simili;

(v) projezzjoni ta' kif il-konferma tal-pjan ta' ristrutturar ikollha impatt fuq il-pożizzjoni finanzjarja tad-debitur, inklużi projezzjonijiet li jkopru l-pożizzjoni finanzjarja mistennija tad-debitur jekk il-pjan ta' ristrutturar ma jiġix ikkonfermat;

(vi) kwalunkwe finanzjament ġdid antiċipat bhala parti mill-pjan ta' ristrutturar, u r-raġunijiet li għalihom il-finanzjament il-ġdid huwa meħtieġ għall-implimentazzjoni tal-pjan ta' ristrutturar;

(vii) it-tim ta' ġestjoni propost tad-debitur matul u wara l-implimentazzjoni tal-pjan ta' ristrutturar, jekk ikkonfermat; u

(viii) l-informazzjoni li d-debitur se jpoġġi għad-dispożizzjoni tal-partijiet affettwati wara l-approvazzjoni tal-pjan ta' ristrutturar, inkluż it-tul ta' żmien u l-perjodiċità għall-iżvelar.

## 2. Annessi

Id-dokumenti li ġejjin għandhom jiġu annessi mal-pjan ta' ristrutturar:

(a) fejn il-partijiet affettwati għandhom jieħdu f'idejhom ishma jew drittijiet ta' soċjetà jew parteċipazzjonijiet f'persuna ġuridika, il-pjan għandu jkun akkumpanjat minn rinunzja tad-drittijiet ta' prelazzjoni jew kwalunkwe dokument ieħor li jista' jkun meħtieġ biex ikun permess it-trasferiment tal-ishma;

(b) fejn terza persuna tkun assumiet obbligi fir-rigward tal-partijiet affettwati fil-każ ta' approvazzjoni tal-pjan, il-pjan għandu jkun akkumpanjat mid-dikjarazzjoni tal-kunsens tat-terza persuna; u

(ċ) fejn il-pjan ta' ristrutturar jipprovdi għar-ristrutturar tad-drittijiet tal-parti affettwata fir-rigward tal-prijorità tad-drittijiet garantiti fuq l-assi tad-debitur, il-pjan għandu jkun akkumpanjat minn dikjarazzjoni tal-kunsens ta' kwalunkwe parti li tista' tkun qiegħda ċċedi l-prijorità.

## 3. Lista ta' kontroll għall-pjanijiet ta' ristrutturar

L-awtorità kompetenti għandha tkun responsabbli biex tiżviluppa u żżomm lista ta' kontroll komprensiva għall-pjanijiet ta' ristrutturar, adattata għall-htigijiet tal-intrapriżi żgħar u ta' daqs medju, liema lista ta' kontroll għandha tkun disponibbli pubblikament fuq is-sit elettroniku uffiċjali tal-awtorità kompetenti.

EMENDA KONSEGWENZJALI

**52.** Minnufih wara l-artikolu 9 tal-Ordni li jistabbilixxi r-Registru dwar in-Negozju ta' Malta bħala Aġenzija, għandu jiġi miżjud dan l-artikolu għid li ġej:

Emenda tal-Ordni li jistabbilixxi r-Registru dwar in-Negozju ta' Malta bħala Aġenzija. L.S. 595.27.

"It-twaqqif tas-Servizz ta' Insolvenza u r-Riċevitur.

9A. (1) L-Aġenzija għandha tistabbilixxi u torganizza l-unitajiet u s-sezzjonijiet kif xieraq sabiex teżerċita l-funzjonijiet tagħha, u għandha tistabbilixxi *inter alia*, sezzjoni li tkun magħrufa bħala s-Servizz ta' Insolvenza u r-Riċevitur.

(2) Is-sezzjoni magħrufa bħala s-Servizz ta' Insolvenza u r-Riċevitur għandu jkollha dawk il-funzjonijiet, doveri u poteri assenjati lilha u lir-riċevitur uffiċjali skont l-Att, l-Att tal-2022 ta' Qabel l-Insolvenza, l-Att tal-2022 dwar il-Prattikanti fl-Insolvenza, u kwalunkwe liġijiet u regolamenti oħra applikabbli."

Att Nru XXIV tal-2022.  
Att Nru XXV tal-2022.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 70 tal-14 ta' Diċembru, 2022.

ANĠLU FARRUGIA

*Speaker*

RAYMOND SCICLUNA

*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

**GEORGE VELLA**  
**President**

23rd December, 2022

**ACT No. XXIV of 2022**

*AN ACT to provide for the partial transposition of Directive (EU) 2019/1023, to strengthen the legislative framework relating to insolvency and to make provision with respect to matters ancillary thereto or connected therewith.*

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:-

Short title and scope.

**1.** (1) The short title of this Act is the Pre-Insolvency Act, 2022.

(2) The scope of this Act is to provide for a modern framework, relating to early warning signs of insolvency, and restructuring procedures directed at avoiding insolvency, and to partially transpose Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency).

PART I  
PRELIMINARY PROVISIONS

2. In this Act, and in any regulations made thereunder, unless the context otherwise requires: Interpretation.

"affected parties" means creditors, equity holders, or employees including an employees' representative, whose claims or interests are, or may be, directly affected by a restructuring plan;

"best-interest-of-creditors test" means a test that is satisfied if the Court is reasonably satisfied that no dissenting creditor would be worse off, under the specific restructuring plan, than such a creditor would be if the normal ranking of liquidation priorities were applied, or in the event of the next-best-alternative scenario, if the restructuring plan were not confirmed;

"close-out netting provision" shall have the meaning assigned to it in the Set-Off And Netting on Insolvency Act or regulations issued thereunder; Cap. 459.

"competent authority" means the Insolvency and Receivership Service within the Malta Business Registry established by the Malta Business Registry (Establishment as an Agency) Order; S.L. 595.27.

"Court" means the Civil Court (Commercial Section);

"debtor" means any natural person carrying out a trade, business, craft or profession in or from within Malta, or any legal organisation in terms of the Second Schedule to the Civil Code, including, but not being limited to, any commercial partnership formed and registered under the Companies Act, and expressly excludes: Cap. 16.  
Cap. 386.

(a) insurance undertakings or reinsurance undertakings as defined in points (1) and (4) of Article 13 of Directive 2009/138/EC;

(b) credit institutions as defined in point (1) of Article 4(1) of Regulation (EU) No. 575/2013;

(c) investment firms or collective investment undertakings as defined in points (2) and (7) of Article 4(1) of Regulation (EU) No. 575/2013;

(d) central counter parties as defined in point (1) of Article 2 of Regulation (EU) No. 648/2012;

(e) central securities depositories as defined in point (1) of Article 2(1) of Regulation (EU) No. 909/2014;

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(f) other financial institutions and entities listed in the first sub-paragraph of Article 1(1) of Directive 2014/59/EU;

(g) public bodies under national law; and

(h) natural persons in respect of debts not incurred in the carrying out of a trade, business, craft or profession;

"equity holder" means a person that has an ownership interest in a debtor or a debtor's business, including a shareholder, provided that equity holders having separate claims against the debtor shall, notwithstanding, remain entitled to be treated separately as creditors of the debtor;

"essential executory contract" means a contract between a debtor and one (1) or more creditors thereof, which, at the time a stay of individual enforcement actions is granted or applied, the parties are under an obligation to perform, and the performance of which shall be necessary for the continuation of the debtor's day-to-day business, including contracts for supplies or services that, if suspended, would lead to the debtor's activities being interrupted, or materially and detrimentally affected, or otherwise becoming substantially diminished, but shall exclude contracts of employment as regulated by the Employment and Industrial Relations Act;

Cap. 452.

Act No. XXV of 2022.

"insolvency practitioner" means a person authorised to act as an insolvency practitioner in terms of the Insolvency Practitioners Act, 2022;

"Minister" means the minister responsible for the registration of commercial partnerships;

"official of the debtor" means:

Cap. 386.

Cap. 168.

(a) in relation to a debtor being a company formed and registered under Part V of the Companies Act, or a limited liability company formed in terms of the Commercial Partnerships Ordinance, or any director, or other person, by whatever name they may be called, carrying out substantially the same functions in relation to the direction of the company as those carried out by a director;

Cap. 386.

Cap. 168.

(b) in relation to a debtor being a commercial partnership formed and registered under Part III of the Companies Act or the Commercial Partnerships Ordinance where applicable, any partner in whom the administration and representation of the partnership is vested;

(c) in relation to a debtor being a legal organisation not mentioned in paragraphs (i) or (ii), shall include any person, under whatever designation they may operate, who, whether alone or with others, is designated by the constitutive documents of the legal organisation or any other instrument, decision, order or arrangement binding on the legal organisation, as being vested with the administration and representation thereof, or through whom it is, or may be, exercised:

Provided that where the debtor is a natural person, any reference to the officials of the debtor shall be construed as referring to the debtor himself;

"restructuring" means the implementation of any measures aimed at preserving or restoring the debtor's economic viability, that may include changing the composition, conditions or structure of a debtor's assets and liabilities or any other part of the debtor's financial structure, sales of assets or parts of the business, the sale of the business as a going concern, as well as any necessary operational changes, or any combination of such elements.

## PART II

### EARLY WARNING TOOLS AND CRISIS PREVENTION

3. Debtors shall be entitled to access early warning tools intended to enable debtors to detect circumstances that could give rise to a likelihood of insolvency and to signal, to the debtor, the need to act without delay, such as the Minister may, on the advice of the competent authority, from time to time prescribe by regulations made under this Act.

