

Nru. 58

28. 4. 89

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Eddie Fenech Adami, M.P., Prim Ministru u moqri għall-Ewwel darba fis-Seduta tad-19 ta' Diċembru, 1988.

A BILL introduced by the Honourable Eddie Fenech Adami, M.P., Prime Minister and read the First time at the Sitting of the 19th December, 1988.

ATT biex jipprovdi għat-twaqqif tas-sistema ta' Portijiet Hielsa f'Malta u biex jirregola l-operazzjoni tagħha.

AN ACT to provide for the establishment of a Freeport system in Malta and to regulate its operation.

P. MUSCAT TERRIBILE
Skrivan tal-Kamra tad-Deputati

P. MUSCAT TERRIBILE
Clerk to the House of Representatives

ATT TA' L-1988 DWAR IL-PORTIJET HIELSA TA' MALTA

Arrangament ta' l-Artikoli

TAQSIMA I

Preliminari

Artikolu

1. Titolu fil-qosor u bidu fis-sehh
2. Tifsir.

TAQSIMA II

Portijiet Hielsa

3. Dikjarazzjoni ta' Portijiet Hielsa
4. Eżenzjoni minn ċerta leġislazzjoni.

TAQSIMA III

Awtorità dwar Portijiet Hielsa

5. Awtorità dwar Portijiet Hielsa
6. Setgħat ta' l-Awtorità
7. Ftehim li l-Awtorità tidhol fihom
8. Provdiment ta' strutturi industrijali, eċċ.
9. Provdiment ta' servizzi
10. Ċertifikati ta' origini u ta' assenza ta' manipulazzjoni.

TAQSIMA IV

Kumpanniji b'Liċenza

11. Kumpanniji b'liċenza
12. Kumpannija ma tibqax tkun kumpannija b'liċenza minhabba f'attivitajiet illegali
13. Merkanzija f'Portijiet Hielsa
14. Operazzjonijiet riservati f'Portijiet Hielsa
15. Ċertifikati u drittijiet.

TAQSIMA V

Regim Fiskali

16. Eżenzjoni mil-ligijiet dwar id-dazju tad-dwana u tas-sisa
17. Protezzjoni għad-dazji tad-dwana u tas-sisa
18. Eżenzjoni mit-taxxa fuq l-*income*
19. Dividendi hielsa mit-taxxa
20. Eżenzjoni mit-taxxi tal-boll
21. Eżenzjoni mill-kontroll fuq il-kambju
22. Impjegati barranin
23. Eżenzjoni mit-taxxa tal-mewt u tad-donazzjoni
24. Regola ġenerali dwar eżenzjonijiet.

TAQSIMA VI

Arrangamenti Amministrativi

25. *Records* u ċertifikar
26. Informazzjoni mehtieġa mill-Awtorità
27. Garanzija ta' eżenzjonijiet u benefiċċji
28. Revoka minhabba f'nuqqas ta' tharis
29. Proċedura dwar kwistjonijiet
30. Setgħa biex isiru regolamenti.

TAQSIMA VII

Reati u Pieni

31. Piena għal dikjarazzjonijiet eċċ. li ma jkunux korretti
32. Dispożizzjoni dwar frodi eċċ.
33. Piena ġenerali
34. Dispożizzjoni dwar reati
35. Preskrizzjoni għal proċedimenti.

SKEDA

ABBOZZ TA' LIĠI
msejjaħ

ATT biex jipprovdi għat-twaqqif ta' sistema ta' Portijiet Hielsa f' Malta u biex jirregola l-operazzjoni tagħha.

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. (1) Dan l-Att jista' jissejjaħ l-Att ta' l-1988 dwar il-Portijiet Hielsa ta' Malta. Titolu fil-qosor
u bidu fis-seħh.

(2) Id-dispożizzjonijiet ta' dan l-Att, hliet għad-dispożizzjonijiet ta' dan l-artikolu, għandhom jibdew isehħu f'dik id-data li l-Prim Ministru jista' jstabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti u għanijiet differenti ta' dan l-Att.

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġ Tifsir. xort'oħra:

"*accountant* u uditur pubbliku ċertifikat" tfisser individwu li għandu *warrant* biex jaġixxi f'din il-kapaċità, mahruġ taħt l-Att ta' l-1979 dwar il-Professjoni ta' l-*Accountancy*, jew soċjetà ta' individwi bħal dawk registrata taħt l-imsemmi Att; Att XXVIII
ta' l-1979.

"Awtorità" tfisser l-Awtorità dwar il-Portijiet Hielsa kostitwita taħt l-artikolu 5 ta' dan l-Att;

Att XXV
ta' l-1976.

“dazju tad-dwana” tfisser id-dazju mitlub jew li ghandu jithallas taht l-Att ta' l-1976 dwar id-Dazji ta' Importazzjoni;

“Kontrullur” tfisser il-Kontrullur tad-Dwana u tinkludi kull persuna ohra li jkollha s-setgha espressa jew implícita li taghmel flok il-Kontrullur hawn fuq imsemmi fl-eskuzzjoni tad-dispożizzjonijiet ta' dan l-Att;

“korp ta' persuni” tfisser kull soċjetà, ghaqda, xirka jew assoċjazzjoni ohra ta' persuni, sew jekk ikollhom personalità legali sew jekk le;

“kumpannija” tfisser soċjetà anonima kostitwita taht il-ligijiet ta' Malta u li ma tohroġx azzjonijiet ghall-portatur;

“kumpannija b'licenza” tfisser kumpannija moghtija licenza mill-Awtorità biex topera ġewwa Port Hieles taht l-artikolu 11 ta' dan l-Att;

“ligijiet tas-sisa” tfisser:

Kap. 72.

l-Att dwar id-Dazju tas-Sisa fuq il-Birra;

Kap. 166.

l-Ordinanza dwar Dazju tas-Sisa fuq *Crown Corks* u Koncentrati Mhux-alkoholiki;

Kap. 57.

l-Att dwar id-Dazju tas-Sisa fuq is-Sigarretti mahdumin bil-Makna; u

Att XIII
ta' l-1982.

l-Att ta' l-1982 dwar Dazju tas-Sisa fuq Riċevituri tat-Televiżjoni bil-Kulur.

“Ministru” tfisser il-Ministru responsabbli ghall-Portijiet Hielsa;

“persuna” tinkludi korp ta' persuni;

“Port Hieles” tfisser kull *area* f'Malta kompriza f'zona ta' Port Hieles skond id-dispożizzjonijiet ta' l-artikolu 3 ta' dan l-Att;

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

Kap. 123.

“taxxa fuq l-*income*” tfisser it-taxxa mitluba jew li ghandha tithallas taht l-Att dwar it-Taxxa fuq l-*Income*.

(2) Kull riferenza f'dan l-Att ghal xi ligi jew dispożizzjoni taghha ghandha tiftiehem bhala riferenza ghal dik il-ligi jew dispożizzjoni li tkun fis-sehh minn żmien ghal iehor u ghandha tinkludi riferenza ghal kull ligi li tissostitwixxi dik il-ligi jew dispożizzjoni (maghduda l-impożizzjoni ta' kull taxxi, jkunu xi jkunu, li jkunu analogi ma' jew f'sostituzzjoni ghal dawk li jinsabu f'dawk il-ligijiet jew dispożizzjonijiet) u ghal kull legislazzjoni sussidjarja maghmula tahtha.

(3) Kliem u espressjonijiet użati f'dan l-Att b'riferenza għal xi liġi oħra, għandhom, safejn ikun meħtieġ biex jagħtu effett lil dan l-Att, u konsistentement mad-dispożizzjonijiet tiegħu, ikollhom l-istess tifsir bħalma għandhom fil-liġi li b'riferenza għaliha huma wżati f'dan l-Att.

(4) Kull riferenza f'dan l-Att għal reat kriminali kommess barra minn Malta, jew kontra l-liġi ta' pajjiż ieħor li ma jkunx Malta, jew għal xi att li jekk ikun magħmul f'Malta jkun reat kriminali kontra l-liġi ta' Malta' għandha tiftiehem bħala limitata għal reati li jkunu reati ta' estradizzjoni għall-finijiet ta' l-artikolu 5 ta' l-Att ta' l-1978 dwar l-Estradizzjoni.

Att XVIII
ta' l-1978.

(5) F'dan l-Att, u f'kull regolament magħmul tahtu, jekk ikun hemm konflitt bejn it-test Inġliż u t-test Malti, għandu jipprevali t-test Inġliż.

TAQSIMA II

Portijiet Hiesla

3. (1) L-arej ta' Malta kif murija fil-pjanta transunta mis-Segretarju Ġenerali tal-Gvern ta' Malta, fl-atti tan-Nutar Principali tal-Gvern, Dr. Franco Pellegrini, tal-25 ta' April, 1989, għandhom, għall-finijiet u skopijiet kollha ta' dan l-Att u ta' kull liġi oħra, jikkostitwixxu żoni ta' Port Hiesla. L-imsemmija arej huma indikati fil-pjanta li tinsab fl-Iskeda li tinsab ma' dan l-Att.

Dikjarazzjoni
ta' Portijiet
Hiesla.

(2) Il-Prim Ministru jista', b'ordni fil-Gazzetta, jemenda l-Iskeda li tinsab ma' dan l-Att:

Iżda d-dispożizzjonijiet ta' l-artikolu 27 ta' dan l-Att għandhom japplikaw għal kull emenda ta' l-Iskeda li biha xi *area* bħal dik jew parti minnha ma tibqax tkun żona ta' Port Hiesla.

Iżda wkoll ebda art ma għandha tiġi nkluża f'Port Hiesla kemm-il darba dik l-art ma tkunx, minnufih qabel l-inklużjoni tagħha, miżmuma mill-Gvern taht titolu ta' proprjetà assoluta, jew tkun għaddejja mill-proċess ta' akkwist mill-Gvern taht dak it-titolu skond l-Ordinanza dwar l-Akkwist ta' Artijiet għal Skopijiet Pubbliċi; u fil-każ ta' l-aħħar id-dispożizzjonijiet ta' l-artikolu 32 ta' l-imsemmija Ordinanza ma għandhomx japplikaw:

Kap. 88.

Iżda wkoll, meta art tkun għet inkluża f'żona ta' Port Hiesla kif imsemmi qabel, din għandha tkun vestita fl-Awtorità bis-saħħa ta' dan l-Att mingħajr il-ħtieġa ta' xi formalità oħra taht l-istess titolu li tahtu kienet miżmuma mill-Gvern, u fejn l-art tkun għadha fil-proċess ta' akkwist kif imsemmi qabel, l-akkwist jitkompla mill-Gvern u ma' l-akkwist tagħha tiġi vestita fl-Awtorità bis-saħħa ta' dan l-Att mingħajr il-ħtieġa ta' xi formalità oħra.

4. (1) Id-dispożizzjonijiet ta' l-Att ta' l-1976 dwar it-Trasferiment ta' Artijiet tal-Gvern ma għandhomx japplikaw għal xi art kif definita fl-artikolu 2 ta' l-imsemmi Att meta dik l-art tkun sitwata ġewwa Port Hiesla.

Eżenzjoni
minn ċerta
legislazzjoni.
Att XXXIII
ta' l-1976.

(2) Id-dispożizzjonijiet ta' l-Att ta' l-1980 li Jirregola l-Ġarr ta' Merkanzija bil-Baħar ma għandhomx japplikaw għal merkanzija mahtuta jew mgħobbija f'Port Hiesla.

Att II
ta' l-1980.

TAQSIMA III

Awtorità dwar Portijiet Hielsa

Awtorità dwar
Portijiet Hielsa.
Kap. 168.

5. (1) *Il-Malta Freeport Corporation Limited, Kumpannija* b'responsabbiltà limitata (Nru. C9353) registrata taht l-Ordinanza dwar Soċjetajiet Kummerċjali fil-25 ta' Jannar, 1988, għandha titqies li għiet kostitwita taht dan l-Att u għandha tikkostitwixxi l-Awtorità dwar Portijiet Hielsa, hawnhekk iżjed 'il quddiem f'dan l-Att imsejha "l-Awtorità".

(2) Id-drittijiet u l-obbligi ikunu xi jkunu ta' l-imsemmija *Malta Freeport Corporation Limited* imwaqqfa u registrata taht l-Ordinanza dwar Soċjetajiet Kummerċjali kif imsemmi qabel, u kull haġa magħmula mill-imsemmija kumpannija għandhom, wara l-bidu fis-seħh ta' dan l-artikolu, jitqiesu li huma drittijiet u obbligi ta', u hwejjeġ magħmula minn, l-Awtorità.

(3) L-Awtorità jkollha d-dmir u l-funzjoni li:

(a) tamministra l-affarijiet li għandhom x'jaqsmu mal-Portijiet Hielsa bil-għan li jgħib 'il quddiem l-iżvilupp ekonomiku ta' Malta billi tinkoraġixxi t-twaqqif ta' intrapriżi industrijali u ekonomiċi fihom;

(b) li tikkoordina mall-Ministeri u d-Dipartimenti tal-Gvern kollha kif ukoll mall-korpijiet u awtoritajiet l-oħra kollha stabbiliti b'ligi fl-applikazzjoni tad-dispożizzjonijiet tas-subartikolu (2) ta' l-artikolu 6 ta' dan l-Att;

(ċ) tagħti parir lill-Gvern dwar kull materja li jkollha x'taqsam ma' Portijiet Hielsa;

(d) li tagħmel dawk l-atti l-oħra kollha li jistgħu ikunu meħtieġa jew li jwasslu għall-ksib ta' xi whud minn jew l-għanijiet kollha msemmija.

(4) Bla ħsara għall-ġeneralità tad-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, il-Ministru jista' jagħti lill-Awtorità dawk is-setgħat ta' sorveljanza u setgħat eżekuttivi, u jista' jimponi fuq l-Awtorità dawk il-kondizzjonijiet, obbligi u restrizzjonijiet skond kif ikun jidhirlu meħtieġ għat-twaqqif, żvilupp, manutenzjoni, operazzjoni, direzzjoni, kontroll u priservazzjoni ta' Portijiet Hielsa b'mod sewwa u li jrendi.

(5) Bla ħsara għad-dispożizzjonijiet l-oħra ta' dan l-Att, l-Awtorità għandha tkompli tkun regolata mill-Memorandum u l-Istatut ta' Assoċjazzjoni tagħha, u mill-Ordinanza dwar is-Soċjetajiet Kummerċjali, b'mod iżda illi:

(a) l-Awtorità ma tigix xolta jew magħquda b'fuzjoni ma' kumpannija oħra;

(b) L-Awtorità ma ghandhiex tibdel il-Memorandum jew l-Istatut ta' Assoċjazzjoni tagħha, kemm-il darba dak it-tibdil ma jiġix l-ewwel approvat b'riżoluzzjoni tal-Kamra tad-Deputati; u

(ċ) Ebda tibdil fil-proprjetà ta' azzjonijiet fl-Awtorità li jagħtu d-dritt għall-votazzjoni f'laqgħa ġenerali jew li xort'ohra jaħtru diretturi ma għandu jsir kemm-il darba dak it-tibdil ma jkunx awtorizzat b'riżoluzzjoni tal-Kamra tad-Deputati.

