

**L-ATT TA' L-2002 DWAR
L-IMPIEGI U R-RELAZZJONIJIET INDUSTRIJALI**

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A 1842

Naghti l-kunsens tiegħi.

(L.S.)

GUIDO DE MARCO
President

25 ta' Ottubru, 2002

ATT Nru. XXII ta' l-2002

ATT biex jikkonsolida, b'emendi, l-Att li Jirregola l-Kondizzjonijiet ta' l-Impieg (Kap. 135) u l-Att dwar ir-Relazzjonijiet Industrijali (Kap. 266).

IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'ligi dan li ġej:-

GENERALI

Titolu fil-qosor
u bidu fis-schh.

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att ta' l-2002 dwar l-Impiegi u r-Relazzjonijiet Industrijali.

(2) Dan l-Att għandu jibda' jsehh b'dik id-data li l-Ministru responsabbli għal Impiegi u Relazzjonijiet Industrijali jista' b'avviż fil-Gazzetta jstabbilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

Tifsir.

2. F'dan l-Att, sakemm ir-rabta tal-kliem ma' tehtiegħ xort'ohra -

Kap. 343.

"apprendist" għandha l-istess tifsira kif mogħtija lilha bl-artikolu 29 ta' l-Att dwar is-Servizzi ta' Impieg u Tahrig;

"assoċjazzjoni ta' prinċipali" tfisser organizzazzjoni li tiġkonsisti għal kollox jew prinċipalment minn prinċipali u li l-għan ewlieni tagħha huwa, skond ir-regoli tagħha, li tirregola r-relazzjonijiet bejn il-prinċipali u l-haddiema jew it-trade unions;

"Direttur" tfisser id-Direttur responsabbli għall-Impiegi u r-Relazzjonijiet Industrijali;

"forza dixxiplinata" għandha l-istess tifsir kif mogħti lilha bl-artikolu 47 tal-Kostituzzjoni ta' Malta;

"f'chim kollettiv" tfisser f'chim magħmul bejn prinċipal, jew organizzazzjoni waħda jew aktar ta' prinċipali, u organizzazzjoni waħda jew aktar ta' impjegati li għandu x'jaqsam mal-kondizzjonijiet ta' l-impieg skond id-disposizzjonijiet ta' xi liġi li tkun fis-seħħ f'Malta;

"ġenitur" tinkludi ġenitur adottiv jew kull persunal li jkollha l-kustodja legali ta' tifel jew tifla;

"gurnata ta' mistrych fil-ġimgħa" tfisser perjodu ta' erbgħa u għoxrin siegħa konsekuttivi li jibdew fil-hin meta l-impjegat normalment jibda l-perjodu ta' xogħol tiegħu;

"haddiem" għandha l-istess tifsira bħal "impjegat" iżda għall-finijiet tat-Titolu II ta' dan l-Att, "haddiem" tfisser impjegat li jahdem jew li soltu jahdem jew li jkun qed ifittex xogħol -

(a) taht kuntratt ta' impieg; jew

(b) taht xi kuntratt (sew imfisser jew mifhum u, jekk imfisser, sew verbali jew bil-miktub) li bih jintrabat li jagħmel jew jaqdi personalment kull xogħol jew servizzi għal parti oħra fil-kuntratt li ma tkunx klijent professjonali tiegħu; jew

(c) f'impieg taht jew għall-finijiet ta' xi dipartiment tal-Gvern, barra minn bħala membru ta' forza dixxiplinata, safejn kull impieg bħal dak ma jkunx jaqa' taht il-paragrafu (a) jew (b) ta' din it-tifsira,

u dwar tilwima ta' xogħol li fiha prinċipal ikun parti, "haddiem" tinkludi kull haddiem ukoll jekk ma jkunx impjegat minn dak il-prinċipal;

"haddiem ta' barra" tfisser persuna li lilha oġġetti, materjali jew servizzi ta' kull xorta jingħataw minn prinċipal għat-twettiq ta' kull tip ta' xogħol jew servizz meta x-xogħol jew is-servizz għandu jsir jew fid-dar tal-haddiem ta' barra jew f'xi post ieħor li ma jkunx post

taht il-kontroll u direzzjoni ta' dik il-persuna l-oħra;

"hinijiet tax-xogħol" tfisser il-hin f'kull jum li matulu l-impjegati jkunu għad-disposizzjoni tal-prinċipal, minbarra ż-żmien imholli għall-ikel u l-mistrieħ;