Power of the Minister to make regulations.

4. The competent authority shall be responsible to develop and maintain relevant and up-to-date information about the availability of early warning tools, as well as about the preventive restructuring procedures available in terms of this Act, which information shall be publicly available in such manner as the competent authority shall deem fit and appropriate for the intended purpose.

Availability of information about early warning tools.

5. The officials of the debtor shall, by reference to early warning tools and any other information reasonably available to them, continuously monitor developments that may expose the debtor to a likelihood of insolvency and, where such developments are identified, take appropriate countermeasures with a view to preventing insolvency and ensuring business viability:

Duties of officials of the debtor to monitor early warning signs of insolvency.

Provided that this article shall not prejudice the provisions of any other law intended to regulate the conduct of the officials of the debtor including but not limited to instances where they knew, or

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should have known, that there were no reasonable prospects of avoiding the insolvency of the debtor.

Duties of the officials when debtor is exposed to likelihood of insolvency.

**6.** (1) Where the officials of the debtor become aware that the debtor has become exposed to a likelihood of insolvency, either as a result of:

(a) the information and data made available by virtue of the early warning tools; or

(b) any financial review made by the auditors of the debtor; or

(c) any request by a creditor or creditors, or the representative of the debtor's employees, or a debenture or equity holder to consider its financial position; or

(d) prevailing circumstances that otherwise expose the debtor to the likelihood of insolvency,

the officials shall forthwith, and in any event, not later than thirty (30) days from becoming aware thereof, duly convene a meeting of the officials, for the purpose of reviewing the debtor's position and of determining what steps should be taken to deal with the situation, having regard to the interests of the creditors, equity holders, employees, and other stakeholders of the debtor, and including, but not limited to, consideration as to whether the debtor should consult with an insolvency practitioner and, or, make a preventive restructuring application in terms of article 9.

Cap. 13.

(2) Without prejudice to sub-article (1), where the debtor is a sole trader, it shall be sufficient for the trader to document its review and determination in terms of sub-article (1), and keep record of such documentation in the manner set out in article 13 of the Commercial Code.

(3) The minutes of a meeting in terms of sub-article (1) shall include a detailed review of the financial matters of the debtor and the determination made, and shall be kept at the debtor's office.

(4) Where the meeting is called following a request by any person listed in paragraph (c) of sub-article (1), the debtor shall by not later than fourteen (14) days from the said meeting communicate in writing to such person, and to the competent authority whether a meeting in terms of sub-article (1) has been held.

Equity holders.

**7.** No equity holder of the debtor may, notwithstanding anything contained within the constitutive instruments of the debtor or any

instruments ancillary thereto, obstruct, directly or indirectly, the officials of the debtor from taking any action lawfully attributable to them in terms of this Act.

### PART III ENTRY INTO PREVENTIVE RESTRUCTURING PROCEDURE

**8.** Where a debtor has, or the officials of the debtor have, whether by reference to article 6, or otherwise, reasonably determined that the debtor is exposed to a likelihood of insolvency, having regard to the debtor's business circumstances and its actual, contingent, and prospective assets and liabilities, a preventive restructuring application may be made to the Court requesting it to place the debtor under a preventive restructuring procedure, provided that the debtor:

Eligibility for preventive restructuring.

(a) has reasonable prospects of viability, that is to say the debtor's economic viability is likely to be preserved or restored as a result of being placed under a preventive restructuring procedure;

(b) has not become liable for the payment of a debt that has remained unsatisfied, in whole or in part, after twenty-four (24) weeks from the enforcement of an executive title against the debtor by any of the executive acts specified in article 273 of the Code of Organization and Civil Procedure, or has been otherwise declared by a court to be unable to pay its debts; and

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(c) has not previously been admitted to preventive restructuring procedures in the three (3) years preceding the date of the application.

**9.** (1) A preventive restructuring application, hereinafter in this article also referred to as the "application", shall be made by means of an application to the Court, to be made or endorsed by an insolvency practitioner.

Types of preventive restructuring procedures.

(2) The insolvency practitioner making or endorsing, as the case may be, the application referred to in sub-article (1) shall, by virtue hereof, subject only to the provisions of article 13, be designated as the insolvency practitioner responsible to assist the debtor in the preventive restructuring procedure, and all the obligations of an insolvency practitioner as applicable in terms of this Act shall apply to the said insolvency practitioner for so long as the insolvency practitioner shall remain so appointed.

(3) The application referred to in sub-article (1) shall comprise a request to the Court to place the debtor into a preventive restructuring procedure under one of the following specific types of preventive

restructuring procedures:

(a) a standard preventive restructuring procedure for the formulation of a restructuring plan in accordance with the requirements of the Second Schedule, and to be submitted for adoption by the affected parties in terms of Part VI;

(b) a pre-formulated preventive restructuring procedure, for the submission of a restructuring plan formulated in accordance with the requirements of the Second Schedule, for adoption by the affected parties in terms of Part VI; or

(c) a pre-approved preventive restructuring procedure, for the confirmation of a restructuring plan formulated in accordance with the requirements of the Second Schedule, that has already attained the necessary approval for adoption by the affected parties in terms of article 41 or 42.

Contents of application.

**10.** The insolvency practitioner making or endorsing, as the case may be, the application referred to in article 9(1) shall annex to the application, the following documents:

(a) a summary of the debtor's business and the manner in which it is operated, and a statement of the full facts, circumstances and the causes which have led the debtor to becoming exposed to a likelihood of insolvency;

(b) a statement as to previous restructuring procedures entered into by the debtor and the outcome of such procedures;

(c) a reasoned statement on the debtor's prospects of economic viability, having regard also to the debtor's actual, contingent, and prospective assets and liabilities, and including consideration as to how preventive restructuring may reasonably eliminate or substantially reduce the debtor's likelihood of insolvency, and enable the debtor's economic viability to be preserved or restored;

(d) audited financial statements, or management accounts if audited financial statements are not available, for the last two (2) full financial years, or, if the debtor has been trading for a shorter period of time, for such shorter period, and made up to not less than thirty (30) days before the date of the application;

(e) a statement of the debtor's assets and liabilities, made up to a date not earlier than two (2) months from the date of the application, including a value attributed to the listed assets and liabilities in the reasoned opinion of the officials of the debtor;

(f) a list of the creditors of the debtor, containing the names, addresses, and electronic mail addresses thereof, together with an indication of the amount due to each of such creditors and the security, if any, enjoyed by the respective creditors;

(g) a preventive restructuring filing declaration made out in the form set out in the First Schedule;

(h) if the debtor is applying for admission to standard preventive restructuring:

(i) a statement as to how the mechanisms made available to the debtor in terms of standard preventive restructuring procedures may enable the financial and economic situation of the debtor to be improved in the interests of its creditors, equity holders, employees, other stakeholders and, if applicable, the debtor himself as a viable going concern; and

(ii) an identification of any essential executory contracts of the debtor;

(i) if the debtor is applying for admission to pre-formulated preventive restructuring:

(i) a restructuring plan, prepared in accordance with the requirements of the Second Schedule, to be submitted for the approval of the affected parties;

(ii) if available, written confirmation of the contingent approval of the restructuring plan submitted for adoption by the affected parties in terms of sub-paragraph (i), by the approving affected parties; and

(iii) an identification of any essential executory contracts of the debtor;

(j) if the debtor is applying for admission to pre-approved preventive restructuring:

(i) a restructuring plan, prepared in accordance with the requirements of the Second Schedule, that has been adopted by the affected parties, so that it may be submitted to the Court for confirmation in terms of article 41;

(ii) written confirmation of the approval of the restructuring plan submitted for adoption by the affected

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parties in terms of sub-paragraph (i), by the approving affected parties; and

(iii) appropriate supporting documentation and statements, where applicable, as may be necessary so as to evidence that the restructuring plan has satisfied the criteria for a cross-class cram-down in terms of article 42.

Hearing of application and issue of preventive restructuring order.

**11.** (1) On the hearing of an application, which shall take place within not more than thirty (30) days from the filing of the application, the Court may, after examining all the circumstances and the options that are available, either dismiss the application or issue a preventive restructuring order, acceding thereto and placing the debtor under the requested preventive restructuring procedure.

(2) The Court shall immediately decide whether to accede to the application, and accordingly place the debtor under the preventive restructuring procedure and issue a preventive restructuring order, only where it is satisfied:

(a) that the application which has been submitted by the insolvency practitioner is complete and contains all the necessary annexes in terms of article 10;

(b) that the type of preventive restructuring being requested is suitable to the circumstances of the debtor and its creditors; and

(c) that the issuing of the preventive restructuring order would, in the event of an application for a standard or pre-formulated preventive restructuring procedure, be likely to facilitate the confirmation of a restructuring plan that satisfies the requirements of article 43(2) and shall enable the debtor to restructure, with a view to preventing insolvency and ensuring its economic viability, having regard to the interests of the creditors, equity holders, employees, and other stakeholders of the debtor.

Notification of the preventive restructuring order.

**12.** (1) The insolvency practitioner shall notify any creditors listed in the application by virtue of sub-article 10(f), the competent authority, and the Registrar of Courts of the issue of a preventive restructuring order in terms of this Part, without undue delay, at the expense of the debtor.

(2) The insolvency practitioner shall publish notice of the issue of the order on a website maintained by the competent authority for this purpose, not later than fourteen days (14) from the issue of the order.