(6) L-Awtorità għandha kull sēna tippubblika fil-Gazzetta u f'zewġ gazzetti li joħorġu ta' kull jum f'Malta l-Kont ta' Qliegħ u Telf u l-Karta tal-Bilanċ, verifikati minn *accountant* u uditur pubbliku ċertifikat, flimkien man-noti kollha għalihom, sa mhux aktar tard minn sitt xhur wara d-data ta' l-*accounting* tagħha. Dak ir-rapport għandu, flimkien ma' kopja ta' rapport tal-Bord tad-Diretturi ta' l-Awtorità, jitqiegħed mill-Ministru fuq il-Mejda tal-Kamra tad-Deputati kmieni kemm jista' jkun malajr wara li jsiru.

(7) L-Awtorità għandha tagħti lill-Ministru l-faċilitajiet kollha biex jikseb informazzjoni dwar il-proprjetà u l-attivitajiet tagħha, u għandha tippovdih bi prospetti, kontijiet u informazzjoni oħra dwar dik il-proprjetà u dawk l-attivitajiet, u tagħtih faċilitajiet għall-verifika ta' l-informazzjoni hekk fornuta b'dak il-mod u f'dawk iż-żminijiet li l-Ministru jista' jitlob.

(8) Il-Ministru jista' wara konsultazzjoni ma' l-Awtorità, jagħti lill-Awtorità direttivi ta' karattru ġenerali li ma jkunux inkonsistenti mad-dispożizzjonijiet ta' dan l-Att, u l-Awtorità għandha tagħti effett lil kull direttiva bħal dik.

6. (1) Bla hsara għall-ġeneralità tas-setgħat mogħtija lill-Awtorità b'dan l-Att, l-Awtorità tista':

Setgħat ta'
l-Awtorità.

(a) tagħmel dawk l-atti kollha li jistgħu ikunu meħtieġa jew li jistgħu jwasslu għall-ksib ta' l-għanijiet, dmirijiet u obbligi ta' l-Awtorità;

(b) tidhol fi ftehim ma' kumpanniji li jkunu qed ifittxu li tingħatalhom liċenza biex joperaw f'Port Hieles;

(ċ) talloka arei, spazji, fabriki, mollijiet, u kull faċilità jew struttura oħra li jistgħu ikunu disponibbli f'Port Hieles b'dawk il-kondizzjonijiet li l-Awtorità tistabbilixxi bħala xierqa: iżda l-Awtorità ma' tistax b'titolu ta' bejgħ jew b'titolu ieħor simili tistrasferixxi xi proprjetà immobbli li tkun ġewwa Port Hieles;

(d) teżerċita, taqdi u twettaq dawk is-setgħat, dmirijiet u funzjonijiet kollha li jkunu b'dan l-Att jew taħt dan l-Att vestiti fl-Awtorità jew assenjati jew delegati lill-Awtorità;

(e) tistabbilixxi l-kera, hlasijiet, drittijiet u imposti oħra li għandhom jithallsu f'Port Hieles jew f'konnessjoni ma' xi aspett ta' Port Hieles jew tas-servizzi u faċilitajiet offruti taħtu;

(f) b'avviż fil-Gazzetta, tagħmel regoli għall-kontroll u d-direzzjoni ta' Port Hieles u l-attivitajiet kollha mmexxija fih jew li jkollhom x'jaqsmu miegħu;

(g) tagħmel dawk l-atti l-oħra kollha li jkun incidentali jew konsegwenzjali għall-eżerċizzju, qadi u twestieq tas-setgħat, dmirijiet u funzjonijiet tagħha taħt dan l-Att.

(2) L-Awtorità għandha, minkejja kull liġi oħra iżda bla hsara għad-dispożizzjonijiet ta' dan l-Att, tkun iċ-ċentru u l-mezz li fih u bih il-Ministeri u d-Dipartimenti tal-Gvern kollha u l-korpi jew awtoritajiet l-oħra kollha stabbiliti b'liġi għandhom jaġixxu fil-materji kollha għar-rigward tal-Portijiet Hieles kollha u l-attivitajiet kollha konnessi magħhom, u għar-rigward ta' kumpanniji li jkollhom liċenza, jew li jkunu qed ifittxu li tinħarġilhom liċenza mill-Awtorità, u bħala iċ-ċentru u l-mezz li bih kull kumpannija bħal dik għandha tapplika għal u tikseb xi permess, liċenza jew awtorizzazzjoni oħra, jew kull haġa oħra li tkun teħtieġ, u li bih għandha tikkomunika ma' kull awtorità hawn fuq imsemmija;

Iżda dan is-subartikolu ma għandhux jiftiehem li jfisser illi xi investigazzjoni, spezzjon jew att simili ieħor li xi awtorità bħal dik tista' tqis li jkun meħtieġ li jsir u kull informazzjoni li dik l-awtorità tista' teħtieġ, għall-finijiet ta' xi waħda mill-funzjonijiet taħt il-liġi, għar-rigward ta' kumpannija b'liċenza, għandha ssir jew tinkiseb mill-Awtorità.

Iżda wkoll dan is-subartikolu ma għandux jiftiehem li jnaqqas mis-setgħat u d-dmirijiet ta' xi Ministeru, Dipartiment tal-Gvern jew ta' xi korp jew awtorità oħra stabbilita b'liġi għar-rigward ta' materji li għandhom x'jaqsmu ma' difiża, ordni pubbliku jew saħħa.

(3) L-Awtorità jkollha d-dmir li tmexxi l-funzjonijiet mogħtija lilha bis-subartikolu (2) ta' dan l-artikolu mingħajr dewmien u b'mod effiċjenti; u jkun id-dmir partikolari tagħha li tassigura li kull att jew haġa li jkunu jridu jsiru bis-saħħa tas-subartikolu fuq imsemmi jsiru għas-sodisfazzjon tal-Ministeru, Dipartiment, korp jew awtorità oħra li għalihom tkun mitluba taġixxi.

Ftehim li tidhol fihom l-Awtorità.

7. Kull ftehim li l-Awtorità tidhol fih skond il-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 6 ta' dan l-Att għandu jsir bil-miktub, u kull ftehim bħal dak ikun jikkostitwixxi kuntratt li jorbot għall-finijiet ta' l-artikolu 27 ta' dan l-Att.

Provdiment ta' strutturi industrijali, eċċ.

8. (1) Meta l-Awtorità tkun sodisfatta li fil-każ ta' kumpannija b'liċenza biex topera f'Port Hieles hija tkun konsistenti mal-miri u l-għanijiet tal-*policy* li taħtha l-Port Hieles kien ikun gie kostitwit, l-Awtorità tista' tipprovi għall-kumpannija bini industrijali, strutturi u art fil-Port Hieles magħduda, taħt dawk il-kondizzjonijiet li jiġu miftiehma, bini industrijali u strutturi mibnija jew olterati skond il-htigiet tal-Kumpannija relattiva:

Iżda proprjetà immobbli f'Port Hieles ma ghandhiex tiġi trasferita lil kumpannija b'licenza taht xi titolu għal żmien li jkun itwal miż-żmien tal-licenza, oriġinali jew imtawla, tal-kumpannija li lilha tiġi hekk trasferita u li t-titolu li tahtu tiġi trasferita xi proprjetà immobbli bħal dik għandu jgħadd awtomatikament mat-terminazzjoni tal-licenza tal-kumpannija li lilha tkun hekk trasferita.

(2) Il-bini industrijali u strutturi maħsuba fis-subartikolu (1) ta' dan l-artikolu għandhom jinkludu b'mod partikolari fabbriki, imħażen (sew jekk ikunu refriġerati sew jekk le), arei ta' magazzinaġġ, tined, tankijiet, *pipelines* u dak it-tagħmir kummerċjali u industrijali li jista' jkun meħtieġ.

(3) L-Awtorità għandha wkoll tipprovdi dik il-proprjetà immobbli f'Port Hieles taht dawk il-kundizzjonijiet skond kif ikun jixraj għall-finijiet ta' l-artikolu 9 ta' dan l-Att.

9. (1) Bla hsara għad-dispożizzjonijiet tal-liġijiet applikabbli, jekk ikun hemm, ikun id-dmir ta' l-Awtorità li tassigura li kull Port Hieles ikun provdut b'dawn is-servizzi li ġejjin, jiġifieri: Provdiment ta' servizzi.

- (a) provvista ta' kurrent elettriku;
- (b) ilma tax-xorb u ilma iehor;
- (ċ) servizzi postali;
- (d) telekomunikazzjonijiet;
- (e) servizzi bankarji u ta' assigurazzjoni;
- (f) servizzi tat-tifi tan-nar;
- (g) arrangamenti għad-disponiment mill-iskart;
- (h) sistemi adegwati ta' toroq;
- (i) mollijiet, bankini u strutturi simili oħra;
- (j) trasport għall-merkanzija u għall-passiġġieri għal u mill-Port Hieles;
- (k) sistemi ta' sigurtà, magħduda dwal pubbliċi adegwati.

(2) Ebda haġa f'dan l-artikolu ma għandha titqies li timpedixxi lill-Awtorità milli tippokura l-provdiment ta' dawk is-servizzi l-oħra li jistgħu ikunu meħtieġa għat-tmexxija sewwa ta' xi Port Hieles, jew li teżoneraha mid-dmir tagħha li tippokura l-provdiment tagħhom.

10. (1) L-Awtorità tista', wara li tikkunsidra t-trasformazzjoni sostanzjali li tkun saret fl-identità ta' merkanzija jew oġġetti u l-valur miżjud permezz ta' xi proċessar jew operazzjoni oħra li ssir f'Port Hieles, tohroġ ċertifikat li jindika li Malta tkun il-pajjiż ta' origini ta' kull merkanzija jew oġġetti bħal dawk. Ċertifikati ta' origini u ta' assenza ta' manipulazzjoni.

(2) L-Awtorità tista', meta tkun hekk sodisfatta, tohroġ ċertifikat fis-sens illi xi merkanzija jew oġġetti li jkunew ġew trasbordati minn go Port Hieles ma jkunew ġew manipolati fil-Port Hieles b'mod li tinbidel l-identità tagħhom.

(3) Ebda persuna ma tkun tista', kemm-il darba ma tkunx l-ewwel kisbet ċertifikat mill-Awtorità skond id-dispożizzjonijiet ta' dan l-artikolu, tindika b'xi mod li:—

(a) merkanzija jew oġġetti li jkunu ġew mgħoddija minn xi proċess jew trasformazzjoni oħra tkun li tkun f'Port Hieles ikollhom Malta bħala l-origini tagħhom; jew li

(b) xi merkanzija jew oġġetti trasbordati minn go Port Hieles ma jkunux ġew manipulati fil-Port Hieles.

TAQSIMA IV

Kumpanniji b'Liċenza

Kumpanniji
b'liċenza.

11. (1) L-Awtorità tista' tagħti liċenzi lil kumpanniji biex f'Port Hieles imexxu kummerċ jew negozju li prinċipalment ikun:

(a) it-tikkettjar, l-ippakkjar, l-għażil, id-dhul f'depożt, il-magazzinaġġ, l-esibizzjoni jew l-immuntar ta' xi oġġetti, materjal, merkanzija, tagħmir, impjant jew makkinarju; jew

(b) kull attività purament konnessa mat-tmexxija ta' Port Hieles magħduda, iżda mhux limitata għal, hatt u tagħbija, xogħol fuq il-moll, thaddim ta' terminals u maniġġ ta' *containers*; jew

(ċ) l-għoti ta' servizzi li jkunu analogi jew komplimentari għall-attivitajiet imsemmija fil-paragrafu (a) ta' dan is-subartikolu, u l-istatus bħala kumpannija b'liċenza ikun ippruvat bil-hruġ ta' liċenza għal dan il-ghan mill-Awtorità.

(2) Ebda kumpannija ma tingħata liċenza maħsuba b'dan l-Att kemm-il darba l-attivitajiet tagħha ma jkunux, fil-fehma ta' l-Awtorità, kollha kemm huma jew fil-biċċa l-kbira tagħhom immexxija jew eżerċitati ġewwa Port Hieles.

(3) Għall-fini tas-subartikolu (2) ta' dan l-artikolu, dawn l-attivitajiet li ġejjin, immexxija jew eżerċitati 'l barra minn Port Hieles minn kumpannija b'liċenza, ma għandhomx jitqiesu li jmorru kontra r-regola fih imniżżla:

(a) id-direzzjoni u l-amministrazzjoni ta' kumpannija, il-kummerċ, in-negozju jew proprjetà u ż-żamma tagħha;

(b) l-eżekuzzjoni ta' dokumenti, negozji, negozjati jew ftehim li jkollhom x'jaqsmu mall-kummerċ jew negozju tal-kumpannija;

(ċ) it-transitu ta' oġġetti jew merkanzija oħra għal u minn Port Hieles.

(4) L-Awtorità jkollha l-jedd esklussiv li tohroġ liċenzi lil kumpanniji biex joperaw f'Port Hieles. Il-liċenzi u l-benefiċċji li jkunu marbutin magħhom jingħataw biss lil kumpanniji li jmexxu attivitajiet li jġibu 'l quddiem l-ghanijiet ta' Port Hieles.

Kumpannija
ma tibqax tkun
kumpannija
b'liċenza
minhabba
f'attivitajiet
illegali.

12. (1) L-Awtorità għandha thassar il-liċenza ta' kull kumpannija li tmexxi xi attività, jew ikollha xi *income* li jkun ġej lilha jew li taqla', li jkun jikkonsisti fi jew jorigina minn xi transazzjoni,

operazzjoni jew attività oħra li tkun reat kriminali kontra l-ligi ta' Malta, jew li tkun reat bħal dak jekk issir f'Malta, jew li tkun laqgħet għandha jew ikollha fil-pussess jew kontroll tagħha flus jew proprjetà oħra li l-fatt li tkun irċeviethom, il-proprjetà tagħhom, il-pussess jew kontroll tagħhom huwa, jew ikun, reat bħal dak.

(2) *L-income*, flus u l-proprjetà l-oħra kollha kif imsemmija fis-subartikolu (1) ta' dan l-artikolu jkunu suġġetti għal qbid u jiġu konfiskati favur l-Awtorità u jsiru l-proprjetà assoluta tagħha:

Izda kull persuna li tkun tixtieq tikkontesta dak il-qbid jew dik il-konfiska tista' tharrek lill-Awtorità quddiem il-Prim'Awla tal-Qorti Ċivili u d-dispożizzjonijiet ta' l-artikolu 73 ta' l-Ordinanza tad-Dwana għandhom japplikaw għal dik l-azzjoni, b'dana illi kull riferenza f'dak l-artikolu għall-Kontrullur u għall-Ordinanza għandha tinqara u tiftiehem bħala riferenza għall-Awtorità u għal dan l-Att, rispettivament.

