

MALTA

ATT Nru. XXI ta' l-1988

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

ATT biex iħajjar it-twaqqif ta' industriji godda u t-tkabbir ta' dawk li diġa' jeżistu, u biex jipprovdi dwar hwejjeġ li għandhom x'jaqsmu ma' hekk.

ACT No. XXI of 1988

AN ACT enacted by the Parliament of Malta.

AN ACT to encourage the establishment of new industries and the expansion of existing ones, and to make ancillary arrangements in relation thereto.

ATT TA' L-1988 DWAR L-IŻVILUPP INDUSTRIJALI

Arrangament ta' l-Artikoli

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Naghti l-kunsens tieghi.

(L.S.)

PAUL XUEREB
Agent President

5 ta' Lulju, 1988

ATT Nru. XXI ta' l-1988

*ATT biex ihajjar it-twaqqif ta' industriji godda u t-**tkabbir ta' dawk li digha' jezistu, u biex jipprovdi dwar hwejjeġ li ghandhom x'jaqsmu ma' hekk.***

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

TAQSIMA I

Preliminari

1. Dan l-Att jista' jissejjaħ l-Att ta' l-1988 dwar l-Iżvilupp ^{Titolu} Industrijali. _{fil-qosor.}

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem jew is- ^{Tifsir.} sugġett ma jitlobx xort'ohra:—

“*accountant* u uditur pubbliku ċertifikat” tfisser individwu li għandu *warrant* biex jeżerċita din il-funzjoni mahruġ taħt l-Att ta' l-1979 dwar il Professjoni ta' l-*Accountancy*, jew soċjetà ta' individwi tali debitament reġistrata skond dak l-Att;

“korp ta' persuni” tfisser kull soċjetà, għaqda jew assoċjazzjoni ta' persuni, sew jekk ikollhom personalità ġuridika sew jekk le;

“Korporazzjoni” tfisser il-Korporazzjoni għal Żvilupp ta' Malta mwaqqfa bl-Att ta' l-1967 dwar il-Korporazzjoni għal Żvilupp ta' Malta;

“kumpanija” tfisser:

(a) soċjeta anonima kostitwita skond id-dispożizzjonijiet ta' l-Ordinanza ta' l-1962 dwar Soċjetajiet Kummerċjali, jew

(b) għaqda koperattiva kostitwita skond id-dispożizzjonijiet ta' l-Att ta' l-1979 dwar l-Għaqdiet Koperativi;

“kumpanija kwalifikanti” tfisser kumpanija li tikkwalifika għal inċentivi jew benefiċċji taht dan l-Att skond id-dispożizzjonijiet ta' l-artikolu 3;

“kumpanija Maltija” tfisser kumpanija fejn ċittadini ta' Malta jew —

(a) ikollhom iżjed minn nofs il-valur nominali tal-kapital azzjonarju mahruġ tagħha, eskluża xi parti minnu li, la għal dak li għandu x'jaqsam ma' dividendi l-anqas għal dak li għandu x'jaqsam ma' kapital, iġib xi dritt li jiehu sehem f'aktar minn ammont speċifikat fi tqassim; u

(b) ikollhom iżjed minn nofs il-forza ta' votazzjoni.

“Ministru” tfisser il-Ministru responsabbli għall-Industrija u tinkludi, sa kemm ikun hekk awtorizzat, kull Segretarju Parlamentari awtorizzat għaldaqstant;

“persuna” tinkludi korp ta' persuni;

“preskritt” tfisser preskritt b'regolamenti taht dan l-Att;

“taxxa fuq l-income” tfisser taxxa ntaxxata jew taxxabli taht id-dispożizzjonijiet ta' l-Att ta' l-1948 dwar it-Taxxa fuq l-Income;

“uffiċjal pubbliku” għandha l-istess tifsir kif mogħti lilha bl-artikolu 124 tal-Kostituzzjoni ta' Malta.

(2) Il-liġijiet imsemmija f'dan l-Att jinkludu kull liġi oħra li tista' ssir minflok dawn il-liġijiet, u fejn hemm riferenza f'dan l-Att għal dispożizzjonijiet speċifiċi ta' xi liġi eżistenti, dik ir-riferenza għandha titqies li tinkludi wkoll riferenza għad-dispożizzjonijiet korrispondenti ta' xi liġi li tkun saret minflok dik il-liġi.

(3) Kliem u espressjonijiet li jintużaw f'dan l-Att u f'liġijiet oħra msemmija f'dan l-Att, għandhom, sakemm ma hemmx tifsira tagħhom f'dan l-Att, jiftehmu u jingħatalhom l-istess tifsir f'dan l-Att bhal dak li għandhom fil-liġijiet l-oħra msemmija.

3. (1) Bla hsara għad-dispożizzjonijiet ta' l-artikolu 24 ta' dan l-Att, l-inċentivi u l-benefiċċji mahsubin b'dan l-Att huma dovuti biss lil, u jistgħu jittiehdu biss minn, kumpanija li tmexxi jew teżerċita, jew li għandha hsieb li tmexxi jew teżerċita f'Malta xi kummerċ jew negozju li jkun jikkonsisti biss fi:

(a) il-produzzjoni, manifattura, titjib, immuntar, proċessar, tiswija, preservar jew manteniment ta' kwalunkwe oġġett, materjal, komodità (inkluż *computer software*), tagħmir, impjant jew makkinarju; jew

(b) l-għoti ta' servizz ta' natura industrijali li jkun jixbah l-attivitajiet imsemmija fil-paragrafu (a) ta' dan is-subartikolu, inklużi t-tiswija, manteniment, thaddim, installar, spezzjoni jew prova ta' impjant, makkinarju jew tagħmir.

(2) Negozju jew kummerċ maħsub fis-subartikolu (1) ta' dan l-artikolu għandu jkun negozju jew kummerċ li attwalment u fiżikament jitmexxa jew jiġi eżerċitat f'Malta, b'mod iżda, li meta s-servizz imsemmi fil-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu jingħata barra minn Malta, dak is-servizz għandu jittqies, għall-finijiet ta' dan l-artikolu, li ngħata f'Malta, jekk is-servizz innifsu ikun ingħata kollu kemm hu jew fil-biċċa l-kbira tiegħu minn ċittadini ta' Malta.

(3) Bla ħsara għad-dispożizzjonijiet ta' l-artikolu 25 ta' dan l-Att, il-Ministru jista' minn żmien għal żmien fuq riżoluzzjoni tal-Kamra tad-Deputati b'avviż fil-Gazzetta jeskludi minn xi wieħed jew minn kull inċentiv u benefiċċju maħsubin taht dan l-Att kumpaniji li altrimenti kienu jkunu kumpaniji kwalifikanti iżda li l-kummerċ jew in-negozju tagħhom jinkludi attivitajiet imsemmija f'dak l-avviż.

(4) Kull avviż pubblikat skond id-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu jista' jiġi sussegwentement revokat jew mibdul mill-Ministru fuq riżoluzzjoni tal-Kamra tad-Deputati.

(5) L-inċentivi u l-benefiċċji maħsubin taht dan l-Att huma dovuti biss għar-rigward ta' attivitajiet li għaw nhar jew wara l-1 ta' Ġunju, 1987, u għar-rigward ta' qliegh jew profitt magħmul wara dik id-data.

TAQSIMA II

Inċentivi Prinċipali dwar Taxxa fuq l-*Income*

4. (1) Meta kumpanija kwalifikanti:

Tax Holidays.

(a) hija kumpanija kostitwita nhar jew wara l-1 ta' Ġunju, 1987; u

(b) bla ħsara għad-dispożizzjonijiet tas-subartikolu (5) ta' dan l-artikolu, tesporta l-valur fi flus ta' mhux anqas minn hamsa u disghin fil-mija tal-produzzjoni tagħha (meqjusa *free on board*), jew tas-servizzi li tagħti, skond il-każ, u

(ċ) tmexxi jew teżerċita negozju jew kummerċ li ma jikkonsistix biss jew fil-parti l-kbira fis-sempliċi espansjoni, duplikazzjoni jew sostituzzjoni ta' kummerċ jew negozju li qabel kien jitmexxa jew jiġi eżerċitat f'Malta minn xi persuna li hija b'xi mod dirett jew indirett konnessa jew assoċjata ma' tali kumpanija permezz ta' azzjonijiet, votazzjoni jew drittijiet oħra ta' proprjetà jew ta' kontroll, irrispettivament mill-persuna li fiha kienu jew setgħu kienu vestiti dawk id-drittijiet,

dik il-kumpanija tkun eżenti mit-taxxa fuq l-*income*, fuq il-qliegh jew profitti magħmula mill-kummerċ jew negozju tagħha tul għaxar snin ta' stima konsekutivi, liema snin għandhom ikunu kompriżi fl-ewwel tnax-il sena ta' stima tal-kumpanija skond kif tistabbilixxi l-kumpanija b'avviż irrevokabbli mogħti bil-miktub lill-Korporazzjoni mhux aktar tard minn tmiem it-tielet sena ta' stima.

(2) Meta kumpanija tesporta anqas minn hamsa u disghin fil-mija tal-produzzjoni tagħha fi kwalunkwe sena li tiġi minnufih qabel

sena ta' stima kompriża fl-ghaxar snin ta' stima konsekuttivi msemmija fis-subartikolu (1) ta' dan l-artikolu, dik il-kumpanija titef l-eżenzjoni moghtija taht id-dispożizzjonijiet ta' dan l-artikolu għal dik is-sena ta' stima:

Iżda t-telf ta' l-eżenzjoni imsemmi għal kwalunkwe sena kif jinghad qabel ma jservix biex —

(a) jolqot id-dritt tal-kumpanija għall-eżenzjoni fi kwalunkwe sena ohra ta' stima; jew

(b) jikseb eżenzjoni taht dan l-artikolu għall-kumpanija għal kwalunkwe sena li ma tkunx kompriża fl-ghaxar snin ta' stima konsekuttivi originali.

(3) Għall-finijiet tas-subartikolu (1) ta' dan l-artikolu:—

(a) l-akkwist minn kumpanija ta' xi kummerċ jew negozju li qabel kien jitmexxa jew jiġi eżerċitat minn xi persuna li ma jkollhiex rabta mal-kumpanija skond il-paragrafu (ċ) ta' dak is-subartikolu ma jikkwalifikax lil dik il-kumpanija biex tikseb l-eżenzjoni mit-taxxa fuq *l-income* maħsuba b'dan l-artikolu;

(b) meta fl-1 ta' Ġunju, 1987, kumpanija kienet kontrollata ta' l-anqas fil-hamsin fil-mija direttament jew indirettament mill-Gvern u mhux anqas minn hamsin fil-mija ta' l-azzjonijiet tal-kumpanija kienu direttament jew indirettament proprjetà tal-Gvern, jekk dawk l-azzjonijiet jinxtraw kollha minn persuna li ma tkunx taht il-kontroll tal-Gvern, dik il-kumpanija għandna tiehu l-eżenzjoni msemmija fis-subartikolu (1) ta' dan l-artikolu jekk tkun kumpanija kwalifikanti u jekk tkun tissodisfa l-kundizzjoni msemmija fil-paragrafu (b) tas-subartikolu imsemmi.

(4) *L-income* ta' xi kumpanija għal xi sena ta' stima li matulha tapplika eżenzjoni mit-taxxa fuq *l-income* taht id-dispożizzjoni ta' dan l-artikolu għandu jiġi kalkulat bil-mod kif imfisser fl-Att ta' l-1948 dwar it-Taxxa fuq *l-Income* u skond id-dispożizzjonijiet tiegħu:

Iżda:

(a) id-dispożizzjonijiet ta' dak l-Att għandhom jinqabzu jew jinbidlu skond il-htieġa li tohrog mid-dispożizzjonijiet ta' dan l-Att;

(b) id-dritt għal tnaqqis taht id-dispożizzjonijiet ta' l-artikolu 12 ta' dan l-Att għal xi sena ta' stima li matulha tapplika eżenzjoni skond id-dispożizzjonijiet ta' dan l-artikolu għandu jithalla għall-ewwel sena ta' stima li tiġi eżatt wara l-ghaxar snin ta' stima konsekuttivi msemmija fis-subartikolu (1) ta' dan l-artikolu;

(ċ) kull telf mhux assorbit jew *allowance* kapitali mhux assorbita (inklużi *l-allowances* maħsubin taht dan l-Att) fl-ahhar ta' kwalunkwe sena ta' stima ta' eżenzjoni mit-taxxa fuq *l-income* skond id-dispożizzjonijiet ta' dan l-artikolu għandhom jitmexxew 'il quddiem strettament bil-mod kif imsemmi fl-Att ta' l-1948 dwar

it-Taxxa fuq l-*Income*, anke jekk tmexxija 'il quddiem bhal din tkun minn sena ta' eżenzjoni ghal sena li fiha ma tithaddimx tali eżenzjoni.

(5) Minflok il-kliem "mhux anqas minn hamsa u disghin fil-mija tal-produzzjoni" fis-subartikolu (1) ta' dan l-artikolu ghandhom jidhlu l-kliem "sostanzjalment kollox mill-produzzjoni" u s-subartikolu (2) ghandu jiftiehem b'dan il-mod f'kull linja partikolari ta' produzzjoni jew manifattura kif iffissat mill-Ministru b'avviż pubblikat fil-Gazzetta u f'dak il-każ il-kliem "sostanzjalment kollox" ghandhom ifissru dak il-perċentwali akbar minn hamsa u disghin fil-mija li l-Ministru jsemmi fl-istess avviż:

Iżda dan il-bdil f'kull każ ta' kumpanija kwalifikanti, japplika biss mill-ewwel perijodu ta' kuntegġ taghha li jibda wara d-data li fiha jiġi pubblikat avviż kif imsemmi qabel.

5. (1) Meta kumpanija kwalifikanti iżzid il-bejgħ esportat taghha fuq il-bejgħ esportat li jkun sar tul żmien bażi, bil-persentaġġi msemmija fis-subartikolu (5) ta' dan l-artikolu fi kwalunkwe sena ta' stima sa s-sena ta' stima 2001, iż-żieda fil-profitt mill-esportazzjoni li taghmel dik il-kumpanija f'dik is-sena miż-żieda fil-bejgħ esportat ghandu jkun eżenti mit-taxxa fuq l-*income*.

Skema ta' incentivi għall-esportazzjoni.

(2) Iż-żieda fil-profitti eżenti mit-taxxa skond id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu ghandha tiġi kalkolata skond din il-formola:

$$\frac{("Y" \times "X") - ("B" \times "A")}{("Z" \quad) \quad ("C" \quad)}$$

li fiha:

- "A" = profitti fiż-żmien bażi
- "B" = bejgħ esportat tul iż-żmien bażi
- "C" = bejgħ totali tul iż-żmien bażi
- "X" = profitti maghmula fis-sena ta' stima
- "Y" = bejgħ esportat fis-sena ta' stima
- "Z" = bejgħ totali fis-sena ta' stima

(3) Għall-finijiet tal-kalkolu indikat fis-subartikolu (2) ta' dan l-artikolu:

(a) ghandu jiġi eskluż kull *income* li l-kumpanija ma ddahhalx mill-kummerċ jew negozju u kull bejgħ jew xi element ieħor mit-*turnover* taghha li ma hix marbuta mal-kummerċ jew in-negozju taghha;

(b) "profitti" u "*income*" ghandhom f'kull każ jitqiesu kif komprizi fl-*income* taxxabli tal-kumpanija għall-finijiet tat-taxxa fuq il-*income* wara li jittiehdu in konsiderazzjoni, fejn ikun il-każ, x'incentiv jew beneficiċġu li l-kumpanija tkun akkwistat skond id-dispożizzjonijiet ta' dan l-Att;

(c) telf li jsir f'xi sena ta' stima kompriza fiż-żmien bażi ghandu jitqies bhala profitt żero.

(4) Għall-finijiet ta' dan l-artikolu, il-profitti u bejgħ esportat tul żmien bażi ghandhom ikunu l-medja tal-profitti u tal-bejgħ esportat tul żmien ta' sentejn ta' stima konsekuttivi kif ġej:—

Sena ta' Stima	Żmien Bażi
1989 sa 1993	sena ta' stima: 1987 u 1988
1994	1988 u 1989
1995	1989 u 1990
1996	1990 u 1991
1997	1991 u 1992
1998	1992 u 1993
1999	1993 u 1994
2000	1994 u 1995
2001	1995 u 1996

(5) L-eżenzjoni mit-taxxa fuq *l-income* taht dan l-artikolu hija dovuta meta ż-żieda fil-bejgh esportat ikun ta':

(a) ghaxra fil-mija jew iżjed fuq iż-żmien bażi korrispondenti fl-ewwel sena ta' eżenzjoni;

(b) hmistax fil-mija jew iżjed fuq iż-żmien bażi korrispondenti fit-tieni sena ta' eżenzjoni; u

(ċ) hamsa u għoxrin fil-mija jew iżjed fuq iż-żmien bażi korrispondenti fit-tielet sena u snin sussegwenti ta' eżenzjoni:

Iżda ebda qliegh jew profitt li tagħmel kumpanija miż-żieda fil-bejgh esportat, ma għandu jkun eżenti mit-taxxa fuq *l-income* f'xi sena ta' stima li b'iktar minn disa' snin tiġi wara l-ewwel sena ta' stima li fiha hi dovuta eżenzjoni taht dan l-artikolu.

(6) Id-dispożizzjonijiet ta' dan l-artikolu japplikaw biss għal:

(a) kumpanija kwalifikanti kostitwita qabel l-1 ta' Ġunju, 1987, u għal

(b) kumpanija kwalifikanti kostitwita f'dik id-data jew wara, jekk dik il-kumpanija kienet intitolata tgawdi f'xi sena ta' stima mill-eżenzjoni maħsuba fl-artikolu 4 ta' dan l-Att li kieku ma kienx għad-dispożizzjonijiet tal-paragrafu (b) tas-subartikolu (1) ta' dak l-artikolu.

(7) Għall-finijiet ta' dan l-artikolu, bejgh esportat għandu jkun fil-każi kollha u għal kull sena ta' stima l-valur monetarju tal-produzzjoni esportata ta' kumpanija kwalifikanti kalkolat "*free on board*", jew tas-servizzi li tesporta, skond il-każ.

6. (1) Bla hsara għad-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, meta l-Korporazzjoni jkun jidhrilha illi l-qliegh jew profitti jew parti minnhom miksuba minn kumpanija kwalifikanti mill-kummerċ jew minn negozju tagħha jew parti minnhom fis-sena ta' stima li tibda fl-1 ta' Jannar, 1988, jew fi snin ta' stima sussegwenti, ikunu twarrbu bil-ghan ewlieni li jiġi finanzjat xi proġett li jkun ġie approvat mill-Korporazzjoni u li fil-fatt il-qliegh jew profitti jew parti minnhom jkunu intużaw għall-ghan illi għalih ikunu twarrbu, il-Korporazzjoni għandha tohroġ ċertifikat lill-kumpanija kwalifikanti li jkun jiċċertifika

dan kollu u b'dan, ir-rata tat-taxxa fuq *l-income* taxxabli fuq il-qliegħ jew profitti jew parti minnhom li jkunu hekk intużaw, għandha titnaqqas bi sbatax-u-nofs-il punt perċentwali, u fi kwalunkwe każ bħal dan it-taxxa li hi taxxabli għandha tiġi stmata, jew stamata mill-ġdid u fejn ikun meħtieġ rifuża, skond il-każ:

Iżda fejn il-kumpanija kwalifikanti hija kumpanija Maltija, ir-rata ta' taxxa fuq *l-income* taxxabli titnaqqas b'dsatax-u-kwart-il punt perċentwali.