**13.** (1) Any creditor of the debtor may, at any time, make an application to the Court for the appointment of an alternative insolvency practitioner, where the creditor:

Appointment of  
alternative  
insolvency  
practitioner.

(a) has reasonable grounds to believe that the insolvency practitioner is subject to a conflict of interest or is otherwise unable to perform the functions thereof impartially; or

(b) is of the opinion that the insolvency practitioner does not have the specific competence, experience, or resources required to adequately participate in the preventive restructuring procedures.

(2) Where an application is made in terms of sub-article (1), the following documents shall be annexed thereto:

(a) the written confirmation of the proposed alternative insolvency practitioner, that he is available and prepared to participate in the preventive restructuring procedures in terms of the preventive restructuring order;

(b) a preventive restructuring filing declaration made out in the form set out in the First Schedule; and

(c) the written confirmation of not less than fifty per cent (50%) of the debtor's creditors as listed in article 10(f), by reference to both the number of individual creditors and the economic value of their claims, that such creditors approve of the appointment of the alternative insolvency practitioner.

(3) Where the Court, after hearing the insolvency practitioner, is satisfied that the requirements of sub-article (1) subsist, the Court shall accede to the application submitted in terms of this article and shall issue an order immediately terminating the appointment of the insolvency practitioner and confirming the appointment of the alternative insolvency practitioner:

Provided that the Court shall cause a copy of the order to be delivered to the Registrar of Courts and the competent authority, and the latter shall be required to determine what action, if any, may be warranted in the circumstances with respect to the insolvency practitioner.

(4) The filing of an application in terms of this article shall not have any suspensive or negatory effect on the debtor's status as being under preventive restructuring procedures, or on the protections granted to the debtor by virtue of being admitted to preventive restructuring procedures, or on any action taken by the insolvency

practitioner prior to the date of issue of the order referred to in sub-article (3).

(5) Where, within the context of a preventive restructuring procedure, the insolvency practitioner is no longer able to execute the responsibilities imposed in terms of this Act, whether as a result of resignation, interdiction, incapacitation, death, or otherwise, the debtor shall, within forty-eight (48) hours of becoming aware of such fact, by application to the court, request the appointment of an alternative insolvency practitioner:

Provided that this application shall, *mutatis mutandis*, comply with the requirements of sub-articles (2)(a) and (2)(b):

Provided further that the debtor shall be prohibited, without the express prior approval of the Court, from taking any action, the performance of which shall require the involvement of the insolvency practitioner in terms of this Act or as the Court may otherwise stipulate in the preventive restructuring order issued in terms of article 11, until a new insolvency practitioner has been confirmed by the Court.

Effect of the preventive restructuring order.

**14.** (1) For the period commencing upon the filing of an application and until the earlier of the dismissal of the application, or the termination of the preventive restructuring order:

(a) any obligation incumbent on the debtor to make an application for the opening of proceedings that may result in a judgement declaring the bankruptcy of the debtor, or the dissolution or winding up of the debtor in terms of law, shall be suspended;

(b) any act or proceedings that may result in a judgement declaring the bankruptcy of the debtor, or the dissolution or winding up of the debtor in terms of law, shall be stayed; and

(c) no new act or proceedings that may result in a judgement declaring the bankruptcy of the debtor, or the dissolution or winding up of the debtor in terms of law, shall be taken or commenced against the debtor.

(2) The Court shall suspend, stay or disallow any such act or proceeding *ex officio* upon becoming aware that a preventive restructuring order is in force.

PART IV  
GENERAL PROVISIONS ON PREVENTIVE RESTRUCTURING  
PROCEDURE

15. (1) During the course of a preventive restructuring procedure, the debtor shall not, without the prior approval of the insolvency practitioner:

Normal activities of the debtor and creditor participation.

(a) terminate the employment of any employees of the debtor on the basis of redundancy;

(b) sell or in any way dispose of, or encumber by providing as security, any assets or property of the debtor; or

(c) enter into any long-term commitment:

Provided that for the purposes hereof, a long-term commitment shall mean any contractual commitment for a duration of longer than six (6) months:

Provided further that a contractual commitment that is entered into within the six (6) month period after the termination of a previous contractual commitment, shall be considered as a continuation of the previous contractual commitment if the obligations being contracted are substantially the same.

(2) At any time during the course of a preventive restructuring procedure, a creditor or creditors of the debtor, or an employee representative of the debtor's employees, may request that the insolvency practitioner provide them with information regarding the activities being carried on by the debtor in the course of the preventive restructuring procedure, and the extent to which progress has been made on the negotiation of a restructuring plan.

(3) The insolvency practitioner, upon receipt of a request made in terms of sub-article (2), shall provide the requested information without undue delay to the person or persons having made the request, only if, and to the extent that, the provision of such information is, at the discretion of the insolvency practitioner, reasonable in view of the person's interest in the preventive restructuring procedure, and only if the provision thereof would not be prejudicial to the preventive restructuring procedure.

(4) At any time during the course of a preventive restructuring procedure, the debtor, or the insolvency practitioner with the consent of the debtor, or both, may consult with any interested party, including any creditor or creditors or employee representative of the debtor's employees, with respect to any proposed actions to be taken with the

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intention of restoring the debtor's economic viability or negotiating a restructuring plan.

Claims that may form part of a restructuring plan.

**16.** (1) A restructuring plan formulated in terms of a preventive restructuring procedure may propose to restructure claims, whether secured or unsecured, that:

(a) are lawfully enforceable against the debtor at the time of the submission of the restructuring plan; and

(b) arise from:

(i) contractual arrangements, including debts that are contingent upon the occurrence of future circumstances or that have otherwise not yet become due;

(ii) shares, equity or other ownership rights in the debtor, including sums due by way of dividends, profits or otherwise;

(iii) taxes due by the debtor in Malta, excluding taxes levied on consumption such as value added taxes, and excluding taxes due which have been withheld or otherwise collected by the debtor on behalf of any authority or government agency; or

(iv) any other claims that the Court may, upon the application of the interested creditor, order to be included within the restructuring plan:

Provided that the restructuring plan may not, under any circumstances, purport to include, or affect the ranking of, claims arising in connection with:

(a) wages due by the debtor and constituting a privileged claim over the assets of the debtor in terms of article 20 of the Employment and Industrial Relations Act;

(b) civil debts due by the debtor exclusively by way of damages in tort; and

(c) any fine (*ammenda* or *multa*) due by the debtor in terms of Maltese law.

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(2) Where the restructuring plan includes measures leading to changes in work organisation, employment conditions, or contractual relations with workers, the application of such measures shall be without prejudice to any requirement of the relevant party to discuss,

or notify the measures with, or to, the respective workers, or representatives thereof, as the case may be, as may arise in terms of law or in terms of any collective agreement.

(3) Any agreement extraneous to the restructuring plan, howsoever formulated, that purports to exclude or include a claim within the scope of a restructuring plan in a manner contrary to the provisions of this article, shall be null and void.

(4) Any contractual provision within an executory contract concluded by the debtor, that purports to allow a party to the contract to exercise, to the detriment of the debtor, any right of termination, or any right to accelerate, modify, withhold or suspend the performance of its obligations in favour of the debtor, or any right to repossess any property leased, sold or granted to the debtor, solely by virtue of the debtor's commencement of the preventive restructuring procedure or any procedure in the course thereof, shall be null and void.

**17.** (1) The debtor may choose to exclude claims from the restructuring plan where it is evident that: Selection of affected parties.

(a) the claims excluded from the restructuring plan would be reasonably expected to be settled in full, should the restructuring plan not be confirmed; or

(b) the exclusion is justified in the context of the economic realities of the debtor, particularly where the included debt is secured against assets of the debtor.

(2) The criteria used to justify the exclusion of any claims in terms of this article must be explained in sufficient detail within the restructuring plan and the Court must be satisfied that the proposed exclusion is compatible with the object and purpose of this article and would not result in unfair prejudice to any excluded creditor.

(3) All creditors in respect of claims that have not been excluded from the restructuring plan in terms of this article shall be deemed to be affected parties for the purposes of the restructuring plan and otherwise for the purposes of this Act.

**18.** (1) All affected parties shall be organised into classes, as the insolvency practitioner may deem necessary to distinguish between the varying economic interests thereof, and which classes shall, at minimum, distinguish between: Treatment of affected parties in classes.

(a) holders of secured claims;

(b) holders of unsecured claims;

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(c) holders of claims for the payment of wages not constituting a privileged claim over the assets of the debtor in terms of article 20 of the Employment and Industrial Relations Act;

(d) holders of subordinated claims, meaning claims that, in the event of the liquidation of the debtor's assets, would remain unpaid until the full settlement of all non-subordinated debts of the debtor; and

(e) holders of shares, equity or other ownership rights in the debtor.

(2) The insolvency practitioner shall, when formulating classes of affected parties, have particular regard to the protection of vulnerable creditors, such as workers and small suppliers, and shall also organise a vulnerable creditors' class, or classes, if the insolvency practitioner considers this to be necessary for the protection of the vulnerable creditors.

(3) The affected parties shall be further divided into additional classes, as may be necessary in order to distinguish between affected parties within the same class but having claims of different legal priority in the event of the liquidation of the debtor's assets.

(4) In all cases, all classes of affected parties should be clearly distinguished from one another, and the criteria used to distinguish between affected parties must be clearly specified within the restructuring plan.

Equal treatment  
of affected  
parties.

