

THE MBR'S NEWSLETTER

The Official Newsletter of the Malta Business Registry



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MBR | MALTA
BUSINESS
REGISTRY

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FOREWORD BY THE REGISTRAR & CHIEF EXECUTIVE OFFICER

Dr. Geraldine Spiteri Lucas

As we look back on the past quarter, we are proud to share the milestones and accomplishments that have marked our journey particularly the recent amendments in the Companies Act that enhance Malta's competitive edge to stay ahead of the curve and adapt to an ever-changing scenario brought about.

In fact, on the 17th May 2024 Parliament officially enacted the Companies (Amendment) Act, 2024 through Act XVIII of 2024. The legislative amendments aim to improve the Maltese company law framework and for such reason certain provisions were introduced or amended on a national initiative. The amendments also include the transposition of provisions emanating from a European Union Directive (Directive (EU) 2021/2101 of the European Parliament and of the Council of 24th November 2021 amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches) hereinafter referred to as the "PCBCRD".

Additionally, the company law framework has been further updated to reflect enhanced digitisation processes and legal certainty. Through Legal Notice 68, five subsidiary legislations to the Companies Act were amended in order to ensure legal certainty when it comes to cross-border operations of limited liability companies including the electronic transmission of pre-operation certificates and associated communication on the Business Registers Interconnection System (BRIS).

Moreover, the Digital tools and Processes Directive (Directive (EU) 2019/1151) is being also fully transposed through the L.N. by ensuring that every registrable document submitted to the Registrar is stored in Register of Commercial Partnerships in a machine-readable and searchable format, or as structured data. Such holistic amendments were essential to ensure an up-to-date Companies Act and even more we shall pursue with updating this act with current times in the best interest of the Maltese jurisdiction.

The use and the introduction of digital tools are bringing about commodity, greater transparency and above all an increase in responsible use. One revolutionary digital tool is the qualified digital signature, which is equivalent to the wet signature, introduced as per European Directive eIDAS. Hence, during this quarter we launched an educational campaign together with IDPC on the responsible use of the digital signature when signing documents.

Simultaneously, the MBR pursued with its outreach efforts particularly by hosting a number of students from MCAST to familiarise themselves with the mission and vision of the MBR and garner better knowledge in relation to career trajectory. This complimented the MBR's recent collaboration with JA Malta Foundation through the Entrepreneurial Spirit Award which conveyed MBR's efforts in encouraging an entrepreneurial spirit, very much complimenting our mantra of giving entrepreneurs a second chance as per the pre-insolvency framework amendments.

An important highlight during this quarter was welcoming Prime Minister Dr. Robert Abela and Minister for the Economy, Enterprise, and Strategic Projects Hon. Silvio Schembri who visited our premises. During such visit a public cabinet was held focusing on the Maltese economy which welcomed feedback from the private sector that shared its views and ideas.

We have several exciting projects and events on the horizon. Stay tuned for more updates that will keep us connected.

MCAST COLLEGE STUDENTS

visit the Malta Business Registry



Dr Geraldine Spiteri Lucas | Chief Executive Officer & Registrar
Malta Business Registry

On Wednesday, the 17th of April 2024, MCAST students following the course in Business Enterprise visited the Malta Business Registry.



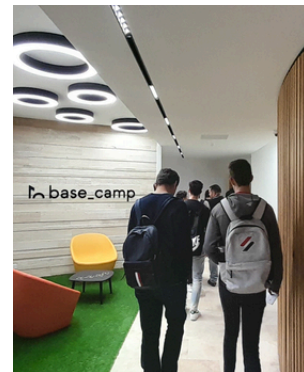
Ms Graziella Grech
Chief Operations Officer
Finance Malta



Ms Daniela Psaila
Senior Manager (Legal,
Policy, Technical and
International Relations)
**Malta Tax & Customs
Administration**



Ms Sephora Cutajar
Coordinator
Tech.mt



 **Base Camp
Gaming Malta**



Ms Annalise Zammit
Chief Operations Officer at the
Malta Business Registry



PUBLICATION OF LEGISLATION

Informative Note

The company law framework has been further updated to reflect enhanced digitisation processes and legal certainty. Legal Notice 68 of 2024 has been published in the Gazette on 15th March 2024 (hereinafter referred to as the LN.).

This LN. amends five (5) subsidiary legislations to the Companies Act, with the aim of ensuring legal certainty when it comes to cross-border operations of limited liability companies, including the electronic transmission of pre-operation certificates and associated communication on the business registers interconnection system.

The digital tools and processes Directive (Directive (EU) 2019/1151) is being also fully transposed through the LN. by ensuring that every registrable document submitted to the Registrar is stored in register of commercial partnerships in a machine-readable and searchable format, or as structured data.