13. (1) Fil-hruġ ta' liċenzi għal operazzjonijiet f'Port Hieles, l-Awtorità għandha tassigura li Port Hieles ikun miftuħ għall-oġġetti kollha, irrispettivament mix-xorta, kwantità, pajjiż ta' oriġini, konsenja jew destinazzjoni tagħhom; lanqas ma għandu jkun hemm xi limitu ta' żmien li matulu l-oġġetti jistgħu jinżammu f'Port Hieles.

Oġġetti
f'Portijiet
Hieles.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu:

(a) il-Gvern u l-Awtorità jkollhom is-setgħa li jimponu dawk il-projbizzjonijiet jew restrizzjonijiet skond kif ikun jidhrilhom ġustifikat għal raġunijiet ta' moralità pubblika, ordni pubbliku jew sigurtà pubblika, il-protezzjoni tas-saħħa u l-hajja tal-bniedem, ta' l-annimali u tal-pjanti, il-protezzjoni tat-teżori nazzjonali ta' valur artistiku, storiku jew arkeoloġiku, jew il-protezzjoni ta' proprjetà industrijali jew kummerċjali;

(b) l-Awtorità jkollha s-setgħa li titlob li oġġetti perikolużi jew li jistgħu jkunu ta' hsara għal oħrajn jew li, għal xi raġuni tkun xi tkun, ikunu jinhtiegu faċilitajiet speċjali, jitqieghdu f'postijiet mghammra apposta biex jilqgħu dawk l-oġġetti.

14. (1) L-Awtorità ma tohroġ liċenza lil xi kumpannija għall-finijiet ta' l-artikolu 11 ta' dan l-Att jekk il-kumpannija, fil-fehma ta' l-Awtorità, tkun qed teżerċita xi operazzjonijiet konnessi ma' spirti alkoħoliċi, prodotti tat-tabakk jew dawk l-oġġetti l-oħra li l-Awtorità tista' minn żmien għal żmien tistabbilixxi b'avviż fil-Gazzetta, kemm-il darba l-operazzjonijiet relattivi ma jkunux immexxija minn manifattur konnoxxut ta' l-oġġetti.

Operazzjonijiet
riservati
f'Portijiet
Hieles.

(2) L-Awtorità ma għandha tippermetti li tiġi utilizzata ebda parti minn Port Hieles bħala mahżen ta' depożt għal skopijiet ta' dazju tad-dwana dwar oġġetti li jkunu ġew jew li jkunu se jiġu importati f'Malta izda l barra minn Port Hieles.

(3) L-Awtorità ma ghandhiex tohrog liċenża lil xi kumpannija kemm-il darba ma tkunx sodisfatta li dik il-kumpannija tkun qed tokkupa, taht xi titolu validu bil-liġi, jew tkun qed tithalla tuża mill-Awtorità proprjeta immobbli f'Port Hieles kemm wahedha jew flimkien ma' kumpanniji ohra b'liċenża.

(4) L-Awtorità tista' tippermetti kull persuna, tkun min tkun, li tidhol u topera f'Port Hieles, ukoll jekk dik il-persuna, ghal xi raġuni jew ohra, ma tkunx tista' tkun kumpannija b'liċenża ghall-finijiet ta' l-artikolu 11 ta' dan l-Att jekk, fil-fehma ta' l-Awtorità —

(a) ikun utili, mehtieg jew li jwassal ghal żvilupp u ffunzjonar ahjar ta' Port Hieles li dik il-persuna tithalla tidhol u topera f'dak il-Port Hieles; jew

(b) permess u dhul kif intqal qabel ikunu mehtiega skond id-dispożizzjonijiet ta' l-artikolu 9 ta' dan l-Att.

Ċertifikati
u drittijiet.

15. (1) L-Awtorità tista' minn żmien ghal iehor tohrog ċertifikati skond kif ikun jidhrilha xieraq li juru li kumpannija, jew kumpannija li tkun qieghda tiġi fformata, tkun, jew ghad tkun, kumpannija b'liċenża skond id-dispożizzjonijiet ta' dan l-Att, u dak iċ-ċertifikat ikun xhieda konklussiva ghall-finijiet ta' l-artikolu 24 u ghall-finijiet kollha ta' dan l-Att, u ghall-materji kollha relatati, korollarji jew ancillari, illi dik il-kumpannija ghandha, jew ghad ikollha, dik il-liċenża.

(2) Hlief jekk ma jigix preskritt xort'ohra mill-Ministru fi jew wara l-hames anniversarju ta' din il-liġi, dritt ta' Lm1,000 ghall-hrug tal-liċenża ghandu jithallas lill-Awtorità minn kull kumpannija li lilha tkun inħarġet liċenża skond id-dispożizzjonijiet ta' dan l-Att; u minn hemm 'il quddiem jithallas dritt annwali ta' l-istess ammont f'kull anniversarju ta' l-ghoti tal-liċenża lill-kumpannija:

Iżda ebda bdil fid-dritt li jithallas ghal liċenża ma ghandu jkollu effett qabel ma tghaddi sena mill-pubblikazzjoni ta' dak il-bdil fil-Gazzetta.

TAQSIMA V

Regim Fiskali

Eżenzjoni
mit-taxxa
tad-dwana
u mil-liġijiet
tas-sisa.

16. (1) Bla hsara ghad-dispożizzjonijiet ta' dan l-Att, l-oġġetti kollha importati f'Port Hieles minn kumpannija b'liċenża jew mill-Awtorità jkunu eżentati mit-taxxa tad-dwana:

Iżda:

(a) dawk l-oġġetti jiġu importati esklussivament ghall-kostruzzjoni, bdil, rikostruzzjoni jew estensjoni ta' bini jew struttura industrijali ġewwa Port Hieles jew ghal xi estensjoni tiegħu, jew sabiex isiru tiswijiet f'dak il-bini industrijali jew struttura jew fl-estensjoni tagħhom, jew ikunu jikkonsistu f'tagħmir, *spare parts*, makkinarju jew impjant, li jkunu jinsabu

f'dak il-bini industrijali jew struttura jew f'estensjoni tagħhom, jew ikunu mahsuba għat-tqeghid ġdid ta' xi tagħmir, makkinarju jew impjant f'xi bini industrijali jew struttura bħal dawk jew f'estensjoni tagħhom, u fil-każijiet kollha għall-għanijiet ta' l-Awtorità jew tal-kummerċ jew negozju mmexxi jew li jkun mahsub li jitmexxa mill-kumpannija; jew

(b) dawk l-oġġetti jkunu materja prima, komponenti, prodotti intermedji, *by-products*, oġġetti mhux lesti għal kollox, jew oġġetti oħra importati għall-għanijiet li għalihom il-kumpannija tkun ingħatat liċenza mill-Awtorità skond id-dispożizzjonijiet ta' dan l-Att.

(2) Kull kumpannija li timporta f'Port Hieles xi oġġetti hielsa mid-dazju tad-dwana skond is-subartikolu (1) ta' dan l-artikolu, għandha:

(a) iżzomm *records* sewwa u suffiċjenti ta' l-oġġetti li hija hekk timporta; u

(b) tippermetti lill-Awtorità li fil-hinijiet kollha raġonevoli tispezzjona dawk ir-*records* u li jkollha aċċess għal kull post tal-kumpannija sabiex teżamina dawk l-oġġetti li hija tista' taħseb li jkunu qeghdin hemm ġew u sabiex tkun sodisfatta mill-eżattezza ta' dawk ir-*records*.

(3) Ebda oġġetti importati f'Port Hieles mill-Awtorità jew minn kumpannija b'liċenza hielsa mid-dazju tad-dwana skond id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu ma għandhom jinbiegħu, jingħataw jew xort'oħra jitnehhew hlief lill-Awtorità jew kumpannija oħra b'liċenza hlief:

(a) b'ri-esportazzjoni minn Malta, sew fl-istess stat ta' meta kienu ġew importati, sew xort'oħra, jew, suġġett għal dawk ir-restrizzjonijiet dwar l-importazzjoni li kienu japplikaw kieku dawk l-oġġetti kienu ġew importati minn barra minn Malta, bi trasferiment f'Malta 'l barra minn Port Hieles wara l-hlas tad-dazju tad-dwana skond id-dispożizzjonijiet tas-subartikolu (6) ta' dan l-artikolu; jew

(b) fil-każ ta' bini industrijali jew struttura li għall-kostruzzjoni, bdil, rikostruzzjoni, estensjoni jew tagħmir tagħhom dak l-oġġett ikun ġie importat f'Port Hieles lill-persuna li għaliha jkun inbena dak il-bini industrijali jew struttura; jew

(ċ) fil-każ ta' materjal, komponenti jew aċċessorji importati f'Port Hieles għal xi għan imsemmi fis-subartikolu (1) ta' l-artikolu 11 ta' dan l-Att:

(i) jekk ikunu nkorporati fl-oġġetti jew komoditajiet li dwarhom ikunu ġew importati; jew

(ii) bla hsara għal dawk ir-restrizzjonijiet dwar l-importazzjoni li kienu jkunu japplikaw kieku dawk l-oġġetti kienu ġew importati minn barra minn Malta, bi trasferiment f'Malta 'l barra minn Port Hieles wara l-hlas ta' l-ammont ta' dazju tad-dwana li kien ikun irid jithallas ma' l-importazzjoni ta' dak il-materjal jew ta' dawk il-komponenti hlief għas-subartikolu (1) ta' dan l-artikolu.

(4) Meta oġġetti importati f'Port Hieles mill-Awtorità jew minn kumpannija b'licenza hielsa mid-dazju tad-dwana jinbieghu, jiġu mogħtija jew xort'ohra jitnehhew lill-Awtorità jew lil kumpannija b'licenza skond is-subartikolu (3) ta' dan l-artikolu, dawk l-oġġetti allura għandhom, għall-finijiet ta' dan l-Att, jitqiesu li jkunu ġew importati mill-Awtorità jew mill-kumpannija li lilha jinbieghu, jingħataw jew li xort'ohra jiġu mgħoddija lilha.

(5) Bla hsara għal dawk il-kondizzjonijiet u l-ghoti ta' dik il-garanzija li huwa jista' jistabbilixxi, il-Kontrullur għandu:

(a) jippermetti li l-oġġetti kollha ddestinati għal Port Hieles jiġu żbarkati f'Malta hielsa mid-dazju tad-dwana: iżda fil-każi kollha, dawk l-oġġetti għandhom (kemm-il darba ma jkunx permess xort'ohra mill-Kontrullur) jiġu trasferiti ġewwa l-Port Hieles fi żmien sebat ijiem tax-xogħol minn meta jkunu ġew żbarkati;

(b) jippermetti t-transitu ta' l-oġġetti kollha ddestinati għall-esportazzjoni minn Port Hieles għal xi port jew ajruport f'Malta mingħajr il-hlas tad-dazju tad-dwana fuqhom: iżda l-imsemmija oġġetti għandhom (kemm-il darba ma jkunx permess xort'ohra mill-Kontrullur) jiġu mgħobbija fuq bastiment jew inġenju ta' l-ajru fi żmien sebat ijiem tax-xogħol minn meta jkun harġu minn Port Hieles.

(6) Kull meta xi oġġetti li jkunu dahlu f'Port Hieles hielsa mid-dazju tad-dwana skond id-dispożizzjonijiet ta' dan l-artikolu jiġu trasferiti minn go Port Hieles u jibqgħu f'Malta xort'ohra milli għall-ghan mahsub fil-paragrafu (b) tas-subartikolu (5) ta' dan l-artikolu jew, jekk ikunu proprjetà ta' l-Awtorità, biex jintużaw mill-Awtorità skond id-dmirijiet jew funzjonijiet tagħha taht dan l-Att 'il barra minn Port Hieles, dawk l-oġġetti għandhom, minnufih malli jiġu hekk trasferiti, jitqiesu li jkunu ġew importati f'Malta u jkunu sugġetti għall-hlas tad-dazju tad-dwana skond id-dispożizzjonijiet relattivi ta' l-Att ta' l-1976 dwar id-Dazji ta' Importazzjoni fejn ikun japplika:

Iżda fil-każ ta' xi oġġetti li jkunu ġew proċessati f'Port Hieles u li jkunu jikkwalifikaw għal ċertifikar bhala li jkunu ġew magħmula f'Malta skond id-dispożizzjonijiet ta' l-artikolu 10 ta' dan l-Att, ix-xorta ta' l-oġġetti, il-valur u l-kwantità li jkunu jridu jitqiesu fl-iffissar tad-dazju tad-dwana għandhom, fuq it-talba tal-persuna li għandha thallas id-dazju, ikunu dawk li kienu jittiehdu f'konsiderazzjoni kieku l-oġġetti ma kienux ġew proċessati kif intqal qabel.

(7) Meta d-dazju tad-dwana jkun thallas dwar xi oġġetti ma' l-importazzjoni tagħhom f'Malta, ebda talba għal hlas lura ta' dak id-dazju ma għandha ssir minhabba biss li dawk l-oġġetti jiġu aktar tard trasferiti għewwa Port Hieles.

(8) Il-ligijiet dwar is-sisa ma għandhomx japplikaw għal xi oġġetti prodotti f'Port Hieles kemm-il darba dawk l-oġġetti ma jkunux għew imdahhla biex jiġu kkunsmati f'Malta 'l barra minn Port Hieles.

17. (1) L-Awtorità għandha:

Protezzjoni
għad-dazji
tad-dwana
u tas-sisa.

(a) tassigura illi kull Port Hieles ikun mghammar b'sistemi adegwati ta' kontroll biex ma tithalliex issir evażjoni mid-dazji tad-dwana u tas-sisa li jkunu jridu jithallsu lill-Gvern hlief għad-dispożizzjonijiet ta' dan l-Att;

(b) tassigura li kull area dikjarata bhala Port Hieles skond id-dispożizzjonijiet ta' dan l-Att tkun magħluqa kif għandu jkun; u

(c) tistabbilixxi l-punti ta' dhul u hrug tieghu,

u f'kull materja bhal dik l-Awtorità għandha tikkonforma mal-htigiet kollha tal-Kontrullur dwarhom, kemm-il darba l-Prim Ministru ma jordnax xort'ohra.