"hlas" tfisser it-twelid ta' tarbija hajja jew it-twelid ta' tarbija sew hajja jew mejta wara seba' xhur tqala;

"hsara fuq il-persuna" tinkludi kull marda u kull hsara fil-kondizzjoni fizika jew mentali ta' persuna;

"impieg", dwar tilwima ta' xogħol, tinkludi kull relazzjoni li biha persuna tkun taħdem jew tagħmel xi servizzi għal persuna oħra (barra minn servizz bhala membru ta' forza dixxiplinata);

"impjegat" tfisser persuna li tkun għamlet jew taħdem taht kuntratt ta' servizz jew li tkun intrabtet personalment li tagħmel xi xogħol jew hidma għal haddiehor, u taht id-direzzjon u l-kontroll immedjat ta' persuna oħra, u tinkludi haddiem ta' barra, iżda teskludi xogħol jew servizz mogħti fi sfond professjonali jew bhala kuntrattur għal persuna oħra meta dak ix-xogħol jew servizz ma jkunx regolat minn kuntratt ta' servizz speċifiku;

"impjegat *part-time*" tfisser impjegat li s-sighat normali ta' xogħol tiegħu, kalkolati fuq bażi ta' gimgħa jew fuq medja ta' perjodu ta' impieg sa sena, huma inqas mis-sighat normali ta' xogħol ta' impjegat *whole-time* komparabbli u li ma jkunx impjegat *whole-time* b'sighat imnaqqsa;

"impjegat *whole-time*" tfisser impjegat li hu meqjus bhala impjegat *whole-time* skond xi kondizzjonijiet magħrufin ta' l-impieg;

Iżda meta persuna tkun taħdem f'aktar minn impjeg *whole-time* wieħed, dak l-impieg li dwaru jithallsu l-kontribuzzjonijiet tas-sigurtà soċjali għandu jitqies bhala l-impieg *whole-time* ta' l-impjegat, u kull impieg ieħor għandu jitqies bhala impieg *part-time*;

"impjegat *whole-time* b'sighat imnaqqsa" tfisser impjegat li, bi ftehim mal-prinċipal, jaħdem sghat li huma anqas minn numru ta' sghat ta' xogħol applikabbli għal impjegati *whole-time* skond il-kondizzjonijiet magħrufin ta' l-impieg ta' impjegat *whole-time*, sakemm dan l-impieg ikun l-impieg prinċipali tal-haddiem, li dwaru jithallsu l-kontribuzzjonijiet tas-sigurtà soċjali;

"impjegat *whole-time* komparabbli" tfisser impjegat *whole-time* fl-istess stabbiliment li jkun imqabbad fl-istess jew f'xoghol jew okkupazzjoni simili, meta wiehed iqis konsiderazzjonijiet oħra inklużi anzjanità, kwalifiki u sengħa;

Iżda fejn ma jkun hemm l-ebda impjegat *whole-time* komparabbli fl-istess stabbiliment, il-paragun għandu jsir billi ssir riferenza għal ftehim kollettivi li jkopru impjegati *whole-time* komparabbli simili fi stabbilimenti oħra;

Iżda wkoll fejn ma jkun hemm l-ebda ftehim kollettiv applikabbli, ir-riferenza għandha ssir għall-liġi jew fin-nuqqas ta' disposizzjoni tal-liġi għall-prattika prevalenti kif tista' tiġi stabbilita mill-Bord dwar ir-Relazzjonijiet dwar l-Impiegi;

"kariga pubblika", "uffiċjal pubbliku" u "servizz pubbliku" għandhom l-istess tifsir kif mogħti lilhom bl-artikolu 124 tal-Kostituzzjoni ta' Malta;

"klassi" meta wżata fil-kuntest ta' grupp jew ta' kategorija ta' impjegati, għandha tinftehem għall-gruppi jew kategoriji clenkati fi ftehim kollettiv;

Iżda fejn ma jkun hemm l-ebda ftehim kollettiv, jew fejn ftehim kollettiv ma jipprovdix għal gruppi jew kategoriji ta' impjegati, allura għandha tinftehem għax-xogħol magħmul jew mistenni li jsir indipendentement mit-titolu jew l-isem mogħti lill-kariga;

"konċiljatur" tfisser persuna hekk mahtura skond l-artikolu 68;

