

## CHAPTER 373

## PREVENTION OF MONEY LAUNDERING ACT

*To make provision for the prevention and prohibition of the laundering of money in Malta.*

23rd September, 1994

*ACT XIX of 1994 as amended by: Act II of 1998; Legal Notice 71 of 1999; Acts XXXI of 2001, III of 2002, and III and XIII of 2004; Legal Notice 176 of 2005; Acts VI of 2005 and XIV of 2006; Legal Notice 425 of 2007; Act XXXI of 2007; Legal Notice 105 of 2008; and Act VII of 2010.*

1. The short title of this Act is the Prevention of Money Laundering Act. Short title.

2. (1) In this Act, unless the context otherwise requires - Interpretation.  
 "criminal activity" means any activity, whenever or wherever *Amended by:*  
 carried out, which, under the law of Malta or any other law, *XXXI. 2001.2;*  
 amounts to: *III. 2004.79;*  
*L.N. 425 of 2007;*  
*XXXI. 2007.43;*  
*VII. 2010.59.*

(a) a crime or crimes specified in Article 3 (1) (a) of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances adopted on the 19th December 1988 in Vienna reproduced (in the English language only) in the First Schedule to this Act; or

(b) one of the offences listed in the Second Schedule to this Act;

"Minister" means the Minister responsible for finance;

"money laundering" means -

- (i) the conversion or transfer of property knowing or suspecting that such property is derived directly or indirectly from, or the proceeds of, criminal activity or from an act or acts of participation in criminal activity, for the purpose of or purposes of concealing or disguising the origin of the property or of assisting any person or persons involved or concerned in criminal activity;
- (ii) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect of, in or over, or ownership of property, knowing or suspecting that such property is derived directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;
- (iii) the acquisition, possession or use of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in

Cap. 9.

- criminal activity;
- (iv) retention without reasonable excuse of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;
  - (v) attempting any of the matters or activities defined in the above foregoing sub-paragraphs (i), (ii), (iii) and (iv) within the meaning of article 41 of the Criminal Code;
  - (vi) acting as an accomplice within the meaning of article 42 of the Criminal Code in respect of any of the matters or activities defined in the above foregoing sub- paragraphs (i), (ii), (iii), (iv) and (v);

"prescribed" means prescribed by regulations made under this Act;

"property" means property of every kind, nature and description, whether movable or immovable, tangible or intangible and, without derogation from the generality of the foregoing, shall include -

- (a) any currency, whether or not the same is legal tender in Malta, bills, securities, bonds, negotiable instruments or any instrument capable of being negotiable including one payable to bearer or endorsed payable to bearer whether expressed in euro or any other foreign currency;
- (b) cash or currency deposits or accounts with any bank, credit or other institution as may be prescribed which carries or has carried on business in Malta;
- (c) cash or items of value including but not limited to works of art or jewellery or precious metals; and
- (d) land or any interest therein;

"the Unit" means the unit established by article 15.

- (2) (a) A person may be convicted of a money laundering offence under this Act even in the absence of a judicial finding of guilt in respect of the underlying criminal activity, the existence of which may be established on the basis of circumstantial or other evidence without it being incumbent on the prosecution to prove a conviction in respect of the underlying criminal activity and without it being necessary to establish precisely which underlying activity.
- (b) A person can be separately charged and convicted of both a money laundering offence under this Act and of an underlying criminal activity from which the property or the proceeds, in respect of which he is charged with money laundering, derived.
- (c) For the purposes of this subarticle, "underlying criminal activity" refers to the criminal activity from

which the property or other proceeds, which are involved in a money laundering offence under this Act have been directly or indirectly derived.

## PART I

*Added by:*  
*XXXI. 2001.3.*

## INVESTIGATION AND PROSECUTION OF OFFENCES

3. (1) Any person committing any act of money laundering shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding two million and three hundred and twenty-nine thousand and three hundred and seventy-three euro and forty cents (2,329,373.40), or to imprisonment for a period not exceeding fourteen years, or to both such fine and imprisonment.

*Offences.*  
*Amended by:*  
*III. 2002.166;*  
*L.N. 425 of 2007;*  
*XXXI. 2007.44;*  
*L.N. 105 of 2008.*

(2) Where an offence against the provisions of this Act is committed by a body of persons, whether corporate or unincorporate, every person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of such body or association, or was purporting to act in any such capacity, shall be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

(2A) (a) Every person charged with an offence against this Act shall be tried in the Criminal Court or before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the Attorney General may direct, and if he is found guilty shall be liable -

*Direction by the*  
*Attorney General.*

- (i) on conviction by the Criminal Court to the punishment of imprisonment for a term of not less than three years but not exceeding fourteen years, or to a fine (*multa*) of not less than twenty-three thousand two hundred and ninety-three euro and seventy-three cents (23,293.73) but not exceeding two million three hundred and twenty-nine thousand three hundred and seventy-three euro and forty cents (2,329,373.40), or to both such fine and imprisonment; or
  - (ii) on conviction by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) to the punishment of imprisonment for a term of not less than six months but not exceeding nine years, or to a fine (*multa*) of not less than two thousand three hundred and twenty-nine euro and thirty-seven cents (2,329.37) but not exceeding one hundred and sixteen thousand four hundred and sixty-eight euro and sixty-seven cents (116,468.67), or to both such fine and imprisonment.
- (b) Notwithstanding that the Attorney General has directed in accordance with the provisions of paragraph (a) that a person be tried in the Criminal

Court, he may, at any time before the filing of the bill of indictment or at any time after filing the bill of indictment before the jury is empanelled, and with the consent of the accused, direct that that person be tried before the Court of Magistrates, and upon such direction the Court of Magistrates as a court of criminal judicature shall become competent to try that person as if no previous direction had been given. Where the Attorney General has given such new direction after the filing of the bill of indictment, the registrar of the Criminal Court shall cause the record to be transmitted to the Court of Magistrates, and shall cause a copy of the Attorney General's direction to be served on the Commissioner of Police.

Cap. 9. (c) Notwithstanding the provisions of article 370 of the Criminal Code and without prejudice to the provisions of subarticle (2), the Court of Magistrates shall be competent to try all offences against this Act as directed by the Attorney General in accordance with the provisions of subarticle (1).

Cap. 101. (3) In proceedings for an offence of money laundering under this Act the provisions of article 22(1C)(b) of the Dangerous Drugs Ordinance shall *mutatis mutandis* apply.

Cap. 9. (4) Where the person found guilty of an offence of money laundering under this Act is an officer of a body corporate as is referred to in article 121D of the Criminal Code or is a person having a power of representation or having such authority as is referred to in that article and the offence of which that person was found guilty was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of this Act be deemed to be vested with the legal representation of the same body corporate which shall be liable to the payment of a fine (*multa*) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) and not more than one million and one hundred and sixty-four thousand and six hundred and eighty-six euro and seventy cents (1,164,686.70).

