

MALTA

**ATT Nru XXV tal-2022**

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

**ATT sabiex jipprovdi għat-traspożizzjoni tad-Direttiva (UE) 2019/1023, u jirregola 1-prattikant fl-insolvenza, u jipprovdi għal hwejjeġ ancillari jew inċidentali jew konnessi ma' dan.**

**ACT No. XXV of 2022**

AN ACT enacted by the Parliament of Malta.

**AN ACT to provide for the transposition of Directive (EU) 2019/1023, and to regulate the insolvency practitioner, and to make provision for matters ancillary or incidental thereto or connected therewith.**



Nagħti l-kunsens tiegħi.

(L.S.)

**GEORGE VELLA**  
**President**

23 ta' Dicembru, 2022

**ATT Nru XXV tal-2022**

*ATT sabiex jipprovdi għat-traspożizzjoni tad-Direttiva (UE) 2019/1023, u jirregola l-prattikant fl-insolvenza, u jipprovdi għal hwejjeġ ancillari jew incidentali jew konnessi ma' dan.*

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:-

**TAQSIMA I**

**Dispożizzjonijiet preliminari**

**1.** (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2022 dwar il-Prattikanti fl-Insolvenza.

Titolu fil-qosor  
u għan.

(2) L-għan ta' dan l-Att huwa sabiex jipprovdi qafas modern li jsahhaħ l-effiċjenza u l-effettività tal-qafas leġiżlattiv eżistenti dwar l-insolvenza billi jiġu rregolati l-attivitajiet tal-prattikanti fl-insolvenza, u sabiex parzjalment jittrasponi d-Direttiva (UE) 2019/1023 tal-Parlament Ewropew u tal-Kunsill tal-20 ta' Ġunju 2019 dwar oqfsa ta' ristrutturar preventiv, dwar il-helsien mid-dejn u l-iskwalifiki, u dwar miżuri sabiex tiżdied l-effiċjenza tal-proċeduri li jikkoncernaw ir-ristrutturar, l-insolvenza u l-helsien mid-dejn, u li temenda d-Direttiva (UE) 2017/1132 (Direttiva dwar ir-ristrutturar u l-insolvenza).

**2.** F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġx Tifsir.

A 658

xort' oħra:

L.S. 595.27. "awtorità kompetenti" tfisser is-Servizz ta' Insolvenza u Riċevitur fi hdan ir-Registru dwar in-Negożju ta' Malta stabbilit bl-Ordni li jistabbilixxi r-Registru dwar in-Negożju ta' Malta bhala Aġenzija;

"ditta rreġistrata" tfisser entità, irrISPettivament mill-forma legali tagħha, iffurmata skont l-artikolu 6 u kwalunkwe imPriża konnessa;

"ġurisdizzjoni rikonoxxuta" tfisser stat li huwa membru tal-Unjoni Ewropea jew Stat taż-ŻEE, jew kwalunkwe ġurisdizzjoni oħra approvata b'avviż tal-Ministru minn żmien għal żmien għall-fini ta' din it-tifsira;

"imPriża konnessa" tfisser imPriża li tkun effettivament ġestita jew promossa bhala Prattika waħda mad-ditta rreġistrata jew bhala imPriża relatata tad-ditta rreġistrata;

"Ministru" tfisser il-Ministru responsabbli għar-Registru dwar in-Negożju ta' Malta;

"prattikant fl-insolvenza" tfisser persuna li hija awtorizzata mill-awtorità kompetenti biex twettaq il-funzjonijiet ta' prattikant fl-insolvenza skont l-artikolu 4(2);

"prinċipal" tfisser kull membru tal-korp amministrattiv jew manġerjali ta' ditta rreġistrata, u għandha tinkludi kwalunkwe persuna li hi awtorizzata li tirrappreżenta d-ditta rreġistrata għal kwalunkwe skop ġudizzjarju jew legali, u kwalunkwe persuna li hi responsabbli biex tidderiġi t-twettiq ta' kwalunkwe inkarigu li jsir mid-ditta rreġistrata;

"Stat taż-ŻEE" tfisser stat li hu parti kontraenti fil-ftehim dwar iż-Żona Ekonomika Ewropea ffirmat f'Porto fit-2 ta' Mejju 1992 kif emendat bil-Protokoll iffirmat fi Brussell fis-17 ta' Marzu 1993, u kif emendat bi kwalunkwe Att sussegwenti;

Kap. 490. "Tribunal" tfisser it-Tribunal ta' Reviżjoni Amministrattiva stabbilit bl-artikolu 5(1) tal-Att dwar il-Ġustizzja Amministrattiva.

## TAQSIMA II

### Awtorizzazzjoni biex Tagixxi bhala Prattikant fl-Insolvenza

Eliġibbiltà għall-awtorizzazzjoni biex wiehed jaġixxi bhala prattikant fl-insolvenza.

**3. (1)** L-ebda persuna ma għandha teżerċita l-funzjonijiet ta' prattikant fl-insolvenza skont l-artikolu 4, jew iżżomm lilha nnifisha bhala disponibbli biex tagixxi bhala prattikant fl-insolvenza, jekk ma tkunx debitament awtorizzata mill-awtorità kompetenti.

(2) Persuna ma għandhiex tikkwalifika għal awtorizzazzjoni skont l-artikolu 4 jekk din il-persuna:

(a) ma tkunx awtorizzata li teżerċita l-professjoni ta' avukat, accountant jew awditur, kemm f'Malta jew f'għurisidizzjoni rikonoxxuta oħra, jew ikollha kwalifika oħra bħal dik li l-awtorità kompetenti tista', b'direttiva, tippreskrivi bħala suffiċjenti:

Iżda l-ħruġ ta' awtorizzazzjoni biex taġixxi bħala prattikant fl-insolvenza skont dan l-Att ma għandux, minnu nnifsu, jintitola lil din il-persuna biex twettaq il-funzjonijiet ta' avukat, accountant jew awditur, kemm f'Malta jew f'għurisidizzjoni rikonoxxuta oħra, fejn il-persuna ma tkunx xort'oħra awtorizzata;

(b) ma tkunx issodisfat lill-awtorità kompetenti li għandha biżżejjed kompetenza fl-oqsma tal-għarfien espert pertinenti għat-twettiq tal-funzjonijiet ta' prattikant fl-insolvenza, kif, minn żmien għal żmien, jista' jiġi aktar definit fid-direttivi magħmula mill-awtorità kompetenti skont dan l-Att;

(ċ) ma tkunx issodisfat lill-awtorità kompetenti li hi kompetenti u kwalifikata biex twettaq il-funzjonijiet ta' prattikant fl-insolvenza, u li ma kellha l-ebda awtorizzazzjoni preċedenti mogħtija taħt l-Att irtirata minhabba kondotta hażina; u

(d) ma tkunx issodisfat dawk il-kriterji jew ir-rekwiżiti addizzjonali l-oħra li, minn żmien għal żmien, jistgħu jiġu aktar previsti minn kwalunkwe regolamenti jew direttivi magħmula taħt dan l-Att.

(3) Persuna ma għandhiex tikkwalifika għal awtorizzazzjoni skont l-artikolu 4 fejn:

(a) hi interdettata jew inabilitata jew hi falluta li ma gietx rijabilitata;

(b) tkun instabet hatja ta' kwalunkwe reat li jaffettwa l-fiduċja pubblika jew ta' serq jew frodi jew li konxjament tirċievi beni miksuba permezz ta' serq jew frodi;

(ċ) hi minorenni li ma gietx emancipata; jew

(d) hi soġġetta għal ordni ta' skwalifika skont l-artikolu 320 tal-Att dwar il-Kumpaniji.

(4) Kwalunkwe persuna li, bil-għan li tikseb awtorizzazzjoni skont dan l-Att, tagħti kwalunkwe informazzjoni falza jew xort'ohra taġixxi b'qerq jew bi frodi, għandha tkun haġja ta' reat u meta tinstab haġja, għandha tehel għal kull reat multa li ma teċċedix tmax-il elf euro (€12,000) jew għal prigunerija ta' mhux aktar minn tmax (12)-il xahar jew kemm għal tali multa u prigunerija.

(5) Bla hsara għad-dispożizzjonijiet tal-artikolu 4, kwalunkwe persuna li twettaq il-funzjonijiet ta' prattikant fl-insolvenza mingħajr ma tkun awtorizzata tagħmel dan skont dan l-Att, jew li tippoġetta lilha nnifisha lil terzi persuni bhala persuna li hi awtorizzata li taġixxi bhala prattikant fl-insolvenza meta ma tkunx awtorizzata, meta tinstab haġja, għandha tehel għal kull reat multa li ma teċċedix hamsa u għoxrin elf euro (€25,000) jew għal prigunerija ta' mhux inqas minn sentejn (2) u mhux aktar minn hames (5) snin, jew kemm għal tali multa u prigunerija.

Awtorizzazzjoni  
biex wiehed  
jaġixxi bhala  
prattikant fl-  
insolvenza.

**4.** (1) Awtorizzazzjoni biex jiġu eżerċitati l-funzjonijiet ta' prattikant fl-insolvenza għandha tinhareg mill-awtorità kompetenti wara applikazzjoni ta' kwalunkwe persuna li, fil-fehma tal-awtorità kompetenti, tkun issodisfat ir-rekwiżiti tal-artikolu 3 u kondizzjonijiet oħra li l-awtorità kompetenti tista', permezz ta' direttiva, tippreskrivi.

(2) Minkejja d-dispożizzjonijiet ta' kwalunkwe liġi oħra, l-awtorizzazzjoni maħruġa mill-awtorità kompetenti għandha tintitola lill-prattikant fl-insolvenza li:

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XXIVtal-2022.

(a) jaġixxi bhala prattikant fl-insolvenza għall-finijiet tal-Att tal-2022 ta' Qabel l-Insolvenza;

Kap. 13.

(b) jaġixxi bhala trustee tal-falliment għall-finijiet tat-Taqsima III tal-Kodiċi tal-Kummerċ;

Kap. 386.

(ċ) jaġixxi bhala likwidatur, kontrollur speċjali, amministratur, amministratur proviżorju, jew manager speċjali fit-termini tal-Att dwar il-Kumpaniji; u

(d) iwettaq kwalunkwe funzjoni oħra li teħtieg il-kompetenza ta' prattikant fl-insolvenza kif jista' jkun previst minn kwalunkwe liġi oħra, jew kif l-awtorità kompetenti tista', permezz ta' direttiva, tippreskrivi.

(3) Minkejja d-dispożizzjonijiet ta' dan l-artikolu, l-awtorità kompetenti tista' fid-diskrezzjoni tagħha tippovdi għal kategoriji differenti ta' awtorizzazzjonijiet. L-awtorità kompetenti tista' wkoll, fid-diskrezzjoni tagħha, tillimita l-provvista tas-servizzi minn prattikanti fl-insolvenza għal kategorija waħda (1) jew aktar biss.

(4) Il-Ministru jista', minn żmien għal żmien, fuq ir-rakkomandazzjoni tal-awtorità kompetenti, jagħmel regolamenti biex jiżgura li kwalunkwe funzjoni mwettqa mill-prattikant fl-insolvenza skont is-subartikolu (2)(ċ) tkun soġġetta għal sorveljanza, superviżjoni u regolamentazzjoni li tal-inqas tkun proporzjonata mad-dispożizzjonijiet ta' dan l-Att.

(5) Għall-finijiet ta' dan l-Att, persuna ma għandhiex titqies li qed teżercita l-funzjonijiet ta' praktikant fl-insolvenza fejn tali persuna tkun qed taġixxi bħala l-impjegata jew l-assistenti ta' praktikant fl-insolvenza u ma tiegħu l-ebda deċiżjoni materjali mingħajr id-direzzjoni espressa tal-prattikant fl-insolvenza:

Iżda tali persuna ma tistax tipprogetta lilha nnifisha bħala praktikant fl-insolvenza skont l-artikolu 5.

5. (1) Praktikant fl-insolvenza għandu jkun intitolat li juża denominazzjoni "prattikant fl-insolvenza" u l-abbrevjazzjoni "PI".

Denominazzjoni ta' praktikant fl-insolvenza.

(2) Kwalunkwe persuna li tassumi t-titolu jew id-denominazzjoni ta' "prattikant fl-insolvenza" jew l-abbrevjazzjoni tiegħu "PI" minkejja li mhijiex praktikant fl-insolvenza, jew li bi kwalunkwe mod ieħor tindika b'mod falz l-intitolament li teżercita l-funzjonijiet ta' praktikant fl-insolvenza f'Malta, għandha tkun haġta ta' reat u meta tinstab haġta għandha tehel għal kull reat multa li ma teċċedix l-elfejn u t-tliet mitt euro (€2,300) u fir-rigward tat-tieni jew ta' reat sussegwenti għal prigunerija ta' mhux aktar minn tliet (3) xhur jew kemm għal tali multa u prigunerija:

Iżda l-użu fuq kwalunkwe biljett, ittra, sinjal, bord, pjanċa, jew apparat, strument jew dokument ieħor miktub, stampat jew imnaqqax, tal-kliem "prattikant fl-insolvenza" jew l-abbrevjazzjoni "PI", kemm fil-forma singulari jew fil-plural, fir-rigward ta' isem, għandu jkun prova biżżejjed tal-għarfien ta' dan l-użu mill-persuna li fir-rigward ta' isimha jintużaw il-kliem jew l-abbrevjazzjonijiet imsemmija, jekk tali persuna ma tressaqx prova li l-użu sar mingħajr l-għarfien tagħha u li, hekk kif saret taf b'tali użu, haġet passi adegwati biex twaqqafha.

6. (1) Kwalunkwe entità li turi għas-sodisfazzjon tal-awtorità kompetenti li hija kapaċi tissodisfa r-rekwiżiti ta' dan l-Att, għandha tkun intitolata li tiġi rreġistrata mal-awtorità kompetenti bħala ditta rreġistrata u, soġġetta għall-konformità f'kull hin mar-rekwiżiti ta' dan l-Att għandha, mar-reġistrazzjoni, tkun awtorizzata li twettaq il-funzjonijiet ta' praktikant fl-insolvenza skont l-artikolu 4(2):

Ditti rreġistrati.