"kondizzjonijiet ta' l-impieg" tfisser pagi, il-perjodu ta' l-impieg, is-sieghat tax-xogħol u l-*leave* u tinkludi kull kondizzjoni li għandha x'taqsam ma' l-impieg ta' xi impjegat taht kuntratt ta' servizz inklużi l-benefiċċji li johorġu minnu, it-termini ta' l-impieg, it-termini ta' parteċipazzjoni fix-xogħol il-ftehim dwar il-mod kif jiġi terminat xi impieg u l-metodu ta' kif differenzi li jistgħu jinqalghu bejn il-partijiet fil-ftehim jistgħu jintemma; iżda ma tinkludix etika professjonali li tohroġ mir-relazzjoni professjonali bejn prinċipal u impjegat;

"kondizzjonijiet magħrufin ta' l-impieg" huma dawk il-kondizzjonijiet ta' l-impieg li huma magħrufin skond it-Taqsima II tat-Titolu I ta' dan l-Att;

"kunsill" tfisser il-*Joint Negotiating Council* imwaqqaf bl-artikolu 72;

"kuntratt ta' servizz" u "kuntratt ta' impieg" tfisser ftehim (barra minn servizz bhala membru ta' forza dixxiplinata), sew jekk bil-fomm jew bil-miktub, f'kull ghamla li tkun, li bih persuna tintrabat li taghmel servizz lil jew ta'hem ghal prinċipal bil-hlas ta' paga u safejn ghandhom x'jaqsmu l-kondizzjonijiet ta' l-impieg jinkludi ftehim ta' apprendistat;

"Ministru" tfisser il-Ministru li minn zmien ghal zmien ikun responsabbli ghal Impiegi u Relazzjonijiet Industrijali;

"ghemil" u "azzjoni" jinkludu, kull waħda minnhom, nuqqas, u referenzi ghal li jsir ghemil jew ghat-tehid ta' azzjoni ghandhom jinfechmu f'dan is-sens;

"ordni bicx jiġi regolat settur" tfisser ordni magħmul taht dan l-Att li jirregola l-kondizzjonijiet ta' l-impieg ta' settur jew klassi ta' impjegati;

"ordni ta' *standard* nazzjonali" tfisser ordni mahruġ taht dan l-Att li jirregola l-kondizzjonijiet ta' impieg ta' impjegati b'mod ġenerali;

"paga" tfisser rimunerazzjoni jew qligh, li jithallsu minn prinċipal lil impjegat u tinkludi kull *bonus* li jithallas skond l-artikolu 23 minbarra kull *bonus* jew *allowance* relatati ma' l-eskuzzjoni tax-xogħol jew mal-produzzjoni;

"perjodu ta' l-impieg" tfisser il-hin f'kull jum li matulu l-impjegati jkunu ghad-disposizzjoni tal-prinċipal, imma magħdud iż-zmien imholli għall-ikel u l-mistrieħ;

"preskritt" tfisser preskritt b'dan l-Att jew bi jew taht regoli jew regolamenti magħmula bis-sahha ta' l-Att;

"prinċipal" tinkludi soċjetà, kumpannija, assoċjazzjoni jew korp ieħor ta' persuni, sew jekk ikollhom personalità ġuridika sew jekk le;

"*pro rata*" tfisser il-proporzjon li ghandhom in-numru tas-sighat fil-ġimgħa li fihom jithaddem l-impjegat meta paragonati man-numru tas-sighat fil-ġimgħa, eskluzja s-sahra, ta' impjegat whole-time komparabbli;

"qorti ta' inkjesta" tfisser persuna jew persuni mahtura bhala qorti ta' inkjesta skond l-artikolu 69;

"rappreżentant ta' l-impjegati" għall-finijiet ta' l-artikoli 35, 36(14), 37 u 38, tfisser ir-rappreżentant ta' l-union rikonoxxuta;

"linda fejn li ma hemmx *union* rikonoxxuta, il-kliem għandhom ifissru dak ir-rappreżentant tal-*union* li tagħha l-impjegati jkunu membri, b'dan li f'każ ta' impjegati li ma jkunux imsejbin f'*union*, il-kliem ikun ifisser dak ir-rappreżentant elett kif imiss minn fost l-impjegati mhux imsejbin f'*union*, permezz ta' vot sigriet imsejjaħ għal dan l-ghan mid-Direttur;

"*registrata*", dwar *trade union* jew assoċjazzjoni ta' prinċipali u dwar ir-regoli tagħhom, tfisser *registrata* skond dan l-Att;

"*Registratur*" tfisser ir-Registratur tat-*Trade Unions* mahtur jew imsemmi skond l-artikolu 52;

