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I assent.

(L.S.)

**MARIE LOUISE
COLEIRO PRECA
President**

7th July, 2015

ACT No. XVII of 2015*AN ACT to establish a framework for climate action.*

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

Short title. **1.** The short title of this Act is the Climate Action Act, 2015.

Interpretation. **2.** In this Act unless the contents otherwise require:

"climate change" means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods;

"climate system" means the totality of the atmosphere, hydrosphere, biosphere and geosphere and their interactions;

"emissions" means the release of greenhouse gases and, or, their precursors into the atmosphere over a specified area and period of time;

"greenhouse gases" means those gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation; and shall include, *inter alia*, the gases listed in the Schedule;

"Minister" means the Minister responsible for Climate Change policy;

"reservoir" means a component of the climate system, other than the atmosphere, which has the capacity to store, accumulate or release a greenhouse gas or a precursor of a greenhouse gas;

"sink" means any process, activity or mechanism which removes a greenhouse gas, an aerosol or a precursor of a greenhouse gas or aerosol from the atmosphere;

"source" means any process or activity which releases a greenhouse gas, an aerosol or a precursor of a greenhouse gas or aerosol into the atmosphere;

"UNFCCC" means the United Nations Framework Convention on Climate Change which entered into force on 21st March 1994;

"Union" and "European Union" shall have the same meaning of "the European Union" as in the European Union Act.

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3. (1) The State acknowledges that change in Earth's climate and its adverse effects are a common concern of humankind.

Objective.

(2) This Act provides for action in order to contribute to the mitigation of climate change by limiting anthropogenic emissions of greenhouse gases and protecting and enhancing greenhouse gas sinks and reservoirs, and to contribute to the prevention, avoidance and reduction of the adverse impacts of climate change and the reduction of vulnerability, enhancement of resilience, and adaptation to the adverse effects of climate change.

4. It shall be the duty of every person together with the Government to protect the climate and to assist in the taking of preventive and remedial measures to protect the climate.

Duty of every person to take climate action.

5. (1) It shall be the duty of the Government to protect the climate for the present and future generations.

Duty and obligations of Government.

(2) In fulfilling its duties pursuant to sub-article (1), the Government shall, *inter alia*:

(a) develop, periodically update and publish national inventories of anthropogenic emissions by sources and removals by sinks of greenhouse gases in order to monitor progress towards achieving its quantified emission limitation or reduction commitments pursuant to international treaties and its obligations as a Member State of the European Union;

(b) formulate, implement, publish and update policies regarding measures to mitigate climate change by limiting, and, to the extent possible, reducing anthropogenic greenhouse gas emissions by sources, and by enhancing removals of greenhouse gases by sinks;

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(c) formulate, implement, publish and update policies regarding measures to prevent, avoid, reduce, and reduce vulnerability and enhance resilience to the adverse impacts of climate change, and to facilitate adaptation to climate change;

(d) promote and cooperate in the development, application and diffusion of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases in all relevant sectors, including the energy, transport, industry, agriculture, land-use and forestry, and waste management sectors;

(e) promote sustainable management of sinks and reservoirs of greenhouse gases including all terrestrial, coastal and marine ecosystems and promote and cooperate in the conservation and enhancement of sinks and reservoirs of greenhouse gases including all terrestrial, coastal and marine ecosystems;

(f) promote and cooperate in scientific, technological, technical, socio-economic and other research, systematic observation and development of data archives related to the climate system;

(g) promote and cooperate in the exchange of relevant scientific, technological, technical, socio-economic and legal information related to the climate system and climate change, and to the economic and social consequences of response strategies; and

(h) promote and cooperate in education, training and public awareness related to climate change.

(3) The Government shall ensure that policies, programmes and projects are designed and evaluated in a manner that takes into consideration mitigation of, and adaptation to, climate change and that such policies, programmes and projects contribute to the mitigation of, and adaptation to, climate change.

(4) The Government shall ensure that policies, programmes and projects are, to the extent possible, designed in a manner that ensures resilience to the impacts of climate change.