Iżda li l-awtorità kompetenti tista', fid-diskrezzjoni tagħha, tipprovdi għal kategoriji differenti ta' awtorizzazzjonijiet. L-awtorità

kompetenti tista' ukoll, fid-diskrezzjoni tagħha, tillimita l-provvista tas-servizzi minn prattikanti fl-insolvenza għal kategorija waħda (1) jew aktar biss.

(2) Ir-responsabbiltà għat-twettiq ta' kwalunkwe att jew funzjoni msemmija fl-artikolu 4(2) minn ditta rreġistrata, għandha, f'kull hin, tiġi assunta minn tal-inqas prinċipal wieħed (1), li jkun prattikant fl-insolvenza, li għandu jkun il-persuna li taħt l-istruzzjoni tagħha għandha titwettaq dik l-att jew il-funzjoni. Hekk kif jassumi din ir-responsabbiltà, prinċipal jew prattikant fl-insolvenza, għandu jsir, u jibqa' dejjem obligat *in solidum* mad-ditta rreġistrata għal kwalunkwe att jew funzjoni mwettqa mid-ditta rreġistrata jew minn kwalunkwe ufficjal, prinċipal, aġent, jew impjegat tagħha:

Iżda, fejn aktar minn prinċipal jew prattikant wieħed (1) fl-insolvenza jkun assumu l-imsemmija responsabbiltà, dawn il-persuni għandhom ikunu obligati *in solidum*:

Iżda wkoll li d-ditta rreġistrata għandha, mingħajr l-ebda dewmien, tagħti lill-awtorità kompetenti dik l-informazzjoni li l-awtorità kompetenti tista' teħtieġ jew kif jista' jiġi preskritt f'dan l-Att u fi kwalunkwe regolamenti jew direttivi mahruġa skont dan l-Att, jew kwalunkwe liġi oħra rigward il-prattikant fl-insolvenza jew il-prattikanti fl-insolvenza li huma responsabbli għal kwalunkwe att jew funzjoni mwettqa minn ditta rreġistrata skont l-artikolu 4(2).

(3) Ditta rreġistrata tista' tipprogetta lilha nnifisha bħala ditta rreġistrata fi, jew flimkien ma', isimha, skont il-każ.

(4) Mar-registrazzjoni tad-ditta rreġistrata skont dan l-artikolu, il-prinċipali għandhom, sakemm id-ditta rreġistrata tkun rreġistrata, ikunu awtorizzati li jaġixxu f'isem u għan-nom tad-ditta rreġistrata.

Denominazzjoni ta' ditti rreġistrati.

7. (1) Ditta rreġistrata għandha tkun intitolata li tuża d-denominazzjoni ta' "prattikanti fl-insolvenza" u l-abbrevjazzjoni "PIs".

(2) Kwalunkwe entità li tagħmel użu mid-denominazzjoni ta' "prattikanti fl-insolvenza" jew l-abbrevjazzjoni tagħha "PIs", fir-rigward ta' ditta jew entità li mhijiex irreġistrata skont l-artikolu 6 jew li ma tissodisfax ir-rekwiżiti tal-artikolu 6, jew li xjentement tagħmel użu minn isem li jimplika b'mod falz l-eżistenza ta' ditta rreġistrata, jew li tagħmel kwalunkwe att ieħor bl-intenzjoni li toħloq il-konvinzjoni li kwalunkwe wieħed mill-fatti msemmija hawn fuq jeżisti meta fil-fatt ma jkunx, għandha tkun haġta ta' reat u meta tinstab haġta għandha teħel għal kull reat, fir-rigward tal-ewwel reat multa li ma teċċedix l-elfejn u l-ħames mitt euro (€2,500), u fir-rigward tat-tieni

jew reat sussegwenti għal multa li ma teċċedix it-tnax-il elf euro (€12,000) jew għal priġunerija għal mhux aktar minn tliet (3) xhur jew kemm għal tali priġunerija u multa, u fil-każ ta' reat kontinwu għal multa addizzjonali li ma teċċedix il-mitejn u ħamsin euro (€250) għal kull jum li matulu r-reat ikompli:

Iżda l-użu fuq kwalunkwe karta, ittra, sinjal, bord, pjanċa, reklam jew apparat, strument jew dokument ieħor bil-miktub, stampat jew imnaqqax, tal-kliem "prattikanti fl-insolvenza" jew l-abbrevjazzjoni "PIs", kemm fil-forma singolari jew plurali, fir-rigward ta' isem, għandu jkun prova biżżejjed tal-għarfien ta' tali użu mill-persuna li fir-rigward ta' isimha jintużaw il-kliem jew l-abbrevjazzjonijiet imsemmija, jekk tali persuna ma tressaqx prova li l-użu sar mingħajr l-għarfien tagħha u li, hekk kif saret taf bl-użu, ħadet passi adegwati biex twaqqafha.

### TAQSIMA III L-Awtorità Kompetenti

**8.** (1) L-awtorità kompetenti għandu jkollha r-responsabbiltà u s-setgħa li tirregola l-attivitajiet tal-prattikant fl-insolvenza u d-ditti rreġistrati fit-twettiq tal-funzjonijiet tagħhom skont l-artikolu 4(2). L-awtorità kompetenti tista' ukoll taħtar kumitati, li l-president tagħhom għandu jkun membru tal-awtorità kompetenti, u b'hekk tistabbilixxi l-mandat u r-remunerazzjoni tagħhom, u għandha xort'oħra tassumi l-kompetenza għal funzjonijiet li jistgħu jiġu speċifikati minn dan l-Att, jew kif jistgħu jiġu preskritti minn żmien għal żmien b'avviż tal-Ministru.

L-awtorità kompetenti.

(2) Fit-twettiq tal-funzjonijiet tagħha skont dan l-Att, l-awtorità kompetenti:

(a) għandha tagħmel ir-regoli tagħha stess u tirregola l-proċedura tagħha stess xort'oħra; u

(b) għandha tagħmel użu minn dawk il-fondi li l-Ministru jew ir-Reġistru Kummerċjali ta' Malta jistgħu minn żmien għal żmien iqieghdu għad-dispożizzjoni tagħha, kif ukoll dawk il-fondi li tista' tiġbor minn kwalunkwe penaltajiet amministrattivi, jew li tiġbor bħala tariffi jew xort'oħra taht regolamenti magħmula taht dan l-Att.

**9.** (1) L-awtorità kompetenti għandha tirregola l-attivitajiet tal-prattikanti fl-insolvenza u tad-ditti rreġistrati fit-twettiq tal-funzjonijiet tagħhom skont l-artikolu 4(2), u għandu jkollha wkoll il-funzjonijiet li ġejjin:

Funzjonijiet tal-awtorità kompetenti.

(a) li tikkunsidra applikazzjonijiet għall-ħruġ ta'

awtorizzazzjonijiet skont l-artikolu 4 u regjistrazzjonijiet skont l-artikolu 6;

(b) li tissorvelja u tirregola l-imġiba tal-prattikanti fl-insolvenza u tad-ditti rreġistrati fl-eżerċizzju tal-funzjonijiet tagħhom skont l-artikolu 4(2), u li tistabbilixxi mekkaniżmi u proċeduri xierqa li l-awtorità kompetenti tista' tqis li jwasslu għas-sorveljanza u r-regolamentazzjoni effiċjenti u effettiva tal-attivitajiet tagħhom;

(ċ) li tikkollabora mal-Kumitat tal-Istudji Ġudizzjarji jew kwalunkwe korp ieħor responsabbli għat-taħriġ tal-membri tal-awtoritajiet ġudizzjarji biex tiżgura li l-membri tal-awtoritajiet ġudizzjarji responsabbli għall-aġġudikazzjoni ta' kwistjonijiet fir-rigward ta' dawk il-funzjonijiet imniżżla fl-artikolu 4(2), jirċievu taħriġ xieraq;

(d) li tiżgura li l-prattikanti fl-insolvenza jirċievu, u jkunu mġieghla jattendu, taħriġ xieraq fuq bażi kontinwa li għandu jwassal għat-twettiq effettiv tal-funzjonijiet tagħhom. Fil-każ ta' nuqqas mill-prattikant fl-insolvenza li jikkonforma ma' kwalunkwe rekwiżit kif jista' jiġi preskritt mill-awtorità kompetenti minn żmien għal żmien f'dan ir-rigward, l-awtorità kompetenti għandha timponi kwalunkwe penalitajiet amministrattivi, miżuri oħra, jew tiegħu kwalunkwe azzjoni ulterjuri skont l-artikoli 18 jew 19 kif l-awtorità kompetenti tqis xieraq;

(e) li tippubblika regoli supplimentari li jirregolaw il-mod kif jiġu remunerati l-prattikanti fl-insolvenza u ditti rreġistrati inkonnessjoni mal-prestazzjoni tal-funzjonijiet tagħhom skont l-artikolu 4(2), jekk u kif l-awtorità kompetenti tqis ikun meħtieġ;

(f) li tiżviluppa, tippubblika, iżzomm, jew tadotta kodiċi ta' prattika li jipprovdi gwida dwar il-kondotta meħtieġa ta' prattikanti fl-insolvenza fit-twettiq tal-funzjonijiet tagħhom skont l-artikolu 4(2) u l-aderenza tagħhom mad-dispożizzjonijiet ta' dan l-Att, jekk u kif l-awtorità kompetenti tqis meħtieġa;

(g) li tibda u twettaq investigazzjonijiet, kif u meta meħtieġa, fir-rigward tal-konformità ta' prattikanti fl-insolvenza u ditti rreġistrati mad-dispożizzjonijiet ta' dan l-Att;

(h) li tindirizza każijiet ta' kondotta professjonali ħażina u proċedimenti dixxiplinarji oħra fir-rigward ta' prattikanti fl-insolvenza jew ditti rreġistrati li, b'att jew ommissjoni, jiksru d-

dispożizzjonijiet ta' dan l-Att, kwalunkwe regolamenti jew direttivi magħmula tahtu, jew kwalunkwe regoli li l-awtorità kompetenti tadotta permezz ta' direttiva, inklużi r-regoli li jinsabu fil-kodiċi ta' kondotta ppubblikat;

(i) li tiddistribwixxi u xxerred għarfien lill-pubbliku dwar ir-rwol u l-funzjonijiet tal-prattikant fl-insolvenza u tad-ditti rreġistrati u l-għażliet disponibbli għad-debituri f'diffikultà finanzjarja, u kwalunkwe kwistjoni oħra li l-awtorità kompetenti tista' tqis relevanti;

(j) li tiegħu dawk il-miżuri li jistgħu jkunu raġonevolment meħtieġa biex tipproteġi l-interess pubbliku u l-integrità tar-rwol tal-prattikanti fl-insolvenza, inkluż it-tqegħid ta' restrizzjonijiet, l-impożizzjoni ta' penalitajiet amministrattivi u miżuri simili oħra fuq il-prattikanti fl-insolvenza u d-ditti rreġistrati, jew fuq kwalunkwe persuna li tipproġetta lilha nnifisha bħala Prattikant fl-insolvenza, jew fuq kwalunkwe persuna li twettaq tali funzjonijiet kemm wara awtorizzazzjoni mill-awtorità kompetenti jew le, li sakemm ma jkunx iddikjarat xort'oħra f'dan l-Att ma għandhomx jeċċedu, għal kull incident individwali, tnaqqas il-elf euro (€12,000) għal Prattikant fl-insolvenza jew tnaqqas il-elf euro (€12,000) għal ditta rreġistrata, u, barra minn hekk, l-awtorità kompetenti tista' wkoll timponi penalitajiet amministrattivi ta' kuljum, li ma jeċċedux mija u ħamsin euro (€150) kuljum, fuq Prattikanti fl-insolvenza li jonqsu milli josservaw l-ordnijiet jew id-direzzjonijiet tal-awtorità kompetenti;

(k) li tagħti pariri, tagħmel rakkomandazzjonijiet jew b'xi mod ieħor tesprimi l-fehmiet tagħha lill-Ministru dwar kif il-proċeduri magħmula disponibbli skont l-Att tal-2022 ta' Qabel l-Insolvenza, it-Taqsima III tal-Kodiċi tal-Kummerċ, jew proċedimenti ta' insolvenza skont l-Att dwar il-Kumpaniji jew il-Kodiċi Ċivili kif applikabbli, jistgħu jitwettqu b'mod effiċjenti biex jgħaġġel it-trattament tal-proċeduri;

Att Nru XXIV  
tal-2022.  
Kap. 13.

Kap. 386.  
Kap. 16.

(l) li tagħti pariri, jew tagħmel rakkomandazzjonijiet jew tesprimi l-fehmiet tagħha b'xort'oħra lill-Ministru dwar kwalunkwe kwistjoni oħra li dwarha l-Ministru għandu jikkonsulta mal-awtorità kompetenti, jew li dwarha l-awtorità kompetenti għandha tagħmel rakkomandazzjonijiet lill-Ministru, jew li dwarha jintalbu l-fehmiet tal-awtorità kompetenti mill-Ministru;

(m) biex tiffaċilita l-inklużjoni, bil-promozzjoni bi kwalunkwe mod li tista' tqis meħtieġ, l-użu ta' mezzi elettronici

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ta' komunikazzjoni matul il-proċeduri skont l-artikolu 4(2), inkluż fir-rigward ta':

(i) il-preżentata ta' talbiet u applikazzjonijiet;

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(ii) is-sottomissjoni ta' pjan ta' ristrutturar propost, skont l-Att tal-2022 ta' Qabel l-Insolvenza, jew is-sottomissjoni tat-termini proposti fi ftehim ta' dejn jew ordni ta' falliment skont il-Kodiċi tal-Kummerċ;

Kap. 13.

(iii) in-notifiki lill-kredituri;

(iv) iż-żamma ta' seduti u laqgħat;

(v) votazzjoni f'kull seduta jew laqgħa bħal dawn;

u

(vi) it-tressiq ta' kontestazzjonijiet, oġġezzjonijiet u appelli;

(n) li tinforma lil kwalunkwe awtorità li tqis xierqa dwar kwalunkwe sanzjoni jew restrizzjoni imposta minnha jew kwalunkwe kwistjonijiet oħrajn li l-awtorità kompetenti tqis meħtieġa biex tippoteġi l-interess pubbliku, fuq kwalunkwe prattikant fl-insolvenza jew ditta rreġistrata;

(o) li tippubblika linji gwida dwar l-interpretazzjoni ta' dan l-Att u kwalunkwe regolamenti jew direttivi maħruġa tahtu, jekk u kif l-awtorità kompetenti tqis li jkun meħtieġ; u

(p) li tiġbor u taggrega d-data skont it-Taqsima VII ta' dan l-Att.