**19.** (1) All affected parties comprising part of a specific class shall be treated equally for the purposes of the restructuring of their claims within the scope of the restructuring plan, except insofar as any detrimental treatment is expressly agreed to by the affected parties to whom such differentiation shall apply.

(2) Where an affected party agrees to be treated differently from other affected parties within the same class in terms of the preceding sub-article, the restructuring plan shall be accompanied by an express statement, in writing, by each of the affected parties to the detriment of whom the differentiation in treatment shall apply.

(3) Any agreement extraneous to the restructuring plan, howsoever formulated, that grants, or purports to grant, an unfair advantage to an affected party, whether pursuant to the terms of a restructuring plan or otherwise in connection with the preventive restructuring procedures, shall be null and void.

**20.** (1) Any interim financing acquired by the debtor in terms of article 31, or any new financing forming part of a restructuring plan that is duly confirmed in terms of this Act, shall, in the case of any subsequent insolvency proceedings in respect of the debtor:

Protection of new and interim financing.

(a) not be declared void, voidable, or unenforceable;

(b) not constitute a basis for any claim or allegation of wrongful trading or fraudulent preference, in terms of the Companies Act, that may be brought against the debtor; and

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(c) the grantors of such new or interim financing shall not, notwithstanding anything to the contrary contained in any other law, incur liability on the grounds that such financing is detrimental to the creditors of the debtor:

Provided that the provisions of this sub-article shall not, in any way, limit the entitlement of a creditor to bring an action on the basis of article 1144 of the Civil Code.

Cap. 16.

(2) Any agreement, howsoever formulated, that purports to exclude or limit the provisions of this article, shall be null and void.

**21.** (1) Any transactions reasonably entered into by the debtor, as the debtor may prove to be directly necessary for the negotiation of a restructuring plan in the course of preventive restructuring procedures, or for the implementation of a restructuring plan that has been confirmed in terms of this Act, including, without limitation, fees and costs incurred for:

Protection of restructuring related transactions.

(a) the negotiation, adoption, or confirmation of a restructuring plan;

(b) the provision of professional advice closely connected with the restructuring;

(c) the payment of workers' wages for work already carried out; and

(d) any other payments or disbursements made in the ordinary course of the debtor's business,

shall, in the case of any subsequent insolvency proceedings in respect of the debtor, not be declared void, voidable, or unenforceable, or constitute a basis for any claim or allegation of wrongful trading, or fraudulent preference in terms of the Companies Act, that may be brought against the debtor:

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Cap. 16. Provided that the provisions of this sub-article shall not, in any way, limit the entitlement of a creditor to bring an action on the basis of article 1144 of the Civil Code.

(2) Without prejudice to the protections stipulated in sub-article (1)(a), the remuneration of an insolvency practitioner, as well as any expenses incurred or disbursements made by the insolvency practitioner in the exercise of its functions, shall represent a privileged claim over the assets of the debtor, which, notwithstanding anything contained in any other law, shall be paid with priority to all other secured or unsecured debts of the debtor.

Act No. XXV of 2022.

(3) The Minister may, in consultation with the competent authority mentioned in the Insolvency Practitioners Act, 2022, make regulations for the payment of expenses and remuneration of the insolvency practitioner.

(4) The Court shall have the power to order that the payment of the expenses and remuneration of the insolvency practitioner are paid in terms of regulations made in terms of sub-article (3).

(5) Any agreement, howsoever formulated, that purports to exclude or limit the provisions of this article, shall be null and void.

Holding of meetings.

**22.** (1) Notwithstanding anything contained within the constitutive instruments of the debtor or any instruments ancillary thereto, any meeting convened or held in terms of this Act may be validly held remotely in accordance with this article:

Provided that where a meeting is not held remotely, any person entitled to be present at the meeting may still attend such meeting remotely, and all of the requirements applicable to the holding of a remote meeting in terms of this article shall apply in the interest of those persons attending remotely.

(2) It shall be the responsibility of the insolvency practitioner to ensure that sufficient technological means are available, at the place of the meeting, to enable any persons attending the meeting remotely to effectively follow and participate in the discussion.

(3) Any person entitled to be present at a meeting shall, notwithstanding any provision or agreement to the contrary, be entitled to appoint another person as their proxy to attend the meeting and, if necessary, take any decision relevant to their interests, and vote for and on their behalf.

(4) The appointment of a proxy shall be in writing and may be recorded electronically, and proof of such appointment shall be

provided to the insolvency practitioner prior to the meeting.

(5) Every notice calling a meeting in terms of this Act shall be in writing and may be transmitted by means of electronic mail, by not later than seven (7) days from the meeting and shall include, with reasonable prominence:

(a) a statement that persons may attend the meeting remotely;

(b) a statement that persons shall be entitled to appoint a proxy that, for the avoidance of doubt, may also attend the meeting remotely;

(c) details regarding the means to be used to attend the meeting remotely; and

(d) the procedure regulating how any person entitled to attend may participate in the discussion.

**23.** (1) At any point during the course of a preventive restructuring procedure, the insolvency practitioner may, with the sanction of the debtor and a majority in value of all the affected parties, seek the appointment of a mediator in terms of the Mediation Act, to facilitate negotiations between the debtor and the affected parties towards the formulation of a restructuring plan. Appointment of a mediator.  
Cap. 474.

(2) Notwithstanding anything contained in the Mediation Act, the appointment of a mediator in terms of this article shall not affect the application of the other provisions of this Act and in the event of any inconsistency between this Act and the Mediation Act, the provisions of this Act shall prevail. Cap. 474.

**24.** If two or more applications for preventive restructuring are brought before the Court, that are connected in respect of the subject-matter thereof, or if the decision on one might affect the decision on the other, the Court may order that the several proceedings be heard and deliberated upon simultaneously. Connection of proceedings.

**PART V  
PREVENTIVE RESTRUCTURING PROCEDURE**

**TITLE I: STANDARD PREVENTIVE RESTRUCTURING PROCEDURE**

**25.** (1) Upon the filing of an application requesting that the Court place the debtor under standard preventive restructuring procedure and unless it is dismissed, and, in the event that the Court Stay of individual enforcement actions.

accedes to the request and issues an order to place the debtor under standard preventive restructuring procedure, for a period of four (4) months following the date of the application:

(a) the execution of claims of a monetary nature against the debtor, with the exclusion only of workers' claims, and any interest that may otherwise accrue thereon, shall be stayed;

(b) in respect of essential executory contracts entered into prior to the order to place the debtor under preventive restructuring procedure, no party may exercise, to the detriment of the debtor, any right of termination, or any right to accelerate, modify, withhold or suspend the performance of its obligations in favour of the debtor, or any right to repossess any property leased, sold or granted to the debtor, solely by virtue of the fact that they were not paid by the debtor, or by virtue of the debtor's entry into preventive restructuring procedure;

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(c) no precautionary or executive act or warrant mentioned in the Code of Organization and Civil Procedure shall be made or continued against the debtor or any property of the debtor, including any warrant in terms of article 312 of the Code of Organization and Civil Procedure;

(d) no arbitration proceeding shall be made or continued against the debtor or any property of the debtor; and

(e) notwithstanding anything contained in this sub-article, no judicial proceedings shall be commenced or continued against the debtor or its property, and any relevant court shall refuse any new judicial action against the debtor or shall *ex officio* order that ongoing judicial proceedings against the debtor are stayed.

(2) The Court shall suspend, stay or disallow any act or proceeding in terms of paragraph (d) or (e) of sub-article (1), or the execution of claims in terms of paragraph (a) of sub-article (1), as the case may be, *ex officio* upon becoming aware that a preventive restructuring application has been made and has not been dismissed, or a preventive restructuring order is in force.

(3) The Court may, pursuant to an application received in terms of sub-article (4), at any time issue an order to lift all or any of the protections granted to the debtor in terms of sub-article (1), in whole or in part, and subject to such terms as the Court deems fit to impose.

(4) An application in terms of sub-article (2) may be made to the Court by:

(a) the debtor, following, where applicable, a decision of the officials of the debtor;

(b) the insolvency practitioner; or

(c) any creditor or creditors, provided that it is proven to the satisfaction of the Court:

(i) that the protections granted no longer fulfil the objective of supporting negotiations on a restructuring plan;

(ii) that the protections granted shall cause substantial harm or financial distress to the creditor;

(iii) that the protections granted shall cause the creditor or class of creditors to be unfairly prejudiced in respect to any other creditor or class of creditors; or

(iv) that, where the creditor is asking the Court to lift the protection granted in terms of sub-article (1)(b), that a contract entered into between the debtor and the creditor is not an essential executory contract.

(5) The provisions of sub-article (1), without prejudice to the generality thereof, shall not apply insofar as these may be inconsistent with, or insofar as these may be construed as limiting or restricting:

Exclusions from stay of individual enforcement actions.

(a) any action *in rem* against a ship or sea vessel;

(b) any action *in rem* against an aircraft or aircraft engine;

(c) any proceedings that may be instituted by the holder of a registered mortgage or a privileged creditor over a ship or sea vessel, or any other actions or proceedings to which a ship or sea vessel may be subject in terms of the Merchant Shipping Act; Cap. 234.

(d) any proceedings that may be instituted by the holder of a registered mortgage or a privileged creditor over an aircraft or aircraft engine, or any other actions or proceedings to which an aircraft or aircraft engine may be subject in terms of the Aircraft Registration Act; Cap. 503.

