

CHAPTER 492

VOLUNTARY ORGANISATIONS ACT

To regulate voluntary organisations and their administration.

11th December, 2007

ACT XXII of 2007, as amended by Legal Notices [427 of 2007](#) and [177 of 2012](#); and by [Act VII of 2015](#), [XXXI of 2018](#) and [XXXVI of 2018](#).

PART I

PRELIMINARY

1. The short title of this Act is the Voluntary Organisations Act. Short title.

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

"administrator" means any person who is appointed to control, supervise or administer an organisation, and includes a governor, director, trustee or committee member or any other person who carries out such functions even if under another name but shall not include a manager or an executive while carrying out functions under a contract against remuneration except in so far as he is an administrator and only relating to his functions as an administrator;

Definitions.
Amended by:
[L.N. 177 of 2012](#);
[XXXVI.2018.3](#).

"charitable purpose" means a social purpose;

"charitable trust" means a trust as defined by the [Trusts and Trustees Act](#) which is established for a social purpose; Cap. 331.

"the Commissioner" means the person appointed by virtue of article 5;

"controlled by a religious organisation" means that the religious organisation or the authority representing the same under the applicable Canon law or other legislation governing religious organisations, has the power, whether directly or indirectly, to nominate, appoint, change or remove more than half of the administrators of the organisation;

"controlled by the Government" means that the Government of Malta has the power, whether directly or indirectly, to nominate, appoint, change or remove any of the administrators of the organisation;

"controlled by, related or affiliated to a political party" or similar terms means, in the case of the controlled, related or affiliated organisation, that:

- (a) its statute, financial statements or other documents expressly state that it is controlled by, related or affiliated to the political party; or
- (b) it has been established by the political party which supports it financially; or
- (c) its remaining assets devolve on the political party upon

- its dissolution,
- and, in the case of a political party, that a political party as defined in the [Financing of Political Parties Act](#), whether registered under the said Act or otherwise:
- Cap. 544.
- (i) has the power, whether directly or indirectly, to nominate, appoint, change or remove more than half of the administrators of the organisation; or
 - (ii) is a beneficiary, in any manner and at any time, of the income or capital of the organisation; or
 - (iii) is the beneficiary of the purposes of the organisation, including the promotion of the specific vision, policies and goals of the political party or its candidates;
- "the Council" means the Malta Council for the Voluntary Sector established by article 35;
- Cap. 16. "ecclesiastical entity" shall have the meaning assigned to it by article 26 of the Second Schedule to the [Civil Code](#);
- Cap. 373. "Financial Intelligence Analysis Unit" means the unit set up by article 15 of the [Prevention of Money Laundering Act](#);
- Cap. 9. "funding of terrorism" means the conduct described in articles 328B and 328F to 328I, both inclusive, of the [Criminal Code](#);
- "Government" means the Government of Malta, and includes any Local Council, statutory corporation, public agency and other organisation of whatever legal form controlled by the Government and also includes the President of Malta;
- "interested party" means a person who is given rights capable of economic valuation, present or future, actual or contingent, in the statute of an organisation or who is given powers or functions therein and shall not include other persons unless the context otherwise requires, and this, without prejudice to the right of any person to pursue any civil right or remedy he may have;
- "lawful purpose" means a purpose other than a social or public purpose or public benefit, being a legitimate purpose in terms of these provisions and which may include a private benefit, provided such private benefit is subject to the following conditional requirements:
- (a) it is solely limited and incidental or ancillary to the principal purpose and objectives of the organisation;
 - (b) it is not directly attributable to private individuals or members of the organisation; and
 - (c) it is not capable of promoting any form of private interest, irrespective of whether or not such private interest involves any economic interests, or any form of economic contributions, or is otherwise capable of economic evaluation;
- "market conditions" and "market levels" mean:
- (a) in the case of goods, the standard price normally paid for such goods on the open market;

- (b) in the case of services, the standard or level of remuneration, normally paid:
- (i) by voluntary organisations of the same legal form and operating in the same or in a similar area of activity; and
 - (ii) to persons in the same or in a similar office or role and, or under the same or similar conditions and having the same or similar qualifications; and
- (c) in all other cases, the normal commercial standards:

Provided that, on a local level, such market levels and conditions shall be applicable:

- (i) in the case of voluntary organisations with a generated revenue and income of less than fifty thousand euro (€50,000), these shall be made subject to Category 1 enrolment organisations in terms of the Voluntary Organisations (Annual Returns and Annual Accounts) Regulations; S.L. 492.01.
- (ii) in the case of voluntary organisations with a generated revenue and income exceeding fifty thousand euro (€50,000) but less than two hundred fifty thousand euro (€250,000), these shall be made subject to the General Accounting Principles for Small and Medium-Sized Entities (GAPSME) in terms of Accountancy Profession (General Accounting Principles For Small And Medium-Sized Entities) Regulations and shall apply without prejudice to the Voluntary Organisations (Annual Returns and Annual Accounts) Regulations; and S.L. 281.85.
- (iii) in the case of voluntary organisations with a generated revenue and income exceeding two hundred fifty thousand euro (€250,000), these shall be made subject to full audit by an auditor and the International Financial Reporting Standards (IFRS) shall apply:

Provided further that, for the above principles to apply, reference shall be made to prices, standards or levels of the market in the country where the relevant activities take place:

Provided also that, in case of international organisations, which operate from Malta, or in case of local organisations, which operate internationally, such organisations shall be subject to International Financial Reporting Standards (IFRS) which shall apply without prejudice to the Voluntary Organisations (Annual Returns and Annual Accounts) Regulations; S.L. 492.01.

"the Minister" means the Minister responsible for social policy;

"non-profit making", "not for profit", "non-profit" and similar phrases shall be interpreted, as the context may require, in accordance with the principles, rules and guidelines in the First Schedule to this Act;

"philanthropic" means for the relief of poverty, pain and suffering, and other humanitarian needs;

Cap. 16. "pious foundation" shall have the meaning assigned to it by article 26 of the Second Schedule to the [Civil Code](#);

Cap. 544. "political party" shall have the meaning assigned to it by article 2 of the [Financing of Political Parties Act](#) and, for the purpose of this Act, shall include any other organisation, of whatever legal form, which is controlled by, related or affiliated to the political party, and the terms "political candidate" and "political organisation" shall be construed accordingly;

"political purpose" means the promotion of the interests of a political party or a political candidate, whether at local, national or international level;

"promoter" means a person who promotes the establishment of an organisation or holds himself out to third parties as such;

Cap. 595. "public agency" means any entity of any legal form which is established to carry out public administration in terms of the [Public Administration Act](#) or any other law and includes a statutory body;

Cap. 279. "public collection" shall have the meaning ascribed to it in the [Public Collections Act](#):

Provided that for the purposes of this Act, the term "public", within the context of collections, shall not include existing founders, members or donors of a voluntary organisation, even if in large numbers, nor shall it include a group of less than fifty persons taken on one or more occasions;

"public purpose" or "public benefit" means a social purpose which:

- (a) promotes or serves the general public interest or the interest of a sector of the general public, whether directly or indirectly:

Provided that:

- (i) if, in the opinion of the Commissioner, the organisation does not reach sufficient levels of promotion or service to the general public interest or the interest of a sector of the general public, he may decide that this criteria is not satisfied; and
 - (ii) such purpose is not to be presumed to exist only because the organisation has a "social purpose" as defined in this Act;
- (b) does not promote or serve any private benefit unless such benefit is solely limited and incidental or ancillary to the principal purpose and objectives of the organisation and as permitted by this Act and, or the Second Schedule to the Civil Code;
 - (c) is of a continuing nature and shall apply throughout the existence of the voluntary organisation; and
 - (d) does not include a political purpose;";

"Registrar for Legal Persons" means the Registrar responsible for registration of organisations in terms of the Second Schedule to the [Civil Code](#);

Cap. 16.

"religious organisation" means:

- (a) a pious foundation;
- (b) an ecclesiastical entity and qualifies as a diocese, parish, church or place of worship, province or similar division of any religious order, institute of consecrated life and a society of apostolic life or an ecclesiastical community; or
- (c) a hospital, school, teaching or counselling institute, orphanage or residential or respite centre available to the public, which is controlled by a religious organisation referred to in paragraphs (a) and (b), whether supported by volunteers or otherwise;

"remuneration" means any honorarium, wage, salary, fee or other payment for services, whether under a contract or otherwise, but shall not include the refund of any expenses incurred on behalf of any organisation;

"social purpose" means any charitable or philanthropic purpose, and without prejudice to the generality of the aforesaid, includes:

- (a) the advancement of education, including physical education and sports;
- (b) the advancement of religion;
- (c) the advancement of health;
- (d) social and community advancement, including the promotion of the ethical, educational and social aspects of a particular profession or trade, but which does not include the promotion of any private economic interest;
- (e) the advancement of culture, arts and national heritage;
- (f) the advancement of environmental protection and improvement, including the protection of animals;
- (g) the promotion of human rights, conflict resolution, democracy and reconciliation;
- (h) the promotion or protection of the interests of other public benefit organisations, including federations of such organisations;
- (i) the carrying out of activities intended to raise funds to support other public benefit, non-profit or voluntary organisations or to generally support the voluntary sector as a whole or parts of it through the application, grant, transfer or otherwise making available of funds so raised to them or for their benefit; or
- (j) any other purpose as may be prescribed by the Minister by means of regulations made by virtue of this Act;
- (k) shall not include a political purpose;

"statute" means a document which regulates the continuing management and operation of a voluntary organisation or any constitutive instrument or public deed of the organisation whereby such organisation is established, including a will which provides for the setting up of such organisation;

"temporary organisation" means an organisation established for a specific purpose which can be achieved within less than a year as provided by article 16;

Cap. 490. "Tribunal" means the Administrative Review Tribunal established by article 5 of the [Administrative Justice Act](#);

"voluntary" in the context of a voluntary organisation means the existence of two or more of the following elements:

- (a) the overall control of the organisation is exercised by administrators who do not receive any remuneration for their services for carrying on functions of administrators except as permitted in this Act;
- (b) the organisation is created by the endowment of voluntary and gratuitous grants and the organisation's affairs are supported, at least in part, by such voluntary or gratuitous grants or by services rendered on a voluntary basis;
- (c) in the case of an association, subject to limitations due to the nature or size of the organisation and subject to any discretion which may be exercised in terms of the statute of an organisation by the administrators or a membership committee, any person can join the organisation or participate in the activities of the organisation and every participant in the organisation has the right to freely leave the organisation: and

Provided that:

- (i) when a voluntary organisation is established in the form of a foundation, only one of the above elements must exist for the organisation to be considered to be "voluntary";
- (ii) when a member of a religious order or authority carries out functions in a voluntary organisation without remuneration, such functions shall be considered to be "voluntary" for the purposes of this definition if he or she is not appointed or engaged to do so as a means to carry out his vocational duties by the religious order or authority of which he or she forms part;
- (iii) for the purposes of paragraph (c), only those limitations and discretions which are consistent with the Constitution of Malta and the European Convention Act shall be considered to be valid limitations and discretions;

"voluntary organisation" means a foundation, a trust, an association of persons or a temporary organisation which qualifies under article 3;

"Voluntary Organisations Fund" means the foundation established by article 37;

"voluntary sector" includes voluntary organisations, volunteers, donors who make voluntary grants of money or assets to voluntary organisations, beneficiaries of the services of volunteers and voluntary organisations and administrators of such organisations;

"volunteer" means a person who provides unremunerated services through or for a voluntary organisation.

(2) Unless otherwise expressly defined in any other law or the context requires otherwise, the terms "charity", "charitable", "non-profit", "non-profit making", "philanthropic", "social purpose", "public benefit", "public purpose", "voluntary", "voluntary organisation" and variations or derivatives thereof when used in other laws, shall have the meaning ascribed to them by this Act.

(3) The registration of a voluntary organisation as a legal person in terms of the Second Schedule to the [Civil Code](#) shall not imply enrolment of that organisation in terms of this Act. Cap. 16.

(4) Enrolment of a voluntary organisation under this Act shall not imply:

- (a) that the organisation has legal personality; or
- (b) that it is a registered organisation, in terms of the Second Schedule to the [Civil Code](#); or Cap. 16.
- (c) that the liability of its administrators under applicable laws is affected in any manner.

PART II

VOLUNTARY ORGANISATIONS

3. (1) A voluntary organisation is an organisation which is created or established: Definition of voluntary organisation. Amended by: XXXVI.2018.4.
- (a) for any social purpose including that which qualifies as a public purpose or for public benefit;
 - (b) as non-profit making; and
 - (c) is voluntary,

whether it is registered or registerable as a legal person or not in terms of the Second Schedule to the [Civil Code](#) and whether it is or may be enrolled under this Act or not. Cap. 16.

For the purposes of this Act the above requirements shall be of a continuing nature and shall apply throughout the existence of the voluntary organisation.

(2) (a) Voluntary organisations are independent and autonomous of the Government and such organisations shall have their status respected by the Government at all times.

- (b) The administrators of a voluntary organisation are bound to act autonomously and independently in seeking to fulfil the express purposes of such

organisation and must not be subject to the control of any other person or authority nor bound in any manner, directly or indirectly, to act under the direction or in the interest of any other person.

- (c) Provisions in any statute of a voluntary organisation or in any applicable law, which administrators are bound to observe, shall not be considered as impinging on the autonomy or independence of administrators:

Provided that any such provisions in a statute, or any powers which have been vested in any person or body thereby, shall not be such as to contradict the public purpose of the organisation:

Provided further that such statute or applicable law shall include:

- (i) any mission statement, standards of conduct, guidelines on corporate governance or similar statements in the statute, including those relating to ethical, reputational or commercial positions adopted by the founder;
- (ii) any provisions reserving powers or rights to the founder of a foundation with a public purpose or the settlor of a charitable trust in accordance with the provisions of the Second Schedule to the [Civil Code](#) or the [Trusts and Trustees Act](#) respectively;
- (iii) any provisions on a supervisory council or a protector who may be granted powers in relation to the actions of the administrators or trustees in accordance with applicable law;
- (iv) any provisions granting powers to the Courts or other authority to issue directions on any matter relating to a foundation, an association or to a trust or generally in relation to any voluntary organisation;
- (v) any provisions of applicable law whereby administrators may be bound to follow the directions of a designated person on specific issues or may be under a vow of obedience or otherwise subject to the laws or rules of the competent ecclesiastical or other religious authority; or
- (vi) any provisions whereby the competent ecclesiastical or other religious authorities may enjoy powers in relation to the organisation.

Cap. 16.
Cap. 331.

Government-al and
other
organisations.

- (3) (a) An organisation shall not be considered to be a voluntary organisation if it is:

- (i) controlled by the Government; or
- (ii) a public agency.

(b) For the purposes of this sub-article:

(i) where any person occupies the position of Prime Minister, Minister, Parliamentary Secretary, Permanent Secretary, mayor or holds any other public office with powers to act on behalf of the Government and such person also occupies the position of an administrator within a voluntary organisation in his personal capacity, his role in the latter position shall be considered to be separate and distinct from the public office he may occupy within the Government and such organisation shall not thereby be considered to be "controlled by the Government" unless the statute or any document regulating the appointment expressly states otherwise:

Provided that when, at any time, such person holds these two positions at the same time, such person shall submit a declaration to the Commissioner confirming that he is occupying the position of administrator within the voluntary organisation in his personal capacity:

Provided further that in such cases the Commissioner may, if he considers that the duties or profile of such person holding the public office to be incompatible with the duties as administrator of the particular voluntary organisation or with the voluntary sector as a whole, request the retirement by such person from his position as administrator of the voluntary organisation;

(ii) co-operation agreements, delegation of management, guardianships or similar agreements as well as public private partnerships shall not imply "control by the Government";

(iii) the appointment by Government of persons as protectors or as members of a supervisory council shall imply "control by the Government" unless the statute or any document regulating their appointment expressly states that such persons appointed by the Government are independent and autonomous, shall act on their own discretion and responsibility and shall not be bound to follow directions issued by the Government in carrying out their duties notwithstanding the fact that they are appointed by the Government, although they remain bound to protect the public interest even if in consultation with the Government.

For the purposes of sub-paragraph (i), if, under the provisions of a statute of an organisation, the successor incumbent of the same public office takes up the post of administrator on the retirement of the prior incumbent of the public office, this shall be considered to imply that the relevant person is not holding the position of an administrator in his personal capacity. The term "relevant person" has the same meaning as assigned to it under the Second Schedule to the [Civil Code](#).

Cap. 16.