(2) L-awtorità kompetenti għandha wkoll tippubblika rapporti annwali maħsuba biex jiġbru fil-qosor l-attivitajiet annwali tagħha u t-twertiq tal-funzjonijiet tagħha matul is-sena rispettiva, li jkopru wkoll l-iżvilupp tar-rwol u l-funzjonijiet tal-prattikanti fl-insolvenza f'Malta, u biex jipprovdu informazzjoni dwar ir-rakkomandazzjonijiet maħruġa u r-riżultati tagħhom, kif ukoll dwar il-mekkaniżmi superviżorji u ta' sorveljanza attwali wżati mill-awtorità kompetenti, u affarijiet oħra li l-awtorità kompetenti tista' tqis relevanti.

Reġistru tal-  
prattikanti fl-  
insolvenza.

**10.** (1) L-awtorità kompetenti għandha tistabbilixxi u żżomm reġistru pubbliku li għandu jkun magħruf bħala r-Reġistru tal-Prattikanti fl-Insolvenza, minn hawn 'il quddiem imsejjaħ ir-"Reġistru", li għandu jidentifika b'mod separat dan li ġej:

(a) il-prattikanti fl-insolvenza;

(b) id-ditti rreġistrati;

(ċ) kwalunkwe kategorizzazzjoni tal-funzjonijiet ta' kull prattikant fl-insolvenza, u l-firxa tal-awtorizzazzjoni ta' kull prattikant fl-insolvenza u ditta rreġistrata;

(d) il-prattikanti fl-insolvenza li l-awtorizzazzjoni tagħhom tkun giet sospiża, revokata jew irtirata kompletament jew parzjalment b'referenza għal kwalunkwe kategorija ta' awtorizzazzjoni;

(e) id-ditti rreġistrati li r-reġistrazzjoni tagħhom tkun giet sospiża, revokata jew irtirata kompletament jew parzjalment b'referenza għal kwalunkwe kategorija ta' awtorizzazzjoni; u

(f) il-prattikanti fl-insolvenza jew ditti rreġistrati li huma meqjusa mill-awtorità kompetenti li qed jonqsu mill-obbligi tagħhom skont dan l-Att jew ta' kwalunkwe regolamenti jew direttivi magħmula tahtu.

(2) Id-dettalji li għandhom jinżammu fir-Registru għandhom jinkludu d-dettalji li ġejjin:

(a) l-isem u l-kunjom, fil-każ ta' prattikant fl-insolvenza, jew l-isem u d-denominazzjoni tat-tip ta' entità ġuridika tad-ditta rreġistrata, fil-każ ta' ditta rreġistrata;

(b) l-indirizz tal-uffiċċju u l-indirizz tal-posta elettronika ta' kull prattikant fl-insolvenza u ditta rreġistrata; u

(ċ) fil-każ ta' ditta rreġistrata, lista tal-prattikanti fl-insolvenza u l-informazzjoni dwar il-prattikanti fl-insolvenza li jaħdmu jew għandhom konnessjoni ma' dik id-ditta rreġistrata skont il-paragrafu (a):

Iżda l-Ministru jista', fuq ir-rakkomandazzjoni tal-awtorità kompetenti, jippreskrivi aktar dettalji li għandhom jinżammu fir-Registru.

(3) L-awtorità kompetenti għandha tkun awtorizzata li tircievi aktar informazzjoni mingħand il-prattikanti fl-insolvenza inkluż:

(a) id-data tat-twelid, u n-numru tal-karta tal-identità jew in-numru tal-passaport tal-prattikanti fl-insolvenza, u fil-każ ta' ditta rreġistrata n-numru tar-reġistrazzjoni tagħha, u l-informazzjoni skont dan l-artikolu ta' kull prattikant fl-insolvenza li jaħdmu jew għandhom konnessjoni ma' dik id-ditta rreġistrata;

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(b) il-warrant jew in-numru tal-liċenzja tal-prattikanti fl-insolvenza.

(4) Kull prattikant fl-insolvenza u ditta rreġistrata għandu jissottometti lill-awtorità kompetenti kwalunkwe informazzjoni meħtieġa skont dan l-artikolu, u għandu jaġġorna lill-awtorità kompetenti bi kwalunkwe bidla mingħajr l-ebda dewmien u fl-ebda każ mhux aktar tard minn erbatax (14)-il ġurnata minn tali bidla.

(5) Kwalunkwe bidla fl-indirizz tal-uffiċċju jew fl-indirizz tal-posta elettronika ta' prattikant fl-insolvenza jew ditta rreġistrata għandha ssir effettiva kontra l-awtorità kompetenti fi żmien erbatax (14)-il ġurnata mill-jum meta tinnotifika lill-awtorità kompetenti bil-bidla.

Setgħat tal-awtorità kompetenti.

**11.** (1) L-awtorità kompetenti għandha jkollha s-setgħat superviżorji u investigattivi kollha li huma meħtieġa għall-eżerċizzju tal-funzjonijiet tagħha skont dan l-Att, inkluż iżda mhux limitat għas-setgħa:

(a) li titlob data, informazzjoni, jew dokumentazzjoni miżmuma minn kwalunkwe persuna fi kwalunkwe forma, kif jista' jkun relevanti għat-tweqqif tal-funzjonijiet tal-awtorità kompetenti u li tirċievi jew tiegħu kopja tagħhom;

(b) li, bi kwalunkwe mod, tikseb informazzjoni relatata mat-tweqqif, minn kwalunkwe persuna, ta' funzjonijiet li jappartjenu għal prattikant fl-insolvenza jew ditta rreġistrata;

(c) li twettaq spezzjonijiet fuq il-post tal-bini tax-xogħol tal-prattikanti fl-insolvenza jew tad-ditta rreġistrata;

(d) li taħtar esperti biex iwettqu verifiki jew investigazzjonijiet;

(e) li timponi l-penalitajiet amministrattivi, u l-miżuri oħra disponibbli għaliha skont l-artikolu 18; u

(f) li tirreferi kwistjonijiet għall-prosekuzzjoni kriminali:

Iżda li s-setgħat li jitqiegħdu għad-dispożizzjoni tal-awtorità kompetenti skont dan l-artikolu jistgħu jigu eżerċitati mill-awtorità kompetenti waħedha, jew b'kollaborazzjoni ma' awtoritajiet oħra, jew b'applikazzjoni lil kwalunkwe awtorità ġudizzjarja kompetenti.

(2) Fl-eżerċizzju tal-funzjonijiet tagħha skont l-artikolu 9, l-awtorità kompetenti tista' tikkonsulta ma' dawg il-persuni li hija tqis

xierqa, u tista' wkoll taħtar kumitati, li l-president tagħhom għandu jkun membru tal-awtorità kompetenti, u b'hekk tistabbilixxi l-mandat u r-remunerazzjoni tagħhom, għat-twettiq ta' dawn l-istudji jew xogħol ieħor li l-awtorità kompetenti tista' tassenjalhom, inkluż iżda mhux limitat għall-istabbiliment u t-thaddim ta' sistema ta' assigurazzjoni tal-kwalità.

(3) L-awtorità kompetenti għandha s-setgħa li tiskambja informazzjoni kunfidenzjali mal-awtoritajiet kompetenti ta' Stati Membri oħra.

(4) L-ipproċessar ta' data personali pproċessata fl-eżerċizzju tas-setgħat superviżorji u investigattivi skont dan l-artikolu għandu jitwettaq f'konformità mal-Att dwar il-Protezzjoni tad-Data u r-Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' data personali u dwar il-moviment liberu ta' tali data, u li jhassar id-Direttiva 95/46/KE (Regolament Ġenerali dwar il-Protezzjoni tad-Data). Kap. 586.

**12.** Il-Ministru jista', fuq rakkomandazzjoni tal-awtorità kompetenti, jagħmel regolamenti mhux inkonsistenti mad-dispożizzjonijiet ta' dan l-Att, biex jagħti effett aħjar lil kwalunkwe minn dawn id-dispożizzjonijiet u b'mod ġenerali biex jirregola r-rwol u l-funzjonijiet ta' prattikanti fl-insolvenza u ditti rreġistrati, u, mingħajr preġudizzju għall-ġeneralità tal-preċedenti, dawn ir-regolamenti jistgħu b'mod partikolari jinkludu dispożizzjonijiet fir-rigward tal-pieni jew il-penalitajiet amministrattivi li persuna tista' ssir responsabbli għalihom, jew konsegwenzi jew effetti oħra fil-każ ta' kwalunkwe ksur jew nuqqas ta' konformità ma' kwalunkwe dispożizzjoni ta' dan l-Att jew ta' kwalunkwe regolament jew direttiva maħruġa tahtu. Regolamenti.

**13.** (1) L-awtorità kompetenti tista' toħroġ direttivi jew linji gwida li jirregolaw l-attività ta' prattikanti fl-insolvenza jew ditti rreġistrati dwar dan li ġej: Direttivi.

(a) l-istabbiliment u t-tifsira ta' proċeduri, u proċeduri ġeneralment aċċettati u applikabbli fit-twettiq tal-funzjonijiet ta' prattikant fl-insolvenza skont l-artikolu 4(2);

(b) kriterji għall-eligibbiltà biex tircievi awtorizzazzjoni skont dan l-Att u l-mod li bih l-awtorità kompetenti għandha tiddetermina l-kompetenza tal-applikanti għal awtorizzazzjoni fl-oqsma pertinenti ta' għarfien espert;

(ċ) l-imġiba tal-prattikanti fl-insolvenza u d-ditti rreġistrati u l-istandards meħtieġa tal-kontroll tal-kwalità, il-

kompetenza, l-integrità u l-indipendenza;

(d) il-kontijiet tal-klijenti u l-flejjes miżmuma f'isem klijenti u partijiet terzi;

(e) edukazzjoni professjonali kontinwa;

(f) l-għoti ta' tali informazzjoni li tista' tkun meħtieġa mill-prattikanti fl-insolvenza u mid-ditti rreġistrati mill-awtorità kompetenti sabiex tkun tista' twettaq kwalunkwe mill-funzjonijiet tagħha skont dan l-Att;

(g) l-istabbiliment ta' sistema ta' reġistrazzjoni u tiġdid għal awtorizzazzjoni jew reġistrazzjoni maħruġa skont dan l-Att;

(h) is-sens u l-interpretazzjoni ta' kwalunkwe dispożizzjoni ta' dan l-Att u ta' kwalunkwe regolamenti jew direttivi maħruġa taħtu; jew

(i) dawk il-kwistjonijiet l-oħra li jistgħu jiġu preskritti b'regolament.

(2) Id-Direttivi u l-linji gwida maħruġa skont is-subartikolu (1) għandhom jiġu ppubblikati mill-awtorità kompetenti b'tali mod li jiġi żgurat it-tixrid effettiv tagħhom.

(3) Direttivi u linji gwida maħruġa skont is-subartikolu (1) m'għandhomx isiru operattivi qabel ma tiskadi ġimgħa mill-pubblikazzjoni magħmula skont is-subartikolu (2), jew dik id-data aktar tard li tista' tkun speċifikata fih.

#### TAQSIMA IV

##### Imġiba tal-Prattikanti fl-Insolvenza

Id-dmir li tiġi pprovdata informazzjoni.

**14.** (1) Kull prattikant fl-insolvenza jew ditta rreġistrata għandhom jipprovdu lill-awtorità kompetenti b'dik l-informazzjoni li l-awtorità kompetenti tista' teħtieġ b'mod raġonevoli, jew kif jista' jkun preskritt f'direttivi maħruġa mill-awtorità kompetenti skont dan l-Att, u għandu jinnotifika lill-awtorità kompetenti bi kwalunkwe bidla rilevanti fi kwalunkwe informazzjoni mogħtija lilha qabel fi żmien erbatax (14)-il ġurnata wara d-data li fiha sseħħ il-bidla.

(2) Fejn, matul investigazzjoni mwettqa mill-awtorità kompetenti, prattikant fl-insolvenza jew ditta rreġistrata intenzjonalment ibiddu, jaħbu jew jonqsu milli jiżvelaw, jew b'xi mod ieħor irazznu l-informazzjoni rilevanti għal investigazzjoni jew li l-awtorità kompetenti titlob li tara in segwitu għall-funzjonijiet tagħha skont l-artikolu 11, il-prattikant fl-insolvenza, jew il-prattikanti fl-

insolvenza li jkunu responsabbli għat-twettiq tal-funzjonijiet ta' ditta rreġistrata skont l-artikolu 4(2), għandhom, meta jinstabu haġġa, jehlu terminu ta' prigunerija ta' mhux inqas minn tliet (3) xhur u mhux aktar minn sentejn (2), jew għal multa li ma teċċedix ħamsin elf euro (€50,000), jew kemm għal tali multa kif ukoll għal prigunerija.

**15.** (1) Mingħajr preġudizzju għal kwalunkwe liġi oħra li tirregola t-tneħħija, ir-riżenja jew is-sostituzzjoni ta' prattikant fl-insolvenza jew ditta rreġistrata, prattikant fl-insolvenza jew ditta rreġistrata għandhom, f'każ ta' tneħħija jew riżenja tagħhom minn impenn biex iwettqu funzjoni elenkata fl-artikolu 4(2) matul il-perjodu tal-ħatra tagħhom, jinformaw lill-awtorità kompetenti bil-miktub dwar tali tneħħija jew riżenja tagħhom, u għandhom, fil-każ ta' riżenja, jagħtu spjegazzjonijiet adegwati għar-raġunijiet għal dan.

Tneħħija jew riżenja ta' prattikant fl-insolvenza.

(2) In-notifika msemmija fis-subartikolu (1) għandha ssir fi żmien erbatax (14)-il ġurnata mit-tneħħija jew mir-riżenja skont il-każ.

**16.** Kull persuna li taġixxi bi ksur tad-dmirijiet professjonali tagħha fl-eżerċizzju tal-funzjonijiet tagħha bħala prattikant fl-insolvenza, għandha, jekk tali att jew ommissjoni tammonta għal negligenza grossolana, *mala fede* jew kondotta hażina serja, tehel meta tinstab haġġa għal terminu ta' prigunerija ta' mhux inqas minn sena (1) u li ma jeċċedix il-ħames (5) snin, u l-qorti tista' wkoll tagħti lil tali persuna multa li ma teċċedix is-sittin elf euro (€60,000).

