

Naghti l-kunsens tieghi.

(L.S.)

GUIDO DE MARCO
President

24 ta' Ottubru, 2003

ATT Nru. XIV ta' l-2003

ATT biex jemenda l-Att dwar il-Professjoni ta' l-Accountancy, Kap. 281

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2003 li jemenda l-Att dwar il-Professjoni ta' l-*Accountancy*. Titolu fil-qosor u bidu fis-sehh.

(2) Dan l-Att għandu jinqara u jiftiehem haġa wahda ma' l-Att dwar il-Professjoni ta' l-*Accountancy*, hawn iżjed 'il quddiem imsejjah "l-Att prinċipali", u għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-finanzi jista', b'avviż fil-Gazzetta jistabilixxi, u jistgħu jiġu stabbiliti dati different għal disposizzjonijiet differenti jew għal għanijiet differenti ta' l-Att.

2. Fis-subartikolu (1) ta' l-artikolu 2 ta' l-Att prinċipali: Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

(a) minflok it-tifsira "“*accountant*” u “*uditor*”” għandha tidhol din it-tifsira li ġejja:

“ “*accountant*” tinkludi individwu jew soċjetà ta' *accountants*;” u

(b) minflok it-tifsira “preskritt” ghandha tidhol din it-tifsira li ġejja:

“ “preskritt” tfisser preskritt b’regolamenti taht dan l-Att jew b’direttivi mahruġa skond dawk ir-regolamenti.”.

Emenda ta’ l-
artikolu 3
ta’ l-Att prinċipali.

3. L-artikolu 3 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (1) tiegħu ghandu jidhol dan li ġej:

“(1) Hadd ma jista’ jeżerċita l-professjoni ta’ *accountant* kemm-il darba ma jkollux *warrant* mahruġ taht l-artikolu 4 ta’ dan l-Att.”;

(b) is-subartikolu (2) tiegħu ghandu jithassar u s-subartikoli (3) sa (7) tiegħu ghandhom jiġu enumerati mill-ġdid bhala s-subartikoli (2) sa (6) rispettivament;

(c) fis-subartikolu (2) tiegħu kif enumerat mill-ġdid:

(i) minflok il-kliem “taht ebda wiehed mill-imsemmija artikoli” ghandhom jidhlu l-kliem “taht l-artikolu 4”;

(ii) il-paragrafu (a) li hemm fih ghandu jithassar; u

(iii) il-paragrafi (b) sa (e) fih ghandhom jiġu enumerati mill-ġdid bhala paragrafi (a) sa (d) rispettivament;

(d) fis-subartikolu (3) tiegħu kif enumerat mill-ġdid, minflok il-kelma “uditur” kull fejn din tinsab ghandha tidhol il kelma “*accountant*”;

(e) fis-subartikolu (4) tiegħu kif enumerat mill-ġdid:

(i) minflok il-kliem “mitt lira” ghandhom jidhlu l-kliem “hames mitt lira”;

(ii) minflok il-kliem “hames mitt lira” ghandhom jidhlu l-kliem “elfejn u hames mitt lira”; u

(iii) minflok il-kliem “ghaxar liri” ghandhom jidhlu l-kliem “hamsin lira”; u

(f) fis-subartikolu (5) tieghu kif enumerat mill-ġdid, minflok il-kliem “elf lira” għandhom jidhlu l-kliem “hamest elef lira”.

4. Minflok l-artikoli 4 u 5 ta' l-Att prinċipali għandu jidhol dan li ġej:

“Warrant
biex
persuna
teżerċita
bhala
accountant

4. (1) *Warrant* biex persuna teżerċita l-professjoni ta' *accountant* jinhareġ mill-Ministru fuq ir-rakkomandazzjoni tal-Bord lil kull min jissodisfa l-htigiet tas-subartikolu 3(2).

(2) Min ikollu *warrant* mahruġ skond dan l-artikolu jista' b'żjieda ma' dan, ikollu wkoll xi ċertifikat wiehed jew aktar mahruġin mill-Bord (hawn iżjed 'il quddiem f'dan l-Att ukoll imsejjah “ċertifikat ta' Prattika”) biex ikun jista' jeżerċita f'dawk l-oqsma tal-professjoni ta' *accountant*, inkluża l-verifika, skond ma jista' jiġi preskritt mill-Ministru, li jaġixxi bir-rakkomandazzjoni tal-Bord, u ma jkunx jista' jeżerċita f'dawk l-oqsma kemm-il darba ma jkollux iċ-ċertifikat relattiv.

(3) Il-Ministru li jaġixxi bir-rakkomandazzjoni tal-Bord jista' jagħmel regolamenti li jkunu jippreskrivu l-kwalifiki meħtieġa għall-hruġ ta' ċertifikati skond is-subartikolu (2) kif ukoll biex jirregola kif dawn jiġu sospizi jew irtirati.

Tismija
tad-
detenturi
ta'
warrant.

5. (1) Id-detentur ta' *warrant* li jinhareġ taht l-artikolu 4 ikollu jedd juża t-tismija “*Accountant Pubbliku Ċertifikat*” kif ukoll l-ittri fil-qosor “CPA”.

(2) Kull min, meta ma jkollux il-*warrant* imsemmi fis-subartikolu (1), jassumi t-tismija jew it-titolu fil-qosor hemm indikati jew b'xi mod iehor jindika li jkollu jedd jeżerċita l-professjoni ta' *accountant* f'Malta, ikun hati ta' reat u jista' jehel, meta jinsab hati, multa ta' mhux iżjed minn elf lira u meta jinsab hati għat-tieni darba jew aktar drabi, priġunerija għal żmien mhux iżjed minn tliet xhur jew kemm dik il-priġunerija u l-multa msemmija li ma tkunx iżjed minn elf lira.”.