A summary of the provisions contained in the LN. and other informative points may be found in the User Guidelines being published hereon.

Summary of Proposed Amendments – User Guidelines

Dr Geraldine Spiteri Lucas
Registrar & CEO

A VISIT FROM THE PRIME MINISTER



On Tuesday, the 30th of April 2024 the Malta Business Registry were pleased to welcome Malta's Prime Minister Dr Robert Abela for a tour of its facilities.

Accompanying him was the Minister for the Economy, Enterprise and Strategic Projects Hon. Silvio Schembri.





MBR's Chief Operations Officer and Deputy Registrar Ms Annalise Zammit presented the MBR Entrepreneurial Spirit Award during the 35th edition of the JA Malta Finals & Awards Night.



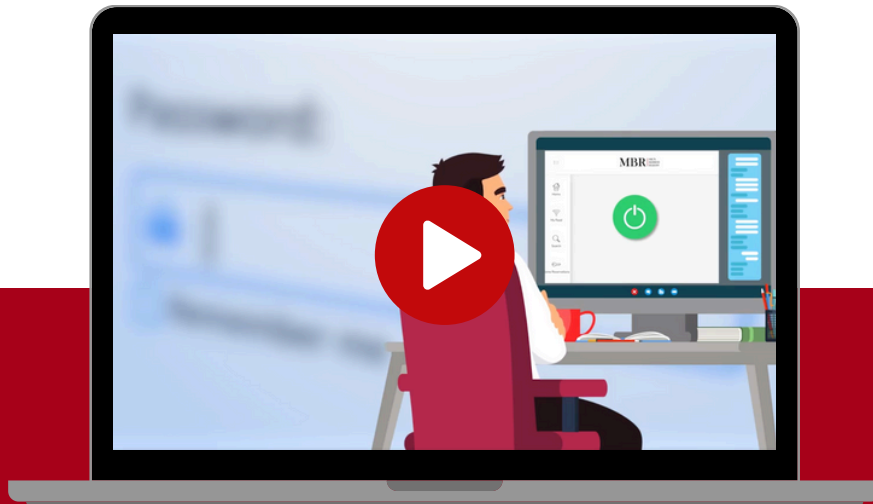
"Encouraging an entrepreneurial mindset is enshrined in the MBR's own mission and vision. This has been evident in the recent regulatory changes that aid businesses to take a leap forward in establishing their business with peace of mind" said Ms Annalise Zammit.

MBR's participation in the **PUBLIC SERVICE EXPO 2024**



The Malta Business Registry participated in this year's Public Service Expo. Those who came to visit our desk office got the chance to get to know more about on what we offer, whilst also getting the chance to apply for the digital signature.

WHAT IS A QUALIFIED DIGITAL SIGNATURE?



An informative video, click on the play button to be redirected to the video



According to a European Directive known as e-IDAS, a qualified digital signature is worth just as much as a handwritten signature. Therefore you are obliged to protect your own. It is considered a criminal offense to If you let someone else use your digital signature.

To be able to sign documents on the new online system, MBR is offering a Digital Qualified Signature which can be obtained through the portal.

PUBLICATION OF LEGISLATION (AMENDMENTS TO THE COMPANIES ACT)

INFORMATIVE NOTE

MAY 22, 2024

The Companies (Amendment) Act, 2024 has been enacted by Parliament and published in the Gazette on 17th of May 2024.

The scope of the amending Act are two-fold and include provisions required for the transposition of an European Union Directive relating to the obligation of certain large undertakings to publish their tax information report alongside the respective financial statements, and secondly, provisions introduced on a national initiative. The latter comprise a wide range of legislative articles, including added duties to the Registrar, corresponding legislative power for the Minister responsible from the registration of commercial partnerships to issue legal notices, regulations and guidelines with respect to the new added functions of the Registrar, to clarify and simplify certain procedures in relation to the reduction of share capital, cancellation of shares and ancillary matters thereto, and to ensure legal certainty relating to cross-border operations and linguistic disparities.

Without overcomplicating the situation, the below are key points which may help towards the better understanding of the provisions being amended. Apart from these key points, one may also access the **User Guidelines** which seek to guide the citizen and all stakeholders throughout the process. All articles numbered below relate to the Companies Act (Cap. 386 of the Laws of Malta).

- Articles 2 & 3 – definitions of ‘beneficial owner’, ‘offer of securities to the public’ and ‘Prospectus Regulation’; updated list of EU transpositions.
- Article 79 – M&As may be submitted electronically, not just physically printed. Such electronic submission requires a qualified e-signature.
- Article 83 – reduction of share capital – the instances whereby the issued share capital of a company is reduced shall be widened to include instances of non-distributable reserves; the applicable procedures to be followed are also provided.
- Article 84 – following compliance with the provisions of this article, a company may not only be formed as an investment company with variable share capital, but also be converted into.