Ksur tad-dmir professjonali.

**17.** Kwalunkwe ftehim jew arrangament li għandu l-intenzjoni li jeżenta prattikant fl-insolvenza jew ditta rreġistrata minn kwalunkwe responsabbiltà, jew dmir relattiv għall-eżekuzzjoni tal-funzjonijiet skont l-artikolu 4(2), ħlief taħt polza ta' assigurazzjoni biex jikkumpensa lill-prattikant fl-insolvenza kontra kwalunkwe responsabbiltà bhal din, għandu jkun null u bla effett.

Eżenzjoni mir-responsabbiltà.

**18.** (1) Fil-każ ta' ksur ta' kwalunkwe mid-dispożizzjonijiet ta' dan l-Att, jew ta' kwalunkwe regolamenti jew direttivi maħruġa taħtu, l-awtorità kompetenti għandha jkollha s-setgħa li toħroġ penalitajiet amministrattivi u twissijiet, u li tiegħu dawk il-miżuri l-oħra li hija tqis xierqa skont iċ-ċirkostanzi tal-każ.

Penalitajiet amministrattivi u miżuri oħra.

(2) L-awtorità kompetenti għandu jkollha s-setgħa li tiegħu, jew timponi, mill-inqas il-penalitajiet amministrattivi u miżuri oħra li ġejjin għal ksur tad-dispożizzjonijiet tar-regoli skont dan l-Att jew kwalunkwe regolamenti jew direttivi maħruġa taħtu:

(a) avviż li jirrikjedi li l-persuna responsabbli għall-ksur twaqqaf l-imġiba u tastjeni minn kwalunkwe repetizzjoni ta' dik l-imġiba, liema avviż għandu jiġi kkomunikat ukoll lil kwalunkwe awtorità regolatorja jew ta' sorveljanza oħra li tali

persuna tista' tkun soġġetta għar-regolamentazzjoni tagħha;

(b) dikjarazzjoni pubblika li tindika l-persuna responsabbli u n-natura tal-ksur, ippubblikata fuq is-sit elettroniku tal-awtorità kompetenti;

(ċ) projbizzjoni temporanja, sa tul ta' tliet (3) snin, li tipprojbixxi lill-prattikant fl-insolvenza jew lid-ditta rreġistrata milli jaġixxu bħala Prattikant fl-insolvenza skont l-artikolu 4(2); u

(d) l-impożizzjoni ta' penalitajiet amministrattivi skont l-artikolu 9(1)(j).

(3) Meta tiddetermina t-tip u l-livell ta' penalitajiet amministrattivi u miżuri oħra msemmija fis-subartikolu (2) jew mod ieħor skont dan l-Att, l-awtorità kompetenti għandha tqis iċ-ċirkostanzi rilevanti kollha, inkluż, mingħajr limitazzjoni:

(a) il-gravità u t-tul ta' żmien tal-ksur;

(b) il-grad ta' responsabbiltà tal-persuna responsabbli;

(ċ) is-saħħa finanzjarja tal-persuna responsabbli, b'referenza għad-dhul annwali jew il-fatturat totali tiegħu, skont il-każ;

(d) il-livell ta' kooperazzjoni tal-persuna responsabbli mal-awtorità kompetenti; u

(e) il-ksur preċedenti mill-persuna ġuridika jew fiżika responsabbli.

Revoka,  
sospensjoni u  
kancellazzjoni  
tal-  
awtorizzazzjoni.

**19.** (1) Mingħajr preġudizzju għal kwalunkwe penalitajiet amministrattivi jew miżuri oħra li jistgħu jiġu imposti skont l-artikolu 18, l-awtorità kompetenti tista' tordna li awtorizzazzjoni jew reġistrazzjoni maħruġa skont dan l-Att tista' tiġi revokata, ikkancellata, sospiża, jew soġġetta għal kondizzjonijiet jew restrizzjonijiet oħra ordnati mill-awtorità kompetenti, skont id-dispożizzjonijiet ta' dan l-artikolu, jekk il-persuna li lilha tkun inħarġet awtorizzazzjoni bħal din jew id-ditta rreġistrata jew kwalunkwe mill-prinċipali tad-ditta rreġistrata:

(a) instab, matul investigazzjoni mwettqa mill-awtorità kompetenti, li aġixxa, inkluż permezz ta' omissjonijiet, b':

(i) *mala fede*, kondotta hażina serja jew negligenza grossolana fl-eżerċizzju tal-funzjonijiet tiegħu

bħala prattikant fl-insolvenza jew ditta rreġistrata;

(ii) ksur ta' kwalunkwe regolament magħmul jew direttiva maħruġa skont dan l-Att, fejn ir-regolament jew id-direttiva jipprovdi għas-sospensjoni, il-kancellazzjoni, l-irtirar jew is-soġġettar għal kondizzjonijiet ta' awtorizzazzjoni jew reġistrazzjoni bħala konsegwenza ta' tali ksur;

(iii) ksur ta' kwalunkwe regolamenti jew direttivi fir-rigward ta' standards, prattiki jew integrità professjonali;

(iv) ksur ta' kwalunkwe kodiċi ta' kondotta maħruġ jew adottat mill-awtorità kompetenti;

(v) manjiera gravi li tiskredita lill-prattikanti fl-insolvenza; jew

(vi) nuqqas ta' konformità ma' kwalunkwe kondizzjoni mehmuża ma' awtorizzazzjoni jew reġistrazzjoni meta tali nuqqas ikun ta' natura materjali;

(b) instab ħati minn qorti:

(i) ta' reat skont dan l-Att jew kwalunkwe regolamenti magħmula taħtu;

(ii) ta' reat skont l-Att dwar il-Kumpaniji; jew Kap. 386.

(iii) ta' delitt li jaffettwa l-fiduċja pubblika jew tas-serq jew ta' frodi jew ta' riċeviment konxju ta' beni miksuba permezz ta' serq jew frodi jew ta' kwalunkwe delitt punibbli b'piena ta' priġunerija ta' aktar minn sena (1).

(2) Mingħajr preġudizzju għad-dispożizzjonijiet tas-subartikolu (1):

(a) awtorizzazzjoni tista' tiġi rtirata jew ikkancellata mill-awtorità kompetenti fuq talba tal-prattikant fl-insolvenza;

(b) ir-reġistrazzjoni ta' ditta reġistrata tista' tiġi kkanċellata mill-awtorità kompetenti fuq talba tad-ditta reġistrata;

(ċ) awtorizzazzjoni tista' tiġi revokata jew ikkancellata b'ordni tal-awtorità kompetenti, kull meta l-awtorità kompetenti

tkun tal-opinjoni li hemm ċirkostanzi materjali li jikkonċernaw il-prattikant fl-insolvenza li, kieku l-awtorizzazzjoni ma tkunx inħarġet, jiskwalifika lil tali persuna milli tkun eliġibbli skont l-artikolu 3; u

(d) ir-registrazzjoni ta' ditta registrata tista' tiġi revokata jew ikkanċellata b'ordni tal-awtorità kompetenti kull meta l-awtorità kompetenti tkun tal-opinjoni li hemm ċirkostanzi materjali li jikkonċernaw id-ditta rreġistrata li, kieku d-ditta rreġistrata ma kienitx irreġistrata, jiskwalifikaha milli tiġi rreġistrata.

(3) Fejn awtorizzazzjoni jew registrazzjoni tiġi sospiża għal xi żmien jew soġġetta għal kondizzjonijiet, is-sospensjoni jew il-kondizzjonijiet jistgħu jitneħħew mill-awtorità kompetenti fi kwalunkwe hin.

(4) Fejn awtorizzazzjoni tiġi rtirata skont is-subartikolu (2)(a), jew fejn registrazzjoni tiġi kkanċellata taħt is-subartikolu (2)(b), tista' tinħareġ awtorizzazzjoni ġdida, jew tista' ssir registrazzjoni ġdida, fi kwalunkwe hin jekk il-kondizzjonijiet għal tali ħruġ jew registrazzjoni huma sodisfatti.

(5) Mar-revoka jew l-irtirar ta' awtorizzazzjoni maħruġa taħt dan l-Att, jew matul dak il-perjodu li fih l-awtorizzazzjoni tkun sospiża, il-persuna li lilha tkun inħarġet l-awtorizzazzjoni ma għandhiex tkun awtorizzata li twettaq il-funzjonijiet ta' prattikant fl-insolvenza skont l-artikolu 4(2), u mal-kanċellazzjoni ta' kwalunkwe registrazzjoni ta' ditta rreġistrata, jew għal dak il-perjodu li fih tali registrazzjoni tiġi sospiża, id-ditta għandha tieqaf milli tkun rreġistrata.

## TAQSIMA V

### Appell

Appelli.

**20.** (1) Għandu jkun hemm dritt ta' appell quddiem it-Tribunal dwar kwalunkwe deċiżjonijiet meħuda mill-awtorità kompetenti kif elenkati fl-artikolu 21(1), liema dritt għandu jkun kompetenti għal kwalunkwe persuna leża bid-deċiżjoni:

Iżda, fi kwalunkwe każ, persuna li tagħmel appell quddiem it-Tribunal għandha tispjega wkoll l-interess ġuridiku tagħha li tikkontesta d-deċiżjoni appellata.

Kap. 490.

(2) Sakemm ma jkunx previst mod ieħor mill-Att dwar il-Ġustizzja Amministrattiva jew kwalunkwe regolamenti magħmula tahtu, appell mid-deċiżjonijiet jew l-ordnijiet imsemmija fl-artikolu 21(1) għandu jsir permezz ta' rikors u għandu jiġi pprezentat fir-registru tat-Tribunal fi żmien għoxrin (20) ġurnata mid-data tad-

deċiżjoni imsemmija.

21. (1) Sakemm ma jkunx provdut mod ieħor mil-liġi, għandu jkun hemm appell quddiem it-Tribunal mid-deċiżjonijiet jew l-ordnijiet li ġejjin li jsiru taħt dan l-Att:

Deciżjonijiet tal-awtorità kompetenti li minnhom jista' jsir appell.

(a) kwalunkwe deċiżjoni tal-awtorità kompetenti in segwitu għal hruġ ta' awtorizzazzjoni skont l-artikolu 4;

(b) kwalunkwe deċiżjoni tal-awtorità kompetenti li tirrevoka, tirtira jew tissospendi awtorizzazzjoni, jew li tissoġġetta tali awtorizzazzjoni għal kondizzjonijiet oħra skont l-artikolu 19;

(c) kwalunkwe deċiżjoni tal-awtorità kompetenti li tirrifjuta li tirreġistra ditta skont l-artikolu 6;

(d) kwalunkwe deċiżjoni tal-awtorità kompetenti li tirrevoka, tissospendi, tħassar jew tkun soġġetta għal kondizzjonijiet oħra r-reġistrazzjoni ta' ditta rreġistrata skont l-artikolu 19;

(e) kwalunkwe deċiżjoni tal-awtorità kompetenti li tillibera jew li tiġi deċiża kontra prattikant fl-insolvenza jew ditta rreġistrata f'każijiet ta' kondotta professjonali ħażina, wara investigazzjoni mwettqa mill-awtorità kompetenti;

(f) kwalunkwe deċiżjoni tal-awtorità kompetenti in segwitu għal miżura meħuda biex tiproteġi l-interess pubbliku u l-integrità tar-rwol tal-prattikant fl-insolvenza skont l-artikolu 9(1)(j);

(g) kwalunkwe deċiżjoni tal-awtorità kompetenti li timponi penalitajiet amministrattivi jew ċanfiri jew miżuri oħra skont dan l-Att;

(h) kwalunkwe deċiżjoni meħuda f'termini ta' kwalunkwe regolamenti jew direttivi maħruġa taħt dan l-Att, meta r-regolament jew id-direttiva esplicitament tagħti dritt ta' appell skont dan l-artikolu; u

(i) kwalunkwe deċiżjoni oħra tal-awtorità kompetenti li l-appellant jista' juri b'mod raġonevoli, għas-sodisfazzjon tat-Tribunal, li materjalment u ingustament aggravat lill-appellant.

(2) Id-deċiżjoni tal-awtorità kompetenti m'għandhiex tiġi sospiza sakemm isir appell, u għandha, sadanittant, tiġi rispettata mill-partijiet kollha li għalihom tapplika d-deċiżjoni.

(3) It-Tribunal, fejn iqis li jkun xieraq, jista', fuq rikors ta' parti fl-appell, jissospendi d-deċiżjoni tal-awtorità kompetenti, sakemm jiġi deċiż b'mod definittiv l-appell. It-Tribunal, meta jiddeċiedi li jissospendi d-deċiżjoni, għandu jiddikjara r-raġunijiet tiegħu għal dan.

Dispożizzjonijiet generali relatati ma' reati.

**22.** (1) Id-dispożizzjonijiet ta' dan l-Att li jistabbilixxu reati u pieni fir-rigward tagħhom ma għandhomx jaffettwaw l-operat ta' kwalunkwe liġi oħra li tistabbilixxi reati u pieni fir-rigward tal-istess atti jew ommissjonijiet u m'għandhomx, b'mod partikolari, jaffettwaw l-applikazzjoni ta' kwalunkwe kastigi oġġla taħt kwalunkwe liġi oħra.

Kap. 9.

(2) Kwalunkwe azzjonijiet meħuda mill-awtorità kompetenti fir-rigward ta' kondotta professjonali hażina jew proċeduri oħra in segwitu għall-ksur tad-dispożizzjonijiet ta' dan l-Att jew ta' kwalunkwe regolamenti jew direttivi magħmula taħtu, għandha tkun mingħajr preġudizzju għal kwalunkwe proċeduri li jistgħu jittieħdu kontra l-persuna kkonċernata taħt id-dispożizzjonijiet tal-Kodiċi Kriminali jew ta' kwalunkwe liġi oħra, u kwalunkwe proċeduri li jittieħdu b'dan il-mod għandhom ikunu mingħajr preġudizzju għal kwalunkwe proċeduri li jistgħu jittieħdu mill-awtorità kompetenti.

## TAQSIMA VI Dixxiplina

Żvelar ta' miżuri u deċiżjonijiet.