(e) any warrant of arrest, whether *in personam* or *in rem*, of a sea-going vessel;

(f) any warrant of arrest, whether *in personam* or *in rem*, of an aircraft or aircraft engine;

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Cap. 12. (g) any warrant of seizure of a commercial going concern in terms of article 848A of the Code of Organization and Civil Procedure;

Cap. 12. (h) any action to be brought in respect of a right stated in any of the foregoing warrants, in terms of article 843 of the Code of Organization and Civil Procedure; and

Cap. 484. (i) any rights of a securitisation creditor as defined in the Securitisation Act.

Ranking of claims and formation of classes.

**26.** (1) The insolvency practitioner shall, as soon as possible following appointment, examine the assets, liabilities, and affairs of the debtor and rank all claims against the debtor, present or future, certain or contingent, ascertained or which may be due in damages, by reference to the priority and ranking of their debts in accordance with the law being in force at the time.

(2) Upon preparing a ranking of the claims against the debtor in terms of sub-article (1), the insolvency practitioner shall convene a meeting of the officials of the debtor, for the purpose of:

(a) laying before them for their information, review and confirmation, a comprehensive ranking of the claims against the debtor;

(b) discussing which claims are to be selected for inclusion within the scope of a restructuring plan, having regard to the provisions of article 17; and

(c) organising the said creditors, into classes formed, having regard to the provisions of article 18.

Review of ranking of claims and formation of classes by creditors.

**27.** (1) Within thirty (30) days from his appointment, the insolvency practitioner shall convene a meeting of the creditors of the debtor, for the purpose of:

(a) laying before them for their information and review, a comprehensive ranking of the claims against the debtor;

(b) laying before them for their information and review, a list of the affected parties and the classes into which the affected parties have been organised; and

(c) allowing the creditors to request further information as to the financial situation of the debtor and the expectations of the debtor with respect to the outcome of preventive restructuring.

(2) No less than seven (7) days' notice shall be given of the holding of the meeting of the creditors of the debtor, and the insolvency practitioner may also send a copy of the notice convening the meeting to any officials of the debtor or other persons as may be relevant to the content of the meeting.

(3) The insolvency practitioner shall publish notice of the meeting of the creditors in two (2) daily newspapers circulating wholly or mainly in Malta, one published in Maltese and the other in English, at the expense of the debtor, not later than seven (7) days before the holding of the meeting:

Provided that the notice to be published in a newspaper may, subject to the alignment of the applicable time-periods, be comprised within the notice to be published in terms of article 12(2).

(4) The insolvency practitioner shall undertake to ensure that any notice convening the meeting of creditors in terms of this article shall also be given to known creditors residing or based abroad.

**28.** (1) Any affected party may object to the proposed ranking of claims and the formation of classes, in writing, to the insolvency practitioner within twenty (20) days of the meeting held in terms of article 27:

Objection to ranking of claims and formation of classes.

Provided that a failure to object to the proposed ranking of claims shall not constitute the acceptance, by the affected party, of the ranking of claims for purposes external to the preventive restructuring proceedings, including but not limited to subsequent insolvency proceedings.

(2) The insolvency practitioner shall investigate any objections received to the proposed ranking of claims and the formation of classes, and shall revise the ranking of claims and the formation of classes as it may deem necessary in discussion with the officials of the debtor, and shall notify any revisions to the affected parties.

(3) The insolvency practitioner's ranking of claims and the formation of classes in terms of sub-article (2) may only be challenged before the Court during the procedure for the confirmation of a restructuring plan by the Court, as contemplated in article 43(1).

**29.** The insolvency practitioner may, if he deems appropriate, having regard to any objections received and to the economic impact of any required revisions on the affected parties, convene another meeting of the creditors of the debtor in terms of, and in accordance with the requirements of article 27.

Power to reconvene creditors meeting.

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Termination or re-negotiation of contracts.

**30.** (1) The officials of the debtor shall, in consultation with the insolvency practitioner, review any executory contracts that have been entered into by and between the debtor and any counterparty, and the performance of which has not been concluded, and shall evaluate the termination or re-negotiation of any such executory contracts as shall be conducive to the economic viability of the debtor:

Provided that, where the debtor is a natural person, only executory contracts entered into for the furtherance of the debtor's trade, business, craft or profession may be considered for the purposes of this article:

Cap. 452.

Provided further that the re-negotiation and termination of contracts of employment shall, notwithstanding anything contained in this Act, continue to be regulated by the rules set out within the Employment and Industrial Relations Act or other pertinent legislation.

(2) Where it is identified that the re-negotiation or termination of an executory contract would benefit the debtor's prospects of economic viability, the insolvency practitioner may invite the counterparty or counterparties to engage in *bona fide* negotiations with the debtor, for the purpose of reaching a mutual agreement as to the re-negotiation or termination of the executory contract.

(3) If the parties are unable to come to a mutual agreement as to the re-negotiation or termination of the respective executory contract, the debtor may propose to unilaterally terminate the executory contract as part of the restructuring plan submitted for confirmation in terms of Part VI.

(4) The unilateral termination of an executory contract shall render the debtor liable only to compensate the counterparty for losses incurred, if any, as a result of the unilateral termination, or as may otherwise be determined in accordance with regulations to be made by the Minister, and a claim for such losses may be immediately included within the restructuring plan:

Provided that the insolvency practitioner shall notify any consequential revisions to the ranking of claims or the formation of classes to the officials of the debtor and to the affected parties, in writing and without undue delay.

(5) Upon the confirmation of the restructuring plan, any unilateral termination of any executory contract as contemplated therein, shall, except where a longer period is stipulated within the restructuring plan, take effect automatically upon the earlier of:

(a) the lapse of three (3) months from the date of the confirmation of the restructuring plan, notwithstanding any appeal that may be filed against the confirmation of the restructuring plan; or

(b) where the executory contract provides for a notice period shorter than three (3) months, the said shorter period.

(6) The provisions of this article shall not allow a debtor to propose the unilateral termination of an executory contract where the termination would result in the non-enforcement of any close-out netting provision or any other provision in any contract providing for or relating to the set-off or netting of sums due from each party to the other in respect of mutual credits, mutual debts or other mutual dealings.

**31.** (1) The officials of the debtor shall, in consultation with the insolvency practitioner, review whether the procurement of interim financing shall be necessary in order to preserve the economic viability of the debtor until the confirmation of a restructuring plan.

Acquisition of  
interim  
financing.

(2) If interim financing is deemed to be necessary, the officials of the debtor may solicit proposals from third parties willing to provide the debtor with interim financing, and shall forward any proposals they are desirous of accepting to the insolvency practitioner, including any terms pursuant to which the interim financing is proposed.

(3) Where the insolvency practitioner is satisfied that the procurement of interim financing is necessary in order to preserve the economic viability of the debtor until the confirmation of a restructuring plan and that the acceptance of the proposed terms would not infringe any provisions of this Act, the insolvency practitioner shall:

(a) if the proposed interim financing is unsecured, approve the acquisition of the interim financing; or

(b) if the proposed interim financing is secured, convene a meeting of the affected parties, or classes thereof, that would be adversely impacted by the acquisition of the proposed secured interim financing, for the purpose of laying before them, and holding a vote on, the proposed terms for the acquisition of secured interim financing.

(4) Where a meeting is convened in terms of sub-article (3)(b), no less than seven (7) days' notice shall be given for the holding of the meeting, and the insolvency practitioner shall also send a copy of the notice convening the meeting to any officials of the debtor.

(5) The acquisition of secured interim financing shall be approved subject to the agreement of not less than fifty per cent (50%) of the affected parties in each class, by reference to the value of the claims represented thereby.

(6) Any interim financing approved in terms of this article shall be acquired by the debtor and the claim for repayment thereof may be immediately included within the restructuring plan, provided that the repayment of interim financing shall, in all cases, not be subject to any reduction within the scope of a restructuring plan.

(7) The insolvency practitioner shall notify any revisions that arise consequent to this article, to the ranking of claims or the formation of classes to the officials of the debtor and to the affected parties, in writing and without undue delay.

Formulation of  
the restructuring  
plan.

**32.** (1) The officials of the debtor shall, in consultation with the insolvency practitioner, formulate a restructuring plan prepared in accordance with the requirements of the Second Schedule, to be submitted for adoption by the affected parties:

Provided that any creditor of the debtor may also prepare a restructuring plan, or proposals for inclusion within a restructuring plan, and submit these to the insolvency practitioner for the consideration of the debtor.

(2) As may be conducive to the formulation of a restructuring plan, the insolvency practitioner may, at the request of the debtor, invite an affected party, or class of affected parties, to engage in *bona fide* discussions with the debtor in connection with any restructuring proposals that the insolvency practitioner, upon consultation with the debtor, may consider to be appropriate for inclusion within the restructuring plan, for the purpose of hearing the views of the affected parties.

(3) A restructuring plan prepared in terms of this article may, subject to the agreement of the debtor, be submitted by the insolvency practitioner for adoption by the affected parties in terms of Part VI of this Act, provided that it is reasonably apparent that:

(a) affected parties with a sufficient commonality of interest in the same class are treated equally, and in a manner proportionate to their claim; and

(b) any new financing proposed in the restructuring plan is necessary to implement the restructuring plan and does not unfairly prejudice the interests of the affected parties.