- (c) Religious organisations may not enrol under this Act and shall not be treated as voluntary organisations for the purposes of this Act. Nothing in this article shall hinder a religious organisation from establishing an organisation which is not itself a religious organisation as defined above. Subject to the provisions of this Act, such an organisation may enrol and, when so required under this Act, shall be obliged to enrol.
- (d) Such an organisation shall not be eligible to the rights, privileges and benefits of a voluntary organisation unless enrolled as a voluntary organisation under this Act.
- (e) Where a religious organisation is already enrolled in terms of this Act on the date of the coming into force of this provision, such organisation shall continue to be considered as a voluntary organisation, with all relative rights, privileges, benefits and obligations, for as long as its enrolment remains in effect.
- (f) An organisation shall not be considered to be a voluntary organisation if it is a political party, has political purposes or is controlled by, related or affiliated to a political party. Such organisations may not enrol under this Act and shall not be treated as voluntary organisations for the purposes of this Act. Nothing in this article shall hinder an organisation with political purposes from establishing an organisation which is not itself a political organisation as defined in this Act. Subject to the provisions of this Act, such an organisation may enrol and, when so required under this Act, shall be obliged to enrol.
- (g) Where an organisation with political purposes is enrolled in terms of this Act on the date of the coming into force of this provision, such organisation shall be required to cancel its enrolment under this Act, failing which the Commissioner shall proceed to cancel the enrolment after notice in accordance with this Act.

(4) For the purposes of this Act, a voluntary organisation may not be established as a limited liability company or any commercial partnership established under the [Companies Act](#).

Cap. 386.

(5) Trusts established or recognised in terms of the [Trusts and Trustees Act](#) shall qualify as voluntary organisations only when they are established as charitable trusts.

Cap. 331.

(6) Unless otherwise permitted under the provisions of article 38, and to the extent of the applicability of article 32A of the Second Schedule to the [Civil Code](#), a voluntary organisation may not be established as the principle cause to trade or to carry out commercial activities.

Cap. 16.

(7) For the purposes of the enrolment of a foreign or international organisation under this Act, when the organisation takes the form of a foundation or an association or a trust, the organisation shall be required to have a minimum of three administrators:

Provided that such organisations shall have a representative resident in Malta.

4. (1) Without prejudice to the provisions of article 12B, any voluntary organisation which has a public purpose or is for public benefit may apply to become enrolled with the Commissioner and, once enrolled and subject to the observance of applicable provisions of law, may enjoy the privileges contemplated by this Act and any regulations made thereunder.

Privileges of
voluntary
organisations.
Amended by:
XXXVI.2018.4.

(2) Notwithstanding the provisions of any other law, a voluntary organisation which is enrolled in terms of this Act, may make public collections for the purposes of the organisation, or when the purpose of an organisation is the raising of funds for other voluntary organisations with designated social or public purposes, for the purposes of such other organisations without any further authorisation.

(3) Any public collections made by any enrolled voluntary organisation shall be made for the public purposes of the relevant organisation and in accordance with any regulations made by the Minister and, or any guidelines which may be issued by the Commissioner from time to time. Unless enrolled, a voluntary organisation may not make public collections.

(4) A voluntary organisation which is not enrolled in accordance with this Act, may not:

- (a) receive or be the beneficiary of grants, sponsorships or other financial aid from the Government, any entity controlled by the Government or the Voluntary Organisations Fund;
- (b) be the beneficiary of any policies supporting voluntary action as these may be developed by the Government;
- (c) receive or be the beneficiary of exemptions, privileges or other entitlements in terms of any law;
- (d) be a party to contracts and other engagements, whether against remuneration or not, for the carrying out of services for the achievement of its public purpose at the request of the Government or any entity controlled by the Government,

and any act which breaches this sub-article shall be considered to be subject to revocation on the request of the Attorney General, who may act of his own initiative or at his

discretion on a complaint made by the Commissioner or on a complaint made by any enrolled voluntary organisation:

Provided that:

- (i) an enrolled voluntary organisation may benefit under paragraphs (a), (b), (c) and (d) only if it is fully compliant with the provisions of this Act and any regulations made thereunder; and
- (ii) if an enrolled voluntary organisation, benefiting under paragraphs (a), (b), (c) and (d), ceases to be fully compliant with the provisions of this Act and any regulations made thereunder, such enrolled voluntary organisation shall be given a time period by the Commissioner or the relevant authority granting the benefit, as the case may be, in which to rectify its position:

Provided further that where a law or regulations, or a Ministerial exemption or notice pursuant thereto, in force on the date of the coming into force of this Act grants a benefit, exemption or privilege, it shall continue to be enjoyed until it is repealed and where a contract or engagement is already in force on such date it shall not be affected until it is performed or terminated.

(5) The Government, government departments, public agencies and entities controlled by the Government shall act upon a Certificate of Enrolment issued in terms of article 14, as evidence of the status of an organisation as a voluntary organisation and shall not require any further evidence of its existence or status when dealing with such an organisation:

Provided that such certificate shall not imply any exemption of such organisation from any procedure, duty, obligation, liability, fees or dues unless expressly stated in the applicable law, regulation or policy.

(6) Without prejudice to the other provisions of this Act, when implementing the provisions of this article in granting benefits or funds or extending privileges to enrolled voluntary organisations or in denying benefits or funds or privileges on the basis of lack of enrolment of an organisation, the Government shall consult and may rely on the information contained in the Register of Voluntary Organisations as maintained by the Commissioner.

(7) (a) The Government shall, from time to time, at least once a year, declare when funds for grants, sponsorships or other financial aid from the Government are available to the voluntary sector.

- (b) For the purpose of paragraph (a), the Government shall distinguish between:
 - (i) funds which are available for organisations in the voluntary sector with activities in Malta, whether the organisations are Maltese organisations or foreign organisations with

- activities in Malta; and
- (ii) funds which are available to support the overseas activities of organisations, whether such organisations are Maltese or foreign.
- (c) In the case of funds available as stated in paragraph (b)(i), these shall be available exclusively to enrolled voluntary organisations whether Maltese or foreign.
- (d) In the case of funds available as stated in paragraph (b)(ii):
- (i) in the case of recipient organisations which are Maltese, these shall be available exclusively to enrolled voluntary organisations; and
 - (ii) in the case of recipient organisations which are not Maltese, the Government shall ensure that as far as possible, such organisations broadly meet equivalent public benefit, registration and transparency standards in their own state of registration as voluntary organisations which are enrolled under this Act.

The Minister may, from time to time, issue regulations establishing the matters upon which equivalence is required and in what manner and may, from time to time, declare when registration as a charity, public benefit, non-profit or voluntary organisation in specified countries implies equivalence for the purposes of this paragraph.

PART III

COMMISSIONER FOR VOLUNTARY ORGANISATIONS

5. (1) There shall be a Commissioner for Voluntary Organisations who shall be appointed by the Minister for the purpose, after consultation with the Social Affairs Committee of the House of Representatives or any other committee substituting the same.

Appointment of
Commissioner.
Amended by:
XXXVI.2018.6.

(2) The Commissioner shall be appointed for a period of three years and may be re-appointed upon the expiration of the term of office.

(3) A person shall not be qualified to be appointed or continue to hold office as Commissioner if such person:

- (a) is a Judge, a Magistrate, a Member of the House of Representatives or a Local Council, or a candidate for election to the House of Representatives or a Local Council; or
- (b) is legally incapacitated or interdicted; or
- (c) has been declared bankrupt or has made a composition or arrangement with his creditors; or
- (d) has been convicted of a crime affecting public trust or theft or fraud, or of knowingly receiving property, obtained by theft or fraud, a crime affecting the good order of the family or of an offence against this Act; or
- (e) is a public officer or becomes a public officer."; and

(4) The appointment of a person as a Commissioner shall not render him a public officer. During his term as Commissioner, such person shall not hold any position which results in a conflict of interest or is incompatible with the appropriate performance of his official duties as Commissioner or with the impartiality expected from this office or with the public confidence therein.

(5) When the office of the Commissioner becomes vacant, a person appointed as Commissioner shall hold office until a successor is appointed.

(6) Subject to the qualifications in subarticle (3), the Minister may, at any time, during the absence of the Commissioner or for any other temporary purpose where the Minister considers it necessary to do so, appoint a person to act in the office of the Commissioner, until the resumption of office of the Commissioner.

(7) The Minister may also appoint one or more Deputy Commissioners to assist the Commissioner as directed by him and in the performance of his functions.

Removal from office.

6. (1) The Commissioner may, at any time, be removed or suspended from office by the Minister, after consultation with the Social Affairs Committee of the House of Representatives or any committee substituting the same, on the grounds of proved inability to perform the functions of the office of the Commissioner or proved misbehaviour:

Provided that if the committee referred to in this subarticle is not constituted or if the House of Representatives is not in session, the Commissioner may be suspended from office by the Minister, acting in accordance with his own discretion, for proved inability to perform the functions of the office or proved misbehaviour to the Minister's satisfaction but any such suspension shall not continue in force beyond two months after the Committee has been constituted and the House of Representatives is in session.

(2) The Commissioner may, at any time, resign from office by notice in writing addressed to the Minister.

Functions of the Commissioner.
Amended by:
XXXVI.2018.6.

7. (1) The Commissioner shall perform the duties and exercise the functions imposed and conferred on him by this Act and by any regulations made thereunder including:

- (a) providing enrolment facilities for organisations which are eligible for enrolment in terms of this Act;
- (b) monitoring the activities of voluntary organisations in order to ensure observance of the provisions of this Act and any regulations made thereunder;
- (c) providing voluntary organisations with information about the benefits and responsibilities deriving from registration as legal persons in terms of the Second Schedule to the [Civil Code](#) and enrolment in terms of this Act;
- (d) providing information and guidelines to persons performing voluntary work and to members of voluntary organisations, for the better performance of

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their role and for the better achievement of the objectives of the voluntary organisations in which they serve;

- (e) making recommendations to the Minister on legislation and policies in support of voluntary organisations, volunteers and voluntary work;
- (f) assisting Government, government departments, public agencies and entities controlled by the Government in preparing and reviewing policies in support of voluntary organisations and the voluntary sector in general;
- (g) investigating any complaints relating to voluntary organisations or persons or organisations purporting to be voluntary organisations and their activities, and to take such action as is in his power to redress any justified grievance that may come to his notice;
- (h) monitoring the promotion of voluntary organisations and the behaviour of administrators of such organisations to ensure the observance of high standards of accountability and transparency and compliance with law;
- (i) co-ordinating and communicating with the Registrar for Legal Persons in terms of the Second Schedule to the [Civil Code](#) with a view to facilitating registration and enrolment processes for voluntary organisations;
- (j) co-operating with and supporting the Council to develop policies which will be of benefit to the voluntary sector in general or categories thereof;
- (k) reviewing periodically new information on the voluntary sector's potential vulnerabilities to money laundering and the funding of terrorism;
- (l) should he discover facts or obtain any information which raise a suspicion that funds received by a voluntary organisation could be proceeds of criminal activity or that the activities of a voluntary organisation could be related to money laundering or the funding of terrorism, he shall promptly disclose those facts or that information, supported by any relevant and supporting documentation that may be available to him, to the Financial Intelligence Analysis Unit;
- (m) performing any other function or duty that is assigned to him under this Act and any regulations made thereunder as well as such other functions as may be assigned to him under any other law.

Cap. 16.

(2) In the exercise of his functions, the Commissioner shall act impartially and shall not be subject to the direction of any other person or authority.

(3) The Office of the Commissioner shall be deemed to be a body corporate, shall have a distinct legal personality and shall be capable, subject to the provisions of this Act or any regulations

made thereunder, of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of his functions, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or contributory to the exercise or performance of the Commissioner's functions under this Act. The Commissioner enjoys the legal and judicial representation of the Office of the Commissioner as a legal person.

(4) The Commissioner may, on behalf of the Office of the Commissioner, in his own writing, delegate to any person specific functions, powers or authorities assigned to or conferred on him by this Act or any other law, and may at any time revoke or vary such delegation:

Provided that no such delegation shall be deemed to divest the Commissioner of any of his functions, powers or authorities and he may, if he thinks fit, exercise such functions, powers or authorities collaterally with the person so delegated.

.Cap. 174.

(5) The provisions of article 72 of the [Financial Administration and Audit Act](#) shall not apply to the Commissioner or any other person carrying out his functions in terms of this Act.

Other functions of the Commissioner.
Amended by:
XXXVI.2018.8.

8. (1) The Commissioner shall establish systems for communication with, and in support of, volunteers who are citizens of Malta, whether serving in Malta or abroad, and the Minister may make regulations, as may be appropriate from time to time, to regulate and support volunteers.

(2) The Commissioner shall:

- (a) seek to encourage an environment where the credibility and good reputation of the voluntary sector is continually enhanced through high standards of operation of voluntary organisations and their administrators, of transparency and public awareness and of proper accountability; and
- (b) seek to assist voluntary organisations in protecting themselves from being abused for money laundering or funding of terrorism purposes by raising their awareness about such risks and informing them of available measures to protect themselves against such abuse.

Cap. 586.

(3) Subject to the provisions of the [Data Protection Act](#), the Commissioner shall, for the purposes of this Act, also compile and maintain information relating to the administrators and activities of voluntary organisations which are not enrolled in terms of this Act.

Guiding principles.
Amended by:
XXXVI.2018.9.

9. The Commissioner shall be guided by the following general principles:

- (a) the recognition, encouragement and promotion of the value and importance of voluntary action and voluntary organisations, whether operating independently of the Government, religious organisations or other public institutions or in a supporting role, and the benefit deriving to the social and cultural life in Malta;

- (b) the recognition of the contribution of voluntary action and voluntary organisations, as expressions of participation, solidarity, pluralism and subsidiarity, towards the continued enjoyment and enrichment of democratic life in Malta;
- (c) the recognition of the direct economic benefit of voluntary and unremunerated action and of initiatives taken by voluntary organisations and volunteers;
- (d) the recognition of the importance of the co-ordination of efforts by voluntary organisations with similar purposes so as to achieve greater concentration of resources and to achieve the benefits of economies of scale and for the avoidance of duplication of efforts, always in the interests of their beneficiaries:

Provided that the Commissioner shall not refuse the enrolment of an organisation solely because of the potential of duplication of efforts by other organisations with similar purposes; and

- (e) the recognition of the importance of the creation of federations or associations of members in order to regulate member organisations and their activities to achieve the benefits of self regulation in the voluntary sector.

10. (1) The Commissioner shall, by not later than six weeks after the end of each calendar year, make and present to the Minister an annual report which shall include:

Annual report.
Amended by:
XXXVI.2018.10.

- (a) a report of the Commissioner's activities during the preceding year including those related to the monitoring of voluntary organisations;
- (b) a general description of the circumstances of the voluntary sector in Malta and any developments which may have affected such sector;
- (c) any recommendations regarding legislation, policies or other matters affecting the voluntary sector to ensure adequate regulation of such sector including initiatives for the prevention of money laundering and the funding of terrorism; and
- (d) the accounts and other financial records referred to in subarticle (3).

(2) The Minister shall, by not later than eight weeks after presentation of a copy of every such report, or if at any time during that period the House of Representatives is not in session, within eight weeks from the beginning of the next following session, cause a copy of every such report to be laid on the table of the House of Representatives. This report shall be discussed by the Social Affairs Committee of the House of Representatives or any other committee substituting this Committee by not later than eight weeks from the date when the Minister places the same report on the table of the House.

(3) The Commissioner shall cause to be kept proper accounts and other financial records in respect of the operations of his office, and shall cause to be prepared a statement of accounts in respect of each financial year. The accounts of the Office of the Commissioner shall be audited by an auditor to be approved by the Minister. After the end of each financial year, and not later than the date on which the report in subarticle (1) is to be forwarded to the Minister, the Commissioner shall cause a copy of the statement of accounts duly audited to be transmitted to the Minister together with a copy of any report made by the auditors on that statement or on the accounts of the Office of the Commissioner.

Public statements.
Amended by:
L.N. 177 of 2012;
XXXVI.2018.11.

11. (1) The Commissioner may publish, by advertisement or otherwise, any information about a voluntary organisation, whether enrolled in terms of this Act or not, or about any person purporting to act on behalf of a voluntary organisation, when it appears to him to be in the interest of the public or of the organisation itself.

(2) Before publishing any information referred to in subarticle (1), the Commissioner shall, in writing, notify the administrators of the organisation, or the person purporting to act as stated in subarticle (1), with the proposed text and the recipient shall have five days from the date of receipt of such notice to discuss the same with the Commissioner and unless an agreement is reached between the Commissioner and the recipient, the Commissioner may proceed with publishing the information without any further requirements:

Provided that in cases of manifest abuse, fraud or other risks to the general public, the Commissioner may publish such information without prior notice as aforesaid:

Provided further that the organisation or the person purporting to act as stated in sub-article (1), may at any time appeal to the Tribunal which may issue orders binding on the Commissioner regarding such public statements.

(3) Notwithstanding the provisions of any other law, the Office of the Commissioner, the Commissioner himself and any of his officials acting on his behalf shall be exempt from any liability or responsibility whether civil or criminal, in respect of any publication, statement or other communication or activity, which is *bona fide* and is intended solely for the better information, education or protection of the public. Such exemption shall extend to such persons publishing, printing, recording, broadcasting or notifying such information by any means whatsoever. For the purposes of this sub-article, a publication, statement, communication or activity shall be deemed to be *bona fide* when it is not made or undertaken recklessly or maliciously and adheres to the principles of fairness and objectivity. Any person alleging bad faith shall have the burden of proving such allegations.