5. L-artikolu 6 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (2) tieghu għandu jidhol dan li ġej:

Sostituzzjoni ta' l-
artikoli
4 u 5 ta' l-Att
prinċipali.

Emenda ta' l-
artikolu
6 ta' l-Att
prinċipali.

“(2) Il-president u żewġ membri mis-sitta l-oħra għandhom persuni ta’ livell u esperjenza magħrufa fil-qasam tan-negozju jew f’relazzjonijiet industrijali jew fis-servizz pubbliku; l-erba’ membri l-oħra għandu jkollhom *warrant* mahruġ taħt l-artikolu 4 u għandhom ikunu persuni b’esperjenza fil-qasam akkademiku jew professjonali. Tlieta minn dawn l-erba’ membri l-oħra jinhatru mill-Ministru, wiehed wara li tiġi kkonsultata l-Università ta’ Malta u minn fost lista ta’ mhux inqas minn żewġ persuni nominati minn dik l-università minn fost il-persunal għalliem tal-Fakultà jew tal-Fakultajiet fejn jiġi organizzat it-tagħlim u r-riċerka fil-qasam ta’ l-*accountancy*, u ż-żewġ membri l-oħra wara li jiġu kkonsultati l-assoċjazzjoni jew assoċjazzjonijiet, jekk ikun hemm, li għal dak iż-żmien ikunu magħrufa bhala korpi approvati ta’ *accountancy*, u minn fost lista ta’ mhux inqas minn erba’ persuni nominati minn dawk l-assoċjazzjonijiet biex jirrapprezentawhom.”; u

(b) minnufih wara s-subartikolu (5) tiegħu, għandu jiżdedd dan is-subartikolu li ġej:

“(6) Biex ikun jista’ jwettaq il-funzjonijiet tiegħu, il-Bord għandu juża dawk il-flejjes skond ma l-Ministru jista’ minn żmien għal żmien jagħmel disponibbli għall-istess Bord; kif ukoll dawk il-flejjes skond ma l-Bord jista’ taħt regolamenti magħmulin taħt dan l-Att jiġbor bhala drittijiet jew xort’oħra.”.

Emenda ta’ l-
artikolu 7
ta’ l-Att prinċipali

6. L-artikolu 7 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (1) tiegħu għandu jidhol dan li ġej:

“(1) Il-Bord għandu jirregola l-professjoni ta’ l-*accountancy* fl-interess pubbliku u jkollu l-funzjoni:

(a) li jikkunsidra applikazzjonijiet għall-hruġ ta’ *warrants* taħt l-artikolu 4 u li jirakkomanda dwarhom lill-Ministru;

(b) li jittratta każijiet ta’ mġieba hażina professjonali u proċeduri dixxiplinari oħra fir-rigward ta’ *accountants* pubbliċi ċertifikati inklużi każijiet li jwasslu għas-sospensjoni jew l-irtirar ta’ xi *warrant* jew ċertifikat ta’ prattika mahruġ taħt dan l-Att;

(c) li jaghti pariri, jew jirakkomanda jew xort'ohra jaghti l-fehmiet tieghu lill-Ministru dwar kull haġa li dwarha l-Ministru ghandu jikkonsulta lill-Bord jew li l-Bord ghandu jirakkomanda dwarha lill-Ministru jew li l-Ministru jkun talab il-fehma tal-Bord dwarha;

(d) dawk il-funzjonijiet l-ohra li huma jew li jistgħu jiġu assenjati lill-Bord b'dan l-Att jew b'kull liġi ohra jew li jiġu delegati lill-Bord mill-Ministru.”;

(b) fis-subartikolu (2) tiegħu l-kliem “(c) jew (d)” ghandhom jithassru;

(c) fis-subartikolu (3) tiegħu minflok il-kliem minn “Dik il-lista tkun tinkludi” sal-kliem “tas-soċġi rispettivi tagħhom” ghandhom jidhlu l-kliem “Dik il-lista tkun tinkludi dawk id-dettalji li jirrigwardaw kull detentur ta' *warrant* u soċjetà ta' detenturi ta' *warrant* skond ma jista' jiġi preskritt”; u

(d) minnufih wara s-subartikolu (3) tiegħu ghandhom jiddiedu dawn is-subartikoli (4) u (5) li ġejjin:

“(4) Il-Bord ghandu jeżerċita l-funzjonijiet tiegħu taht paragrafu (b) tas-subartikolu (1) permezz ta' Kumitati Dixxiplinari mahtura ghar-rigward ta' kull proċedura partikolari u li f'kull każ ghandhom ikunu maghmulin minn hames membri mahturin mill-Bord, hekk li tnejn minnhom ikunu minn lista ta' mhux inqas minn għaxar persuni li jinghataw lil dak il-Bord ta' kull sena minn korpi ta' l-*accountancy* approvati u t-tliet membri li jifdal, mill-inqas wiehed ikollu *warrant* taht l-artikolu 4 li jkun eżerċita l-professjoni tiegħu għal dak il-perjodu li jista' jiġi preskritt. Il-Bord ghandu jahtar lil wiehed minn dawk il-membri li jkollu *warrant* jew li darba kellu *warrant* biex ikun *chairman* tal-Bord.

(5) Il-Bord jista' bi ftehim mal-Ministru jiddelega, taht dawk il-pattijiet u kondizzjonijiet li jista' jqis li jkunu adatti, u bla hsara għas-supervizjoni jew kontroll totali tal-Bord, kull funzjoni minn tiegħu li ma tkunx funzjoni taht il-paragrafu (b) tas-subartikolu (1) jew taht l-artikolu 4, lil xi korp ta' l-*accountancy* approvat.”.