**33.** (1) The preventive restructuring order placing the debtor under standard preventive restructuring shall automatically terminate upon the lapse of four (4) months from the date of the application filed in terms of article 9, provided that the duration of standard preventive restructuring may be extended in terms of this article until a maximum of twelve (12) months from the date of the application.

Duration of standard preventive restructuring.

(2) The insolvency practitioner may by no later than fourteen (14) days before the termination of the previous order, file an application to the Court to extend the order for a further period of four (4) months following the termination thereof, subject to the agreement of the debtor:

Provided that the application may also request that the stay of individual enforcement actions in terms of article 25 be extended, in whole or in part, for a further period of four (4) months following the termination of the order, or until the termination of the preventive restructuring order in terms of article 34, whichever is earlier.

(3) The application shall, as far as possible, give the full facts, circumstances and reasons giving rise to the requirement for an extension and, where applicable, the requirement for an extended stay of individual enforcement actions, as well as the reasons for which an extension would be reasonably justified in the context of the financial and economic situation of the debtor and the interests of his stakeholders.

(4) The Court shall, prior to the date of the automatic termination of the order, issue a decision on whether to extend the preventive restructuring procedure and, where applicable, whether to also extend the stay of individual enforcement actions:

Provided that the Court shall only renew the stay of individual enforcement actions if it is satisfied that the renewal would be reasonable, having regard to the debtor's prospects of economic viability, the interests of the affected parties, and the likelihood that a renewal would facilitate the successful negotiation and confirmation of a restructuring plan, and would generally not be unduly prejudicial to the interests of the affected creditors.

(5) The insolvency practitioner shall notify the extension of preventive restructuring procedure to the affected parties, the competent authority and the Registrar of Courts, at the expense of the debtor, without undue delay.

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Pre-emptive  
termination of  
standard  
preventive  
restructuring.

**34. (1)** If, at any time during which a standard preventive restructuring order is in force, it results to the insolvency practitioner:

(a) that, after consulting with the officials of the debtor, the affairs of the debtor have improved to the extent that the debtor is no longer exposed to a likelihood of insolvency;

(b) that, after consulting with the officials of the debtor, the affairs of the debtor have deteriorated to the extent that the debtor does not have reasonable prospects of economic viability;  
or

(c) that, after consulting with the officials of the debtor and any creditors of the debtor as the insolvency practitioner may deem reasonably appropriate, the insolvency practitioner has established that a significant proportion of the debtor's creditors do not support the continuation of negotiations and shall prevent the debtor from obtaining the approvals necessary for the confirmation of a restructuring plan,

the insolvency practitioner shall forthwith make a request by application to the Court for the termination of the preventive restructuring procedure, containing detailed and comprehensive reasons therefor.

(2) At any time during which a standard preventive restructuring order is in force, the officials of the debtor, if they are satisfied that the affairs of the debtor have improved to the extent that the debtor is no longer exposed to a likelihood of insolvency or convinced that the affairs of the debtor have deteriorated to the extent that the debtor does not have reasonable prospects of economic viability, may submit a request by application to the Court confirming that they are so satisfied or convinced, and requesting that the Court issue an order for the termination of the preventive restructuring procedures, provided that the Court shall not without just cause proceed to make an order acceding to or declining the application without having first heard the insolvency practitioner, insofar as reasonably possible.

(3) At any time during which a standard preventive restructuring order is in force, any creditor or creditors of the debtor, if they believe that there would be no purpose to the continuation of standard preventive restructuring procedures on the basis:

(a) that the debtor is no longer exposed to a likelihood of insolvency or no longer has reasonable prospects of economic viability; or

(b) that a significant proportion of the debtor's creditors

do not support the continuation of negotiations and shall not provide the approvals necessary for the confirmation of a restructuring plan,

may, after informing the insolvency practitioner, submit an application to the Court requesting it to issue an order for the termination of the preventive restructuring procedures, provided that the Court shall not proceed to make an order acceding to or declining the application without having first heard the insolvency practitioner, insofar as reasonably possible.

(4) In the event that the Court accedes to an application for the pre-emptive termination of a standard preventive restructuring order in terms of this article, it shall make such provisions and conditions, as it may consider necessary in the circumstances of the case.

## TITLE II: PRE-FORMULATED PREVENTIVE RESTRUCTURING PROCEDURE

**35.** The provisions of articles 25, 30 and article 34, as applicable to a standard preventive restructuring procedure shall, *mutatis mutandis*, apply to a pre-formulated preventive restructuring procedure.

Common applicability of provisions.

**36.** (1) As may be conducive to the approval of the terms of a pre-formulated restructuring plan, the insolvency practitioner may, at the request of the debtor, invite an affected party, or class of affected parties, to engage in *bona fide* discussions with the debtor in connection with the pre-formulated restructuring proposal, for the purpose of hearing the views of the affected parties.

Approval of terms of pre-formulated restructuring plan.

(2) A pre-formulated restructuring plan may, subject to the agreement of the debtor, be submitted by the insolvency practitioner for adoption by the affected parties in terms of Part VI of this Act, provided that it is reasonably apparent that:

(a) affected parties with a sufficient commonality of interest in the same class are treated equally, and in a manner proportionate to their claim; and

(b) any new financing proposed in the restructuring plan is necessary to implement the restructuring plan and does not unfairly prejudice the interests of the affected parties.

**37.** The preventive restructuring order placing the debtor under pre-formulated preventive restructuring shall automatically terminate upon the lapse of four (4) months from the date of the application filed in terms of article 9.

Duration of pre-formulated preventive restructuring.

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Conversion of pre-formulated preventive restructuring procedure into standard preventive restructuring procedure.

**38.** (1) The insolvency practitioner may, at any time during which a pre-formulated preventive restructuring order is in force, file an application to the Court to convert the pre-formulated preventive restructuring procedure into standard preventive restructuring, if it results to the insolvency practitioner that:

(a) after consulting with the officials of the debtor, the economic viability of the debtor is more likely to be preserved or restored if it is placed under standard preventive restructuring procedure; or

(b) after consulting with the creditors of the debtor, a significant proportion are not in favour of the pre-formulated restructuring plan, such as is likely to prevent the debtor from obtaining the approvals necessary for the confirmation thereof, and the insolvency practitioner is of the view that standard preventive restructuring is more likely to result in the successful negotiation and confirmation of a restructuring plan.

(2) The insolvency practitioner shall annex to an application made in terms of sub-article (1):

(a) any information or documentation previously submitted, in terms of articles 10(a) to 10(g), and article 10(i)(iii), that, following the initial submission thereof, requires update or revision; and

(b) a statement in terms of article 10(h)(i), which should also include details as to how the conversion of the pre-formulated preventive restructuring procedure into standard preventive restructuring procedure shall improve the debtor's likelihood of preserving or restoring its economic viability.

(3) In the event that the Court accedes to the request and issues an order to convert the pre-formulated preventive restructuring procedure into a standard preventive restructuring procedure, for the purpose of determining the maximum duration of any stay of individual enforcement actions in terms of article 25(1), and the duration of the order placing the debtor under standard preventive restructuring in terms of article 33(1), the period shall be deemed to have started to run on the day on which the aforementioned stay and order commenced during the pre-formulated preventive restructuring procedure.

PART VI  
CONFIRMATION OF RESTRUCTURING PLAN

**39.** (1) A restructuring plan formulated in terms of this Act, other than a pre-approved restructuring plan that has already attained the written approval of the affected parties as necessary for the purposes of confirmation in terms of article 41 or 42, shall be submitted for adoption at a meeting of the affected parties to be convened by the insolvency practitioner.

Affected parties to vote on adoption of restructuring plan.

(2) Not less than seven (7) days notice shall be given to the affected parties of the holding of the meeting, and the insolvency practitioner shall also send a copy of the notice to any officials of the debtor:

Provided that, in the event of a pre-approved restructuring proceeding, it shall be sufficient for the insolvency practitioner to provide notice to the affected parties that a pre-approved plan has attained the written approval of the affected parties as necessary for the purposes of approval in terms of articles 41 or 42, which notice shall be given not less than seven (7) days prior to the filing of an application to the Court for the confirmation of the restructuring plan in terms of article 41(2) or 42(2), as the case may be, such that any dissenting creditor may, if desirous, communicate the grounds pursuant to which they are in opposition to the adoption of the restructuring plan.

(3) The notice shall include a copy of the restructuring plan to be submitted for adoption at the meeting, for the consideration of the affected parties, or, in the event of pre-approved restructuring proceedings, a copy of the pre-approved restructuring plan.

**40.** (1) At the meeting for the adoption of the restructuring plan, the affected parties shall have the opportunity to discuss the restructuring plan and request clarification on the contents thereof from the insolvency practitioner.

Procedure of meeting.

(2) The affected parties shall then vote on the adoption of the restructuring plan, by show of hands, and the insolvency practitioner shall record the result of the votes taken.

(3) Any affected party may delay the submission of their vote, for a maximum period of seven (7) days to be reckoned from the day following the meeting, in which case their vote shall be submitted, in writing, to the insolvency practitioner before the expiration of the said seven (7) day period.

(4) The written communication of a vote transmitted by the affected party to the insolvency practitioner in terms of sub-article (3),

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must, on pain of nullity, expressly and unequivocally state whether the affected party wishes to adopt or reject the restructuring plan, and such vote may be validly submitted to the insolvency practitioner electronically.

(5) Notwithstanding any agreement to the contrary, any affected party that does not vote in the manner aforesaid shall not be considered for the purpose of assessing whether the restructuring plan has received the approval necessary for adoption by the affected parties in terms of article 41 or for the restructuring plan to be crammed down in terms of article 42.