**23.** (1) L-awtorità kompetenti għandha tiżvela lill-pubbliku b'mod xieraq il-miżuri kollha meħuda u l-penalitajiet amministrattivi imposti fuq il-prattikanti fl-insolvenza jew id-ditti rreġistrati skont dan l-Att jew ir-regolamenti jew id-direttivi maħruġa taħtu inkluż l-iżvelar xieraq tal-penalitajiet amministrattivi imposti. L-iżvelar meħtieġ minn dan l-artikolu jista' jsir permezz ta' sit elettroniku miżmum mill-awtorità kompetenti, jew permezz tar-Registru stabbilit skont l-artikolu 10.

(2) Mingħajr preġudizzju għall-generalità tas-subartikolu (1), l-awtorità kompetenti għandha tinnotifika, bil-posta reġistrata, jew bil-posta elettronika kwalunkwe deċiżjoni meħuda minnha, li minnha għandu jkun hemm id-dritt ta' appell skont l-artikolu 21, lil kwalunkwe persuna li għaliha tapplika din id-deċiżjoni:

Iżda fil-każ li l-persuna li għaliha tapplika tali deċiżjoni ma tkunx tista' tintlaħaq jew tinstab, il-persuna għandha titqies li giet innotifikata validament billi tithalla kopja ta' tali deċiżjoni fl-indirizz tal-uffiċċju, il-post tan-negozju, jew il-post tax-xogħol ta' tali persuna, jew ma' persuna fis-servizz tagħha, jew mal-avukat tagħha jew persuna awtorizzata li tirċievi l-posta tagħha, jew permezz ta' avviż ippubblikat fis-sit elettroniku miżmum mill-awtorità kompetenti.

24. (1) L-awtorità kompetenti għandha tippubblika fuq is-sit elettroniku tagħha tal-anqas kwalunkwe penalitajiet amministrattivi jew miżuri oħra imposti għal ksur tad-dispożizzjonijiet ta' dan l-Att, jew tad-direttivi jew ir-regolamenti magħmula tahtu, li fir-rigward tagħhom id-drittijiet kollha tal-appell ikunu ġew eżawriti jew ikunu skadew, hekk kif raġonevolment prattikabbli minnufih wara li l-persuna kkonċernata tkun ġiet informata b'dik id-deċiżjoni, inkluża informazzjoni dwar it-tip u n-natura tal-ksur u l-identità tal-persuna li fuqha tkun ġiet imposta l-penali amministrattiva jew miżura oħra.

Pubblikazzjoni ta' penalitajiet amministrattivi u miżuri oħra.

(2) L-awtorità kompetenti għandha tippubblika fuq is-sit elettroniku tagħha l-penalitajiet amministrattivi jew miżuri oħra imposti fuq bażi anonima, u b'mod li jkun konformi mal-liġi Maltija, fi kwalunkwe miċ-ċirkostanzi li ġejjin:

(a) fejn, penali amministrattiva jew miżura oħra tiġi imposta fuq persuna fiżika, u jintwera permezz ta' eżami obligatorju li jkun sar qabel li l-proporzjonalità ta' tali pubblikazzjoni ta' data personali meħtieġa, hija sproporzjonata;

(b) fejn il-pubblikazzjoni tipperikola l-istabbiltà tas-swieq finanzjarji jew investigazzjoni kriminali li tkun għaddejja; jew

(ċ) fejn il-pubblikazzjoni tikkawża ħsara sproporzjonata lill-istituzzjonijiet jew lill-individwi involuti.

(3) L-awtorità kompetenti għandha tiżgura li kwalunkwe pubblikazzjoni skont is-subartikolu (1) tkun ta' tul ta' żmien proporzjonat u li tibqa' fuq is-sit elettroniku tagħha għal perjodu minimu ta' hames (5) snin wara li d-drittijiet kollha ta' appell ikunu ġew eżawriti jew ikunu skadew.

25. (1) L-awtorità kompetenti għandha tistabbilixxi mekkaniżmi effettivi li jinkoraġġixxu r-rapportar ta' ksur ta' dan l-Att, jew tar-regolamenti jew id-direttivi magħmula tahtu.

Rapportar ta' ksur.

(2) Il-mekkanizmi msemmija fis-subartikolu (1) għandhom jinkludu mill-inqas:

(a) proċeduri speċifiċi biex tirċievi rapporti ta' ksur u s-segwitu tagħhom;

(b) il-protezzjoni tad-data personali li tikkonċerna kemm il-persuna li tirrapporta l-ksur issuspettat jew reali kif ukoll il-persuna li hija suspettata li wettqet, jew li allegatament wettqet dak il-ksur, f'konformità mal-prinċipji stabbiliti fl-Att dwar il-Protezzjoni u l-Privatezza tad-Data u r-Regolament (UE) 2016/

Kap. 586.

679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' data personali u dwar il-moviment liberu ta' tali data, u li jhassar id-Direttiva 95/46/KE (Regolament Ġenerali dwar il-Protezzjoni tad-Data); u

(ċ) proċeduri xierqa biex jiġi żgurat id-dritt tal-persuna akkużata għal difiża u li tinstema' qabel l-adozzjoni ta' deċiżjoni li tikkonċernaha, u d-dritt li tfittex rimedju effettiv quddiem tribunal kontra kwalunkwe deċiżjoni jew miżura li tikkonċernaha.

(3) Id-ditti rreġistrati għandhom jistabbilixxu proċeduri xierqa għall-impjegati tagħhom biex jirrapportaw ksur potenzjali jew reali ta' dan l-Att, jew tar-regolamenti jew id-direttivi magħmula tahtu permezz ta' mezz jew mezzi speċifiċi.

## TAQSIMA VII

### Ġbir ta' Data

Ġbir ta' data.

**26.** (1) L-awtorità kompetenti għandha tkun responsabbli li tiġbor u taggrega, fuq bażi annwali, data nazzjonali dwar proċeduri li jikkonċernaw:

Att Nru XXIV tal-2022.

(a) rikorsi għal proċedura ta' ristrutturar preventiv skont tal-Att tal-2022 ta' Qabel l-Insolvenza;

Kap. 13.

(b) rikorsi għal dikjarazzjoni ta' falliment u ħelsien mid-dejn skont it-Taqsima III tal-Kodiċi tal-Kummerċ; u

Kap. 386.

(ċ) rikorsi għal stralċ minħabba insolvenza, minn kumpaniji jew sħubijiet kummerċjali skont l-Att dwar il-Kumpaniji jew minn organizzazzjonijiet legali skont il-Kodiċi Ċivili.

Kap. 16.

(2) It-tip ta' informazzjoni li għandha tingabar mill-awtorità kompetenti għandha tiġi magħżula fir-rigward ta' kull proċedura elenkata fis-subartikolu (1), u għandha tinkludi, iżda ma tkunx limitata:

(a) għall-għadd ta' proċeduri li sar rikors għalihom jew ġew miftuħa, u ta' proċeduri li huma pendenti jew ingħalqu;

(b) għat-tul medju tal-proċeduri mill-prezentata tar-rikors promotur, jew mill-ftuħ sal-għeluq tagħhom;

Att Nru XXIV tal-2022.

(ċ) għall-għadd ta' rikorsi għal proċeduri ta' ristrutturar preventiv skont l-Att tal-2022 ta' Qabel l-Insolvenza li ġew

iddikjarati inammissibbli, ġew irrifjutati jew ġew irtirati qabel ma nharġet ordni ta' ristrutturar preventiv f'termini tagħhom; u

(d) għall-għadd ta' proċeduri minbarra dawk meħtieġa taħt il-paragrafu (ċ), imqassma skont l-eżitu tal-proċeduri rispettivi.

(3) L-awtorità kompetenti għandha tqassam kwalunkwe data li għandha tingabar u tiġi aggregata skont is-subartikolu (2)(a), (b) u (d), b'referenza għal:

(a) id-daqs tad-debituri, li mhumiex persuni fiżiċi;

(b) jekk id-debituri soġġetti għal proċeduri li jikkonċernaw proċeduri ta' ristrutturar preventiv skont l-Att tal-2022 ta' Qabel l-Insolvenza, jew proċeduri ta' insolvenza a tenur tal-Att dwar il-Kumpaniji jew il-Kodiċi Ċivili kif applikabbli, humiex persuni fiżiċi jew ġuridiċi; u

Att Nru XXIV  
tal-2022.

Kap. 386.  
Kap. 16.

(ċ) jekk il-proċeduri li jwasslu għal-ħelsien mid-dejn skont it-Taqsima III tal-Kodiċi tal-Kummerċ jikkonċernawx biss persuni fiżiċi fil-kors ta' kummerċ, negozju, sengħa jew professjoni, jew il-persuni fiżiċi kollha.

Kap. 13.

(4) L-awtorità kompetenti għandha wkoll tiġbor u taggrega, fuq bażi annwali, data dwar l-għadd ta' debituri li kienu soġġetti għal proċeduri ta' ristrutturar preventiv a tenur tal-Att tal-2022 ta' Qabel l-Insolvenza, jew proċeduri ta' insolvenza, u li, fit-tliet (3) snin qabel il-preżentata tar-rikors jew il-ftuħ ta' tali proċeduri, kellhom pjan ta' ristrutturar ikkonfermat skont l-Att tal-2022 ta' Qabel l-Insolvenza.

Att Nru XXIV  
tal-2022.

Att Nru XXIV  
tal-2022.

(5) Kwalunkwe data li għandha tingabar u tiġi aggregata skont dan l-artikolu għandha tiġi kkompilata għas-snin kalendarji sħaħ li jintemmu fil-31 ta' Diċembru ta' kull sena, li jibdeu mill-ewwel (1) sena kalendarja sħiħa wara d-data tal-applikazzjoni tal-atti ta' implimentazzjoni msemmija fl-Artikolu 29(7) tad-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).

(6) Il-Ministru jista', filwaqt li jaġixxi fuq ir-rakkomandazzjoni tal-awtorità kompetenti, jaġmel regolamenti li jistgħu jwasslu għat-twettiq tal-Artikolu 29(7) tad-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 tiżdid 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).

(7) Kull prattikant fl-insolvenza jew ditta rreġistrata għandhom ikunu meħtieġa jżommu rekord tad-data stabbilita skont dan l-artikolu, fir-rigward tal-funzjonijiet tagħhom stess, u l-awtorità kompetenti tista', fid-diskrezzjoni tagħha stess, titlob il-forniment ta' tali data mill-prattikant fl-insolvenza jew mid-ditta rreġistrata f'mhux inqas minn erbatax (14)-il ġurnata mid-data ta' tali talba.

(8) Meta l-awtorità kompetenti titlob lil xi persuna, korp jew awtorità kompetenti rilevanti sabiex jipprovdi jew tipprovdi informazzjoni li hija materjalment neċessarja fit-tweqqif tal-funzjonijiet ta' ġbir ta' data tal-awtorità kompetenti skont dan l-artikolu, dik il-persuna, korp jew awtorità kompetenti rilevanti sa fejn huwa permess, għandha jew għandu jipprovdi jew tipprovdi mingħajr dewmien bla bżonn dik l-informazzjoni mitluba lill-awtorità kompetenti;

(9) Kwalunkwe persuna li tikser id-dispożizzjonijiet ta' dan l-artikolu li jimponu fuqha obbligu li tiġbor, taggrega, taħzen jew tqassam data, jew li tikkomunika dik id-data lill-awtorità kompetenti, għandha tkun ħatja ta' reat u għandha teħel meta tinsab ħatja għal kull reat, fir-rigward tal-ewwel reat, għal multa li ma teċċedix l-elf u mitejn euro (€1,200) u fir-rigward tat-tieni reat jew reat sussegwenti għal multa li ma teċċedix is-sitt elef euro (€6,000), u fil-każ ta' reat kontinwu għal multa addizzjonali li ma teċċedix il-mija u għoxrin (€120) għal kull ġurnata li fiha r-reat ikompli.

## TAQSIMA VIII

### Mixxellanji

Esklużjoni tar-responsabbiltà.

**27.** (1) L-awtorità kompetenti, meta taġixxi fi kwalunkwe funzjoni assenjata lilha taħt kwalunkwe dispożizzjoni ta' dan l-Att, inkluzi l-uffiċjali u l-impjegati tal-awtorità kompetenti, u kwalunkwe korp stabbilit b'dan l-Att u kwalunkwe membru, uffiċjal jew impjegat ta' dak il-korp, u kwalunkwe persuna oħra maħtura biex twettaq funzjoni f'isem l-awtorità kompetenti taħt dan l-Att, ma għandhiex tkun responsabbli għad-danni għal kwalunkwe ħaġa li saret jew naqset milli ssir fil-qadi, jew fil-qadi intiż ta' kwalunkwe funzjoni bħal din jew b'xi mod ieħor fl-eżerċizzju tad-dmirijiet tagħha skont dan l-Att, sakemm l-att jew l-ommissjoni ma jintweriex li sar jew li naqas milli jsir, skont kif ikun il-każ, permezz ta' kondotta ħażina intenzjonata.

(2) L-ebda deċiżjoni tal-awtorità kompetenti meħuda skont dan l-Att jew kwalunkwe regolamenti jew direttivi magħmula taħtu ma tista' tigi sospiża bl-użu tal-mandat ta' inibizzjoni, hlief sal-punt li tali deċiżjoni tikser dritt fundamentali tal-bniedem tal-applikant kif protett mill-Kostituzzjoni ta' Malta jew mill-Att dwar il-Konvenzjoni Ewropea. Kap. 319.

**28.** Avviż jew dokument ieħor li għandu jingħata jew jiġi nnotifikat taħt dan l-Att, jew kwalunkwe regolamenti jew direttivi magħmula taħtu, għandhom jitqiesu li ngħataw jew ġew innotifikati kif xieraq lil persuna jekk, u fil: Avviżi.