(2) Għall-finijiet tas-subartikolu (1) ta' dan l-artikolu, il-Korporazzjoni ma tapprovax proġett:

(a) aktar tard minn erbgħa u għoxrin xahar wara t-tnuem tas-sena li tiġi immedjatament qabel is-sena ta' stima li fiha għandu jiġi ntaxxat *l-income* li dwaru tista' tingħata l-approvazzjoni; jew

(b) li biex jitlesta jeħtieġ żmien ta' aktar minn hames snin mid-data ta' l-approvazzjoni tiegħu.

7. (1) Meta kumpanija kwalifikanti tagħmel jew tkun għamlet wara l-1 ta' Ġunju, 1987 nefqa biex takkwista impjant jew makkinarju, jew bini jew struttura ndustrijali (inkluż mahżen), għall-użu fil-kummerċ jew negozju tagħha u b'dik in-nefqa l-impjant, il-makkinarju, l-bini jew l-istruttura industrijali isiru proprjetà tal-kumpanija, dik il-kumpanija jkollha dritt għal *allowance* għall-investment meta tikkalkula *l-income* taxxabli tagħha għall-finijiet tat-taxxa fuq *l-income* għas-sena ta' stima li fiha wżat għall-ewwel darba dak l-attiv fil-kummerċ jew negozju tagħha, liema *allowance* għandha titqies bhala perċentwali tan-nefqa għall-attiv, kif ġej:

	Meta jkun proprjetà ta' kumpaniji Maltin	Meta jkun proprjetà ta' kumpaniji ohra
Impjant u makkinarju	33%	30%
Bini u struttura industrijali	16.5%	15%

(2) Ma tingħata ebda *allowance* taht dan l-artikolu hlief dwar attiv li jkun intuża għall-ewwel darba mill-kumpanija, li jkun ġie akkwistat mhux użat u mhux *second hand*:

Iżda dan is-subartikolu ma japplikax għal bini jew strutturi industrijali akkwistati minghand il-Gvern.

(3) Fejn tingħata *allowance* lil kumpanija taht dan l-artikolu:

(a) il-kumpanija ma jkollhiex dritt għal xi tnaqqis dwar l-istess attiv taht id-dispożizzjonijiet tal-paragrafu (k) tas-subartikolu (1) ta' l-artikolu 10 ta' l-Att ta' l-1948 dwar it-Taxxa fuq *l-Income*;

(b) id-dispożizzjonijiet ta' l-artikolu 10B ta' dak l-Att ma japplikawx għal dak l-attiv;

(c) ebda haġa li tinsab f'dak l-Att ma għandha titwettaq b'mod li żżomm l-*allowance* għal investment u kull *allowance* oħra mogħtija taht dan l-Att dwarha, magħdudin flimkien, milli jaqbu l-prezz originali tal-attiv.

(4) Id-dispożizzjonijiet tas-subartikolu (5) ta' l-artikolu 8 ta' dan l-Att għandhom japplikaw dwar kull *allowance* għall-investment mogħti taht dan l-artikolu.

(5) F'dan l-artikolu u fl-l-artikolu 8 ta' dan l-Att, proprjetà immobbli miżmuma b'titolu ta' enfitewsi għandha titqies li hija miżmuma b'titolu ta' proprjetà.

Deprezzament
mghaġġel.

8. (1) Meta kumpanija kwalifikanti jkollha dritt għal *allowance* għall-investment dwar xi attiv taht id-dispożizzjonijiet ta' l-artikolu 7 ta' dan l-Att, il-kumpanija għandha dritt ukoll, ma' dan, għal tnaqqis minhabba tqgħabir ordinarju ta' l-istess attiv fl-ikkalkular ta' l-*income* totali taxxabli tagħha għall-finijiet tat-taxxa fuq l-*income*, skond ir-rati li ġejjin:

	Meta proprjetà tkun ta' kumpaniji Maltin	Meta proprjetà tkun ta' kumpaniji oħra
Impjant u makkinarju	33 $\frac{1}{3}$ % fis-sena	25% fis-sena
Bini u struttura industrijali	5% fis-sena	4% fis-sena

(2) L-*allowances* li hemm fis-subartikolu (1) ta' dan l-artikolu jingħataw mis-sena ta' stima li fiha dik l-*allowance* tkun tista' tingħata għall-ewwel darba, u għandha tigi kalkulata bil-metodu magħruf bħala *straight line*.

(3) L-*allowances* mogħtijin taht dan l-artikolu għandhom ikunu minflok xi *allowances* li altrimenti jkollha dritt tiehu kumpanija kwalifikanti għal xi sena ta' stima taht id-dispożizzjonijiet tal-paragrafu (g) tas-subartikolu (1) l-artikolu 10 ta' l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*.

(4) Il-valur ta' l-art li fuqha jinbena jew jittella' xi bini jew struttura industrijali għandu, f'kull każ, jitnaqqas minn dik in-nefqa li dwarha għandu jingħata tnaqqis taht id-dispożizzjonijiet ta' dan l-artikolu.

(5) Bla hsara għad-dispożizzjonijiet ta' dan l-artikolu u ta' l-artikolu 7 ta' dan l-Att, *allowances* għall-investment u deprezzament mghaġġel għandhom jitqiesu għall-finijiet ta' l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income* li huma tnaqqis mogħti taht il-paragrafi (g) u (k) tas-subartikolu (1) ta' l-artikolu 10 ta' dak l-Att, u għaldaqstant japplikaw id-dispożizzjonijiet kollha rilevanti ta' dak l-Att.

(6) Ebda *allowance* ma tinghata taht dan l-artikolu hliet fuq attiv li ntuza għall-ewwel darba mill-kumpanija, li jkun gie akkwistat mhux użat u mhux *second hand*:

Izda dan is-subartikolu ma japplikax għal bini u għal strutturi industrijali li jkunu ġew akkwistati minghand il-Gvern.

(7) Għall-finijiet ta' l-artikoli 26 u 27 ta' l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*, it-taxxa mhallsa jew li trid tithallas fuq *income* imqassam minn kumpanija lill-membri tagħha bhala dividend tista' tigi kalkulata, fuq talba tal-kumpanija, bhallikieku l-kumpanija ma kellhiex dritt għal tnaqqis taht dan l-artikolu, iżda għat-tnaqqis maħsub taht il-paragrafi (g) u (k) tas-subartikolu (1) ta' l-artikolu 10 ta' l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*.

9. (1) Kull dividend (jew parti minnu) imqassam minn kumpanija kwalifikanti mill-qliegħ jew profitti tagħha, jew parti minnhom li, skond id-dispożizzjonijiet ta' dan l-Att kienu eżenti mill-hlas ta' taxxa fuq l-*income*, u li għalihom japplikaw id-dispożizzjonijiet ta' dan l-artikolu, huwa eżenti mit-taxxa fuq l-*income* meta jasal f'idejn il-membri tal-kumpanija li jirċievu dan it-tqassim. Dividendi eżenti mit-taxxa.

(2) Meta dividend imsemmi fis-subartikolu (1) ta' dan l-artikolu jitqassam lil membru li jkun ukoll kumpanija (f'dan is-subartikolu msemmi bhala "it-tieni kumpanija"), dak id-dividend jista' bl-istess mod jitqassam mit-tieni kumpanija lill-membri tagħha stess bhala dividendi eżenti mit-taxxa fuq l-*income* meta jasal f'idejn min jirċevih, u meta membru tat-tieni kumpanija jkun ukoll kumpanija, id-dispożizzjonijiet preċedenti ta' dan is-subartikolu għandhom japplikaw *mutatis mutandis* bhallikieku dak li jingħad għall-ewwel kumpanija qed jingħad għat-tieni kumpanija u bhallikieku dak li jingħad hemm għat-tieni kumpanija kien qed jingħad għal dak il-membri, u l-prinċipju stabbilit f'dan is-subartikolu għandu jibqa' jiġi applikat għal kemm-il darba l-qliegħ u l-profitti jew parti minnhom li għalihom japplika dan l-artikolu jitqassmu bhala dividendi.

(3) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw għall-qliegħ jew profitti, jew parti minnhom, ta' kumpanija li huma eżenti mit-taxxa fuq l-*income*:

(a) taht id-dispożizzjonijiet ta' l-artikolu 4 ta' dan l-Att, meta dawn ikunu qliegħ jew profitti li jinqalghu f'xi sena minn kumpanija u li dwarhom ikollha dritt għal *tax holiday*:

(b) taht id-dispożizzjonijiet ta' l-artikolu 5 ta' dan l-Att, meta dawn ikunu parti mill-qliegħ jew profitti ta' kumpanija eżentata mit-taxxa fuq l-*income* għal xi sena taht l-iskema ta' nċentivi għall-esportazzjoni;

(ċ) taht id-dispożizzjonijiet ta' l-artikolu 7 ta' dan l-Att meta dawn ikunu qliegħ jew profitti ta' kumpanija għal xi sena li tkun eżenti mit-taxxa fuq l-*income* minhabba fl-ġhoti ta' *allowance* għall-investment.

(4) Mat-tqassim ta' dividend eżenti kompletament jew in parti mit-taxxa fuq *l-income* taht id-dispożizzjonijiet ta' dan l-artikolu, kull kumpanija ghandha taghti lil kull membru li jirċievi dividend bħal dak ċertifikat li juri l-ammont tad-dividend imhallas, is-sena li fiha l-kumpanija tkun ghamlet il-qliegħ jew il-profitti li jkunu qed jiġu mqassma, u li jiddikjara liema parti minn dak id-dividend hi eżenti mit-taxxa fuq *l-income* kif provdut f'dan l-artikolu.

Allowance
ghal spejjeż
ta' tahrig.

10. (1) Bla hsara għad-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, meta l-Korporazzjoni tkun sodisfatta li programm ta' tahrig approvat minnha wara l-bidu fis-sehħ ta' dan l-Att jista' jżid is-sengħa u l-kapaċità ta' l-impjegati ta' kumpanija kwalifikanti, il-Korporazzjoni ghandha tohroġ ċertifikat għaldaqshekk u l-kumpanija jkollha dritt tnaqqas mija u ghoxrin fil-mija ta' l-ispiza attwali li tkun harġet hi stess biex torganizza l-programm ta' tahrig fl-ikkalkular ta' *l-income* totali tagħha għall-finijiet ta' l-Att ta' l-1948 dwar it-Taxxa fuq *l-Income*:

Iżda meta l-Korporazzjoni tkun sodisfatta li xi programm ta' tahrig hu intiż kompletament jew prinċipalment għal persuni handikappati, it-tnaqqis ikun ta' mija u hamsin fil-mija ta' l-ispejjeż.

(2) It-tnaqqis totali li kumpanija tista' tiehu għal xi sena ta' stima taht id-dispożizzjonijiet ta' dan l-artikolu ma għandux ikun ta' iżjed minn wiehed minn kull ghoxrin tas-somma totali mhallsa mill-kumpanija għal dik is-sena f'pagi, salarji u hlasijiet ohra simili.

Allowance
ghal
promozzjoni
ta' l-esportazzjoni.

11. (1) Bla hsara għad-dispożizzjonijiet ta' dan l-artikolu, meta kumpanija kwalifikanti tonfoq jew tkun nefqet spiża għall-promozzjoni ta' l-esportazzjoni wara l-1 ta' Ġunju, 1987, prinċipalment biex issib opportunitajiet jew biex tohloq jew tkabbar it-talba għall-esportazzjoni tal-prodotti jew tas-servizzi, dik il-kumpanija għandu jkollha d-dritt, meta tikkalkola *l-income* totali tagħha għall-finijiet tat-taxxa fuq *l-income*, li tnaqqas ammont ekwivalenti għal mija u ghoxrin fil-mija ta' l-ispiza hekk magħmula.

(2) It-tnaqqis maħsub fis-subartikolu (1) ta' dan l-artikolu għandu jibqa' dovut minkejja li l-ispiza relativa:

(a) tkun intefqet fil-ftuħ jew fit-tiftix biex jinfethu linji jew swieq godda ta' esportazzjoni; jew

(b) ma twassal għal ebda bejgħ esportat jew bejgħ esportat miżjud.

(3) It-tnaqqis totali dovut lil kumpanija għal xi sena ta' stima taht id-dispożizzjonijiet ta' dan l-artikolu ma għandux jaqbeż l-Lm24,000 jew somma ekwivalenti għal hamsa fil-mija tal-bejgħ totali esportat tal-kumpanija għal dik is-sena, skond liema ammont ikun l-akbar.

(4) Għall-finijiet ta' dan l-artikolu:

(a) bejgħ esportat għandu jitqies bħala l-valur monetarju tal-produzzjoni esportata kalkulat "*free on board*", jew tas-servizzi esportati;

(b) “spiża għall-promozzjoni ta’ l-esportazzjoni” għandha tinkludi, iżda minghajr ma teskludi hwejjeġ ohra li jkunu adatti, l-ispejjeż minfuqa:

(i) f’reklamar jew mezzi ohra li jagħtu pubbliċità jew li jipprokuraw in-negozju;

(ii) fl-istharriġ tas-swieq jew fl-akkwist ta’ informazzjoni dwar swieq;

(iii) f’li jiġu provduti kampjuni b’xejn jew informazzjoni teknika lil persuna barra minn Malta;

(iv) fl-investigazzjonijiet, preparazzjoni ta’ disinji, it-tlestija ta’ stimi u attivitajiet simili li għandhom x’jaqsmu ma’ offerti għall-provvista ta’ oġġetti jew ta’ servizzi;

(v) fir-riċerka ta’ metodi ta’ pakkettar jew ta’ preżentazzjoni ta’ merkanzija għall-esportazzjoni;

(vi) fil-parteeċipazzjoni f’fieri tal-kummerċ barra minn Malta;

(vii) fl-ispiza biex jingiebu xerrejja potenzjali lejn Malta;

(ċ) “spiża għall-promozzjoni ta’ l-esportazzjoni” ma tinkludix salarji, pagi u hlasijiet ohra simili hlief meta dawn jithallsu lill-uffiċjali jew impjegati ta’ kumpanija reġistrata f’Malta għall-perijodu jew perijodi f’xi sena li fiha huma mitlubin jagħtu s-servizzi tagħhom barra minn Malta.

12. (1) Fil-każ ta’ kumpanija kwalifikanti, id-dispożizzjonijiet tal-paragrafi (i) u (j) tas-subartikolu (1) ta’ l-artikolu 10 ta’ l-Att ta’ l-1948 dwar it-Taxxa fuq l-*Income* għandhom għal xi sena li fiha l-kumpanija tkun intitolata għal tnaqqis taht dawk il-paragrafi mis-sena ta’ stima 1988:

Allowance għal riċerka u żvilupp.

(a) jitqiesu li jippermettu tnaqqis fuq spejjeż li jintefqu kif ġej flimkien ma’ xi spejjeż ohra kontemplati f’dawk il-paragrafi:

(i) xogħol sperimentali jew teoriku li għandu bhala skop is-sejba ta’ tagħrif ġdid konness mal-kummerċ jew negozju tagħha;

(ii) it-tiftix għal metodi ta’ thaddim ta’ dak ix-xogħol u tagħrif;

(iii) it-tfassil u disinn ta’ twettiq li jista’ jkun hemm għal xogħol bħal dak;

(iv) provi fit-tiftix, jew fil-valutazzjoni ta’ alternattivi għall-prodott jew ta’ proċess;

(v) id-disinn, kostruzzjoni u provi ta' prototipi u mudelli ta' qabel il-produzzjoni;

(vi) id-disinn ta' prodotti, proċessi, sistemi jew servizzi li jehtieg teknoloġija ġdida jew li sostanzjalment ittejjeb dawk diġà prodotti jew installati;

(b) jitqiesu li ma jippermettux bħala tnaqqis xi spejjeż li jintefqu kif ġej:

(i) fid-disinn ta' rutina, provi u analiżi ta' tagħmir jew prodott għall-fini tal-kontroll tal-kwalità jew tal-kwantità;

(ii) fil-bdil ta' rutina jew dak li jsir minn żmien għal żmien ta' prodotti jew proċessi li diġà jeżistu;

(iii) fir-riċerka operattiva;

(iv) f'xogħol legali u amministrattiv fuq applikazzjonijiet għal privattivi, dokumentazzjoni u litigazzjoni u fil-bejgħ jew liċenzjar ta' privattivi u fi drittijiet ta' privattivi;

(v) f'kull attività, inkluż disinn u kostruzzjoni, li għandha x'taqsam mal-facilità jew tagħmir ta' kostruzzjoni, spostament, rijarranġament jew *start-up*, hliet għal facilità jew tagħmir li jintuża biss għal proġett ta' riċerka jew żvilupp speċifiku u partikulari;

(ċ) jinqraw u jinftehm u bħallikieku l-*provisos* kollha għalihom thallew barra.

(2) Tnaqqis dovut taht id-dispożizzjonijiet tal-paragrafi (i) jew (j) tas-subartikolu (1) ta' l-artikolu 10 ta' l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*, kif modifikat bid-dispożizzjonijiet ta' dan l-artikolu, għandu jitnaqqas għall-finijiet ta' dak l-Att bil-mija u għoxrin fil-mija ta' l-ammont attwali ta' l-ispiża minfuqa, iżda t-tnaqqis totali mogħti kif intqal qabel ma għandux, għal xi sena ta' stima, jaqbeż il-hamsa fil-mija tat-*turnover* tal-kumpanija għal dik is-sena:

Iżda jekk l-ammont ta' tnaqqis huwa tali li l-ammont ma jistax jithalla kollu kemm hu fis-sena li fiha jkun intefaq, dik il-parti li ma tistax hekk tithalla għandha tingħadd ma' xi tnaqqis li jkun dovut għal hekk fis-sena ta' wara u għandha titqies li hija parti minn dak it-tnaqqis jew, jekk għal dik is-sena ma hemmx tnaqqis bħal dan, titqies li hija t-tnaqqis għal dik is-sena, u hekk ukoll għal snin sussegwenti.

(3) Xejn f'dan l-artikolu ma għandu jitqies li jippermetti tnaqqis dwar riċerka u żvilupp li essenzjalment ma jsirx f'Malta.

13. Meta individwu li ma hux domiciljat f'Malta jew li, jekk inhu hekk domiciljat, ma hux ordinarjament residenti hemmhekk, jiġi mpjegat ma' kumpanija kwalifikanti, it-taxxa fuq l-*income* taxxabli ta' dak l-individwu għandha, mis-sena ta' stima li tibda fl-1 ta' Jannar 1989,

tigi ntaxxata bir-rati msemija fl-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*, hekk iżda li kull rata ta' taxxa ta' iżjed minn 30 ċenteżmu fil-lira Maltija ghandha tigi mnaqqsa ghal 30 ċenteżmu:

Iżda t-taxxa li tithallas minn xi individwu kif imsemmi qabel ma ghandhiex tkun anqas minn elf lira Maltija fis-sena ridotta madankollu fuq bażi *pro rata* meta dak l-individwu ma jkunx hekk impjegat matul is-sena kollha:

Iżda iktar li l-ammont ta' taxxa li tithallas minn dak l-individwu ma ghandhiex tiżdied ghal aktar minn kemm kien jithallas minnu li ma kienx ghad-dispożizzjonijiet ta' dan l-artikolu.