(2) Il-persuni kollha li jidhlu f'Port Hieles minn kull post f'Malta 'il barra minn zona ta' Port Hieles jew ihallu Port Hieles hlief għal destinazzjoni barra minn Malta b'xi oġġetti għandhom iwieġbu dawk il-mistoqsijiet li l-Kontrullur jista' jagħmlilhom għar-rigward ta' l-oġġetti msemmija u għandhom, jekk ikunu mitluba mill-Kontrullur, jipprezentaw dawk l-oġġetti biex jiġu ezaminati f'dak il-post li l-Kontrullur jista' jordna.

(3) Fil-hin li vettura tkun diehla jew hierġa minn Port Hieles, il-Kontrullur jista' jitla' fuq il-vettura u jagħmel tfittxija f'kull parti tagħha.

(4) L-Awtorità ma għandha thalli lil hadd jirrisjedi għewwa Port Hieles.

(5) L-Awtorità tista' tichad dhul għal Port Hieles lil kull persuna li ma tipprovdix dawk il-garanziji li jkun jidhrilha meħtieġa dwar l-applikazzjoni kif imiss ta' xi regoli, regolamenti jew ordnijiet dwaru.

(6) Kull kumpannija b'licenza għandha tagħmel disponibbli lill-Awtorità dawk ir-records bil-miktub li jkollhom x'jaqsmu ma' l-oġġetti li tkun qed timporta jew li tkun sejra timporta f'Port Hieles skond kif ikun meħtieġ għall-identifikazzjoni tax-xorta, kwantità u pajjiż ta' origini, konsenja u destinazzjoni tagħhom, liema records għandhom ikunu disponibbli biex jiġu spezzjonati mill-Kontrullur.

(7) Il-Ministru jista', bil-parir ta' l-Awtorità, b'regolamenti ppubblikati fil-Gazzetta, jagħmel provvedimenti għar-rigward tad-dhul ta' oġġetti fi u l-garr ta' oġġetti minn Port Hieles, u ż-żamma, protezzjoni u t-trattament ta' oġġetti li jkunu għewwa Port Hieles.

(8) Bla hsara għall-generalità tas-subartikolu (7) ta' dan l-artikolu, ir-regolamenti li jsiru tahtu jistgħu jagħmlu provvedimenti —

(a) biex tithalla ssir id-distruzzjoni ta' oġġetti f'Port Hieles mingħajr il-hlas ta' dazji tad-dwana u tas-sisa, f'dawk iċ-ċirkostanzi u sugġett għal dawk il-kondizzjonijiet li l-Awtorità tista' tistabbilixxi;

(b) li jitlob li operazzjonijiet speċifikati ġewwa Port Hieles għandhom isiru b'dak il-mod u sugġett għal dawk ir-restrizzjonijiet li jistgħu jiġu imposti bi jew taht ir-regolamenti;

(ċ) li jistabbilixxi l-piena li tista' tingħata minn xi qorti f'każ ta' nuqqas ta' tharis ta' xi kondizzjonijiet jew restrizzjonijiet imposti bis-saħħa tal-paragrafu (b) ta' dan is-subartikolu: iżda dik il-piena ma għandhiex tkun iżjed minn multa ta' Lm5,000 flimkien mal-konfiska ta' l-oġġetti li għalihom jirreferi r-reat;

(d) li jispeċifika l-informazzjoni li għandha tingħata lill-Awtorità dwar oġġetti importati f'Port Hieles u l-forma li fiha, il-persuni li minnhom, u ż-żmien li fih, għandha tingħata dik l-informazzjoni.

Eżenzjoni
mit-taxxa
fuq l-income.

18. (1) Kumpannija b'licenza tkun eżenti mill-hlas tat-taxxa fuq l-income fuq il-qligh jew profitti li hija tikseb minn kummerċ jew negozju mmexxija f'Port Hieles skond id-dispożizzjonijiet ta' l-artikolu 11 ta' dan l-Att.

Kap. 123.

(2) Għall-finijiet ta' l-Att dwar it-Taxxa fuq l-Income, l-income jew parti minnu ta' xi kumpannija għal xi sena ta' stima li dwaru topera l-eżenzjoni mit-taxxa fuq l-income taht id-dispożizzjonijiet ta' dan l-artikolu jiġi kkalkulat b'dak il-mod li hemm muri fl-imsemmi Att u skond id-dispożizzjonijiet tiegħu: iżda d-dispożizzjonijiet ta' l-Att dwar it-Taxxa fuq l-Income jinqabzu jew jiġu sostitwiti kif ikun mehtieg bid-dispożizzjonijiet ta' dan l-Att.

(3) Imghax u royalties imħallsa minn kumpannija b'licenza għar-rigward ta' jew f'konnessjoni ma' operazzjonijiet jew transazzjonijiet eżenti mit-taxxa fuq l-income taht id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu jkunu wkoll eżenti mit-taxxa fuq l-income: iżda dik l-eżenzjoni ma tkunx tapplika meta imghax jew royalties jithallsu lil persuna li tkun ordinarjament residenti jew domiciljata f'Malta.

Dividendi
hielsa
mit-taxxa.

19. (1) Id-dividendi kollha (jew parti minnhom) imqassmin minn kumpannija b'licenza mill-qligh jew profitti, jew parti minnhom, li, taht id-dispożizzjonijiet ta' dan l-Att, ikunu ġew meħlusa mill-hlas tat-taxxa fuq l-income, ikunu eżenti mit-taxxa fuq l-income f'idejn il-membri tal-kumpannija li jirċievu dik il-kontribuzzjoni:

Iżda d-dispożizzjonijiet ta' dan is-subartikolu ma għandhomx japplikaw għal dividend imqassam lil persuna li tkun ordinarjament residenti jew domiciljata f'Malta.

(2) Meta dividend li ghalih japplika s-subartikolu (1) ta' dan l-artikolu jitqassam lil membru li jkun ukoll kumpannija (f'dan is-subartikolu msemmija bhala "it-tieni kumpannija"), l-imsemmi dividend ikun xorta wahda jista' jitqassam mit-tieni kumpannija lill-membri taghha stess f'ghamla ta' dividendi ezenti mit-taxxa fuq l-*income* f'idejn min jircevihom, u meta membru tat-tieni kumpannija jkun ukoll kumpannija, id-dispozizzjonijiet ta' qabel ta' dan is-subartikolu jkunu japplikaw *mutatis mutandis* daqs li kieku riferenzi ghall-ewwel kumpannija kienu riferenzi ghal dak il-membri, u l-principju msemmi f'dan is-subartikolu ghandu jkompli jigi applikat ghal dak iz-zmien kollu li l-qligh u l-profitti jew parti minnhom li ghalihom japplika dan l-artikolu jigu mqassma bhala dividendi:

Izda d-dispozizzjonijiet ta' dan is-subartikolu ma jibqghux japplikaw meta dividend jitqassam lil persuna li tkun ordinarjament residenti jew domiciljata f'Malta.

(3) Id-dispozizzjonijiet ta' l-artikolu 22 ta' l-Att dwar it-Taxxa fuq l-*Income* ma ghandhomx japplikaw ghal kumpannija b'licenza u l-profitti taghha, u ghall-membri tal-kumpannija ghar-rigward ta' l-interess taghhom fil-kumpannija u l-profitti taghha maqlugha matul xi perijodu li fih ikollha dik il-licenza.

20. Minkejja d-dispozizzjonijiet ta' l-Att ta' l-1981 dwar it-Taxxa fuq Dokumenti, ebda taxxa ma tithallas tahtom ghar-rigward ta':

Ezenzjoni
mit-taxxa
tal-boll.
Att XXXI
ta' l-1981.

(a) l-allokkazzjoni ta' xi azzjonijiet jew *stock* mahruqa godda ta' kumpannija b'licenza;

(b) ix-xiri, trasferiment, assenjazzjoni jew in-negozjar ta' xi azzjoni jew *stock* ta' dik il-kumpannija;

(c) ix-xiri, bejgh jew trasferiment iehor ta' xi attiv minn kumpannija b'licenza jew mill-Awtorità, li ma jkunx bejgh jew trasferiment iehor lil persuna domiciljata jew ordinarjament residenti f'Malta kemm-il darba dik il-persuna ma tkunx l-Awtorità jew kumpannija ohra b'licenza;

(d) it-trasferiment ta' xi ipoteka, *mortgage*, jew piż iehor fuq xi attiv ta' kumpannija b'licenza jew ta' l-Awtorità;

(e) valutazzjonijiet maghmula ghal kumpannija b'licenza jew ghall-Awtorità;

(f) ricevuti moghtija minn kumpannija b'licenza jew mill-Awtorità;

(g) xi applikazzjoni li tigi prezentata minn kumpannija b'licenza jew mill-Awtorità;

(h) poloz ta' l-assigurazzjoni mahruqa favur kumpannija b'licenza jew favur l-Awtorità.

Eżenzjoni
mill-kontroll
fuq il-kambju.

Att XLIX
ta' l-1972.

21. (1) Bla hsara ghad-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, kumpanniji b'licenza jkunu eżenti mid-dispożizzjonijiet ta' l-Att ta' l-1972 dwar il-Kontroll fuq il-Kambju, sal-grad li dik l-eżenzjoni tassigura:

(a) trasferimenti liberi u bla restrizzjoni ta' kambju barrani minn kumpanniji b'licenza;

(b) li ma jiġu ffissati ebda limiti dwar iż-żamma ta' azzjonijiet f'kumpanniji b'licenza minn persuni mhux residenti f'Malta;

(c) ripatrijazzjoni bla restrizzjoni ta' dividendi mhallsin minn kumpanniji b'licenza meta d-dividendi jkunu eżenti mit-taxxa fuq l-income skond id-dispożizzjonijiet ta' l-artikolu 19 ta' dan l-Att;

(d) trasferimenti liberi ta' azzjonijiet f'kumpanniji b'licenza;

(e) ripatrijazzjoni bla restrizzjoni tad-dhul mil-likwidazzjoni ta' kumpanniji b'licenza;

(f) dritt għal amministrazzjoni libera minn kumpanniji b'licenza tal-flus barranin tagħhom; u

(g) ir-ripatrijazzjoni bla restrizzjoni ta' xi somma dovuta bhala pagi jew salarji lil impjegati barranin imsemmija fl-artikolu 22 ta' dan l-Att:

Iżda dawk l-eżenzjonijiet ma għandhomx japplikaw (hlief għal transazzjonijiet bankarji normali) għar-rigward ta' transazzjonijiet u operazzjonijiet magħmula ma' persuni residenti f'Malta.

(2) L-eżenzjonijiet mogħtija bis-saħħa ta' dan l-artikolu jkunu biss dovuti lil kumpanniji b'licenza li fihom ċittadini Maltin (inklużi kumpanniji) ikunu intitolati għal anqas minn erbgħin fil-mija tal-valur nominali tal-kapital azzjonarju mahruġ, eskluża kull parti tiegħu li, la f'dawk li huma dividendi u lanqas f'dak li huwa kapital, ikollha xi dritt għal parteċipazzjoni f'xi tqassim ta' profitti li jkunu akbar minn ammont speċifikat.

Impjegati
barranin.

Att IX
ta' l-1970.

22. (1) L-Awtorità tista' tiċċertifika li individwu li ma jkunx persuna eżenti taht l-Att ta' l-1970 dwar l-Immigrazzjoni jikkontribwixxi, jekk jingħata licenza taht l-imsemmi Att biex jimpjega ruħu ma' kumpannija b'licenza jew ma' l-Awtorità, permezz tal-hila u l-esperjenza teknika jew amministrattiva tiegħu, għat-twaqqif, żvilupp, manutenzjoni, operazzjoni, direzzjoni, kontroll u priservazzjoni kif imiss u b'mod li jirrendi ta' Port Hieles jew ta' l-Awtorità, u ta' l-operazzjonijiet tagħhom.

(2) Meta, bla hsara għad-dispożizzjonijiet ta' l-Att ta' l-1970 dwar l-Immigrazzjoni, individwu li ma jkunx domiciljat f'Malta jew li, jekk hekk domiciljat, ma jkunx ordinarjament residenti f'Malta, ikun impjegat ma' kumpannija b'licenza jew ma' l-Awtorità, it-taxxa fuq l-income fuq l-income taxxabli ta' dak l-individwu tkun dovuta bir-rati

maħsuba bl-Att dwar it-Taxxa fuq l-*Income*, hekk illi kull rata ta' taxxa ta' aktar minn 30 ċenteżmu fuq kull lira Maltija tiġi mnaqqsa għal 30 ċenteżmu.

(3) Individwi msemmija fis-subartikolu (2) ta' dan l-artikolu li jkunu mpjegati ma' kumpannija b'liċenza jew ma' l-Awtorità, u dik il-kumpannija b'liċenza u l-Awtorità għar-rigward ta' dawk l-individwi, ikunu intitolati għal eżenzjoni mid-dispożizzjonijiet ta' l-Att ta' l-1987 dwar is-Sigurtà Soċjali u ta' xi liġi li tissostitwixxi dik il-liġi.

Att X
ta' l-1987.

(4) L-oġġetti personali wżati, inkluża *motor car* waħda adattata għall-użu tal-familja, ta' xi individwu msemmi fis-subartikolu (2) ta' dan l-artikolu, importati f'Malta mhux aktar tard minn sitt xhur wara li jkun beda jirrisjedi f'Malta, jistgħu jiġu hekk importati hielsa mid-dazju tad-dwana:

Iżda dak id-dazju jkun irid jithallas fuq kull haġa importata hielsa mid-dazju taht dan is-subartikolu jekk u meta dik il-haġa tinbiegħ, tiġi assenjata jew xort'ohra trasferita lil persuna residenti f'Malta.

23. (1) Minkejja kull haġa li tinsab fl-Att ta' l-1973 dwar it-Taxxa tal-Mewt u tad-Donazzjoni, ebda taxxa ma tithallas taht dak l-Att dwar xi interess f'kumpannija b'liċenza li persuna tkun tipposjedi meta —

Eżenzjoni mit-
taxxa tal-mewt u
tad-donazzjoni.
Att XLVII ta'
l-1973.

(a) dak l-interess ikun kompriz fi trasmissjoni taxxabbli taht l-imsemmi Att, u

(b) is-sid ta' qabel ta' dak l-interess qabel il-ġrajja tat-trasmissjoni taxxabbli u s-sid il-ġdid wara l-ġrajja tat-trasmissjoni jkunu t-tnejn persuni mhux domiciljati f'Malta, u

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

(2) Id-dispożizzjonijiet ta' dan l-artikolu japplikaw għal interess f'kumpannija b'liċenza li jkun —

(a) xi azzjoni fi jew obligazzjoni ta' dik il-kumpannija;

(b) xi dividend imqassam jew dovut li jitqassam mill-imsemmija kumpannija;

(ċ) xi flus mislufa jew avvanzati lill-kumpannija, u kull kreditu iehor ikun li jkun, irrispettivament mill-mod li bih is-self jew l-avvanz ikun sar jew irriżulta, u l-garanzija mogħtija għal hekk;

(d) xi imghax fuq flus jew *income* iehor imħallas jew dovut li jithallas mill-kumpannija qabel il-ġrajja tat-trasmissjoni taxxabbli.