(5) The Government shall, in fulfilling its duties and obligations under this article, participate, cooperate and support participation in, international and intergovernmental activities and programmes related to climate action, as appropriate. In particular,

the Government shall promote activities that relate to climate action relevant to the Mediterranean region, and shall, as appropriate, participate, cooperate and support participation in such activities.

6. (1) The Government shall, in exercising its duties and obligations under this Act, be guided by the principles listed in this article and these principles shall be employed in the interpretation of the other provisions of this Act and any regulations made thereunder.

Guiding principles of climate action.

(2) The Government shall, in fulfilling its duties and obligations under this Act:

(a) take climate change considerations into account, to the extent possible, in relevant social, economic and environmental policies and actions;

(b) take into account its obligations and commitments pursuant to international treaties and its obligations as a Member State of the European Union;

(c) take into account the geophysical, social and economic circumstances of Malta;

(d) ensure that actions taken are, to the extent possible, the most cost-effective, using best available technologies and best practices as appropriate to Malta;

(e) ensure that it takes into account the best available scientific, technological, technical and socio-economic information;

(f) ensure that all sectors of society and the economy participate in national climate action, including in relevant decisions;

(g) ensure that climate change, environment, conventional and alternative energy policies and measures are designed, developed, coordinated and implemented in the best interests of the environment, the economy, international and European Union obligations;

(h) ensure that climate action taken respects the interests of all sections of society, is non-discriminatory and, where relevant, promotes gender equality;

(i) ensure that data is collected, processed and interpreted in cognizance of data related to achieving overall international and European Union obligations in other areas;

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(j) respect and, to the extent possible, safeguard the interests of vulnerable sectors of society, including by taking climate actions that support the eradication of poverty;

(k) ensure that climate action taken should promote and enhance the competitiveness of Malta's economy;

(l) ensure, to the extent possible, that no conflict exists between policies and measures adopted in respect of climate action and other policies and measures;

(m) ensure that it takes precautionary measures to anticipate, prevent or minimize the causes of climate change and to mitigate its adverse effects and that where there are threats of serious or irreversible damage, the lack of full scientific certainty should not be a reason for postponing such measures;

(n) ensure that climate action taken contributes to sustainable development;

(o) ensure that, where relevant, any beneficial impacts of climate change are harnessed to the benefit of society, the economy and the environment, to the extent that such beneficial impacts can reduce vulnerability and enhance resilience to other adverse impacts of climate change;

(p) ensure that, prior to taking any decision, all the consequences of the outcome of that decision throughout the whole life cycle of that outcome are taken into consideration; and

(q) ensure adequate information is made available to the public, to facilitate public participation in respect of certain plans and programmes relating to the climate system and ensure adequate access to justice.

National low-carbon development strategy.

7. (1) The Minister shall, in consultation with any other Minister competent to take cognizance of the matter, and in consultation with civil society, environmental organizations and the general public prepare a national low-carbon development strategy to contribute to:

(a) the transparent and accurate monitoring of the actual and projected progress made by the Government in fulfilling its obligations under the UNFCCC to limit or reduce anthropogenic greenhouse gas emissions;

(b) meeting the greenhouse gas emission reduction commitments of the Government as a Member State of the European Union; and

(c) achieving long-term emission reductions and enhancements of removals by sinks in all sectors.

(2) The Minister shall ensure that the national low-carbon development strategy is reviewed and updated periodically, and at least every four years.

(3) The Minister shall make available to the public the national low-carbon development strategy and any updates thereof.

8. (1) The Minister shall, in consultation with any other Minister competent to take cognizance of the matter, and in consultation with civil society, environmental organizations and the general public, prepare a national adaptation strategy, to contribute to:

National
adaptation
strategy

(a) the prevention, avoidance, and reduction of the adverse effects of climate change, and to facilitate adaptation to climate change;

(b) the transparent monitoring of progress made by the Government in reducing vulnerability and enhancing resilience to the adverse impacts of climate change.

(2) The national adaptation strategy shall also include information on climate change in so far as it relates to Malta and on actual and projected impacts of climate change on Malta.