Adoption of restructuring plan.

**41.** (1) The restructuring plan shall be adopted by the affected parties if it is approved by not less than two-thirds (2/3) of the affected parties in each class, by reference to the value of the claims represented thereby.

(2) Where a restructuring plan is adopted in terms of this article, the insolvency practitioner shall, without delay, file an application to the Court for the confirmation of the restructuring plan so that it may be made effective and binding on all affected parties for all purposes of law, to which the insolvency practitioner shall annex a copy of the adopted restructuring plan and proof of the adoption thereof by the affected parties, as well as the grounds, where these are expressly stated, pursuant to which any dissenting creditors have voted against the adoption of the restructuring plan.

Cross-class cram-down.

**42.** (1) If the restructuring plan is not adopted by the affected parties in terms of the thresholds prescribed in article 41, the restructuring plan shall notwithstanding be deemed to be adopted if, in the view of the insolvency practitioner, the restructuring plan satisfies at least the following conditions:

(a) the restructuring plan satisfies the best-interest-of-creditors test;

(b) the restructuring plan will not result in any class of affected parties receiving economic value in excess of the full amount of its claims;

(c) the restructuring plan ensures that any dissenting class of affected parties is treated at least as favourably as any other class of affected parties whose claims would, if the normal ranking of liquidation priorities were to be applied, rank *pari passu* with the claims of the dissenting class, and more favourably than any other class of affected parties whose claims would, if the normal ranking of liquidation priorities were to be applied, rank below the claims of the dissenting class; and

(d) the restructuring plan has been approved for adoption by at least one (1) class of affected parties who would, if the normal ranking of liquidation priorities were to be applied, receive payment of their claims in whole or in part.

(2) Where a restructuring plan is adopted in terms of this article, the insolvency practitioner shall, subject to the agreement of the debtor and without undue delay, make an application to the Court for the confirmation of the restructuring plan so that it may be made effective and binding on all affected parties for all purposes of law, to which the insolvency practitioner shall annex a copy of the adopted restructuring plan and appropriate supporting documentation and statements as may be necessary so as to evidence that the restructuring plan has satisfied the criteria for adoption in terms of sub-article (1), as well as an identification of the dissenting creditors and the grounds, where these are expressly stated, pursuant to which any such dissenting creditors have voted against the adoption of the restructuring plan.

**43.** (1) The Court shall, within thirty (30) days from the date of receipt thereof, decide on whether to approve or reject the restructuring plan:

Confirmation of restructuring plan by the Court.

Provided that, insofar as possible, the Court shall, before so doing, hear from the officials of the debtor and of any affected parties, as it may deem appropriate, by serving them with a notice of the proceedings.

(2) The Court shall only approve and confirm a restructuring plan if it is satisfied that:

(a) the restructuring plan has reasonable prospects of ensuring that the debtor's economic viability is preserved or restored;

(b) the restructuring plan has been approved for adoption by the affected parties in accordance with the terms of this Act;

(c) the formation of voting classes, and the attribution of voting rights thereto, has been performed in accordance with the terms of this Act;

(d) the restructuring plan ensures that affected parties with a sufficient commonality of interest in the same class are treated equally, and in a manner proportionate to their claim;

(e) any new financing proposed in the restructuring plan is necessary to implement the restructuring plan and does not unfairly prejudice the interests of the affected parties; and

(f) notification of the restructuring plan has been given to all affected parties in terms of article 39.

(3) Following receipt of an application for the confirmation of a restructuring plan, the Court may request any explanations or clarifications as it may consider appropriate for the formulation of its decision, which shall be provided to it, either verbally or in writing, as the Court may direct.

(4) If a dissenting creditor has opposed the approval of the restructuring plan, on the grounds of, either:

(a) the failure of the restructuring plan to satisfy the best-interest-of-creditors test; or

(b) a breach of the conditions for a cross-class cram-down in terms of article 42(1),

the Court shall appoint an expert, who shall be an insolvency practitioner, to, within thirty (30) days from the date of his appointment, carry out, or cause the carrying out, of such valuations and other procedures as may be necessary or required so as to enable the expert to submit to the Court his report in writing regarding the subsistence, or otherwise, of the relevant grounds for opposition, and motivating the basis on which his conclusions are founded:

Provided that the insolvency practitioner who is so appointed may, with the approval of the Court, appoint any such experts as may be deemed necessary to assist in carrying out valuations and other procedures, and any costs incurred for this process, shall, if the opposition is unfounded, be borne by the dissenting creditor, or, if the grounds for opposition are found to subsist, by the debtor.

(5) Without prejudice to sub-article (1), where a restructuring plan is opposed on the grounds referred to in sub-article (4)(a) or (4)(b), the Court shall, within thirty (30) days from the date of receipt of a final report from the expert appointed in terms of sub-article (4), make a determination regarding the subsistence or otherwise of the said grounds, and the Court shall reject the restructuring plan if either of the said grounds are determined to subsist.

(6) Upon the Court's approval of the restructuring plan, it shall become effective and binding on all affected parties for all purposes of law.

Renegotiation of  
rejected  
restructuring  
plan.

**44.** (1) Where the Court rejects a restructuring plan, it may propose amendments to the restructuring plan to the officials of the debtor and the affected parties, indicating the Court's readiness to

confirm the plan should those amendments be approved by a separate vote of the affected parties held in accordance with articles 41 or 42.

(2) Upon rejection of a restructuring plan, the officials of the debtor may, in consultation with the insolvency practitioner and otherwise in terms of this Act, formulate a new, or revised, restructuring plan prepared in accordance with the requirements of the Second Schedule, to be submitted for adoption by the affected parties.

(3) Any preventive restructuring order issued by the Court shall continue to apply until the automatic or pre-emptive termination thereof in terms of this Act, and any right to request an extension of the preventive restructuring order may be duly exercised by the competent party.

## PART VII APPEALS

45. (1) Any decision of the Court within the context of a preventive restructuring procedure, including to approve or reject a restructuring plan, shall be subject to appeal to the Court of Appeal, constituted in terms of article 41(6) of the Code of Organisation and Civil Procedure, hereinafter referred to in this article as the "Court of Appeal":

Appeals against  
decision of the  
Court.

Cap.12.

Provided that the Court of Appeal may, notwithstanding that it has accepted an appeal made against the confirmation of a restructuring plan, uphold the decision of the Court to confirm a restructuring plan, and provide such remedy as necessary to ensure that the appellant is protected from the effects of the restructuring plan, or duly compensated, such that the appellant:

(a) shall be entitled to receive an amount at least equivalent to that which the appellant would have been entitled to if the normal ranking of liquidation priorities were applied, or in the event of the next-best-alternative scenario, if the restructuring plan had not been confirmed; and

(b) shall be treated at least as favourably as any other creditor within any class of affected parties whose claims would, if the normal ranking of liquidation priorities were to be applied, rank *pari passu* with the claims of the appellant, and more favourably than any other creditor within any class of affected parties whose claims would, if the normal ranking of liquidation priorities were to be applied, rank below the claims of the appellant.

(2) An appeal made in terms of sub-article (1), may be made by

the debtor by means of an application submitted to the Court of Appeal within twenty (20) days of the Court's decision.

(3) An appeal made in terms of sub-article (1), may also be made by any interested party, by means of an application submitted to the Court of Appeal within twenty (20) days of the Court's decision:

Provided that the Court of Appeal shall, before hearing such an appeal, ascertain the interest of the appellant in the decision against which the appeal has been filed.

(4) Any appeal made in terms of this article shall have no suspensive effects on the execution of that decision, or on the execution of any restructuring plan approved within the preventive restructuring procedure in which that decision was made.

Appointment of curator to give his consent on behalf of a creditor.

**46.** (1) Upon the confirmation of a restructuring plan by the Court, and if the restructuring plan identifies the need to obtain the consent of a creditor prior to the transfer of any asset or assets, and, or, where the creditor is required to appear on any pertinent public deed so as to give consent to the cancellation of, or a reduction in, any cause of preference and the registration of the same, enjoyed by the creditor over the said asset or assets, the debtor may, if he is, or if the officials of the debtor are, of the opinion that the consent of the said creditor is, or may be withheld, make an application to the Court for the appointment of a curator.

(2) A curator appointed in terms of this article may under the authority of the Court, give his consent to the transfer of assets and, or, appear on any pertinent public deed to consent, for and on behalf of the creditor referred to in sub-article (1), to the cancellation of, or reduction in, any cause of preference, and the registration of the same, enjoyed by the said creditor, on condition that the curator receives that portion of the proceeds of the sale of assets which, in terms of law and subject to the restructuring plan, pertains to the said creditor, and which shall be applied in his favour in terms of sub-article (3).

(3) The curator shall receive, for and on behalf of the creditor referred to in sub-article (1), that portion of the proceeds of the sale of assets referred to in sub-article (2) which, in terms of law and subject to the restructuring plan, pertains to the said creditor, and shall ensure that such funds are either distributed to the said creditor or, if this is not reasonably practicable, deposited in Court for the benefit of the said creditor.

PART VIII  
MISCELLANEOUS

**47.** If at any time it appears that any actions of the debtor during a preventive restructuring order or otherwise in connection with the process of preventive restructuring, has been carried on with intent to defraud any creditor of the debtor, the Court, on the application of the insolvency practitioner or of any creditor of the debtor, may, if it thinks proper so to do, declare that any persons who were knowingly parties to the carrying on of the business in the manner aforesaid be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the debtor as the Court may direct.