7. L-artikolu 8 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 8 ta' l-Att prinċipali.

(a) minflok il-kliem “wara konsultazzjoni mal-Bord” ghandhom jidhlu l-kliem “bir-rakkomandazzjoni tal-Bord”;

(b) minflok il-paragrafu (b) tieghu ghandu jidhol dan li ġej:

“(b) l-imġieba professjonali ta’ *accountants*, kodiċijiet ta’ etika, livelli ta’ kompetenza u integrità u indipendenza li ghandhom jinżammu f’dik il-professjoni, assikurazzjoni ta’ kwalità, kif ukoll edukazzjoni professjonali mandatorja bi tkomplija;

(ċ) fil-paragrafu (ċ) tieghu minnufih wara l-kliem “il-hruġ ta’ linji” ghandha tidhol l-kelma “direttivi,”; u

(d) minflok il-paragrafi (i) u (j) fih, ghandu jidhol dan li ġej:

“(i) il-proċeduri li ghandhom jigu segwiti f’kazijiet ta’ mġieba professjonali hażina jew fi proċeduri dixxiplinari ohra;

(j) il-mod kif l-esperjenza għall-finijiet tal-paragrafu (d) tas-subartikolu (2) ta’ l-artikolu 3 jew li tista’ tkun mehtieġa biex jinkiseb ċertifikat ta’ Prattika taht l-artikolu 4, u l-persuni li jistghu jissorveljaw dik il-prattika u esperjenza;

(k) l-għoti ta’ dik l-informazzjoni li tista’ tintalab mill-Bord minghand min ikollu *warrant* biex il-Bord ikun jista’ jwettaq il-funzjonijiet tieghu taht dan l-Att;

(l) il-proċedura tal-Bord; u

(m) il-pieni, penalitajiet u konsegwenzi u effetti ohra li persuna tkun suġġetta għalihom jew li jistghu jiġru fil-każ ta’ xi kontravvenzjoni ta’, jew nuqqas ta’ konformità ma’, xi disposizzjoni ta’ xi regolament jew direttiva magħmulin taht jew konformement ma’ dan l-artikolu; hekk iżda li ebda piena hekk imposta ma tista’ tkun iżjed minn multa ta’ għaxart elef lira, jew priġunerija għal żmien sena, kemm flimkien ma’ dik il-multa kemm mhux flimkien magħha, jew, fil-każ ta’ reat kontinwu multa ta’ hamsin lira għal kull ġurnata li matulha jkompli r-reat, sew jekk din tiżdied sew jekk ma tiżdiedx mal-piena hawn qabel imsemmija.”.

8. L-artikolu 9 ta' l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta' l-artikolu 9 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem “wara konsultazzjoni mal-Bord” ghandhom jidhlu l-kliem “bir-rakkomandazzjoni tal-Bord”;

(ii) minflok il-kliem “jekk ikun sodisfatt” ghandhom jidhlu l-kliem “jekk il-Bord ikun sodisfatt”; u

(b) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem “l-Ministru jista’ jimponi fl-ghoti” ghandhom jidhlu l-kliem “l-Ministru jista’, bir-rakkomandazzjoni tal-Bord, jimponi fl-ghoti”; u

(ii) minflok il-kliem “wara li jikkonsulta lill-Bord” ghandhom jidhlu l-kliem “bir-rakkomandazzjoni tal-Bord”.

9. L-artikolu 10 ta' l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta' l-artikolu 10 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem “żewġ *accountants* pubbliċi kwalifikati jew iktar” ghandhom jidhlu l-kliem “żewġ persuni jew iktar”;

(ii) il-kliem minn “jew żewġ *accountants* u udituri pubbliċi ċertifikati” sa “kemm bhala udituri u bhala *accountants*” ghandhom jithassru;

(iii) il-kliem minn “jew, skond il-każ,” sal-kliem “ta’ udituri)” ghandhom jithassru;

(iv) minflok il-kliem “l-ghanijiet tas-soċjetà.” ghandhom jidhlu l-kliem “l-ghanijiet tas-soċjetà.”; u

(v) minnufih fi tmiem is-subartikolu ghandu jiżdied dawn il-provisos li ġejjin:

“Izda meta l-prattika li ssir minn detentur ta’ *warrant* ta’ xi qasam tal-professjoni ta’ *accountant* tkun tehtieg li persuna jkollha ċertifikat taht l-artikolu 4(2), dik is-soċjetà tista’ biss teżerċita f’ dak il-qasam taht dawk il-kondizzjonijiet li jistgħu jiġu preskritti:

Iżda wkoll meta soċjetà tista' teżerċita f'xi qasam bhal dak din tista' tindika dak il-fatt fl-isem jew flimkien ma' l-isem tas-soċjetà.”;

(b) is-subartikoli (3) sa (7) għandhom jiġu enumerati mill-ġdid bhala s-subartikoli (4) sa (8) rispettivament;

(ċ) minflok is-subartikolu (2) għandhom jidhlu dawn is-subartikoli (2) u (3) li ġejjin:

“(2) Hadd ma jista' jkun soċju f'soċjetà ta' *accountants* kemm-il darba:

(a) ma jkollux *warrant* mahruġ taht l-artikolu 4; jew

(b) ma jkollux grad li jkun kiseb wara kors ta' struzzjoni li jkun dam għal mill-inqas tliet snin *full-time* jew l-ekwivalenti ta' dan, fl-Università ta' Malta jew f'xi istituzzjoni ohra rikonoxxuta mill-Bord għal dak l-għan, jew ma jkunx xort'ohra jissodisfa lill-Bord li jkollu kwalifiki bhal dawk, u f'kull każ ma jqiegħedx ruhu taht dawk ir-regoli li japplikaw għal *accountants* skond ma jistgħu jiġu preskritti.