14. L-ispejjeż kollha li jkunu saru u l-flejjes kollha li jkunu ntefqu fuq *feasibility studies* nhar jew wara l-1 ta' Ġunju, 1987 minn kumpanija mwaqqfa nhar jew wara dik id-data, meta dawk l-ispejjeż jew flejjes ikunu servew kompletament u eskusivament għall-finijiet ta' kummerċ jew negozju li jintitolaw jew jistghu jintitolaw lill-kumpanija li tkun kumpanija kwalifikanti għall-finijiet ta' dan l-Att, u sakemm dawk l-ispejjeż u flejjes ikunu servew kompletament u eskusivament għalhekk, għandhom jitqiesu għall-finijiet tas-subartikolu (1) ta' l-artikolu 10 u ta' l-artikolu 11 ta' l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*, li saru minn dik il-kumpanija mhux aktar kmieni mill-ewwel ġurnata li fiha jitmexxa dak il-kummerċ jew negozju, u, f'kull każ, li jistghu jitnaqqsu kif xieraq fil-kalkolu ta' l-ammont ta' qliegh jew profitti li jkunu ġejjin mill-kummerċ jew minn negozju għall-finijiet ta' l-Att imsemmi.

15. Meta membru ta' kumpanija kwalifikanti jkun residenti ta' stat jew ta' territorju li mieghu Malta tkun ghamlet arrangament taht id-dispożizzjonijiet ta' l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income* għall-ghoti ta' helsien minn taxxa doppja, u taht dak l-arrangament dividend jew parti minnu, imqassam minn kumpanija kwalifikanti jkun sugġett għal taxxa fuq l-*income* f'Malta b'rata aktar baxxa minn dik taxxabli fuq l-*income* li minnu jitqassam id-dividend, il-kumpanija ghandha tkun intitolata titlob li l-qliegh jew il-profitti, jew parti minnhom, derivati minnha ghas-sena ta' stima 1988 u għal snin ta' stima ohra ta' warajha, u li jistghu jitqassmu bhala dividend sugġett għal rata mnaqqsa ta' taxxa kif imsemmi qabel, għandhom jiġu ntaxxati b'dik ir-rata mnaqqsa u mhux bir-rata li suppost jiġu ntaxxati biha l-qliegh u l-profitti tal-kumpanija taht l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*, minkejja li d-dividend, jew parti minnu, ma jkunx ġie mqassam.

TAQSIMA III

Inċentivi Ohra

16. (1) Meta l-Korporazzjoni tkun sodisfatta li f'każ ta' kumpanija kwalifikanti jkun konsistenti ma' l-iskop u ma' l-oġġettivi tal-pjan industrijali tal-Gvern, il-Korporazzjoni tista' taghti self lil dik il-kumpanija għall-akkwist ta' mpjant, makkinarju u attivi fissi godda ohra, iżda esklużi art u bini, skond it-termini u l-kundizzjonijiet hawn speċifikati.

(2) Il-Korporazzjoni tista' taghti self kif provdut fis-subartikolu (1) ta' dan l-artikolu, meta l-impjant, makkinarju jew attiv fiss ieħor —

(a) jiġu akkwistati mill-kumpanija mhux użati u mhux *second hand*, u

(b) jiġu akkwistati bħala parti minn programm ta' investimenti b'tul ta' mhux aktar minn tliet snin kif jista' jiġi approvat mill-Korporazzjoni, u

(c) tali programm ta' investimenti jkun ta' mhux anqas minn Lm100,000 fil-każ ta' kumpaniji mwaqqfa nhar jew wara l-1 ta' Ġunju 1987 u ta' mhux anqas minn Lm75,000 fil-każ ta' kull kumpanija oħra.

(3) Self mogħti taħt id-dispożizzjonijiet ta' dan l-artikolu ma jista' fl-ebda każ ikun aktar minn tlieta u tletin fil-mija ta' l-investiment kapitali proġettat kif approvat mill-Korporazzjoni, iżda ebda self ma għandu jkun aktar minn:

(a) Lm500,000 fil-każ ta' kumpaniji li jissodisfaw il-kundizzjoni msemmija fil-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 4 ta' dan l-Att, u

(b) Lm200,000 f'kull każ ieħor.

(4) Ir-rata ta' imġax mitlub mill-Korporazzjoni fuq self mogħti taħt dan l-artikolu għandha tkun ir-rata massima li tista' tintalab fuq self bhal dan skond id-direttivi mahruġa minn żmien għal żmien mill-Ministru responsabbli għall-finanzi taħt l-Att ta' l-1970 dwar il-Kummerċ Bankarju, nieqes —

(a) erba' punti perċentwali dwar self mogħti taħt il-paragrafu (a) tas-subartikolu (3) ta' dan l-artikolu, u

(b) żewġ punti perċentwali dwar self ieħor.

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

Iżda għall-finijiet tat-Titolu XXIII tat-Taqsima II tat-Tieni Ktieb tal-Kodiċi Ċivili, il-Korporazzjoni tista' tippermetti li debitu ipotekarju dwar self dovut lil istituzzjoni finanzjarja f'Malta għandu jiġi eżatt fi grad qabel l-ipoteka ġenerali jew garanzija oħra favur il-Korporazzjoni dwar dak is-self.

(6) Il-hlas lura ta' xi self mogħti taħt dan l-artikolu, u ta' l-imġax fuqu, għandu jsir fi żmien u b'rati kif miftiehma mal-Korporazzjoni, iżda dan iż-żmien ma għandu qatt ikun aktar minn għaxar snin mid-data ta' l-ewwel hlas mis-self li tirċievi l-kumpanija:

Iżda tul l-ewwel sentejn wara l-ewwel hlas lura mis-self, il-kumpanija għandha tħallas biss l-imghax fuq is-self.

(7) Kull self mogħti taħt dan l-artikolu għandu jiġi biss użat mill-kumpanija għal dak il-għan li jkun ġie approvat mill-Korporazzjoni.

(8) Meta l-Korporazzjoni tkun tat self lil kumpanija kwalifikanti taħt id-dispożizzjonijiet ta' dan l-artikolu, hija għandha —

(a) minn żmien għal żmien tagħmel jew tirranġa biex isir dak l-eżami ta' kotba, dokumenti, fondi u ta' kull haġa jew oġġett ieħor li jkun ta' dik il-kumpanija bħalma jkun meħtieġ sabiex jiġi żgurat li s-self ikun qed jiġi wżat għall-għan li għalih ikun ingħata; u

(b) titlob dawk ir-reżokonti finanzjarji mingħand dik il-kumpanija kif tista' tkun teħtieġ, sabiex dawn jintbagħtulha kull tliet xhur jew f'intervalli iqsar fid-diskrezzjoni tal-Korporazzjoni.

(9) Meta l-Korporazzjoni tkun approvat li jingħata self f'taqsimiet, u xi taqsima minn dak is-self tkun għadha ma nġhatatx, il-Korporazzjoni tista', mingħajr preġudizzju għal kull rimedju ieħor, iżżomm kull taqsima tas-self li tkun għadha ma nġhatatx jekk:

(a) xi somma flus dovuta dwar xi self mogħti taħt dan l-artikolu, sew jekk din tkun kapital kif ukoll imghax, tibqa' ma tithallasx; jew

(b) xi self mogħti qabel taħt dan l-artikolu ma jkunx intuża għall-għan li għalih ikun ġie mogħti jew ma jkunx ġie użat b'mod għaqli, ekonomiku u f'waqtu; jew

(c) il-kumpanija tkun qiegħda f'likwidazzjoni jew ma tkunx baqgħet solvibbli jew tkun tat proprjetà għal beneficiċju ta' kredituri; jew

(d) ikun sar ksur ta' jew ma tkunx ġiet imħarsa xi kundizzjoni marbuta mas-self.

(10) L-għoti ta' self li jsir taħt dan l-artikolu ma għandux ikun suġġett għad-dispożizzjonijiet ta' l-Att ta' l-1972 dwar il-Kontroll fuq il-Kambju.

17. (1) Meta l-Korporazzjoni tkun sodisfatta li xi oġġett qiegħed jiġi mportat minn kumpanija kwalifikanti —

Helsien
mid-dazju ta'
importazzjoni

(a) għall-kostruzzjoni, tibdil, rikostruzzjoni jew estensjoni ta' bini jew struttura industrijali jew għal xi estensjoni tagħhom, jew sabiex jissewwa bini jew struttura industrijali jew biex issir estensjoni tagħhom, jew meta dan ikun jikkonsisti f'taġġmir, għodda, makkinarju jew impjant li jkun qiegħed fi jew għandu x'jaqsam ma' bini jew struttura industrijali jew estensjoni tagħhom, jew ikun intiż biex jintuża minflok dak it-taġġmir, għodda, makkinarju jew impjant, u f'kull każ għall-finijiet tal-

kummerċ jew negozju mwettaq jew maħsub li jitwettaq mill-kumpanija; jew

(b) biex iservi ta' materjal jew komponenti jew aċċessorji li jkunu meħtieġa għal u użati mill-kumpanija jew għaliha, għal xi wiehed mill-għanjiet imsemmija fis-subartikolu (1) ta' l-artikolu 3 ta' dan l-Att,

il-Korporazzjoni għandha tohroġ ċertifikat għaldaqstant, u l-kumpanija tkun intitolata timporta dak l-oġġett minghajr ebda hlas ta' dazju ta' l-importazzjoni jew b'rata mnaqqsa ta' dazju ta' l-importazzjoni.

(2) Kull kumpanija li timporta f'Malta xi oġġett bla ma jsir hlas ta' dazju ta' l-importazzjoni jew b'rata mnaqqsa ta' dazju ta' l-importazzjoni taht is-subartikolu (1) ta' dan l-artikolu għandha:—

(a) iżżomm dokumentazzjoni dwar l-oġġetti li hija hekk timporta f'dik il-għamla u li jkollhom dawk il-partikolaritajiet kif jistgħu jintalbu mill-Kontrollur tad-Dwana (minn issa 'l quddiem imsemmi bhala "il-Kontrollur");

(b) tara li l-oġġetti li jiġu hekk importati ikunu markati b'dak il-mod li jista' jintalab mill-Kontrollur;

(ċ) tippermetti lil kull uffiċċjal tal-Kontrollur fil-hinijiet kollha xierqa li jispezzjona d-dokumentazzjoni dwar l-oġġetti hekk importati u li jkollu aċċess għal kull fond tal-kumpanija sabiex jeżamina dawk l-oġġetti li huwa jista' jahseb li jkunu qegħdin hemm gew u sabiex ikun sodisfatt dwar l-eżattezza tal-partikolaritajiet dwar dawk l-oġġetti msemmija f'dik id-dokumentazzjoni.

(3) Ebda oġġett importat f'Malta minn kumpanija bla ma jsir hlas, jew b'rata mnaqqsa, ta' dazju ta' l-importazzjoni skond id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu ma għandu jinbiegh, jingħata jew xort'ohra jitneħħa mill-kumpanija hliet:—

(a) fil-każ ta' bini jew struttura industrijali li għall-kostruzzjoni, tibdil, rikostruzzjoni, estensjoni jew tghammir tagħhom, dan l-oġġett kien impurtat f'Malta:—

(i) lill-persuna li għaliha dak il-bini jew struttura industrijali ikun ġie kostruwit; jew

(ii) wara li jsir il-hlas ta' l-ammont ta' dazju ta' l-importazzjoni li kien ikollu jithallas ma' l-importazzjoni ta' dak l-oġġett li ma kienx għas-subartikolu (1) ta' dan l-artikolu; jew

(iii) bl-awtorità bil-miktub tal-Kontrollur wara li jgħaddu hames snin mill-importazzjoni f'Malta ta' dak l-oġġett jekk dak l-oġġett ikun ġie attwalment użat għall-iskop li għalih ikun ġie importat f'Malta;

(b) fil-każ ta' materjal, komponenti jew aċċessorji importati f'Malta għal xi għan msemmi fis-subartikolu (1) ta' l-artikolu 3 ta'

(i) jekk dawn ikunu inkorporati fl-oġġetti jew komoditajiet li dwarhom kienu ġew importati f'Malta; jew

(ii) wara l-hlas ta' l-ammont ta' dazju ta' l-importazzjoni li kien ikollu jithallas ma' l-importazzjoni ta' dawk il-materjali jew komponenti li ma kienx ghas-subartikolu (1) ta' dan l-artikolu.

(4) Meta xi oġġett jinbiegh jew jinghata lill-kumpanija kwalifikanti li tkun intitolata għal helsien mid-dazju skond ċertiifikat mahruġ taht id-dispożizzjonijiet ta' dan l-artikolu, u l-bejgh jew tnehhija ta' dak l-oġġett lill-kumpanija jsir taht ċirkostanzi li, kieku ma kienx għall-hdim ta' dan l-artikolu, kienu jagħmlu li dak l-oġġett kien jitqies bhala mehud mid-depożt u bhala li d-dazju għandu jithallas fuqu mill-kumpanija skond xi wahda mid-dispożizzjonijiet ta' l-Att ta' l-1976 dwar id-Dazju ta' l-Importazzjoni, dak l-oġġett għandu (safejn biss il-kumpanija kien ikollha dritt għal helsien mid-dazju dwaru, kif intqal qabel, li kieku kienet importat dak l-oġġett fiż-żmien tal-bejgh jew ghotja tiegħu lilha f'Malta) jitqies bhala li ġie importat mill-kumpanija fiż-żmien li fih l-oġġett jinbiegh jew jitneħħa lilha.

18. (1) Bla hsara għad-dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu, il-Korporazzjoni tista, safejn dan ikun jaqbel ma' l-għanijiet u l-obiettivi tal-pjan ndustrijali tal-Gvern, tikseb bini u strutturi ndustrijali għal kumpanija kwalifikanti, b'din il-kera li ġejja:—

Allokazzjoni ta' fabbriki eċċ.

(a) LM1.75 fis-sena għal kull metru kwadru għall-ewwel tlett snin tal-kiri;

(b) b'rata li ma taqbiżx LM4.00 fis-sena għal kull metru kwadru għat-tlettax-il sena tal-kiri li jkun imiss;

(ċ) wara dan, bir-rata li tiġi stabbilita taht il-paragrafu ta' qabel dan, liema rata iżda, għandha tiġi aġġustata minnufih u sussegwentement kull hames snin, biex tiegħu kont taċ-ċaqlieq fl-indiċi ta' l-inflazzjoni li hemm mahsub fl-Iskeda li tinsab ma' l-Ordinanza ta' l-1959 li Tneħħi l-Kontroll tad-Djar bejn l-ewwel sena tal-kiri u d-data meta jsir kull aġġustament bħal dak.

(2) Bla hsara għad-dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu, il-Korporazzjoni tista', sakemm dan ikun jaqbel ma' l-għanijiet u l-obiettivi tal-pjan ndustrijali tal-Gvern, tikseb art għal kumpanija kwalifikanti b'dawn il-kundizzjonijiet —

(a) fil-każ ta' art li tkun tmiss ma' bini jew ma' struttura ndustrijali, b'titolu ta' kera, il-kera li għandha tithallas għandha tkun:—

(i) 23 ċenteżmu kull metru kwadru fis-sena għall-ewwel sittax-il sena tal-kiri;

(ii) wara dan, b'rata li tiġi aġġustata minnufih u sussegwentement kull hames snin sabiex tiegħu kont ta' ċaqlieq fl-indiċi ta' inflazzjoni msemmi qabel bejn l-ewwel sena tal-kiri u d-data meta jsir kull aġġustament bħal dak.

(b) fil-każ ta' art li tinghata mill-Korporazzjoni fi stat mhux żviluppat, l-art ghandha tinghata b'titolu ta' enfitewsi temporanju bi hlas ta' mhux anqas minn 23 centezmu ghal kull metru kwadru fis-sena li jiġi rivedut kull hamsa u ghoxrin sena (sew jekk il-konċessjoni sussegwentement tiġgedded sew jekk le) biex jiehu kont tač-čaqlieg fl-indiçi ta' inflazzjoni msemmi qabel sa mid-data ta' l-ghotja.

(3) Il-Korporazzjoni tista' f'kull każ partikulari tipprovdi bini u strutturi ndustrijali mibnija skond il-htiegijiet ta' kumpanija kwalifikanti, jew tagħmel tibdil f'bini u fi strutturi eżistenti, taht dawk il-kundizzjonijiet li l-Korporazzjoni tista' tiftiehem dwarhom mal-kumpanija.

(4) Il-Ministru jista', minn żmien ghal żmien, b'avviz fil-Gazzetta, ivarja r-rati msemmija fis-subartikoli (1) u (2) ta' dan l-artikolu.

Ghotjiet
ghal Tahriġ.

19. (1) Meta l-Korporazzjoni tkun sodisfatta li xi mpjegat li beda jahdem ma' kumpanija kwalifikanti nhar jew wara l-1 ta' Gunju, 1987 huwa impjegat *full-time* ghal żmien bla limiti, u li dak l-impjegat ikun qed jiehu tahriġ li ghandu x'jaqsam ma' l-attivitajiet tal-kumpanija skond programm ta' tahriġ approvat mill-Korporazzjoni, il-Korporazzjoni tista' taghti ghotja ghal tahriġ lill-kumpanija li tkun ekwivalenti ghal nofs il-paga minima fil-ġimgħa skond il-liġi ghal kull ġimgħa ta' tahriġ attwali li jagħmel dak l-impjegat sa żmien li ma jkunx aktar minn tmienja u erbghin ġimgħa.

(2) Meta l-Korporazzjoni tkun sodisfatta li xi persuna li tkun qed tiġi mharrġa u li għar-rigward tagħha qegħda tinghata ghotja taht id-dispożizzjonijiet ta' dan l-artikolu, hija persuna handikappata, il-Korporazzjoni tista', fid-diskrezzjoni tagħha, iżżid l-ghotja għar-rigward ta' dik il-persuna ghal tlett kwarti tal-paga minima fil-ġimgħa skond il-liġi.

(3) Ghotja ghal tahriġ li kumpanija tirċievi taht dan l-artikolu ma għandhiex titqies li hija dhul taxxabli taht l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*.

Ghotjiet
ghal
servizzi ta'
Management.

20. (1) Meta kumpanija kwalifikanti li hija kumpanija Maltija b'*revenue* mill-bejgħ totali ta' mhux aktar minn LM350,000 fl-aħhar sena finanzjarja tagħha, jew f'dik attwali, tissodisfa lill-Korporazzjoni li, skond pjan ta' tlett snin preżentat għall-approvazzjoni tal-Korporazzjoni, hija tista' ttejjeb il-potenzjal tagħha għall-iżvilupp billi timpjega persuni kwalifikanti sabiex iwettqu xogħol amministrattiv, tekniku, ta' *marketing* jew finanzjarju, jew billi tqabbad konsulenti sabiex jagħmlu dak ix-xogħol, il-Korporazzjoni tista' tirrimborsa hamsa u ghoxrin fil-mija tal-hlasijiet jew salarji mhallsa f'kull sena mill-kumpanija ghal dawk il-persuni jew konsulenti ghal żmien ta' tlett snin, hekk iżda li dan ir-rimbors ma għandux ikun ta' aktar minn LM5,000 f'kull sena.

(2) Ma jsir ebda rimbors taht id-dispożizzjonijiet ta' dan l-artikolu ta' hlasijiet u salarji mhallsin jew li għandhom jithallsu lil xi

persuna li tkun b'xi mod, sew direttament jew indirettament, konnessa mill-viċin jew li tkun tiġi minn xi membru tal-kumpanija kwalifikanti.

(3) Ir-rimbors li kumpanija tirċievi taht dan l-artikolu ma ghandux jitqies bhala dhul taxxabli taht l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*.

21. (1) Minkejja dak li jinsab fl-Att ta' l-1973 dwar it-Taxxa tal-Mewt u tad-Donazzjoni, ebda taxxa ma ghandha tithallas taht dak l-Att ghar-rigward ta' xi sehem li jkollha xi persuna f'kumpanija kwalifikanti meta:—

Eżenzjoni mit-Taxxa tal-Mewt u Donazzjoni.