(a) ġurnata li tkun ġiet imqassma personalment lil din il-persuna;

(b) ġurnata li jkun tħalla fl-indirizz ipprovdut minnha lill-awtorità kompetenti, jew fl-aħħar indirizz magħruf tal-persuna;

(ċ) ġurnata li jmiss wara li tkun intbagħtet lilha bil-posta fi kwalunkwe mill-indirizzi msemmija qabel jew bil-posta elettronika; jew

(d) ġurnata kif preskritt fil-paragrafi (a), (b) u (ċ) lil jew fuq segretarju, skrivan, maniġer jew l-ekwivalenti tagħhom, jew lil kwalunkwe prinċipal, fil-konfront ta' ditta reġistrata:

Iżda ċertifikat maħruġ mill-awtorità kompetenti li jiċċertifika li hija bagħtet l-avviż jew dokument ieħor li għandu jingħata jew jiġi nnotifikat taħt dan l-Att, jew kwalunkwe regolamenti jew direttivi magħmula taħtu, f'data partikolari għandu jkun prova tal-kontenut tiegħu.

#### TAQSIMA IX Dispożizzjonijiet Transitorji

**29.** (1) Kwalunkwe persuna li, fid-data tad-dhul fis-seħħ ta' dan l-Att, hija awtorizzata li teżercita l-professjoni ta' avukat, accountant jew awditur, u li ġiet maħtura bħala amministratur proviżorju, likwidatur, jew kontrollur speċjali skont is-sens tal-Att dwar il-Kumpaniji, jew kienet b'mod ieħor serviet bħala espert jew ipprattikat bħala, avukat fi hdan il-Qorti Ċivili (Sezzjoni tal-Kummerċ), jew il-Prim' Awla tal-Qorti Ċivili fil-liġi tal-kummerċ jew każijiet relatati mal-liġi marittima fil-ħames (5) snin preċedenti mid-dhul fis-seħħ ta' dan l-Att, jew b'mod ieħor tagħti prova għas-sodisfazzjon tal-awtorità kompetenti, li għandha esperjenza adegwata ta' qabel l-insolvenza, ir-ristrutturar korporattiv, il-finanzjament tan-negozju, jew il-likwidazzjoni, tista' tapplika għand l-awtorità kompetenti biex tircievi Dispożizzjonijiet transitorji.

Kap. 386.

awtorizzazzjoni proviżorja biex twettaq il-funzjonijiet ta' prattikant fl-insolvenza skont l-artikolu 4(2).

(2) Applikant għandu jehmeż mal-applikazzjoni kwalunkwe dokumentazzjoni jew informazzjoni li l-awtorità kompetenti tista' tqis relevanti, u għandu jipprovdi kwalunkwe informazzjoni ulterjuri li l-awtorità kompetenti tista' titlob sussegwentement.

(3) L-awtorità kompetenti għandha, jekk tkun sodisfatta li l-applikant skont is-subartikolu (1) għandu l-għarfien, il-kompetenza, l-esperjenza u r-riżorsi meħtieġa kif tista' tikkonsidra xierqa sabiex twettaq il-funzjonijiet ta' prattikant fl-insolvenza, toħroġ lill-applikant awtorizzazzjoni proviżorja li għandha tagħti d-dritt lir-reċipjent li jwettaq il-funzjonijiet ta' prattikant fl-insolvenza skont l-artikolu 4(2), u, dment li jeżistu l-kondizzjonijiet fl-artikolu 6, biex jaġixxi bħala l-prinċipal għal ditta rreġistrata.

(4) Kwalunkwe persuna li qed tiġi awtorizzata proviżorjament skont dan l-artikolu għandha tkun soġġetta għall-iskop sħiħ u għall-applikazzjoni sħiħa tad-dispożizzjonijiet ta' dan l-Att, u l-awtorità kompetenti għandha taġixxi fir-rigward tagħha daqslikieku kienet prattikant fl-insolvenza u mod ieħor a tenur ta' dan l-Att u kwalunkwe regolamenti jew direttivi maħruġa tahtu.

(5) Mingħajr preġudizzju għad-dispożizzjonijiet ta' dan l-artikolu, l-awtorizzazzjonijiet proviżorji kollha mogħtija skont dan l-artikolu, irrispettivament mid-data tal-hruġ tagħhom, għandhom jiskadu fi żmien erbgħa u għoxrin (24) xahar mid-data tad-dhul fis-seħħ ta' dan l-Att.

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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. XXV of 2022**

*AN ACT to provide for the transposition of Directive (EU) 2019/1023, and to regulate the insolvency practitioner, and to make provision for matters ancillary or incidental 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:-

**PART I**  
**Preliminary Provisions**

**1.** (1) The short title of this Act is the Insolvency Practitioners Act, 2022. Short title and scope.

(2) The scope of this Act is to provide for a modern framework to strengthen the efficiency and effectiveness of the existing legislative framework relating to insolvency through regulation of the activities of insolvency practitioners, 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).

A 684

Interpretation.

**2.** In this Act, unless the context otherwise requires:

S.L. 595.27.

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

"connected undertaking" means an undertaking which is effectively managed or promoted as one practice with the registered firm or as a related undertaking of the registered firm;

"EEA State" means a state which is a contracting party to the agreement on the European Economic Area signed in Porto on 2 May 1992 as amended by the Protocol signed in Brussels on 17 March 1993, and as amended by any subsequent Acts;

"insolvency practitioner" means a person who is authorised, by the competent authority, to carry out the functions of an insolvency practitioner in accordance with article 4(2);

"Minister" means the Minister responsible for the Malta Business Registry;

"principal" means every member of the administrative or management body of a registered firm, and shall include any person who is authorised to represent the registered firm for any judicial or legal purpose, and any person who is responsible for directing the fulfilment of any engagements taken on by the registered firm;

"recognised jurisdiction" means a state that is a member of the European Union or an EEA State, or any other jurisdiction approved by notice of the Minister from time to time for the purpose of this definition;

"registered firm" means an entity, regardless of its legal form, formed in accordance with article 6 and any connected undertaking; and

Cap. 490.

"Tribunal" means the Administrative Review Tribunal established by article 5(1) of the Administrative Justice Act.

## PART II

### Authorisation to Act as Insolvency Practitioner

Eligibility for authorisation to act as insolvency practitioner.

**3.** (1) No person shall exercise the functions of an insolvency practitioner in terms of article 4, or hold himself out as being available to act as an insolvency practitioner, unless he is duly authorised by the competent authority.

(2) A person shall not qualify for an authorisation under article 4

unless such person:

(a) is authorised to exercise the profession of an advocate, accountant or auditor, whether in Malta or in another recognised jurisdiction, or holds such other qualification as the competent authority may, by directive, prescribe as being sufficient:

Provided that the issuance of an authorisation to act as an insolvency practitioner in terms of this Act shall not, of itself, entitle such person to carry out the functions of an advocate, accountant or auditor, whether in Malta or in another recognised jurisdiction, where the person would not otherwise be so authorised;

(b) has satisfied the competent authority that he possesses sufficient competence in the fields of expertise pertinent to the performance of the functions of an insolvency practitioner, as may, from time to time, be further defined in directives issued by the competent authority under this Act;

(c) has satisfied the competent authority that he is fit and proper to carry out the functions of an insolvency practitioner, and has not had any previous authorisation granted under this Act withdrawn due to misconduct; and

(d) has satisfied such other additional criteria or requirements as may, from time to time, be further provided for in any regulations or directives made under this Act.

(3) A person shall not qualify for an authorisation in terms of article 4 where:

(a) he is interdicted, incapacitated or is an undischarged bankrupt;

(b) he has been convicted of any of the crimes affecting public trust or of theft or of fraud or of knowingly receiving property obtained by theft or fraud;

(c) he is a minor who has not been emancipated; or

(d) he is subject to a disqualification order in terms of article 320 of the Companies Act.

Cap. 386.

(4) Any person who, for the purpose of obtaining an authorisation under this Act, gives any false information or otherwise acts in a deceitful or fraudulent manner, shall be guilty of an offence and shall,

on conviction, be liable for each offence to a fine (*multa*) not exceeding twelve thousand euro (€12,000) or to imprisonment of not more than twelve (12) months or to both such fine and imprisonment.

(5) Subject to the provisions of article 4, any person who carries out the functions of an insolvency practitioner without being authorised to do so under this Act, or holds himself out to a third party as being a person who is authorised to act as an insolvency practitioner when he is not so authorised, shall, on conviction, be liable for each offence to a fine (*multa*) not exceeding twenty-five thousand euro (€25,000) or to imprisonment of not less than two (2) years and not more than five (5) years, or to both such fine and imprisonment.

Authorisation to act as insolvency practitioner.

4. (1) An authorisation to exercise the functions of an insolvency practitioner shall be issued by the competent authority following an application by any person who, in the view of the competent authority, has satisfied the requirements of article 3 and such other conditions as the competent authority may, by directives, prescribe.

(2) Notwithstanding the provisions of any other law, an authorisation issued by the competent authority shall entitle the insolvency practitioner to:

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(a) act as an insolvency practitioner for the purposes of the Pre-Insolvency Act, 2022;

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(b) act as a bankruptcy trustee for the purposes of Part III of the Commercial Code;

Cap. 386.

(c) act as a liquidator, special controller, administrator, provisional administrator, or special manager in terms of the Companies Act; and

(d) carry out any other function requiring the competence of an insolvency practitioner as may be provided for in any other law, or as the competent authority may, by directives, prescribe.

(3) Notwithstanding the provisions of this article, the competent authority may at its own discretion provide for different categories of authorisations. The competent authority may also, at its own discretion, limit the provision of services by the insolvency practitioners so authorised to one (1) or more categories only.

(4) The Minister, acting on the recommendation of the competent authority, may, from time to time, make regulations to ensure that any function performed by the insolvency practitioner in terms of sub-

article (2)(c) is subject to oversight, supervision and regulation that is at least commensurate with the provisions of this Act.

(5) For the purposes of this Act, a person shall not be deemed to be exercising the functions of an insolvency practitioner where such person is acting as the employee or assistant of an insolvency practitioner and takes no material decisions without the express direction of the insolvency practitioner:

Provided that such a person may not hold himself out as an insolvency practitioner in terms of article 5.

5. (1) An insolvency practitioner shall be entitled to use the designation "insolvency practitioner" and the abbreviation "IP".

Designation of  
insolvency  
practitioner.

(2) Any person who, not being an insolvency practitioner, assumes the title or designation of "insolvency practitioner" or its abbreviation "IP", or in any other manner falsely indicates entitlement to exercise the functions of an insolvency practitioner in Malta, shall be guilty of an offence and shall, on conviction, be liable for each offence to a fine (*multa*) not exceeding two thousand and three hundred euro (€2,300) and in respect of a second or subsequent offence to imprisonment for not more than three (3) months or to both such fine and imprisonment:

Provided that the use on any card, letterhead, sign, board, plate, or other written, printed or engraved device, instrument or document, of the words "insolvency practitioner" or the abbreviation "IP", whether in the singular or plural form, in relation to a name, shall be sufficient evidence of the knowledge of such use by the person in relation to whose name the said words or abbreviations are used, unless such person proves that the use was made without his knowledge and that, upon becoming aware of the use, he took adequate steps to stop it.

6. (1) Any entity which provides evidence to the satisfaction of the competent authority that it is capable of satisfying the requirements of this Act, shall be entitled to be registered with the competent authority as a registered firm and, subject to compliance at all times with the requirements of this Act, shall, upon registration, be authorised to carry out the functions of an insolvency practitioner in terms of article 4(2):

Registered  
firms.

Provided that the competent authority may, at its own discretion, provide for different categories of authorisations. The competent authority may also, at its own discretion, limit the provision of services by the insolvency practitioners so authorised to one (1) or more categories only.

(2) The responsibility for the performance of any act or function referred to in article 4(2) by a registered firm shall, at all times, be assumed by at least one (1) principal, being an insolvency practitioner, who shall be the person under whose instruction that act or function shall be carried out. Upon assuming such responsibility a principal or insolvency practitioner, shall become, and at all times remain, jointly and severally liable with the registered firm for any act or function carried out by the registered firm or by any officer, principal, agent, or employee thereof:

Provided that, where more than one (1) principal or insolvency practitioner has assumed the said responsibility, such persons shall be jointly and severally liable:

Provided further that the registered firm shall, without undue delay, furnish the competent authority with such information as the competent authority may reasonably require or as may be prescribed in this Act and any regulations or directives issued in terms of this Act, or any other relevant law regarding the insolvency practitioner or insolvency practitioners who are responsible for any act or function carried out by a registered firm in terms of article 4(2).

(3) A registered firm may hold itself out as being a registered firm in, or together with, its name, as the case may be.

(4) Upon the registration of the registered firm in terms of this article, the principals shall, for so long as the registered firm is registered, be authorised to act in the name and on behalf of the registered firm.

Designation of registered firms.

7. (1) A registered firm shall be entitled to use the designation of "insolvency practitioners" and the abbreviation "IPs".

(2) Any entity which makes use of the designation of "insolvency practitioners" or the abbreviation "IPs", in relation to a firm or entity that is not registered in terms of article 6 or which does not satisfy the requirements of article 6, or which knowingly makes use of a name falsely implying the existence of a registered firm, or which does any other act with the intention to create the belief that any one of the facts aforesaid exists when in fact it does not, shall be guilty of an offence and shall, on conviction, be liable for each offence, in respect of a first offence to a fine (*multa*) not exceeding two thousand and five hundred euro (€2,500), and in respect of a second or subsequent offence to a fine (*multa*) not exceeding twelve thousand euro (€12,000) or to imprisonment for not more than three (3) months or to both such imprisonment and fine, and in the case of a continuing offence to an additional fine (*multa*) not exceeding two hundred and fifty euro

(€250) for each day during which the offence continues:

Provided that the use on any card, letterhead, sign, board, plate, advertisement or other written, printed or engraved device, instrument or document, of the words "insolvency practitioners" or the abbreviation "IPs", whether in the singular or plural form, in relation to a name, shall be sufficient evidence of the knowledge of such use by the person in relation to whose name the said words or abbreviations are used, unless such person proves that the use was made without his knowledge and that, upon becoming aware of the use, he took adequate steps to stop it.

**PART III**  
The Competent Authority

**8.** (1) The competent authority shall be vested with the responsibility and authority to regulate the activities of insolvency practitioners and registered firms in the performance of their functions in terms of article 4(2). The competent authority may also appoint committees, of which the chairman shall be a member of the competent authority, thereby establishing their remit and remuneration, and shall otherwise assume competence for such other functions as may be specified by this Act or as may by notice be prescribed by the Minister from time to time.

The competent authority.