"*registrazzjoni*" tfisser *registrazzjoni* skond dan l-Att ta' *trade union* jew ta' assoċjazzjoni ta' prinċipali u tar-regoli tagħhom;

"*rikonoxximent*", għall-ghanijiet ta' dan l-Att, tfisser ir-rikonoxximent espliċitu ta' *trade union* *registrata* minn prinċipal jew minn assoċjazzjoni ta' prinċipali għall-ghanijiet ta' negozjar kollettiv;

"*sahra*" tfisser is-sighat kollha ta' xogħol li jaqbzu s-sighat normali ta' xogħol;

"*tilwima ta' xogħol*" tfisser *tilwima* bejn prinċipali u haddiema, jew bejn haddiema u haddiema, li jkollha x'taqsam ma' xi wahda jew aktar mill-hwejjeġ li ġejjin:

(a) *pattijiet* u *kondizzjonijiet ta' impieg*, jew il-*kondizzjonijiet* fiżiċi li tahtom xi haddiema jkunu mehtieġa jahdmu;

(b) *thaddim* jew *nuqqas ta' thaddim*, jew *it-tmiem* jew *is-sospensjoni ta' impieg* jew ta' *dmirijiet ta' impieg*, ta' haddiem wiehed jew aktar;

(ċ) *allokazzjoni ta' xogħol* jew ta' *dmirijiet ta' l-impieg* bejn il-haddiema jew gruppi ta' haddiema;

(d) *hwejjeġ ta' dixxiplina*;

(e) *faċilitajiet għal uffiċjali ta' trade unions*;

(f) *makkinarju għal negozjati* jew *konsultazzjonijiet*, u *proċeduri oħra*, dwar xi wahda mill-hwejjeġ imsemmija qabel, magħdud ir-rikonoxximent minn prinċipali jew assoċjazzjonijiet ta' prinċipali tad-dritt ta' *trade union* li tirrappreżenta haddiema f'xi negozjati jew konsultazzjonijiet bħal dawk jew fit-twettiq ta' dawk il-proċeduri;

(g) is-shubija jew le ta' haddiem fi *trade union* partikolari;

"tkecċija ingusta", dwar haddiem, tfisser -

(a) it-temm mill-prinċipal dwar dak il-haddiem ta' kuntratt ta' impieg għal żmien mhux stabbilit (barra minn impieg bi prova skond kif imfisser f'dan l-Att) li jkun temm li ma jsirx biss minhabba *redundancy* jew għal raġuni xierqa skond id-disposizzjonijiet rilevanti ta' dan l-Att jew xi regolamenti magħmulin taht dan l-Att, jew

(b) li jkun sar bi ksur tad-disposizzjonijiet ta' l-artikolu 64(4), jew

(c) li, għalkemm isir minhabba *redundancy* jew għal raġuni xierqa, ikun diskriminatorju kif imfisser f'dan l-Att jew f'xi regolamenti magħmulin tahtu;

u tinkludi kull nuqqas mill-prinċipal li jerga' jimpjegha lil dik il-persuna jew li jerga' jimpjegaha skond l-artikolu 36(3);

"*trade union*" tfisser organizzazzjoni magħmula għal kollox jew prinċipalment minn haddiema u li l-ghan ewlieni tagħha hu skond ir-regoli, li tirregola r-relazzjonijiet bejn il-haddiema u l-prinċipali jew l-assoċjazzjonijiet ta' prinċipali;

"trattamenti diskriminatorju" tfisser kull distinzjoni, esklużjoni jew restrizzjoni li ma tkunx ġustifikabbli f'soċjetà demokratika inkluża diskriminazzjoni fuq il-bażi ta' l-istat konjugali, tqala, jew tqala potenzjali, sess, kulur, diżabilità, twemmin reliġjuż, opinjoni politika jew shubija fi *trade union*, jew f'assoċjazzjoni ta' prinċipali;

"Tribunal" tffisser it-Tribunal Industrijali mwaqqaf bl-artikolu 73;

"Tribunal Industrijali" tfisser it-Tribunal Industrijali stabbilit skond it-Titolu II ta' dan l-Att.

(2) Għall-finijiet ta' dan l-Att, kwistjoni li fiha tkun parti *trade union* jew assoċjazzjoni ta' prinċipali għandha titqies bhala kwistjoni li fiha haddiema jew, skond il-każ, prinċipali jkunu parti.