(a) dak is-sehem hu kompriz fi trasferiment taxxabli li jsehħ nhar jew wara l-1 ta' Ġunju, 1987, u

(b) is-sid ta' qabel ta' dak is-sehem qabel ma jsehħ it-trasferiment taxxabli u s-sid il-ġdid wara li jsehħ, ikunu t-tnejn persuni mhux domiciljati f'Malta, u

(ċ) is-sehem ikun wiehed li għalih japplikaw id-dispożizzjonijiet ta' dan l-artikolu.

(2) Id-dispożizzjonijiet ta' dan l-artikolu japplikaw għal sehem f'kumpanija kwalifikanti meta dan ikun magħmul minn —

(a) azzjonijiet fil-kumpanija;

(b) kull dividend imqassam jew li għandu jitqassam minn dik il-kumpanija;

(ċ) xi flus mislufin jéw avvanzati lill-kumpanija, u kull kreditu iehor li jkun, irrispettivament minn kif ikun sar is-self jew l-avvanz, jew minn kif ġie, u mill-garanzija mogħtija b'akkont tiegħu;

(d) kull sehem fuq flus jew *income* iehor imħallas jew li għandu jithallas mill-kumpanija qabel is-seħħ tat-trasferiment taxxabli.

22. (1) Il-Korporazzjoni tista' tiċċertifika li individwu li mhux persuna eżenti taht l-Att ta' l-1970 dwar l-Immigrazzjoni jista', jekk jinghata liċenzja taht dak l-Att biex jiġi mpjegat minn kumpanija kwalifikanti, jikkontribwixxi għall-iżvilupp industrijali ta' Malta bit-tagħrif u l-esperjenza teknika jew manijerjali tiegħu.

Impjegati barranin.

(2) Meta ndividwu li jinħariġlu ċertifikat taht is-subartikolu (1) ta' dan l-artikolu jokkupa kariga jew pożizzjoni manijerjali jew teknika għolja, jekk il-kumpanija relattiva timpjega lil dak l-individwu għal perjodu fit-tul, għandha tissodisfa lill-Korporazzjoni li fl-istess waqt ta' l-impieg ikunu qegħdin isiru arrangamenti adegwati minnha sabiex individwu iehor li jkun ċittadin ta' Malta jkun jista' jakkwista dak it-tagħrif u dik l-esperjenza li eventwalment jippermettulu jokkupa dik il-kariga jew pożizzjoni.

(3) Jekk il-Korporazzjoni turi li tkun taqbel, meta persuna li mhix domiciljata jew ordinarjament residenti f'Malta ikollha 40 fil-mija jew iżjed mill-azzjonijiet ta' kumpanija kwalifikanti, dik il-persuna ghandha tkun intitolata titlob li individwu nominat minnha ghandu, bla hsara ghad-dispożizzjonijiet ta' l-Att ta' l-1970 dwar l-Immigrazzjoni, jinghata liċenzja taht dak l-Att biex jiġi mpjegat mill-kumpanija f'Malta.

Industriji
f'Ghawdex.

23. (1) Id-dispożizzjonijiet ta' dan l-artikolu ghandhom japplikaw fil-każ ta' kumpanija kwalifikanti meta l-Korporazzjoni tkun sodisfatta li l-attività kollha, jew parti minnha, tal-kumpanija (minn issa 'l quddiem imsejha bhala "kumpanija Ghawdxija") tkun qed titmexxa jew tiġi eżerċitata f'Ghawdex.

(2) Il-Korporazzjoni ghandha taghti ghotja lil kumpanija ghawdxija biex tkopri l-ispejjeż attwali, addizzjonali u mehtieġa ghat-trasport li tkun hallset il-kumpanija biex tittrasporta bejn Malta u Ghawdex makkinarju, impjant, materjal, merkanzija jew prodotti li ghandhom x'jaqsmu ma' l-attivitajiet taghha f'Ghawdex konnessi ma' l-esportazzjoni.

(3) Meta kumpanija Ghawdxija tissodisfa l-kundizzjoni msemmija fil-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 4 ta' dan l-Att, il-Korporazzjoni ghandha taghti ghotja lill-kumpanija biex tkopri l-ispejjeż attwali, addizzjonali u mehtieġa li tkun hallset il-kumpanija biex takkomoda f'Ghawdex ċittadini Maltin li ma humiex ordinarjament residenti f'Ghawdex u li jokkupaw pożizzjonijiet manigerjali jew tekniċi gholja, liema ghotja ghandha tkun limitata ghal żmien ta' tlett snin konsekuttivi:

Iżda l-ghotja ma ghandhiex tkun ta' aktar minn LM1,500 fis-sena ghal kull impjegat individwali u anqas ta' aktar minn LM5,000 lill-kumpanija f'sena wahda.

(4) Iż-żmien li ghalih tista' tinghata ghotja ghal taħriġ taht id-dispożizzjonijiet ta' l-artikolu 19 ta' dan l-Att ghandu jittawwal ghal tlett snin fil-każ ta' impjegat ta' kumpanija Ghawdxija li jkun qed jiġi mharreġ, jekk dak l-impjegat kien ordinarjament residenti f'Ghawdex ghal perijodu ta' mhux anqas minn sena minnufih qabel il-bidu tat-taħriġ tieghu.

(5) L-ispejjeż imsemmija fis-subartikoli (2) u (3) u t-taħriġ imsemmi fis-subartikolu (4), rispettivament, ghandhom ikunu spejjeż u taħriġ li jkunu saru wara l-bidu fis-seħh ta' dan l-Att.

(6) Ghotjiet li tirċievi kumpanija Ghawdxija taht dan l-artikolu ma jitqisux bhala dħul taxxabli taht l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*.

Inċentivi
u
benefiċċji
eċċezzjonali.

24. (1) Il-Korporazzjoni tista', fid-diskrezzjoni taghha, taghti l-inċentivi u l-benefiċċji msemmija fis-subartikoli (2), (3) u (4) ta' dan l-artikolu, lil kumpanija ntermedjarja, lil aġenda ta' esportazzjoni jew lil negozju żghir.

(2) Kumpanija intermedjarja tista' tinghata *soft loans* bit-termini u kundizzjonijiet imsemmija fil-paragrafu (a) tas-subartikolu (3) u fil-paragrafu (a) tas-subartikolu (4) ta' l-artikolu 16 ta' dan l-Att minkejja li l-kumpanija ntermedjarja ma tissodisfax il-kundizzjoni msemmija fil-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 4 ta' dan l-Att.

(3) Ażjenda ta' esportazzjoni tista' tingħata *allowance* għal taħriġ, *allowance* għall-promozzjoni ta' l-esportazzjoni u għotja għal taħriġ skond l-artikoli 10, 11 u 19 ta' dan l-Att, rispettivament, minkejja li l-ażjenda ta' esportazzjoni tista' ma tkunx kumpanija kwalifikanti.

(4) Negozju żgħir jista' jingħata jew jiġi provdut:—

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

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

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

(5) F'dan l-artikolu:—

“ażjenda ta' esportazzjoni” tfisser kumpanija li, f'xi sena, iġġib mhux anqas minn hamsa u disghin fil-mija tad-dhul mill-bejgħ tagħha minn jew permezz ta' l-esportazzjoni ta' oġġetti jew servizzi prodotti jew provduti, skond il-każ, minn kumpaniji kwalifikanti li ma jkunux l-ażjenda ta' esportazzjoni nnfisha;

“kumpanija intermedjarja” tfisser kumpanija kwalifikanti li, f'xi sena, iġġib aktar minn hamsin fil-mija tad-dhul mill-bejgħ tagħha minn kumpaniji kwalifikanti li, fl-istess sena, jesportaw mhux anqas minn hamsa u disghin fil-mija tal-valur monetarju tal-produzzjoni tagħhom (kalkulat “*free on board*”), jew tas-servizzi li jagħtu, skond il-każ;

“negozju żgħir” tfisser persuna li mhix kumpanija li tmexxi jew teżerċita kummerċ jew negozju maħsubin fil-paragrafi (a) jew (b) tas-subartikolu (1) ta' l-artikolu 3 ta' dan l-Att.

TAQSIMA IV Garanzija ta' Inċentivi

25. (1) Meta, wara l-bidu fis-sehħ ta' dan l-Att, kumpanija kwalifikanti jew il-membri jew impjegati tagħha, huma ntitolati għal inċentiv jew benefiċċju taht xi waħda mid-dispożizzjonijiet li ġejjin, għandu jitqies li jkun tniessel kuntratt bejn il-kumpanija jew il-membri jew l-impjegati tagħha u l-Gvern, jew il-Korporazzjoni, skond il-każ, li jiggarrantixxi l-għoti u t-tgawdija ta' l-inċentiv jew benefiċċju relattiv skond id-dispożizzjonijiet ta' dan l-Att kif muri hawn taht:—

Garanzija
ta'
inċentivi.

(a) l-inċentivi u l-benefiċċji kontemplati taht l-artikoli 4, 5, 7, 8, 11, 12 u 14 ta' dan l-Att meta u hekk kif il-kumpanija issir intitolata għal benefiċċju taht daww l-artikoli għal xi sena ta' stima;

(b) l-eżenzjoni mit-taxxa fuq dividendi taht l-artikolu 9;

(ċ) ir-rata ta' taxxa li hi taxxabbli għar-rigward ta' impjegat barrani taht l-artikolu 13 meta u hekk kif dak l-impjegat issir hekk taxxabbli;

(d) qliegh jew profitti mahsubin fl-artikolu 15 ghal daqs kemm idum fis-sehh l-arrangament relativ; u

(e) l-eżenzjoni mit-taxxa taht l-artikolu 21.

(f) ghotjiet dovuti lil kumpanija Ghawdxija skond id-dispożizzjonijiet tas-subartikoli (2) u (3) ta' l-artikolu 23.

(2) Meta xi inċentiv jew benefiċċju mahsubin taht id-dispożizzjonijiet ta' dan l-Att ma jkunux dovuti bi dritt lil kumpanija kwalifikanti jew benefiċjarju iehor izda jiddependi mill-użu ta' diskrezzjoni li tkun vestita fil-Korporazzjoni, l-użu ta' dik id-diskrezzjoni favur benefiċjarju ghandha tikkostitwixxi kuntratt bejn il-benefiċjarju w il-Gvern, jew il-Korporazzjoni, skond il-każ, li jkun jiggarantixxi l-ghotja u t-tgawdija ta' l-inċentiv jew tal-benefiċċju skond id-dispożizzjonijiet ta' dan l-Att.

(3) Mingħajr preġudizzju ghal kull prova ohra li jkollha kumpanija kwalifikanti, ċertifikat mahruġ mill-Korporazzjoni li jkun jghid illi negozju jew kummerċ immexxi jew eżerċitat, jew li jkun mahsub li jitmexxa jew jiġi eżerċitat mill-kumpanija ma jikkonsistix biss jew fil-parti l-kbira fis-sempliċi tkabbir, duplikazzjoni jew tibdil ta' kummerċ jew negozju li qabel kien jitmexxa jew jiġi eżerċitat f'Malta minn xi persuna li hija direttament jew indirettament konnessa ma' dik il-kumpanija, ikun prova konklusiva ghaldaqstant għall-finijiet tal-paragrafu (ċ) tas-subartikolu (1) ta' artikolu 4 ta' dan l-Att. Il-Korporazzjoni tista' toħroġ ukoll ċertifikat għall-istess ghan halli tiġi maqtugħa xi kwistjoni li tista' tinqala' taht id-dispożizzjonijiet tal-paragrafu (a) tas-subartikolu (3) ta' l-imsemmi artikolu.

(4) Il-garanziji mogħtija b'dan l-artikolu m'għandhomx jiġu annullati b'xi azzjoni retrospettiva, sew jekk din issir b'ligi jew mod iehor.

(5) Id-dispożizzjonijiet ta' dan l-artikolu għandhom ikunu mingħajr preġudizzju għad-dispożizzjonijiet ta' kontroll u regolatorji stipulati f'dan l-Att u għas-setgħat tal-President taht l-artikolu 26 ta' dan l-Att.

26. Ebda inċentiv jew benefiċċju mahsubin b'dan l-Att ma għandhom jitgawdew minn xi kumpanija kwalifikanti jew minn benefiċjarju iehor ghal xi sena jew sena ta' stima jekk il-President ta' Malta, b'ordni bil-miktub, jiddikjara li l-ghoti jew l-akkwist jew il-kontinwazzjoni ta' l-ghoti jew ta' l-akkwist ta' dak l-inċentiv jew benefiċċju imur jew jista' jmur kontra l-ordni pubbliku (*ordre public*), u meta tinhareġ ordni bħal dik għandu jkollha effett sa mid-data li tkun indikata fiha, izda f'ebda każ ma għandu ordni jkollu effett retrospettiv.

27. (1) Meta kumpanija kwalifikanti jew benefiċjarju iehor jonqsu li jharsu jew li jaraw li tithares xi wahda mill-kundizzjonijiet marbuta ma' l-ghoti mill-Korporazzjoni ta' inċentiv jew benefiċċju taht dan l-Att, il-Korporazzjoni tista' jew thassar l-inċentiv jew il-benefiċċju jew b'avviż bil-miktub titlob lil dik il-kumpanija jew benefiċjarju iehor fi żmien tletin ġurnata minn meta jirċievu dak l-avviż:—

(a) li jharsu jew jaraw li jitharsu dawk il-kundizzjonijiet; jew

(b) li juru għas-sodisfazzjon tal-Korporazzjoni li n-nuqqas tagħhom ta' tharis jew li jaraw li tkun qed tithares dik il-kundizzjoni kien dovut ghal xi raġuni li mhiex fil-kontroll tagħhom u li jkun hemm prospettiv attwali ta' tharis jew li wiehed jara li tithares dik

Setgħat
tal-
President
ta' Malta.

Revoka ta'
inċentivi
jew
benefiċċji.

il-kundizzjoni f'dak iż-żmien li l-Korporazzjoni jista' jidhrilha xieraq.

(2) Meta kumpanija kwalifikanti jew benefiċjarju iehor juru għas-sodisfazzjon tal-Korporazzjoni li n-nuqqas tagħhom li jharsu jew li jaraw li tithares xi kundizzjoni marbuta ma' l-ghoti ta' xi inċentiv jew benefiċċju taht l-Att kien dovut għal xi raġuni mhux fil-kontroll tagħhom, u li hemm prospetti attwali li jharsu jew li jaraw li tithares dik il-kundizzjoni fi żmien xieraq, il-Korporazzjoni tista' tawtorizza proroga raġjonevoli għall-finijiet ta' tharis ta' dik il-kundizzjoni, hekk kif jidhrilha xieraq.

(3) Meta kumpanija kwalifikanti jew benefiċjarju iehor:

(a) li jkunu intalbu biex jagħmlu hekk b'avviż taht is-subartikolu (1) ta' dan l-artikolu, jonqsu li juru għas-sodisfazzjoni tal-Korporazzjoni li n-nuqqas tagħhom li jharsu jew li jaraw li tithares xi kundizzjoni marbuta ma' l-ghoti ta' xi inċentiv jew benefiċċju kien dovut għal xi raġuni mhux fil-kontroll tagħhom u li hemm prospetti attwali li jharsu jew li jaraw li tithares dik il-kundizzjoni fi żmien xieraq; jew

(b) li jkunu ngħataw proroga taht is-subartikolu (2) ta' dan l-artikolu, jonqsu fil-perjodu ta' dik il-proroga li jharsu jew li jaraw li tithares dik il-kundizzjoni,

il-Korporazzjoni tista' thassar kull inċentiv jew benefiċċju mogħti lill-kumpanija jew benefiċjarju iehor taht dan l-Att, u dak it-thassir jibda iġhodd minn dik id-data li tiġi ffixxata mill-Korporazzjoni.

(4) Meta l-ghoti ta' xi nċentiv jew benefiċċju taht dan l-att jithassar skond id-dispożizzjonijiet ta' dan l-artikolu, dik il-kumpanija jew benefiċjarju iehor għandhom ihallsu jew ihallsu lura lill-Gvern jew lill-Korporazzjoni, skond il-każ, kull somma li kellhom ihallsu lill-Gvern jew lill-Korporazzjoni kieku ma kienx għad-dispożizzjonijiet ta' dan l-Att jew li jkunu irċevew taht dan l-Att, u kull somma li l-kumpanija jew benefiċjarju iehor ikunu hekk obbligati li jhallsu jew ihallsu lura tista' titpatta b'xi somma li tista' tkun dovuta mill-Gvern jew mill-Korporazzjoni lill-kumpanija jew benefiċjarju iehor għall kull raġuni li tkun, salv kull dritt ta' azzjoni tal-Gvern jew tal-Korporazzjoni għall-ġbir lura ta' bilanċ li jkun għadu dovut.

(5) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw biss meta l-ghoti ta' inċentiv jew ta' benefiċċju taht dan l-Att jiddependi mill-użu ta' d-diskrezzjoni vestita fil-Korporazzjoni.

(6) F'kull każ ta' revoka taht id-dispożizzjonijiet ta' dan l-artikolu, il-parti li thoss ruhha aggravata tkun tista' tagħmel appell lill-Bord ta' Appelli mwaqqaf bl-artikolu 28 ta' dan l-Att.

28. (1) Għandu jkun hemm Bord ta' Appelli, minn issa 'l quddiem imsemmi "il-Bord", b'għurisdizzjoni eskusiva li jisma' u jiddeciedi appelli skond id-dispożizzjonijiet ta' l-artikolu 30 ta' dan l-

Twaqqif ta' Bord ta' Appelli.

Att. Il-Bord ikun magħmul minn *Chairman* u żewġ membri oħra, mahtura mill-Prim Ministru minn fost persuni li, fil-fehma tiegħu, huma midhla tal-hwejjeġ imsemmija f'dan l-Att.

(2) Persuna tkun skwalifikata milli tiġi nominata jew milli tkompli tkun membru tal-Bord sakemm tkun membru tal-Kamra tad-Deputati, jew uffiċjal pubbliku.

(3) Kull persuna mahtura membru tal-Bord għandha, qabel ma tidhol għall-kariga tagħha, tagħmel u tissottoskrivi dikjarazzjoni bil-ġurament fuq il-formola preskritta għal dak il-għan quddiem kummissarju għall-ġuramenti li għandha tiġi depożitata għand l-Avukat Ġenerali.

(4) Bla hsara għad-disposizzjonijiet ta' dan l-artikolu, il-kariga ta' membru tal-Bord għandha ssir vakanti —

(a) fit-tmiem ta' hames snin mid-data tal-hatra tiegħu; u

(b) mar-riżenja jew il-mewt ta' membru qabel it-tmiem taż-żmien tal-hatra tiegħu; u

(ċ) mat-tnehhija mil-kariga ta' dak il-membru mill-Prim Ministru minhabba f'inkapaċità li jaqdi l-funzjonijiet tal-kariga tiegħu, kemm jekk minhabba mard mentali jew korporeju jew għal xi raġuni oħra, jew għal imġieba hażina.

(5) Kull membru tal-Bord jista' jiġi rikuzat jew għandu jastjeni fl-istess ċirkostanzi bħal imħallef tal-Qrati Superjuri, u f'kull każ bħal dan il-Prim Ministru għandu jahtar, minflok dak il-membru, persuna oħra li hi kwalifikata biex tkun membru, għall-każ partikolari li għar-rigward tiegħu il-membru jkun ġie rikuzat jew ikun astjena.

(6) Meta l-kariga ta' membru tal-Bord tkun vakanti jew meta xi membru għal xi raġuni ma jkunx jista' jaqdi l-funzjonijiet tal-kariga tiegħu, il-Prim Ministru għandu jahtar persuna li tkun kwalifikata biex tkun mahtura bħala membru, biex tkun membru temporanju tal-Bord; u kull persuna hekk mahtura għandha, bla hsara għad-dispożizzjonijiet tas-subartikoli (4) u (5) ta' dan l-artikolu, tispicċa milli tkun membru bħal dak malli persuna tkun giet mahtura biex timla l-vakanza jew, skond il-każ, malli l-membru li ma setax jaqdi l-funzjonijiet tal-kariga tiegħu jirreżumi dawk il-funzjonijiet.

(7) Il-membri tal-Bord ma jkunux personalment responsabbli għal kull ghemil jew nuqqas tal-Bord magħmul jew li naqas li jsir *in bona fede* matul il-proċedimenti tal-Bord.

(8) Għandu jkun hemm segretarju tal-Bord li għandu jkun uffiċjal pubbliku nominat mill-Prim Ministru sabiex iwettaq il-funzjonijiet ta' Segretarju. Il-Bord għandu jkollu wkoll dawk l-uffiċjali l-oħra li l-Prim Ministru jidhirlu mehtieġa u li jahtar kif intqal qabel.

(9) Il-Membri tal-Bord għandhom jirċievu dak il-hlas li l-Prim Ministru jista' jiffissa.

(10) Il-Ministru jista' jagħmel regolamenti li jirregolaw l-appelli lill-Bord u, mingħajr preġudizzju għall-ġeneralità ta' dak li hemm imsemmi qabel, jista' jagħmel regolamenti:

- (a) li jippreskrivu l-mod li bih appell għandu jsir lill-Bord;
- (b) li jippreskrivu l-proċedura li l-Bord għandu juża fis-smiegh ta' appell u d-dokumentazzjoni li għandha tinzamm mill-Bord;
- (ċ) li jippreskrivu l-mod li bih il-Bord għandu jitlaqqa' u l-postijiet fejn u l-hinijiet li fihom il-Bord għandu jagħmel is-seduti;
- (d) li jippreskrivu d-drittijiet li għandhom jithallsu dwar appelli lill-Bord; u
- (e) b'mod ġeneriku għat-tweġġ tad-dispożizzjonijiet ta' dan l-Att dwar il-Bord.

29. (1) Il-Bord għandu jkollu s-setgħa, li tiġi eżerċitata permezz ta' *Chairman* tiegħu —

Taħrik ta' xhieda u għoti ta' għuramenti.

- (a) li jħarrek xhieda;
- (b) li jagħti l-għurament lil kull xhud u li jeħtieġu jixhed jew iġib kotba jew dokumenti oħra quddiemu.

(2) Taħrika tista' tiġi notifikata jew bl-idejn jew bil-posta. Meta tiġi notifikata bl-idejn ikun biżżejjed biex tiġi ppruvata n-notifika li jiġi ppruvat li t-taħrika thalliet ma' persuna 'l fuq mill-età ta' 16-il sena fil-post tar-residenza jew tan-negozju tal-persuna mharrka; u jekk tiġi notifikata bil-posta jkun biżżejjed biex tiġi ppruvata n-notifika li jiġi ppruvat li t-taħrika kienet indirizzata u mpostata tajjeb.

(3) Kull persuna mharrka kif intqal qabel li tirrifjuta, jew tonqos mingħajr raġuni xierqa, li tattendi fil-post u l-hin imsemmija fit-taħrika, jew li tirrifjuta, mingħajr raġuni xierqa, li twieġeb jew li twieġeb b'mod shih u sodisfaċenti, mill-aħjar li taf u li temmen, il-mistoqsijiet kollha li jsirulha mill-Bord jew bi qbil mal-Bord, jew li tirrifjuta jew tonqos, mingħajr raġuni xierqa, li tipproduci xi dokument li tkun meħtieġa li tipproduci mill-Bord jew bi qbil mal-Bord, tkun hatja ta' reat kontra dan l-Att:

Iżda, bla ħsara għall-ġeneralità tad-dispożizzjonijiet tal-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu, ebda persuna li tixhed quddiem il-Bord ma tista' tkun imġieghla twieġeb għal xi mistoqsija meta t-tweġġa tista' tesponiha għal proċess kriminali, u kull persuna bħal dik ikollha, dwar kull xiehda tagħha quddiem il-Bord, l-istess privileġġi li għandu xhud li jixhed quddiem il-Qorti.

30. (1) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (2) ta' **Appelli lill-Bord**, dan l-artikolu, kumpanija kwalifikanti jew benefiċjarju iehor li jkunu aggravati b'xi deċiżjoni meħuda dwar hwejjeġ li jaqgħu taht jew li huma

mahsubin fid-dispożizzjonijiet ta' dan l-Att ghandu jkollhom d-dritt li jappellaw minn dik id-deċiżjoni quddiem il-Bord.

(2) Bla hsara ghad-dispożizzjonijiet tas-subartikolu (6) ta' l-artikolu 27 ta' dan l-Att, is-subartikolu (1) ta' dan l-artikolu ma japplikax ghal deċiżjonijiet mehuda mill-President ta' Malta, mill-Ministru, jew il-Korporazzjoni, skond il-każ, fl-eżerċizzju ta' poter diskrezzjonali.

(3) Id-dispożizzjonijiet ta' dan l-artikolu huma bla hsara ghall-proċedimenti mahsubin —

(a) Mill-artikolu 55 sa l-artikolu 58 ta' l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*; u

(b) mill-artikolu 24 sa l-artikolu 27 ta' l-Att ta' l-1973 dwar it-Taxxa tal-Mewt u tad-Donazzjoni:

Iżda kull punt deċiż taht dan l-artikolu dwar xi haġa mahsuba f'dan l-Att ghandu jkun finali u konklusiv, bla hsara ghad-dispożizzjonijiet ta' l-artikolu 31 ta' dan l-Att.

(4) L-appelli kollha lill-Bord ghandhom jinstemghu bil-magħluq sakemm il-Bord, fuq rikors taż-żewġ partijiet fil-kawża, ma jordnax xort'ohra.

(5) Il-Bord jista' jordna l-korrezzjoni ta' xi żball aritmetiku li jsir f'xi deċiżjoni tiegħu wara li jsir rikors ipprezentat minn xi wahda mill-partijiet fi żmien tletin jum mid-data tan-notifika lilha ta' dik id-deċiżjoni, u dak ir-rikors ghandu jiġi notifikat lill-parti l-ohra.

Appelli lill-Qorti ta' l-Appell.

31. (1) Appell minn deċiżjoni tal-Bord jista' jsir mill-parti wahda jew l-ohra, fuq punt ta' liġi biss, lill-Qorti ta' l-Appell b'rikors ipprezentat fi żmien tletin jum mid-data tan-notifika lilha bid-deċiżjoni tal-Bord, u dak ir-rikors ghandu jiġi notifikat lill-parti l-ohra.

(2) Kemm-il darba regoli magħmulin taht dan l-Att ma jipprovdux ghal żmien itwal, ghandu jinghata lill-partijiet avviz ta' sebat ijiem dwar id-data appuntata ghas-smiegh ta' appell quddiem il-Qorti ta' l-Appell.

(3) L-appelli kollha lill-Qorti ta' l-Appell ghandhom jinstemghu bil-magħluq kemm-il darba l-Qorti, fuq rikors taż-żewġ partijiet fil-kawża ma tordnax xort'ohra.

(4) Il-Bord imwaqqaf taht l-artikolu 29 tal-Kodiċi ta' Organizazzjoni u Proċedura Ċivili jista' jagħmel regoli dwar appelli lill-Qorti ta' l-Appell taht dan l-artikolu, u jippreskrivi d-drittijiet li ghandhom jithallsu ghal dwak l-appelli.

(5) Il-President tal-Korporazzjoni ghandu mill-aktar fis possibbli jippubblika d-deċiżjonijiet mogħtija mill-Bord u mill-Qorti ta' l-Appell, iżda mingħajr ma jikxef l-identità ta' xi persuna.

TAQSIMA V

Dispożizzjonijiet Ġenerali

32. Ebda haġa f'dan l-Att ma ghandha tolqot id-dispożizzjonijiet ta' xi liġi oħra tkun liema tkun hlief sakemm biss id-dispożizzjonijiet ta' dan l-Att ma jkunux minflok jew ma jkunux jipprevalu fuq id-dispożizzjonijiet ta' dik il-liġi, u ebda inċentiv, eżenzjoni, tnaqqis ta' taxa jew benefiċċju jew privileġġ ieħor maħsubin taht id-dispożizzjonijiet ta' dan l-Att ma ghandu jbidel xi obbligu li jiġu pprovduti prospetti, dikjarazzjonijiet, dettalji jew dokumenti skond kif meħtieġa minn xi liġi oħra. Effett fuq liġijiet oħra.

33. (1) Hlief meta jkun meħtieġ xort'oħra għall-finijiet ta' dan l-Att jew fil-kors ta' prosekuzzjoni għal xi reat imwettaq dwar dan l-Att, jew meta l-Prim Ministru jordna xort'oħra — Segretezza uffiċjali.

(a) kull persuna li jkollha dmir uffiċjali jew li tkun impjegata fl-amministrazzjoni ta' dan l-Att ghandha tqis u titratta kull dokument u informazzjoni dwar hwejjeġ maħsubin fi jew li jsiru taht id-dispożizzjonijiet ta' dan l-Att bħala li huma sigrieti u konfidenzjali u ghandha tagħmel u tissottoskrivi dikjarazzjoni bil-ġurament fuq il-formola preskritta għaldaqstant quddiem kummissjunarju għall-ġuramenti li ghandha tiġi depożitata għand l-Avukat Ġenerali.

(b) ebda persuna bħal dik ma tkun meħtieġa li turi fi jew quddiem xi qorti, tribunal, bord, kumitat jew awtorità oħra, xi materja jew haġa li ssir taf biha jew li tkun fil-pussess tagħha fil-qadi ta' dmirijietha taht dan l-Att.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, l-uditur tal-Korporazzjoni ghandu jkollu s-setgħa jara kull dokumentazzjoni u dokument skond ma jkunlu meħtieġ fit-twettiq ta' dmirijietu.

34. (1) Kumpanija kwalifikanti jew benefiċjarju ieħor jistgħu jinghataw u jistgħu jiksbu aktar minn forma waħda ta' inċentiv jew benefiċċju taht dan l-Att. Inċentivi kumulativi u għażla.

(2) Kumpanija kwalifikanti jew benefiċjarju ieħor jistgħu f'kull żmien li jkun, b'avviż bil-miktub, jagħzlu li ma jinghataw jew li ma jieħdu ebda inċentiv jew benefiċċju li jkun xort'oħra dovut lilhom taht id-dispożizzjonijiet ta' dan l-Att. Dan l-avviż ghandu jispeċifika d-data minn meta tista' ssehħ l-għażla tagħhom, liema data ghandha dejjem tkun l-ewwel jum ta' sena, jew ta' sena ta' stima jew ta' xi perjodu finanzjarju ieħor, u jkun irrevokabbli u għal perijodu ndefinit dwar dawk il-hwejjeġ li minhabba fihom ikun sar.

35. (1) Ebda inċentiv jew benefiċċju li jista' jinghata jew jinkiseb taht dan l-Att ma ghandu hekk jinghata jew jinkiseb, u ma jkun jeżisti ebda dritt għalih minkejja dak kollu li jinghad f'dan l-Att hlief — Dokumentazzjoni u ċertifikar.

(a) meta dokumentazzjoni u konteġġi xierqa u suffiċjenti, inkluża dokumentazzjoni li ssahhahhom b'mod xieraq, ikunu nżammu ghas-sena, jew ghas-sena ta' stima jew ghal perjodu ta' konteġġ relattiv, skond il-każ, mill-kumpanija kwalifikanti li altrimenti tkun intitolata ghall-inċentiv jew ghall-benefiċċju jew li in konnessjoni maghha dak id-dritt jinqala';

(b) meta jkunu nżammu konteġġi separati skond il-htieġa biex jiġi identifikat u kwantifikat l-inċentiv jew benefiċċju;

(c) meta jintbaghtu lill-awtorità xierqa dawk il-kalkoli, prospetti, dikjarazzjonijiet, dettalji, jew dokumenti li jistgħu jkunu mehtieġa biex jiġi stabbilit b'mod ċar id-dritt ghall-inċentiv jew ghall-benefiċċju;

(2) Ebda dikjarazzjoni, konteġġ jew dokument li jkunu, mibgħutin lill-Korporazzjoni jew lil xi awtorità oħra sabiex jinkiseb xi inċentiv jew benefiċċju maħsub fid-dispożizzjonijiet ta' dan l-Att, minbarra dawk imsemmija fis-subartikolu (4) ta' l-artikolu 24 ta' dan l-Att, ma ghandhom ikunu ikkunsidrati jew meqjusa hliet jekk ikunu ċertifikati minn *accountant* u uditur pubbliku ċertifikat b'istess mod li bih ghandhom jiġu certifikati l-karta tal-bilanċ u l-kont tal-qlieġ u telf ta' kumpanija taht id-dispożizzjonijiet ta' l-Ordinanza ta' l-1962 dwar Soċjetajiet Kummerċjali, u ghall-fini ta' dan is-subartikolu, ghandhom japplikaw id-dispożizzjonijiet ta' l-artikolu 140 ta' dik l-Ordinanza.

Fondi ta' rizerwa.

36. (1) Kumpanija kwalifikanti li tkun qegħda tirċievi xi wiehed mill-inċentivi u benefiċċji msemija fis-subartikolu (4) ta' dan l-artikolu ghandha, fi tmiem il-perjodu ta' konteġġ li matulu l-inċentiv jew il-benefiċċju għandu jitniżżel fit-kotba, tittrasferixxi u turi fil-karta tal-bilanċ tagħha fid-data msemija fond ta' rizerwa f'somma li tkun daqs l-ammonti li hemm jintwerew.

(2) Għall-finijiet tas-subartikolu (1) ta' dan l-artikolu, il-profitti disponibbli għal trasferiment lil dak il-fond ta' rizerwa ghandhom ikunu l-profitti kkalkulati skond id-dispożizzjonijiet ta' l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income* u ta' dan l-Att, u meta fi tmiem ta' xi perjodu ta' konteġġ kif intqal qabel, il-profitti hekk ikkalkulati huma tali li l-fond ta' rizerwa, jew l-ammont kollu tiegħu, ma jstax jitwarrab f'dak il-perjodu, l-obbligu li jiġu trasferiti l-profitti ġewwa fond ta' rizerwa għandu jingiebb 'il quddiem, f'parti minnu jew kollu kemm hu, skond il-każ, għall-perjodu ta' konteġġ sussegwenti u għandu jitqies bhala obbligu għal dak il-perjodu, u jibqa' għaddej b'dan il-mod għall-perjodi ta' wara.

(3) Fond ta' rizerwa mwaqqaf taht id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għandu jinżamm fil-karta tal-bilanċ tal-kumpanija għal żmien indefinit u ma ghandux jitqassam jew jinbidel f'kapital azzjonarju tal-kumpanija. Anqas ma għandu dak il-fond jitnaqqas sabiex jittiehed kont ta' xi telf li ssofri l-kumpanija, sew jekk dan it-telf ikun ta' xorta ordinarja jew natura straordinarja, jew ta' għamla kapitali jew ta' dħul.

(4) L-inċentivi u l-benefiċċji msemija fis-subartikolu (1) ta' dan l-artikolu huma dawn li ġejjin:—

(a) l-ammont nett tal-profitti sugġetti għal rata ta' taxxa ta' l-*income* amnaqqa taht id-dispożizzjonijiet ta' l-artikolu 6 ta' dan l-Att;

(b) l-ammont ta' xi għotjiet mogħtijin taht id-dispożizzjonijiet li ġejjin ta' dan l-Att:—

(i) l-artikolu 19 bhala għotja għal taħriġ;

(ii) l-artikolu 20 bhala għotja għal servizzi ta' *management*;

(iii) is-subartikoli (3) u (4) ta' l-artikolu 23 bhala għotjiet għal akkomodazzjoni u għal taħriġ għall-industrija f'Għawdex, rispettivament.

(5) Tqassim magħmul lill-membri ta' kumpanija fil-kors ta' l-istralċjar tal-kumpanija minn xi fond ta' riserva mwaqqaf skond id-dispożizzjonijiet ta' dan l-artikolu ma għandux ikun sugġett għal taxxa taht l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*:

Izda kull taxxa mħallsa mill-kumpanija fuq il-profitti msemmija fil-paragrafu (a) tas-subartikolu (4) ta' dan l-artikolu ma tistax tkun disponibbli lil min jirċievi t-tqassim kemm bhala kreditu jew bhala kumpens taht id-dispożizzjonijiet ta' l-Att imsemmi.

37. (1) Kull kumpanija kwalifikanti jew persuna oħra li tippretendi jew tfittex li tikseb jew tgawdi xi nċentiv jew benefiċċju taht id-dispożizzjonijiet ta' dan l-Att għandha —

Setgħat tal-Korporazzjoni u awtoritajiet oħra.

(a) tagħti lill-Korporazzjoni u lil kull awtorità oħra dik l-informazzjoni u dawk il-kontegġi, dikjarazzjonijiet u dokumenti oħra li l-Korporazzjoni jew dik l-awtorità l-oħra jistgħu iqisu meħtieġa għall-finijiet ta' dan l-Att;

(b) tidher jew tibgħat rappreżentant sabiex jattendi quddiem il-Korporazzjoni jew awtorità oħra biex titwieġeb kull mistoqsija li ssir skond il-liġi in konnessjoni ma' dan;

(c) tippermetti, b'mod raġjonevoli lill-Korporazzjoni jew awtorità oħra, għall-finijiet ta' dan l-Att, id-dhul għal kull fond u post, u l-wiri ta' kotba u dokumenti oħra, u thalli li jsiru kopji tagħhom.

(2) Il-Korporazzjoni jew awtorità oħra tista' tiddelega kull dritt u setgħa mahsubin f'dan l-artikolu lil kull wiehied mill-uffiċjali u mpjegati tagħha u lil kull persuna oħra, tkun min tkun.

TAQSIMA VI

Reati u Pieni

38. Kull persuna li, hliet kif provdut jew permess taht dan l-Att jew għall-finijiet tiegħu, tikkomunika jew tittenta tikkomunika lil xi per-

Piena għal reati kontra s-segretezza uffieċjali.

suna ohra xi materja jew haġa ohra li tkun għall-attenzjoni tagħha jew li kienet fil-pussess tagħha fil-qadi ta' dmirijietha taht dan l-Att, tkun hatja ta' reat u meta tinstab hatja tehel multa ta' mhux anqas minn Lm200 u mhux iżjed minn Lm2,000, jew prigunerija għal żmien ta' mhux iżjed minn sitt xhur, jew dik il-multa u prigunerija flimkien.

Piena għal min jagħmel dikjarazzjonijiet mhux korretti.

39. Kull persuna li minghajr raġuni xierqa tipprepara xi dikjarazzjoni li ma tkunx korretta jew taghti nformazzjoni li ma tkunx korretta, dwar xi materja jew haġa li taqa' taht dan l-Att, tkun hatja ta' reat u meta tinstab hatja tehel multa ta' mhux anqas minn Lm300 u mhux iżjed minn Lm2,000.

Dispożizzjonijiet dwar frodi eċċ.

40. Kull persuna li xjentement u bil-hsieb li tikseb xi inċentiv jew benefiċċju taht dan l-Att jew li tghin lil xi persuna ohra biex tagħmel dan —

(a) tħalli barra minn xi prospett jew minn xi dokument jew dikjarazzjoni oħrajn, ippreparati jew mibgħutin għall-finijiet ta', jew taht, dan l-Att, xi dettall li kellu jidhol fihom; jew

(b) tagħmel xi dikjarazzjoni falza jew inseriment falz f'xi jew dokument jew dikjarazzjoni oħrajn ippreparati jew mibgħutin għall-finijiet ta', jew taht, dan l-Att; jew

(c) taghti xi twegiba falza, sew verbalment jew bil-miktub, għal xi mistoqsija jew talba għal tagħrif li jsirulha skond id-dispożizzjonijiet ta' dan l-Att; jew

(d) tipprepara jew iżzomm jew tawtorizza l-preparazzjoni jew iż-żamma ta' xi kotba tal-kontijiet foloz jew ta' dokumentazzjoni ohra falza jew tiffalsifika jew tawtorizza l-falsifikazzjoni ta' xi kotba tal-kontijiet jew dokumentazzjoni; jew

(e) tagħmel użu minn xi frodi, tidwir jew mezz ieħor ta' qerq li jkun, jew tawtorizza l-użu ta' xi frodi, tidwir jew mezz ieħor ta' qerq,

tkun hatja ta' reat, u għal kull reat tehel, meta tinstab hatja, multa ta' mhux anqas minn Lm500 u mhux iżjed minn Lm5.000 jew prigunerija għal xi żmien ta' mhux iżjed minn sitt xhur, jew għal dik il-multa u prigunerija flimkien.

Piena ġenerali.

41. Jekk xi persuna tikser jew tonqos li thares xi dispożizzjoni ta' dan l-Att jew ta' xi regolament li jsir tahtu, li dwaru ma giet provduta ebda piena speċjali, tkun hatja ta' reat u għal kull reat tehel, meta tinstab hatja, multa ta' mhux anqas minn Lm100 u mhux iżjed minn Lm500.

Dispożizzjonijiet dwar reati.

42. Id-dispożizzjonijiet ta' dan l-Att li jstabbilixxu reati u pjeni dwaru ma jolqtux it-thaddim ta' xi ligi ohra li tistabbilixxi reati u pjeni dwar l-istess atti jew omissjonijiet u ma għandhomx, b'mod partikolari, jolqtu l-applikazzjoni ta' xi piena akbar taht xi ligi ohra.

43. Proċedimenti għal reat taht dan l-Att jistgħu jinbdew f'kull żmien sa hames snin mid-data tat-twettieq tar-reat.

Preskrizzjoni
għal reati.

TAQSIMA VII

Dispożizzjonijiet Finali

44. Il-Korporazzjoni tista' tagħmel regolamenti biex iġġib fis-seħh xi waħda mid-dispożizzjonijiet ta' dan l-Att u, bla ħsara għall-generalita ta' dak li hemm imsemmi qabel, jistgħu daww ir-regolamenti b'mod partikolari, jipprovdu dwar —

Setgħa
għall-egħmil
ta' regolamenti.

(a) l-ghamla ta' l-applikazzjonijiet, prospetti, dikjarazzjonijiet, rapporti u dokumenti ohra għall-finijiet ta' dan l-Att;

(b) il-proċedura li għandha tiġi segwita fi hwejjeg dwar id-dispożizzjonijiet ta' dan l-Att, inkluż l-ipproċessar ta' applikazzjonijiet magħmulin għall-finijiet ta' dan l-Att.

45. (1) Mal-bidu fis-seħh ta' dan l-Att, id-dispożizzjonijiet ta' l-Ordinanza ta' l-1959 dwar l-Għajnuna lill-Industriji ma jibqgħux jgħoddu dwar xi persuna li tmexxi jew teżerċita, jew li fi ħsiebha tmexxi jew teżerċita, xi negozju jew kummerċ mahsubin fil-paragrafi (a) jew (b) tas-subartikolu (1) ta' l-artikolu 3 jew fl-artikolu 24 ta' dan l-Att, bla ħsara għal kull haġa li saret jew li naqset milli ssir jew li għad trid issir bis-saħħa tagħhom minn jew għar-rigward ta' xi persuna bħal dik, u b'mod partikolari għal kull għajnuna mogħtija jew għal kull obbligu, sew kriminali kemm ċivili, li għaliha tkun saret responsabbli dik il-persuna taht dik l-Ordinanza.

Dispożizzjonijiet
transitorji
dwar
l-Ordinanza
dwar
l-Għajnuna
lill-Industriji.

(2) Mill-bidu fis-seħh ta' dan l-Att, il-proċedura għall-ghoti ta' xi helsien mid-dazju tad-dwana skond l-artikolu 7 ta' l-Ordinanza ta' l-1959 dwar l-Għajnuna lill-Industriji, u biex tiġi regolata kull haġa li għandha x'taqsam ma' dan, għandha tkun dik imsemmija fl-artikolu 17 ta' dan l-Att u d-dispożizzjonijiet regolatorji rilevanti ta' dan l-Att, b'eskluzjoni għad-dispożizzjonijiet ta' dik l-Ordinanza.

(3) Kull riferenza f'xi liġi ohra għall-Ordinanza ta' l-1959 dwar l-Għajnuna lill-Industriji għandha tiftiehem bħala riferenza għal dik l-Ordinanza u għal dan l-Att.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 119 tat-22 ta' Ġunju, 1988.

JIMMY FARRUGIA
Speaker

P. MUSCAT TERRIBILE
Skrivan tal-Kamra tad-Deputati

INDUSTRIAL DEVELOPMENT ACT, 1988

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I assent.

(L.S.)

PAUL XUEREB
Acting President

5th July, 1988

ACT No. XXI of 1988

AN ACT to encourage the establishment of new industries and the expansion of existing ones, and to make ancillary arrangements in relation thereto.

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

Short title.

1. This Act may be cited as the Industrial Development Act, 1988.

Interpretation.

2. (1) In this Act, unless the context or subject otherwise requires:

“body of persons” means any partnership, fellowship or society of persons, whether vested with legal personality or not;

“certified public accountant and auditor” means an individual who holds a warrant to act in this capacity issued under the Accountancy Profession Act, 1979, or a partnership of such individuals duly registered under the said Act;

“company” means:

(a) a limited liability company constituted in accordance with the provisions of the Commercial Partnerships Ordinance, 1962, or

(b) a co-operative society constituted in accordance with the provisions of the Co-operative Societies Act, 1978;

“Corporation” means the Malta Development Corporation established under the Malta Development Corporation Act, 1967;

“income tax” means tax charged or chargeable under the provisions of the Income Tax Act, 1948;

“Maltese company” means a company in which Maltese citizens either —

(a) hold more than half in nominal value of its issued share capital, excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution; and

(b) are entitled to more than half its voting power.

“Minister” means the Minister responsible for Industry and includes, to the extent of the authority given, any Parliamentary Secretary authorised in that behalf;

“person” includes a body of persons;

“prescribed” means prescribed by regulations under this Act;

“public officer” has the same meaning as is assigned to it by section 124 of the Constitution of Malta;

“qualifying company” means a company qualifying for incentives or benefits under this Act in accordance with the provisions of section 3.

(2) Enactments referred to in this Act shall include any other enactments replacing the said laws, and where reference in this Act is made to specific provisions of any existing enactment, such reference shall be deemed to comprise also a reference to the corresponding provisions of any enactment replacing the said law.

(3) Words and expressions used in this Act and in other enactments referred to in this Act shall, unless defined in this Act, be construed and have the same meaning in this Act as in the said other enactments.

3. (1) Without prejudice to the provisions of section 24 of this Act, the incentives and benefits contemplated by this Act shall be due to and obtained only by a company which carries on or carries out, or intends to carry on or carry out, in Malta, a trade or business consisting solely of:

Beneficiaries
under this Act.

(a) the production, manufacture, improvement, assembly, processing, repair, preservation or maintenance of any goods, materials, commodities (including computer software), equipment, plant or machinery; or

(b) the rendering of services of an industrial nature analogous to the activities referred to in paragraph (a) of this subsection, including the repair, maintenance, commissioning, installation, inspection or testing of plant, machinery or equipment.

(2) A trade or business contemplated in subsection (1) of this section shall be a trade or business actually and physically carried on or carried out in Malta, so however that where the services referred to in paragraph (b) thereof are rendered outside Malta, the said services shall, for the purposes of this section, be deemed to have been rendered in Malta if the actual services are wholly or mainly rendered by citizens of Malta.

(3) Subject to the provisions of section 25 of this Act, the Minister may from time to time upon a resolution of the House of Representatives by notice in the Gazette exclude from any or all of the incentives and benefits contemplated by this Act companies that would otherwise be qualifying companies but whose trade or business comprises activities specified in the said notice.

(4) Any notice published in accordance with the provisions of subsection (3) of this section may be subsequently revoked or modified by the Minister upon a resolution of the House of Representatives.

(5) The incentives and benefits contemplated by this Act shall only be due in respect of activities happening on or after 1st June, 1987, and in respect of gains or profits earned after that date.

PART II

Main Income Tax Incentives

Tax holidays.

4. (1) Where a qualifying company:

- (a) is a company constituted on or after 1st June, 1987, and
- (b) subject to the provisions of subsection (5) of this section, exports in monetary value not less than ninety five per cent of its production (calculated "free on board"), or of the services it renders, as the case may be, and
- (c) carries on or carries out a trade or business which does not consist solely or mainly in the mere expansion, duplication or replacement of a trade or business formerly carried on or carried out in Malta by any person in any way directly or indirectly connected or associated with the said company through shareholding, voting or other ownership or controlling rights, irrespective of the person in whom such rights are or may have been vested.

such company shall be exempt from income tax on the gains or profits from its trade or business made during ten consecutive years of assessment which years shall be comprised within the company's first twelve years of assessment as may be determined by the company by way of an irrevocable notice in writing to the Corporation to be given not later than the end of the third year of assessment.

(2) If a company in any year immediately preceding a year of assessment comprised in the ten consecutive years of assessment referred to in subsection (1) of this section exports less than ninety five per cent of its production, the company shall for that year of assessment forfeit the exemption granted under the provisions of this section:

Provided that such forfeiture for any year as aforesaid shall not

(a) affect the company's right for exemption in any other year of assessment; or

(b) obtain for the company exemption under this section for any year not comprised in the original ten consecutive years of assessment.

(3) For the purposes of subsection (1) of this section:

(a) the acquisition by a company of any trade or business formerly carried on or carried out by any person not connected with the company as set out in paragraph (c) of the said subsection shall not qualify the said company to obtain the exemption from income tax contemplated by this section;

(b) where on the 1st June, 1987, a company was controlled at least as to fifty per cent directly or indirectly by Government and not less than fifty per cent of the shares of the company were owned directly or indirectly by Government, if all such shares are acquired by any person not under Government control, such company shall be qualified to obtain the exemption contemplated in subsection (1) of this section if the company is a qualifying company and it satisfies the condition at paragraph (b) of the said subsection.

(4) The income of any company for any year of assessment in respect of which exemption from income tax operates under the provisions of this section shall be computed in the manner set out in the Income Tax Act, 1948, and in accordance with its provisions:

Provided that:

(a) the provisions of the said Act shall be superseded or replaced as may be necessary by the provisions of this Act;

(b) any entitlement to a deduction under the provisions of section 12 of this Act for any year of assessment in respect of which exemption under the provisions of this section is due, shall be deferred to the first year of assessment next following the ten consecutive years of assessment referred to in subsection (1) of this section;

(c) any unabsorbed losses or unabsorbed capital allowances (including the allowances contemplated by this Act) at the end of any year of assessment exempt from income tax under the provisions of this section shall be carried forward strictly in the manner set out in the Income Tax Act, 1948, notwithstanding that such carry forward is from an exempt year into a year when no such exemption is operative.

(5) The words "not less than ninety-five per cent" in subsection (1) of this section shall be substituted by the words

“substantially the whole” and subsection (2) shall be construed accordingly in any particular line of production or manufacture as may be determined by the Minister by notice published in the Gazette and in that case the words “substantially the whole” shall mean that percentage higher than ninety-five percent as the Minister may mention in the same notice:

Provided that such substitution shall, in respect of any qualifying company, be applicable only as from its first accounting period commencing on a day subsequent to that on which notice is published as aforesaid.

Export incentive
scheme

5. (1) Where a qualifying company in any year of assessment up to and including the year of assessment 2001 increases its export sales over such sales during a base period by the percentages specified in subsection (5) of this section, the additional export profits earned by the company in that year from the export sales resulting in such increase shall be exempt from income tax.

(2) The additional profits exempt from income tax in accordance with the provisions of subsection (1) of this section shall be calculated in accordance with the following formula:—

$$\frac{("Y" \times "X") - ("B" \times "A")}{("Z" \quad) \quad ("C" \quad)}$$

$$("Z" \quad) \quad ("C" \quad)$$

where:—

“A” = profits in base period

“B” = export sales during base period

“C” = total sales during base period

“X” = profits earned in year of assessment

“Y” = export sales in year of assessment

“Z” = total sales in year of assessment

(3) For the purpose of the computation set out at subsection (2) of this section:

(a) there shall be excluded any income which does not accrue to the company from a trade or business and any sale or other component of its turnover which is not connected with its trade or business;

(b) “profits” and “income” shall in all cases be taken as comprised in the company’s chargeable income for income tax purposes after account has been taken, where appropriate, of any incentive or benefit obtained by the company under the provisions of this Act;

(c) a loss made in any year of assessment comprised in a base period shall be deemed to be zero profits.

(4) For the purposes of this section, profits and export sales during a base period shall be the average profits and export sales during a period of two consecutive years of assessment as follows:—

Year of Assessment	Base Period
1989 to 1993	year of assessment: 1987 and 1988
1994	1988 and 1989
1995	1989 and 1990

Year of Assessment	Base Period
1996	year of assessment: 1990 and 1991
1997	1991 and 1992
1998	1992 and 1993
1999	1993 and 1994
2000	1994 and 1995
2001	1995 and 1996

(5) Exemption from income tax under this section shall be due where the increase in export sales is of:

(a) ten per cent or more over the corresponding base period in the first year of exemption;

(b) fifteen per cent or more over the corresponding base period in the second year of exemption; and

(c) twenty-five per cent or more over the corresponding base period in the third and subsequent years of exemption:

Provided that no gain or profit earned by a company from increased export sales shall be exempt from income tax in any year of assessment which succeeds by more than nine years the first year of assessment in which exemption under this section is due.

(6) The provisions of this section shall only be applicable to:

(a) a qualifying company constituted before 1st June 1987, and to

(b) a qualifying company constituted on or after that date if that company, for any year of assessment, would have been entitled to benefit from an exemption contemplated in section 4 of this Act but for the provisions of paragraph (b) of subsection (1) thereof.

(7) For the purposes of this section, export sales shall in all cases and for all years of assessment be taken to be the monetary value of export production of a qualifying company calculated "free on board", or of the services it exports, as the case may be.

6. (1) Subject to the provisions of subsection (2) of this section, where it appears to the Corporation that the gains or profits or part thereof derived by a qualifying company from its trade or business or part thereof in the year of assessment commencing on 1st January, 1988, or in subsequent years of assessment, have been set aside for the exclusive purpose of financing any project as shall have been approved by the Corporation, and that the gains or profits or part thereof have in fact been used for the purpose for which they were set aside, the Corporation shall issue to the qualifying company a certificate showing compliance and thereupon the rate of income tax chargeable on the gains or profits or part thereof so used shall be reduced by seventeen and a half percentage points, and in any such case the tax chargeable shall be assessed, or reassessed and where necessary refunded, as the case may require: Reduced rate of tax

Provided that where the qualifying company is a Maltese company, the rate of income tax chargeable shall be reduced by nineteen and a quarter percentage points.

(2). The Corporation shall not grant any approval for the purposes of subsection (1) of this section —

(a) later than twenty four months after the end of the year immediately preceding the year of assessment in which the income in respect of which approval may be given falls to be charged to tax; or

(b) in respect of any project requiring for its realisation a period of more than five years from the date of approval.

Investment allowance 7. (1) Where a qualifying company after 1st June 1987 incurs or has incurred expenditure in acquiring plant or machinery, or an industrial building or structure (including a warehouse), for the purposes of its trade or business, and in consequence of its incurring such expenditure the plant, machinery, industrial building or structure is owned by the company, such company shall be entitled in computing its chargeable income for income tax purposes in respect of the year of assessment in which the relative asset is first used by the company in its trade or business, to an investment allowance which shall be expressed as a percentage of the cost of the asset as follows:—

	When owned by Maltese companies	When owned by other companies
Plant and machinery	33%	30%
Industrial building and structure	16.5%	15%

(2) No allowance under this section shall be due except in respect of assets which are first used by the company, having been acquired unused and not second hand:

Provided that this subsection shall not apply in respect of industrial buildings or structures acquired from the Government.

(3) Where an allowance has been granted to a company under this section:—

(a) the company shall not be entitled to any deduction in respect of the same asset under the provisions of paragraph (k) of subsection (1) of section 10 of the Income Tax Act, 1948;

(b) the provisions of section 10B of the said Act shall not apply in respect of the relative asset;

(c) nothing contained in the said Act shall operate so as to prevent the investment allowance and any other allowance granted

under this Act in respect thereof, when taken together, from exceeding the original cost of the asset.

(4) The provisions of subsection (5) of section 8 of this Act shall apply in respect of any investment allowance granted under this section.

(5) In this section and in section 8 of this Act, immovable property held by title of emphyteusis shall be deemed to be held in ownership.

8. (1) Where a qualifying company is entitled to an investment allowance in respect of any asset under the provisions of section 7 of this Act, the company shall, in addition, be entitled to a deduction in respect of wear and tear at the following rates on account of the same asset for the purpose of computing its chargeable income for income tax purposes:—

	When owned by Maltese companies	When owned by other companies
Plant and machinery	33 $\frac{1}{3}$ % per annum	25% per annum
Industrial building and structure	5% per annum	4% per annum

Accelerated
depreciation

(2) The allowances for which provision is made in subsection (1) of this section shall be granted as from the year of assessment in respect of which the relative allowance is first due to be granted and shall be computed on the straight line method.

(3) The allowances granted in terms of this section shall replace any allowances otherwise due to the qualifying company for any year of assessment under the provisions of paragraph (g) of subsection (1) of section 10 of the Income Tax Act, 1948.

(4) The cost of the land on which any industrial building or structure is constructed or erected shall, in all cases, be excluded from any expenditure in respect of which a deduction is due to be granted under the provisions of this section.

(5) Saving the provisions of this section and of section 7 of this Act, investment allowances and accelerated depreciation shall for the purposes of the Income Tax Act, 1948 be deemed to be deductions granted under paragraphs (g) and (k) of subsection (1) of section 10 of the said Act and all the relevant provisions of that Act shall accordingly apply.

(6) No allowance under this section shall be due except in respect of assets which are first used by the company, having been acquired unused and not second hand:

Provided that this subsection shall not apply in respect of industrial buildings or structures acquired from the Government.

(7) For the purposes of sections 26 and 27 of the Income Tax Act, 1948, the tax paid or payable in respect of income distributed by a company by way of dividend to its members may, at the request of the company, be calculated as if the company was not entitled to a deduction under this section, but to the deductions contemplated by paragraphs (g) and (k) of subsection (1) of section 10 of the Income Tax Act, 1948.

Tax free
dividends

9. (1) Any dividends (or part thereof) distributed by a qualifying company out of its gains or profits, or part thereof, which, under the provisions of this Act, have been relieved from the payment of income tax, and to which the provisions of this section apply, shall be exempt from income tax in the hands of the members of the company in receipt of such distribution.

(2) Where a dividend referred to in subsection (1) of this section is distributed to a member which is also a company (in this subsection referred to as "the second company"), the said dividend shall likewise be distributable by the second company to its own members in the form of dividends exempt from income tax in the hands of the recipients, and where a member of the second company is again a company, the preceding provisions of this subsection shall apply *mutatis mutandis* as though references to the first company were references to the second company and as though references therein to the second company were references to that member, and the principle set out in this subsection shall continue to be applied for as long as the gains or profits or part thereof to which this section applies are distributed by way of dividends.

(3) The provisions of this section shall apply to the gains or profits, or part thereof, of a company which are relieved from income tax —

(a) under the provisions of section 4 of this Act, being gains or profits derived in any year by a company in respect of which it is entitled to a tax holiday;

(b) under the provisions of section 5 of this Act, being part of the gains or profits of a company relieved from income tax for any year under the export incentives scheme;

(c) under the provisions of section 7 of this Act, being gains or profits of a company for any year relieved from income tax through the grant of an investment allowance.

(4) Every company shall, upon the distribution of a dividend exempt in whole or in part from income tax under the provisions of this section, furnish to each member in receipt of such dividend a certificate setting out the amount of the dividend paid, the year in which the gains or profits so distributed were earned by the company, and declaring which part of that dividend is exempt from income tax as provided in this section.

10. (1) Subject to the provisions of subsection (2) of this section, ^{Training costs.} where the Corporation is satisfied that a training programme approved by it after the coming into force of this Act can increase the skill and expertise of the employees of a qualifying company, the Corporation shall issue a certificate accordingly and the company shall be entitled to deduct one hundred and twenty per cent of the actual expenditure incurred by it in organising the training programme in the computation of its total income for the purposes of the Income Tax Act, 1948:

Provided that where the Corporation is satisfied that any training programme caters wholly or mainly for handicapped persons, the deduction shall be one hundred and fifty per cent of the expenditure.

(2) The total deductions due to a company for any year of assessment under the provisions of this section shall not exceed one-twentieth of the total sum paid by the company for that year by way of wages, salaries and other emoluments.

11. (1) Subject to the provisions of this section, where a ^{Export promotion allowance.} qualifying company incurs or has incurred export promotion expenditure after 1st June, 1987 principally for the purpose of seeking opportunities or creating or increasing demand for the export of its goods or services, that company shall be entitled, in computing its total income for income tax purposes, to deduct an amount equivalent to one hundred and twenty per cent of the expenditure so incurred.

(2) The deduction contemplated in subsection (1) of this section shall still be due notwithstanding that the relative expenditure:—

(a) was incurred in opening or seeking to open new export lines or ventures; or

(b) does not achieve any export sales or increased export sales.

(3) The total deduction due for any year of assessment to a company under the provisions of this section shall not exceed Lm24,000 or a sum equivalent to five per cent of the total export sales of the company for that year, whichever sum is the higher.

(4) For the purposes of this section:—

(a) export sales shall be taken to be the monetary value of export production calculated “free on board”, or of the services exported;

(b) “export promotion expenditure” shall include, but not to the exclusion of other appropriate items, expenses incurred in:—

(i) advertising or other means of securing publicity or soliciting business;

(ii) carrying out market research or obtaining market information;

(iii) providing free of charge samples or technical information to a person outside Malta;

(iv) investigating, preparing designs, making estimates and similar activities connected with tendering for the supply of goods or services;

(v) research into methods of packaging or presenting goods for export;

(vi) participation in trade fairs outside Malta;

(vii) cost of bringing potential buyers to Malta.

(c) "export promotion expenditure" shall not include salaries, wages and other emoluments except where these are paid to officers or employees of a company registered in Malta for the period or periods in any year during which they are required to tender their services outside Malta.

Research and development allowance.

12. (1) In the case of a qualifying company, the provisions of paragraphs (i) and (j) of subsection (1) of section 10 of the Income Tax Act, 1948, shall in any year in which the company is entitled to a deduction thereunder as from the year of assessment 1988:—

(a) be deemed to allow a deduction in respect of expenses incurred as follows in addition to any other expenses contemplated in the said paragraphs:—

(i) experimental or theoretical work aimed at the discovery of new knowledge related to its trade or business;

(ii) searching for applications of such work and knowledge;

(iii) formulation and design of possible applications for such work;

(iv) testing in search for, or evaluation of, product or process alternatives;

(v) design, construction and testing of pre-production prototypes and models;

(vi) design of product, processes, systems or services involving new technology or substantially improving those already produced or installed;

(b) be deemed not to allow as a deduction any expenses incurred as follows:—

(i) routine design, testing and analysis of equipment or product for the purpose of quality or quantity control;

(ii) routine or periodic alterations to existing products or processes;

(iii) operational research;

(iv) legal and administrative work in connection with patent applications, records and litigation and the sale or licensing of patents and patent rights;

(v) any activity, including design and construction, relating to the construction, relocation, rearrangement or start-up facilities or equipment other than facilities or equipment whose sole use is for a specified and particular research or development project;

(c) be read and construed as if all the provisos thereto were omitted.

(2) Deductions due under the provisions of paragraphs (i) or (j) of subsection (1) of section 10 of the Income Tax Act, 1948, as modified by the provisions of this section, shall be allowed for the purposes of the said Act at one hundred and twenty per cent of the actual amount of the expenditure incurred, but the total deduction granted as aforesaid shall not, for any year of assessment, exceed five per cent of the turnover of the company for that year:

Provided that if the amount of the deduction is such that the full amount thereof cannot be allowed in the year in which it is incurred, that part which cannot be so allowed shall be added to any deduction due in this respect for the following year and be deemed to be part of that deduction or, if there is no such deduction for that year, be deemed to be the deduction for that year, and so on for subsequent years.

(3) Nothing in this section shall be considered to grant an allowance in respect of research and development which is not substantially carried out in Malta.

13. Where an individual who is not domiciled in Malta or who, if so domiciled, is not ordinarily resident therein, is employed with a qualifying company, the tax on the chargeable income of such individual shall, as from the year of assessment commencing on 1st January, 1989, be charged at the rates contemplated by the Income Tax Act, 1948, so however that any rate of tax in excess of 30 cents on every Maltese lira shall be reduced to 30 cents:

Income tax payable by expatriate employees.

Provided that the tax payable by any individual as aforesaid shall not be less than Lm1000 per annum, reduced however on a *pro rata* basis when that individual is not so employed during the whole year:

Provided further that the amount of tax payable by any such individual shall not be increased to more than would have been payable by him but for the provisions of this section.

14. Any expenses and outgoings on feasibility studies incurred on or after 1st June, 1987 by a company constituted on or after that date shall, when such expenses or outgoings are wholly and exclusively incurred for the purposes of a trade or business which entitles or may entitle the company to be a qualifying company for the purposes of this

Feasibility studies.

Act, and to the extent to which such expenses and outgoings are wholly and exclusively so incurred, be deemed for the purposes of subsection (1) of section 10 and of section 11 of the Income Tax Act, 1948, to have been incurred by that company not earlier than the first day on which the said trade or business is carried on, and, in any case, as being properly deductible in computing the amount of the gains or profits arising from the trade or business for the purposes of the said Act.

Consequential provisions in respect of double taxation treaties.

15. Where a member of a qualifying company is a resident of a state or territory with which Malta has made an arrangement under the provisions of the Income Tax Act, 1948 for the grant of relief from double taxation, and under that arrangement a dividend, or part thereof, distributed by the qualifying company is subject to income tax in Malta at a rate lower than that chargeable on the income out of which the dividend is distributed, the company shall be entitled to require that the gains or profits, or part thereof, derived by it for the year of assessment 1988 and for subsequent years of assessment and which are distributable by way of dividend subject to tax at a reduced amount as aforesaid shall, notwithstanding that the dividend, or part thereof has not been distributed, be taxed at the said reduced rate and not at the rate properly chargeable under the Income Tax Act, 1948 on the gains or profits of the company.

PART III Other Incentives

Soft Loans.

16. (1) Where the Corporation is satisfied that in the case of a qualifying company it would be consistent with the aims and objectives of the industrial policy of the Government, the Corporation may grant loans to the said company for the acquisition of new plant, machinery and other fixed assets, but excluding land and buildings, in accordance with the terms and conditions herein specified.

(2) The Corporation may grant loans as provided under subsection (1) of this section when the plant, machinery or fixed assets

(a) are acquired by the company unused and not second hand, and

(b) are acquired as part of an investment programme of not more than three years' duration as may be approved by the Corporation, and

(c) such investment programme is of not less than Lm100,000 in the case of companies constituted on or after 1st June, 1987, and of not less than Lm75,000 in the case of any other company.

(3) Loans under the provisions of this section shall in no case exceed thirty three per cent of the projected capital investment approved by the Corporation, but no loan shall exceed —

(a) Lm500,000 in the case of companies satisfying the condition laid down in paragraph (b) of subsection (1) of section 4 of this Act, and

(b) Lm200,000 in all other cases.

(4) The rate of interest charged by the Corporation on loans granted under this section shall be the maximum chargeable on such loans in terms of directives issued from time to time by the Minister responsible for Finance under the Banking Act, 1970, less —

(a) four percentage points in respect of loans made under paragraph (a) of subsection (3) hereof, and

(b) two percentage points in respect of other loans.

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

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

(6) The repayment of any loan made under this section, and of the interest thereon, shall be made within a period and at instalments as may be agreed with the Corporation, but such period shall in no case exceed ten years from the date of the first loan payment received by the company:

Provided that for the first two years following the first loan payment the company shall only pay interest on the loan.

(7) Any loan made under this section shall be applied by the company for only such purpose as may be authorised by the Corporation.

(8) Where the Corporation has granted a loan to a qualifying company under the provisions of this section it shall —

(a) from time to time make or cause to be made such examination of books, documents, premises and all other things and matters of that company whatsoever as may be necessary to ensure that the loan is being applied for the purpose for which it had been made; and

(b) request such financial statements from the company as it may require, to be submitted quarterly or at shorter intervals at the discretion of the Corporation.

(9) Where the Corporation has approved that a loan be granted by instalments, and any part of such loan has not yet been advanced, the Corporation, without prejudice to any other remedy, may withhold any portion of the loan still outstanding if —

(a) any sum of money, whether principal or interest due in respect of any loan under this section, remains unpaid; or

(b) any prior loan made under this section has not been applied for the purpose for which it was made or has not been expended in a careful, timely and economical manner; or

(c) the company has gone into liquidation or has become insolvent or has assigned property for the benefit of creditors; or

(d) there has been a breach or non-observance of any condition attached to the loan.

(10) The granting of loans made under this section shall not be subject to the provisions of the Exchange Control Act, 1972.

Relief from
customs duty

17. (1) Where the Corporation is satisfied that any article is being imported by a qualifying company —

(a) for the construction, alteration, reconstruction or extension of any industrial building or structure or for any extension thereof, or for the purpose of effecting repairs to an industrial building or structure or the extension thereof, or constitutes equipment, tools, machinery or plant, contained in or related to any industrial building or structure or extension thereof, or is intended to replace any such equipment, tools, machinery or plant, and in all cases for the purposes of the trade or business carried on or intended to be carried on by the said company; or

(b) to serve as materials, components or accessories which are necessary for and used by or on behalf of the company for any of the purposes referred to in subsection (1) of section 3 of this Act,

the Corporation shall issue a certificate accordingly, and the company shall be entitled to import the article free from customs duty or at a reduced rate of customs duty.

(2) Every company which imports into Malta any article free of customs duty or at a reduced rate of customs duty under subsection (1) of this section shall:—

(a) keep a record of the articles which it so imports in such form and containing such particulars as may be specified by the Comptroller of Customs (hereinafter referred to as “the Comptroller”);

(b) cause the articles so imported to be marked in the manner specified by the Comptroller;

(c) permit any officer of the Comptroller at all reasonable times to inspect the record of the articles so imported and to have access to any premises of the company for the purpose of examining any such articles which he may believe to be therein and of satisfying himself of the accuracy of the particulars in relation to such articles in the said record.

(3) No article imported into Malta by a company free or at a reduced rate of customs duty under the provisions of subsection (1) of this section shall be sold, given away or otherwise disposed of by the company except:

(a) in the case of an industrial building or structure for the construction, alteration, reconstruction, extension or equipment of which such article was imported into Malta:—

(i) to the person for whom such industrial building or structure was constructed; or

(ii) after payment of the amount of customs duty which would have been payable upon the importation of such article but for subsection (1) hereof; or

(iii) with the written authority of the Comptroller after the expiration of five years from the importation into Malta of the article if such article has been actually used for the purpose for which it was imported into Malta;

(b) in the case of materials, components or accessories imported into Malta for any purpose referred to in subsection (1) of section 3 of this Act:

(i) if incorporated in the articles or commodities in respect of which they were imported into Malta; or

(ii) after payment of the amount of customs duty which would have been payable upon the importation of such materials or components but for subsection (1) hereof.

(4) Where any article is sold or disposed of to a qualifying company entitled to relief from customs duty in pursuance of a certificate issued under the provisions of this section, and the sale or disposal of such article to the company takes place under circumstances which, but for the operation of this section, would cause such article to be deemed to be taken out of bond and duty to become payable thereon by the company in accordance with any of the provisions of the Import Duties Act, 1976, such article shall (to the extent only that the company would have been entitled to relief from customs duty in respect thereof as aforesaid if it had imported that article at the time of its sale or disposal to it in Malta) be deemed to be imported by the company at the time at which such article is sold or disposed of to it.

18. (1) Subject to the provisions of subsection (4) of this section, the Corporation may, consistently with the aims and objectives of the industrial policy of the Government, procure for a qualifying company industrial buildings and structures at the following rent:—

Provision of
factories etc.

(a) Lm1.75 per annum per square metre for the first three years of the lease;

(b) at a rate which shall not exceed Lm4 per square metre per annum for the next thirteen years of the lease;

(c) thereafter at the rate determined under the preceding paragraph which rate, however, shall be adjusted immediately, and subsequently every five years, to take account of movements in the index of inflation contemplated in the Schedule to the Housing (Decontrol) Ordinance, 1959 between the first year of the lease and the date on which every such adjustment is effected.

(2) Subject to the provisions of subsection (4) of this section, the Corporation may, consistently with the aims and objectives of the industrial policy of the Government, procure for a qualifying company, land on the following terms —

(a) in the case of land adjoining an industrial building or structure, by title of lease and the rent payable shall be —

(i) 23 cents per square metre per annum for the first sixteen years of the lease;

(ii) thereafter at a rate which shall be adjusted immediately, and subsequently every five years, to take account of movements in the aforesaid index of inflation between the first year of the lease and the date on which every such adjustment is effected;

(b) in the case of land which is made available by the Corporation in an undeveloped state, the land shall be granted by title of temporary emphyteusis for a minimum consideration of 23 cents per square metre per annum which shall be revised every twenty-five years (whether the concession is subsequently extended or not) to take account of movements in the said index of inflation as from the date of the grant.

(3) The Corporation may in any particular case provide industrial buildings and structures constructed according to the requirements of a qualifying company, or make alterations to existing buildings and structures, on such terms as the Corporation may agree with the company.

(4) The Minister may from time to time, by notice in the Gazette, vary the rates established in subsections (1) and (2) of this Section.

Training grants

19. (1) Where the Corporation is satisfied that any employee engaged by a qualifying company on or after 1st June, 1987 is a full-time employee engaged for an indefinite period, and that such employee is undergoing training related to the activities of the company in accordance with a training programme approved by the Corporation, a training grant may be given by the Corporation to the company equivalent to one-half of the statutory weekly minimum wage for every week of actual training undergone by each such employee up to a maximum of forty eight weeks.

(2) Where the Corporation is satisfied that any trainee in respect of whom a grant is paid under the provisions of this section is a

handicapped person, the Corporation may, in its discretion, increase the grant in respect of the said trainee to three quarters of the statutory weekly minimum wage.

(3) A training grant received by a company under this section shall not constitute a taxable receipt under the Income Tax Act, 1948.

20. (1) Where a qualifying company which is a Maltese company with an actual or foreseen total sales revenue not exceeding Lm350,000 in its latest or actual financial year satisfies the Corporation that it may enhance its potential for development by employing qualified personnel to perform administrative, technical, marketing or financial functions, or by engaging consultants to carry out such functions, in accordance with a three-year plan submitted for the Corporation's approval, the Corporation may reimburse twenty-five per cent of the emoluments or fees disbursed by the company in any year for such personnel or consultants for a period of three years, so however that the reimbursement shall not exceed Lm5,000 in any year.

Management services grants

(2) No reimbursement under the provisions of this section shall be made in respect of emoluments or fees paid or payable to any person who is in any way, whether directly or indirectly, closely connected or related to any member of the qualifying company.

(3) The reimbursement received by the company under this section shall not constitute a taxable receipt under the Income Tax Act, 1948.

21. (1) Notwithstanding anything contained in the Death and Donation Duty Act, 1973, no duty shall be payable thereunder in respect of any interest in a qualifying company possessed by any person when —

Exemption from death and donation duty.

(a) such interest is comprised in a chargeable transmission happening on or after 1st June, 1987, and

(b) the former owner thereof before the happening of the chargeable transmission and the new owner after its happening are both persons not domiciled in Malta, and

(c) the interest is an interest to which the provisions of this section apply.

(2) The provisions of this section apply to an interest in a qualifying company being —

(a) shares thereof;

(b) any dividend distributed or due to be distributed by the said company;

(c) any money loaned or advanced to the company, and any other credit whatsoever, irrespective of the way in which the loan or advance has been made, or has resulted, and the security granted therefor;

(d) any interest on money or other income paid or due to be paid by the company before the happening of the chargeable transmission.

Expatriate employees.

22. (1) The Corporation may certify that an individual who is not an exempt person under the Immigration Act, 1970 would, if granted a licence under the said Act to be employed by a qualifying company, contribute towards the industrial development of Malta through his technical or managerial knowledge and experience.

(2) Where an individual in respect of whom a certificate has been issued under subsection (1) of this section occupies a senior managerial or technical position or office, if the relative company employs such individual for an extended period, it shall satisfy the Corporation that adequate arrangements are concurrently being made by it to enable another individual of Maltese citizenship to acquire such knowledge and experience as will enable him in due course to occupy the said position or office.

(3) Subject to endorsement by the Corporation, where a person who is not domiciled or ordinarily resident in Malta holds forty per cent or more of the shares of a qualifying company, such person shall be entitled to require that one individual named by him shall, subject to the provisions of the Immigration Act, 1970, be granted a licence under that Act to be employed by the company in Malta.

Industry in Gozo.

23. (1) The provisions of this section shall apply in the case of any qualifying company where the Corporation is satisfied that all or part of the activities of the company (hereinafter referred to as "Gozo company") are being carried on or carried out in Gozo.

(2) The Corporation shall give a grant to a Gozo company to cover the actual, additional and necessary transport costs incurred by the Company in transporting between Malta and Gozo machinery, plant, materials, goods or products connected with its activities in Gozo related to export.

(3) Where a Gozo company satisfies the condition laid down in paragraph (b) of subsection (1) of section 4 of this Act, the Corporation shall give a grant to the company to cover the actual, additional and necessary costs incurred by the company to accommodate in Gozo Maltese citizens who are not ordinarily resident in Gozo and who occupy senior managerial or technical positions, which grant shall be limited to a period of three consecutive years:

Provided that the grant shall not exceed Lm1,500 per annum in respect of any single employee nor Lm5,000 to the company in any one year.

(4) The maximum period in respect of which a training grant may be given under the provisions of section 19 of this Act shall be extended to three years in the case of an employee of a Gozo company undergoing training if such employee was ordinarily resident in Gozo for a

period of not less than one year immediately before the commencement of his training.

(5) The costs referred to in subsections (2) and (3), and the training referred to in subsection (4) of this section, respectively, shall be costs incurred and training carried out after the coming into force of this Act.

(6) Grants received by a Gozo company under this section shall not constitute taxable receipts under the Income Tax Act, 1948.

24. (1) The Corporation may, in its discretion, grant the incentives and benefits set out in subsections (2), (3) and (4) of this section to an intermediary company, to an export house or to a small business. Exceptional incentives and benefits.

(2) An intermediary company may be granted soft loans under the terms and conditions laid down in paragraph (a) of subsection (3) and in paragraph (a) of subsection (4) of section 16 of this Act notwithstanding that the intermediary company does not satisfy the condition laid down in paragraph (b) of subsection (1) of section 4 of this Act.

(3) An export house may be granted a training allowance, an export promotion allowance and a training grant provided for under sections 10, 11 and 19 of this Act, respectively, notwithstanding that the export house may not be a qualifying company.

(4) A small business may be granted or provided with:—

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

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

notwithstanding that that small business is not a qualifying company.

(5) In this section:—

“export house” means a company which, in any year, derives not less than ninety-five per cent of its sales revenue from or through the export of goods or services produced or provided, as the case may be, by qualifying companies other than the export house itself;

“intermediary company” means a qualifying company which, in any year, derives more than fifty per cent of its sales revenue from qualifying companies which, in the same year, export in monetary value not less than ninety-five per cent of their production (calculated “free on board”), or of the services they render, as the case may be;

“small business” means a person other than a company who carries on or carries out a trade or business contemplated under paragraphs (a) or (b) of subsection (1) of section 3 of this Act.

PART IV
Guarantee of Incentives

Guarantee of
incentives

25. (1) Where after the coming into force of this Act a qualifying company or its members or employees are entitled to an incentive or benefit under any of the following provisions, there shall be deemed to have come into existence a contract between the company or its members or employees and the Government, or the Corporation, as the case may be, guaranteeing the grant and enjoyment of the relative incentive or benefit in accordance with the provisions of this Act as hereunder indicated:—

(a) the incentives and benefits contemplated under sections 4, 5, 7, 8, 11, 12 and 14 of this Act when and as soon as the company becomes entitled to a benefit thereunder for any year of assessment;

(b) exemption from tax on dividends under section 9;

(c) the rate of tax chargeable in respect of an expatriate employee under section 13 when and as soon as the employee becomes so chargeable;

(d) gains or profits contemplated in section 15 for as long as the relative arrangement is still in force;

(e) exemption from duty under section 21; and

(f) grants due to a Gozo company in accordance with the provisions of subsections (2) and (3) of section 23.

(2) Where any incentive or benefit contemplated under the provisions of this Act is not due as of right to a qualifying company or other beneficiary but depends on the use of discretion vested in the Corporation, the use of such discretion in favour of a beneficiary shall constitute a contract between the beneficiary and the Government, or the Corporation, as the case may be, guaranteeing the grant and enjoyment of the incentive or benefit in accordance with the provisions of this Act.

(3) Without prejudice to any other proof available to a qualifying company, a certificate released by the Corporation to the effect that a trade or business carried on or carried out, or intended to be carried on or carried out, by the company does not consist solely or mainly in the mere expansion, duplication or replacement of a trade or business formerly carried on or carried out in Malta by any person directly or indirectly connected with the said company, shall be conclusive evidence to this effect for the purposes of paragraph (c) of subsection (1) of section 4 of this Act. A certificate to like effect may also be issued by the Corporation for the purpose of determining any question arising under the provisions of paragraph (a) of subsection (3) of the said section.

(4) The guarantees given by this section shall not be nullified by any retrospective action, whether by legislation or otherwise.

(5) The provisions of this section shall be without prejudice to the controlling and regulatory provisions laid down in this Act and to the powers of the President under section 26 hereof.

26. No incentive or benefit contemplated by this Act shall be enjoyed by any qualifying company or other beneficiary for any year or year of assessment if the President of Malta by order in writing declares that the grant or acquisition or continued grant and acquisition of such incentive or benefit is or would be against public policy (*ordre public*), and where such an order is made it shall have effect as from the date therein specified but in no case shall an order have retrospective effect.

Powers of the President of Malta.

27. (1) Where a qualifying company or other beneficiary fails to comply or cause compliance with any of the conditions attached to the grant of any incentive or benefit by the Corporation under this Act, the Corporation may either revoke the incentive or benefit or by notice in writing require such company or other beneficiary within thirty days of the receipt of such notice:

Revocation of incentives or benefits.

(a) to comply or cause compliance with such conditions; or

(b) to establish to the satisfaction of the Corporation that failure to comply or cause compliance with such conditions was due to some cause beyond its control and that there are actual prospects of complying or causing compliance with such condition, within such time as the Corporation may consider reasonable.

(2) Where a qualifying company or other beneficiary establishes to the satisfaction of the Corporation that failure to comply or cause compliance with any conditions attached to the grant of any incentive or benefit under this Act was due to some cause beyond its control, and that there are actual prospects of complying or causing compliance with such conditions within a reasonable time, the Corporation may authorise reasonable postponement for the purpose of compliance with such conditions, as it thinks fit.

(3) Where a qualifying company or other beneficiary:

(a) having been required so to do by notice under subsection (1) of this section, fails to establish to the satisfaction of the Corporation that its failure to comply or cause compliance with any conditions attached to the grant of any incentive or benefit was due to some cause beyond its control and that there are actual prospects of complying or causing compliance with such conditions within a reasonable time; or

(b) having been allowed a postponement under subsection (2) of this section, fails within the period of such postponement to comply or cause compliance with such conditions,

the Corporation may revoke any incentive or benefit granted to the company or other beneficiary under this Act, and that revocation shall be operative from such date as may be determined by the Corporation.

(4) Where the grant of any incentive or benefit under this Act is revoked in accordance with the provisions of this section, the relative company or other beneficiary shall pay or repay to the Govern-

ment or to the Corporation, as the case may be, any sums which it would have paid to the Government or the Corporation but for the provisions of this Act or which it had received thereunder, and any sums which the company or other beneficiary is so liable to pay or repay may be set off against any sums which may be due from the Government or the Corporation to the company or other beneficiary for any reason whatsoever, without prejudice to any right of the Government or the Corporation for the recovery of any balance remaining due.

(5) The provisions of this section shall only apply where the grant of an incentive or benefit under this Act depends on the use of discretion vested in the Corporation.

(6) In all cases of revocation under the provisions of this section, an appeal shall lie by the aggrieved party to the Appeals Board constituted under section 28 of this Act.

Establishment of
Appeals Board.

28 (1) There shall be an Appeals Board, hereinafter referred to as "the Board", which shall have exclusive jurisdiction to hear and determine appeals in accordance with the provisions of section 30 of this Act. The Board shall consist of a Chairman and two other members, appointed by the Prime Minister from among persons who, in his opinion, are conversant with the matters contemplated by this Act.

(2) A person shall be disqualified from being appointed to or from continuing to be a member of the Board so long as he is a member of the House of Representatives, or a public officer.

(3) Every person appointed to be a member of the Board shall, before entering upon his office, make and subscribe a declaration on oath in the form prescribed to that effect before a commissioner for oaths which shall be deposited with the Attorney General.

(4) Subject to the provisions of this section, the office of a member of the Board shall become vacant —

(a) at the expiration of five years from the date of appointment to that office; or

(b) upon the resignation or death of a member before the expiration of his term of office; or

(c) upon the removal from office of the member by the Prime Minister for inability to discharge the functions of his office, whether arising from infirmity of mind or body or for any other cause, or for misbehaviour.

(5) Any member of the Board may be challenged or shall abstain in the same circumstances as a judge of the Superior Courts, and in any such case the Prime Minister shall appoint in his stead another person who is qualified to be a member for the particular case in respect of which the member has been challenged or has abstained.

(6) When the office of a member of the Board is vacant or when a member is for any reason unable to perform the functions of his office, the Prime Minister shall appoint a person who is qualified to be appointed to be a member, to be a temporary member of the Board; and any person so appointed shall, subject to the provisions of subsections (4) and (5) of this section, cease to be such a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

(7) The members of the Board shall not be personally liable for any acts or defaults of the Board done or omitted to be done in good faith in the course of the proceedings of the Board.

(8) There shall be a secretary to the Board who shall be a public officer designated by the Prime Minister to perform the functions of secretary. The Board shall also have such other staff as the Prime Minister may deem necessary and designated as aforesaid.

(9) The members of the Board shall receive such remuneration as the Prime Minister may determine.

(10) The Minister may make regulations governing appeals to the Board and, without prejudice to the generality of the foregoing, may make regulations —

(a) prescribing the manner in which an appeal shall be made to the Board;

(b) prescribing the procedure to be adopted by the Board in hearing an appeal and the records to be kept by the Board;

(c) prescribing the manner in which the Board shall be convened and the places where and the times at which the Board shall hold sittings;

(d) prescribing fees to be paid in respect of appeals to the Board; and

(e) generally for the carrying out of the provisions of this Act relating to the Board.

29. (1) The Board shall have power, exercisable through its Chairman —

(a) to summon witnesses;

(b) to administer an oath to any witness and to require him to give evidence or to produce books or other documents before it

(2) A summons may be served either by hand or by post. Where it is served by hand it shall be sufficient to prove service by evidence that the summons was left with a person over the age of 16 years at the place of residence or of business of the person summoned; and if

Summoning of witnesses and administration of oath.

served by post it shall be sufficient to prove service by evidence that the summons was properly addressed and posted.

(3) Any person summoned as aforesaid who refuses, or without sufficient cause fails, to attend at the time and place mentioned in the summons, or refuses, without sufficient cause, to answer or to answer fully and satisfactorily, to the best of his knowledge and belief, all questions put to him by or with the concurrence of the Board, or refuses or fails, without sufficient cause, to produce any document he was required to produce by or with the concurrence of the Board, shall be guilty of an offence against this Act:

Provided that, without prejudice to the generality of the provisions of paragraph (b) of subsection (1) of this section, no person giving evidence before the Board may be compelled to answer any question which tends to expose him to any criminal prosecution, and every such person shall, in respect of any evidence given by him before the Board, be entitled to the same privileges to which a witness giving evidence before a court of law is entitled.

Appeals to the Board.

30. (1) Subject to the provisions of subsection (2) of this section, a qualifying company or other beneficiary aggrieved by any decision taken in respect of any matter falling under or contemplated by the provisions of this Act shall have the right to appeal against that decision before the Board.

(2) Saving the provisions of subsection (6) of section 27 of this Act, subsection (1) of this section shall not apply to any decision taken by the President of Malta, the Minister, or the Corporation, as the case may be, in the exercise of discretionary power.

(3) The provisions of this section shall be without prejudice to the proceedings contemplated in —

(a) section 55 to section 58 of the Income Tax Act, 1948, and

(b) section 24 to section 27 of the Death and Donation Duty Act, 1973:

Provided that any issue decided under this section in respect of any matter contemplated under this Act shall, saving the provisions of section 31 of this Act, be final and conclusive.

(4) Appeals to the Board shall be heard *in camera* unless the Board, on the application of both contending parties, otherwise directs.

(5) The Board may order the correction of any arithmetical error incurred in any of its decisions on an application filed by either party within thirty days from the date of service upon it of that decision, and such application shall be served on the other party.

Appeals to Court of Appeal.

31. (1) An appeal from a decision of the Board may be made by either party, on a question of law only, to the Court of Appeal by an application filed within thirty days from the date of service upon it of the

decision of the Board, and such application shall be served on the other party.

(2) Unless rules made hereunder provide a longer period, seven clear days' notice shall be given to the parties of the date fixed for the hearing of an appeal made to the Court of Appeal.

(3) All appeals to the Court of Appeal shall be heard *in camera* unless the Court, on the application of both contending parties, otherwise directs.

(4) The Board established under section 29 of the Code of Organisation and Civil Procedure may make rules concerning appeals to the Court of Appeal under this section, and prescribing the fees to be paid on such appeals.

(5) The Chairman of the Corporation shall as soon as may be publish the decisions delivered by the Board and by the Court of Appeal without, however, disclosing the identity of any person.

PART V

General Provisions

32. Nothing in this Act contained shall affect the provisions of any other law whatsoever except to the extent solely that the provisions of this Act replace or supersede the provisions of that law, and no incentive, exemption, reduction of taxation or other benefit or privilege provided for under the provisions of this Act shall modify any obligation to furnish returns, statements, particulars or documents as may be required by any other law. Effect on other laws.

33. (1) Save as may be otherwise required for the purposes of this Act, or in the course of a prosecution for any offence committed in relation to this Act, or where the Prime Minister otherwise directs — Official secrecy.

(a) every person having an official duty or being employed in the administration of this Act shall regard and deal with all documents and information relating to matters contemplated by or pursuant to the provisions of this Act as secret and confidential and shall make and subscribe before a commissioner for oaths a declaration on oath to this effect in the form prescribed which shall be deposited with the Attorney General;

(b) no such person shall be required to produce to or before any court, tribunal, board, committee of enquiry or any other authority, or to divulge to any court, tribunal, board, committee or other authority, any matter or thing coming to his notice or being in his possession in the performance of his duties under this Act.

(2) Notwithstanding the provisions of subsection (1) of this section, the auditor of the Corporation shall have access to any records

and documents as may be necessary for the performance of his duties.

Cumulative
incentives and
choice.

34. (1) A qualifying company or other beneficiary may be granted and obtain more than one form of incentive or benefit under this Act.

(2) A qualifying company or other beneficiary may, at any time, by notice in writing, elect not to be granted or to take any incentive or benefit otherwise due to it under the provisions of this Act. Such notice shall specify the date from which its election shall be operative, which date shall invariably be the first day of a year, or of a year of assessment or of any other financial period, and shall be irrevocable and indefinite in respect of the matters on account of which it has been made.

Records and
certification.

35. (1) No incentive or benefit which may be granted or obtained under this Act shall be so granted or obtained, and no entitlement thereto shall exist notwithstanding anything contained in this Act unless:—

(a) proper and sufficient records and accounts, including appropriate supporting documentation, have been maintained for the relative year, year of assessment or accounting period, as the case may be, by the qualifying company otherwise entitled to the incentive or benefit or in relation to which such entitlement arises;

(b) separate accounts have been kept as may be necessary to identify and quantify the incentive or benefit;

(c) such computations, returns, statements, particulars or documents as may be necessary to establish clearly the entitlement to the incentive or benefit are submitted to the appropriate authority.

(2) No statement, account or document whatsoever submitted to the Corporation or to any other authority for the purpose of acquiring any incentive or benefit contemplated under the provisions of this Act, other than those provided for under subsection (4) of section 24 of this Act, shall be considered or taken into account unless certified by a certified public accountant and auditor to the same effect that the balance sheet and profit and loss account of a company are to be certified under the provisions of the Commercial Partnerships Ordinance, 1962, and for the purpose of this subsection, the provisions of section 140 of that Ordinance shall apply.

Certain reserve
funds.

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

(2) For the purposes of subsection (1) of this section, profits available for transfer to that reserve fund shall be the profits computed

in accordance with the provisions of the Income Tax Act, 1948, and of this Act, and where at the end of any accounting period as aforesaid the profits so computed are such that the reserve fund, or the full amount thereof, cannot be set aside in that period, the obligation to transfer profits to a reserve fund shall be, in part or in full, as the case may be, carried forward to the subsequent accounting period and deemed to be an obligation for that period, and so on for subsequent periods.

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

(4) The incentives and benefits referred to in subsection (1) of this section are the following:

(a) the net amount of the profits subject to income tax at a reduced rate under the provisions of section 6 of this Act;

(b) the amount of any grants given under the following provisions of this Act:

(i) section 19 by way of a training grant;

(ii) section 20 by way of a management services grant;

(iii) subsections (3) and (4) of section 23 by way of accommodation and training grants to industry in Gozo, respectively.

(5) Distributions made to the members of a company in the course of winding up the company out of any reserve fund created in accordance with the provisions of this section shall not be liable to tax under the Income Tax Act, 1948:

Provided that any tax paid by the company on the profits referred to in paragraph (a) of subsection (4) of this section shall not be available as a credit or set-off under the provisions of the said Act to the recipient of the distribution.

37. (1) Any qualifying company or other person purporting or seeking to obtain or enjoy any incentive or benefit under the provisions of this Act shall:

Powers of the Corporation and other authorities.

(a) furnish to the Corporation and to any other authority such information, accounts, statements and other documents which the Corporation or that other authority may deem to be necessary for the purposes of this Act;

(b) attend or send a representative to attend before the Corporation or other authority and answer any question lawfully made in connection therewith;

(c) provide the Corporation or other authority with reasonable access to all premises, places, books and other documents, and allow copies to be made thereof for the purposes of this Act.

(2) The Corporation or other authority may delegate to any of its officers, employees and any other person whomsoever any of the rights and powers contemplated by this section.

PART VI

Offences and Penalties

Penalty for offences against official secrecy.

38. Any person who, except as provided for or allowed under this Act or for the purposes thereof, communicates or attempts to communicate to any other person any matter or thing coming to his notice or being in his possession in the performance of his duties under this Act shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of not less than Lm200 and not more than Lm2,000 or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

Penalty for making incorrect statements etc.

39. Any person who without reasonable excuse prepares any incorrect statement or gives any incorrect information in relation to any matter or thing falling under this Act, shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of not less than Lm300 and not exceeding Lm2,000.

Provisions relating to fraud etc.

40. Any person who wilfully with intent to obtain any incentive or benefit under this Act or to assist any other person to do so —

(a) omits from a return or any other document or statement made, prepared or submitted for the purposes of or under this Act, any matter which should be included therein; or

(b) makes any false statement or entry in any return or other document or statement prepared or submitted for the purposes of or under this Act; or

(c) gives any false answer, whether verbally or in writing, to any question or request for information asked or made in accordance with the provisions of this Act; or

(d) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of account or records; or

(e) makes use of any fraud, art or contrivance whatever or authorises the use of any such fraud, art or contrivance,

shall be guilty of an offence, and shall for each such offence be liable on conviction to a fine (*multa*) of not less than Lm500 and not exceeding Lm5,000 or to imprisonment for any term not exceeding six months, or to both such fine and imprisonment.

41. If any person contravenes or fails to comply with any of the requirements of this Act or of any regulations made thereunder, in respect of which no special punishment is provided, he shall be guilty of an offence and shall for each offence be liable, on conviction, to a fine (*multa*) of not less than Lm100 and not more than Lm500. General penalty.

42. 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 punishment under any other law. Provision with respect to offences.

43. Proceedings for an offence under this Act may be commenced at any time within five years from the date of commission of the offence. Prescription for proceedings.

PART VII

Final Provisions

44. The Corporation may make regulations to give effect to any of the provisions of this Act and without prejudice to the generality of the foregoing such regulations may in particular include provisions with respect to — Power to make regulations.

(a) the form of applications, returns, statements, reports and other documents for the purposes of this Act;

(b) the procedure to be followed in matters relating to the provisions of this Act, including the processing of applications made for the purposes of this Act.

45. (1) On the coming into force of this Act, the provisions of the Aids to Industries Ordinance, 1959 shall cease to have effect in respect of any person carrying on or carrying out, or intending to carry on or carry out, any trade or business contemplated in paragraphs (a) or (b) of subsection (1) of section 3 or in section 24 of this Act, without prejudice to anything done or omitted to be done or still to be done thereunder by or in respect of any such person, and, in particular, to any relief granted to or any liability, whether criminal or civil, incurred by any such person under that Ordinance. Transitory provisions relating to the Aids to Industries Ordinance.

(2) On the coming into force of this Act, the procedure for granting any relief from customs duty under section 7 of the Aids to Industries Ordinance, 1959, and for regulating all matters relating thereto, shall be that set out in section 17 of this Act and the relevant regulatory provisions of this Act, to the exclusion of the provisions of that Ordinance.

(3) Any reference in any law whatsoever to the Aids to Industries Ordinance, 1959, shall be construed to be a reference to that Ordinance and to this Act.



Passed by the House of Representatives at Sitting No. 119 of the 22nd June, 1988.

JIMMY FARRUGIA
Speaker

P. MUSCAT TERRIBILE
Clerk to the House of Representatives