(3) F'soċjetà ta' *accountants* dawk il-persuni li jkunu kwalifikati skond ma hemm provdut fil-paragrafu (a) tas-subartikolu (2):

(a) għandhom jikkomprenđu mhux inqas minn sittin fil-mija tas-soċji;

(b) għandhom jikkostitwixxu iżjed minn hamsin fil-mija tal-korp amministrattiv jew ta' tmexxija tas-soċjetà; u

(ċ) għandu jkollhom iżjed minn hamsin fil-mija tal-voti fis-soċjetà:

Iżda f'soċjetà ta' *accountants* li tkun awtorizzata tipprattika fil-qasam tal-verifika għar-rigward tal-paragrafu (b) u (ċ) ta' hawn iktar qabel, riferenza għal persuni kwalifikati skond il-paragrafu (a) tas-subartikolu (2) għandha titqies bhala riferenza għal dawk il-persuni li jkollhom ukoll dak iċ-

ċertifikat li jista' jiġi preskritt taht l-artikolu 4(2) biex jipprattikaw fil-qasam tal-verifika.”;

(d) fis-subartikolu (4) tiegħu kif enumerat mill-ġdid, il-kliem “jew bhala *accountants* u udituri pubbliċi ċertifikati, jew bhala t-tnejn, skond il-każ” għandhom jithassru, u minflok il-kliem “wiehed mill-ismijiet imsemmija” sal-kliem “jew “CPAAs”” għandhom jidhlu l-kliem “li tuża t-tismija ta' *accountants* pubbliċi ċertifikati u l-ittri fil-qosor “CPAs”, kif ukoll fejn dan japplika, li jingiebb għall-attenzjoni tal-pubbliku l-fatt li tista' teżerċita f'kull qasam tal-professjoni ta' *accountant* li dwaru jista' jenhtieg ċertifikat taht l-artikolu 4(2).”;

(e) fil-paragrafu (a) tas-subartikolu (6) kif enumerat mill-ġdid minflok il-kliem “kull ghemil jew haġa li tista' ssir” għandhom jidhlu l-kliem “minghajr preġudizzju għal xi restrizzjoni fuq xi soċji jew xi responsabbiltajiet speċjali fuq xi soċji li jistgħu jkunu preskritti għar-rigward ta' soċjetajiet ta' *accountants* li jistgħu jeżerċitaw f'xi qasam tal-professjoni ta' *accountant* fejn jista' jkun mehtieg li persuna jkollha ċertifikat taht l-artikolu 4(2), kull ghemil jew haġa li tista' ssir”; u

(f) fis-subartikolu (7) kif enumerat mill-ġdid:

(i) minflok il-kliem “jew “*accountants* u udituri pubbliċi ċertifikati” jew l-abbrevjazzjonijiet tagħhom “CPAs” jew “CPAAs”” għandhom jidhlu l-kliem “jew il-kliem fil-qosor tagħhom “CPAs” u, jew filwaqt li jingiebb għall-attenzjoni tal-pubbliku l-fatt li jkun hemm xi ċertifikat partikolari”;

(ii) minflok il-kliem “soċjetà ta' *accountants* jew ta' udituri” għandhom jidhlu l-kliem “ta' soċjetà bhal dik”;

(iii) minflok il-kliem “mitt lira” għandhom jidhlu l-kliem “elf lira”;

(iv) minflok il-kliem “hames mitt lira” għandhom jidhlu l-kliem “hamest elef lira”;

(v) minflok il-kliem “għaxar liri” għandhom jidhlu l-kliem “mitt lira”.

Emenda ta' l-
artikolu 11
ta' l-Att prinċipali.

10. L-artikolu 11 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) il-kliem “jew ta’ uditur” u “jew bhala udituri” ghandhom jithassru; u

(ii) minflok il-kliem “zewġ persuni bhal dawk jew iktar” ghandhom jidhlu l-kliem “zewġ persuni jew iktar”;

(b) fil-paragrafu (a) tas-subartikolu (3) tiegħu, il-kliem “jew ta’ uditur”, “jew uditur” u “jew ta’ uditur, skond ma jkun il-każ” ghandhom jithassru;

(ċ) fil-paragrafu (ċ) tas-subartikolu (3) tiegħu, il-kliem “jew tal-warrant ta’ udituri” u “jew ta’ udituri” ghandhom jithassru u minflok il-kelma “professjonijiet” kull fejn din tinsab ghandha tidhol il-kelma “professjoni”;

(d) fis-subartikolu (4) minflok il-kliem “tal-polza ta’ assigurazzjoni” ghandhom jidhlu l-kliem “tal-polza ta’ assigurazzjoni, u ghandhom jiddikjaraw lill-Bord li dak il-livell ta’ kopertura ta’ assigurazzjoni jkun jammonta għal mhux inqas minn dak l-inqas livell li jista’ jiġi preskritt”;

(e) fis-subregolament (5) tiegħu minflok il-kliem “hames mitt lira” u “hamsin lira” ghandhom jidhlu rispettivament il-kliem “elfejn u hames mitt lira” u “mitejn u hamsin lira”;

(f) fis-subregolament (6) tiegħu l-kliem “jew bhala uditur” ghandhom jithassru, u minflok il-kliem “hamest elef lira” ghandhom jidhlu l-kliem “hamsa u għoxrin elf lira”. u

Sostituzzjoni ta' l-
artikolu 12
ta' l-Att prinċipali.