24. L-eżenzjonijiet maħsuba b'din it-Taqsima għandhom japplikaw biss għal transazzjonijiet u operazzjonijiet li jkunu rilevanti għall-ghanijiet li għalihom l-Awtorità giet maħtura skond id-Regola ġenerali
dwar l-eżenzjonijiet.

dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 5, jew li ghalihom kumpannija tkun jew għad tkun mogħtija liċenza skond id-dispożizzjonijiet tas-subartikolu (4) ta' l-artikolu 11 ta' dan l-Att.

TAQSIMA VI

Arranġamenti Amministrattivi

Records
u ċertifikar.

25. (1) Ebda eżenzjoni jew benefiċċju iehor li jistgħu jingħataw jew jinkisbu taħt dan l-Att ma jistgħu hekk jingħataw jew jinkisbu, u ebda jedd għalihom ma jkun jeżisti minkejja kull haġa li tinsab f'dan l-Att hlief jekk:

(a) *records* u kontijiet sewwa u suffiċjenti, magħduda dokumentazzjoni xierqa li ssahħah l-istess ikunu ġew miżmuma għall-perijodu relattiv, mill-kumpannija b'liċenza li jkollha x'taqsam;

(b) ikunu inżammu kontijiet separati kif ikun meħtieġ biex tiġi identifikata u kwantifikata l-eżenzjoni jew benefiċċju;

(ċ) dawk il-kalkoli, prospetti, dikjarazzjonijiet, partikolaritajiet jew dokumenti skond kif ikun meħtieġ biex jiġi stabbilit b'mod ċar id-dritt għal eżenzjoni jew benefiċċju jiġu preżentati kif imiss magħduda l-preżentazzjoni tagħhom lill-Awtorità.

(2) Ebda talba, dikjarazzjoni, kont jew dokument, ikunu xi jkunu, li b'xi mod ikunu konnessi mad-dritt jew dritt preżunt għal xi eżenzjoni jew benefiċċju mahsub taħt id-dispożizzjonijiet ta' dan l-Att ma jiġu kkunsidrati jew jittiehdu f'konsiderazzjoni kemm-il darba ma jkunux ġew ċertifikati minn *accountant* u uditur pubbliku ċertifikat l-istess bħalma l-karta tal-bilanċ u l-kont ta' qligħ u telf ta' kumpannija għandhom jiġu ċertifikati skond id-dispożizzjonijiet ta' l-Ordinanza dwar Soċjetajiet Kummerċjali, u għall-finijiet ta' dan is-subartikolu għandhom japplikaw id-dispożizzjonijiet ta' l-artikolu 141 ta' l-imsemmija Ordinanza.

Informazzjoni
meħtieġa
mill-Awtorità.

26. Kull kumpannija b'liċenza jew persuna oħra li turi jew li tkun qed tftitx li tikseb jew tgawdi xi eżenzjoni jew benefiċċju iehor taħt id-dispożizzjonijiet ta' dan l-Att, jew li tkun kisbet dik l-eżenzjoni jew benefiċċju iehor, għandha —

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

(b) tattendi jew tibgħat rappreżentant biex jattendi quddiem l-Awtorità jew awtorità oħra u twieġeb għal kull mistoqsija legalment magħmula f'dik il-konnessjoni;

(ċ) tipprovdi lill-Awtorità jew awtorità oħra b'aċċess raġonevoli għall-fondi, postijiet, kotba u dokumenti oħra kollha, u thalli li jsiru kopji tagħhom.

27. (1) Meta kumpanija b'licenza jew l-uffiċjali jew impjegati tagħha jinghataw jew isiru intitolati għal eżenzjoni jew benefiċċju iehor skond id-dispożizzjonijiet ta' dan l-Att, għandu jitqies li jkun tniessel kuntratt bejn il-kumpanija jew l-uffiċjali jew impjegati tagħha u l-Gvern, jew l-Awtorità, skond il-każ, li jiggarrantixxi għal żmien hmistax-il sena mill-ghoti tal-licenza relattiva, l-ghoti u t-tgawdija ta' l-eżenzjoni relattiva jew benefiċċju iehor skond id-dispożizzjonijiet ta' dan l-Att.

Garanzija ta' eżenzjonijiet u benefiċċji.

(2) Meta xi eżenzjoni jew benefiċċju iehor ma jkunux dovuti bhala dritt taht id-dispożizzjonijiet ta' dan l-Att lil xi benefiċjarju, iżda jkunu jiddependu mill-użu ta' diskrezzjoni vestita f'xi persuna jew awtorità, l-użu minn dik il-persuna jew awtorità tad-diskrezzjoni hekk vestita fiha favur benefiċjarju għandu jikkostitwixxi kuntratt bejn il-benefiċjarju u l-Gvern, jew l-Awtorità, skond il-każ, li jiggarrantixxi għal żmien hmistax-il sena mill-użu ta' dik id-diskrezzjoni, l-ghoti u t-tgawdija ta' l-eżenzjoni jew benefiċċju iehor skond id-dispożizzjonijiet ta' dan l-Att.

(3) Il-garanziji mogħtija b'dan l-artikolu għandhom japplikaw ukoll kontra azzjoni retrospettiva, sew jekk b'leġislazzjoni jew xort'ohra, li tista' tannulla xi jeddijiet, eżenzjonijiet jew privileggi hekk garantiti.

(4) Id-dispożizzjonijiet ta' dan l-artikolu għandhom ikunu mingħajr preġudizzju għad-dispożizzjonijiet ta' kontroll u regulatorji stipulati f'dan l-Att.

(5) Kumpanija b'licenza jew benefiċjarju iehor jistgħu, f'kull żmien, b'avviż bil-miktub, jagħzlu li ma jinghatawx jew li ma jiehdwx xi inċentiv jew benefiċċju li altrimenti jkun dovut lilha jew lilu taht id-dispożizzjonijiet ta' dan l-Att. Dak l-avviż għandu jispeċifika d-data li minnha tibda taħdem l-għażla, liema data invarjabbilment tkun l-ewwel jum ta' sena, jew ta' sena ta' stima jew ta' xi perijodu iehor finanzjarju, u jkun irrevokabbli u indefinit għar-rigward tal-materji li dwarhom ikun sar.

28. (1) Meta kumpanija b'licenza tonqos li thares jew tara li tiġi mharsa xi wahda mill-kondizzjonijiet marbuta ma' l-ghoti ta' xi eżenzjoni jew benefiċċju iehor taht dan l-Att jew tmexxi attivitajiet li jkunu inkonsistenti ma' Port Hieles, l-Awtorità tista' jew thassar l-ghoti ta' l-eżenzjoni jew benefiċċju iehor jew b'avviż bil-miktub titlob lil dik il-kumpanija fi żmien tletin ġurnata minn dik l-avviż:

Tahsir minhabba f'nuqqas ta' tharis.

(a) li thares jew tara li jiġu mharsa dawk il-kondizzjonijiet, jew li ttejjem kull attività li ma tkunx konsistenti ma' l-ghanijiet ta' Port Hieles; jew

(b) li turi għas-sodisfazzjon ta' l-Awtorità li n-nuqqas tagħha li thares jew li tara li jiġu mharsa dawk il-kondizzjonijiet kien dovut għal xi raġuni mhux fil-kontroll tagħha u li hemm prospetti attwali li thares jew li tara li jiġu mharsa dawk il-kondizzjonijiet, f'dak iż-żmien li l-Awtorità jidhrilha xieraq.

(2) Meta kumpannija turi ghas-sodisfazzjon ta' l-Awtorità li n-nuqqas taghha ta' tharis jew li tara li tigi mharsa xi kondizzjoni marbuta ma' l-ghoti ta' xi incēntiv jew benefiċċju taht dan l-Att kien dovut ghal xi raġuni mhux fil-kontroll taghha, u li hemm prospetti attwali li thares jew li tara li tigi mharsa dik il-kondizzjoni fi żmien raġonevoli, l-Awtorità tista' tawtorizza proroga raġonevoli għall-finijiet ta' tharis ta' dik il-kondizzjoni, kif jidhrilha xieraq.

(3) Meta kumpannija b'licenza:

(a) tkun giet mitluba biex taghmel hekk b'avviż taht is-subartikolu (1) ta' dan l-artikolu, tonqos li turi ghas-sodisfazzjon ta' l-Awtorità li n-nuqqas taghha li thares jew li tara li tigi mharsa xi kondizzjoni marbuta ma' l-ghoti ta' xi eżenzjoni jew benefiċċju iehor kien dovut ghal xi raġuni mhux fil-kontroll taghha u li hemm prospetti attwali li thares jew li tara li tigi mharsa dik il-kondizzjoni fi żmien raġonevoli; jew

(b) tkun giet mogħtija proroga skond is-subartikolu (2) ta' dan l-artikolu, tonqos fi żmien il-perijodu ta' dik il-proroga li thares jew li tara li tigi mharsa dik il-kondizzjoni,

l-Awtorità tista' thassar kull eżenzjoni jew benefiċċju iehor mogħtija lill-kumpannija skond dan l-Att, u dak it-thasir jibda jghodd minn dik id-data li tigi stabbilità mill-Awtorità.

(4) Meta l-ghoti ta' xi eżenzjoni jew benefiċċju iehor lil kumpannija b'licenza taht dan l-Att jiġi mħassar skond id-dispożizzjonijiet ta' dan l-artikolu, dik il-kumpannija għandha thallas lill-Gvern jew lill-Awtorità, skond il-każ, kull somma li kien ikollha thallas lill-Gvern jew lill-Awtorità kieku ma kienx għad-dispożizzjonijiet ta' dan l-Att.

Proċedura dwar kwistjonijiet.

29. (1) L-Awtorità ma għandhiex:

(a) thassar xi licenza mogħtija taht l-artikolu 11 ta' dan l-Att; jew

(b) thassar xi għoti jew eżenzjoni jew benefiċċju iehor taht dan l-Att,

hlief jekk il-kumpannija kkonċernata:—

(a) tkun giet avżata bil-miktub dwar l-azzjoni li l-Awtorità jkun fi hsiebha tiehu; u

(b) tkun ingħatat l-opportunità għal smiegh quddiem l-Awtorità.

(2) Kull kwistjoni li jkollha x'taqsam ma' l-interpretazzjoni tad-dispożizzjonijiet ta' xi ftehim taht dan l-Att jew id-drittijiet ta' xi parti taht dan l-Att jew l-eżercizzju mill-Awtorità ta' xi setgħa vestita fiha b'dan l-Att (hlief għall-materji maħsubin fl-artikoli 8, 9, 10, 11 u 14) għandha, kemm-il darba l-partijiet ma jiftiehmux xort'ohra, tigi riferita għal arbitraġġ u deciżjoni lill-Bord ta' Appelli mwaqqaf taht l-artikolu 28 ta' l-Att ta' l-1988 dwar l-Iżvilupp Industrijali:

Att XXI ta' l-1988.

Izda ebda appell ma jista' jsir minn xi deciżjoni magħmula mill-imsemmi Bord:

Iżda wkoll il-proċedimenti quddiem il-Bord għandhom ikunu regolati, *mutatis mutandis*, daqslikieku riferenza taht dan l-artikolu kienet appell ipprezentat lill-Bord taht l-imsemmi Att.

(3) Hlief għall-fini jew fl-eżekuzzjoni ta' sentenza mogħtija in segwitu ta' xi proċess imsemmi fis-subartikolu (5) ta' dan l-artikolu, ebda proprjetà ta' kull għamla li tkun tappartjeni lil kumpannija b'liċenza ma għandha tkun sugġetta għal xi att prekawzjonarju jew esekuttiv jew mandat kif hemm imsemmi fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Kap. 12.

(4) Ebda direttur jew uffiċċjal ieħor ta' xi kumpannija b'liċenza, u ebda persuna li tkun membru jew li jkollha interess f'dik il-kumpannija, ma jkunu sugġetti għal xi att prekawzjonarju jew esekuttiv jew mandat kif imsemmi hawn fuq dwar xi obbligu jew responsabbiltà oħra tal-kumpannija.

(5) Il-proċess imsemmi fis-subartikolu (3) ta' dan l-artikolu huwa jew —

(a) proċess biex jiġi nforzat obbligu jew reponsabbiltà oħra tal-kumpannija; jew

(b) proċess biex tiġi mehuda lura xi proprjetà akkwistata jew miżmuma mill-kumpannija, jew li mod ieħor tkun fil-pussess jew taht il-kontroll tagħha, u li toriġina minn xi transazzjoni, operazzjoni jew attività msemmija fis-subartikolu (2) ta' l-artikolu 12 ta' dan l-Att.

(6) Minkejja d-dispożizzjonijiet ta' qabel ta' dan l-artikolu, ebda mandat jew att ieħor ma għandu jinhareġ mill-qorti kemm-il darba l-applikant ma jkunx l-ewwel issodisfa lill-qorti illi l-mandat jew att ieħor jistgħu jinharġu taht dan l-artikolu.

30. (1) Il-Ministru jista' minn żmien għal ieħor jagħmel regolamenti b'mod ġenerali sabiex jitmexxew u jitqieghdu fis-seħħ id-dispożizzjonijiet ta' dan l-Att u jista', b'mod speċjali, b'dawk ir-regolamenti jippreskrivi għal kull materja li b'dan l-Att hija awtorizzata li tiġi preskritta.

etgha biex isiru
regolamenti.

(2) Ir-regolamenti li jsiru mill-Ministru jew ir-regoli li jsiru mill-Awtorità, skond il-każ, taht xi dispożizzjoni ta' dan l-Att jistgħu isiru fl-ilsien Inġliż biss.

TAQSIMA VII

Reati u Pieni

31. Kull persuna li mingħajr raġuni xierqa tagħmel xi dikjarazzjoni mhux korretta jew tagħti xi informazzjoni mhux korretta dwar xi materja jew haġa li taqa' taht dan l-Att, tkun hatja ta' reat u tehel meta tinsab hatja multa ta' mhux inqas minn Lm500 u mhux iżjed minn Lm5,000.

Piena għal
dikjarazzjonijiet.
eċċ. mhux korretti.

Dispożizzjonijiet
dwar frodi eċċ.

32. 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) thalli barra minn prospett jew minn xi dokument jew dikjarazzjoni ohra, ippreparati jew preżentati 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 prospett jew dokument jew dikjarazzjoni ohra, ippreparati jew preżentati għall-finijiet ta', jew taht, dan l-Att; jew

(ċ) 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 iżżomm jew tawtorizza l-preparazzjoni jew iż-żamma ta' xi kotba tal-kontijiet foloz jew ta' *records* ohra foloz jew tawtorizza l-flasifikazzjoni ta' xi kotba tal-kontijiet jew *records*; 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 bħal dak,

tkun hatja ta' reat, u għal kull reat tehel, meta tinsab hatja, multa ta' mhux anqas minn Lm1,000 u mhux iżjed minn Lm10,000 jew prigunerija għal żmien ta' mhux iżjed minn sentejn, jew dik il-multa u prigunerija flimkien.