Fraud.

**48.** (1) Upon the filing of a preventive restructuring application, the issue of a preventive restructuring order, the appointment and termination of the appointment of an insolvency practitioner and the appointment of a replacement thereof, the filing of an application for the termination of a preventive restructuring order, or the order of the Court terminating the preventive restructuring procedure for any reason, the Registrar of Courts shall forthwith submit a copy of any such application, Court order or other relevant document to the competent authority.

Filing of documents to the Registrar for registration.

(2) Notwithstanding the provisions of sub-article (1), a copy of the restructuring plan, as may be attached to an application or order, shall not be delivered to the Registrar together with such application or order.

**49.** (1) The provisions of this Act shall not apply insofar as these may be inconsistent with, or insofar as these may be construed as limiting or restricting, the application of the following laws or instruments, or any transposing legislation, as may be amended from time to time:

Relationship with other laws.

(a) the Convention on International Interests in Mobile Equipment and its Protocols on Matters Specific to Aircraft Equipment that was opened for signature at Cape Town on 16 November 2001, as transposed or as enforceable in terms of Maltese law;

(b) Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, as transposed in Maltese law;

(c) Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements, as transposed in Maltese law;

(d) Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories;

(e) the safeguarding requirements of funds for:

(i) payment institutions laid down under Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC, as transposed in terms of Maltese law; and

(ii) electronic money institutions laid down under Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC, as transposed in terms of Maltese law;

S.L. 459.01. (f) the Financial Collateral Arrangements Regulations and any financial collateral arrangement in terms thereof;

Cap. 459. (g) the Set-Off and Netting on Insolvency Act;

Cap. 234. (h) the Merchant Shipping Act; and

Cap. 503. (i) the Aircraft Registration Act.

(2) The provisions of this Act shall:

(a) not apply where any applicable law creates a separate patrimony in the hands of a person or where a person is vested with ownership, has registered in his name, holds, exercises control or powers of disposition over property subject to fiduciary obligations;

(b) have no impact on any accrued occupational pension entitlements.

Powers to make regulations.

**50.** (1) In addition to the matters on which the Minister is empowered to prescribe regulations under the provisions of this Act, the Minister shall additionally have the power to make such regulations for the better carrying out of any of the provisions of this Act as the Minister may also, on consultation with the competent authority, deem necessary, required or appropriate to give effect to the object and purpose of the Act.

(2) Without prejudice to the generality of sub-article (1), the Minister shall make regulations for the use of electronic means of communication in the course of the procedures established in accordance with this Act, including regarding:

- (a) the presentation of requests and applications;
- (b) the submission of a proposed restructuring plan, in accordance with this Act or the submission of the proposed terms of a debt agreement or bankruptcy order in accordance with the Commercial Code;
- (c) notifications to the creditors;
- (d) holding of hearings and meetings;
- (e) voting at all hearings or meetings; and
- (f) the submission of contestations, objections and appeals.

Cap. 13.

**51.** (1) In case of conflict between the Maltese text and English text of this Act, the English text shall prevail.

Conflict  
between texts  
and languages.

(2) Any rules or regulations made pursuant to any provision of this Act shall be made in the Maltese language and in the English language; however where in exceptional cases the use of the Maltese language would be difficult due to technical terminology, such rules or regulations may be made in the English language only.

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FIRST SCHEDULE –  
PREVENTIVE RESTRUCTURING FILING DECLARATION

Preventive restructuring filing declaration

A preventive restructuring filing declaration to be formulated in terms of this Act shall contain:

- (a) an estimation of the insolvency practitioner's costs by way of remuneration in respect to services rendered in relation to preventive restructuring proceedings entered into in terms of this Act, including the basis upon which the estimation has been formulated;
- (b) a statement of the insolvency practitioner, or, in the case of an insolvency practitioner being a legal person, a

statement by the principal responsible for directing the fulfilment of the engagement by the legal person, confirming that the insolvency practitioner is not subject to any conflict of interest with respect to the debtor or the debtors' creditors or, in the event of a potential conflict of interest, the proposed measures that the insolvency practitioner intends to apply in order to prevent any risk of the conflict of interest having any bearing, on either the fulfilment of the insolvency practitioner's responsibilities, or on the preventive restructuring;

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(c) a confirmation that the insolvency practitioner is lawfully authorised to act as such in terms of the Insolvency Practitioners Act, 2022 and that the insolvency practitioner possesses the adequate resources so as to appropriately carry out its functions in terms of this Act, having regard to the circumstances of the debtor and its creditors.

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SECOND SCHEDULE –  
CONTENTS OF RESTRUCTURING PLAN

1. Contents of the restructuring plan:

A restructuring plan formulated in terms of this Act shall contain, at minimum, the following information:

(a) The name, identification number, business address, and contact information, including at least an electronic mail address, of the debtor;

(b) a statement of the debtor's assets and liabilities at the time of the filing of the restructuring plan, correct up to at least one (1) month of the submission of the restructuring plan for adoption, including a value attributed to the listed assets and liabilities in the reasoned opinion of the officials of the debtor;

(c) a description of the economic situation of the debtor including, in particular, whether it has any employees and the circumstances of such employment, and the full facts, circumstances and reasons giving rise to the requirement for an extension and, where applicable, the requirement for an extended stay of individual enforcement actions, as well as the reasons for which an extension would be reasonably justified in the context of the financial and economic situation of the debtor and the interests of its stakeholders;

(d) a reasoned statement on how the restructuring plan has a reasonable prospect of preventing the insolvency of the debtor and ensuring the economic viability of the business, including the necessary pre-conditions for the success of the restructuring plan;

(e) a list of the affected parties, whether named individually or by reference to the classes thereof, as well as the claims or interests covered by the restructuring plan, and including, where available, the geographical address and electronic mail address for each affected party;

(f) the classes into which the affected parties have been grouped, for the purpose of adopting the restructuring plan, and the respective values of claims and interests in each class;

(g) where applicable, the creditors and claims thereof, whether named individually or described by categories of debt, which have been excluded from the restructuring plan, together with a description of the reasons why such claims have been excluded, and including, where available, the geographical address and electronic mail address for every such creditor;

(h) the name, identification number, business address, and contact information, including at least an electronic mail address, of the insolvency practitioner;

(i) the manner in which the restructuring plan proposes to restructure the debtor's business, including, in particular:

(i) the measures aimed at restructuring the debtor's business that include changing the composition, conditions or structure of a debtor's assets and liabilities or any other part of the debtor's capital structure, such as sales of assets or parts of the business, the sale of the business as a going concern, as well as any necessary operational changes, or a combination of those elements;

(ii) where applicable, the proposed duration of any proposed restructuring measures;

(iii) the arrangements with regard to informing and consulting the employees' representatives in accordance with applicable law;

(iv) where applicable, the expected overall consequences of any proposed restructuring measures as

regards employment, such as dismissals, short-time working arrangements, or similar arrangements;

(v) a projection of how the confirmation of the restructuring plan would impact the debtor's financial position, including projections covering the debtor's expected financial position should the restructuring plan not be confirmed;

(vi) any new financing anticipated as part of the restructuring plan, and the reasons why the new financing is necessary to implement the restructuring plan;

(vii) the proposed management team of the debtor during and following the implementation of the restructuring plan, if confirmed; and

(viii) the information which will be made available by the debtor to the affected parties following the approval of the restructuring plan, including the duration and periodicity for disclosure.

## 2. Annexes

The following documents shall be annexed to the restructuring plan:

(a) where the affected parties are to take over shares or membership rights or holdings in a legal person, the plan shall be accompanied by a waiver of pre-emption rights or any other documents as may be necessary for the transfer of shares to be permitted;

(b) where a third party has assumed obligations vis-à-vis the affected parties in the event of approval of the plan, the plan shall be accompanied by the third party's statement of consent; and

(c) where the restructuring plan provides for the restructuring of the rights of the affected party with regard to the priority of secured rights over the assets of the debtor, the plan shall be accompanied by a statement of consent of any parties that may be ceding priority.

## 3. Checklist for restructuring plans

The competent authority shall be responsible to develop and maintain a comprehensive checklist for restructuring plans, adapted to the needs of small and medium-sized enterprises, which checklist shall

be publicly available on a website maintained by the competent authority.

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CONSEQUENTIAL AMENDMENT

**52.** Immediately after article 9 of the Malta Business Registry (Establishment as an Agency) Order, there shall be added the following new article:

Amendment to the Malta Business Registry (Establishment as an Agency) Order. S.L. 595.27.

"Establishment of the Insolvency and Receivership Service.

9A. (1) The Agency shall establish and organise its units and sections as appropriate in order to exercise its functions, and shall establish *inter alia*, a section to be known as the Insolvency and Receivership Service.

(2) The section to be known as the Insolvency and Receivership Service shall have those functions, duties and powers assigned to it and to the official receiver by the Act, the Pre-Insolvency Act, 2022, the Insolvency Practitioners Act, 2022 and any applicable laws and regulations."

Act No. XXIV of 2022.  
Act No. XXV of 2022.

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Passed by the House of Representatives at Sitting No. 70 of the 14th December, 2022.

ANĠLU FARRUGIA  
*Speaker*

RAYMOND SCICLUNA  
*Clerk of the House of Representatives*

# VERŻJONI ELETTRONIKA