11. Minflok l-artikolu 12 ta' l-Att prinċipali ghandu jidhol dan li ġej:

“Ftehim
projbitt.

12. Kull ftehim jew arrangament iehor, skond ma jista’ jiġi preskritt mill-Ministru, li jkollu l-hsieb li jeżenta lil xi *accountant* b’mod ġenerali jew lil xi *accountant* li jkollu ċertifikat bhalma hemm imsemmi fis-subartikolu 4(2), minn xi responsabbiltà, piż jew dmir iehor relattiv għall-eżerċizzju tal-professjoni ta’ *accountant* b’mod ġenerali jew l-eżerċizzju f’xi qasam fejn jista’ jkun mehtieg ċertifikat bhal dak hawn qabel imsemmi, jew hlief taht polza ta’ assigurazzjoni magħmula taht l-artikolu 11, biex jinghata indenniz kontra kull responsabbiltà bhal dik jew piż bhal dak, ikun null u minghajr ebda effett.”.

12. L-artikolu 13 ta' l-Att prinċipali ghandu jithassar.

Thassir ta'
l-artikolu 13
ta' l-Att prinċipali.

13. L-artikolu 14 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta' l-
artikolu 14
ta' l-Att prinċipali.

(a) minnufiha wara l-kelma “*warrant*”, kull fejn din tinsab, ghandhom jidhlu l-kliem “jew ċertifikat ta' Prattika”;

(b) fis-subartikolu (1) tiegħu:

(i) minnufih wara l-kliem “mill- Ministru” ghandhom jidhlu l-kliem “bir-rakkomandazzjoni tal-Bord”;

(ii) fil-paragrafu (a) fih minflok il-kliem “mill-Bord” ghandhom jidhlu l-kliem “mill-Kumitat Dixxiplinari mahtur taht is-subartikolu 7(4)”; u

(iii) minnufih wara l-kliem “jew frodi” fis-subparagrafu (b)(ii) fih, ghandhom jidhru l-kliem “jew ta' xi delitt punibbli bi żmien ta' prigunerija ta' iżjed minn sena”;

(ċ) fis-subartikolu (2) tiegħu:

(i) fil-paragrafu (a) fih minnufih wara l-kliem “tas-soċjetà” ghandhom jidhlu l-kliem “, indirizzata lill-Bord”; u

(ii) minflok il-kliem “kull meta l-Ministru” ghandhom jidhlu l-kliem “kull meta l-Bord”;

(d) fis-subartikolu (3) tiegħu minflok il-kelma “Bord” kull fejn din tinsab ghandhom jidhlu l-kliem “Bord Dixxiplinari msemmi”;

(e) fis-subartikolu (4) tiegħu minflok il-kliem “mill-Ministru wara konsultazzjoni mal-Bord” ghandhom jidhlu l-kliem “mill-Ministru, bir-rakkomandazzjoni tal-Bord”; u

(f) fis-subartikolu (5) tiegħu:

(i) il-kliem “jew l-artikolu 5” ghandhom jithassru; u

(ii) minflok il-kliem “li jidhirlu xierqa” ghandhom jidhlu l-kliem “li jidhrulu, bir-rakkomandazzjoni tal-Bord, li jkunu xierqa”.

14. L-artikolu 15 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta' l-
artikolu 15
ta' l-Att prinċipali.

(a) minflok is-subartikolu (2) ghandu jidhol dan li ġej:

“(2) Għall-finijiet tas-subartikolu 5(2) u tas-subartikolu 10(7), l-użu fuq xi biljett, karta ta’ l-ittri, tabella, kartellun, pjanċa, reklam jew ta’ mezz, strument jew dokument iehor miktub, stampat jew imnaqqax, tal-kliem “*accountant* pubbliku ċertifikat” jew l-ittri fil-qosor “CPA”, f’xi forma sew fis-singular sew fil-plural, dwar xi isem, ikun prova biżżejjed tat-tagħrif ta’ dak l-użu mill-persuna li dwar isimha l-imsemmija kliem jew ittri fil-qosor ikunu wżati, kemm-il darba dik il-persuna ma tippruvax li l-użu sar minghajr ma kienet taf bih u li meta saret taf b’dak l-użu tkun hadet passi adegwati biex twaqqaf dan.”;

(b) minflok il-paragrafu (a) tas-subartikolu (3) tiegħu għandu jidhol dan li ġej:

“(a) persuna ma titqiesx li teżerċita l-professjoni ta’ *accountant* jekk biss taġixxi bhala impjegat jew assistent ta’ *accountant* pubbliku ċertifikat jew soċjetà ta’ *accountants*, u ma tohroġ ebda dikjarazzjoni ta’ kontijiet jew ta’ xorta finanzjarja bil-firma tagħha;”;

(ċ) fil-paragrafu (b) tas-subartikolu (3) tiegħu il-kliem “jew li tagħmilha ta’ uditur” għandhom jithassru; u

(d) minnufih wara s-subartikolu (3) għandu jidhol dan is-subartikolu (4) ġdid li ġej:

“(4) Meta jitmexxew proċeduri mill-Bord għal mgieba hażina professjonali u proċeduri dixxiplinari ohra skond l-artikolu 7 ta’ dan l-Att, dan għandu jkun minghajr preġudizzju għal kull proċedura li tista’ tittiehed kontra l-persuna involuta taht id-disposizzjonijiet tal-Kodiċi Kriminali jew ta’ kull liġi ohra u kull proċedura li hekk titmexxa għandha tkun minghajr preġudizzju għal kull proċediment li tista’ tittiehed mill-Bord.”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 42 ta’ l-14 ta’ Ottubru, 2003.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GUIDO DE MARCO
President

24th October, 2003

ACT No. XIV of 2003

AN ACT to amend the Accountancy Profession Act, Cap 281

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

1. (1) The short title of this Act is the Accountancy Profession (Amendment) Act, 2003.