Piena ġenerali.

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

Dispożizzjoni
dwar reati.

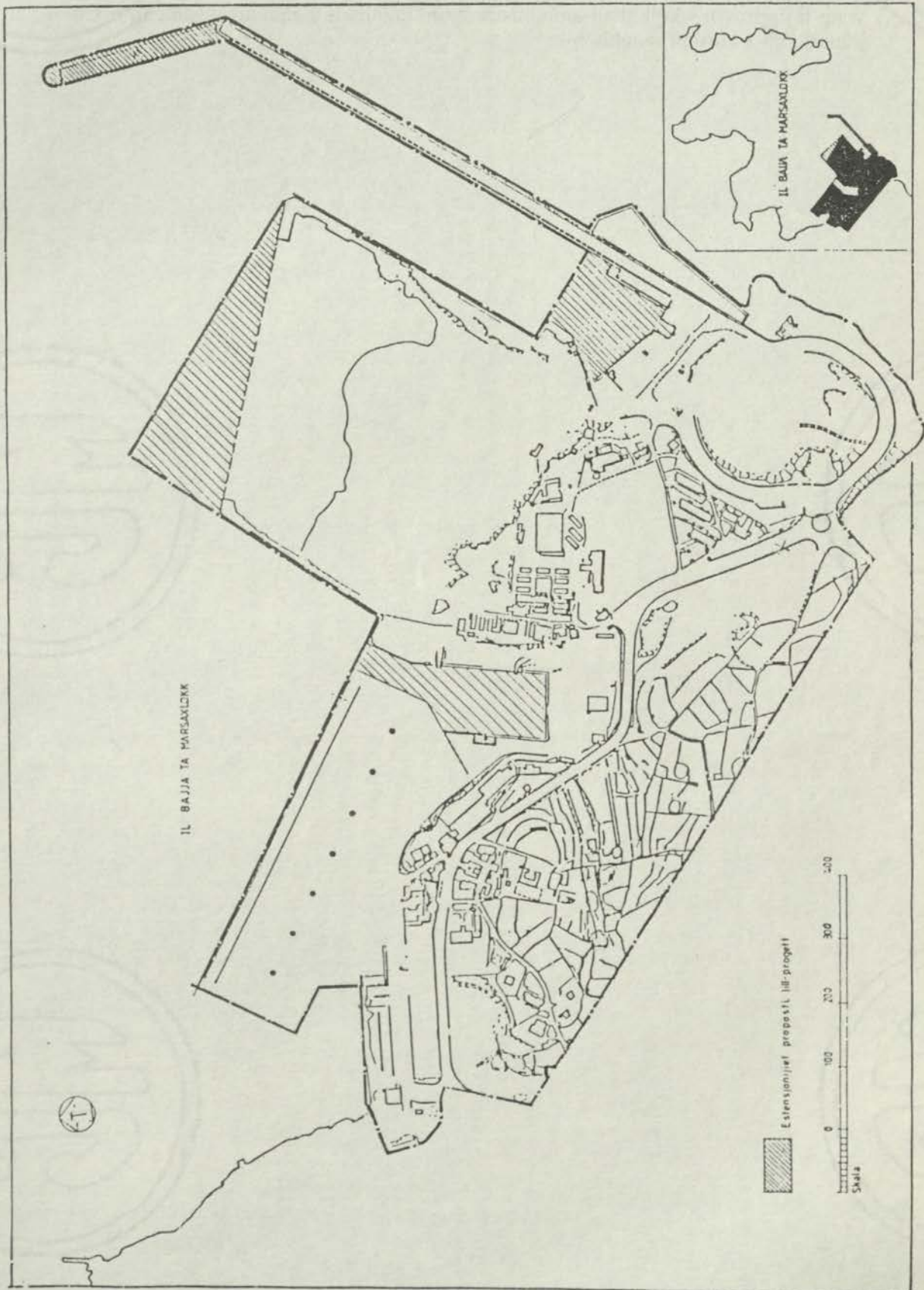
34. Id-dispożizzjonijiet ta' dan l-Att li jstabbilixxu reati u pieni dwaru ma jolqtux it-thaddim ta' xi liġi ohra li tistabbilixxi reati u pieni dwar l-istess atti jew ommissjonijiet u ma għandhomx, b'mod partikolari, jolqtu l-applikazzjoni ta' xi piena akbar taht xi liġi ohra.

Preskrizzjoni għal
proċedimenti.

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

SKEDA

(Artikolu 3)



Għanijiet u Raġunijiet

L-ghan ta' dan l-Abbozz huwa li jipprovdi għat-twaqqif ta' Portijiet Hielsa f'Malta waqt li jipprovdi wkoll għall-amministrazzjoni tagħhom u għal arrangamenti fiskali li għandhom x'jaqsmu magħhom.

MALTA FREEPORTS ACT, 1988**Arrangement of Sections****PART I***Preliminary*

Article

1. Short title and commencement.
2. Interpretation.

PART II*Freeports*

3. Declaration of Freeports
4. Exemption from certain legislation

PART III*Freeport Authority*

5. Freeport Authority
6. Powers of the Authority
7. Agreements entered into by Authority
8. Provision of industrial structures etc.
9. Provision of utilities
10. Certificates of origin and of non-manipulation

PART IV*Licensed Companies*

11. Licensed companies
12. Company ceasing to be a licensed company for illegal activities
13. Goods in Freeports
14. Reserved operations in Freeports
15. Certificates and fees

PART V*Fiscal Regime*

16. Exemption from customs duty and the excise laws
17. Safeguards for customs and excise duties
18. Exemption from income tax
19. Tax free dividends
20. Exemption from stamp duties
21. Exemption from exchange control
22. Expatriate employees
23. Exemption from death and donation duties
24. General rule regarding exemptions

PART VI

Administrative arrangements

25. Records and certification
26. Information required by the Authority
27. Guarantee of exemptions and benefits
28. Revocation for non-compliance
29. Procedure regarding disputes
30. Power to make regulations

PART VII

Offences and Penalties

31. Penalty for making incorrect statements etc.
32. Provisions relating to fraud etc.
33. General penalty
34. Provisions with respect to offences
35. Prescription for proceedings.

SCHEDULE

**A BILL
entitled**

AN ACT to provide for the establishment of a Freeport system in Malta and to regulate its operation.

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**

1. (1) This Act may be cited as the Malta Freeports Act, 1988. Short title and commencement.

(2) The provisions of this Act, other than the provisions of this section and of section 4 thereof, shall come into force on such date as the Prime Minister may by notice in the Gazette establish, and different dates may be so established for different provisions and different purposes of this Act.

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

“Authority” means the Freeport Authority constituted under section 5 of this Act;

“body of persons” means any partnership, fellowship, society or other association 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;

Act XXVIII
of 1979.

“company” means a limited liability company constituted under the laws of Malta and which does not issue shares to bearer;

“Comptroller” means the Comptroller of Customs and includes any other person having an express or implied authority to act for the said Comptroller in carrying out the provisions of this Act;

Act XXV
of 1976.

“customs duty” means duty charged or chargeable under the Import Duties Act, 1976;

“excise laws” means;

Cap 72.

the Beer (Excise Duty) Act;

Cap 166.

the Excise Duty (Crown Corks and Non-Alcoholic Concentrates) Ordinance;

Cap 57.

the Machine Made Cigarettes (Excise Duty) Act;
and

Act XIII
of 1982.

the Colour Televisions (Excise Duty) Act, 1982;

“Freeport” means any area of Malta comprised within a Freeport zone in accordance with the provisions of section 3 of this Act;

Cap 123.

“income tax” means tax charged or chargeable under the Income Tax Act;

“licensed company” means a company licenced by the Authority to operate within a Freeport under section 11 of this Act;

“Minister” means the Minister responsible for Freeports;

“person” includes a body of persons;

“prescribed” means prescribed by regulation under this Act.

(2) Any reference in this Act to any law or provision thereof, shall be construed as a reference to that law or provision as from time to time in force and shall include a reference to any enactment replacing such law or provision (including the imposition of any taxes whatsoever analogous to or in substitution to those contained in such enactments or provisions) and to any subsidiary legislation made thereunder.

(3) Words and expressions used in this Act with reference to another law so far as necessary to give effect to this Act, and consistently with the provisions thereof, have the same meaning as they have in the law with reference to which they are used in this Act.

(4) Any reference in this Act to a criminal offence committed abroad, or against the law of another country other than Malta, or to an act which if committed in Malta would be a criminal offence against the law of Malta, shall be construed as limited to offences which are extraditable for the purposes of section 5 of the Extradition Act, 1978.

Act XVIII
of 1978.

(5) In this Act and in any regulations made thereunder, if there is any conflict between the English and Maltese texts, the English text shall prevail.

PART II

Freeports

3. (1) The areas of Malta shown on the plan enrolled by the Secretary General of the Government of Malta in the records of the Chief Notary to Government, Dr. Franco Pellegrini, of the 25th April, 1989, shall, for all intents and purposes of this Act and of any other law, constitute Freeport zones. The said areas are indicated in the plan shown in the Schedule to this Act. Declaration of Freeports.

(2) The Prime Minister may by order in the Gazette amend the Schedule to this Act:

Provided that the provisions of section 27 of this Act shall apply to any amendment to the Schedule whereby any such area or part thereof ceases to be a freeport zone;

Provided further that no land shall be included in a Freeport unless such land shall immediately prior to its inclusion be held by Government under title of absolute ownership, or be in the process of acquisition by Government under such title in terms of the Land Acquisition (Public Purposes) Ordinance; and in the latter case the provisions of section 32 of the said Ordinance shall not apply; Cap 88.

Provided also that where land has been included in a freeport zone as aforesaid it shall vest in the Authority by operation of this Act, without the need of any further formality, under the same title under which it was held by the Government, and where the land is still in the process of acquisition as aforesaid, the acquisition shall be continued by the government and on its acquisition it shall vest in the Authority by operation of this Act without the need of any further formality.

4. (1) The provisions of the Disposal of Government Land Act, 1976, shall not apply to any land as defined in section 2 of the said Act when such land is situated within a Freeport. Exemption from certain legislation Act XXXIII of 1976

(2) The provisions of the Carriage of Goods by Sea (Regulation) Act, 1980 shall not apply to goods landed or loaded in a Freeport. ACT II of 1980.

PART III

Freeport Authority

5. (1) Malta Freeport Corporation Limited, a limited liability company (No. C 9353) registered under the Commercial Partnership Ordinance, on the 25th day of January 1988 shall be deemed to be constituted under this Act and shall constitute the Freeport Authority, hereinafter in this Act referred to as "the Authority". Cap 168.

(2) All rights and obligations of whatever nature of the said Malta Freeport Corporation Limited constituted and registered under the Commercial Partnerships Ordinance as aforesaid, and all acts done

by the said company shall, after the coming into force of this section, be deemed to be rights and obligations of, and acts done by, the Authority.

(3) It shall be the duty and function of the Authority:

(a) to administer the affairs of Freeports with a view to fostering the economic development of Malta by encouraging the establishment of industrial and economic enterprises therein;

(b) to liaise with all Ministries and Departments of Government and all bodies and other authorities established by law in the application of the provisions of subsection (2) of section 6 of this Act;

(c) to advise Government on all matters relating to Freeports;

(d) to do all such other acts as may be necessary or conducive to the attainment of any or all of the said objectives.

(4) Without prejudice to the generality of the provisions of subsection (3) of this section, the Minister may vest the Authority with such supervisory and executive powers, and may impose on the Authority such conditions, obligations and restrictions as to him may seem necessary for the proper and fruitful establishment, development, maintenance, operation, management, control and conservation of Freeports.

(5) Subject to the other provisions of this Act, the Authority shall continue to be regulated by its Memorandum and Articles of Association, and by the Commercial Partnerships Ordinance, so however that:

(a) the Authority shall not be dissolved or merged with another company;

(b) the Authority shall not alter its Memorandum or Articles of Association, unless such alteration is first approved by resolution of the House of Representatives; and

(c) no change in ownership of shares in the Authority carrying a right to vote in a general meeting or otherwise to appoint directors shall be effected unless such change is authorised by a resolution of the House of Representatives.

(6) The Authority shall each year publish in the Gazette and in two daily newspapers in Malta its Profit and Loss Account and Balance Sheet, audited by a certified public accountant and auditor, together with any notes thereto, by not later than six months after its accounting date. Such report shall, together with a copy of a report of the Board of Directors of the Authority be placed by the Minister on the table of the House of Representatives, as soon as may be after they are made.

(7) The Authority shall afford to the Minister full facilities for obtaining information with respect to its property and activities, and shall furnish him with returns, accounts and other information with respect thereto, and afford him facilities for the verification of the information so furnished in such manner and at such times as the Minister may request.

(8) The Minister may, after consultation with the Authority, give to the Authority directions of a general character not inconsistent with the provisions of this Act, and the Authority shall give effect to any such directions.

6. (1) Without prejudice to the generality of the powers conferred upon the Authority by this Act, the Authority may: Powers of the Authority.

(a) do all such acts as may be necessary or conducive to the attainment of the objectives, duties and obligations of the Authority;

(b) enter into agreements with companies that seek to become licensed to operate in a Freeport;

(c) allocate areas, spaces, factories, wharves, and any other facility or structure which may be available in a Freeport on such terms as the Authority determines appropriate: provided that the Authority may not by title of sale or any other similar title alienate any immovable property situate within a Freeport;

(d) exercise, perform, and discharge all such powers, duties and functions as are by or under this Act vested in or assigned or delegated to the Authority;

(e) determine the rents, charges, dues and other levies to be paid in or in connection with any aspect of a Freeport or of the services and facilities made available thereunder;

(f) by notice in the Gazette, make rules for the control and management of a Freeport and all activities carried on therein or connected therewith;

(g) do all such other acts as are incidental to or consequential upon the exercise, performance and discharge of its powers, duties, and functions under this Act.

(2) The Authority shall notwithstanding any other law but subject to the provisions of this Act be the centre and channel wherein and through which all Ministries and Departments of Government and all bodies or other authorities established by law shall act in all matters with respect to all Freeports and all activities related thereto, and with respect to companies which are licensed, or which seek to be licensed by the Authority, and as the centre and channel through which any such company shall apply for and obtain any permit, licence or other authorisation, or any other thing it may require, and through which it shall communicate with any of the authorities aforesaid:

Provided that this subsection shall not be construed to mean that any investigation, inspection or other similar act which any such authority may deem expedient to have carried out and any information such authority may require, for the purposes of any of its functions under the law, with respect to a licensed company, shall be carried out or obtained by the Authority;

Provided further that this subsection shall not be construed to derogate from the powers and duties of any Ministry, Department of Government or any body or other authority established by law with respect to matters relating to defence, public order and health.

