

# Benefits of the new Family Business Act

**Vanessa Macdonald**

No single family member should hold more than 80 per cent of the shares in a family business to qualify for registration, according to a proposed Family Business Act, which would offer various benefits.

This recommendation was suggested by a committee formed in September 2013 to begin drafting the Family Business Act.

Malta's act would be the first in the EU and tackle extremely complex and thorny issues ranging from succession and fiscal incentives to dispute resolution. It will now be presented to Cabinet and a White Paper will then be issued for public consultation.

The committee included representatives from various ministries and constituted bodies, among other entities, and started off with the definition of a family business.

Those qualified - including international firms in Malta - will be able to register and tap various benefits, ranging from fiscal incentives under the Duty and Documents Act to schemes administered by Malta Enterprise and Malta Industrial Parks.

The outlines of the proposals were presented to a packed business breakfast at the Grand Hotel Excelsior yesterday, where Economy Minister Chris Cardona said three of four businesses in Malta are family run, employing some 40,000 people.

He stressed that the intention was not to create more bureaucracy and red tape but to create a legal framework - and incentives - for

the successful transfer of businesses from one generation to the next.

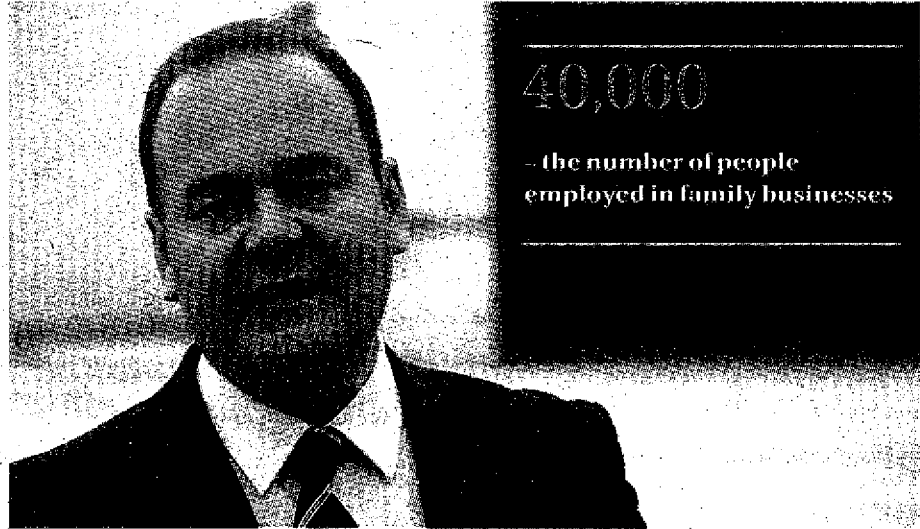
He noted that only 30 per cent of family-owned businesses are passed from one generation to the next and fewer than 10 per cent survive to the third.

**"We welcome something that would encourage the consolidation of businesses across generations, not the breaking up of estates"**

One thing that the committee stressed was that owners should be encouraged to start the succession process well before they reach retirement age and also to approach it in phases. The act will recognise transfers to family members including spouses (married or in civil unions), descendants and their spouses, and siblings.

Lawyer Max Ganado pointed out that far too many companies become fragmented when moving to another generation, and this fragmentation can spell disaster.

"We welcome something that would encourage the consolidation of businesses across generations, not the breaking up of estates," he said.



**Economy Minister Chris Cardona. Photo: Mark Zammit Cordina**

Bank of Valletta chairman John Cassar White said he hoped the new act would provide a better framework for solutions when things went sour, preventing long drawn-out court cases, as recently highlighted by the International Monetary Fund.

The registration process will require information about the shareholding, voting rights, management structure and so on.

The composition of a company can be quite complex, ranging from unregistered partnerships to listed ones, but all have been considered, including those established through holding companies, trusts

and foundations, legal adviser Nadine Sant confirmed. Karl Herrera of Malta Enterprise said it was being proposed that various schemes like Microinvest and Advisory Services would be open to family businesses, in addition to €1,000 grants to provide short-term training on governance.

The transfer of factory leases to family-owned businesses will also be facilitated.

European Commission representative Marko Curavic said that funds would be made available next year to help national statistics offices conduct research into family businesses.