Short title
and
commencement.
Cap 281.

(2) This Act shall be read and construed as one with the Accountancy Profession Act, hereinafter referred to as “the principal Act”, and shall come into force on such date as the Minister responsible for finance may by notice in the Gazette establish, and different dates may be so established from different provisions or purposes thereof.

2. In subarticle (1) of article 2 of the principal Act:

Amendment of
article 2 of the
principal Act.

(a) for the definition “ “accountant” and “auditor” ” there shall be substituted the following definition

“ “accountant” includes an individual or a partnership of accountants;” and

(b) for the definition “prescribed” there shall be substituted the following:

“prescribed” means prescribed by regulations under this Act or by directives issued in terms of such regulations.”.

3. Article 3 of the principal Act shall be amended as follows:

(a) for subarticle (1) thereof there shall be substituted the following:

“ (1) No person shall practise the profession of accountant unless he is the holder of a warrant issued under article 4 of this Act.”;

(b) subarticle (2) thereof shall be deleted and subarticles (3) to (7) thereof shall be renumbered as subarticles (2) to (6) respectively;

(c) in subarticle (2) thereof as renumbered:

(i) for the words “under either of the articles aforesaid” there shall be substituted the words “under article 4”;

(ii) paragraph (a) therein shall be deleted; and

(iii) paragraphs (b) to (e) therein shall be renumbered as paragraphs (a) to (d) respectively;

(d) in subarticle (3) thereof as renumbered, for the words “auditor” wherever it appears, there shall be substituted the word “accountant”;

(e) in subarticle (4) thereof as renumbered:

(i) for the words “one hundred liri” there shall be substituted the words “five hundred liri”;

(ii) for the words “five hundred liri” there shall be substituted the words “two thousand five hundred liri”; and

(iii) for the words “ten liri” there shall be substituted the words “fifty liri”; and

(f) in subarticle (5) thereof as renumbered, for the words “one thousand liri”, there shall be substituted the words “five thousand liri”.

4. For articles 4 and 5 of the principal Act there shall be substituted the following:

Substitution of articles 4 and 5 of the principal Act.

“Warrant to practise as accountant

4. (1) A warrant to practise the profession of accountant shall be issued by the Minister on the recommendation of the Board to any person who satisfies the requirements of subarticle 3(2).

(2) A person holding a warrant issued in terms of this article may in addition hold one or more certificates issued by the Board (hereinafter in this Act also referred to as “a practising certificate”) to practise in such fields of the profession of accountant, including auditing, as may be prescribed by the Minister, acting on the recommendation of the Board, and may not practise in such fields unless he holds the relative certificate.

(3) The Minister acting on the recommendation of the Board may make regulations prescribing the qualifications required for the issue of certificates in terms of subarticle (2) as well as to regulate their suspension or withdrawal.

Designation of Warrant holders.

5. (1) The holder of a warrant issued under article 4 shall be entitled to use the designation “Certified Public Accountant” as well as the abbreviation “CPA”.

(2) Any person who, not being the holder of a warrant referred to in subarticle (1), assumes the designation or abbreviations therein indicated or in any other manner indicates that he is entitled to practise the profession of accountant in Malta, shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding one thousand liri and in respect of a second or subsequent conviction to imprisonment for a term not exceeding three months or to both such imprisonment and the said fine (*multa*) not exceeding one thousand liri.”

5. Article 6 the principal Act shall be amended as follows:

Amendment of article 6 of the principal Act.

(a) for subarticle (2) thereof there shall be substituted the following:

“(2) The chairman and two of the other six members shall be persons of recognised standing and experience in business matters or in industrial relations or in the public

service; the other four members shall be holders of a warrant issued under article 4 and shall be persons of experience in academic or professional matters. Three of these other four members shall be appointed by the Minister, one after consulting the University of Malta and from among a list of not less than two persons nominated by the said university from among the teaching staff of the Faculty or Faculties in which Teaching of and research in the field of accountancy is organised, and the other two members after consulting the association or associations, if any, for the time being recognised as approved accountancy bodies, and from a list of not less than four persons nominated by such associations to represent them.”; and

(b) immediately after subarticle (5) thereof, there shall be added the following subarticle:

“(6) In order to carry out its functions, the Board shall make use of such funds as the Minister may from time to time make available to it; as well as such funds as it may under regulations made under this Act collect as fees or otherwise.”.

Amendment of
article
7 of the principal
Act.

6. Article 7 of the principal Act shall be amended as follows:

(a) for subarticle (1) thereof there shall be substituted the following:

“(1) The Board shall regulate the accountancy profession in the public interest and shall have the functions:-

(a) to consider applications for the issue of warrants under article 4 and to make its recommendations thereon to the Minister;

(b) to deal with cases of professional misconduct and other disciplinary proceedings in respect of certified public accountants including cases leading to the suspension or withdrawal of any warrant or practising certificate issued under this Act;

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

(d) such other functions as are or may be assigned to it by this or any other law or as may be delegated to it by the Minister.”;

(b) in subarticle (2) thereof the words “paragraph (c) or (d) of” shall be deleted;

(c) in subarticle (3) thereof for the words from “such list shall include” to the words “of their respective partners” there shall be substituted the following “such list shall include such details in respect of warrant holders and of partnerships of warrant holders as may be prescribed.”; and

(d) immediately after sub-article (3) thereof there shall be added the following sub-articles (4) and (5):

“(4) The Board shall exercise its functions under paragraph (b) of subarticle (1) through Disciplinary Committees appointed in respect of each particular proceeding and which shall in each case be composed of five members appointed by the Board as to two from a list of not less than ten persons submitted to the said Board each year by approved accountancy bodies and as to the remaining three members, at least one shall be person holding a warrant under article 4 who has practised his profession for such period as may be prescribed. The Board shall appoint one of the said members being a warrant holder or a person who had been a warrant holder to be the chairman of the Board.