(3) It shall be the duty of the Authority to carry out the functions conferred on it by subsection (2) of this section promptly and efficiently; and it shall be its particular duty to ensure that any act or thing to be done by virtue of the aforesaid subsection is done to the satisfaction of the Ministry, Department, body or other authority for which it is required to act.

Agreements entered into by the Authority.

7. Every agreement which the Authority enters into under paragraph (b) of subsection (1) of section 6 of this Act shall be reduced to writing, and every such agreement shall constitute a binding contract for the purposes of section 27 hereof.

Provision of industrial structures, etc.

8. (1) Where the Authority is satisfied that in the case of a company licenced to operate in a Freeport it would be consistent with the aims and objectives of the policy under which the Freeport was constituted, the Authority may provide for the company industrial buildings, structures and land in the Freeport including, on such terms as may be agreed, industrial buildings and structures constructed or altered according to the requirements of the relative company:

Provided that immovable property in a Freeport shall not be transferred to a licensed company under any title for a term beyond the term of the licence, original or extended, of the company to which it is so transferred and that the title under which any such immovable property is transferred shall terminate automatically on the termination of the licence of the company to which it is so transferred.

(2) The industrial buildings and structures contemplated in subsection (1) of this section shall include especially factories, warehouses (whether refrigerated or not), storage areas, sheds, tanks, pipelines and such commercial and industrial equipment as may be necessary.

(3) The Authority shall also make available such immovable property in a Freeport under such conditions as may be appropriate for the purposes of section 9 of this Act.

Provisions of utilities.

9. (1) Subject to the provisions of the applicable laws, if any, it shall be the duty of the Authority to ascertain that every Freeport shall be provided with the following utilities, that is to say:

- (a) electric power supply;
- (b) potable and other water;
- (c) postal services;
- (d) telecommunications;
- (e) banking and insurance services;
- (f) fire fighting services;
- (g) waste disposal arrangement;
- (h) adequate road systems;
- (i) wharves, jetties and other similar structures
- (j) transport for goods and passengers to and from the Freeport;
- (k) security systems including adequate public lighting.

(2) Nothing in this section shall be deemed to impede the Authority from procuring the provision of such other utilities as may be required for the proper operation of any Freeport, or to exonerate it from its duty of procuring the provision thereof.

10. (1) The Authority may, having regard to a substantial transformation achieved in the identity of goods or articles and to the value added through any processing or other operation carried out in a Freeport, release a certificate indicating that Malta is the origin of any such goods or articles.

Certificates
of origin
and of
non-manipulation.

(2) The Authority may, where it is so satisfied, release a certificate to the effect that any goods or articles which have been transhipped through a Freeport have not suffered any manipulation in the Freeport so as to transform their identity.

(3) It shall not be lawful for any person unless a certificate has first been obtained from the Authority under the provisions of this section to indicate in any manner that:—

- (a) goods or articles which have been subjected to any process or other transformation whatsoever in a Freeport have Malta as their origin;
- (b) any goods or articles transhipped through a Freeport have not suffered any manipulation in the Freeport.

PART IV *Licensed Companies*

11. (1) The Authority may grant licences to companies to carry out in a Freeport a trade or business being principally:

Licensed
companies.

- (a) the labelling, packaging, sorting, warehousing, storage, exhibition or assembly of any goods, materials, commodities, equipment, plant or machinery; or
- (b) any activity concerned solely with the conduct of a Freeport including, but not limited to, stevedoring, wharfage, operation of terminals and container handling; or

(c) the rendering of services analogous or complementary to the activities referred to in paragraph (a) of this subsection,

and the status as a licensed company shall be evidenced by the issue of a licence for this purpose by the Authority.

(2) No company shall be granted a licence contemplated by this Act unless its activities are, in the opinion of the Authority, wholly or mainly carried on or exercised within a Freeport.

(3) For the purpose of subsection (2) of this section, the following activities carried on or exercised outside a Freeport by a licensed company shall not be deemed to infringe the rule therein set out:

(a) the management and administration of a company, its trade, business or property and the holding thereof;

(b) the execution of instruments, transactions, negotiations or agreements relative to a company's trade or business;

(c) the transit of goods or other commodities to and from a Freeport.

(4) The Authority shall have the exclusive right to license companies to operate in a Freeport. Licences and the relative benefits shall only be granted to companies which engage in activities that advance the objectives of Freeports.

Company ceasing to be a licensed company for illegal activities.

12. (1) The Authority shall revoke the licence of any company which carries on any activity, or has income accruing to it or derived by it, which consists of or originates from any transaction, operation or other activity which is a criminal offence against the law of Malta, or would be such an offence if carried out in Malta, or has received or has in its possession or control money or other property the receipt, ownership, possession or control of which is, or would be, such an offence as aforesaid.

(2) All income, money or other property as is referred to in subsection (1) of this section shall be liable to seizure and shall be forfeited in favour of the Authority and become its property absolutely:

Provided that any person wishing to challenge any such seizure or forfeiture may sue the Authority before the First Hall of the Civil Court and the provisions of section 73 of the Customs Ordinance shall apply to such an action, so however that any reference in that section to the Comptroller and to the Ordinance shall be read and construed as a reference to the Authority and to this Act, respectively.

Cap. 37

Goods in Freeports.

13. (1) In issuing licences for operations in a Freeport, the Authority shall ensure that a Freeport shall be open to all goods, irrespective of their nature, quantity and country of origin, consignment or destination; nor shall there be any limit of time during which goods may be retained in a Freeport.

(2) Notwithstanding the provisions of subsection (1) of this section:

(a) the Government and the Authority shall have power to impose such prohibitions or restrictions as to it may seem justified

on grounds of public morality, public policy or public security, the protection of human, animal or plant health and life, the protection of national treasures of artistic, historic or archaeological value, or the protection of industrial or commercial property;

(b) the Authority shall have power to require that goods which are dangerous or likely to spoil other goods or which, for any other reason whatsoever, require special facilities, be placed in premises specially equipped to receive them.

14. (1) The Authority shall not issue a licence to any company for the purposes of section 11 of this Act if the company, in the opinion of the Authority, is engaged in any operations connected with alcoholic spirits, tobacco products or those other commodities as the Authority may from time to time determine by notice in the Gazette, unless the relative operations are conducted by a recognised manufacturer of the commodities.

Reserved
operations
in Freeports.

(2) The Authority shall not allow any part of a Freeport to be utilised as a bonded store for customs duty purposes in relation to goods which are or which will be imported into Malta but outside a Freeport.

(3) The Authority shall not issue a licence to any company unless it is satisfied that the said company is occupying, under any title valid at law, or is being allowed by the Authority to make use of immovable property in a Freeport whether on its own or in conjunction with other licensed companies.

(4) The Authority may permit any person whomsoever to have access to and operate in a Freeport, even if such person cannot, for any reason whatsoever, be a licensed company for the purposes of section 11 of this Act if, in the opinion of the Authority —

(a) it would be useful, necessary or conducive to the better development or functioning of a Freeport that such person be granted such access and be allowed to operate in the Freeport; or

(b) permission and access as aforesaid are necessary pursuant to the provisions of section 9 of this Act.

15. (1) The Authority may from time to time release certificates as it may deem appropriate attesting that a company, or a company in the process of formation, is, or will be, a licensed company pursuant to the provisions of this Act, and such certificate shall be conclusive evidence for the purposes of section 24 and for all purposes of this Act, and for all related, corollary or ancillary matters, to the effect that the said company is, or will be, so licensed.

Certificates
and fees.

(2) A licencing fee of Lm1,000 shall, unless otherwise prescribed by the Minister on or after the fifth anniversary of the enactment hereof, be payable to the Authority by every company to whom a licence is issued pursuant to the provisions of this Act; and an annual fee of like amount shall thereafter be payable upon each anniversary of the company being granted a licence:

Provided that no alteration to the licence fee shall have effect before the expiration of one year from the publication of such alteration in the Gazette.

PART V

Fiscal Regime

Exemption from
customs duty
and the excise
laws.

16. (1) Subject to the provisions of this Act, all goods imported into a Freeport by a licensed company or by the Authority shall be exempt from customs duty:

Provided:

(a) such goods are imported exclusively for the construction, alteration, reconstruction or extension of an industrial building or structure within a Freeport or for any extension thereof, or for the purpose of effecting repairs to such an industrial building or structure or the extension thereof, or constitute equipment, spare parts, machinery or plant, contained in any such industrial building or structure or extension thereof, or are intended to replace any, equipment, machinery or plant in any such industrial building or structure or extension thereof, and in all cases for the purposes of the Authority or of the trade or business carried on or intended to be carried on by the company; or

(b) such goods are raw materials, components, intermediate products, by-products, unfinished goods, or other goods imported for the purposes for which a company has been granted a licence by the Authority under the provisions of this Act.

(2) Every company which imports into a Freeport any goods free of customs duty under subsection (1) of this section shall:

(a) keep proper and sufficient records of the goods which it so imports; and

(b) permit the Authority at all reasonable times to inspect the said records and to have access to any premises of the company for the purpose of examining any such goods which it may believe to be therein and of satisfying itself of the accuracy of the said records.

(3) No goods imported into a Freeport by the Authority or by a licensed company free of customs duty under the provisions of subsection (1) of this section shall be sold, given away or otherwise disposed of other than to the Authority or another licensed company except:

(a) through re-export from Malta, whether in the same state as when imported, or otherwise, or, subject to such restrictions as to importation as would be applicable had such goods been imported from outside Malta, by transfer into Malta outside a Freeport on the payment of customs duty in accordance with the provisions of subsection (6) of this section; or

(b) in the case of an industrial building or structure for the construction, alteration, reconstruction, extension or equipment of which such article was imported into a Freeport to the person for whom such industrial building or structure was constructed; or

(c) in the case of materials, components or accessories imported into a Freeport for any purpose referred to in subsection (1) of section 11 of this Act:

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

(ii) subject to such restrictions as to importation as would be applicable had such goods been imported from outside Malta, by transfer into Malta outside a Freeport 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) When goods imported into a Freeport by the Authority or by a licensed company free of customs duty are sold, given away or otherwise disposed of to the Authority or a licensed company in terms of subsection (3) of this section, then such goods shall for the purposes of this Act be deemed to have been imported by the Authority or by the company to which they are sold, given away or otherwise disposed.

(5) Subject to such conditions and the giving of such security as he may determine, the Comptroller shall:

(a) allow any goods destined for a Freeport to be landed in Malta free of customs duty: provided that in all cases, the said goods shall (unless otherwise permitted by the Comptroller) be transferred into the Freeport within seven working days of having been landed;

(b) allow the transit of any goods destined for export from a Freeport to any port or airport in Malta without levying customs duty thereon: provided that the said goods shall (unless otherwise permitted by the Comptroller) be loaded on a ship or aircraft within seven working days of having exited from the Freeport.

(6) Whenever any goods which have entered a Freeport free of customs duty in accordance with the provisions of this section are transferred out of a Freeport and remain in Malta otherwise than for the purpose contemplated at paragraph (b) of subsection (5) hereof or, if owned by the Authority, for use by the Authority in pursuance of its duties or functions hereunder outside a Freeport, such goods shall as soon as so transferred be deemed to have been imported into Malta and subject to customs duty under the relative provisions of the Import Duties Act, 1976 where applicable:

Provided that in the case of any goods which have been processed in a Freeport and qualify for certification as having been made in Malta pursuant to the provisions of section 10 of this Act, the nature

of the goods, the value and the quantity to be taken in consideration in determining customs duty shall, at the request of the person liable to pay duty, be those which would be taken into account had the goods not been processed as aforesaid.

(7) Where customs duty has been paid in respect of any goods upon their importation into Malta, no claim for refund of such duty shall be competent solely on the grounds that such goods are later transferred into a Freeport.

(8) The excise laws shall not apply to any goods produced in a Freeport unless such goods are entered for consumption in Malta outside a Freeport.

Safeguards
for customs
and excise
duties.

17. (1) The Authority shall:

(a) ascertain that every Freeport is equipped with adequate control systems to prevent evasion of customs and excise duties that would be payable to the Government but for the provisions of this Act;

(b) ensure that every area designated as a Freeport pursuant to the provisions of this Act is properly enclosed; and

(c) determine the entry and exit points thereof,

and in every such matter the Authority shall conform with any requirements of the Comptroller in respect thereof, unless the Prime Minister otherwise directs.

(2) Any person entering a Freeport from any place in Malta outside a Freeport zone or leaving a Freeport other than to a destination outside Malta with any goods shall answer such questions as the Comptroller may put to him with respect to the said goods and shall, if required by the said Comptroller, produce those goods for examination at such place as the Comptroller may direct.

(3) At the time when a vehicle is entering or leaving a Freeport, the Comptroller may board the vehicle and search any part of it.

(4) The Authority shall not permit any person to take up residence within a Freeport.

(5) The Authority may deny access to a Freeport to any person who does not provide such guarantees as it may deem necessary regarding the proper application of any rules, regulations or orders in respect thereof.

(6) Every licensed company shall make available to the Authority such records in writing relating to the goods it is importing or will be importing into a Freeport as may be necessary to identify their nature, quantity and country of origin, consignment or destination which records shall be available for inspection by the Comptroller.

(7) The Minister may, with the advice of the Authority, by regulations published in the Gazette, make provision with respect to the movement of goods into, and the removal of goods from any Freeport, and the keeping, securing and the treatment of goods which are within a Freeport.

(8) Without prejudice to the generality of subsection (7) of this section, regulations made thereunder may make provisions —

(a) permitting goods in a Freeport to be destroyed without payment of customs or excise duties, in such circumstances and subject to such conditions as the Authority may determine;

(b) requiring that specified operations within a Freeport are to be carried out in such manner and subject to such restrictions as may be imposed by or under the regulations;

(c) establishing the penalty which may be imposed by any court in the event of non compliance with any conditions or restrictions imposed in virtue of paragraph (b) hereof: provided such penalty shall not exceed a fine (*multa*) of Lm5,000 together with the forfeiture of the goods to which the offence refers;

(d) specifying the information to be given to the Authority in respect of goods imported into a Freeport and the form in which, persons by whom, and time within which, such information must be given.

18. (1) A licensed company shall be exempt from paying income tax on the gains or profits arising to it from a trade or business exercised in a Freeport pursuant to the provisions of section 11 of this Act.

Exemption from
income tax.

(2) For the purposes of the Income Tax Act, the income or part thereof 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 said Act and in accordance with its provisions: provided that the provisions of the Income Tax Act, shall be superseded or replaced as necessary by the provisions of this Act.