(2) In the performance of its functions in terms of this Act, the competent authority:

(a) shall make its own rules and otherwise regulate its own procedure; and

(b) shall make use of such funds as the Minister or the Malta Business Registry may from time to time make available to it, as well as such funds as it may collect from any administrative penalties or fees or otherwise in terms of any regulations made under this Act.

**9.** (1) The competent authority shall regulate the activities of insolvency practitioners and registered firms in the performance of their functions in terms of article 4(2), and shall also have the following functions:

Functions of the competent authority.

(a) to consider applications for the issuance of authorisations in terms of article 4 and registrations in terms of article 6;

(b) to oversee and regulate the conduct of insolvency practitioners and registered firms in the exercise of their

functions in terms of article 4(2), and to establish appropriate mechanisms and procedures as the competent authority may deem conducive to the efficient and effective oversight and regulation of the activities thereof;

(c) to collaborate with the Judicial Studies Committee or any other body responsible for the training of members of the judicial authorities to ensure that members of the judicial authorities responsible for adjudicating matters in relation to those functions listed in article 4(2), receive suitable training;

(d) to ensure that insolvency practitioners receive, and are compelled to attend, suitable training on an ongoing basis that shall be conducive to the effective performance of their functions. In the event of a failure by the insolvency practitioner to comply with any requirements as may be prescribed by the competent authority from time to time in this regard, the competent authority shall impose any administrative penalties, other measures, or take any further action in terms of articles 18 or 19 as the competent authority may deem appropriate;

(e) to publish supplementary rules regulating the manner in which insolvency practitioners and registered firms are to be remunerated in connection with the performance of their functions in terms of article 4(2), if and as the competent authority deems necessary;

(f) to develop, publish, and maintain or adopt, a code of practice providing guidance on the required conduct of insolvency practitioners in the fulfilment of their functions in terms of article 4(2) and their adherence to the provisions of this Act, if and as the competent authority considers necessary;

(g) to initiate and conduct investigations, as and when necessary, in relation to the compliance of insolvency practitioners and registered firms with the provisions of this Act;

(h) to address cases of professional misconduct and other disciplinary proceedings in respect of insolvency practitioners or registered firms who, by act or omission, violate the provisions of this Act, any regulations or directives made under it and, or any rules which the competent authority adopts by directive, including rules contained in a published code of conduct;

(i) to distribute and disseminate knowledge to the public about the role and functions of the insolvency practitioner and registered firms and the options available to debtors in financial

distress, and any other matter as the competent authority may deem relevant;

(j) to take such measures as may be reasonably necessary to protect the public interest and the integrity of the role of insolvency practitioners, including the placing of restrictions, the imposition of administrative penalties and other similar measures on insolvency practitioners and registered firms, or upon any person holding itself out as an insolvency practitioner, or upon any person performing such functions whether subsequent to an authorisation by the competent authority or not, which unless otherwise stated in this Act shall not exceed, for each individual incident, twelve thousand euro (€12,000) for an insolvency practitioner or twelve thousand euro (€12,000) for a registered firm, and, in addition, the competent authority may also impose daily administrative penalties, not exceeding one hundred and fifty euro (€150) per day on insolvency practitioners who fail to comply with the orders or directions of the competent authority;

(k) to advise, make recommendations or otherwise express its views to the Minister on how the procedures made available in terms of the Pre-Insolvency Act, 2022, Part III of the Commercial Code, or insolvency proceedings in terms of the Companies Act or the Civil Code as applicable, may be conducted in an efficient manner to expedite treatment of procedures;

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(l) to advise, or make recommendations or otherwise express its views to the Minister on any other matter which the Minister is to consult with the competent authority, or on which the competent authority is to make recommendations to the Minister, or on which the views of the competent authority are sought by the Minister;

(m) to facilitate the inclusion, by promoting in any manner it may deem necessary, the use of electronic means of communication in the course of the procedures in terms of article 4(2), including with respect to:

(i) the filing of claims and applications;

(ii) the submission of a proposed restructuring plan, in terms of the Pre-Insolvency Act, 2022 or the submission of the proposed terms of a debt agreement or bankruptcy order in terms of the Commercial Code;

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(iii) the notifications to creditors;

(iv) the holding of sittings and meetings;

(v) voting at all such sittings or meetings; and

(vi) the lodging of challenges, objections and appeals.

(n) to inform any authority that it deems appropriate of any sanctions or restrictions imposed by it or any other matters that the competent authority considers necessary to protect the public interest, on any insolvency practitioner or registered firm;

(o) to publish guidelines on the interpretation of this Act and any regulations or directives issued under it, if and as the competent authority may deem necessary; and

(p) to collect and aggregate data in accordance with Part VII of this Act.

(2) The competent authority shall also publish annual reports intended to summarise its annual activities and the performance of its functions during the respective year, covering also the development of the role and functions of insolvency practitioners in Malta, and to provide information on recommendations issued and the results thereof, as well as on the current supervisory and oversight mechanisms employed by the competent authority, and such other things as the competent authority may deem relevant.

Register of  
insolvency  
practitioners.

**10.** (1) The competent authority shall establish and maintain a public register to be known as the Register of Insolvency Practitioners, hereinafter referred to as the "Register", that shall separately identify the following:

(a) the insolvency practitioners;

(b) the registered firms;

(c) any categorisation of the functions of each insolvency practitioner, and the extent of the authorisation of each insolvency practitioner and registered firm;

(d) the insolvency practitioners whose authorisation has been suspended, revoked or withdrawn in full or in part by reference to any category of authorisation;

(e) the registered firms whose registration has been suspended, revoked or withdrawn in full or in part by reference to any category of authorisation; and

(f) the insolvency practitioners or registered firms who are deemed by the competent authority to be in default of their obligations in terms of this Act or of any regulations or directives made under it.

(2) The details kept in the Register shall include the following details:

(a) the name and surname, in the case of an insolvency practitioner, or the name and designation of the type of legal entity of the registered firm, in the case of a registered firm;

(b) the office address and electronic mail address of each insolvency practitioner and registered firm; and

(c) in the case of a registered firm, a list of the insolvency practitioners and the information of the insolvency practitioners employed or otherwise connected with that registered firm in terms of paragraph (a):

Provided that the Minister may, upon the recommendation of the competent authority, prescribe further details to be kept in the Register.

(3) The competent authority shall be authorised to receive further information from insolvency practitioners including:

(a) the date of birth, and identity card number or passport number of the insolvency practitioners, and in the case of the registered firms the registration number of the registered firm, and the information in terms of this article in relation to any insolvency practitioner employed or otherwise connected with the registered firm;

(b) the warrant or licence number of the insolvency practitioners.

(4) Every insolvency practitioner and registered firm shall submit to the competent authority any information required in terms of this article, and shall update the competent authority of any changes without unnecessary delay and in no case later than fourteen (14) days of such change.

(5) Any change in the office address or electronic mail address of an insolvency practitioner or registered firm shall become effective against the competent authority within fourteen (14) days from the day it notifies the competent authority with the change.

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Powers of the competent authority.

**11.** (1) The competent authority shall have all the supervisory and investigatory powers that are necessary for the exercise of its functions under this Act, including but not limited to the power:

(a) to request data, information, or documentation held by any person in any form, as may be relevant to the carrying out of the competent authority's functions and to receive or take a copy thereof;

(b) to obtain information related, in any manner, to the performance, by any person, of functions pertaining to an insolvency practitioner or registered firm;

(c) to carry out on-site inspections of the working premises of the insolvency practitioners or registered firm;

(d) to appoint experts to carry out verifications or investigations;

(e) to impose the administrative penalties, and other measures available to it in terms of article 18; and

(f) to refer matters for criminal prosecution:

Provided that the powers made available to the competent authority in terms of this article may be exercised by the competent authority alone, or in collaboration with other authorities, or by application to any competent judicial authority.

(2) In the exercise of its functions in terms of article 9, the competent authority may consult with such persons as it may deem appropriate, and may also appoint committees, of which the chairman shall be a member of the competent authority, thereby establishing their remit and remuneration, for the carrying out of such studies or other work as the competent authority may assign to them, including but not limited to, the establishment and operation of a system of quality assurance.

(3) The competent authority shall be empowered to exchange confidential information with the competent authorities of other Member States.

(4) The processing of personal data processed in the exercise of the supervisory and investigatory powers pursuant to this article shall be carried out in accordance with the Data Protection Act and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of

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such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

**12.** The Minister may, on the recommendation of the competent authority, make regulations not inconsistent with the provisions of this Act, to give better effect to any of such provisions and generally to regulate the role and functions of insolvency practitioners and registered firms, and, without prejudice to the generality of the foregoing, such regulations may in particular include provisions with respect to the punishments or administrative penalties to which a person may become liable, or other consequences or effects in the event of any violation or non-compliance with any provision of this Act or of any regulation or directive issued under it. Regulations.

**13.** (1) The competent authority may issue directives or guidelines regulating the activity of insolvency practitioners or registered firms on the following: Directives.

(a) the establishment and definition of procedures and generally accepted procedures applicable in the performance of the functions of an insolvency practitioner in terms of article 4(2);

(b) criteria for eligibility to receive an authorisation in terms of this Act and the manner in which the competent authority shall determine the competence of applicants for an authorisation in the pertinent fields of expertise;

(c) conduct of insolvency practitioners and registered firms and the required standards of quality control, competence, integrity and independence;

(d) clients' accounts and monies held on behalf of clients and third parties;

(e) continued professional education;

(f) the provision of such information as may be required from insolvency practitioners and registered firms by the competent authority in order to enable it to carry out any of its functions under this Act;

(g) the establishment of a system of registration and renewals for an authorisation or registration issued in terms of this Act;

(h) the meaning and interpretation of any provision of this Act and of any regulations or directives issued under it; or

(i) such other matters as may be prescribed by regulation.

(2) Directives and guidelines issued in terms of sub-article (1) shall be published by the competent authority in such manner so as to ensure effective dissemination thereof.

(3) Directives and guidelines issued in terms of sub-article (1) shall not become operative before the lapse of one week from the publication made in terms of sub-article (2), or such later date as may be specified therein.

#### PART IV

##### Conduct of Insolvency Practitioners

Duty to provide information.

**14.** (1) Every insolvency practitioner or registered firm shall provide the competent authority with such information as the competent authority may reasonably require, or as may be prescribed in directives issued by the competent authority under this Act, and shall give notice to the competent authority of any relevant change in any information previously given to it within fourteen (14) days after the date on which the change occurs.

(2) Where, in the course of an investigation carried on by the competent authority, an insolvency practitioner or registered firm intentionally alters, hides or fails to disclose, or otherwise suppresses information relevant to an investigation or that the competent authority demands to see in pursuance of its functions under article 11, the insolvency practitioner, or insolvency practitioners being responsible for the performance of a registered firm's functions in terms of article 4(2), shall on conviction be liable to a term of imprisonment of not less than three (3) months and not more than two (2) years, or to a fine (multa) not exceeding fifty thousand euro (€50,000), or to both such fine (multa) and imprisonment.

Removal or resignation of an insolvency practitioner.

**15.** (1) Without prejudice to any other law regulating the removal, resignation or substitution of an insolvency practitioner or registered firm, an insolvency practitioner or registered firm shall, in the case of their removal or resignation from an engagement to carry out a function listed in article 4(2) during their term of appointment, inform the competent authority in writing of such removal or resignation, and shall, in the event of a resignation, give adequate explanations for the reasons thereof.

(2) The notification referred to in sub-article (1) shall be made within fourteen (14) days from the removal or resignation as the case may be.

**16.** Every person who acts in breach of his professional duties in the exercise of his functions as an insolvency practitioner, shall, if such act or omission amounts to gross negligence, bad faith or serious misconduct, be liable on conviction to imprisonment for a period of not less than one (1) year and not exceeding five (5) years, and the court may also inflict on such person a fine (multa) not exceeding sixty thousand euro (€60,000).

Breach of professional duty.

**17.** Any agreement or arrangement purporting to exempt an insolvency practitioner or registered firm from any liability, responsibility or duty relative to the execution of the functions in terms of article 4(2), except under a policy of insurance to indemnify the insolvency practitioner against any such liability or responsibility, shall be null and void.

Exemption from liability or responsibility.

**18.** (1) In the case of a breach of any of the provisions of this Act, or of any regulations or directives issued under it, the competent authority shall have the power to issue administrative penalties and reprimands, and to take such other measures as it may deem appropriate according to the circumstances of the case.

Administrative penalties, and other measures.

(2) The competent authority shall have the power to take, or impose, at least the following administrative penalties and other measures for breaches of the provisions of the rules under this Act or any regulations or directives issued under it:

(a) a notice requiring the person responsible for the breach to cease the conduct and to abstain from any repetition of that conduct, which notice shall also be communicated to any other regulatory or supervisory authority to whose regulation such person may be subject;

(b) a public statement which indicates the person responsible and the nature of the breach, published on the website of the competent authority;

(c) a temporary prohibition, of up to three (3) years' duration, banning the insolvency practitioner or registered firm from acting as an insolvency practitioner in terms of article 4(2); and

(d) the imposition of administrative penalties in accordance with article 9(1)(j).

(3) When determining the type and level of administrative penalties and other measures mentioned in sub-article (2) or otherwise in terms of this Act, the competent authority shall take into account all relevant circumstances, including, without limitation to:

- (a) the gravity and the duration of the breach;
- (b) the degree of responsibility of the responsible person;
- (c) the financial strength of the responsible person, by reference to the annual income or total turnover thereof, as the case may be;
- (d) the level of cooperation of the responsible person with the competent authority; and
- (e) previous breaches by the responsible legal or natural person.

Revocation,  
suspension and  
cancellation of  
authorisation.

**19.** (1) Without prejudice to any administrative penalties, or other measures that may be imposed in terms of article 18, the competent authority may order that an authorisation or registration issued in terms of this Act may be revoked, cancelled, suspended, or subjected to other conditions or restrictions ordered by the competent authority, in accordance with the provisions of this article, if the person to whom such authorisation was issued or the registered firm or any of the principals of the registered firm:

(a) has been found, in the course of an investigation conducted by the competent authority, to have acted, including through omissions, in:

(i) bad faith, serious misconduct or gross negligence in the exercise of his functions as an insolvency practitioner or registered firm;

(ii) violation of any regulation made or directive issued in terms of this Act, where the regulation or directive provides for the suspension, cancellation, withdrawal or subjection to conditions of an authorisation or registration as a consequence of such violation;

(iii) violation of any regulations or directives with respect to professional standards, practices or integrity;

(iv) violation of any code of conduct issued or adopted by the competent authority;

(v) a grievous discreditable manner to insolvency practitioners; or

(vi) a manner which fails to comply with any condition attached to an authorisation or registration when

such failure is of a material nature;

(b) has been found guilty by a court of law:

(i) of an offence under this Act or any regulations made thereunder;

(ii) of an offence under the Companies Act; or Cap. 386.