Cap. 9. (5) (a) Without prejudice to the provisions of article 23 of the Criminal Code the court shall, in addition to any punishment to which the person convicted of an offence of money laundering under this Act may be sentenced and in addition to any penalty to which a body corporate may become liable under the provisions of subarticle (4), order the forfeiture in favour of the Government of the proceeds or of such property the value of which corresponds to the value of such proceeds whether such proceeds have been received by the person found guilty or by the body corporate referred to in the said subarticle (4) and any property of or in the possession or under the control of any person found guilty as aforesaid or of a body corporate as mentioned in this subarticle shall, unless proved to the contrary, be deemed to be derived from the offence

of money laundering and liable to confiscation or forfeiture by the court even if in the case of immovable property such property has since the offender was charged passed into the hands of third parties, and even if the proceeds of property, movable or immovable, are situated in any place outside Malta:

Provided that, for the purposes of this subarticle, "proceeds" means any economic advantage and any property derived from or obtained, directly or indirectly, through criminal activity and includes any income or other benefit derived from such property.

- (b) Where the proceeds of the offence have been dissipated or for any other reason whatsoever it is not possible to identify and forfeit those proceeds or to order the forfeiture of such property the value of which corresponds to the value of those proceeds the court shall sentence the person convicted or the body corporate, or the person convicted and the body corporate *in solidum*, as the case may be, to the payment of a fine (*multa*) which is the equivalent of the amount of the proceeds of the offence. The said fine shall be recoverable as a civil debt and for this purpose the sentence of the court shall constitute an executive title for all intents and purposes of the Code of Organization and Civil Procedure. Forfeiture of proceeds.  
Cap. 12.
- (c) Where it is established that the value of the property of the person found guilty of a relevant offence is disproportionate to his lawful income and the court based on specific facts is fully convinced that the property in question has been derived from the criminal activity of that person, that property shall be liable to forfeiture. Forfeiture of property derived from criminal activity.
- (6) Without prejudice to the provisions of article 5 of the Criminal Code, the Maltese courts shall also have jurisdiction over any offence of money laundering under this Act in the same circumstances as are mentioned in article 121C of the Criminal Code. Cap. 9.
- (7) The provisions of article 248E(4) of the Criminal Code and those of article 22(3A)(b) and (d) of the Dangerous Drugs Ordinance shall apply *mutatis mutandis* to the offences under this Act. Cap. 9.  
Cap. 101.

4. (1) Where, upon information received, the Attorney General has reasonable cause to suspect that a person (hereinafter referred to as "the suspect") is guilty of the offence mentioned in article 3, he may apply to the Criminal Court for an order (hereinafter referred to as an "investigation order") that a person (including a body or association of persons, whether corporate or unincorporate) named in the order who appears to be in possession of particular material or material of a particular description which is likely to be of substantial value (whether by itself or together with other material) to the investigation of, or in connection with, Additional powers of investigation.  
*Amended by:*  
*III. 2004.80;*  
*XIV. 2006.106;*  
*L.N. 425 of 2007;*  
*XXXI. 2007.45.*

the suspect, shall produce or grant access to such material to the person or persons indicated in the order; and the person or persons so indicated shall, by virtue of the investigation order, have the power to enter any house, building or other enclosure for the purpose of searching for such material.

(2) Where an investigation order has been made or applied for, whosoever, knowing or suspecting that the investigation is taking place, discloses that an investigation is being undertaken or makes any other disclosures likely to prejudice the said investigation shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) or to imprisonment not exceeding twelve months, or to both such fine and imprisonment:

Provided that in proceedings for an offence under this subarticle, it shall be a defence for the accused to prove that he did not know or suspect that the disclosure was likely to prejudice the investigation.

(3) An investigation order -

- (a) shall not confer any right to production of, access to, or search for communications between an advocate or legal procurator and his client, and between a clergyman and a person making a confession to him, which would in legal proceedings be protected from disclosure by article 642(1) of the Criminal Code or by article 588(1) of the Code of Organization and Civil Procedure;
- (b) shall, without prejudice to the provisions of the foregoing paragraph, have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by any law or otherwise; and
- (c) may be made in relation to material in the possession of any government department.

(4) Where the material to which an application under subarticle (1) relates consists of information contained in a computer, the investigation order shall have effect as an order to produce the material or give access to such material in a form in which it can be taken away and in which it is visible and legible.

(5) Any person who, having been ordered to produce or grant access to material as provided in subarticle (1) shall, without lawful excuse (the proof whereof shall lie on him) wilfully fail or refuse to comply with such investigation order, or who shall wilfully hinder or obstruct any search for such material, shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) or to imprisonment not exceeding twelve months, or to both such fine and imprisonment.

(6) Together with or separately from an application for an investigation order, the Attorney General may, in the circumstances mentioned in subarticle (1), apply to the Criminal Court for an

Cap. 9.

Cap. 12.

order (hereinafter referred to as an "attachment order") -

- (a) attaching in the hands of such persons (hereinafter referred to as "the garnishees") as are mentioned in the application all moneys and other movable property due or pertaining or belonging to the suspect;
- (b) requiring the garnishee to declare in writing to the Attorney General, not later than twenty-four hours from the time of service of the order, the nature and source of all money and other movable property so attached; and
- (c) prohibiting the suspect from transferring or otherwise disposing of any movable or immovable property.

(6A) Where an attachment order has been made or applied for, whosoever, knowing or suspecting that the attachment order has been so made or applied for, makes any disclosure likely to prejudice the effectiveness of the said order or any investigation connected with it shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) or to imprisonment not exceeding twelve months, or to both such fine and imprisonment:

Provided that in proceedings for an offence under this subarticle, it shall be a defence for the accused to prove that he did not know or suspect that the disclosure was likely to prejudice the investigation or the effectiveness of the attachment order.

(7) Before making an investigation order or an attachment order, the court may require to hear the Attorney General in chambers and shall not make such order -

- (a) unless it concurs with the Attorney General that there is reasonable cause as provided in subarticle (1); and
- (b) in the case of an investigation order, unless the court is satisfied that there are reasonable grounds for suspecting that the material to which the application relates -
  - (i) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, and
  - (ii) does not consist of communications referred to in subarticle (3)(a).

(8) The provisions of article 381(1)(a), (b) and (e) and of article 382(1) of the Code of Organization and Civil Procedure shall, *mutatis mutandis*, apply to the attachment order. Cap. 12.

(9) An attachment order shall be served on the garnishee and on the suspect by an officer of the Executive Police not below the rank of inspector.

(10) Any person who acts in contravention of an attachment order shall be guilty of an offence and shall, on conviction, be

liable to a fine (*multa*) not exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment:

Provided that where the offence consists in the payment or delivery to any person by the garnishee of any moneys or other movable property attached as provided in subarticle (6)(a) or in the transfer or disposal by the suspect of any movable or immovable property in contravention of subarticle (6)(c), the fine shall always be at least twice the value of the money or property in question:

Provided further that any act so made in contravention of that court order shall be null and without effect at law and the court may, where such person is the garnishee, order the said person to deposit in a bank to the credit of the suspect the amount of moneys or the value of other movable property paid or delivered in contravention of that court order.

(11) An attachment order shall, unless it is revoked earlier by the Attorney General by notice in writing served on the suspect and on the garnishee in the manner provided for in subarticle (9), cease to be operative on the expiration of thirty days from the date on which it is made; and the court shall not make another attachment order with respect to that suspect unless it is satisfied that substantially new information with regards to the offence mentioned in article 3 is available:

Provided that the said period of thirty days shall be held in abeyance for such time as the suspect is away from these Islands and the Attorney General informs of this fact the garnishee by notice in writing served in the manner provided for in subarticle (9).

(12) In the course of any investigation of an offence against article 3, the Executive Police may request a magistrate to hear on oath any person who they believe may have information regarding such offence; and the magistrate shall forthwith hear that person on oath.

(13) For the purpose of hearing on oath a person as provided in subarticle (12) the magistrate shall have the same powers as are by law vested in the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) as a court of criminal inquiry as well as the powers mentioned in article 554 of the Criminal Code; provided that such hearing shall always take place behind closed doors.

(14) It shall not be lawful for any court to issue a warrant of prohibitory injunction to stop the execution of an investigation order.

**4A.** The provisions of article 30B of the Dangerous Drugs Ordinance shall apply *mutatis mutandis* to proceeds within the meaning of article 3(5).

Cap. 9.

Applicability of  
Dangerous Drugs  
Ordinance.  
Added by:  
III. 2002.166.  
Cap. 101.

**4B.** (1) Where, upon information received, the Attorney General has reasonable cause to suspect that a person (hereinafter referred to as "the suspect") is guilty of the offence mentioned in article 3, he may apply to the Criminal Court for an order (hereinafter referred to as a "monitoring order") requiring a bank to monitor for a specified period the transactions or banking operations being carried out through one or more accounts in the name of the suspect, or through one or more accounts suspected to have been used in the commission of the offence or which could provide information about the offence or the circumstances thereof, whether before, during or after the commission of the offence, including any such accounts in the name of legal persons. The bank shall, on the demand of the Attorney General, communicate to the person or authority indicated by the Attorney General the information resulting from the monitoring and, once the information is collated, the person or authority receiving the information shall transmit that information to the Attorney General.

Monitoring order.  
Added by:  
VII. 2010.60.

(2) Where a monitoring order has been made or applied for, whosoever, knowing or suspecting that the investigation is taking place, discloses that an investigation is being undertaken or makes any other disclosures likely to prejudice the said investigation shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding eleven thousand and six hundred and forty six euro and eighty-seven cents (11,646.87) or to imprisonment not exceeding twelve months, or to both such fine and imprisonment:

Provided that in proceedings for an offence under this subarticle, it shall be a defence for the accused to prove that he did not know or suspect that the disclosure was likely to prejudice the investigation.

**5.** (1) Where a person is charged under article 3, the court shall at the request of the prosecution make an order -

Freezing of  
property of person  
accused.  
Amended by:  
L.N. 425 of 2007.

- (a) attaching in the hands of third parties in general all moneys and other movable property due or pertaining or belonging to the accused, and
- (b) prohibiting the accused from transferring, pledging, hypothecating or otherwise disposing of any movable or immovable property:

Provided that the court shall in such an order determine what moneys may be paid to or received by the accused during the subsistence of such order, specifying the sources, manner and other modalities of payment, including salary, wages, pension and social security benefits payable to the accused, to allow him and his family a decent living in the amount, where the means permit, of thirteen thousand and nine hundred and seventy-six euro and twenty-four cents (13,976.24) every year:

Provided further that the court may also -

- (a) authorise the payment of debts which are due by the accused to bona fide creditors and which were contracted before such order was made; and

(b) on good ground authorise the accused to transfer movable or immovable property.

(2) Such order shall -

(a) become operative and binding on all third parties immediately it is made, and the Registrar of the Court shall cause a notice thereof to be published without delay in the Gazette, and shall also cause a copy thereof to be registered in the Public Registry in respect of immovable property; and

(b) remain in force until the final determination of the proceedings, and in the case of a conviction until the sentence has been executed.

(3) The court may for particular circumstances vary such order, and the provisions of the foregoing subarticles shall apply to such order as so varied.

(4) Every such order shall contain the name and surname of the accused, his profession, trade or other status, father's name, mother's name and maiden surname, place of birth and place of residence and the number of his identity card or other identification document, if any.

(5) Where any money is or becomes due to the accused from any person while such order is in force such money shall, unless otherwise directed in that order, be deposited in a bank to the credit of the accused.

(6) When such order ceases to be in force as provided in subarticle (2)(b) the Registrar of the Court shall cause a notice to that effect to be published in the Gazette, and shall enter in the Public Registry a note of cancellation of the registration of that order.

Penalty for  
contravening court  
order.  
Amended by:  
L.N. 425 of 2007;  
XXXI. 2007.46.

**6.** Any person who acts in contravention of a court order mentioned in article 5 shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment, and any act so made in contravention of such court order shall be null and without effect at law and the court may, where such person is the garnishee, order the said person to deposit in a bank to the credit of the person charged the amount of moneys or the value of other movable property paid or delivered in contravention of that court order.

Special court  
proceedings.  
Amended by:  
XXXI. 2007.47.

**7.** (1) Where an order of forfeiture is made under article 3(5), the person found guilty and any other person having an interest may bring an action for a declaration that any or all of the movable or immovable property so forfeited is not profits or proceeds from the commission of an offence under article 3 or is otherwise involved in the offence of money laundering, nor property acquired or obtained, directly or indirectly, by or through any such profits or proceeds.

(2) Such action shall be brought not later than three months

from the date on which the sentence ordering the forfeiture shall have become definite, by an application in the Civil Court, First Hall.

(3) The applicant shall attach to the application all such documents in support of his claim as it may be in his power to produce and shall indicate in his application the names of all the witnesses he intends to produce, stating in respect of each the proof which he intends to make.

(4) The court shall, without delay, set down the application for hearing at an early date, which date shall in no case be later than thirty days from the date of the filing of the application.

(5) The application and the notice of the date fixed for hearing shall be served on the Commissioner of Police without delay, and the said Commissioner shall file his reply thereto within fifteen days after the date of the service of the application.

(6) The court shall hear the application to a conclusion within twenty working days from the date fixed for the original hearing of the application, and no adjournment shall be granted except either with the consent of both parties or for an exceptional reason to be recorded by the court, and such adjourned date shall not be later than that justified by any such reason.

(7) Saving the preceding provisions of this article, the provisions of the Code of Organization and Civil Procedure relating to proceedings before the Civil Court, First Hall, shall apply in relation to any such application.

Cap. 12.

(8) Any decision revoking the forfeiture of immovable property shall be deemed to transfer the title of such property back from the Government to the party in favour of whom it is given, and such party may obtain the registration of such transfer in the Public Registry.

**8.** When the court allows the demand for a declaration as provided in article 7(1) in respect of any property forfeited, such property shall cease to be forfeited and shall revert to the applicant in virtue of the judgment upon its becoming definite, and the applicant shall thereupon be entitled to the recovery of the income received by the Government from such property during the period of its forfeiture.

Reversion of property ceasing to be forfeited.

**9.** (1) Where the Attorney General receives a request made by the judicial or prosecuting authority of any place outside Malta for investigations to take place in Malta in respect of a person (hereinafter referred to as "the suspect") suspected by that authority of an act or omission which if committed in these Islands, or in corresponding circumstances, would constitute an offence under article 3, the Attorney General may apply to the Criminal Court for an investigation order or an attachment order or for both and the provisions of article 24A of the Dangerous Drugs Ordinance shall *mutatis mutandis* apply to that application and to the suspect and to any investigation or attachment order made by the court as a result of that application.

Powers of investigation in connection with offences cognizable by courts outside Malta.  
Added by:  
II. 1998.9.

Cap. 101.

- (2) The words "investigation order" in subarticles (2) and (5) of the same article 24A shall be read and construed as including an investigation order made under the provisions of this article.
- Cap. 101. (3) The words "attachment order" in article 24A(6A) of the Dangerous Drugs Ordinance shall be read and construed as including an attachment order made under the provisions of this article.
- Transactions or banking operations carried out through one or more accounts.  
*Added by: VII. 2010.61.*
- 9A.** Where the request referred to in the preceding article is made for the purpose of monitoring the transactions or banking operations being carried out through one or more accounts of a suspect, the Attorney General may apply to the Criminal Court for a monitoring order and the provisions of article 4B shall apply *mutatis mutandis*.
- Freezing of property of person accused with offences cognizable by courts outside Malta.  
*Added by: II. 1998.9.*
- 10.** (1) Where the Attorney General receives a request made by a judicial or prosecuting authority of any place outside Malta for the temporary seizure of all or any of the moneys or property, movable or immovable, of a person (hereinafter in this article referred to as "the accused") charged or accused in proceedings before the courts of that place of an offence consisting in an act or an omission which if committed in these Islands, or in corresponding circumstances, would constitute an offence under article 3, the Attorney General may apply to the Criminal Court for an order (hereinafter referred to as a "freezing order") having the same effect as an order as is referred to in article 22A(1) of the Dangerous Drugs Ordinance, and the provisions of the said article 22A shall, subject to the provisions of subarticle (2) of this article, apply *mutatis mutandis* to that order.
- Cap. 101. (2) The provisions of article 24C(2) to (5) of the Dangerous Drugs Ordinance shall apply to an order made under this article as if it were an order made under the said article 24C.
- Cap. 101. (3) Article 22B of the Dangerous Drugs Ordinance shall also apply to any person who acts in contravention of a freezing order under this article.
- Enforcement of confiscation orders made by courts outside Malta following conviction for offences cognizable by those courts.  
*Added by: II. 1998.9.*  
Cap. 101.
- 11.** (1) A confiscation order made by a court outside Malta providing or purporting to provide for the confiscation or forfeiture of any property of or in the possession or under the control of any person convicted of a relevant offence shall be enforceable in Malta in accordance with the provisions of article 24D(2) to (11) of the Dangerous Drugs Ordinance.
- (2) For the purposes of this article "confiscation order" includes any judgment, decision, declaration, or other order made by a court whether of criminal or civil jurisdiction providing or purporting to provide for the confiscation or forfeiture of property as is described in subarticle (1).
- (3) For the purposes of this article "relevant offence" means any offence consisting in any act which if committed in these Islands, or in corresponding circumstances, would constitute the offence mentioned in article 3.

**12.** (1) The Minister may make rules or regulations generally for the better carrying out of the provisions of this Act and in particular may by such rules or regulations provide for the regulation and control of banks, credit and other financial institutions to provide *inter alia* for procedures and systems for training, identification, record-keeping, internal reporting and reporting to supervisory authorities for the prevention of money laundering and funding of terrorism.

Rules and regulations.  
Amended by:  
VI. 2005.5;  
L.N. 425 of 2007.

(2) The Minister may by regulations extend the provisions of this Act in whole or in part and of any regulations made thereunder to categories of undertakings and to professions which engage in activities which, in the opinion of the Minister, are particularly likely to be used for money laundering purposes or funding of terrorism.

(3) Rules or regulations made under this article may impose punishments or other penalties in respect of any contravention or failure of compliance not exceeding a fine (*multa*) of forty-six thousand and five hundred and eighty-seven euro and forty-seven cents (€46,587.47) or imprisonment for a term not exceeding two years or both such fine and imprisonment.

**13.** Saving the provisions of article 12, the Minister may, in consultation with the Minister responsible for justice -

Matters to be prescribed by regulations.

- (a) prescribe by regulation any matter required to be prescribed by this Act;
- (b) by regulation amend, alter or add to the list of offences specified in the Second Schedule to this Act.

## PART II

### FINANCIAL INTELLIGENCE ANALYSIS UNIT

**14.** In this Part, unless the context otherwise requires:

Definitions.  
Added by:  
XXXI. 2001.4.  
Amended by:  
VI. 2005.5.

"subject person" means any person required to maintain internal reporting procedures and to report transactions suspected to involve money laundering or funding of terrorism under regulations in force from time to time under this Act or as may be prescribed under this Act;

"supervisory authority" shall have the same meaning assigned to it by regulations in force from time to time under this Act or as may be prescribed under this Act;

"the Board" means the Board of Governors referred to in article 18;

"the Chairman" means the Chairman of the Board appointed under article 20;

"the Deputy Chairman" means the Deputy Chairman of the Board appointed under article 20;

"the Director" means the Director of the Unit appointed or recruited under article 23.

Establishment of  
the Unit.  
Added by:  
XXXI. 2001.4.

**15.** (1) There shall be a government agency, to be known as the Financial Intelligence Analysis Unit.

(2) The Unit shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of concluding memoranda of understanding or other agreements with any foreign body, authority or agency as is referred to in article 16(1)(k), 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 borrowing of money.

(3) The Unit shall enter into an agency performance agreement with the Minister which agreement shall determine the funding of the agency and, without prejudice to the generality of article 16(1), any specific tasks within the scope of the functions of the Unit which are to be addressed and achieved by the Unit.

(4) The members of the Unit and all its employees shall abide by any Code of ethics applicable to public officers and shall, subject to any law to the contrary, have the same obligations thereunder:

Provided that the Unit may, with the concurrence of the Minister, draw up service values and a Code of Ethics to supplement any public service Code of Ethics in respect of the Unit.

Functions of the  
Unit.  
Added by:  
XXXI. 2001.4.  
Amended by:  
VI. 2005.5.

**16.** (1) Subject to the other provisions of this Act and without prejudice to any other power or function conferred on it by this Act or by any other law, the Unit shall be responsible for the collection, collation, processing, analysis and dissemination of information with a view to combating money laundering and funding of terrorism and without prejudice to the generality of the aforesaid shall in particular have the following functions:

- (a) to receive reports of transactions suspected to involve money laundering or funding of terrorism made by any subject person in pursuance of any regulation made under article 12, to supplement such reports with such additional information as may be available to it or as it may demand, to analyse the report together with such additional information and to draw up an analytical report on the result of such analysis;
- (b) to send any analytical report as is referred to in paragraph (a) to the Commissioner of Police for further investigation if having considered the suspicious transaction report, the Unit also has reasonable grounds to suspect that the transaction is suspicious and could involve money laundering or funding of terrorism;
- (c) to monitor compliance by subject persons and to cooperate and liaise with supervisory authorities to ensure such compliance;

- 
- (d) to send to the Commissioner of Police together with any analytical report sent in accordance with paragraph (b) or at any time thereafter any information, document, analysis or other material in support of the report;
  - (e) to instruct any subject person to take such steps as it may deem appropriate to facilitate any money-laundering or funding of terrorism investigation in general or the investigation of any particular suspicious transaction report;
  - (f) to gather information on the financial and commercial activities in the country for analytical purposes with a view to detecting areas of activity which may be vulnerable to money laundering or funding of terrorism;
  - (g) to compile statistics and records, disseminate information, make recommendations, issue guidelines and advise the Minister on all matters and issues relevant to the prevention, detection, investigation, prosecution and punishment of money laundering or funding of terrorism offences;
  - (h) to promote the training of, and to provide training for, personnel employed with any subject person in respect of any matter, obligation or activity relevant to the prevention of money laundering or funding of terrorism;
  - (i) to consult with any person, institution or organization as may be appropriate for the purpose of discharging any of its functions;
  - (j) to advise and assist persons, whether physical or legal, to put in place and develop effective measures and programmes for the prevention of money laundering and funding of terrorism;
  - (k) upon request or on its own motion, to exchange information with any foreign body, authority or agency which it considers to have functions equivalent or analogous to those mentioned in this subarticle and with any supervisory authority in Malta or with any supervisory authority outside Malta which it deems to have equivalent or analogous functions as a supervisory authority in Malta, subject to such conditions and restrictions as it may determine, including the prior conclusion, if it deems so necessary, of any memorandum of understanding or other agreement, to regulate any such exchange of information, where that information may be relevant to the processing or analysis of information or to investigations regarding financial transactions related to money laundering or funding of terrorism and the natural or legal persons involved;
  - (l) to report to the Commissioner of Police any activity

which it suspects involves money laundering or funding of terrorism and of which it may become aware in the course of the discharge of any of its functions.

(2) The Unit shall at least once a year prepare a report on its activities in general to the Minister and shall afford to the Minister facilities for obtaining information with respect to its property and its activities in general and furnish him with returns, accounts and other information with respect thereto.

Liability for damages.  
Added by:  
XXXI. 2001.4.

**17.** The Unit, its Board, officers and employees shall not be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any function under this Act, unless the act or omission is shown to have been done or omitted to be done, as the case may be, in bad faith.

Distribution of duties of the Unit.  
Added by:  
XXXI. 2001.4.

**18.** (1) The Unit shall consist of a Board and a Director.

(2) The Board shall be responsible for the policy to be adopted by the Unit and to be executed and pursued by the Director and to ensure that the Director carries out that policy accordingly. The Board shall also be responsible for advising the Minister as provided in article 16(1)(g).

(3) The Director shall be responsible for the execution of the policy established by the Board and for carrying out all the functions of the Unit not attributed by this Act to the Board in accordance with the policy and subject to the general supervision of the Board.

(4) The Board may appoint any officer or any member of the staff of the Unit to act as director when the Director is absent, unable to act or on vacation or during any vacancy in the office of the Director.

Composition of the Board.  
Added by:  
XXXI. 2001.4.

**19.** (1) The Board shall consist of:

- (a) four members appointed by the Minister in the manner provided in subarticle (2);
- (b) not more than two other members, as may be requested by the Board, appointed by the Minister in the manner provided in subarticle (3).

(2) The Minister shall appoint the four members referred to in subarticle (1)(a) by selecting one member from each of four panels, each of at least three persons, nominated respectively by the Attorney General, the Governor of the Central Bank, the Chairman of the Malta Financial Services Authority and the Commissioner of Police.

(3) The Minister shall appoint each additional member as may be requested by the Board in pursuance of the provisions of subarticle (1)(b) from a panel of not less than three persons nominated by the authority to be indicated by the Board with respect to each additional member.

(4) The members of the Board shall be appointed for a term of three years against such remuneration as the Minister may

determine and may be re-appointed in the manner laid down in subarticles (2) or (3), as the case may be, on the expiration of their term of office.

(5) The members of the Board shall discharge their duties in their own individual judgement and shall not be subject to the direction or control of any other person or authority.

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

- (a) is legally incapacitated; or
- (b) has been declared bankrupt or has made a composition or scheme of arrangement with his creditors; or
- (c) has been convicted of an offence against this Act or of an offence listed in the First Schedule or in the Second Schedule or of an offence of money laundering against the provisions of the Dangerous Drugs Ordinance or of the Medical and Kindred Professions Ordinance; or
- (d) is not a salaried official on the permanent staff in the service of the official by whom he is to be or has been recommended for appointment; or
- (e) is a salaried official of or is otherwise employed with or in the service of a subject person or is in any other manner professionally connected to a subject person.

Cap. 101.

Cap. 31.

(7) A member of the Board may be relieved of office by the Minister, after consultation with the official by whom the member was recommended, on the ground of inability to perform the functions of his office, whether due to infirmity of mind or of body, or to any other cause, or of misbehaviour; and, for the purposes of this subarticle, repeated unjustified non-attendance of Board meetings may be deemed to amount to misbehaviour.

(8) A member of the Board may also resign from office by letter addressed to the Minister.

(9) Where any vacancy occurs in the membership of the Board for any reason other than the lapse of the term of office that vacancy shall, for the remainder of the term of office which has become vacant, be filled by another member appointed by the Minister from among a panel of not less than three persons nominated by the official who nominated the panel from among whom the member who vacated office had been appointed.

**20.** A Chairman and Deputy Chairman shall be appointed by the Prime Minister after consultation with the Minister from among the members of the Board. The Chairman shall be the Head of the Unit and the Deputy Chairman shall have all the powers and perform all the functions of the Chairman during his absence or inability to act as Chairman or while he is on vacation or during any vacancy in the office of chairman.

Chairman and  
Deputy Chairman  
of the Board.  
*Added by:*  
*XXXI. 2001.4.*

**21.** (1) The Board shall meet within one month from its constitution and as often as may be necessary or expedient thereafter, but in no case less frequently than ten times in each year.

Meetings of the  
Board.  
*Added by:*  
*XXXI. 2001.4.*

The meetings of the Board shall be called by the Chairman on his own initiative or at the request of any two of the other members or at the request of the Director.

(2) The Board shall not act unless a quorum consisting of the Chairman or Deputy Chairman and not less than two other members is present.

(3) The meetings of the Board shall be chaired by the Chairman, or in his absence, by the Deputy Chairman.

(4) The decisions of the Board shall be adopted by a simple majority of the votes of the members present and voting and in the event of an equality of votes the member presiding at the meeting shall have and exercise a second or casting vote.

(5) The Director shall be entitled to attend the meetings of the Board and to take part in the discussions, but shall have no vote. Saving the provisions of subarticle (2) the absence of the Director from any meeting shall not invalidate the proceedings of the meeting.

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

(7) Subject to the provisions of this Act, the Board may regulate its own procedure.

(8) All acts done by any person acting in good faith as a member of the Unit shall be valid as if he were a member notwithstanding that some defect in his appointment or qualification be afterwards discovered.

Decisions in case of emergency.  
Added by:  
XXXI. 2001.4.

**22.** In case of emergency, decisions shall be taken by at least two members of the Board one of whom shall be the Chairman or Deputy Chairman.

The Executive and other staff of the Unit.  
Added by:  
XXXI. 2001.4.

**23.** The Director and the other officers and staff of the Unit shall be appointed or recruited by the Board according to such procedures and on such terms and conditions and in such numbers as the Board may determine.

The police liaison officer.  
Added by:  
XXXI. 2001.4.

**24.** (1) The Commissioner of Police shall detail a police officer not below the rank of Inspector to act as a liaison officer to liaise with the Unit.

(2) Notwithstanding anything to the contrary in any other law the police liaison officer detailed as aforesaid shall be bound to keep secret and confidential any information that may come to his knowledge as a result of his duties as a liaison officer with the Unit and shall not disclose such information to any person other than a member of the Unit or any of its staff in the course of the exercise of his functions as a liaison officer with the Unit.

Provided that where the Unit has submitted a report to the Police in accordance with the provisions of this Act the Unit may, without prejudice to the provisions of article 31(4), authorise the police liaison officer to disclose to the Police, or to any other competent authority identified by the Unit as having an interest in

the investigation of the report, any information relevant to the said report that may have come or may come to the knowledge of the police liaison officer in the course of his assignment with the Unit.

(3) The police liaison officer shall, subject to complying with any internal requirements of the police force, make available to the Unit or to any member of its staff any information at the disposal of the police or which is part of police records to the extent that such information is relevant to the exercise of the functions of the Unit.

(4) The police liaison officer shall assist the Unit in the analysis and processing of suspicious transaction reports and of information and intelligence data collected by the Unit in the exercise of its functions and shall advise the Unit on investigative techniques and on all law enforcement issues.

**25.** (1) The legal and judicial representation of the Unit shall vest in the Chairman and in his absence in the Deputy Chairman:

Legal and judicial representation of the Unit.

*Added by:*  
*XXXI. 2001.4.*

Provided that the Unit may appoint any one or more of its other members or of its officers or employees to appear in the name and on behalf of the Unit in any judicial proceedings and in any act, contract, instrument or other document whatsoever.

(2) Any document purporting to be an instrument made or issued by the Unit and to be signed by the Chairman or by the Deputy Chairman on behalf of the Unit shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Unit.

**26.** (1) The Unit shall be responsible to ensure that subject persons comply with the provisions of this Act and any regulations made thereunder in so far as these are applicable to them.

Compliance.  
*Added by:*  
*XXXI. 2001.4.*

(2) If the Unit so considers necessary it may:

- (a) authorise any of its officers, employees or agents, on producing evidence of his authority, to require any subject person to provide him forthwith with such information or documents relating to that subject person's internal procedures for compliance with the provisions of this Act and any regulation made thereunder and to answer any questions as the Unit may reasonably require for the performance of its functions under subarticle (1);
- (b) by notice in writing served on a subject person require that person to produce, within the time and at the place as may be specified in that notice, any documents as may be so specified in the notice provided such documents are reasonably required by the Unit for the performance of its functions under this Act.

(3) Where the documents required under subarticle (2) are produced, the Unit may make notes and take copies of the whole or any part of such documents.

(4) Where the documents required under subarticle (2) are not produced, the Unit may require the subject person who was

required to produce them to state, in writing, why such documents could not be produced.

(5) Subject to the provisions of article 27, a supervisory authority is, for the purposes of subarticle (2)(a), considered to be an agent of the Unit.

Co-operation with  
supervisory  
authorities.  
Added by:  
XXXI. 2001.4.

**27.** (1) Without prejudice to the generality of the provisions of this Act, the Unit shall co-operate with the supervisory authorities to ensure that the financial and other systems are not used for criminal purposes and thus safeguard their integrity.

(2) Without prejudice to the special provisions of any other law applicable to them, the supervisory authorities shall extend all assistance and co-operation to the Unit in the fulfilment of its responsibilities under this Act.

(3) In pursuance of its responsibilities under the provisions of article 26, the Unit may request a supervisory authority to do all or any of the following and the supervisory authority shall not unreasonably withhold its assistance:

- (a) to provide the Unit with such information of which the supervisory authority may become aware of in the course of its supervisory functions and which indicates that a subject person falling under the competence of the supervisory authority may not be in compliance with any requirements under this Act or any regulations made thereunder;
- (b) to carry out, on behalf of the Unit, on-site examinations on subject persons falling under the competence of the supervisory authority with the aim of establishing that person's compliance with the provisions of this Act and any regulations made thereunder and to report to the Unit accordingly.

(4) The Unit may authorise any of its officers or employees to accompany the supervisory authority in any on-site examination as may be required by the Unit under subarticle (3)(b) and any such officer or employee shall be entitled, on producing, if requested, evidence of his authority, to enter any premises of the subject person on whom an examination is being undertaken.

Delay of execution  
of a suspicious  
transaction.  
Added by:  
XXXI. 2001.4.  
Amended by:  
VI. 2005.5.

**28.** (1) Where any subject person is aware or suspects that a transaction which is to be executed may be linked to money laundering or funding of terrorism that subject person shall inform the Unit before executing the transaction giving all the information concerning the transaction including the period within which it is to be executed. Such information may be given by telephone but shall be forthwith confirmed by fax or by any other written means and the Unit shall promptly acknowledge the receipt of the information.

(2) Where the matter is serious or urgent and it considers such action necessary, the Unit may oppose the execution of a transaction before the expiration of the period referred to in subarticle (1) and notice of such opposition shall be immediately notified by fax or by any other written means.

(3) The opposition by the Unit shall halt the execution of the transaction for twenty-four hours from the time of the notification referred to in subarticle (1) unless the Unit shall authorise earlier, by fax or otherwise in writing, the execution of the transaction.

(4) Where within the period referred to in subarticle (1) no opposition has been made by the Unit as provided in subarticle (2) the subject person concerned may proceed to the execution of the transaction in question and where opposition has been made as provided aforesaid the subject person concerned may proceed to the execution of the transaction in question upon the lapse of the period referred to in subarticle (3) unless in the meantime an attachment order has been served on the subject person.

**29.** Where any subject person is aware or suspects that a transaction which is to be executed may be linked to money laundering or funding of terrorism but it is unable to inform the Unit before the transaction is executed, either because it is not possible to delay executing the transaction due to its nature, or because delay in executing the transaction could prevent the prosecution of the individuals benefiting from the suspected money laundering or funding of terrorism, the subject person shall inform the Unit immediately after executing the transaction giving the reason why the Unit was not so informed before executing the transaction.

Action after execution of suspicious transaction which could not be delayed.  
Added by:  
XXXI. 2001.4.  
Amended by:  
VI. 2005.5.

**30.** (1) When the Unit receives a report as is referred to in article 16(1)(a) or when from information in its possession the Unit suspects that any subject person may have been used for any transaction suspected to involve money laundering or funding of terrorism the Unit may demand from the subject person making the report or from the subject person which is suspected of having been used for any transaction suspected to involve money laundering or funding of terrorism as well as from any other subject person, the police, any Government Ministry, department, agency or other public authority, or any other person, physical or legal, and from any supervisory authority, any additional information that it deems useful for the purpose of integrating and analysing the report or information in its possession.

Power of the Unit to demand information.  
Added by:  
XXXI. 2001.4.  
Amended by:  
VI. 2005.5.

(2) Notwithstanding anything contained in the Professional Secrecy Act and any obligation of secrecy or confidentiality under any other law the subject person or any other person, physical or legal, and any authority or entity from whom information is demanded by the Unit in pursuance of the provisions of subarticle (1) shall communicate the information requested to the Unit and for the purposes of article 257 of the Criminal Code any such disclosure shall be deemed to be a disclosure of information to a public authority compelled by law:

Cap. 377.

Cap. 9.

Provided that nothing in this subarticle shall imply any obligation on the Attorney General to communicate to the Unit any information which in any way relates to or is connected with or came into his possession as a result of the exercise by him of any powers referred to in article 91(3) of the Constitution or any obligation on any person to communicate to the Unit any information which would in legal proceedings be protected from disclosure by article 642(1) of the Criminal Code or by article 588(1) of the Code of Organization and Civil Procedure.

Cap. 9.  
Cap. 12.

Power of Unit to demand information under article 16.  
*Added by:*  
*XIII. 2004.126.*

**30A.** (1) Notwithstanding anything contained in any other law, the Unit may likewise demand from any person, authority or entity, as is referred to in article 30, any information it deems relevant and useful for the purpose of pursuing its functions under article 16.

(2) The provisions of article 30(2) shall *mutatis mutandis* apply where any information is demanded by the Unit under this article.

Unit may require the subject person to monitor transactions or banking operations.  
*Added by:*  
*VII. 2010.62.*

**30B.** (1) When the Unit receives a report as is referred to in article 16(1)(a) or when from information in its possession the Unit suspects that any subject person may have been used for any transaction suspected to involve money laundering or funding of terrorism or that property is being held by a subject person that may have derived directly or indirectly from, or constitutes the proceeds of, criminal activity or from an act or acts of participation in criminal activity, the Unit may require the subject person to monitor for a specified period the transactions or banking operations being carried out through one or more accounts in the name of any person suspected of the said offences, or through one or more accounts suspected to have been used in the commission of any of the said offences or which could provide information about the offences or the circumstances thereof, whether before, during or after the commission of the offences, including any such accounts in the name of legal persons. The subject person shall communicate to the Unit the information resulting from the monitoring and the Unit may use that information for the purpose of carrying out its analysis and reporting functions under this Act.

(2) Where a monitoring order has been made or applied for, whosoever, knowing or suspecting that the investigation is taking place, discloses that an investigation is being undertaken or makes any other disclosures likely to prejudice the said investigation shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding eleven thousand and six hundred and forty six euro and eighty-seven cents (11,646.87) or to imprisonment not exceeding twelve months, or to both such fine and imprisonment:

Provided that in proceedings for an offence under this subarticle, it shall be a defence for the accused to prove that he did not know or suspect that the disclosure was likely to prejudice the investigation.

(3) The provisions of article 30(2) shall *mutatis mutandis* apply where any information is demanded by the Unit under this article.

**31.** (1) Where following an analysis of a suspicious transaction report and of the information in its possession relevant to the report the Unit is of the opinion that a reasonable suspicion of money laundering or funding of terrorism persists the report together with any relevant information in its possession and the results and conclusions of any analysis carried out by the Unit shall be transmitted to the Police for further investigation.

Transmission of information to police for investigation.  
*Added by:*  
*XXXI. 2001.4.*  
*Amended by:*  
*VI. 2005.5.*

(2) The provisions of subarticle (1) shall also apply *mutatis mutandis* to any suspicion of money laundering or funding of terrorism which the Unit may have formed on the basis of information in its possession without any suspicious transaction report having been made to the Unit or independently of any such report.

(3) Where the Unit transmits information to the Police in pursuance of the provisions of subarticles (1) and (2) and a subject person over which another authority or agency has supervisory or regulatory functions is involved the Unit shall inform the said authority or agency of action taken.

(4) Where the Unit transmits information to the Police in pursuance of subarticles (1) and (2) it shall thereafter transmit to the Police any further relevant information in respect of the suspicion communicated to the Police as aforesaid.

**32.** The Unit shall, at the request of the subject person, give to the subject person which reports any transaction suspected to involve money laundering or funding of terrorism such information as the Unit considers to be of interest to the subject person in order to enable that subject person to regulate its affairs and to assist it to carry out its duties under this Act or any regulation made thereunder.

Information.  
*Added by:*  
*XXXI. 2001.4.*  
*Amended by:*  
*VI. 2005.5.*

**33.** Any official or employee of the Unit who, in any circumstances other than those provided for in the proviso to article 24(2), discloses to the person concerned or to a third party that an investigation is being carried out by the Unit, or that information has been transmitted to the Unit by a subject person, or that the Unit has transmitted information to the police for investigation, shall be guilty of an offence and liable on conviction to a fine (*multa*) not exceeding one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67) or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Tipping off by the officials or employees of the Unit.  
*Added by:*  
*XXXI. 2001.4.*  
*Amended by:*  
*L.N. 425 of 2007.*

**34.** (1) The Unit, and its officers, employees and agents, whether still in the service of the Unit or not, shall not disclose any information relating to the affairs of the Unit or of any person, physical or legal, which they have acquired in the performance of their duties or the exercise of their functions under this Act except:

Confidentiality and permissible disclosure of information.  
*Added by:*  
*XXXI. 2001.4.*  
*Amended by:*  
*VI. 2005.5.*

- (a) when authorised to do so under any of the provisions of this Act;
- (b) for the purpose of the performance of their duties or the exercise of their functions under this Act;
- (c) when specifically and expressly required to do so

under a provision of any law.

(2) The Unit may disclose any document or information referred to in subarticle (1) to an organization outside Malta which in the opinion of the Unit has functions similar to those of the Unit and which has similar duties of secrecy and confidentiality as those of the Unit or to a supervisory authority in Malta or to a supervisory authority outside Malta which in the opinion of the Unit has duties similar to those of a supervisory authority in Malta.

(3) The Unit may, in particular, refuse to disclose any document or information if:

- (a) in its opinion such disclosure could lead to causing prejudice to a criminal investigation in course in Malta; or
- (b) due to exceptional circumstances, such disclosure would be clearly disproportionate to the legitimate interests of Malta or of a natural or legal person; or
- (c) such disclosure would not be in accordance with fundamental principles of Maltese law:

Provided that any refusal under this subarticle shall be clearly explained to the body or authority requesting the disclosure of the document or information.

(4) The Unit may also disclose any document or information referred to in subarticle (1) to a competent authority in Malta or outside Malta investigating any act or omission committed in Malta and which constitutes, or if committed outside Malta would in corresponding circumstances constitute:

- Cap. 101. (a) any of the offences referred to in article 22(2)(a)(1) of the Dangerous Drugs Ordinance; or
- Cap. 31. (b) any of the offences referred to in article 120A(2)(a)(1) of the Medical and Kindred Professions Ordinance; or
- (c) any offence of money laundering within the meaning of this Act; or
- (d) any offence of funding of terrorism:

Provided that such disclosure shall be subject to the condition that the information or document disclosed shall not, without the express consent of the Unit, be used for any other purpose other than that of the investigation or for any subsequent prosecution for the offence which is the subject of the investigation or for any proceedings which may lead to the confiscation of any proceeds from the said offence or of funds, assets or other property used for the purpose of funding of terrorism.

Revenue of the  
Unit.  
Added by:  
XXXI. 2001.4.

**35.** The revenue of the Unit shall consist of:

- (a) fees payable to the Unit for services rendered by it;
- (b) rents, interests and profits accruing from property, deposits and other assets of the Unit;
- (c) any monies advanced to it by the Minister;

(d) any other money receivable or received by the Unit.

**36.** (1) The Unit may:

Powers of the Unit.  
*Added by:*  
*XXXI. 2001.4.*

- (a) hold accounts with any bank;
- (b) invest any of its liquid assets in short and medium term first class securities as approved by the Board;
- (c) acquire, purchase, lease or dispose of any movable or immovable property required for the conduct of its business or for any purposes ancillary or incidental to the performance of its functions under this Act.

(2) For the purpose of carrying out any of its functions under this Act, the Unit may, with the approval in writing of the Minister, borrow or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister may in writing approve.

**37.** The Minister may make advances to the Unit of such sums as the Minister may consider to be required by the Unit for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as the Minister may deem appropriate. Any such advances may be made by the Minister out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorising the Accountant General to make such advances.

Advances by the  
Government.  
*Added by:*  
*XXXI. 2001.4.*

**38.** (1) The Director shall, not later than six weeks before the end of each financial year, submit to the Board estimates of the income and expenditure of the Unit for the following financial year:

Estimates and  
expenditure.  
*Added by:*  
*XXXI. 2001.4.*

Provided that the estimates for the first financial year of the Unit shall be prepared and adopted within such time as the Minister may by notice in writing to the Unit specify.

(2) In the preparation of such estimates the Unit shall endeavour to ensure that the total revenues of the Unit are at least sufficient to meet all sums properly chargeable to its Income and Expenditure Account, including but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form and shall contain such information and such comparisons with previous years as the Board may direct.

(4) Before the end of each financial year the Board shall consider and adopt, with or without amendments as the case may be, the estimates submitted to it for the following financial year.

(5) If in respect of any financial year it is found that the amount approved by the Board is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Director may cause supplementary estimates to be prepared and sent forthwith to the Board for adoption and in any such case the provisions of this Act applicable to the estimates shall as near as practicable apply to supplementary estimates.

Determination and allocation of profits.  
*Added by:*  
*XXXI. 2001.4.*

**39.** All profits realised by the Unit shall be put to a reserve fund which shall be used for such purposes as the Unit may deem to be required to meet the objects of the Unit, including the repayment of any liabilities.

Financial year.  
*Added by:*  
*XXXI. 2001.4.*

**40.** The financial year of the Unit shall begin on the first day of January and end on the thirty-first day of December:

Provided that the first financial year shall begin at the date of commencement of this article and shall end on the thirty-first day of December of the following year.

Audit.  
*Added by:*  
*XXXI. 2001.4.*

**41.** The Unit shall keep proper books of account in such manner as the Minister may from time to time direct. Such accounts shall be audited by auditors appointed by the Board with the concurrence of the Minister from among persons qualified to be appointed as auditors of a company under the law for the time being in force in Malta, as if the Unit were such a company, and shall moreover be subject to audit by the Auditor General.

Annual accounts.  
*Added by:*  
*XXXI. 2001.4.*

**42.** (1) The Board shall, as soon as may be but not later than three months after the close of each financial year, transmit to the Minister:

- (a) a copy of the annual accounts certified by the auditors;
- (b) a report on the operations of the Unit during the year.

(2) The report referred to in subarticle (1) shall be laid on the Table of the House by the Minister not later than six weeks after its receipt, or where the House is during the period not in session not later than the second week after the House resumes its sittings.

Exemption from taxes.  
*Added by:*  
*XXXI. 2001.4.*

**43.** The Unit shall be exempted from any liability for the payment of income tax and duty on documents and transfers under any law for the time being in force.

---

## FIRST SCHEDULE

(Article 2)

Article 3 (1) (a) of the United Nations Convention

Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

- (i) The production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of any narcotic drug or any psychotropic substance contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention;
- (ii) The cultivation of opium poppy, coca bush or cannabis plant for the purpose of the production of narcotic drugs contrary to the provisions of the 1961 Convention and the 1961 Convention as amended;
- (iii) The possession or purchase of any narcotic drug or psychotropic substance for the purpose of any of the activities enumerated in (i) above;
- (iv) The manufacture, transport or distribution of equipment, materials or of substances listed in Table I and Table II, knowing that they are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs, or psychotropic substances;
- (v) The organization, management or financing of any of the offences enumerated in (i), (ii), (iii) or (iv) above.

## SECOND SCHEDULE

(Article 2)

*Amended by:*  
*L.N. 71 of 1999.*  
*Substituted by:*  
*L.N. 176 of 2005.*

Any criminal offence.