(5) The Board may with the agreement of the Minister delegate, under such terms and conditions as it may deem appropriate and subject to its overall supervision or control, any of its functions, other than those under paragraph (b) of subarticle (1) or those under article 4, to an approved accountancy body.”.

7. Article 8 of the principal Act shall be amended as follows: Amendment of article 8 of the principal Act.

(a) for the words “after consulting the Board” there shall be substituted the words “on the recommendation of the Board”;

(b) for paragraph (b) therein, there shall be substituted the following:

“(b) the professional conduct of accountants, codes of ethics, standards of competency and integrity and

independence to be kept by the profession, quality assurance as well as mandatory continued professional education;”;

(c) in paragraph (c) therein immediately after the words “issue of” there shall be inserted the words “directives”; and

(d) for paragraphs (i) and (j) therein, there shall be substituted the following:

“(i) the procedures to be followed in cases of professional misconduct or other disciplinary proceedings;

(j) the manner in which experience for the purposes of paragraph (d) of subarticle (2) of article 3 or which may be required to obtain practising certificates under article 4, and the persons who may supervise such practice and experience;

(k) the provision of such information as may be required from warrant holders by the Board in order to enable it to carry out any of its functions under this Act;

(l) the procedure of the Board; and

(m) the punishments, penalties and other consequences and effects to which a person may become liable or may take place in the event of any contravention or non-compliance with any provision of any regulations or directive issued under or pursuant to this article; so however that no punishment so prescribed may exceed a fine (*multa*) of ten thousand liri, or imprisonment for a term of one year with or without such fine, or in the case of a continuing offence a fine (*multa*) of fifty liri for each day on which the offence continues, whether or not in addition to the punishment aforesaid.”.

Amendment of article 9 of the principal Act

8. Article 9 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof

(i) for the words “after consulting the Board” there shall be substituted the words “on the recommendation of the Board”;

(ii) for the words “if he is satisfied” there shall be substituted the words “if the Board is satisfied”; and

(iii) for the words “all citizens of Malta” there shall be substituted the words “all persons”; and

(b) in subarticle (2) thereof:

(i) for the words “the Minister may in granting” there shall be substituted the words “the Minister may, on the recommendation of the Board, in granting”; and

(ii) for the words “after consulting the Board” there shall be substituted the words “on the recommendation of the Board”.

9. Article 10 of the principal Act shall be amended as follows:

Amendment of article 10 of the principal Act.

(a) in subarticle (1) thereof:

(i) for the words “two or more certified public accountants”, there shall be substituted the words “two or more persons”;

(ii) the words from “or two or more certified” to the words “both auditors and accountants” shall be deleted;

(iii) the words from “or, as the case may be” to the words “of auditors”)” shall be deleted;

(iv) for the words “ the objects of the partnership.”, there shall be substituted the words “ the objects of the partnership.”; and

(v) immediately at the end thereof there shall be added the following proviso:

“Provided that where the practice by a warrant holder of a field of the profession of accountant requires the holding of a certificate under article 4 (2), such a partnership may only practise in such field under such conditions as may be prescribed:

Provided further that where a partnership may exercise in any such field it may indicate such fact in or together with the partnership name.”;

(b) subarticles (3) to (7) shall be renumbered as subarticles (4) to (8) respectively;

(c) for subarticle (2) there shall be substituted the following subarticles (2) and (3):

“(2) No person may be a partner in a partnership of accountant unless:

(a) he holds a warrant issued under article 4; or

(b) he holds a degree obtained after a course of instruction having a duration of at least three years full time or its equivalent, at the University of Malta or at an other institution recognised by the Board for the purpose, or otherwise satisfies the Board that he holds comparable qualifications, and in each case subjects himself to such rules applicable to accountants as may be prescribed.

(3) In a partnership of accountants, persons who are qualified as provided in paragraph (a) of subarticle (2) shall:

(a) comprise not less than sixty percentum of the partners;

(b) constitute more than fifty percentum of the partnership’s administrative or management body; and

(c) hold more than fifty percentum of the voting rights in the partnership:

Provided that in a partnership of accountants which is authorised to practise in the field of auditing with respect to paragraph (b) and (c) above the reference to persons qualified in terms of paragraph (a) of sub-article (2) were a reference to such persons who also hold such certificate as may be prescribed under article 4 (2) to practise in the field of auditing.”;

(d) in subarticle (4) thereof as renumbered, the words “ or as certified public accountants and auditors, or both as the case may require” shall be deleted, and for the words from “one of the designations” to the words “or “CPAAs” ” there shall be substituted the words “to

use the designation of certified public accountants and the abbreviation “CPAs”, as well as where applicable, to bring to the notice of the public the fact that it may practise in any field of the profession of accountant for which a certificate may be required under article 4 (2).”;