(3) The Minister shall ensure that the national adaptation strategy is reviewed and updated periodically, and at least every four years.

(4) The Minister shall make available to the public the national adaptation strategy and any updates thereof.

9. (1) The Minister shall lay on the Table of the House of Representatives, the National Low-carbon Development Strategy and the National Adaptation Strategy and their updates, at least once every four years.

Reports to be
laid before the
House of
Representatives.

(2) The Minister shall every year report to the House of Representatives the progress registered in meeting the targets set by the low-carbon development strategy and the national adaptation strategy.

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Climate Action
Board.

10. (1) There shall be a board, to be known as the Climate Action Board, hereinafter referred to as "the Board", which shall be appointed by the Prime Minister in consultation with the Minister and which shall consist of the following:

(a) a chairperson;

(b) a deputy chairperson;

(c) a member representing each of the Ministry responsible for finance, economic development and competitiveness, energy, transport, environment, education, national security and civil protection, tourism, social policy, european affairs, land use and development planning policy, health, waste policy, agricultural policy, consumer affairs and regional policy; and

(d) a member representing any other Ministry or public entity may, in the opinion of the Minister, be required for the purpose of this Act:

Provided that the Minister may appoint a deputy chairperson who is independent from Government:

Provided also that the Minister may allow the Board to appoint any further expert or group of experts to assist it in the performance of its functions as may be necessary.

(2) The Minister shall appoint a person to be the Secretary of the Board.

(3) The Chairperson, the other members of the Board and the Secretary of the Board shall hold office for a period of three years, but the members so appointed may be re-appointed on the expiration of their term of office:

Provided that if a member is appointed at any time after the other members have already been appointed, the term of appointment of such other member shall end on the same date as that of the other members.

(4) A person shall not be qualified to hold office as a member of the Board, if the person -

(a) is legally incapacitated; or

(b) has been declared bankrupt or has made a composition or arrangement with his creditors; or

(c) has been convicted of a crime affecting public trust or theft or fraud or knowingly receiving property obtained by theft or fraud, or of any offence against this Act; or

(d) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of the functions as a member of the Board.

(5) Any member of the Board who has any direct or indirect interest relating to any particular function of the Board, not being an interest which disqualifies such member from remaining a member, shall disclose the nature of the interest at the first meeting of the Board after the relevant facts have come to that member's knowledge; such disclosure shall then be recorded in the minutes of the meeting, and the member having an interest as aforesaid shall withdraw from any meetings at which such matter is discussed. Any such disclosure shall be communicated to the Minister without delay. Where the interest of the member is such as to disqualify that member from remaining a member, he shall report the fact immediately to the Minister and tender his resignation.

(6) The appointment of any person as a member of the Board and the termination of office or resignation of any such person, as well as any additional functions assigned to the Board by the Minister, shall be notified in the Gazette, and it shall have effect forthwith:

Provided that failure to publish the appointment or termination of office, as the case may be, shall have no effect on the validity of such appointment or termination.

11. (1) The Board shall have such functions as are set out in this Act and such other functions as may devolve upon it under any other law, or as may be assigned to it by the Minister under this Act.

Functions of the
Climate Action
Board.

(2) It shall be the function of the Board:

(a) to supervise the implementation of this Act and, or any regulations made thereunder;

(b) to monitor that Malta is in fulfilment of its obligations under the UNFCCC and its obligations as a Member State of the European Union;

(c) to advise the Minister on the implementation of this Act and, or any regulations made thereunder and, or any international obligations relating to climate action which the Government may be bound to observe and, or any obligation

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relating to climate action which the Government may be bound to observe as a Member State of the European Union;

(d) to facilitate Government's adherence to the national low-carbon development strategy, the national adaptation strategy and any other strategy or policy which the Minister may issue in terms of this Act or any regulations made thereunder;

(e) to make recommendations to the Minister on any matter relating to this Act or any regulations made thereunder or on any matter relating to climate action;

(f) to annually report to the Minister on the progress being registered in the field of climate change;

(g) to consult with the Malta Council for Economic and Social Development on any matters relating to this Act or any regulations made hereunder;

(h) to consult with the representatives of two environmental voluntary organizations, nominated by registered environmental voluntary organizations in accordance with the Voluntary Organisations Act, as their representatives, on any matters relating to this Act or any regulations made hereunder periodically; and

(i) to carry out such other functions as may be assigned to it by the Minister.