PART IV

REGISTER OF VOLUNTARY ORGANISATIONS

Register of
Voluntary
Organisations.
Amended by
XXXVI.2018.12.

12. (1) There shall be a Register of Voluntary Organisations (hereinafter referred to as "the Register") which shall be maintained by the Commissioner and shall contain the following information, supported by the documentation referred to in

paragraphs (d) to (i) as the same may be amended or updated from time to time:

- (a) the name of the organisation;
- (b) the address of the organisation;
- (c) the registration number of the organisation if registered as a legal person, whether in Malta or abroad;
- (d) the names, identity card numbers, accompanied by an authenticated copy of each identity card, or passport numbers, accompanied by an authenticated copy of each passport, or registration numbers, if any, and residential addresses of the administrators of the organisation;
- (e) in case of foreign organisations, the name, identity card number, accompanied by an authenticated copy of such identity card, or passport number, accompanied by an authenticated copy of such passport, or registration number, if any, and residential address of the representative resident in Malta of such organisation;
- (f) a copy of the constitutive deed of the organisation and any amendments thereto authenticated by a Notary Public in the case of a public deed, and by a Notary Public or one administrator in other cases, and a statement signed by the same person as aforesaid, where the dates do not appear on the face of the documents submitted, establishing the date when the constitutive deed was drawn up and the dates when any amendments were made thereto;
- (g) a copy of the annual accounts for the last financial year prior to enrolment, if any, prepared by the applicant;
- (h) annual reports of the organisation;
- (i) annual accounts of the organisation, together with a report of reviewers or auditors as may be required under applicable law.

(2) Voluntary organisations shall be classified in the Register according to their principal purpose or in such a manner as the Commissioner may deem appropriate.

(3) On enrolment, the Commissioner shall allocate a unique number to the voluntary organisation preceded by the letters "VO" and that number shall at all times be quoted by the voluntary organisation on any published materials, letters, notices, advertisements and other documents issued by such organisation.

(4) The administrators and any representatives resident in Malta shall be bound to submit an authenticated copy of any renewed identity cards or passports within a reasonable time from the date of expiry of the document or within three months of receipt of any demand to that effect by the Commissioner.

General principles
on enrolment.
Added by:
XXXVI.2018.13.

12A. (1) Any organisation has a right to enrol as a voluntary organisation and enjoy the privileges under article 4 only if:

- (a) the social purpose of such organisation also qualifies as a public purpose or public benefit as defined by this Act; and
- (b) it complies with the rules on form and content, as may be, from time to time, prescribed by the Commissioner:

Provided that exemption from mandatory enrolment under article 12B shall not, on its own, prevent an organisation from enrolment.

(2) Unless exempt under article 12C, the organisations referred to in article 12B are subject to mandatory enrolment in terms of this Act.

(3) Any voluntary organisation which -

- (a) is not already enrolled in terms of this Act;
- (b) is not subject to mandatory enrolment in terms of article 12B;
- (c) is not an exempt voluntary organisation in terms of article 12C(2); or
- (d) being enrolled, ceases to be so enrolled on its own will when permitted to do so under this Act,

is required to notify the Commissioner in writing of its existence and its principal purpose in terms of article 12D, unless it ceases to be a voluntary organisation.

(4) Where a voluntary organisation either fails to enrol and, or fails to notify when required to do so in terms of this Act, the provisions under article 12E shall apply *mutatis mutandis*.

Mandatory
enrolment.
Added by:
XXXVI.2018.13.

12B. (1) Any voluntary organisation shall be required to enrol under this Act in the following cases:

Mandatory
enrolment on the
basis of actions and
the protection of
the public interest.

- (a) it makes or intends to make public collections; or
- (b) it receives or is the beneficiary of grants, sponsorships or other financial aid from the Government or otherwise enjoys the privileges contemplated by this Act, any regulations made thereunder or any other law, or intends to be so eligible; or
- (c) it is the beneficiary of any policies supporting voluntary action as these may be developed by the Government or intends to so benefit; or
- (d) it receives or is the beneficiary of exemptions, privileges or other entitlements in terms of any law or intends to so benefit;

- (e) it does not carry out activities as stated under paragraphs (a) to (d) but has an income of more than twenty-five thousand euro (€25,000) in any one year or has an annual income of more than five thousand euro (€5,000) for three consecutive years:
- Provided that this paragraph shall not apply in the case of an organisation carrying out purposes and, or activities or having sources of income other than those related to the general public or public sources, even if such organisation has a social purpose, unless this is determined by the Commissioner in writing, of his own motion or on the request of the organisation on the basis of presumed public benefit:
- Provided further that the obligation to maintain enrolment shall cease to apply if the organisation's level of income does not meet any of the relevant thresholds for more than three consecutive years;
- (f) it does not carry out activities as stated under paragraphs (a) to (d) but it has capital assets of a value exceeding five hundred thousand euro (€500,000) irrespective of its income in any one year:
- Provided that this paragraph shall not apply in the case of an organisation carrying out purposes and, or activities or having sources of income other than those related to the general public or public sources, even if such organisation has a social purpose, unless this is determined by the Commissioner in writing, of his own motion or on the request of the organisation on the basis of presumed public benefit:
- Provided further that the obligation to maintain enrolment shall apply for at least five years and shall cease to apply if thereafter the organisation's level of capital is below a value of one hundred thousand euro (€100,000) and remains so for a period of three consecutive years;
- (g) the administrators shall be under an obligation to enrol the organisation should it be so required by the statute, whether original or as amended, or in case of an association, if it is so resolved in a general meeting of members or if at least thirty five per cent of its members so request in writing provided that the purpose of the organisation is for a public purpose or benefit.

Mandatory enrolment on the basis of turnover and the presumed public benefit.

Mandatory enrolment on the basis of capital and presumed public benefit.

Enrolment on the basis of statute or member request.

(2) There shall be a List of Enrolled Voluntary Organisations which shall be maintained by the Commissioner in accordance with this Act and in the manner he may consider appropriate to enable any member of the public to verify the existence of an enrolled voluntary organisation, and to obtain any other information provided by it to the Commissioner.

(3) The obligation to enrol shall arise:

- (a) in the case of an established organisation, within ninety (90) days of its establishment but before engaging in any of the activities or prior to receiving any of the benefits referred to in sub-article (1);
- (b) in the case of an established organisation, the income of which exceeds any of the income thresholds stated in sub-article (1)(e) or the capital of which exceeds the threshold stated in sub-article (1)(f), within ninety (90) days from the date on which any of the financial thresholds referred to in sub-article (1)(e) or (f) is exceeded, and in any case, prior to receiving any additional benefits referred to in sub-article (1); and
- (c) in the cases contemplated in paragraph (g), within ninety (90) days from the relevant decision, resolution or similar event.

(4) It shall be the responsibility of the administrators and, in the case of sub-article (1)(e) and (f), also of any accountant, reviewer or auditor, if any, of a voluntary organisation to ensure compliance with the provisions of this article.

(5) Any accountant, reviewer or auditor, if any, engaged to review the levels of income established in sub-article (1)(e) and, or the capital in sub-article (1)(f), shall notify the administrators in writing, with a copy to the Commissioner, if the duty to enrol arises under this article and the obligation has not been fulfilled by the administrators within the established time limits. In such case, the Commissioner shall notify the administrators with a time limit for enrolment, which shall not be less than ninety (90) days, and the administrators shall be obliged to enrol the organisation within such time limit as notified by the Commissioner.

(6) For the purposes of this article:

(a) "income" includes:

(i) any subsidies, grants and donations made to the relevant organisation but does not include internal transfers within and between affiliated organisations and any reference to a relevant organisation's annual income is to be read, in relation to a particular time, as a reference to the organisation's gross consolidated income in its financial year immediately preceding that time, having regard to all affiliated organisations. "Affiliated organisations" for the purposes of this article comprises any organisation ("parent") together with all organisations set up by the same organisation ("subsidiaries"), other organisations set up by any of the subsidiaries and, any organisations established by the same founders or promoters to achieve the same or complimentary purposes from common efforts, funds or opportunities;

(ii) any cash deposit made with the organisation or any other transfer of funds under terms

which indicate that it is not an ordinary commercial arrangement but is intended to operate as a grant or donation to the organisation; and

(iii) membership fees;

(b) "financial aid" shall include any financial aid which is available to the voluntary sector from the European Union.

(7) In the event that the statute of the organisation describes it to be for public purposes, voluntary or non-profit making and the organisation appears to be carrying out any of the activities in sub-article (1)(a) to (d); and -

(a) the statute satisfies many of the requirements as described in this Act for qualifying as a voluntary organisation but also has features or elements in its statute which exclude it from qualifying as such under this Act; and

(b) any administrator, or any other person with the consent, tacit or express, of any administrator, makes any verbal or written public statement that the organisation's purposes are exclusively for public benefit and that it is non-profit making thereby seeking or encouraging public support,

the organisation shall comply with the requirements of this Act and shall enrol within ninety (90) days of the coming into force of this article or within fifteen (15) days of a notice from the Commissioner, unless it withdraws or corrects any misrepresentation and declares in writing not to repeat the same, and amends its statute and other documentation clearly stating that it is not a voluntary organisation and, where applicable, that the carrying out of its purposes and, or activities are not related to the general public or public sources, and which therefore, do not qualify as a public purpose or public benefit, even if it has a social purpose.

Provided that:

(a) should it encounter any obstacles in complying with the above within the said period, it shall apply to the Commissioner for an extension of time to do so; or

(b) if it cannot address any non-qualifying features or elements for reasons which can be justified, it may:

(i) ask the Commissioner for a ruling that it is not obliged to enrol until solutions are found but, if such ruling is given, the organisation shall be prohibited from carrying out any of the activities in sub-article (1)(a) to (d) and, if it does so, the organisation and the

administrators shall be guilty of an offence; or

(ii) ask the Commissioner to permit enrolment without full compliance with the provisions of this Act together with a ruling on how the non-qualifying features or elements are to be administered.

(8) When the provisions of sub-article (7) apply and no application is made by an organisation which is deemed by the Commissioner to be subject to mandatory enrolment, the Commissioner may issue an order in writing for the enrolment of such organisation within the time period stated in the order. The organisation may, during the period stated in the order, appeal to the Tribunal which shall:

(a) confirm the Commissioner's order for the mandatory enrolment of the organisation; or

(b) declare that the organisation is not a voluntary organisation therefore not rendering such organisation subject to mandatory enrolment but also confirming the prohibitions to carry out acts or enjoy the privileges referred to in article 4(4).

(9) Nothing in sub-article (1)(e) or (f) shall prejudice the continuing enrolment of any organisation enrolled prior to the date of the coming into force of this article.

(10) An organisation which is subject to mandatory enrolment in terms of this article for reasons referred to in sub-article (1)(c) or (d) and which has been enrolled for at least five (5) years may apply to the Commissioner to be exempted from mandatory enrolment if the activities, and, or purposes of the organisation and the sources of its income are not related to the general public or public sources and which therefore, do not qualify as a public purpose or public benefit, even if it has a social purpose.

(11) Such organisation shall submit its latest accounts and reports together with the request for exemption and if such request is accepted by the Commissioner, the organisation shall not be entitled to carry out acts or enjoy the privileges referred to in article 4(4) until such time as it remains non-enrolled.

(12) The list of all enrolled voluntary organisations as may from time to time be amended shall be made accessible to the public on demand.

Exemptions.
Added by:
XXXVI.2018.13.

12C. (1) Without prejudice to the right to enrol under article 12A, the following organisations shall be exempt from mandatory enrolment under article 12B:

(a) notwithstanding that the requirements giving rise to

mandatory enrolment may exist, the organisations listed in Part I of the Second Schedule;

- (b) the organisations listed in Part II of the Second Schedule;
- (c) those organisations or classes of organisations which are temporarily or permanently exempted by order of the Commissioner with the prior consent of the sub-committee of the Council set up in terms of article 35(13) and on compliance with the conditions for exemption;
- (d) upon the issue of the appropriate determination by the Commissioner, the organisations referred to in the exception to article 12B(1)(e) or (f); and
- (e) any public purpose foundation which carries out the activities under article 32A of the Second Schedule to the Civil Code and which does not engage in any of the activities in article 12B(1)(a) to (d):

Cap. 16.

Provided that a public offer of shares or debentures, bonds or notes or other instruments shall not be considered to be a public collection and shall be governed by the law applicable to such offers.

(2) The organisations referred to in sub-article (1)(a), (b) and (c) shall also be exempt from the duty to notify the Commissioner under article 12D.

12D. (1) Voluntary organisations which -

- (a) are not subject to mandatory enrolment;
- (b) are not exempt under article 12C(2);
- (c) on the basis of a determination by the Commissioner, do not qualify for enrolment as they do not have a social purpose which also qualifies as a public purpose or public benefit; or
- (d) have opted not to enrol when they may do so under this Act,

Notification.
Added by:
XXXVI.2018.13.

shall notify the Commissioner of their existence and their principal purpose by means of a "Non-Enrolment Notice" in the form prescribed in the Third Schedule.

(2) There shall be a List of Non-Enrolled Voluntary Organisations which shall be maintained by the Commissioner in accordance with this Act and in the manner he may consider appropriate to enable any member of the public to verify the existence of a non-enrolled voluntary organisation, and to obtain any other information provided by it to the Commissioner.

(3) The notification mentioned in sub-article (1) shall not grant the Commissioner any rights nor impose any obligations upon him

in relation to such organisations nor shall it grant the organisations making such notification any rights nor impose any obligations on them, other than as provided in this Act.

(4) The administrators of a non-enrolled voluntary organisation shall, by means of the relevant form in the Third Schedule, notify the Commissioner of:

(a) any changes to the name or address of the organisation;

(b) any changes to the administrator or local representative, where applicable, who is to be contacted on behalf of the organisation; and

(c) the merger or dissolution and winding up of the organisation,

and the Commissioner shall amend or remove the form or forms relating to such organisation in the records relating to Non-Enrolled Voluntary Organisations as the case may be and shall amend the List of Non-Enrolled Voluntary Organisations as necessary.

(5) The List of Non-Enrolled Voluntary Organisations, as may from time to time be amended, shall be accessible to the public on demand.

Failure to enrol or failure to notify.
Added by:
XXXVI.2018.13.

12E. (1) An organisation which, when obliged to do so under this Act, fails to enrol shall, notwithstanding the provisions of any other law, be disqualified from benefiting under any grant, sponsorship, any other financial aid from the Government or any governmental policy supporting voluntary organisations or from receiving or being the beneficiary of any exemptions, privileges or other entitlements supporting organisations under any law, and any act performed by such organisation which is in breach of this sub-article shall be subject to revocation on the request of the Attorney General who may act of his own initiative or at his discretion, on a complaint made by the Commissioner or on a complaint made by an enrolled voluntary organisation.

(2) Administrators who fail to enrol an organisation when such enrolment is mandatory in terms of article 12B or who fail to notify the Commissioner of the existence of the organisation in terms of article 12D shall, upon the lapse of thirty (30) days after being notified in writing by the Commissioner of the default and its consequences, or on the lapse of the time limit stated under article 12G(2), be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not less than one hundred and twenty euro (€120) for every default, and a fine (*multa*) of eleven euro and sixty-five cents (€11.65) for every day such default continues.

Mandatory enrolment for foreign organisations.
Added by:
XXXVI.2018.13.

12F. (1) A foreign organisation which operates in Malta in any manner and which is established -

(a) for a public purpose or public benefit;

- (b) as non-profit making; and
- (c) is voluntary,

shall apply for enrolment by submitting the relevant form in the Third Schedule to the Commissioner.

(2) The Commissioner may issue guidelines regarding the enrolment of foreign organisations in terms of this Act.

12G. (1) Should a voluntary organisation consider that circumstances exist which create doubt as to whether it is subject to mandatory enrolment or notification under this Act and it is of the view that it is not required to enrol or to notify for any reason, it shall be entitled to formally advise the Commissioner of its position and state the relevant reasons and, until such time as the Commissioner does not order otherwise, the organisation shall not be considered to be in breach of article 12B or article 12D.

Right to appeal.
Added by:
XXXVI.2018.13.

(2) Once the Commissioner rules that an organisation is required to enrol or to notify in accordance with the preceding articles, the Commissioner shall order, in writing, such organisation to do so and set a time limit for such action.

(3) The organisation may appeal against such order in accordance with article 25.

(4) Until the Commissioner determines any matter under sub-article (1) or until the Tribunal determines any appeal, such organisation shall not be considered to be in breach of article 12B or article 12D but may not carry out the acts in article 12B(1)(a) to (d) pending final determination.

13. (1) All applications for enrolment shall be made by the submission of the prescribed application form to the Commissioner, which form shall be accompanied by:

Application to enrol.
Amended by:
XXXVI.2018.14.