- Article 106 – Acquisition of company's own shares – such cancellation may take place without having to follow the provisions of article 83 (always within the parameters of article 106). A notice (not statutory form) of such cancellation needs to be delivered to the Registrar for registration within fourteen (14) days. An administrative penalty shall apply in case of default, with a further daily administrative penalty up until the default continues.
- Article 107 – Acquisition of company's own shares without the application of article 106 – amended to include instances following a conversion, amalgamation or division (under the Companies Act), cross-border conversions, mergers or divisions made pursuant to the relevant Regulations under the Act, or acquired from dissenting shareholders as provided in article 107(1)(f) of the Act.
- Article 109 – Those reserves referred to in paragraph (b) of article 109 shall become distributable following a cancellation made pursuant to articles 106(6) or 107(2).
- Article 129 – Convening of extraordinary general meeting on requisition – Apart from the duty of the directors in proceeding to convene a meeting, a new requirement is introduced for the same directors to hold the meeting within a two-month period from the date of the deposit of the requisition.
- Article 142 – Widening of the circumstances disqualifying a person from being appointed/hold the office of director or company secretary. Instances will include those when a person is found guilty of an offence of money laundering within the meaning of the Prevention of Money Laundering Act (Cap. 373), associate predicate offences to money laundering and financing of terrorism.
- Article 146 – The Registrar is to be formally informed of an appointment of an administrator/legal representative/any person in charge of a company following an appointment made by the court or competent authority. The person appointed will notify the Registrar of such, or of a resignation or removal from such a position through a new Form K(2)* within 14 days of such an appointment/resignation/removal. No penalties will apply.
- Article 151 – A company will be obliged to notify the Registrar of an auditor's first appointment and for every appointment thereafter, following the resignation or removal of the previous auditor. Thus when the same auditor is approved for another term, the notification need not be done. A new Form F(3)* will be introduced. Failing to notify the Registrar, administrative penalties will apply. Form is to be filed within 14 days from appointment.
- Article 218 – It will now be the Registrar's discretion to file a winding up application in court concerning a particular company, in cases where it is either practical to do so or else where it is in the public interest.
- Article 224 – amendment to the Maltese version to align with the English version.

- Article 400 – the Registrar will now be protected from any personal liability, unless the action or omission to act arises from bad faith.
- Article 401 – Duties of the Registrar will include –

carrying on-site inspections at the registered offices of companies to confirm that the shareholders and beneficial owners are those as disclosed to the Registrar;

to verify that the registered office of commercial partnerships is existent and valid;

to establish, administer and maintain a central data repository; a register of foreign body corporates and undertakings having a significant business activity in Malta; and any other register, which may be required from time to time, following consultation with the Minister responsible from the registration of commercial partnerships.

- Article 425 – Powers of the Minister responsible from the registration of commercial partnerships – additional powers will be given to ensure the legislative capacity to make regulations concerning:

the central data repository, and any other register which the Registrar may be required to keep in fulfilment of his duties, including access qualifications thereto and fees;

bodies corporate registered, incorporated, or formed in a country

other than Malta to be continued or converted into a company under the laws of Malta, and for bodies corporate formed or registered in a country other than Malta to carry out a cross-border merger or cross-border division with or involving a company incorporated or to be incorporated in Malta.

- Articles 213B, 213C, 213D and Fourth Schedule – these articles are being introduced or amended accordingly, to transpose an EU Directive requiring large undertaking to disclose tax information to the public. When a company requiring to disclose information to the Registrar fails to submit such, administrative penalties shall apply.
- Eleventh Schedule – Penalties Schedule is being amended to reflect the foregoing instances of new penalties accordingly.

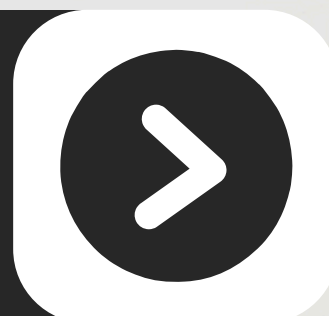
Furthermore, may it be highlighted that the new statutory forms being introduced as stipulated in the foregoing points shall enter into force following an amendment to the Companies Act (Forms) Regulations. This amendment will soon take place, however, as part of the obligations to protect small and medium sized enterprises, the new Forms will only become effective following two (2) months from the publication of the said amended Regulations. Another notice will be issued in due course upon the publication of the respective Legal Notice amending the Forms Regulations.

Dr Geraldine Spiteri Lucas
Registrar & CEO



**LAST FEW DAYS TO
REGISTER**

Register now, click on the button to be
redirected to the registration page



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