

ACCESS TO EMPLOYMENT SCHEME (3rd Call)

GUIDANCE NOTES

3rd Call for Applications

Version 2

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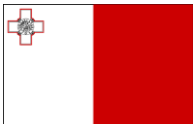


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CHAPTER 1: INTRODUCTION

1.1 Scope of the Guidance Notes

The Guidance Notes assist Employers when applying for grants under the 3rd Call of the ^{Access} to Employment (A2E) Scheme. The scheme is co-financed by the European Social Fund (ESF), the Maltese Government and the Employers and falls under Malta's Operational Programme 'Investing in human capital to create more opportunities and promote the wellbeing of society' for the 2014-2020 Programming Period. Through this scheme, funds are granted¹ to Employers² for the recruitment of disadvantaged, severely disadvantaged and disabled persons.

The objective of the European Social Fund (ESF) under the European Union's Cohesion Policy 2014 – 2020 is to contribute to the European Union's economic and social policy by improving employment and job opportunities, encouraging a high level of employment and more and better jobs.

All applications must abide by the Guidance Notes valid at the time of application, which may be periodically reviewed, updated and amended.³ These can be found on Jobsplus website <https://jobsplus.gov.mt/schemes-jobseekers/a2e-scheme>.

1.2 Rationale of the Scheme

The 3rd Call under the A2E Scheme will provide employment aid to employers in Malta and Gozo to promote the recruitment of the more challenged amongst job seekers, unemployed and inactive. The scheme will be:

- Enhancing opportunities to access the labour market and providing work experience to those furthest away from gainful occupation;
- Bridging the gap between labour market supply and demand;
- Increasing social cohesion.

1.3 State aid Rules

With regards to those entities that carry out an economic activity within the meaning of Article 107 TFEU, the scheme will be implemented in line with Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the common market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU)⁴, as amended by Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs,⁵ and by Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments, and as may be subsequently amended⁶ (the General Block Exemption Regulation).

1.4 Available Budget and Duration of the scheme

The 3rd Call of the Scheme is launched on 1st October 2020.

¹ Subject to certain terms and conditions

² Includes private enterprises, NGOs, Social Partners.

³ Jobsplus reserves the right that some amendments may be applied retrospectively.

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02014R0651-20170710&from=EN>

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R1084&from=EN>

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0972&from=EN>

The Scheme is still demand driven and grants will be awarded on a first-come first-served basis, subject to the annual ceilings and total budget. The total available budget for the 3rd Call is €4 million, with an indicative annual calendar year ceiling of c. €1.5million.

Complete applications must be submitted by the **end of August 2022** and recruitment must take place by **end September 2022**.

1.5 Main Parties involved with the Implementation of the 3rd Call under the A2E Scheme

1.5.1 Jobsplus

The overall responsibility for the management and implementation of the 3rd Call is that of Jobsplus, hereinafter referred to as the Intermediate Body (IB).

1.5.2 The Beneficiary

The beneficiary hereinafter is referred to as the Employer.

- a) In the case of the 3rd Call, the beneficiary is the Employer benefiting from the wage subsidy when recruiting an eligible participant based on a signed Grant Agreement.
- b) The beneficiary is responsible to implement the employment activity in line with the terms and conditions of the Grant Agreement signed and of these Guidance Notes. **The beneficiary should always be guided by the principles of good governance, sound financial management, fairness and transparency.**
- c) The list of Employers benefiting from aid schemes funded through the European Social Fund will be listed on Jobsplus website www.jobsplus.gov.mt.

1.5.3 The Line Ministry

The Line Ministry, the Ministry for Education and Employment, reserves the right to conduct unannounced monitoring visits on a sample basis to ensure that the employment of the participant is ongoing as per application submitted and corresponding grant agreement. The Line Ministry is also responsible for raising the Local Purchase Order and upload on the Structural Fund Database.

1.5.4 The Ministry for Foreign and European Affairs (MFEA)

The Strategy and Implementation Division, EU Payments Unit within the Ministry for Foreign and European Affairs (MFEA) is responsible for:

- a) Carrying out relevant checks;
- b) Effecting reimbursement to Employer through the Central Bank of Malta (CBM).

CHAPTER 2: ELIGIBILITY OF APPLICATIONS

Complete applications are evaluated by the Evaluation Committee, against the eligibility criteria listed in this Chapter. The criteria have been approved by the Monitoring Committee in line with Article 110 (2) of Council Regulation 1303/2013⁷.

⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303&from=EN>

2.1 Eligibility of the Employer

Eligibility is subject to availability of funds and subject to the overall scheme's eligibility period. Latest version of the documentation as published on Jobsplus website must be submitted.

2.1.1 Eligibility Criteria for Employers

- a) **Complete documentation⁸:** The Applicant shall fill in and submit the latest available Access to Employment Application form found on the Jobsplus website <https://jobsplus.gov.mt/schemes-jobseekers/3rd-Call-scheme> complete with all relevant details, including supporting documentation as applicable.

With regards to the State aid option of this scheme, no assistance will be granted to those undertakings and/or sectors expressly excluded from receiving aid in line with Article 1 of the General Block Exemption Regulation.

When applying for the 3rd Call under the A2E Scheme it is also understood that the Applicant is to have all accounts including Annual Reports and the last audited Financial Statements⁹ updated with the relevant authorities, such as the Malta Business Registry (MBR)¹⁰. The IB will conduct the necessary checks to confirm the composition and size of the applicant undertaking. Verifications are also carried out to determine if the applicant undertaking is in difficulty. This will be ascertained through the Jobsplus database, information obtained through the MBR company accounts records (if applicable) and other sources.

If the latest updated records are not available, the IB will request such documents from the applicant. **Failure to present the relevant documents within a stipulated timeframe, may lead to the rejection of the application¹¹.**

In case of newly-established enterprises which have commenced operations within the previous three years and whose accounts have not yet been submitted, the data to be applied is to be derived from a bona fide estimate made in the course of the financial year. These will be obtained from estimates evidencing that they originated from the accountant of the company.

Other applicant entities, for example self-employed persons and partnerships, need to submit the latest Tax Return Form and Income Statement (Profit and Loss Account) as part of the application documentation. In cases where the entity has just started up (has commenced operations within the previous three years), estimates/projections submitted via email by the contact or delegated person are required.

- b) **All Employers:** The applicant must meet all the eligibility criteria to benefit from this scheme. Eligible applicants cover all Employers having an economic activity irrespective of their legal form. These include partnerships, companies, family businesses, associations, individual self-employed or other body of persons, NGOs and Social Partners, when recruiting new employees (or keeping in employment newly registered disabled person) subject to eligibility in line with Section 2.2 below below). Such definition implies that in the case of self-employment there must be at least one person in the Employer's organisation who is engaging a different person through the 3rd Call ¹².

NGOs and Social Partners not having an economic activity are also eligible to benefit from the scheme.

⁸ Access to Employment Application Form can be downloaded from the Jobsplus Website (link: <https://jobsplus.gov.mt/schemes-jobseekers/3RD-CALL-scheme>)

⁹ Audited Financial Statements should be provided for all linked and subsidiary organisations.

¹⁰ If the audited statements are not yet available on the relevant entity platform a copy of the receipt confirming that the accounts were submitted.

¹¹ COVID-19 measures adopted as from 06th April 2020.

¹² This is not applicable for NGOs and Social Partner; Participant/s can be the first person employed with the NGOs and Social Partner.

c) In the case of **undertakings**, where the **recruitment does not represent a net increase, compared with the average over the previous twelve months** in the number of employees in the undertaking concerned, the post or posts shall have fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy. A definition of an Undertaking can be found in the ‘Annex 3: Definition of Term’ of these Guidance Notes.

d) **Incentive effect**: as long as the Employer has submitted a written application prior to engaging the 3rd Call participant, aid shall be considered to have an incentive effect. Persons engaged before an application is submitted would not be eligible under the 3rd Call.

The incentive effect criterion will not be applicable in case an employer is applying under the 3rd Call for wage subsidy for an employee who is kept in employment after he/she is registered as RDP.

e) **Project implemented within / for the direct benefit of the eligible territory**: The eligible territory for this scheme is the whole legal territory of the Maltese Islands.

f) In the case of undertakings, when recruiting an employee, every **Undertaking must be financially sound**, i.e.: Any of the circumstances mentioned in the definitions section below (refer to Annex iii), would render it as an **“Undertaking in Difficulty”**.

In line with the amendments to the GBER introduced through Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments, it is possible for aid to be granted to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021.

2.2 Eligibility of the Participant

2.2.1. Target Groups

The following tables illustrate the eligible target groups, level and duration of assistance.

Disadvantaged Persons

Target Group	Client Group	Duration of Assistance ¹³
1	Any person of age 24 and over who has been unemployed/inactive for the previous 6 months.	52 weeks
2	Any unemployed person of age between 15 to 24 who previously participated and completed the Youth Guarantee / Work Exposure / Traineeship Scheme and is recruited for the first-time following completion of such initiatives.	52 weeks
3	Any person who is living as a single adult who has one or more dependants and is not in full-time employment.	52 weeks
4	Any person of age 24 and over who has not attained an upper secondary educational or vocational qualification (ISCED 3), who does not have a job.	52 weeks
5	Any person older than 50 years who does not have a job.	52 weeks

¹³ For Target Groups 1 to 5 the last full agreement will be signed in October 2022. As from October 2022 the subsidy period may be reduced (the retention period will also be reduced pro rata) considering that the scheme will have to come to an end by September 2023.

Severely Disadvantaged Persons

Target Group	Client Group	Duration of Assistance ¹⁴
6	Any person who has been unemployed / inactive for the previous 12 months during which he/she has not benefited from a traineeship with the Undertaking and who belongs to one of the categories (3) to (5).	104 weeks
7	Any person of age 24 and over who has been unemployed / inactive for the previous 24 months during which he/she has not benefited from a traineeship with the Undertaking.	104 weeks

Disabled Persons

Target Group	Client Group	Duration of Assistance ¹⁵
8	Any person who is a registered disabled person under national law.	156 weeks

2.2.2 Eligibility Criteria for Participants

- a) Participant must fall under any one of the above-mentioned Target Groups¹⁶
- b) All participants under Target Groups 1, 6 and 7 must have been unemployed / inactive **in the Maltese islands** for the periods as specified in the above criteria.
- c) Participants must not have been employed with the Undertaking within the previous 12 months.
- d) **Shareholders** and **Directors** of the Undertaking will not be eligible to benefit from the 3rd Call under the A2E scheme if they take up employment within the same Undertaking.
- e) **Person occupying official positions** with the NGOs and Social Partners will not be eligible to benefit from the 3rd Call if they take up employment within the same NGOs and Social Partners.
The termination reason of the Participant's last employment must not be due to **"employed elsewhere"**¹⁷ (i.e. on Jobsplus Termination Form) unless the employment was terminated at least 3 months prior to the engagement with the 3rd Call Employer.
- f) For Client Group 8 (Registered Disabled Persons), the following scenarios will be eligible:
 - i. RDP Unemployed, or
 - ii. RDP in part-time employment (refer to point h below), or
 - iii. RDP in full time or part time employment but registered as disabled worker after the issue of the 3rd Call. The company employing him/her may receive support under Target Group 8, starting from the moment when a grant agreement is issued.
- g) A participant can apply **only once** under the A2E Scheme with the same Undertaking.

¹⁴ For Target Groups 6 to 7 the last full agreement will be signed in October 2021. As from October 2021 the subsidy period may be reduced (the retention period will also be reduced pro rata) considering that the scheme will have to come to an end by September 2023.

¹⁵ For Target group 8 the last full subsidy period will be signed in October 2020. As from October 2020 the subsidy period may be reduced (the retention period will also be reduced pro rata) considering that the scheme will have to come to an end by September 2023.

¹⁶ IB reserves the right to revise the target group identified at application stage and select the most appropriate

¹⁷ With the exception for Target Group 8 – Registered Disabled Person

h) A participant under Target Group 3 or 8 who is in part-time employment may still be eligible for subsidy if the employment is changed from part-time to full-time (40 hours per week) or if the person becomes RDP after the launch of the scheme.

i) Apprenticeship:

- i. Persons falling under target group 8 and who have participated in the Apprenticeship scheme may be eligible under the 3rd Call;
- ii. Persons falling under target groups 1 to 7 who participated under the Apprenticeship scheme may be eligible under the 3rd Call with an Undertaking other than the same Undertaking who provided their apprenticeship. Apprentices may participate under the 3rd Call with the same Undertaking who provided the apprenticeship 12 month after the end of their apprenticeship contract.

2.3: Employment Retention Period following the Subsidy Period.

In line with Articles 32(4) and 33(4) of Commission Regulation (EU) No 651/2014, as amended, workers shall be entitled to continuous employment for a minimum period consistent with national legislation.

Furthermore, for ALL target groups, the Employer must retain in employment the recruited person for a further period (as per table below) following the subsidised period. Such retention period will be checked against Jobsplus database¹⁸.

Duration of Subsidy	Retention Period ¹⁹
52 weeks	4 months
104 weeks	8 months
156 weeks	12 months

The IB will retain the prerogative to reimburse the undertaking only for the weeks completed in full in case the grant period or the retention period is not respected. For case scenarios please refer to FAQs available on Jobsplus website <https://jobsplus.gov.mt/schemes-jobseekers/fileprovider.aspx?fileId=6103>.

2.4 Employment which has an Incentive Effect

The Employer may recruit the participant following the IB's acknowledgment of receipt of the application (*i.e. at least one day after the acknowledgment date*). Therefore, **employment of the participant on or prior to the acknowledgment date will not be eligible for funding**. Confirmation of funding will be determined upon receipt of the acceptance letter and signing of the Grant Agreement. Employers can recruit the person after the acknowledgment at their own risk. The Grant Agreement period must commence after the acceptance letter's date or the engagement's date; whichever comes last.

The above is not applicable when an employer will be applying for under this 3rd Call for already employed persons who become RDP after the launch of the scheme.

2.5 Eligible Cost²⁰

Eligible costs for the recruitment of disadvantaged workers and for the employment of workers with disabilities under the 3rd Call of the A2E scheme will be paid for the periods indicated for each of the above target groups

¹⁸ This will apply also for all grant agreements issued during Call 1 and Call 2.

¹⁹ Retention period may be reduced pro rata depending on the grant period.

²⁰ Eligible Cost maybe revised by increasing C.O.L.A. in the coming years

to cover part of the basic wage cost for full time 40 hours or part time 20 hours. The standard rate of unit cost²¹ based on 40 hours per week will be published by Jobsplus on its website <https://jobsplus.gov.mt/schemes-jobseekers/a2e-scheme>. The rate may be revised annually to include the increase in cost of living.

In case of part-time employment, the participant may work a minimum of 20 hours per week or more, however the grant will always be based on 20 hours per week.

In the case of employers that are undertakings that carry out an economic activity within the meaning of Article 107 TFEU, the following aid intensities must be respected:

- In the case of recruitment of disadvantaged workers, the aid intensity shall not exceed 50% of the eligible costs.
- In the case of aid for the employment of workers with disabilities, the aid intensity shall not exceed 75% of the eligible costs.

CHAPTER 3: APPLYING FOR THE 3rd Call

3.1 Application Process

Applicants are required to use the latest official application and supporting documentation found on the Jobsplus website www.jobsplus.gov.mt.

One application can be submitted for more than one participant as long as it is for the same position.

The 3rd Call Application Form should be filled in electronically. Complete dated applications, together with all supporting documentation (if any) must be submitted in full. Applications are to be submitted electronically on a2e.jobsplus@gov.mt. **Incomplete applications will not be accepted.**

Delegated persons will be able to liaise with the Access to Employment Unit with any queries or clarifications pertaining to the application.

3.2 Documentation to be submitted with the application form:

1. **If Self Employed:** a copy of the last **Tax Return Form and Income Statement** (Profit and Loss Account). **In case of Non-Governmental Organisations** must submit:
 - i. a copy of the 'compliance e-mail' issued by the Office of the Commissioner for Voluntary Organisations, and
 - ii. a declaration signed from the NGO's President or the General Secretary, identifying the person/s occupying an official position within their organisation. This declaration should clearly indicate who is responsible for the application. This person does not necessarily need be formally employed by the NGO.
2. **In case of Social Partners:** supporting documentation from the Department of Industrial and Employment Relations²² confirming that they are currently registered with them.
3. **In the case of foreign participants:** A copy of the Maltese Residence Permit/Card (**both sides**) must be presented
4. **If participant falls under Target Group 3:** Request for Verification Form

²¹ Such costs are in line with the simplified cost options as set out in Regulation (EU) No 1303/2013 of the European Parliament and of the Council (OJ L 347, 20.12.2013).

²² DIER

5. **If participant falls under Target Group 4:** Signed Curriculum Vitae²³ or Template Form. If the participant has attended any foreign education, he/she must obtain a confirmation from the NCFE²⁴ regarding the ISCED Level of the highest qualification attained.

Other documentation may be requested at any time for additional verification purposes.

Jobsplus will issue a letter of acknowledgement of receipt to the Employer.

3.3 Evaluation Process

3rd Call applications are processed by Jobsplus Evaluation Committee within fifteen days from receipt of **complete** documentation. Both the Employer and the participant must be eligible for the application to proceed to Grant Agreement Stage.

- i. An Acceptance letter is issued in the case of eligible applications, followed by a Grant Agreement;
- ii. A Non-Acceptance letter is issued in the case of ineligible applications, followed by an Appeal form. In such cases the Employer has the right to submit an appeal to the Appeals Board within **10 working days** from the date on the Non-Acceptance letter. The appeal should include a detailed explanation by the Employer, which can be considered during the appeals process. If the appeal is upheld, the consideration of the application will proceed. **Late Appeals will not be accepted.** The decision of the Appeals Board will be final for the purpose of the scheme.

Please refer to Figure 3.1 for further details on the applicable processes.

3.4 Signing the Grant Agreement

The Employer must submit the below when signing the Grant Agreement.:

1. Jobsplus official **engagement form** of the eligible participant;
2. The **Employment Contract** (Statement by the Employer) –.
3. The **Financial Identification Form** ²⁵

3.5 Conditions to be offered to 3rd Call participants

When engaging employees through the 3rd Call under the A2E Scheme, the Employer must ensure that the conditions of employment are in line with the Employment and Industrial Relations Act of 2002. 'Conditions of Employment' including: wages; the period of employment; hours of work and leave; and any conditions related to the employment of any employee under a contract of employment. This also includes any benefits arising from terms of engagement; terms of work participation; manner of termination of any employment agreement; and the mode of settling any differences, which may arise between the parties to the agreement. It does not include professional ethics arising from any professional relationship between an employer and an employee.

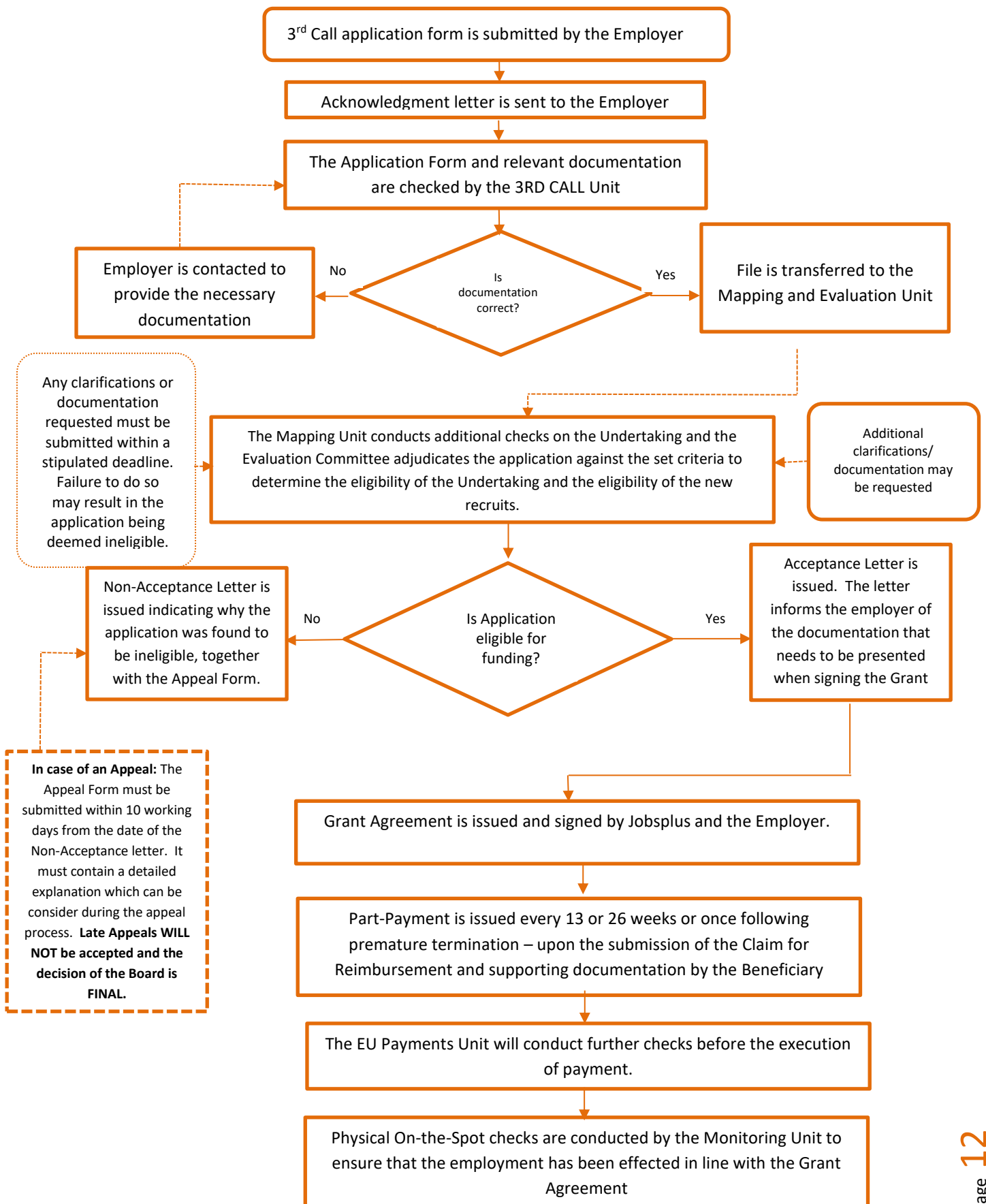
For further details you can contact the Department of Industrial and Employment Relations. Contact details available on <https://dier.gov.mt/en/Pages/home.aspx>

²³ Participant's Curriculum Vitae must contain all the basic minimum information found on the template provided

²⁴ National Curriculum for Higher Education - <http://ncfhe.gov.mt/en/Pages/default.aspx>

²⁵ The original Financial ID Form needs to be submitted once. [to be re submitted at reimbursement stage if different from the FIF submitted at application stage]

Figure 3.1: 3rd Call System Flowchart



CHAPTER 4: FINANCIAL MANAGEMENT AND PAYMENTS

Reasonable care shall be taken by the Access to Employment Unit to ensure that the payment process is not unduly delayed. The Access to Employment Unit shall not be held responsible for delay or loss due to reasons beyond its control. It is the responsibility of the Beneficiary to ensure that claims for reimbursement together with relevant documentation are sent duly completed and correctly.

4.1 Payment Procedures and Reimbursement

As part of the Payment and Reimbursement Procedures, the 3rd Call Unit within the IB will be responsible to ensure that the:

- a) Claims for reimbursement made by the Beneficiary are correct; and
- b) Employment has been affected.

4.1.1 Proof of Fulfilment of Conditions

The Beneficiaries must pay from their own funds the total expenditure incurred. Prior the authorisation of payment by the EU Payments Unit, Jobsplus will be requesting the below supporting documentation to verify that all the conditions of the Grant Agreement and these Guidance Notes have been adhered. All necessary documents can be found and downloaded from Jobsplus website www.jobsplus.gov.mt.

4.1.2 3rd Call Wage Costs Reimbursement Documentation

The Beneficiaries must complete and submit the following documentation to claim for reimbursement:

- a) A **Claim for Reimbursement Request Form**: This must be filled in for each participant and has to be signed by both the Employer's Project Leader/delegated person; and by the participant if he/she is still in employment with the Employer;
- b) A copy of the **Financial Identification Form (FIF)** to enable direct payment of the subsidy (to be submitted if different from the FIF submitted at application stage).
- c) The **Common Immediate Result Indicator of Participant Form**²⁶ to capture the effects on the participant brought about the scheme, i.e. change in situation of participant.

Once **annually**, the Beneficiaries will be receiving a certificate issued by the Inland Revenue Department, confirming the 3rd Call participants that the Employer has included in the annual FS3 and FS7 submission for the relevant year. The Employer must submit a copy of this certificate to Jobsplus.

Other **documentation** may be requested at any time for additional verification purposes.

Checks may be carried out by Jobsplus officials or any other relevant authority to clarify and certify the correctness and the eligibility of subsidy, even following the execution of payment.

4.1.3 Payment timeframes

The subsidy will be paid to the beneficiary quarterly or upon completion of every 26-week period; or once, following premature termination of the Grant Agreement.

²⁶ The Common Immediate Result Indicator Form needs to be presented at exit / end date of scheme, i.e with the Final Claim for Reimbursement.

Claims for Reimbursement are expected to be processed by Jobsplus within a timeframe of three months from receipt of complete reimbursement documentation and any clarifications sought. Jobsplus shall not be held responsible for any delay due to reasons beyond its control. It is the responsibility of the Employer to ensure that all the relevant documentations are correct and sent in time in order not to slow down the process.

Once the Access to Employment Unit is satisfied that reimbursement of expenses incurred is in accordance with the approval and also in line with other conditions that may have been subsequently agreed with the Beneficiary, a request for payment will be forwarded to the Strategy and Implementation Division, EU Payments Unit within the Ministry for Foreign and European Affairs (MFEA). Jobsplus will not be held liable for delays in the approval process or for any overturning of Jobsplus' s approval of payment.

4.2 Double Funding

To avoid double funding of wage costs by other Community or National schemes including, COVID-19 Wage Supplement, COVID-19 Parent Benefit, COVID-19 Disability Benefit and Medical Benefit, Jobsplus reserves the right to share all information regarding the 3rd Call with other public entities/public authorities to ensure that no other public funds are made available to the Beneficiary in respect of the same employment. Funding of basic full wages for the same employment from any other sources is strictly prohibited.

With regards to assistance granted to undertakings that carry out an economic activity within the meaning of Article 107 TFEU, the rules on cumulation as outlined in Article 8 of the GBER will be respected.

4.3 Employers subject to Recovery of Community and National Funds

The Beneficiary should notify Jobsplus if the Beneficiary is or becomes at any time subject to any recovery of funds procedures either in Malta or in any other Member State; any outstanding recovery orders following a previous Commission decision declaring an aid granted by Malta illegal and incompatible with the internal market, that are still in place would exclude the Employer from receiving aid.

CHAPTER 5: MONITORING AND EVALUATION

5.1 Monitoring Structures

5.1.1 Monitoring by the Beneficiary

The Beneficiary has the responsibility of ensuring effective monitoring of the subsidised employment. The responsibility of the Employer extends beyond the achievement of results but entails also monitoring of the physical implementation. It is up to the Employer to choose the most appropriate tool to ensure effective and timely monitoring. The IB may request photographic evidence of the subsidised employment for use in the Scheme's publicity.

5.1.2 Physical on-the-spot check by Jobsplus

Jobsplus monitoring officers will conduct monitoring visits to evidence the employment of the participant in relation to the 3rd Call Application Form and that the respective employment parameters are being met by the Employer. Each monitoring visit will be documented by a monitoring report and photographic evidence (the latter may be used for publicity purposes). Recorded telephone monitoring visits may also be conducted by Jobsplus and the Managing Authority.

Unannounced monitoring visits will also be conducted at the sole discretion of Jobsplus.

5.1.3 Participation in Monitoring and Evaluation Activities

The Beneficiary accepts to participate in and contribute to all monitoring and evaluation activities organised by Jobsplus, the Managing Authority²⁷, the European Commission as well as other Authorities.

CHAPTER 6: AUDIT AND CONTROL

6.1 Internal Control (Employer)

Officials from the Managing Authority²⁸, the IB and other horizontal stakeholders²⁹ and audit bodies will also have the right of access to all information related to the funded operation. This will include (but will not be limited to) the performance of documentary and monitoring reports to monitor compliance with the Grant Agreement, with the horizontal priorities of publicity, state aid, equal opportunities, the environment and sustainable development, evaluation and with the prevailing EU Regulations for Structural Funds.

The Beneficiary understands that Jobsplus reserves the right to implement preventive and detective control mechanisms to combat fraud and corruption. Jobsplus is also committed in transmitting cases to the competent authorities for investigations and sanctions.

The Beneficiary shall be solely responsible to ensure that to the best of its knowledge, no funds invested in this Operation by such Employers are of illicit origin, including products of money laundering or linked to the financing of terrorism.

6.2 First Level of Control & On-the-Spot Checks (Jobsplus and other Authorities)

Management verifications shall be carried out by Jobsplus, the Managing Authority, the Certifying Authority³⁰ and other Authorities to ensure that the employment is real and in line with the Grant Agreement and complies with Community and National rules (e.g. State Aid, protection of the environment, equal opportunities and publicity throughout the implementation of the operation) were adhered to.

Jobsplus may conduct three types of checks:

- a) **Physical On-the-Spot Checks or Recorded Telephone checks (Monitoring)** – These will be carried out on all Beneficiaries to ensure that the employment of the new participant under the 3rd Call Scheme has been affected and is in line with the Grant Agreement;
- b) **Desk-Based On-the-Spot Checks** – On a sample basis, more in-depth checks may be carried out on the Beneficiary; in terms of retention of documents and checks related to national insurance contributions (i.e. IRD Certificate). Further documents may be requested to the Employers in order for Jobsplus to conduct these checks;
- c) **Desk-Based Documentary Checks** – This will be carried out on all Beneficiaries to ensure that documents are correct.

It should be noted that these checks are NOT audits but administrative and physical verifications. Jobsplus will co-ordinate such checks. Any queries that may arise from such spot checks are submitted to the Beneficiary's Project Leader and should be answered within the stipulated deadline.

²⁷ The Managing Authority (MA) is the body responsible for the overall management of the EU Cohesion Policy. The MA is the Planning and Priorities Co-ordination Division within the Ministry of Foreign and European Affairs.

²⁸ The Planning and Priorities Co-ordination Division (PPCD) within the Ministry for Foreign and European Affairs.

²⁹ <https://eufunds.gov.mt/en/Operational%20Programmes/Useful%20Links%20and%20Downloads/Documents/2014-2020/Manual%20of%20Procedures%202014-2020.pdf>

³⁰ The Certifying Authority (CA) is responsible for certification process of EU funds. The CA is the EU Certifying Authority within the Ministry for Foreign and European Affairs.

Jobsplus shall inform the Beneficiary at least one working day in advance that a Desk-Based On-the-Spot Check will be carried out. Physical On-the-Spot Checks or Telephone checks may be carried out unannounced by the IB.

The following are some of the verifications that may be carried out by the IB during the Physical or Desk-Based On-the-Spot Checks:

- The new employment has been carried out as per Grant Agreement;
- Regulations on information and publicity were followed;
- All necessary documentation has been retained;
- Compliance with Community and National rules (e.g. State Aid, protection of the environment, equality of opportunities and publicity throughout the implementation of the operation) was adhered to.

The Beneficiary should note that the following documents form an integral part of the project dossier, which may be checked during the On-the-Spot Checks:

- Copy of the Application Form and related documentation;
- Grant Agreement and Addenda/Corrigenda; including electronic correspondence agreeing to Grant Agreement amount and content;
- Copies of all 3rd Call claims / documentation related with reimbursement.
- 3rd Call poster affixed at a location readily visible to the public, such as the entrance area of a building.

The Managing Authority and other Authorities may also carry out these same or other checks.

Follow-up Action to the On-The-Spot Check

Following an on-the-spot/monitoring check, Jobsplus/MA/CA shall fill out the OTS report (outlining findings and where necessary follow-up/recommendations³¹) which shall be signed by a representative of the Beneficiary or a representative of the Institution contracted by the beneficiary and the monitoring officer.

Any follow-up action is to be undertaken by the Beneficiary within a stipulated deadline. Failure to do so may result in suspension of the grant or potential recovery of funds if paid.

Jobsplus undertakes a follow-up spot check if necessary.

6.3 Second Level of Control

The 2nd level of control refers to audits (of systems and operations) that are carried out by the local and foreign audit bodies. The Internal Audit and Investigations Department (IAID) is the designated Audit Authority as per Article 127 of Council Regulation 1303/2013 and it is the main entity responsible for the proper functioning of the management and control system of the operational programme and to audit an appropriate sample of operations on the basis of the declared operation. Their audits are carried out on an ongoing basis throughout the EU Funding Programming Period; therefore, documents are to be retained for **five years** after the end date of the project (*i.e. the mandatory retention period as per Grand Agreement Section 3*). The AA will notify the Employer of the audit at least one day in advance.

Other organisations, including the National Audit Office (NAO), the European Commission and the European Court of Auditors, may undertake audits on their projects. Entities such as the State Aid Monitoring Board (SAMB) or the VAT Department may also carry out checks on the project in order to ensure that the project is being implemented in accordance with State Aid regulations and VAT regulations.

The Beneficiary must ensure that all relevant documentation is made available to the auditors and provide all necessary support to the auditors in carrying out their work.

Findings' reports and follow-ups may be distributed by the AA to Jobsplus, the Managing Authority and the Certifying Authority. The AA may organise additional follow-up audits as required.

³¹ Where applicable.

6.4 Preparing for Audit Visits (applicable to all audits)

As part of their preparation for an audit, Beneficiaries should ensure that:

- All persons (including technical personnel) within the Beneficiary involved in the implementation of the grant being audited are available during the audit.
- All documentation has been filed, to facilitate easy access during the audit. The auditors may ask for copies of all documents that are in file.
- It is important to note that auditors are not required to give notice prior to site visits.

Typically, auditors will seek to examine the following documentation during an audit visit:

a) Employment Documents:

- Acknowledgment Letter
- Acceptance Letter
- Application Form and relevant documentation
- Grant Agreement between the IB and the Employer
- Any addenda / corrigenda to the Grant Agreement
- Employment Contract
- Engagement Form

b) Information and Publicity:

- Verification of compliance with compulsory EU information and publicity requirements during employment period (such as scheme posters hanging in a prominent place within the Employer's premises)

c) Implementation Documents:

- Copy of Claim for Reimbursement Form submitted
- Certificate from the Inland Revenue Department

d) Payment Documents:

- Letter from Jobsplus notifying subsidy payment

6.5 Follow-Up to an Audit

Once an audit is concluded, the auditors will compile a report with all findings and any recommendations. Should there be the need for any clarifications the auditors will seek feedback from both the IB and the Employer.

6.6 Closure

Beneficiary should note that projects can be audited even after completion of the project implementation. In view of this all project documentation must be retained by the Beneficiary for **five years** after the end date of the project.

CHAPTER 7: COMPLIANCE WITH COMMUNITY POLICY

7.1 General Principles

The Beneficiary should ensure coherence with Community Policies namely, State Aid requirements (where applicable), equal opportunities, and non-discrimination, equality between men and women, and sustainable development.

EU funds will be offered on terms and conditions, which will be stipulated in the Grant Agreement. In accepting the offer of EU funds, the Beneficiary will take on responsibility for compliance with these terms and conditions.

The implementation is subject to audits by both National and European Bodies. Officials from the Managing Authority³², the Intermediate Body³³ and other horizontal stakeholders will also have the right of access to all information related to the activity funded. This will include (but will not be limited to) the performance of documentary and physical on-the-spot checks to monitor compliance with the Grant Agreement, with the horizontal priorities of publicity, state aid, equal opportunities, the environment and sustainable development, evaluation and with the prevailing EU Regulations for Structural Funds.

It is important to note that European Structural and Investment Funds are public funds. In this regard, if the employment is eligible for funding, the Beneficiary will be bound by the principles of good governance, sound financial management and the relevant national regulations pertaining to public funds.

7.1.1 State Aid Requirements

With regards to undertakings, EU State Aid rules apply to the 3rd Call under the A2E Scheme³⁴ as it involves direct financial support from the public sector to commercial enterprises or organisations carrying out an economic activity. It is important to note that if an aid recipient (i.e. the Employer) is found to be in breach of State Aid requirements, the funds will be recovered from the Employer possibly together with interests and fines.

7.1.2 Equal opportunities, non-discrimination and equality between men and women

It is important to note that every Beneficiary is required to take a pro-active approach to Equal Opportunities. The Beneficiary must ensure that Equal Opportunities are taken into consideration at all stages of the 3rd Call. Equal Opportunities should be understood to cover not just gender discrimination but also discrimination based on racial or ethnic origin, religion or belief, disability, age or sexual orientation.

In the operation, benefitting this grant the Beneficiary must have in place the necessary safeguards to prevent any form of discrimination based on sex, racial and ethnic origin, religion or belief, age, disability or sexual orientation as referred in terms of Chapter 452 and Chapter 456 of the Laws of Malta.

7.1.3 Sustainable Development

All efforts should be made by the Employer to include Sustainable Development related actions at all stages of the new employment. The Employer must ensure that the operation is structured in such a manner that concrete positive actions towards better sustainability are mainstreamed throughout.

7.1.4 Environmental Sustainability

It is important to note that Environmental matters should also be taken into consideration at all stages of the design and implementation of the new employment. The employment should be structured to avoid any related minimum environmental damage.

CHAPTER 8: REPORTING ON IRREGULARITIES

8.1 How to Detect an Irregularity

Irregularities are mainly detected through the various checks and audits carried out by different entities. Irregularities may also be detected through other means, including controls and evaluations; receipt of grievance or compliant (unanimous or not), and/or public domain information.

³² The Planning and Priorities Co-ordination Division (PPCD) within the Ministry for Foreign and European Affairs.

³³ Jobsplus

³⁴ Applicable only for those enterprises who hold an economic activity

8.2 Reporting an Irregularity

If an irregularity is detected, the Employer has the duty to **IMMEDIATELY** report the irregularity to the Project Leader of the 3rd Call within Jobsplus.

8.3 Financial Recoveries

In cases where an irregularity necessitates recovery of funds, the person/organisation detecting such irregularity must ensure that recovery procedures are initiated immediately.

8.4 Financial Corrections

It is important to note that failure to apply rules and regulations can result in irregularities, which, in turn, could lead to financial corrections. In certain cases, the recovery can be up to 100% of the amount paid.

CHAPTER 9: INFORMATION AND PUBLICITY

9.1 Publicity

- a) In order to enhance transparency regarding the use of the Scheme's Funds, general details of the operation such as: the name of the Employers; the title of the operations and the amount of public funding allocated to each operation may be published.
- b) The IB will provide a publicity poster to the Employer showing the funding sources of the Scheme. The applicant must place this poster in a prominent place within their premises.
- c) The Beneficiary shall ensure that the participants being subsidised under the 3rd Call have been informed about the Scheme's benefits.
- d) The IB may request the Employer to collaborate in the organisation of events or promotional activities, including networking and exchanges at both National and European level.

9.2 Data Protection

All data is collected and held by Jobsplus and/or transferred to official third parties in order to fulfil Jobsplus functions, including publicity and research and other Community obligations according to Law and in line with the provisions of the Data Protection Act³⁵ and the General Data Protection Regulation³⁶.

Beneficiaries should disclose correct and accurate data to Jobsplus. An Employer has the right to access all data relating to the applicant's grants as well as to request that any incorrect data is rectified. The Employer should inform every new employee of what personal data they are disclosing to the authorities.

CHAPTER 10: CLOSURE AND RETENTION OF DOCUMENTS

Beneficiaries should note that projects could be audited even after completion of the Grant Agreement Implementation period. Every Beneficiary benefiting under the 3rd Call of the A2E Scheme is obliged to **keep all documents** related to the operation **for up to 5 years after the end of the project (i.e. the mandatory retention period as per Grand Agreement Section 3)**. Employers are required to maintain documents in their original or copy format (*as applicable*). Refer to Section 6.4 for details of the documents that may be checked during audit visits.

³⁵ Data Protection Act, Cap 586 of the Laws of Malta

³⁶ General Data Protection Regulation (GDPR) (EU) 2016/679

FINAL NOTE

Jobsplus is considering various other simplification procedures; once any is approved by the competent Authorities, these may be added to these Guidance Notes and implemented with retrospective effect in respect of all 3rd Call grants.

Annex 1: ISCED Levels

Malta Qualifications Framework			ISCED 1997	ISCED 2011
8	Doctoral Degree		8 Secondary Stage of Tertiary education	8 Doctoral Degree/PhD or equivalent
7	Master's Degree Postgraduate Diploma Postgraduate Certificate			7 Master's Degree or equivalent
6	Bachelor's Degree		5 First Stage of Tertiary Education	6 Bachelor's Degree or equivalent
5	Undergraduate Diploma Undergraduate Certificate Higher Education Certificate	Foundation Diploma VET Higher Diploma		5 Short-cycle tertiary
4	Matriculation Certificate Advanced Level Intermediate Level	VET Diploma (e)	4 Post-Secondary education	4 Post-Secondary Level
3	General Education Level 3 SEC Grade 1-5	VET Level 3 (d)		3 Upper Secondary Level
2	General Education Level 2 SEC Grade 6-7 Secondary Education School Certificate and Profile (B)	VET Level 2 (c)	3 Upper Secondary education	
1	General Education Level 1 Secondary Education School Certificate and Profile (A)	VET Level 1 (a)(b)	2 Lower Secondary education	2 Lower Secondary Level
			1 Primary education	1 Primary Level
			0 Pre-Primary education	02 Pre-Primary Level 3 years
				01 Pre-Primary Level 0 - 2 years

* VET stands for Vocational Education and Training

Annotations:

* The Qualifications Framework is designed in such a way as to be able to include diverse forms of qualifications not as yet covered by this Framework.

(a) Attainment of the Basic Employment Passport together with either the Adult Skills Certificate or the NCHFE 8 Key Competences at Level 1 are also considered as a Full VET Level 1 qualification.

(b) The NCHFE recommends that a Full VET 1 qualification should enjoy the same parity of esteem as a Secondary School Certificate and Profile (A).

(c) The NCHFE recommends that a Full VET Level 2 qualification should enjoy the same parity of esteem as a Secondary School Certificate and Profile (B)/ SEC Grade 6-7.

(d) The NCHFE recommends that a Full VET Level 3 Qualification should enjoy the same parity of esteem as a General Education Level 3/SEC Grade 1-5.

(e) The NCHFE recommends that a Full VET Diploma should enjoy the same parity of esteem as the Matriculation Certificate.

Source: National Commission for Further and Higher Education (Malta) – Further and Higher Education Statistics 2013/2014

Annex 2: Premature Terminations of the employment under the 3rd Call

- FAQs to guide the Employer and/or participant on how to proceed in particular circumstances are available on our website on <https://jobsplus.gov.mt/schemes-jobseekers/fileprovider.aspx?fileId=4701>.
- The Beneficiary will be refunded only in respect of the weeks completed in full during the 3rd Call i.e. if the participants have worked 25.6 weeks on the scheme the Employer will only be eligible to be refunded for 25 weeks.
- Termination reasons and the respective termination date will be taken from the actual termination form submitted to Jobsplus according to Legal Notice 110 of 1993³⁷- MANPOWER RECORDS (COMMENCEMENT OR TERMINATION OF EMPLOYMENT) REGULATIONS.³⁸

³⁷ Regulation is available on <https://legislation.mt/eli/si/594.17/eng/pdf>

³⁸ This apply also for grant agreements signed in Call 1 and Call 2.

Annex 3: Definition of Terms

- The **'employer'** in relation to the 3rd Call under the A2E Scheme refers to the beneficiary (i.e. employer) to who will be receiving the subsidy in relation to employing new employees through the scheme.
- An **'undertaking'** is considered to be any entity engaged in an economic activity, irrespective of its legal status and the way in which it is financed. This includes Autonomous Undertakings, as well as all partner and linked organisations related to the applicant employer such as Partner Undertakings and Linked Undertakings.
 - a
- An **'autonomous enterprise'** is any enterprise, which is not classified as a partner enterprise within the meaning of 'partner enterprise' or as a linked enterprise within the meaning of 'linked enterprises' as explained below.
- The **'headcount'** corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:
 - a) employees;
 - b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;
 - c) owner-managers;
 - d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.
- The **'Legal Name of Employer'**:
 - a) The legal name of the employer as registered under the law applicable to its establishment. E.g. Employers registrable under the Companies Act – Chapter 387 of the Laws of Malta, should provide the name as registered with the Registrar of Companies.
 - b) Employers, which are not vested with a legal personality acquired through the law applicable to their establishment, e.g. Associations, are to include the name as registered under the Second Schedule of the Civil Code (Chap. 16 Laws of Malta).
 - c) Self-employed/Sole Traders should include the name of the self-employed person.
- **'Linked enterprises'** are enterprises which have any of the following relationships with each other:
 - a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
 - b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
 - c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
 - d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of the definition of ‘partner enterprises’ are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders.

Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors mentioned in the definition of ‘partner enterprises’, are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An ‘adjacent market’ is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

- **‘net increase in the number of employees’** means a net increase in the number of employees in the establishment concerned compared with the average over a given period in time, and that any posts lost during that period must therefore be deducted and that the number of persons employed full-time, part-time and seasonal has to be considered with their annual labour unit fractions;

- **‘Partner enterprises’** refers to all enterprises which are not classified as linked enterprises within the meaning of ‘linked enterprises’ and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of ‘linked enterprises’, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of ‘linked enterprises’, either individually or jointly to the enterprise in question:

- a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same enterprise is less than EUR 1,250,000;
 - b) universities or non-profit research centres;
 - c) institutional investors, including regional development funds;
 - d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5,000 inhabitants.
- **Staff headcount and financial thresholds determining enterprise categories**
 1. The category of micro, small and medium-sized enterprises (‘SMEs’) is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.
 2. Within the SME category, a small enterprise is defined as an enterprise which employees fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.
 3. Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed the EUR 2 million.

- **‘Subsidiary Legislation 343.23’** Manpower records (commencement or termination of employment) regulations. LEGAL NOTICE 110 of 1993, as amended by Legal Notices 144 of 1999, 424 of 2007 and 426 of 2012.
- **‘subsidy’** means a sum of money that the Employer will be eligible to receive if participating in the 3rd Call;
- An **‘employer’** is considered to be any entity engaged in an economic activity, irrespective of its legal form (this includes, also, self-employed persons and family businesses engaged in craft or other activities, and partnerships, associations, Non-Governmental Organisation or Social Partners regularly engaged in an economic activity), as well as Non-Governmental Organisations and Social Partners that are not engaged in an economic activity.
- **‘undertaking in difficulty’** means an undertaking in respect of which at least one of the following circumstances occurs:
 - a) In the case of a limited liability company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, ‘limited liability company’ refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU and ‘share capital’ includes, where relevant, any share premium.
 - b) In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, ‘a company where at least some members have unlimited liability for the debt of the company’ refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.
 - c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
 - d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee or has received restructuring aid and is still subject to a restructuring plan.
 - e) In the case of an undertaking that is not an SME, where, for the past two years:
 - i. the undertaking's book debt to equity ratio has been greater than 7.5 and
 - ii. the undertaking's EBITDA interest coverage ratio has been below 1.0.
- **‘wage cost’** means the total amount actually payable by the Employer in respect of the employment concerned, comprising over a defined period of time the gross wage before tax and compulsory contributions such as social security, child care and parent care cost;
- **‘worker with disabilities’ / ‘registered disabled persons’** means any person who is recognised as worker with disabilities under national law³⁹;

³⁹ <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8718&l=1>