(iii) of a crime affecting public trust or of theft or of fraud or of knowingly receiving property obtained by theft or fraud or of any crime punishable by a term of imprisonment exceeding one (1) year.

(2) Without prejudice to the provisions of sub-article (1):

(a) an authorisation may be withdrawn or cancelled by the competent authority at the request of the insolvency practitioner;

(b) the registration of a registered firm may be cancelled by the competent authority at the request of the registered firm;

(c) an authorisation may be revoked or cancelled by order of the competent authority, whenever the competent authority is of the opinion that there are material circumstances concerning the insolvency practitioner that, had the authorisation not been issued, would disqualify such person from being eligible in terms of article 3; and

(d) the registration of a registered firm may be revoked or cancelled by order of the competent authority whenever the competent authority is of the opinion that there are material circumstances concerning the registered firm that, if the registered firm had not been registered, would disqualify it from being registered.

(3) Where an authorisation or registration is suspended for a time or subjected to conditions, the suspension or the conditions may be lifted by the competent authority at any time.

(4) Where an authorisation is withdrawn in terms of sub-article (2)(a), or where a registration is cancelled under sub-article (2)(b), a new authorisation may be issued, or a new registration may be made, at any time if the conditions for such issue or registration are satisfied.

(5) Upon the revocation or withdrawal of an authorisation issued under this Act, or during such period when the authorisation is

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suspended, the person to whom the authorisation was issued shall not be authorised to carry out the functions of an insolvency practitioner in terms of article 4(2), and upon the cancellation of any registration of a registered firm, or for such period when such registration is suspended, the firm shall cease to be registered.

PART V  
Appeal

Appeals. **20.** (1) There shall lie a right of appeal to the Tribunal on any decisions made by the competent authority as listed in article 21(1), which right shall be competent to any person aggrieved by the decision:

Provided that in any case, a person making an appeal to the Tribunal shall also explain his juridical interest in impugning the decision appealed from.

Cap. 490. (2) Unless otherwise provided by the Administrative Justice Act or any regulations made thereunder, an appeal from the decisions or orders referred to in article 21(1) shall be made by application and shall be filed in the registry of the Tribunal within twenty (20) days from the date of the said decision.

Decisions of the competent authority that may be appealed from. **21.** (1) Unless otherwise provided by law, an appeal shall lie to the Tribunal from the following decisions or orders made under this Act:

(a) any decision of the competent authority pursuant to the issue of an authorisation in terms of article 4;

(b) any decision of the competent authority to revoke, withdraw, or suspend an authorisation, or subject such authorisation to other conditions in terms of article 19;

(c) any decision of the competent authority to refuse to register a firm in terms of article 6;

(d) any decision of the competent authority to revoke, suspend, cancel or subject to other conditions the registration of a registered firm in terms of article 19;

(e) any decision of the competent authority which acquits or is decided against an insolvency practitioner or registered firm in cases of professional misconduct, following an investigation carried out by the competent authority;

(f) any decision of the competent authority pursuant to a

measure taken to protect the public interest and the integrity of the role of the insolvency practitioner in terms of article 9(1)(j);

(g) any decision of the competent authority to impose administrative penalties or reprimands or other measures in terms of this Act;

(h) any decision taken in terms of any regulations or directives issued under this Act, when the regulation or directive explicitly grants a right of appeal in terms of this article; and

(i) any other decision of the competent authority that the appellant may reasonably demonstrate, to the satisfaction of the Tribunal, to have materially and unfairly aggrieved the appellant.

(2) The decision of the competent authority shall not be suspended pending appeal, and shall, in the interim, be adhered to by all the parties to whom the decision applies.

(3) The Tribunal, where it considers it to be appropriate, may on the application of a party to the appeal, suspend the decision of the competent authority, pending the final determination of the appeal. The Tribunal, in deciding to suspend the decision, shall state its reasons for doing so.

**22.** (1) The provisions of this Act establishing offences and punishments in respect thereof shall not affect the operation of any other law establishing offences and punishments in respect of the same acts or omissions and shall not, in particular, affect the application of any higher punishments under any other law.

General provisions relating to offences.

(2) Any actions taken by the competent authority with respect to professional misconduct or other proceedings pursuant to a violation of the provisions of this Act or of any regulations or directives made under it, shall be without prejudice to any proceedings which may be taken against the person concerned under the provisions of the Criminal Code or of any other law, and any proceedings so taken shall be without prejudice to any proceedings that may be taken by the competent authority.

Cap. 9.

## PART VI Discipline

**23.** (1) The competent authority shall appropriately disclose to the public all the measures taken and the administrative penalties imposed on insolvency practitioners or registered firms in terms of this Act or the regulations or directives issued under it including the appropriate disclosure of administrative penalties imposed. The

Disclosure of measures and decisions.

disclosure required by this article may take place through a website maintained by the competent authority, or through the Registry established in terms of article 10.

(2) Without prejudice to the generality of sub-article (1), the competent authority shall notify, by registered mail, or by electronic mail any decision taken by it, from which there shall lie the right of appeal in terms of article 21, to any person to whom such decision applies:

Provided that, in the event that the person to whom such decision applies cannot be reached or found, the person shall be deemed to have been validly notified by leaving a copy of such decision at the office address, place of business, or place of work of such person, or with a person in his service, or with his attorney or person authorized to receive his mail, or through a notice published within a website maintained by the competent authority.

Publication of administrative penalties and other measures.

**24.** (1) The competent authority shall publish on its website at least any administrative penalties or other measures imposed for breach of the provisions of this Act, or of the directives or regulations made under it, in respect of which all rights of appeal have been exhausted or have expired, as soon as reasonably practicable immediately after the person concerned has been informed of that decision, including information concerning the type and nature of the breach and the identity of the person on whom the administrative penalty or other measure has been imposed.

(2) The competent authority shall publish on its website the administrative penalties or other measures imposed on an anonymous basis, and in a manner which is in conformity with Maltese law, in any of the following circumstances:

(a) where, the administrative penalty or other measure is imposed on a natural person, the required publication of personal data is shown to be disproportionate by an obligatory prior assessment of the proportionality of such publication;

(b) where publication would jeopardise the stability of financial markets or an ongoing criminal investigation; or

(c) where publication would cause disproportionate damage to the institutions or individuals involved.

(3) The competent authority shall ensure that any publication in accordance with sub-article (1) is of proportionate duration and that it remains on its website for a minimum period of five (5) years after all rights of appeal have been exhausted or have expired.

**25.** (1) The competent authority shall establish effective mechanisms that encourage reporting of breaches of this Act, or of the regulations or directives made under it. Reporting of breaches.

(2) The mechanisms referred to in sub-article (1) shall include at least:

(a) specific procedures for the receipt of reports of breaches and their follow-up;

(b) protection of personal data concerning both the person who reports the suspected or actual breach and the person who is suspected of committing, or who has allegedly committed that breach, in compliance with the principles laid down in the Data Protection Act and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation); and Cap. 586.

(c) appropriate procedures to ensure the right of the accused person to a defence and to be heard before the adoption of a decision concerning him, and the right to seek an effective remedy before a tribunal against any decision or measure concerning him.

(3) Registered firms shall establish appropriate procedures for their employees to report potential or actual breaches of this Act, or of the regulations or directives made under it through a specific channel or channels.

## PART VII Data Collection

**26.** (1) The competent authority shall be responsible to collect and aggregate, on an annual basis, national data on procedures concerning: Data collection.

(a) applications for preventive restructuring procedure in terms of the Pre-Insolvency Act, 2022; Act No. XXIV of 2022

(b) applications for the declaration of bankruptcy and a discharge of debt in terms of Part III of the Commercial Code; and Cap. 13.

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(c) applications for winding up due to insolvency, by companies or commercial partnerships in terms of the Companies Act or by legal organisations in terms of the Civil Code.

(2) The type of information that shall be collected by the competent authority shall be sorted with respect to each procedure listed in sub-article (1), and shall include, but not be limited to:

(a) the number of procedures that were applied for or opened, and of procedures that are pending or were closed;

(b) the average length of procedures from the submission of the application for the commencement of court proceedings, or from the opening thereof, to their closure;

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of 2022

(c) the number of applications for preventive restructuring procedures in terms of the Pre-Insolvency Act, 2022 that were declared inadmissible, were rejected or were withdrawn before a preventive restructuring order was issued in terms thereof; and

(d) the number of procedures other than those required under paragraph (c), sorted by the outcome of the respective procedures.

(3) The competent authority shall sort any data that shall be collected and aggregated in terms of sub-article (2)(a), (b) and (d), by reference to:

(a) the size of the debtors, not being natural persons;

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(b) whether debtors subject to procedures concerning preventive restructuring proceedings in terms of the Pre-Insolvency Act, 2022, or insolvency proceedings in terms of the Companies Act or the Civil Code as applicable, are natural or legal persons; and

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(c) whether the procedures leading to a discharge of debt in terms of Part III of the Commercial Code concern only natural persons in the course of a trade, business, craft or profession, or all natural persons.

(4) The competent authority shall also collect and aggregate, on an annual basis, data on the number of debtors which were subject to preventive restructuring proceedings in terms of the Pre-Insolvency Act, 2022, or insolvency proceedings, and which, within the three (3) years prior to the submission of the application or the opening of such proceedings, had a restructuring plan confirmed in terms of the Pre-Insolvency Act, 2022.

Act No. XXIV  
of 2022.

Act No. XXIV  
of 2022.

(5) Any data to be collected and aggregated in terms of this article shall be compiled for full calendar years ending on 31 December of each year, starting with the first full calendar year following the date of application of the implementing acts referred to in Article 29(7) of 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).

(6) The Minister may, acting on the recommendation of the competent authority, make regulations as may be conducive to the fulfilment of the Article 29(7) of 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).

(7) Every insolvency practitioner or registered firm shall be required to maintain a record of the data set out in terms of this article, in respect of their own functions, and the competent authority may, at its own discretion, request the provision of such data from the insolvency practitioner or registered firm by not less than fourteen (14) days from the date of such request.

(8) Where the competent authority makes a request to a relevant person, body or authority to provide information that is materially necessary for the fulfilment of the competent authority's data collection functions in terms of this article, the relevant person, body or authority shall, to the extent that is permissible, provide the requested information to the competent authority without undue delay.

(9) Any person who breaches the provisions of this article which impose upon him an obligation to collect, aggregate, store, or sort data, or communicate that data to the competent authority, shall be guilty of an offence and shall be liable on conviction for each offence, in respect of the first offence to a fine (multa) not exceeding one thousand and

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two hundred euro (€1,200) and in respect of a second or subsequent offence to a fine (multa) not exceeding six thousand euro (€6,000), and in the case of a continuing offence to an additional fine (multa) not exceeding one hundred and twenty euro (€120) for each day during which the offence continues.

PART VIII  
Miscellaneous

Exclusion of liability.

**27.** (1) The competent authority, when acting in any function assigned to it under any provision of this Act, including the officers and employees of the competent authority, and any body established by this Act and any member, officer or employee of that body, and any other person appointed to perform a function on the competent authority's behalf under this Act, shall not be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any such function or otherwise in the exercise of their duties in terms of this Act, unless the act or omission is shown to have been done or omitted to be done, as the case may be, through wilful misconduct.

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(2) No decision of the competent authority taken in accordance with this Act or any regulations or directives made under it may be suspended by use of the warrant of prohibitory injunction, except to the extent that such decision infringes a fundamental human right of the applicant as protected by the Constitution of Malta or the European Convention Act.

Notices.

**28.** A notice or other document to be given or served under this Act, or any regulations or directives made under it, shall be deemed to have been duly given or served on a person if, and on:

(a) the day it has been delivered personally to such person;

(b) the day it has been left at the address furnished by him to the competent authority, or to the person's last known address;

(c) the following day after it has been sent to him by post at any of the aforesaid addresses or by electronic mail; or

(d) the day as prescribed in paragraphs (a), (b) and (c) to or on a secretary, clerk, manager or their equivalent, or to any principal, with regards to a registered firm:

Provided that a certificate issued by the competent authority certifying that it has sent the notice or other document that shall be

given or served under this Act, or any regulations or directives made under it, on a particular date shall be proof of its content.

PART IX  
Transitory Provisions

29. (1) Any person who, on the date of the coming into force of this Act, is authorised to exercise the profession of an advocate, accountant or auditor, and has been appointed as a provisional administrator, liquidator, or a special controller within the meaning of the Companies Act, or has otherwise served as an expert or practiced as a lawyer within the Civil Court (Commercial Section), or the Civil Court, First Hall in commercial law or shipping law related cases within the preceding five (5) years from the coming into force of this Act, or otherwise proves to the satisfaction of the competent authority, that he has adequate experience in pre-insolvency, corporate restructuring, business finance, or liquidation, may apply to the competent authority to receive a provisional authorisation to carry out the functions of an insolvency practitioner in terms of article 4(2).

Transitory provisions.

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(2) An applicant shall annex to the application any documentation or information as the competent authority may deem relevant, and shall furnish any further information as the competent authority may subsequently request.

(3) The competent authority shall, if it is satisfied that the applicant in terms of sub-article (1) has the necessary knowledge, competence, experience and resources as it may consider to be appropriate to carry out the functions of an insolvency practitioner, issue to the applicant a provisional authorisation that shall entitle the recipient to carry out the functions of an insolvency practitioner in terms of article 4(2), and, provided that the conditions in article 6 subsist, to act as the principal for a registered firm.

(4) Any person being provisionally authorised in terms of this article shall be subject to the full scope and application of the provisions of this Act, and the competent authority shall act in his respect as though he was an insolvency practitioner and otherwise in terms of this Act and any regulations or directives issued under it.

(5) Without prejudice to the provisions of this article, all provisional authorisations granted in terms of this article, irrespective of the date of issuance thereof, shall expire within twenty four (24) months from the date of coming into force of this Act.

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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*