- (a) an original or a copy of the constitutive deed or statute of the organisation and any amendments thereto authenticated by a Notary Public in the case of a public deed and by a Notary Public or one administrator in other cases, and a statement signed by the same person authenticating the deed or statute and any amendments thereto as aforesaid. Where the dates do not appear on the face of the documents submitted, establishing the date or the approximate date, where this is not available from other records, a document showing the date when the constitutive deed or statute was drawn up and the dates when any amendments were made thereto;
- (b) an explanation of how the public benefit shall be achieved through the activities and purposes of the organisation;
- (c) the written consent of all the administrators that shall hold office after enrolment;
- (d) the enrolment fees; and
- (e) any other document as required by this Act or by any

regulations made thereunder or as may be required by the Commissioner.

(2) In considering an application and at any time thereafter, the Commissioner may request the voluntary organisation to provide further information about or make representations on:

- (a) the promoters, founders, administrators, donors and beneficiaries;
- (b) the assets and liabilities;
- (c) the past, if any, present and intended activities of the organisation;
- (d) the purposes of the organisation and the intended activities through which they are to be achieved; and
- (e) any other matter on which the Commissioner may have reservations or concerns in relation to the application.

(3) The Commissioner may accept or refuse any application for enrolment on the basis of:

- (a) observance or otherwise of all formalities required by this Act and any regulations made thereunder;
- (b) presence or otherwise of any factors which bar enrolment under a provision of this Act including any of the qualifying elements as stated in article 3;
- (c) the legality or otherwise of the proposed purposes of the organisation having regard to the stated purposes of the organisation and the stated intentions of the promoters relating to its activities.

(4) The Commissioner shall:

- (a) pay due regard to all information provided and representations made, but in the event that the applicant fails to provide any requested information or to make representations the Commissioner shall proceed with the determination of the application for enrolment on the basis of the information available to him;
- (b) determine whether the organisation is eligible for enrolment and if the organisation is eligible for enrolment, the classification of the organisation's purposes;
- (c) notify the applicant, in writing, of his determination, and in case of a decision not to accept an application, the reasons for such determination and when the reasons relate to the absence or insufficiency of the public benefit element of the purposes of an organisation, to provide a reasoned analysis of his considerations in which case the organisation shall be granted a reasonable opportunity to make representations to the Commissioner on such matter prior to the final decision being taken by the Commissioner.

(5) The Commissioner shall seek to determine all applications

by not later than three (3) months from the date of the application and failure to so determine and notify the applicant in accordance with sub-article (4) within such time shall be deemed to mean that enrolment has been accepted and the Commissioner shall process the enrolment without any further delay:

Provided that in the event that the applicant is a foundation which has not yet been registered with the Registrar of Legal Persons as required by law the duty of the Commissioner under this sub-article to proceed with enrolment shall be suspended until the date when the foundation is so registered:

Provided further in the case of an enrolment taking place in default of a determination as above stated, the Commissioner may request in writing the enrolled voluntary organisation to comply with legal requirements under this Act which may be applicable and which have not been complied with. The enrolled voluntary organisation shall be bound to fulfil such conditions within six (6) months so as to retain its enrolment:

Provided also that if the requirements are not fulfilled within the aforementioned time period, the Commissioner shall order the cancellation of the enrolment of the voluntary organisation by the issue of a Cancellation Order after giving the organisation thirty (30) days notice in writing:

Provided further that if, however, the Commissioner determines, after enrolment under this article, that the element of a public purpose or public benefit in terms of these provisions is absent in the relevant organisation, he may by notice in writing, order the suspension or the cancellation of the enrolment of the voluntary organisation by the issue of a Suspension Order or a Cancellation Order, as appears appropriate in the circumstances, solely on such basis.

(6) The Commissioner shall not enrol a voluntary organisation even if only one of the administrators is a person who does not qualify to be an administrator of an organisation or a trustee of a trust in terms of applicable law.

14. (1) Upon being satisfied that the organisation is eligible for enrolment in terms of this Act and is not in breach of the provisions of this Act, the Commissioner shall:

- (a) enter the particulars of the voluntary organisation in the Register;
- (b) issue a Certificate of Enrolment with the identification number of the voluntary organisation;
- (c) specify whether the voluntary organisation is a foundation, an association, a trust or a temporary organisation; and
- (d) specify the voluntary organisation's enrolment classification.

(2) Certificates of Enrolment shall be considered to be public instruments and shall be surrendered to the Commissioner on his demand in writing. The Commissioner shall be bound to provide written reasons for any withdrawal of a Certificate of Enrolment when

Enrolment and
Certificate of
Enrolment.
*Amended by:
XXXVI.2018.15.*

making such written demand.

(3) The Certificate of Enrolment issued in terms of this article shall not determine the fiscal status of a voluntary organisation or the taxability or otherwise of its income and transactions.

(4) When a Certificate of Enrolment is surrendered, cancelled or otherwise withdrawn it shall not be lawful for any person to use the organisation's identification number, unless otherwise determined by the Commissioner for legitimate purposes or if he deems it necessary in the circumstances.

Refusal to enrol on basis of the name.

15. The Commissioner shall refuse enrolment if, to the best of his knowledge, the name of the organisation is already used by another organisation, even if not enrolled, or if the proposed name is offensive or is likely to deceive:

Provided that in the event that a voluntary organisation has been enrolled with a name which is already used by another enrolled voluntary organisation, the Commissioner shall request the voluntary organisation which has been last enrolled to change its name.

Temporary organisations.
Amended by:
XXXVI.2018.16.

16. (1) A voluntary organisation may be established as a temporary organisation, by using the form in the Fourth Schedule, if it is an organisation formed with one specific purpose, including the raising of funds for a specific public purpose or to support another enrolled voluntary organisation or, subject to article 16A, funds are being raised to help a specific individual or individuals who may suffer from needs which would qualify as a social purpose.

(2) A temporary organisation:

- (a) is established by means of a written constitutive instrument, by using the form in the Fourth Schedule, including a statement of intent to achieve a specific purpose within a short time not exceeding one year, signed by the promoters and listing the acts which are necessary to achieve the purpose for which it is established;
- (b) may not carry out any acts except those listed in the constitutive instrument and ancillary and connected acts and may not borrow money or enter into binding financial obligations in advance of raising the necessary funds to perform such obligations;
- (c) must pay out, apply or otherwise distribute all its assets for the achievement of the purpose by the date of its expiration; and
- (d) must submit to the Commissioner a closing statement of account prior to the date of its expiration signed by the administrators -
 - (i) explaining how it has achieved the purpose for which it was established;
 - (ii) explaining how it has applied all its assets; and
 - (iii) attaching thereto any original documents or

agreements which may have been entered into by such temporary organisation in connection with the disposal or application of such assets.

(3) Upon being satisfied of compliance with this article, the Commissioner shall:

- (a) enrol a temporary organisation on submission of the relevant constitutive instrument; and
- (b) cancel enrolment of such temporary organisation without the need of winding up procedures on submission of the relevant closing statement of account in terms of subarticle (2).

(4) The Commissioner may, on the written request of the administrators, consent to an extension of the expiration date of a temporary organisation.

(5) If a temporary organisation does not comply with subarticle (2)(c), its administrators shall be obliged to:

- (a) establish such organisation as a foundation or an association in terms of the Second Schedule to the [Civil Code](#) and apply to enrol it in terms of this Act; or
- (b) pay all monies and other assets raised to the intended purposes or the Voluntary Organisations Fund to be applied to the purpose intended within two months of the expiry date.

Cap. 16.

(6) If it appears to the Commissioner that a temporary organisation has been set up repeatedly for the same or similar purpose and by the same persons, or by some of them, then the Commissioner may request that the administrators proceed to form a voluntary organisation of extended duration in terms of law, failing which the Commissioner may refuse to accept the repeated enrolment of such temporary organisation.

16A.(1) Notwithstanding the provisions of this Act or the [Public Collections Act](#), it shall not be lawful for any person to make a public collection or call for financial support or otherwise to raise any funds from the public for the benefit of a specific individual, being himself or someone else, who may suffer from a particular social, physical or other need or disability which qualifies as a social purpose except through the establishment and enrolment of a temporary organisation for such purpose and under the conditions set out in this article.

Public collections for the benefit of specific individuals.
Cap. 279.
Added by:
XXXVI.2018.17.

(2) When such an organisation is established, such organisation shall be considered to be for a public purpose notwithstanding that it may have just one beneficiary on condition that:

- (a) any funds raised shall only be used for such individual's needs as declared in the appeal or literature promoting the collection; and
- (b) any excess funds not used for such individual's benefit shall be disposed of in favour of another enrolled voluntary organisation with similar purposes unless the temporary organisation is itself converted into a

voluntary organisation of extended duration to achieve the relevant social purpose in general for public benefit and not limited to one specific beneficiary.

Administrators, beneficiaries and rights of minors.

16B. (1) Voluntary Organisations shall have at least three administrators:

Provided that its beneficiaries or, in the case of minors, the person exercising parental authority or the minors being its beneficiaries cannot act as administrators.

Cap. 16.

(2) The administrators of the voluntary organisation shall be bound by the provisions of this Act and the Second Schedule to the [Civil Code](#).

Cap. 16.

(3) Notwithstanding the provisions of the [Civil Code](#) governing minors, guardianship and tutorship, minors who have attained the age of sixteen (16) years shall be eligible to administer an organisation and shall be vested with any rights pertaining to it and, or resulting therefrom.

Right of appeal.
Amended by:
L.N. 177 of 2012.

17. Any applicant whose application for enrolment has been refused by the Commissioner shall have the right to appeal against such decision to the Tribunal in terms of article 25.

Organisations in difficulty.
Amended by:
XXXVI.2018.18.

18. (1) In carrying out his duties, the Commissioner may recommend to the administrators, or in the absence of administrators, to any identifiable members or promoters of the enrolled voluntary organisation, the winding up of such organisation.

(2) On receiving a recommendation in terms of subarticle (1), the recipients shall, as soon as practicable, call a meeting of all interested persons to discuss such recommendation and take decisions on the future course of action.

(3) The Commissioner may, on the written request of an organisation which may be in financial difficulty, appoint external administrators on a temporary basis in order to review the circumstances and make recommendations on the future of such organisation.

(4) In the case of enrolled voluntary organisations, the Commissioner shall seek to assist the organisation to implement solutions or achieve compliance prior to issuing any recommendation in accordance with this article, or prior to issuing an order in accordance with articles 19 and 20.

Suspension or cancellation of activities.
Amended by:
L.N. 177 of 2012.

19. (1) The Commissioner may order:

- (a) the suspension of the activities of an enrolled voluntary organisation by the issue of a Suspension Order, for such period as shall be specified in such Suspension Order which period shall not exceed thirty (30) days in any single Suspension Order; or
- (b) the cancellation of the enrolment of a voluntary organisation by the issue of a Cancellation Order, which shall come into effect thirty (30) days from the

date on which the sole administrator or at least one of the administrators was notified of such order, unless an appeal is filed within the appeal period provided for in article 25(1), in which case such order shall only have effect if so determined and from the date established by the Tribunal:

Provided that nothing in this article shall hinder the operation of a Suspension Order pending the decision of the Tribunal.

(2) The orders referred to in subarticle (1) may be issued if the voluntary organisation -

- (a) is not pursuing the purposes stated in the statute and in so doing it is misleading the general public;
- (b) is making public collections for purposes outside its objects;
- (c) carries out unlawful activities or is repeatedly acting in contravention of the provisions of any law which are mandatory;
- (d) is failing to comply with the provisions of its statute or of this Act or any regulations made thereunder or the administration thereof is being carried out to poor standards of corporate governance and continues to be so carried out for a period in excess of three months notwithstanding a written warning by the Commissioner;
- (e) is misapplying funds, or is using funds or benefits received for purposes other than those for which such funds or benefits were granted;
- (f) appears to have continued operating after it has been formally dissolved;
- (g) has not functioned for a period which exceeds twenty-four consecutive months;
- (h) obtained enrolment on the basis of materially incorrect or incomplete information that would have otherwise resulted in a refusal had the correct or complete information been known to the Commissioner.
- (i) does not have a public purpose or its public purpose does not meet the sufficient requirements, whether this is determined by the Commissioner after the enrolment of the organisation in accordance with article 13(5) or otherwise; and in such a case the provisions of article 13(4) relating to the provision of reasons for such a decision and the opportunity to make representations shall apply *mutatis mutandis*.

Provided that the Commissioner may not instruct the administrators on how to fulfil the purposes of the organisation:

Provided further that where the purpose of the organisation is the advancement of religion, the Commissioner shall rely on a statement issued by the relevant religious authority regarding whether the

purposes of the organisation are being fulfilled.

(3) In those cases where a Suspension Order is issued, the Commissioner shall indicate which of the activities of the organisation are to be suspended and shall meet or communicate with the administrators of the organisation, as soon as possible, to review the situation and to obtain information and undertakings from the administrators as necessary. The Commissioner may use such information when reviewing any orders issued by virtue of this article.

(4) In a Suspension Order, the Commissioner may make any ancillary orders, including an order to carry out any actions in compliance with the statute of the voluntary organisation or the provisions of this Act or any regulations made thereunder, as may be appropriate.

(5) The Commissioner shall have the power to extend, amend or revoke a Suspension Order, as he considers appropriate, on the application of the administrators of the voluntary organisation, or of his own motion.

(6) Until a Cancellation Order comes into effect in accordance with sub-article (1)(b), the affairs of the voluntary organisation shall continue to be administered by the administrators who shall only carry out acts of ordinary administration or, in the case where an appeal is pending, such acts as may be authorised by the Commissioner or the Tribunal.

(7) The Commissioner may determine whether any suspension of the activities of an organisation is to become permanent in relation to all or part of the activities of the organisation and may issue any relevant orders in relation to the future operations of the organisation.

(8) In the case of a Cancellation Order based on the grounds specified in sub-article (2)(a) to (e), the Commissioner shall have the power to order the organisation to desist from carrying out any further activities. In all other cases the Cancellation Order shall include all determinations under such terms and conditions as the Commissioner may consider appropriate in the circumstances:

Provided that such order shall not imply a restriction of the right of association of any persons involved in the organisation or of the right to continue to operate the organisation without the continuing benefits of enrolment under this Act.

(9) The Commissioner shall publish, in one local newspaper or by means of a notice in the official website of the Office of the Commissioner for Voluntary Organisations as the Commissioner may consider appropriate in the circumstances of the case, any Cancellation Orders which have become final with a brief statement as to the effects of the order and such statement shall be re-published regularly for as long as the Commissioner may consider necessary to ensure that the necessary public awareness has been achieved.

20. (1) In the event of cancellation of enrolment of a voluntary organisation, the administrators shall forthwith surrender, to the Commissioner, the Certificate of Enrolment of such organisation and any person failing to surrender such certificate within the time stated in the demand, in writing, by the Commissioner, shall be guilty of an offence against this Act and shall be liable, on conviction, to a fine (*multa*) of two hundred and thirty-two euro and ninety-four cents (232.94) and a fine (*multa*) of eleven euro and sixty-five cents (11.65) for every day of default.

Effects of cancellation of enrolment.
Amended by:
L.N. 427 of 2007;
L.N. 177 of 2012;
XXXVI.2018.20.

(2) In the event of cancellation of enrolment of a voluntary organisation, all privileges, benefits, advantages or entitlements granted to such organisation by virtue of enrolment, shall cease to have effect from the date when the decision to cancel takes effect:

Provided that such loss of benefits shall not apply to the acts required to liquidate and dissolve the voluntary organisation, including any transfer of property to other organisations as required by the statute of the voluntary organisation or the provisions of applicable law.

(3) Cancellation for the reasons mentioned in article 19(2)(b), (e) and (h) shall entitle the Commissioner to demand in writing the refund of, or fair compensation for, any benefits unjustly received by the voluntary organisation or any other person by virtue of its enrolment in terms of this Act, and that demand, when done by judicial letter, shall constitute an executive title against the organisation or any named administrator in favour of the Commissioner, in his own name or as trustee for the person entitled to the refund or fair compensation as aforesaid. Any person aggrieved by such order may appeal to the Tribunal within thirty (30) days of receipt thereof:

Provided that there shall lie a right of appeal by the person aggrieved to the Court of Appeal from any confirmation of liability by the Tribunal in terms of this sub-article.

(4) An order of the Commissioner against an organisation or any named administrator shall be enforceable as an executive title once all appeals have been exhausted or no appeals have been filed within the relevant time limits.

21. (1) The Commissioner may, by the issue of a Suspension Order, order the suspension of activities of a voluntary organisation which is not enrolled if, in his reasonable opinion, any of the grounds mentioned in article 19(2)(b), (c), (d) and (e) apply and this for a period to be specified in the Suspension Order. Such Order shall be notified to all or any one of the administrators, or in their absence to such person who appears to the Commissioner to be carrying out such activities:

Suspension of activities of organisations which are not enrolled.
Amended by:
L.N. 427 of 2007;
L.N. 177 of 2012;
XXXVI.2018.21.

Provided that for the purposes of article 19(2)(b) the relevant activity shall be the making of a public collection without the necessary authorisations or, if authorised, when such collection goes beyond the terms of the authorisation:

Provided further that such suspension shall not exceed thirty (30) days in any one Suspension Order and shall not be renewed more

than two consecutive times.