(e) in paragraph (a) in subarticle (6) as renumbered for the words “any act or thing that may be done” there shall be substituted the words “without prejudice to any restrictions on any partners or any special responsibility on any partners that may be prescribed with respect to partnerships of accountants which may practise in a field of the profession of accountant where the holding of a certificate may be required under article 4 (2), any act or thing that may be done”; and

(f) in subarticle (7) as renumbered;

(i) for the words “or “certified public accountants and auditors or their abbreviation “CPA’s” of “CPAAs” “ shall be substituted by the words “or its abbreviation “CPAs” and, or, bringing to the notice of the public the holding of any particular certificate”;

(ii) for the words “a partnership of accountants or of auditors” there shall be substituted the words “of such a partnership”;

(iii) for the words “one hundred liri” there shall be substituted the words “one thousand liri”;

(iv) for the words “five hundred liri” there shall be substituted the words “five thousand liri”;

(v) for the words “ten liri” there shall be substituted the words “one hundred liri”.

10. Article 11 of the principal Act shall be amended as follows: Amendment of article 11 of the principal Act.

(a) in subarticle (1) thereof:

(i) the words “or as auditor” and “or as auditors” shall be deleted; and

(ii) for the words “two or more such persons” there shall be substituted the words “two or more persons”;

(b) in paragraph (a) of subarticle (3) thereof, the words “or of auditors”, “or auditor” and “or auditor, as the case may be” shall be deleted;

(c) in paragraph (c) of subarticle (3) the words “or the warrant of auditor” and “or auditors” shall be deleted and for the word “professions” wherever it appears” there shall be substituted the word “profession”;

(d) in subarticle (4) for the words “insurance policy” there shall be substituted the words “insurance policy, and shall declare to the Board that such level of insurance cover amounts to not less than such minimum level as may be prescribed”;

(e) in subarticle (5) thereof, for the words “five hundred liri” and “fifty liri” there shall be substituted respectively the words “two thousand and five hundred liri” and “two hundred and fifty liri”; and

(f) in subarticle (6) thereof the words “or as auditor” shall be deleted, and for the words “five thousand liri” there shall be substituted the words “twenty five thousand liri”.

Substitution of article 12 of the principal Act.

11. For the article 12 of the principal Act, there shall be substituted the following:

“Prohibited agreements.

12. Any agreement or other arrangement, as may be prescribed by the Minister, purporting to exempt an accountant generally or an accountant who holds a certificate as is referred to in subarticle 4 (2), from any liability, responsibility or duty relative to the practise of the profession of accountant generally or the practice in any field where a certificate as aforesaid may be required, or except under a policy of insurance made out under article 11, to identify him against any such liability or responsibility, shall be null and void.”.

Repeal of article 13 of the principal Act

12. Article 13 of the principal Act shall be repealed.

Amendment of article 14 of the principal Act

13. Article 14 of the principal Act shall be amended as follows:

(a) immediately after the word “warrant”, wherever it appears, there shall be inserted the words “or practising certificate”;

(b) in subarticle (1) thereof:

(i) immediately after the words “the Minister” there shall be inserted the words “ on the recommendation of the Board”;

(ii) in paragraph (a) therein for the words “ the Board” there shall be substituted the words “the Disciplinary Committee appointed under subarticle 7 (4)”;

(iii) immediately after the word “fraud” in subparagraph (b) (ii) therein, there shall be added the words “or of any crime punishable by a term of imprisonment exceeding one year”;

(c) in subarticle (2) thereof:

(i) in paragraph (a) therein immediately after the word “partnership” there shall be inserted the words “, addressed to the Board”;

(ii) in paragraph (b) therein for the words “whenever the Minister” there shall be substituted the words “whenever the Board”;

(d) in subarticle (3) thereof for the words “the Board” wherever they appear, there shall be substituted the words “ the said Disciplinary Board”;

(e) in subarticle (4) thereof, for the words “the Minister after consulting the Board” there shall be substituted the words “the Minister, on the recommendation of the Board”;

(f) in subarticle (5) thereof:

(i) the words “or section 5” shall be deleted; and

(ii) for the words “as he may deem” there shall be substituted the word “ as he may, on the recommendation of the Board, deem”.

14. Article 15 of the principal Act shall be amended as follows: Amendment of article 15 of the principal Act.

(a) sub-article (2) thereof shall be substituted by the following:

“(2) For the purposes of subarticle 5 (2) and of subarticle 10 (7), the use on any card, letter head, sign, board, plate, advertisement or other written, printed or engraved device, instrument or document, of the words “certified public accountant” or its abbreviation “CPA”, whether in its singular or plural form, in relation to a name, shall be sufficient evidence of the knowledge of such use by the person in relation to whose name the said words or abbreviations are used, unless such person proves that the use was made without his knowledge and that upon becoming aware of the use he took adequate steps to stop it.”;

(b) paragraph (a) of subarticle (3) thereof shall be substituted by the following:

“(a) a person shall not be deemed to exercise the profession of accountant if he acts simply as an employee of, or assistant to, a certified public accountant or a partnership of accountants, and does not issue any accounting or financial statement over his name;”;

(c) in paragraph (b) of subarticle (3) thereof, the words “or to act as auditor” shall be deleted; and

(d) immediately following subarticle (3) thereof, the following new subarticle (4) shall be inserted:

“(4) The conduct by the Board of proceedings for professional misconduct and other disciplinary proceedings in terms of article 7 of this Act shall be without prejudice to any proceedings which may be taken against the person concerned under the provisions of the Criminal Code or of any other law and any proceedings so taken shall be without prejudice to any proceedings that may be taken by the Board.”.

Passed by the House of Representatives at Sitting No. 42 of the 14th October, 2003.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives