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Power to make regulations.

12. (1) The Minister may, subject to the provisions of this Act, make regulations to give effect to any of the provisions of this Act, or to regulate or otherwise provide about any matter in respect of the functions and the activities which affect climate action in accordance with this Act.

(2) The Minister may, acting in accordance with the provisions of this Act, make regulations for the better carrying out of the provisions of this Act and may appoint any person or body to be the designated authority for the purposes of exercising any duties or obligations which the Government has under this Act.

(3) Without prejudice to the generality of the provisions of sub-articles (1) and (2), such regulations may, in particular:

(a) prescribe the charges and fees that may be levied by the Government for services rendered by it under this Act, or in respect of any matter for which it is considered that a fee should

be payable;

(b) prescribe measures to mitigate climate change;

(c) prescribe measures to prevent, avoid, reduce, and reduce vulnerability to and enhance resilience to, the adverse impacts of climate change and to adapt to climate change;

(d) prescribe measures for the good governance of climate mitigation and adaptation measures;

(e) give effect to any international treaty or instrument, including directives, regulations and decisions, relating to any matter governed by this Act to which Malta may be a party or subject from time to time and to set up structures and make other provisions for the implementation thereof;

(f) provide for the collection, processing, comparison and interpretation of data related to climate action in cognizance of data related to the local economy and international and European Union obligations and to provide that such persons carrying out such activities that may affect climate as may be prescribed, give such information and data to the Government on a regular or other basis as may be prescribed in order for the Government to take necessary action to harmonise local policies and measures in contribution to mitigation and adaptation in climate; and

(g) prescribe the techniques to be used in the monitoring of climate change.

13. (1) Regulations under article 12 shall not be made unless the Minister shall have first published a draft thereof in the Gazette allowing any person a period of at least four (4) weeks to make representations to the Minister. Procedure for making regulations.

(2) The Minister shall consider any representations made under sub-article (1) and may proceed to revise the draft regulations and to promulgate such regulations in accordance with such revision, or to amend any regulations already promulgated.

(3) When the Minister makes regulations concerning the procedure before any board, commission or other body established under this Act, he shall also consult such board, commission or body.

14. (1) Without prejudice to his powers under the provisions of this Act, the Minister may direct any person or any department, agency, corporation or authority established by law to Power to delegate.

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carry out any functions or duties in terms of this Act or of any regulations made in terms of this Act, and, or to ensure the proper implementation of this Act or of any regulations made in terms of this Act, and the Minister may by regulations prescribe and regulate the procedures and methods to be adopted by such person or department, agency, corporation or authority in exercise of such functions.

(2) The Minister may, from time to time, give to any of the entities or to any of its officers or employees such directives and orders, not being inconsistent with the provisions of this Act, as the Minister may deem opportune with regard to the policy that has to be followed by them and to the operation and implementation of their functions, and on any other matter which appears to the Minister to be connected with climate action, and the entity, officer or employee concerned shall, as much as possible, without delay comply with and act in accordance with these directives and orders and shall conduct their functioning in accordance with these principles.

(3) Every entity shall give the Minister all required facilities so that he may obtain all information connected with their affairs and activities of any entity, officer or employee, and for this purpose they shall supply the Minister with returns, bills and any other information connected thereto, or with their functions, and give him all required facilities to audit all given information, in such manner and within such times as the Minister may reasonably require.

(4) The Prime Minister may, by regulations made in consultation with the Minister, delegate any of the Minister's functions under this Act or under any regulations made in terms of this Act to any other Minister.

Power of
Minister to
make
regulations in
relation to
offences and
administrative
fines.

15. (1) Without prejudice to any other provision of this Act the Minister may make regulations prescribing penalties for offences against any regulations made under this Act, and such regulations may:

(a) prescribe imprisonment not exceeding four years and different fines (*multi*) not exceeding one million euro (€1,000,000) for different offences;

(b) prescribe fines (*multi*) calculated in accordance with the duration of the commission of the offence, not exceeding fifty thousand euro (€50,000) for each day during which the offence continues.

(2) Without prejudice to any other provision of this Act, the Minister may make regulations allowing any person or any department, agency, corporation or authority to impose administrative fines not exceeding one million euro (€1,000,000) or other sanctions on any person, department, agency, corporation or authority who is in contravention of any provisions of this Act or of any regulations or directives made thereunder and provide for the procedure for the imposition and enforcement of such fines which procedures may include provisions to the effect that any such fines shall constitute an executive title for the effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

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16. (1) The Minister, in consultation with the Minister responsible for Finance, shall by Order establish and maintain a Climate Action Fund.

Climate Action Fund.

(2) The Climate Action Fund shall be replenished from:

(a) revenues accruing to the Government from its participation in and implementation of market-based measures relating to climate action adopted pursuant to international treaties or European Union legislation, including, *inter alia*, from the auctioning of allowances pursuant to Directive 2003/87/EC as may be amended or replaced from time to time;

(b) revenues generated by the Government through the implementation of national measures relating to the reduction or limitation of greenhouse gas emissions;

(c) any donations or grants made to the Fund by individuals or institutions;

(d) any sums appropriated by Parliament for such purpose; and

(e) any sums or monies as may from time to time be provided by or under this Act or any other law.

(3) (a) The Climate Action Fund shall be administered by a board of governors that is chaired by the Chairperson of the Climate Action Board, or the vice chairperson of the Climate Action Board as his delegate, as appointed according to article 10(1)(a):

Provided that the member representing the Ministry responsible for Finance in article 10(1)(c) shall sit on the Board of Governors *ex officio*.

(b) The Minister shall by regulation establish:

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(i) the composition of the rest of the Board of Governors of the Climate Action Fund; and

(ii) the Rules of Procedure for the Board of Governors of the Climate Action Fund.

(4) The Climate Action Fund shall have a legal personality independent and distinct from that of Government and shall be capable of entering into contracts and of acquiring and transferring property and doing all such things that are necessary for, or ancillary to its functions.

(5) The Climate Action Fund referred to in sub-article (2) shall be applied to:

(a) support the fulfilment of the obligations set out in this Act and regulations made thereunder;

(b) support the fulfilment of the Government's obligations and commitments established by the UNFCCC and European Union legislation;

(c) the provision of financial support to, and the promotion, facilitating and financing of the transfer of, and access to, environmentally sound technologies and know-how or capacity for national requirements and developing countries, in accordance with obligations and commitments of the Government pursuant to international treaties.

(6) The Climate Action Fund referred to in sub-article (2) may be applied to support research and development related to the climate system or to promote education, training and public awareness related to the climate system or to finance such other activities including activities organized by non-governmental organisations, as the Minister, in consultation with the Board, may prescribe.

(7) The board referred to in sub-article (3) shall every financial year deliver to the Minister a copy of its duly audited balance sheet together with a report of its activities during the previous financial year. The Minister shall lay a copy of the balance sheet and of the report on the Table of the House of Representatives.

(8) The Minister may, with the concurrence of the Minister responsible for Finance, make regulations prescribing the procedure to be followed by the board referred to in sub-article (3) and otherwise regulating the fund. The Minister may by such regulations in particular prescribe such functions, activities and initiatives that

may be or are to be financed by the fund.

(9) The revenue of the Climate Action Fund shall not be subject to tax under the Income Tax Act.

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SCHEDULE

(Article 2)

Greenhouse gases include:

- (a) Carbon dioxide (CO₂)
 - (b) Methane (CH₄)
 - (c) Nitrous Oxide (N₂O)
 - (d) Hydro fluorocarbons (HFCs)
 - (e) Per fluorocarbons (PFCs)
 - (f) Sulphur Hexafluoride (SF₆)
 - (g) Nitrogen trifluoride (NF₃)
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Passed by the House of Representatives at Sitting No. 282 of the 30th June, 2015.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