(2) An organisation which is served with such Suspension Order shall suspend the activities which shall be specifically indicated in the Suspension Order referred to in subarticle (1) until a final decision is taken as to whether it may continue to act or otherwise.

(3) Any person failing to suspend activities within three days from the receipt of the Suspension Order made to him by the Commissioner to that effect, shall be guilty of an offence under this Act and shall be liable, on conviction, to a fine (*multa*) of two hundred and thirty-two euro and ninety-four cents (232.94) and a fine (*multa*) of eleven euro and sixty-five cents (11.65) for every day of default.

(4) The Commissioner may issue a Permanent Suspension Order for the permanent suspension of designated activities by such organisation, should he consider it necessary, under such conditions as he considers appropriate.

(5) Any person aggrieved by a Suspension Order or a Permanent Suspension Order issued under this article may appeal to the Tribunal against the issue of such order within ten days of the receipt of the written notice from the Commissioner.

Powers of the
Commissioner in
case of abuse.
Amended by:
L.N. 177 of 2012;
XXXVI.2018.22.

22. (1) Without prejudice to the provisions of any other law, in those cases where the Commissioner is of the opinion that a person or voluntary organisation is making or has made abusive use of a Certificate of Enrolment issued in terms of article 14 or has made or made use of a forgery thereof, the Commissioner may:

- (a) prohibit such person from using such certificate by giving notice to such person in writing; or
- (b) issue public statements on the facts to warn the public about any abuse by the person or voluntary organisation; or
- (c) (i) take action to seize any funds raised or public collections made by such person or organisation and to return such funds to the donor thereof, or if it is not possible to locate donors within six (6) months from such seizure, pay such funds into the Voluntary Organisations Fund;
- (ii) if considered necessary by the Commissioner due to lack of co-operation by persons involved or in the circumstances, he may request the First Hall, Civil Court to issue an order attaching such funds in the hands of third parties in general and to prohibit any person or organisation from transferring or from otherwise disposing of such funds;
- (iii) such order shall become operative and binding on all third parties immediately as soon as it is made, and the Commissioner shall cause a notice thereof to be published without delay in the Gazette and two (2) daily newspapers;
- (iv) the Court may for particular circumstances vary

such order, and the provisions of the foregoing paragraphs shall apply to such order as so varied;

- (v) every such order shall contain the name of the person, and the number of his identity card or passport or identification number and, if known, his profession, trade or other status, father's name, mother's name and maiden surname, place of birth and place of residence or in the case of an organisation, its name and registration number or other identification number, if any;
- (vi) the order shall cease to be in force when the related civil or criminal proceedings are finally determined by the Court or when the Commissioner informs the Court that such order is no longer required and in such event the Commissioner shall cause a notice to that effect to be published without delay in the Gazette and two (2) daily newspapers.

(2) Prior to the taking of any of the actions referred to in sub-article (1)(a), (b) and (c)(i), the Commissioner shall notify in writing any person or organisation who appears to him *prima facie* to have breached the provisions of sub-article (1), of his findings and of the actions he intends to take and such person or organisation shall be entitled to:

- (a) make submissions to the Commissioner within five days from the date of receipt of the written notice; and
- (b) file an appeal to the Tribunal within five (5) days of notification of the decision of the Commissioner, which appeal shall suspend any action taken by the Commissioner in terms of sub-article (1) until final determination by such Tribunal:

Provided that until submissions are made to the Commissioner and pending the Tribunal's decision, the recipient of such notice shall not transfer or dispose of such funds as he may control and, in case of default, the recipient shall be guilty of an offence.

22A. (1) The Financial Intelligence Analysis Unit, in fulfilling the responsibilities assigned to it under the [Prevention of Money Laundering Act](#) and any regulations made thereunder, may demand access to the Register or to any information or documentation relating to the operation of an enrolled voluntary organisation and to the List of Non-Enrolled Voluntary Organisations.

(2) Upon receipt of any demand for access to the Register or the List as aforesaid or to any information or documentation in terms of sub-article (1), the Commissioner shall, as soon as is reasonably practicable but not later than five (5) working days from when the demand is first made and without levying any payment as provided by article 40, give the Financial Intelligence Analysis Unit such access or information or documentation, as the case may be.

Financial Intelligence Analysis Unit may demand access to register, information, etc.
Added by: XXXVI.2018.22.
Cap. 373.

Duties of administrators in relation to anti-money laundering and the funding of terrorism.
Added by:
XXXVI.2018.22.

22B. (1) It shall be the duty of all the administrators of a voluntary organisation to implement appropriate procedures relating to the prevention of money laundering and the funding of terrorism so as to ensure that their organisation is not used for such purposes. Such duties shall include but shall not be limited to:

- (a) confirming the identity, credentials and good-standing of the persons or organisations which the voluntary organisations support and obtaining evidence of the identity of the persons who control such organisations;
- (b) confirming the identity, credentials and good-standing of other voluntary organisations, in Malta or overseas, as well as other persons with whom the administrators associate in carrying out activities to fulfil the purposes of their organisation;
- (c) identifying significant donors of the voluntary organisation, being individuals or other organisations, and, while respecting donor confidentiality, obtaining evidence of identity of the relevant individuals or the persons who control such other organisations;
- (d) obtaining information on the source of funds which are donated to the organisation;
- (e) verifying that the assets of the organisation are used lawfully and in a manner which is consistent with its purposes and objects.

(2) For the purpose of this article:

- (a) the administrators shall carry out their duties on a best efforts basis;
- (b) the administrators shall pay regard to the context and the potential risk to money laundering or the funding of terrorism; and
- (c) "significant" shall mean any donations of fifteen thousand euro (€15,000) or more, whether carried out in a single operation or in several operations which appear to be linked.

(3) In the case of voluntary organisations, the administrators of which are not ordinarily resident in Malta, the duties mentioned in the previous sub-article shall be carried out by the local representative of the organisation.

(4) The administrators or the local representative of the voluntary organisation, as the case may be, shall:

- (a) keep adequate records regarding the receipt and use of all funds by the voluntary organisation, which records shall be sufficiently detailed to verify that the funds have originated from lawful activity and have been used lawfully and in a manner consistent with the purpose and objects of the organisation;
- (b) ensure that the voluntary organisation has adequate financial controls and financial management which are essential to protect it against money laundering and the

funding of terrorism;

- (c) ensure that there are appropriate internal procedures in place within the voluntary organisation to encourage staff and volunteers to report any vulnerability of the organisation to the risk of money laundering and the funding of terrorism to the administrators or the local representative so that remedial action may be taken by the organisation; and
- (d) provide adequate training to staff and volunteers to ensure they are familiar with the voluntary organisation's reporting procedures and financial controls and know what actions to take if they suspect money laundering and the funding of terrorism.

22C. (1) Should the Commissioner discover facts or obtain any information which raises a suspicion that funds received by a voluntary organisation could be proceeds of criminal activity or that the activities of a voluntary organisation could be related to money laundering or the funding of terrorism, he shall promptly disclose those facts or that information, supported by any relevant documentation that may be available to him, to the Financial Intelligence Analysis Unit.

Powers of the Commissioner in relation to anti-money laundering and funding of terrorism.
Added by:
XXXVI.2018.22.

(2) The Commissioner may furthermore order the voluntary organisation to appoint, within a stated time period and at its own cost, an advocate, a notary public, an auditor or an authorised company service provider, being independent from such voluntary organisation, to review the records and activities of the voluntary organisation for a stated period and to report to the Commissioner on the compliance or otherwise to the provisions of this Act relating to the prevention of money laundering and the funding of terrorism.

22D. Any terms relating to the prevention of money laundering and the funding of terrorism and related terms shall have the meaning ascribed to them in the [Prevention of Money Laundering Act](#) or regulations made thereunder.

Definitions.
Added by:
XXXVI.2018.22.
Cap. 373.

PART V

OF APPEALS TO THE ADMINISTRATIVE REVIEW TRIBUNAL

23. (1) The Administrative Review Tribunal shall be competent to hear and determine appeals in terms of article 25.

Administrative Review Tribunal.
Substituted by:
L.N. 177 of 2012.
Cap. 490.

(2) The provisions of the [Administrative Justice Act](#), in so far as they apply to the Administrative Review Tribunal, shall apply to any proceedings before the said Tribunal and the words "public administration" in the said enactment shall be construed as a reference to the Commissioner.

(3) The provisions of article 25 of the [Administrative Justice Act](#) shall apply to any proceedings pending before the Board of Appeal and any such proceedings shall be assigned to the Administrative Review Tribunal in terms of the aforesaid article 25 with effect from 1st May, 2012.

Cap. 490.

Jurisdiction.
Substituted by:
L.N. 177 of 2012.

24. The Tribunal shall have jurisdiction in relation to any breach of the provisions of this Act or any regulations made thereunder when such breach does not constitute a criminal offence.

PART VI

RIGHT OF APPEAL AND DISPUTE RESOLUTION

Right of appeal
from a decision of
the Commissioner.
Amended by:
L.N. 177 of 2012;
XXXVI.2018.24.

25. (1) Any person or organisation aggrieved by any decision of the Commissioner may appeal from the decision within thirty (30) days of receipt thereof.

Cap.490.

(2) Appeals shall be made in writing and shall be lodged with the Tribunal in accordance with the provisions of the [Administrative Justice Act](#) or shall be made in the manner as may be prescribed by regulations made by the Minister by virtue of this Act.

(3) All appeals shall be made by application to the Tribunal, which application shall be served on the Commissioner by the applicant.

(4) An application to the Tribunal may also be made by a founder, administrator, member, donor or beneficiary of a voluntary organisation in his individual capacity having an interest in the affairs of the voluntary organisation for an order on the affairs of such organisation on the grounds that such organisation is not being administered in accordance with this Act, any regulations made thereunder or as provided in the statute of such organisation.

(5) The Tribunal shall give reasons for its decisions and shall cause such decisions to be made public but the names of the persons involved shall be omitted if such Tribunal considers it appropriate for reasons of privacy.

(6) In determining an appeal the Tribunal may dismiss the appeal or annul, revoke or substitute the decision of the Commissioner or any administrator or general meeting of a voluntary organisation.

Compliance.
Substituted by:
L.N. 177 of 2012.

26. Compliance with any instructions of the Commissioner or with the Tribunal's determination shall not be interpreted as a renunciation of the right to seek review of the Commissioner's or Tribunal's determination

Support relating to
disputes.

27. (1) The Commissioner may, on becoming aware of a dispute involving a voluntary organisation or persons connected therewith, even if out of his own initiative, provide assistance in the resolution of such disputes through:

- (a) the facility of advisory opinions by experts chosen from a panel of persons (hereinafter referred to as "the Advisory Panel");
- (b) assistance to the parties to the dispute by referring such dispute to mediation and, where necessary, impose mandatory reference to mediation as provided herein;

- (c) assistance to the parties to the dispute to make reference to arbitration in accordance with the provisions of Part IV of the [Arbitration Act](#).

Cap. 387.

(2) The Commissioner shall encourage and assist parties to a dispute involving a voluntary organisation to resolve the issue by mutual agreement by referring it to the Advisory Panel, to mediation or failing that, to arbitration.

(3) The Commissioner may organise information, educational and training events in relation to alternative dispute resolution systems for the benefit of voluntary organisations.

(4) For the purposes of this Part, a dispute involves a voluntary organisation if it relates to:

- (a) a dispute between members of a voluntary organisation or between members and one or more administrators relating to the affairs of the voluntary organisation, including the payment of membership fees, the expulsion of members and similar issues; or
- (b) a dispute between the founders and the administrators of a foundation or the settlors or beneficiaries of a charitable trust and the trustees relating to the affairs of the voluntary organisation or charitable trust as the case may be; or
- (c) a dispute between administrators of a voluntary organisation; or
- (d) a dispute between voluntary organisations relating to activities, events and related matters; or
- (e) a dispute between a voluntary organisation and a donor, sponsor, beneficiary or other person who has relations with the voluntary organisation, other than purely commercial relations for the supply of goods or services; or
- (f) a dispute between a volunteer and a voluntary organisation; or
- (g) without prejudice to any law relating to employment, a dispute between an employee of a voluntary organisation and the voluntary organisation, which shall be handled in collaboration with the Director for Employment and Industrial Relations; or
- (h) a dispute between the Government and a voluntary organisation in relation to any management or other contract entered into for the rendering of services.

28. (1) The Advisory Panel shall be composed of persons who, in the opinion of the Commissioner, are qualified to carry out the duties of advisors in matters relating to voluntary organisations and the voluntary sector in general.

Advisory Panels.

(2) The Advisory Panel shall:

- (a) communicate with the parties to the dispute immediately on the referral of such dispute by the

Commissioner;

- (b) organise meetings between the parties, as may be necessary, in order to resolve the dispute;
- (c) consider the causes and circumstances of the dispute;
- (d) endeavour to bring about amicable settlement of the dispute as expeditiously as possible;
- (e) make recommendations, as deemed fit, in order to resolve the dispute;
- (f) in the event of failure to achieve amicable settlement make recommendations for mediation or arbitration in terms of articles 29 and 30.

Mediation.

29. (1) When the Commissioner refers a dispute involving a voluntary organisation to mediation, the Commissioner shall do so by notice in writing to the parties and the parties shall be bound by such reference:

Provided that the Commissioner shall in the notice state who is responsible for the commencement of the proceedings and shall establish a time therefor, failing which the other party or parties may commence mediation proceedings themselves.

(2) Each party referred to mediation shall be bound to act in good faith in the conduct of such proceedings and any party may withdraw from mediation procedures at any time:

Provided that if the mediator considers that a party has not demonstrated good faith in his conduct to promote or proceed with the mediation, then the mediator may order costs to be borne by such party.

(3) The Malta Mediation Centre may, after having consulted the Council, from time to time, prescribe rules governing mediation procedures in relation to voluntary organisations, including rules on the appointment of a mediator by such Centre in the event that the parties fail to agree on such appointment.

(4) The Council shall, from time to time, advise the Malta Mediation Centre in the drawing up of a panel or panels of mediators on matters involving voluntary organisations.

Arbitration.

Cap. 387.

30. (1) When a dispute as defined in article 27 is submitted to arbitration under the rules of the Malta Arbitration Centre, the dispute shall, in the absence of agreement to the contrary by the parties involved, be determined in accordance with the provisions of the [Arbitration Act](#) and the arbitral tribunal shall take into consideration general principles of good practice, transparency and fairness that are generally accepted and applied within the voluntary sector.

(2) The Council shall, from time to time, advise the Malta Arbitration Centre in the drawing up of a panel or panels of arbitrators on matters involving voluntary organisations.

(3) The Malta Arbitration Centre may, after having consulted the Council, from time to time prescribe rules governing arbitration

procedures involving voluntary organisations.

PART VII

OFFENCES

31. Where any person acts in breach of any of the provisions of this Act or any regulations made thereunder, and a specific penalty is not provided for the offence under this Act or any regulations made thereunder, such person shall, on conviction, be liable to a fine (*multa*) of not less than one hundred and sixteen euro and forty-seven cents (116.47) but not more than two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) or to a term of imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

Penalties.
Amended by:
L.N. 427 of 2007.

32. Any person who -

- (a) in any manner, forges or alters a Certificate of Enrolment of a voluntary organisation;
- (b) acts or purports to act on behalf of an enrolled voluntary organisation when he is not authorised to do so and raises funds or acquires assets or achieves any personal benefit from so doing;
- (c) gives the impression that an existing organisation is a public benefit organisation, non-profit making or voluntary organisation when it is not;
- (d) makes abusive use of a Certificate of Enrolment or of a voluntary organisation's identification number;
- (e) gives the impression that an organisation has a voluntary organisation identification number when it has none or uses a non-existent identification number;
- (f) acts or purports to act in the name of a public benefit, non-profit making or voluntary organisation which does not exist,

Offences.
Substituted by:
XXXVI.2018.25.

shall be guilty of an offence and shall be liable to the same punishment as provided for in article 183 of the [Criminal Code](#).

Cap. 9.

33. (1) Any person who knowingly acts or purports to act as an administrator of a voluntary organisation but who does not acquire any assets or achieve any personal benefit from doing so without having been duly appointed or elected as an administrator of such organisation, shall be guilty of an offence punishable as a contravention unless the actions of the said person constitute a more serious offence under any other law, in which case it shall be punishable accordingly.

Purporting to act as an administrator and making public collections.
Amended by:
XXXVI.2018.26.

(2) Any person who makes or attempts to make a public collection when not enrolled as a voluntary organisation under this Act shall be guilty of an offence unless such person has obtained a licence or is exempt from the requirement of obtaining a licence in terms of the [Public Collections Act](#).

Cap.279.

Investigations.
Amended by:
L.N. 427 of 2007;
L.N. 177 of 2012;
XXXVI.2018.27.

34. (1) The Commissioner may, in the cases referred to in article 19(2), investigate the affairs of any voluntary organisation at any time and may demand from any person, in writing, any relevant information relating to the operation of a voluntary organisation or related to any person involved in the activities of a voluntary organisation, if he receives what he considers to be a valid complaint in writing or if he has cause to believe that such information is necessary in order to establish whether a voluntary organisation is acting in compliance with the provisions of this Act or any regulations made thereunder:

Provided that where the complaint arises from a member of the public who seeks information required to be filed with the Commissioner under this Act which is for any reason absent from the Register, the complaint need not be in writing and the Commissioner shall be entitled to presume that the complaint is valid on establishing that the information is absent from the Register and he may then proceed to take action against the organisation and, or its administrators without the need for a formal investigation under this article.

(2) Any person who fails to provide information and documentation as aforesaid, and destroys or defaces documents, or attempts to destroy or deface documents, required by the Commissioner pursuant to this article shall be guilty of an offence.

(3) The Commissioner may issue directives demanding compliance with any of the provisions of this Act or any regulations made thereunder and failure on the part of any person to comply with such directives shall constitute a breach of duty.

(4) The Commissioner may set a period for compliance with any directives he may give or for compliance with any of the provisions of this Act or any regulations made thereunder and may impose penalties for non-compliance within such period:

Provided that such penalties shall not exceed two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) for the breach of a directive and one hundred and sixteen euro and forty-seven cents (116.47) for each day of non-compliance and such penalties shall be paid to the Voluntary Organisations Fund.

(5) Any person or organisation who receives a communication in terms of this Part of this Act shall be entitled to apply to the Tribunal on the basis that such investigation, directive, order or penalty is not justified or reasonable in the circumstances and the Tribunal may give any directions it considers appropriate and any penalties imposed by the Commissioner in terms of subarticle (4) shall be suspended until final determination by the Tribunal.

(6) A demand under this article may also be sent to a person who is bound by a duty of professional secrecy under the [Professional Secrecy Act](#) and for the purposes of article 6A of such Act the Commissioner shall be considered to be a public authority. Any information obtained by the Commissioner upon such a demand shall be used exclusively for the purposes of this article.

(7) Notwithstanding the provisions of sub-article (1), the Commissioner has the right to request any other information required in terms of the provisions of this Act including personal information and any other data of identification of a person, provided that such data is not divulged to third parties without the written consent of the persons involved and provided this information is in conformity with the provisions of the [Data Protection Act](#). Cap. 586.

(8) For the purpose of sub-article (7) any personal information may include but shall not be limited to:

- (a) names of donors and beneficiaries;
- (b) names of sponsors;
- (c) details of any other person or entity with whom the organisation would have made any kind of transaction including financial transactions;
- (d) personal details of employees including payslips;
- (e) beneficiaries of companies (including shareholders):

Provided that the requirements mentioned in paragraphs (a), (b) and (c) are necessary for the purpose of maximum transparency and accountability and may enable the Commissioner in identifying any irregularities or suspicions from annual returns and reports and eventually take any necessary action:

Provided further that the requirements under paragraphs (d) and (e) shall only be requested by the Commissioner in exceptional cases and shall not be made accessible to the public.

(9) For the purpose of this article, the Commissioner shall also be vested with the power to request the banks or any financial authority or entity for any other information required in terms of the provisions of this Act and he shall have the right to obtain such information as may be required without the need of having to file an action before the Tribunal or the Civil Court.

PART VIII

COUNCIL FOR THE VOLUNTARY SECTOR

35. (1) There shall be a body, to be known as the Malta Council for the Voluntary Sector, which shall have a distinct legal personality. The role of the Council shall be to promote the voluntary sector, provide a forum for the voluntary sector and a platform from which to develop co-operation between voluntary organisations and the Government and co-operation between voluntary organisations amongst themselves. The Malta Council for the Voluntary Sector shall also assist and advise the Commissioner for the Voluntary Sector.

(2) The Council shall be composed of a Chairperson and another ten members, who shall be appointed as follows:

- (a) one (1) member shall be appointed by the Minister to

The Malta
Council for the
Voluntary Sector
Amended by:
VII. 2015.19.
Substituted by:
XXXVI.2018.28.

represent the Government;

- (b) four (4) members shall be appointed by the Minister in accordance with sub-article (3) from among the voluntary sector in order to represent voluntary organisations; and
- (c) six (6) members shall be elected directly by the voluntary sector.

(3) The four (4) members of the Council who are appointed by the Minister to represent voluntary organisations shall be appointed after the receipt of nominations following a public call by the Minister for nominations in the following manner:

- (a) one (1) member to represent founders of and donors to voluntary organisations;
- (b) one (1) member to represent members of voluntary organisations and volunteers;
- (c) one (1) member to represent administrators of voluntary organisations; and
- (d) one (1) member to represent foreign and international organisations:

Provided that where there is more than one nomination representing a particular sector, the Minister shall appoint such members from among the nominations received:

Provided further that where no nominations are received, the Minister shall appoint such members at his discretion:

Provided further that prior to appointing the members of the Council, the Minister shall consult with the Social Affairs Committee of the House of Representatives or any other committee substituting the same immediately upon receiving the nominations.

(4) (a) The six (6) members of the Council who are elected directly by the voluntary organisations enrolled with the Commissioner for Voluntary Organisations shall be representative of the following sectoral groups:

- (i) one (1) member from the Social and Humanitarian Sector;
 - (ii) one (1) member from the Health and Special Needs Sector;
 - (iii) one (1) member from the Education, Youth and Sport Sector;
 - (iv) one (1) member from the Environmental Sector and the Animal Welfare Sector;
 - (v) one (1) member from the Arts and Culture Sector; and
 - (vi) one (1) member from the Non-Governmental Organisations Sector in Gozo.
- (b) All members of the Council shall be remunerated for

their services in relation with their duties and functions carried out in terms of article 36(2) and (3):

Provided that such remuneration shall be established at eight hundred euro (€800) per annum.

(5) The Chairperson of the Council and the Deputy Chairperson shall be appointed by the Council from among the members of the Council. The Council shall be assisted by a Secretary.

(6) Where the Chairperson is absent from Malta or is otherwise temporarily unable to perform the functions of his office, the Deputy Chairperson shall act as Chairperson and shall exercise all the powers and functions of the Chairperson.

(7) A person shall not be qualified to be appointed or to hold office as a member of the Council if he:

- (a) is a Judge, a Magistrate, a Member of the House of Representatives or a Local Council, or a candidate for election to the House of Representatives or a Local Council; or
- (b) is legally incapacitated or interdicted; or
- (c) has been declared bankrupt or has made a composition or arrangement with his creditors; or
- (d) has been convicted of a crime affecting public trust or theft or fraud or of knowingly receiving property obtained by theft or fraud; or
- (e) is subject to disqualification under article 320 of the [Companies Act](#) or is involved or has interest in any enterprise or activity which is likely to affect the proper discharge of his function as a member of the Council.

Cap. 386.

(8) Subject to the provisions of this article, the office of a member of the Council shall become vacant:

- (a) at the expiration of his term of office;
- (b) if a member of the Council is absent for more than half of the meetings of the same Council in a calendar year or three consecutive meetings without an excuse; or
- (c) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as such.

(9) A member of the Council may be relieved from office by the Minister on the ground of inability to perform the functions of his office, whether due to infirmity of mind or body, or to any other cause, or on the ground of misbehaviour.

(10) A member of the Council may resign from his office by means of a letter to the Minister. If a member resigns or is relieved from office by the Minister or if the office of a member of the Council is otherwise vacant, the vacancy shall be filled reflecting the person's appointment in terms of sub-article (3), as the case

may be, and any person so appointed shall continue in office for the remaining period of the term of office of the person whom he is substituting and shall be eligible for re-appointment.

(11) The Council shall meet at least once every three (3) months and shall be convened by the Chairperson:

Provided that the Chairperson shall convene a meeting of the Council when requested to do so by at least three members thereof.

(12) The Council shall, subject to the provisions of this Act, regulate its own procedures.

(13) The Council shall appoint a sub-committee composed of three (3) members of the Council. The sub-committee shall have a quorum of two (2) members and the written response of the two (2) members agreeing or disagreeing to a recommended course of action shall suffice as an expression of the views of the committee.

Powers of the
Council.
Substituted by:
XXXVI.2018.28.

36. (1) The powers of the Council are:

- (a) to carry out such functions and have such powers as may be prescribed, from time to time, by the Minister responsible for the voluntary sector by means of regulations made by virtue of this Act;
- (b) to provide a consultative forum that can effectively address issues related to the voluntary sector;
- (c) to assist the Commissioner for Voluntary Organisations;
- (d) to provide a platform from which to develop co-operation between voluntary organisations and the Government;
- (e) to stimulate co-operation and networking between voluntary organisations;
- (f) to administer the Voluntary Organisations Fund in terms of article 37(3);
- (g) to promote and encourage a culture of volunteering and participation in volunteering activities among people, especially children and youths, as an aspect of personal and social development;
- (h) to foster co-operation in the voluntary sector with local and international bodies, entities or other persons for the encouragement and promotion of the development of volunteering programmes, initiatives and activities; and
- (i) to encourage, in furtherance of the principle of subsidiarity, non-governmental bodies and private entities or persons and local councils to contribute to the promotion of volunteering in Malta.

(2) The functions of the Council are:

- (a) to provide on-going guidance and advice in relation to the implementation of the Council's strategy;

- (b) to support, develop and promote the interests and work of all voluntary organisations in Malta and Gozo;
- (c) to meet the ever-increasing needs of the voluntary sector;
- (d) to make recommendations to the Minister on a national volunteering policy, or otherwise, in relation to the development of volunteering;
- (e) to develop and implement policies and strategies for the furtherance of its objectives and functions, to initiate, encourage and facilitate research and development in relation to volunteering;
- (f) to promote and ensure the education and preparation of volunteer administrators and officials with the required vocational and professional competencies, and to promote, organise or assist by whatsoever means, educational schemes for volunteers;
- (g) to promote and ensure the establishment, development and maintenance and proper use of the Voluntary Organisation Centre, to be of service and a resource to voluntary organisations;
- (h) when so directed by the Minister, to represent the Government of Malta internationally or regionally in matters related to the voluntary sector as may be designated by the Minister;
- (i) to support voluntary organisations in the acquisition of both local and EU funds;
- (j) to collect and distribute information, and provide advice, on matters related to the activities of the Council;
- (k) to keep a register of *bona fide* voluntary organisations, entities and other persons who are considered to be voluntary organisations;
- (l) to raise money and to administer and expend money appropriated by the House of Representatives or otherwise received from other sources;
- (m) to consult and co-operate with local councils and other persons on matters related to the voluntary sector;
- (n) to draw up, develop and amend, from time to time, a Code of Ethics to be followed by volunteers and voluntary organisations; and
- (o) to carry out such functions and have such powers as may be prescribed, from time to time, by the Minister responsible for Social Policy by means of regulations made by virtue of this Act.

(3) Subject to the provisions of this Act, the Council has the power to do all things necessary or convenient to be done in connection with the performance of its functions and shall be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any kind of

property for the purposes of its functions, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act, including the lending or borrowing of money.

(4) The legal and judicial representation of the Council shall be vested in the Chairperson and the Deputy Chairperson in the absence of the former, or in any other person under such terms and conditions and with such powers as the Council may from time to time by resolution determine.

(5) Any document purporting to be an instrument made or issued by the Council and signed by the Chairperson shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Council.

(6) The Council may engage or employ persons to perform services for the Council and may enter into any agreement to exercise any of its functions through the agency or services of any person.

Cap. 595. (7) The Council shall engage a Chief Executive Officer in terms of the [Public Administration Act](#), and:

- (a) subject to the other provisions of this Act and to any directions of the Council, the executive conduct of the Council, its administration and organisation and the administrative control of its officers and staff, shall be the responsibility of the Chief Executive Officer, who shall also have such other powers as may from time to time be delegated to him by the Council;
- (b) the Chief Executive Officer shall also be responsible for the implementation of the objectives of the Council and the exercise of its functions and without prejudice to the generality of the foregoing he shall develop the necessary strategies, policies and regulations for the implementation of the objectives of the Council, advise the Council on any matter it may refer to him or on any matter which he considers necessary or expedient, and perform such other duties as the Council may assign to him from time to time;
- (c) the Chief Executive Officer shall have the right to attend all the meetings of the Council. The Chief Executive Officer shall not, however, have a vote or be counted for the purpose of constituting a quorum; and
- (d) the Chief Executive Officer shall perform all his duties only under the direction of the Council.

(8) The Council may:

- (a) obtain commercial sponsorship for the Council and participate in marketing arrangements involving the endorsement by the Council of products and services associated with volunteering;
- (b) arrange for the manufacture and distribution (whether for profit or otherwise) of any article or thing bearing a

mark, symbol or writing that is associated with the Council; and

- (c) provide (whether for profit or otherwise) goods and services to persons using, or otherwise attending at, facilities of the Council.

(9) The Council may charge or impose such reasonable fees in respect of:

- (a) access to, or use of, any of its resources or facilities; and
- (b) the provision by it of programs, services, information and advice.

(10) The Council shall meet as often as may be necessary or expedient. The meetings of the Council shall be convened by the Chairperson either of his own initiative or at the request of at least four (4) of the other members.

(11) The Council shall not act unless a quorum consisting of not less than fifty percent plus one (50% +1) of the appointed members are present.

(12) The meetings of the Council shall be chaired by the Chairperson or, in his absence, by the Deputy Chairperson.

(13) Decisions of the Council shall be taken by a simple majority of the votes of the members present and voting. In the case of equality of votes, the Chairperson or in his absence the Deputy Chairperson shall have and exercise a second or casting vote.

(14) Without prejudice to the other provisions of this Act, no decision shall be valid which is not supported by at least four (4) members of the Council.

(15) Any vacancy among the members of the Council, and any participation therein by a person not entitled so to do, shall not invalidate the proceedings of the Council.

(16) The Minister may, after consultation with the Council, from time to time give to the Council such directives in writing as he may deem appropriate and not being inconsistent with the provisions of this Act, and the Council shall, as soon as may be, comply with and give effect to all such directives and shall conduct its affairs accordingly.

(17) The Council shall afford to the Minister all necessary facilities for obtaining information with respect to the property and activities of the Council and furnish him with returns, accounts and other information with respect thereto, and afford him the necessary facilities for the verification of information furnished, in such manner and at such times as he may reasonably require.

(18) For the purposes of this Act the Council shall submit to the Minister for his approval, a two-year strategic plan which establishes clear objectives and targets to attain its principal aims and objectives during the said period in fulfilment of its functions under this Act.

(19) The aforementioned strategic plan shall be presented to the

Minister for his approval not less than two (2) months before the commencement of the period to which the strategic plan relates, and shall come into force on the day on which it is approved by the Minister or the day of commencement of the period to which it relates, whichever is the later:

Provided that the first strategic plan shall be prepared by the Council and submitted to the Minister for approval within six (6) weeks from the date of appointment of the Council.

(20) The Council shall also from time to time during the period in respect of which a strategic plan is in force, consider and propose to the Minister any necessary variations to the said plan and, following approval by the Minister, vary the said plan.

(21) The Council shall at the beginning of each year in respect of which a strategic plan is in force, prepare an operational plan that articulates the programmes, initiatives and activities that it will undertake in fulfilment of the objectives defined in the said strategic plan for the said year.

(22) (a) Subject to the provisions of the Constitution and of any other enactment applicable thereto, including this Act, the Council, acting with the concurrence of the Minister, may appoint and employ such officials and other employees with such remuneration and upon such terms and conditions as the Council may, from time to time, determine.

(b) The Chief Executive Officer shall be appointed to act as the administrative official of the Council and manage all the related operation.

(c) The officer detailed for such duty with the Council shall at all times be under the administrative authority and control of the Council but he shall for other intents and purposes remain and be considered as a public officer.

(d) Without prejudice to the generality of paragraphs (a) to (c), the officer detailed for duty as aforesaid, shall not, during the time in respect of which he is so detailed:

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at a date on which he is so detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Council.

(e) Without prejudice to the generality of paragraphs (a) to (d), the officer detailed for duty as aforesaid, shall,

during the period for which he is so engaged:

- (i) be entitled to have his service with the Council considered as service with the Government, for the purposes of any pension, gratuity, or benefit under the [Pensions Ordinance](#) and the [Widows' and Orphans' Pensions Act](#) and to any other right or privilege to which he would be entitled; and, or
- (ii) be accountable for any liability:

Cap. 93.
Cap. 58.

Provided that, for the purpose of such pension, gratuity or benefit, regard shall be had solely to the substantive grade with the Government of the officer so engaged.

PART IX

VOLUNTARY ORGANISATIONS FUND

37. (1) The Voluntary Organisations Fund shall be hereby established as a foundation and shall be registered in terms of the Second Schedule to the [Civil Code](#) and enrolled as the first enrolled voluntary organisation in terms of this Act.

Voluntary
Organisations
Fund.
Amended by:
XXXVI.2018.30.
Cap. 16.

(2) The address of the Voluntary Organisations Fund shall be the office of the Commissioner or any other address as the Council may, from time to time, deem fit.

(3) The objects of the Voluntary Organisations Fund shall be to assist and support enrolled voluntary organisations through education, management and support and financial grants for the said purposes.

(4) The Voluntary Organisations Fund shall be vested with the right to income and capital as is contemplated by the provisions of this Act or any regulations made thereunder:

Provided that article 29 of the Second Schedule to the [Civil Code](#) shall not apply to the Voluntary Organisations Fund and the requirements therein shall be substituted by a statement signed by the Commissioner.

Cap. 16.

(5) The Voluntary Organisations Fund shall be administered by the Council which shall appoint a board of administrators for the purpose.

(6) The board of the Voluntary Organisations Fund shall enjoy discretion as to the distribution of income and capital of such Fund for the purposes outlined in subarticle (3) and shall, by not later than the fifteenth day of February of each year, submit to the Council a detailed written report of its receipts and of all distributions of income and capital of such Fund during the preceding calendar year.

(7) Legal representation of the Voluntary Organisations Fund shall be vested in the Chairperson of the board of administrators or any other person designated by the board for the purpose.

PART X
GENERAL

Voluntary organisations not to be established for trade.

Amended by:
L.N. 177 of 2012;
XXXI.2018.61.
Substituted by:
XXXVI.2018.31.

38. (1) Voluntary organisations shall not be established principally for trading purposes nor shall they regularly engage in acts of trade, but to the extent that they are established for public purposes which are achieved through the carrying out of such acts of trade provided in sub-article (2), voluntary organisations may regularly carry out such acts of trade which are related and ancillary to the principal purpose and objectives of the organisations in order to achieve their public purposes:

Provided that trading activities which do not fall within the exemptions of sub-article (2) but which are only marginal to the income of the voluntary organisation may also be carried out by the voluntary organisation itself, subject to the requirements established under sub-article (6).

(2) For the purposes of this article, the following activities carried out by a voluntary organisation and, or the following income generated directly in the achievement of the public purposes of such organisation, shall be presumed to be permitted under sub-article (1):

- (a) the operations and activities carried out by schools, training centres and other educational institutes and the charging of fees for educational services;
- (b) income generated from the sale of goods and, or the provision of services, by a voluntary organisation when such goods and, or services are themselves donated to the voluntary organisation;
- (c) income generated from the sale of goods and, or the provision of services only to members, supporters, sponsors or contributors of the voluntary organisation or the group of organisations of which it forms part;
- (d) income generated from the sale of goods or the provision of services on sites administered by the voluntary organisation and offered to *bona fide* visitors by the organisation itself through volunteers or employees:

Provided that this shall not apply to shops, bars, restaurants or other outlets on such sites, or the sites themselves when these operate under lease agreements, management agreements, licences or otherwise by third parties for profit;

- (e) the operations and activities of art galleries, exhibitions, museums and other organisations established for the advancement of culture, arts and national heritage and the charging of fees for the admission at theatrical, musical activities or other such activities;
- (f) participation fees in competitions;
- (g) payment for residential accommodation, care and other

philanthropic support provided on a cost or subsidised basis; and

- (h) such other activities intended to raise funds for the achievement of the principal purpose and objectives of the organisation resulting in:
 - (i) income from the grant on lease or a management contract of land or buildings or other commercial property to a third party, where no services are provided by the voluntary organisation;
 - (ii) income from the investment of the assets of a voluntary organisation, including the holding of shares or other interests in another legal organisation;
 - (iii) income which may be made payable to voluntary organisations which own, administer or otherwise operate an innovative technology arrangement; and
 - (iv) such other activities or classes of income as may be prescribed by regulations made by the Minister on the recommendation of the Council.

(3) In cases other than those contemplated in sub-articles (1) and (2), unless acts of trade and trading activities are only marginal to the income of the voluntary organisation, such organisation shall establish a limited liability company to carry out acts of trade and the administrators of the voluntary organisation shall ensure that such establishment shall not burden the human and financial resources of such organisation beyond its means.

(4) The limited liability company established in terms of sub-article (3):

- (a) shall in all cases be permitted to carry out those acts of trade which are related or ancillary to the principal purpose and objectives of the voluntary organisation, or if expressly permitted in the statute of such voluntary organisation, subject to the discretion and satisfaction of the Commissioner;
- (b) shall be non-profit making in accordance with this Act;
- (c) shall have directors who do not receive any remuneration for their services for carrying out such functions except as permitted by this Act and, or the statute of the voluntary organisation; and
- (d) shall not permit the evasion of the limitations imposed on voluntary organisation in the First Schedule by any person in the voluntary organisation or the limited liability company and the same limitations shall also apply in this case to the limited liability company in the same way.

(5) For the purpose of this article "marginal" means not more than ten per cent (10%) of the income generated by the voluntary

organisation in any one year and the administrators shall have the duty to determine whether any activity, being an act of trade, is marginal or not, for the purpose of this article and, when such issue arises, shall submit a declaration in this regard to the Commissioner who may:

- (a) issue directives at any time in writing on such matters if he deems that the declaration submitted by the administrators does not satisfy the criteria established in terms of this article and may impose conditions in relation to such activities to ensure compliance with the principles established under this article; and
- (b) issue a ruling on the matter giving reasons for decision, and any administrator or any interested party may appeal from such decision before the Administrative Tribunal.

(6) Voluntary organisations shall not be exempt from the obligation to obtain any authorisations or licences which may be required to carry out any particular activity referred to in this article in terms of any other law.

(7) The Commissioner may issue guidelines on the duties and responsibilities of administrators of voluntary organisations which carry out acts of trade as permitted by this article or with regard to all aspects regarding limited liability companies which voluntary organisations establish in accordance with this article.

(8) In cases falling under sub-article (4), it shall be presumed that:

- (a) a limited liability company notwithstanding that it has a separate and distinct legal personality, is only an instrument to keep the trading activities distinct from the activities of the voluntary organisation promoting its social and public purpose; and
- (b) the existence of the limited liability company shall not operate in any way so as to prejudice third parties in good faith or the voluntary organisation itself, to reduce the transparency of the voluntary organisation or to create any private benefit to third parties which is not permitted within the voluntary organisation itself.

(9) Any wholly owned limited liability company established in accordance with this article, which may be carrying on trading activities from a premises or site held under any title by an enrolled voluntary organisation shall have absolutely no rights in relation to any concessions leases or other grants of property to the said voluntary organisation, including Government, which shall be deemed to permit use of such property by such wholly owned limited liability company:

Provided that any documentary arrangements set in place for governance purposes between the voluntary organisation and the wholly owned limited liability company shall be disregarded with regard to any grantor organisation and when any grant is modified or terminated for any reason by or with regard to the

voluntary organisation, the limited liability company shall automatically be affected thereby.

(10) Whenever a voluntary organisation establishes a limited liability company in terms of sub-article (3) of this article, the administrators shall notify the Commissioner in the prescribed form, which form shall be included in the Register and shall be made accessible to the public. The Commissioner shall notify the Commissioner for Inland Revenue of the name and registration number of such limited liability company upon being notified. The same rules shall apply *mutatis mutandis* to the winding up of any such limited liability company.

39. (1) The Commissioner may, from time to time and after consultation with the Council, issue guidelines -

(a) in relation to voluntary organisations and their activities;

(b) in relation to the voluntary sector as a whole,

and such guidelines shall be binding on voluntary organisations, administrators and volunteers, as the case may be.

(2) The Commissioner may, with the consent of the Minister, issue guidelines on the objective classification of the categories of "social purpose" or "public benefit" and related concepts which may be used in the interpretation of this Act for any of its purposes.

(3) Such guidelines shall be based on internationally recognised classification methodologies and shall be implemented in the administration of the provisions of this Act and any related laws:

Provided that such guidelines shall not have retrospective effect.

40. (1) On payment of the applicable fee, any person may view and obtain copies of the Register and any documentation which has been submitted to the Commissioner by any voluntary organisation.

(2) Voluntary organisations shall make the statute, annual report and audited accounts available for inspection, free of charge, by any founder, administrator or member of the voluntary organisation as well as by any donor or beneficiary who satisfies the administrators of an interest in the information.

(3) If a person is unjustifiably refused any information by a voluntary organisation such person may complain, in writing, to the Commissioner who shall decide on whether such person is entitled to the information or not in terms of this article and inform the complainant in writing of his determination, and reasons therefor, within a reasonable time:

Provided that the Commissioner shall inform the relevant voluntary organisation of any decision taken in terms of this subarticle and any person who feels aggrieved by such decision taken by the Commissioner shall have the right to appeal to the Tribunal within five days of the date of receipt of such decision

Guidelines issued by the Commissioner.
Renumbered: XXXVI.2018.33.
Substituted by: XXXVI.2018.34.

Inspection of documents.
Amended by: L.N. 177 of 2012.
Renumbered: XXXVI.2018.33.

taken by the Commissioner.

Power to make regulations.
Amended by:
L.N. 177 of 2012.
Renumbered:
XXXVI.2018.33.
Amended by:
XXXVI.2018.35.

- 41.** (1) The Minister shall have the power to make regulations:
- (a) to further regulate voluntary organisations, whether enrolled or not in terms of this Act;
 - (b) to establish the forms for the enrolment of a voluntary organisation and for the notification of changes to the statute to its administrators and otherwise;
 - (c) to establish the form and contents of certificates to be issued in terms of this Act;
 - (d) to establish the forms and procedures to be used for appeals in terms of this Act;
 - (e) to establish rules applicable to public collections by voluntary organisations;
 - (f) to regulate foreign or international voluntary organisations carrying on activities in Malta;
 - (g) to lay down any penalties for breach of the provisions of this Act;
 - (h) to implement any international convention or any European Union regulation or directive, to the extent necessary, to which Malta has adhered to in the context of voluntary organisations or the voluntary sector and to issue guidelines thereon;
 - (i) to regulate the composition of the Advisory Panels and to regulate the procedures to be followed by the Advisory Panels and by the persons appointed on such panels;
 - (j) to regulate the Voluntary Organisations Fund and the terms and interest rates of loans therefrom and the terms and conditions of guarantees which may be provided by such Fund;
 - (k) to lay down rules on the position of volunteers in relation to their employers when such volunteers wish to carry out voluntary activity, in Malta or abroad, for periods beyond their leave entitlement;
 - (l) to lay down rules on the powers of the Tribunal in relation to the interpretation or variation of a statute and the administration of voluntary organisations;
 - (m) to establish the form and content of annual reports and accounts which are to be submitted to the Commissioner in order to achieve a satisfactory level of transparency and accountability of voluntary organisations;
 - (n) to extend, clarify or define the functions of the Commissioner under this Act and provide for ancillary and related matters;
 - (o) to lay down conditions or guidelines for the authorisation by the Commissioner of any federation or association of voluntary organisations who wish to

operate as a regulatory body over its members and their activities;

- (p) in relation to freezing orders and related matters to support the powers of the Commissioner in case of fraud;
- (q) in relation to the enrolment of organisations, including, after consultation with the Council, to change the thresholds under article 12B(1)(e), (f) and (g) relating to mandatory enrolment and to amend the categories or classes of activities in the definition of "social purpose" in this Act;
- (r) to regulate the prevention of money laundering and the funding of terrorism in voluntary organisations;
- (s) for the better carrying out of any of the provisions of this Act.

(2) The Minister may, with the concurrence of the Minister responsible for finance, make regulations relating to the fiscal status of voluntary organisations, including different rules for different categories or different classification of purposes, and may establish the criteria for the granting of any such exemptions, in whole or in part, from any law relating to taxation, duties or other charges, as well as any fiscal rules on the activities of voluntary organisations and donations to such organisations. Such regulations may also establish the terms, conditions and forms of any fiscal certificates, receipts or other documents which may be necessary for the enjoyment of the above fiscal status and regulations.

(3) The Minister may, by order published in the Gazette and in consultation with the Commissioner and the Council, revise or amend any of the schedules annexed to this Act.

FIRST SCHEDULE
(Articles 2 and 38)Rules, Principles and Guidelines on the Non-Profit Making
requisite as used in this Act

The principle purpose of this Schedule is to ensure that any material private interest in any voluntary organisation is avoided in view of the public support and trust vested in such organisations on the basis of their non-profit making qualities.

I. Applicability

1. The following paragraphs shall apply specifically to the interpretation and application of the provisions of this Act and in particular to enrolled voluntary organisations for as long as they remain enrolled and shall be applied as rules in order to ensure a high level of observance in both form and substance by all enrolled voluntary organisations.

2. They shall apply as principles in relation to non-enrolled voluntary organisations.

3. They shall also apply to the interpretation of the provisions of other laws, where such other laws adopt the concept of non-profit making for the purposes and in terms of these provisions, and may apply to non-profit organisations, which, for any reason, do not qualify as voluntary organisations under this Act, political organisations, or religious organisations:

Provided that, in such cases, these paragraphs shall only operate as non-binding guidelines.

II. Definition

4. An organisation shall be considered to be non-profit making when:

(a) the statute of the organisation contains an express provision which excludes the purpose to make profit; and

(b) the purposes of the organisation do not include the promotion of private interests; and

(c) the purposes of the organisation include any of the purposes established and permitted under:

(i) article 32(8) and (10) of the Second Schedule to the Civil Code;

(ii) article 38 of this Act governing

permissible trading activities, where such activities are carried out to obtain the principal purpose and objectives of the organisation;

(iii) this Schedule; and

(d) except as permitted under this Schedule or the Second Schedule to the Civil Code, no part of the income, capital or property is available directly or indirectly to:

(i) any administrator; or

(ii) any promoter, founder, member, donor or beneficiary; or

(iii) any other private interest:

Provided that such income, capital, property, or part thereof is administered solely in order to obtain the purpose and objectives for which the organisation was established.

5. If an administrator, promoter, founder, member, donor or beneficiary is -

(a) another enrolled voluntary organisation; or

(b) a pious foundation, an ecclesiastical entity or a person representing the same; or

(c) the Government or an organisation controlled by the Government or a person representing the same; or

(d) the Voluntary Organisations Fund; or

(e) a political party as defined in the Financing of Political Parties Act (Cap. 544),

the limitation in paragraph 4(d) shall not apply provided the availability of such income, capital or property is subject to conditions, which are consistent with the general purposes and objectives of the grantor organisation.

6. (1) An endowment of property of a voluntary organisation with reversion rights or assets in favour of the donor, may only be accepted by a voluntary organisation if the donor agrees to compensate the voluntary organisation for any costs incurred by the organisation, except for costs attributed to ordinary wear and tear, for any enhancements made to the property and which have not accrued in full to the organisation during the period of enjoyment. Such compensation shall be made by the donor in accordance with the principles agreed to between the parties.

(2) In the case of a reversion of assets endowed to a voluntary organisation under a temporary title, any administrator, partner, promoter, founder, member, donor or any member of his family may not realise a gain. Such prohibition shall also apply to shares or other interests of organisations only where the increase in value of such shares or interests, as reverting, is directly attributable to contributions or expenditures made by the voluntary organisation:

Provided that the above prohibition shall not apply if enjoyment rights of the voluntary organisation arise under a temporary title, which is onerous, including a lease, and is reasonably in accordance with standard market levels or market conditions established in terms of these provisions.

(3) If the reversion of assets, not being shares or other interests, in favour of the donor has increased in value due to a direct expenditure by the voluntary organisation, the donor shall be obliged to refund the voluntary organisation the costs incurred by the voluntary organisation, regard being had to depreciation for ordinary wear and tear, where applicable:

Provided that this shall not apply if the donor is a public benefit organisation as defined in the Second Schedule to the Civil Code.

(4) When such reversion takes place, it shall be notified to the Commissioner. Such notification shall be accompanied by an auditor's report on costs incurred, wear and tear and gains received on reversion, irrespective of the value involved, and the Commissioner shall have all powers to order such refunds as deemed necessary, in order to ensure that no abuse takes place owing to or resulting from such transactions. Such order shall be subject to appeal under article 25 of the Act.

7. An organisation shall continue to be deemed as non-profit making notwithstanding that:

(a) it obtains a pecuniary gain from its activities when such gain is not received or accredited to its members, but is intended exclusively for the achievement of the purposes and objectives of the organisation as provided in its statute;

(b) it buys or sells or is otherwise involved in trading activities of goods or services where such activities are carried out exclusively to fulfil its principal purposes and objectives in accordance with article 38 of the Act;

(c) it is established for the general entertainment, hobbies, education or other similar benefits to its members; or

(d) it is established for the promotion of the social

role, ethics, education and professional values exercised by its members, provided it does not promote the private interests of its members or private individuals.

III. Permissible Private Benefit

8. It shall be permissible for a voluntary organisation to have within its objects or powers the grant of limited or ancillary private benefit to identifiable persons or classes of persons provided that the object or power comply with the following conditions:

(a) the purposes for which it has been established, may, immediately or following the lapse of time or the fulfilment of a condition, be achieved notwithstanding the private benefit;

(b) the funds available for use under such object or power are not raised through a public collection, a grant or from the general public but are raised only from the founder, or organisations controlled by him, as a condition for the initial or any additional endowment; and

(c) the Commissioner approves the particular private benefit in writing and under such conditions, as he considers appropriate to safeguard the primacy and identity of the purpose of the organisation, which is not private:

Provided that until such time as the Commissioner approves such private benefit as aforesaid, the organisation shall not be obliged to enrol nor shall it be eligible for enrolment, or where already enrolled, to maintain its enrolment but in such cases, the organisation shall be prohibited from carrying out any of the activities in article 12B(1)(a) to (d) of this Act.

9. The reservation by the founder of any right over the assets of the voluntary organisation shall not prejudice the non-profit making status of the organisation.

IV. Meaning of Private Benefit

10. The term "private benefit" means a benefit other than that which qualifies as a social or public benefit, indirectly attributed to an administrator of the organisation, and if the statute so determines, shall also include a donor, founder or promoter, a member of the organisation, a beneficiary or a volunteer of money, goods, services or property:

Provided that such private benefit is limited and is only ancillary or incidental to the principal purpose and objectives of the organisation:

Provided further that such benefit may be created for a

lawful purpose within the meaning of these provisions.

V. Principles on Remuneration

A. Donors, Founders, Promoters, Members, Volunteers

11. Subject to the provisions of paragraph 8 of this Schedule, any donor, founder, promoter, member, or volunteer may receive remuneration from the organisation when he is engaged or is an employee of the organisation under a written contract or when he is the provider of any goods or services to the organisation:

Provided that such remuneration:

(a) is strictly attributable to those functions being the subject of the written contract or to the governing provisions relating to goods or services rendered to the organisation;

(b) is not substantial and is in accordance with market levels and market conditions established in terms of these provisions, and in any case, is of material irrelevance when compared to the overall income and expenditure of the organisation;

(c) is not as such as to prejudice the achievement of the purposes and objectives of the organisation or its sustainability;

(d) is in any case, subject to the annual accounts and annual returns submitted by the organisation, in terms of the Voluntary Organisations (Annual Accounts and Annual Returns) Regulations (S.L. 492.01); and

(e) is recorded in sufficient detail in the minutes of the administrators during the general meeting and in the case of an investigation subject to any complaint on such matters, such minutes shall be submitted to the Commissioner, upon his request in writing, or to the Court, as the case may be.

B. Administrators

12. (1) Subject to the provisions of paragraph 8 of this Schedule and any express prohibition in the statute of a voluntary organisation, an administrator may solely receive remuneration from the organisation when he is engaged or is an employee of the organisation under a written contract which, in any case, does not prejudice the achievement of the principal and sustainable purpose and objectives of the organisation.

(2) An organisation may reimburse the administrator of any costs incurred by him, if directly related to his work as administrator

of the organisation. The same rules shall apply to any fundraising officers or employees.

13. Any voluntary organisation shall not:

(a) grant an administrator remuneration which is higher than standard market levels or market conditions established in terms of these provisions, unless the Commissioner may deem necessary in the circumstance or is otherwise satisfied that the administrator has specific skills which meet the needs of the organisation, in which case, remuneration may exceed such market conditions or market levels as provided in guidelines issued by the Commissioner, according to his discretion, or as otherwise approved by him;

(b) remunerate any person, whether an employee or otherwise, with a salary, wage or a fee, which is higher than market levels, unless the Commissioner is satisfied that in that particular case specific conditions apply;

(c) pay interest or other remuneration on loans, credit or financial instruments capable of economic evaluation raised or acquired from organisations which are not licensed, or financial institutions, other than in accordance with market conditions; or

(d) pay a price for any property acquired which is higher than the established market price for such property, notwithstanding any special discounts, sales or other special arrangements.

VI. Expenses

14. Any administrator, donor, promoter, founder, member, volunteer, or any other person supporting the purposes and objectives of the organisation may receive a reasonable refund for expenses incurred by him on behalf of the organisation.

VII. Principles regarding shares and other interests

15. When shares in a company are endowed to a voluntary organisation to support the purposes, income or capital of the voluntary organisation, the administrators may accept and hold the same provided that such shareholding is in the interest of the organisation. Such shareholding shall also be declared and recorded in the annual returns and balance sheet in terms of the Voluntary Organisations (Annual Accounts and Annual Returns) Regulations (S.L. 492.01) and shall be accompanied by an annual report, both of which shall be submitted to the Commissioner.

16. (1) The acceptance and enjoyment by a voluntary

organisation of an endowment of shares or other interests or of other property held by another organisation which -

- (a) does not have the same purposes or uses which are consistent with the recipient organisation's purposes; or
- (b) is profit-making,

shall not affect the purpose of the recipient voluntary organisation nor its non-profit making status for the purposes of this Act:

Provided that such endowment shall not result in any undue risk to the other assets of the voluntary organisation nor shall it hinder the voluntary organisation in the achievement of its purposes and objectives:

Provided further that the following criteria and conditions shall apply:

- (a) the grantor organisation of which shares, interests or the value of the property is being endowed to the recipient voluntary organisation shall strictly adhere to the principles applicable to market levels and market conditions as established in terms of these provisions; and
- (b) the requirements established under item 15 of this Schedule shall apply.

Cap. 123

(2) Without prejudice to any other law governing tax exemptions, with particular reference to article 12 of the Income Tax Act the conditional requirements mentioned under paragraph 15 and sub-paragraph (1) of this paragraph shall, in particular, apply in order to:

- (a) eliminate any form of tax abuse which may potentially arise in the setting up of organisations and to strictly adhere to the non-profit making conditions;
- (b) ensure that the set up of voluntary organisations and their activities which benefit from tax exemptions shall be kept separate and distinct from any trading or commercial activities set up by commercial entities or their members or related parties;
- (c) ensure that any income, shares, capital, interests or value of property held by commercial entities is not accounted for as exempt income;
- (d) ensure that any expenses which are related to exempt activities shall not be accounted for as expenses of taxable entities to be set off against taxable income in violation of tax exemption regulations; and

(e) ensure that tax exemptions do not result in a distortion as to the rules and conditions governing fair competition.

17. When the voluntary organisation is not the sole shareholder of a limited liability company, no part of the income, capital, interests or value of property of such limited liability company shall be available directly or indirectly to persons involved in the voluntary organisation:

Provided that the provisions of this Part VII shall not apply to private foundations carrying out activities listed under article 31B of the Second Schedule to the Civil Code.

18. The Commissioner may issue guidelines on grantor companies or other organisations of which shares, capital, interests or value of property are endowed to recipient voluntary organisations to ensure compliance with the principles of this Act and any regulations issued hereunder or under the Second Schedule to the Civil Code.

19. When a voluntary organisation has assets, including shares or other interests, in another legal organisation, such assets may not be sold or otherwise transferred to any administrator, partner, promoter, founder, member, donor or any member of his family, of the voluntary organisation.

VIII. Extension of Fiduciary Obligations

20. Without in any way impinging on the fiduciary obligations of any administrators or officers of any organisation, any person who has any role in an organisation for which remuneration is paid in any form and, or has his expenses refunded, or has any control or powers of disposition over the assets of a voluntary organisation, even if not an officer, shall be considered to be subject to fiduciary obligations.

IX. Powers of the Commissioner

21. The Commissioner may request any information from any person in order to enable him to establish whether an organisation qualifies as non-profit making in terms of this Schedule and whether the principles, rules or guidelines of this Schedule are being observed.

X. Rulings

22. Any promoter, founder, member, administrator or donor or other person referred to in this Schedule may apply to the Commissioner in writing for a ruling on any matter related to the qualification or otherwise of the organisation as non-profit making in accordance with this Schedule with reference to himself or any other

person involved in an organisation.

The decision of the Commissioner shall be subject to an appeal as stated in article 25 of the Act.

XI. Breaches

23. Any administrator who fails to observe the provisions of this Schedule shall be guilty of a breach of duty and shall be liable to refund the organisation:

(a) if permitted to receive remuneration, any such remuneration received by any administrator in excess of the permitted level;

(b) if not permitted to receive remuneration, all sums received apart from expenses.

24. When an administrator agrees to pay other persons sums which are not permitted to be paid or are in excess of permitted levels as stated herein, he shall be jointly and severally liable with them to refund such sums to the voluntary organisation.

XII. Applicability in Time

25. These provisions shall not apply retrospectively and shall be without prejudice to the application of any rules of law in force on the date (the "relevant date") when these provisions shall come into force. All enrolled voluntary organisations shall seek to come in line with these provisions within two (2) years of the relevant date and may seek a ruling on such matters from the Commissioner in case of doubt. Nothing herein contained shall invalidate any act carried out prior to the relevant date when in accordance with applicable law nor shall it render any person liable for anything carried out when, under applicable law, this was not prohibited.

SECOND SCHEDULE

Organisations, which are exempt from mandatory enrolment with the Commissioner pursuant to article 12C of this Act*

PART I

International public benefit, non-profit making or voluntary organisations established by international treaty, or their local branch, which are exempted by any special law from being subject to enrolment.

The exemption under this Part I shall apply, provided that such international organisations do not make or intend to make public collections, and this, subject to any applicable provisions of any treaty, any special law or other agreement relating to such organisations.

PART II

Organisations which are registered with SportMalta in terms of the Sports Act.

The exemption under this Part II shall apply provided that such organisations do not engage in any of the activities in article 12B(1)(a) to (d) of this Act.

* These organisations are free to enrol at any time upon complying with the requirements of this Act.

THIRD SCHEDULE*Form A*

VOLUNTARY ORGANISATIONS ACT

(CAP. 492)

Non-Enrolment Notice - Notification by a non-enrolled voluntary organisation to the Commissioner pursuant to article 12D

Name of Organisation ("the Organisation")

Delivered by

To the Commissioner for Voluntary Organisations:

The Organisation hereby notifies the Commissioner that:

- (a) it is a voluntary organisation in terms of article 3 of the Voluntary Organisations Act ("the Act") established in writing as an association, foundation or trust⁽¹⁾ on the⁽²⁾..... and is not enrolled in terms of such Act;
- (b) it is not subject to mandatory enrolment in terms of the Act because.

.....

the address of the Organisation is:

(where applicable) it is a legal person and its registration number is

the sector of activity in which it operates isand its principal purpose is

all communications may be made by and to⁽³⁾ as the responsible administrator appointed for the purpose at the address mentioned in (b) above.

The administrators are aware that if the activities of the organisation are such as to fall within the terms of article 12B of the Act they are obliged to enrol the organisation in accordance with article 12B of the Act.

Signature:

Name:

Responsible Administrator

Dated this day of of the year.....

 (1) Delete as applicable

- (2) State date of establishment
 (3) Insert name and surname of responsible administrator

Form B

VOLUNTARY ORGANISATIONS ACT

(CAP. 492)

Notice of change in name/address⁽¹⁾ of a non-enrolled voluntary
 organisation pursuant to article 12D

Name of Organisation⁽²⁾("the Organisation")

Address⁽²⁾:

Delivered by:

To the Commissioner for Voluntary Organisations:

The Organisation hereby gives notice, in accordance with
 article 12D of the Voluntary Organisations Act, that:

(i) with effect from⁽³⁾ its name has been
 changed

to

(ii) with effect from⁽⁴⁾ it has changed

its address and its new address is

.....

Signature:

Name:

Responsible Administrator

Dated this day of of the year

- (1) Delete as applicable
 (2) Indicate old name/address as applicable
 (3) State date when change in name occurred
 (4) State date when change in address occurred

*Form C*VOLUNTARY ORGANISATIONS ACT
(CAP. 492)

Notice of change in local representative/administrator ⁽¹⁾
of a non-enrolled voluntary organisation pursuant to article 12D

Name of Organisation ("the Organisation")

Address:
.....

Delivered by:

To the Commissioner for Voluntary Organisations:

The Organisation hereby gives notice, in accordance with
article 12D of the Voluntary Organisations Act that:

with effect from⁽²⁾..... the person
currently acting as a local representative of the Organisation is
no longer exercising such function and:

Name:.....

Address:.....

Identification number:.....

has been appointed as local representative in his/her stead.

with effect from⁽²⁾..... the administrator
who was responsible for making and receiving
communications on behalf of the Organisation is no longer
exercising such function and:

Name:.....

Address:.....

Identification number:.....

has been appointed to carry out such function in his/her stead.

Signature:

Name:
Responsible Administrator

Dated this day of of the year

(1) Delete as applicable

(2) State date when new appointment was made

Form D

VOLUNTARY ORGANISATIONS ACT
(CAP. 492)

Notice of merger of a non-enrolled voluntary organisation pursuant to
article 12D

Name of Organisation ("the Organisation")

Address:

.....
.....

Delivered by:

To the Commissioner for Voluntary Organisations:

(a) residing at hereby gives
notice, in accordance with article 12D of the Voluntary
Organisations Act that the Organisation has been merged
with the following organisation/s:

(b) and will continue as an organisation with the following
details:

Name:.....

Address:

Registration Number:

The notification of the Organisation may be removed from the
List of Non-Enrolled Voluntary Organisations.

Signature:

Name:

Responsible Administrator

Dated this day of of the year

- (a) State name and residence of Responsible Administrator
- (b) State name(s) of organisation(s) amalgamating with the
Organisation

Form E

VOLUNTARY ORGANISATIONS ACT

(CAP. 492)

Notice of dissolution and winding up of a
non-enrolled voluntary organisation pursuant to article 12D

Name of Organisation ("the Organisation")

Address:.....
.....

Delivered by:.....

To the Commissioner for Voluntary Organisations:

- (a) residing at
hereby gives notice, in accordance with article 12D of
the Voluntary Organisations Act that the Organisation
has been dissolved and wound up and that its
notification may be removed from the List of Non-
Enrolled Voluntary Organisations.

Signature:

Name:
Responsible Administrator

Dated this day of of the year

(a) State name and residence of Responsible Administrator

*Form F*VOLUNTARY ORGANISATIONS ACT
(CAP. 492)

Enrolment of a Foreign Organisation pursuant to article 12F

Name of Organisation: ("the Organisation")

Delivered by:

The Organisation hereby notifies the Commissioner that:

- (i) it is registered or established under the laws of
bearing registration number and having
a registered office at
- (ii) it is substantially established for the public purpose or
public benefit of
- (iii) it is substantially non-profit making and voluntary for
the purposes of the Voluntary Organisations Act.

The Organisation gives notice that:

Name:.....

Address:

Identification number:.....

has been appointed as local representative of the Organisation.
The Organisation confirms that the said person has accepted to
so act.

Signature:

Name:

Responsible Administrator

Dated this day of of the year

FOURTH SCHEDULE**TEMPORARY ORGANISATION**

Application for the enrolment of a temporary organisation and the constitutive instrument of such temporary organisation established in accordance with the Voluntary Organisations Act pursuant to article 16

Name of Organisation..... ("the Organisation")

Delivered by:

Name

The name of the organisation is

Address

The address of the organisation is

Purpose

The organisation is formed with the one specific purpose of*

Necessary Acts

The temporary organisation shall perform the following necessary acts so as to achieve the purpose for which it is established†

.....

.....

.....

Acts which may not be carried out by the

* This one specific purpose may include the raising of funds for a specific public purpose or to support another enrolled voluntary organisation, and can even be for the benefit of a named individual who may need humanitarian support.

† State acts such as paying for medical assistance, paying for flights or accommodation, paying for repairs, equipment and the like.

temporary organisation

The temporary organisation may only carry out the acts listed in this constitutive instrument and ancillary and connected acts. The temporary organisation may not:

- (a) borrow money; or
- (b) enter into binding financial obligations in advance of raising the necessary funds to perform such obligations.

Administrators^{*}

The administrators of the temporary organisation, who sign next to their name to confirm their consent to act, shall be:

- 1.
- 2.
- 3.

Duration

This temporary organisation is established for months/1 Year[†]. The temporary organisation shall pay out, apply or otherwise distribute all its assets for the achievement of the purpose by the expiry date of its term. If for any reason the above cannot be complied with, the administrators shall, on the lapse of the above mentioned period, select one of the following options:

- a. pays out the funds to another enrolled voluntary organisation with purposes similar to its own with an instruction to hold the funds and when possible use them for the stated purpose or pay out the funds to the Voluntary Organisations Fund;
- b. converts the temporary organisation into a new voluntary organisation of extended duration with the same purposes; or

^{*} The beneficiary, or if a minor, his or her parents cannot be administrators. This instrument must be delivered to the Commissioner for Voluntary Organisations with the written consents of the administrators endorsed on it. There must be at least three (3) administrators for which there should be included their name, ID card number and address.

[†] Cannot exceed one year, but can be extended by the Commissioner.

- c. applies to the Commissioner for an extension under article 16(4) of the Voluntary Organisations Act.

Termination

Prior to the date of its termination, the temporary organisation shall submit to the Commissioner a closing statement of account signed by the administrators:

- (a) explaining how it has achieved the purpose for which it was established;
- (b) explaining how it has applied all its assets, including receipts; and
- (c) attaching any original documents or agreements which may have been entered into by the temporary organisation in connection with the disposal or application of such assets.

Signatures*

* This constitutive instrument must also be signed by the promoters, who may be the administrators as well.