Cap. 123

(3) Interest and royalties paid by a licensed company in respect of or related to operations or transactions exempt from income tax under the provisions of subsection (1) of this section shall also be exempt from income tax: provided that such exemption shall not operate where interest or royalties are paid to a person ordinarily resident or domiciled in Malta.

19. (1) Any dividends (or part thereof) distributed by a licensed 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, shall be exempt from income tax in the hands of the members of the company in receipt of such distribution:

Tax free
dividends.

Provided that the provisions of this subsection shall not apply to a dividend distributed to a person ordinarily resident or domiciled in Malta.

(2) Where a dividend to which subsection (1) of this section applies 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 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:

Provided that the provisions of this subsection shall cease to operate where a dividend is distributed to a person ordinarily resident or domiciled in Malta.

(3) The provisions of section 22 of the Income Tax Act shall not apply to a licensed company and its profits, and to the members of the company in respect of their interest in the company and its profits earned during any period when it was so licensed.

Exemption
from stamp duty
Act XXXI
of 1981.

20. Notwithstanding the provisions of the Duty on Documents Act, 1981, no duty shall be payable thereunder in respect of:

- (a) the allotment of any newly issued shares or stock of a licensed company;
- (b) the purchase, transfer, assignment or negotiation of any share or stock of such a company;
- (c) the purchase, sale or other transfer of any asset by a licensed company or by the Authority, other than a sale or other transfer to a person domiciled or ordinarily resident in Malta unless such person is the Authority or another licensed company;
- (d) the transfer of any hypothec, mortgage or other charge over any asset of a licensed company or of the Authority;
- (e) valuations made on behalf of a licensed company or of the Authority;
- (f) receipts given by a licensed company or by the Authority;
- (g) any application filed by a licensed company or by the Authority;
- (h) insurance policies issued in favour of a licensed company or of the Authority.

21. (1) Subject to the provisions of subsection (2) of this section, licensed companies shall be exempt from the provisions of the Exchange Control Act, 1972, to the extent that such exemption shall ascertain:

Exemption from
Exchange
Control.
Act XLIX
of 1972.

- (a) free and unrestricted foreign exchange transfers by licensed companies;
- (b) that no limits shall be set regarding the holding of shares in licensed companies by persons not resident in Malta;
- (c) unrestricted repatriation of dividends paid by licensed companies where the dividends are exempt from income tax under the provisions of section 19 of this Act;
- (d) free transfers of shares in licensed companies;
- (e) unrestricted repatriation of the proceeds of liquidation of licensed companies;
- (f) right of free management by licensed companies of their foreign currency;
- (g) the unrestricted repatriation of any sum due as wages or salaries to expatriate employees referred to in section 22 of this Act:

Provided that such exemptions shall not apply (except for normal banking transactions) in respect of transactions and operations carried out with persons resident in Malta.

(2) The exemptions granted by this section shall only be due to licensed companies in which Maltese citizens (including companies) are entitled to less than forty per cent of the nominal value of the issued share capital, excluding any part thereof which, neither as regard dividends nor as regard capital, carries any right to participate in any distribution of profits beyond a specified amount.

22. (1) The Authority 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 with a licensed company, or with the Authority, contribute through his technical or managerial knowledge and experience towards the proper and fruitful establishment, development, maintenance, operation, management, control or conservation of a Freeport or the Authority, and of their operations.

Expatriate
employees.
Act IX of 1970.

(2) Where subject to the provisions of the Immigration Act, 1970 an individual who is not domiciled in Malta or who, if so domiciled, is not ordinarily resident therein, is employed with a licensed company or with the Authority, the income tax on the chargeable income of such an individual shall be charged at the rates contemplated by the Income Tax Act, so however that any rate of tax in excess of 30 cents on every Maltese lira shall be reduced to 30 cents.

(3) Individuals referred to in subsection (2) hereof who are employed with a licensed company or with the Authority, and such

Act X of 1987.

licensed company and the Authority in respect of such individuals, shall be entitled to be exempt from the provisions of the Social Security Act, 1987 and of any enactment replacing that law.

(4) The used personal belongings, including one motor car suitable for family use, of any individual referred to in subsection (2) of this section, imported into Malta not later than six months after his first taking up residence in Malta, may be so imported free of custom duty:

Provided that duty shall be payable on anything imported free of duty under this subsection if and when such thing is sold, assigned or otherwise transferred to a person resident in Malta.

Exemption from death and donation duty. Act XLVII of 1973.

23. (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 licensed company possessed by any person when —

(a) such interest is comprised in a chargeable transmission under the said Act, 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 licensed company being —

(a) any share in or debenture 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.

General rule regarding exemptions.

24. The exemptions contemplated by this Part shall only apply to transactions and operations which are relevant to the purposes for which the Authority has been appointed pursuant to the provisions of subsection (1) of section 5, or for which a company has been or will be licensed pursuant to the provisions of subsection (4) of section 11 of this Act.

PART VI

Administrative Arrangements

25. (1) No exemption or other 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:

Records and certification.

(a) proper and sufficient records and accounts, including appropriate supporting documentation, have been maintained for the relative period, by the relative licensed company;

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

(c) such computations, returns, statements particulars or documents as may be necessary to establish clearly the entitlement to an exemption or benefit are submitted as appropriate, including submission to the Authority.

(2) No claim, statement, account or document whatsoever that is in any way connected with the entitlement or presumed entitlement to any exemption or benefit contemplated under the provisions 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, and for the purposes of this subsection the provisions of section 141 of the said Ordinance shall apply.

26. Any licensed company or other person purporting or seeking to obtain or enjoy any exemption or other benefit under the provisions of this Act, or which has obtained such an exemption or other benefit, shall —

Information required by the Authority.

(a) furnish to the Authority and to any other authority such information, accounts, statements and other documents which the Authority 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 Authority or other authority and answer any question lawfully made in connection therewith;

(c) provide the Authority or other authority with reasonable access to all premises, places, books and other documents, and allow copies to be made thereof.

27. (1) Where a licensed company or its officers or employees are granted or become entitled to an exemption or other benefit under the provisions of this Act, there shall be deemed to have come into existence a contract between the company or its officers or employees and the Government, or the Authority, as the case may be,

Guarantee of exemptions and benefits.

guaranteeing for a period of fifteen years from the grant of the relative licence, the grant and enjoyment of the relative exemption or other benefit in accordance with the provisions of this Act.

(2) Where any exemption or other benefit is not due as of right under the provisions of this Act to any beneficiary, but depends on the use of discretion vested in any person or authority, the use by such person or authority of the discretion so vested in him in favour of a beneficiary shall constitute a contract between the beneficiary and the Government, or the Authority, as the case may be, guaranteeing for a period of fifteen years from the use of such discretion, the grant and enjoyment of the exemption or other benefit in accordance with the provisions of this Act.

(3) The guarantees given by this section shall apply also against retrospective action, whether by legislation or otherwise, as would nullify any rights, exemptions or privileges so guaranteed.

(4) The provisions of this section shall be without prejudice to the controlling and regularly provisions laid down in this Act.

(5) A licensed 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 or him 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.

Revocation for
non-compliance.

28. (1) Where a licensed company fails to comply or cause compliance with any of the conditions attached to the grant of any exemption or other benefit under this Act or engages in activities inconsistent with the objectives of a Freeport, the Authority may either revoke the grant of the exemption or other benefit or by notice in writing require such company within thirty days of such notice:

(a) to comply or cause compliance with such conditions or to terminate any activity inconsistent with a Freeport; or

(b) to establish to the satisfaction of the Authority 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 conditions, within such time as the Authority may consider reasonable

(2) Where a company establishes to the satisfaction of the Authority 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 Authority may authorise such reasonable postponement for the purpose of compliance with such conditions, as it thinks fit.

(3) Where a licensed company:

(a) having been required so to do by notice under subsection (1) of this section, fails to establish to the satisfaction of the Authority that its failure to comply or cause compliance with any conditions attached to the grant of any exemption or other 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 Authority may revoke any exemption or other benefit granted to the company under this Act, and such revocation shall be operative from such date as may be determined by the Authority.

(4) Where the grant of any exemption or other benefit to a licensed company under this Act is revoked in accordance with the provisions of this section, such company shall pay to the Government or to the Authority, as the case may be, any sums which it would have paid to the Government or the Authority but for the provisions of this Act.

29. (1) The Authority shall not:

- (a) revoke any licence granted under section 11 of this Act; or
- (b) revoke any grant or exemption or other benefit under this Act,

Procedure
regarding
disputes.

unless the company in question has:

- (a) been notified in writing of the action the Authority proposes to take; and
- (b) has had an opportunity for a hearing before the Authority.

(2) Any dispute relating to the interpretation of the provisions of any agreement under this Act or the right of any party under this Act or the exercise by the Authority of any powers vested in it by this Act (except for the matters contemplated in sections 8, 9, 10, 11 and 14) shall, unless the parties agree otherwise, be referred for arbitration and settlement to the Appeals Board constituted under section 28 of the Industrial Development Act, 1988:

Act XXI of 1988.

Provided that no appeal shall lie from any award made by the said Board:

Provided further that proceedings before the Board shall be regulated, *mutatis mutandis*, as if reference under this section were an appeal filed to the Board under the said Act.

(3) Except for the purpose or in execution of a judgement given in pursuance of any action mentioned in subsection (5) of this section, no property of any kind belonging to a licensed company shall be subject to any precautionary or executive act or warrant as is mentioned in the Code of Organisation and Civil Procedure.

(4) No director or other officer of any licensed company, and no person being a member of or having an interest in any such company, shall be subject to any precautionary or executive act or warrant as aforesaid in respect of any obligation or other liability of the company.

(5) An action referred to in subsection (3) of this section is either —

(a) an action for the enforcement of an obligation or other liability of the company; or

(b) an action for the recovery of any property acquired or held by the company, or otherwise in its possession or control, and originating from any transaction, operation or activity referred to in subsection (2) of section 12 of this Act.

(6) Notwithstanding the foregoing provisions of this section, no warrant or other act shall be issued by the court unless the applicant first satisfies the court that the warrant or other act may be issued under this section.

Power to make regulations.

30. (1) The Minister may from time to time make regulations generally for carrying out or putting into effect the provisions of this Act and may, in particular, by those regulations prescribe for any such matters as are authorised by this Act to be prescribed.

(2) Regulations made by the Minister or rules made by the Authority, as the case may be, under any of the provisions of this Act may be made in the English language only.

PART VII

Offences and Penalties

Penalty for making incorrect statements etc.

31. 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 Lm500 and not exceeding Lm5,000.

Provisions relating to fraud etc.

32. 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 Lm1,000 and not exceeding Lm10,000 or to imprisonment for any term not exceeding two years, or to both such fine and imprisonment.

33. 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, such person 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.

34. 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 of omissions and shall not, in particular, affect the application of any higher punishment under any other law.

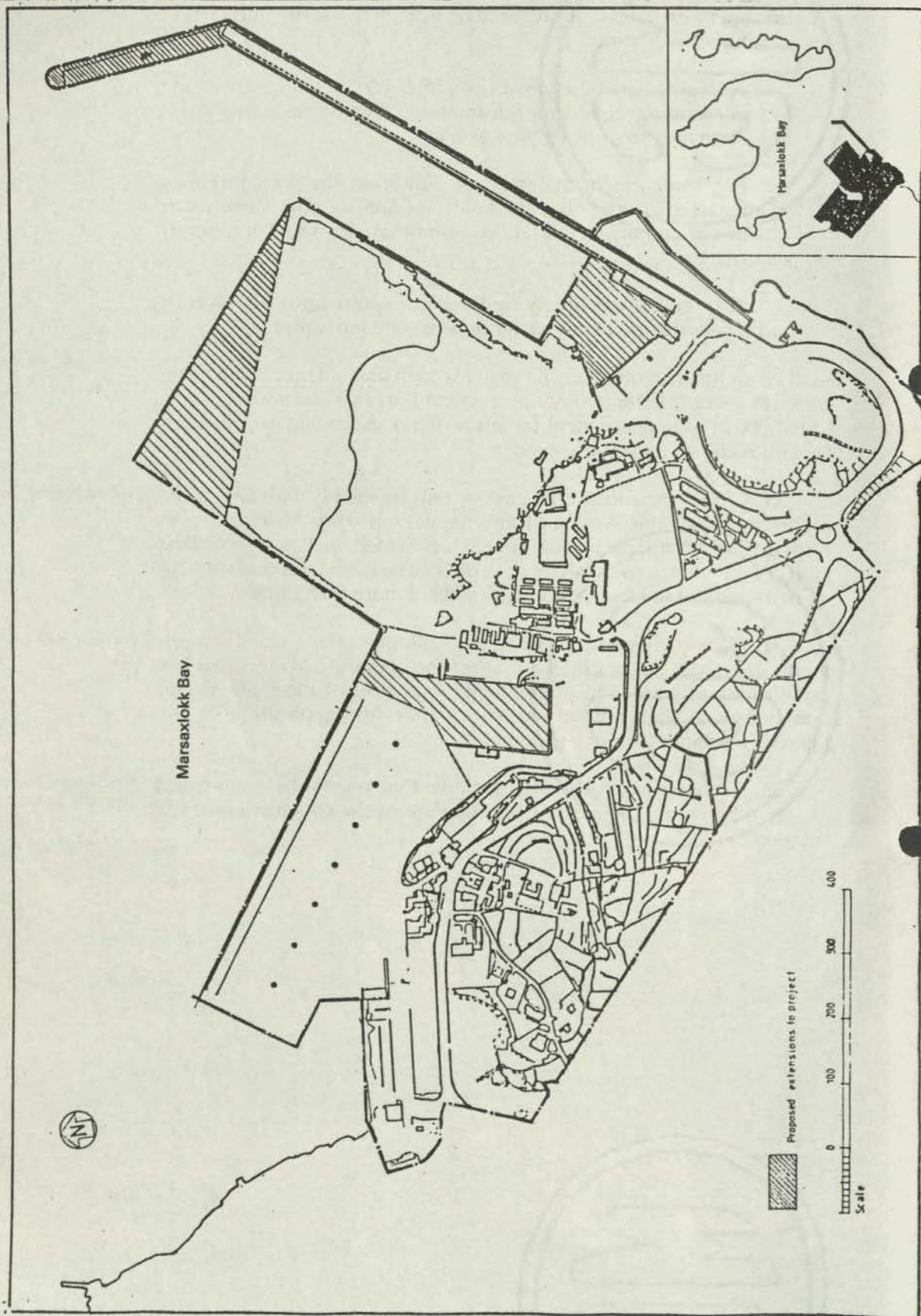
Provision with respect to offences.

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

Prescription for proceedings.

SCHEDULE

(Section 3)



Objects and Reasons

The Object of the Bill is to provide for the setting up in Malta of Freeports, providing for their administration and for fiscal arrangements relative thereto.