(3) Kull disposizzjoni ta' dan l-Att li tehtieg tharis ma' xi disposizzjoni ta' dan l-Att (tkun kif tkun miktuba dik il-htieġa), jew li tippovdi dwar xi kontravvenzjoni tagħha, għandha tintfichem li tehtieg tharis ta', jew bhala li xorta tapplika għal, kull disposizzjoni ta' kull regolament jew regola magħmula taht dan l-Att.

(4) Il-maskil ighodd għall-femminil u s-singular ighodd għall-plural, kemm-il darba r-rabta tas-sens tat-test ma titlobx tifsira oħra.

TITOLU I

RELAZZJONIJIET DWAR L-IMPIEGI

TAQSIMA I

BORD DWAR IR-RELAZZJONIJIET DWAR L-IMPIEGI

3. (1) Bord li jissejjaħ Bord dwar ir-Relazzjonijiet dwar l-
Impiegi u hawnhekk iżjed 'il quddiem imsejjaħ il-"Bord", għandu jiġi
mahtur mill-Ministru.

Bord dwar ir-
Relazzjonijiet
dwar l-impiegi.

(2) Il-Bord għandu jkun magħmul kif ġej:

(a) *chairperson* indipendenti;

(b) id-Direttur responsabbli għall-Impiegi u r-
Relazzjonijiet Industrijali li jagħmilha ta' deputat *chairperson*;

(c) erba' rappreżentanti ta' l-impjegati nominati mill-
Kunsill Malti għall-Iżvilupp Ekonomiku u Soċjali minn fost l-
organizzazzjonijiet nazzjonali li jirrappreżentaw lill-impjegati fi
hdan dak il-Kunsill;

(d) erba' rappreżentanti tal-prinċipali nominati mill-
Kunsill Malti għall-Iżvilupp Ekonomiku u Soċjali minn fost l-
organizzazzjonijiet nazzjonali li jirrappreżentaw lill-prinċipali fi
hdan dak il-Kunsill;

(e) tliet membri oħra mahtura mill-Ministru.

(3) Il-funzjonijiet tal-Bord ikunu -

(a) li jagħmel rakkomandazzjonijiet lill-Ministru dwar
xi *standard* nazzjonali minimu ta' kondizzjonijiet ta' l-impieg,
hawnhekk iżjed 'il quddiem imsejjaħ rakkomandazzjoni għal
standard nazzjonali, sabiex 'l quddiem tidhol f'ordni ta'
standard nazzjonali;

(b) li jagħmel rakkomandazzjonijiet lill-Ministru dwar
kondizzjonijiet ta' l-impieg ta' settur, hawnhekk iżjed 'il
quddiem imsejjaħ rakkomandazzjoni biex jiġi regolat settur,
sabiex 'l quddiem tidhol f'ordni biex jiġi regolat settur;

(c) li jagħti pariri lill-Ministru fuq kull haġa li jkollha

x' taqsam mal-kondizzjonijiet ta' l-impieg jew fuq hwejjeg riferiti lill-Bord mill-Ministru.

(4) Il-Ministru ghandu jahtar ufficjal pubbliku biex ikun segretarju tal-Bord.

(5) Bla hsara ghad-disposizzjonijiet ta' dan l-Att u ta' kull regolament maghmul tahtu l-Bord ghandu jirregola l-procedura tieghu stess:

Izda *è-chairperson* tal-Bord ma ghandux jivvota jekk mhux meta l-voti dwar xi kwistjoni jkunu ndaqs, f'liema kaz ikollu u ghandu jezercita vot deciziv.

(6) Il-Bord ikollu s-setgha li jikkooptja membri minghajr vot u li jahtar sotto kumitati.

TAQSIMA II

KONDIZZJONIJIET MAGHRUFIN TA' L-IMPIEG

Ordinijiet ta' *standard* nazzjonali u ordinijiet biex jigi regolat settur.

4. (1) Meta l-Ministru tasallu xi rakkomandazzjoni ta' *standard* nazzjonali jew xi rakkomandazzjoni biex jigi regolat settur huwa jista', bla hsara ta' dak li jinghad hawn izjed 'il quddiem, johrog ordni ta' *standard* nazzjonali jew ordni biex jigi regolat settur, kif ikun il-kaz, li jixxandar fil-Gazzetta li jaghti schh lir-rakkomandazzjoni ta' *standard* nazzjonali jew lir-rakkomandazzjoni biex jigi regolat settur minn dik id-data li tkun imsemmija fl-ordni:

Izda l-Ministru jista', jekk jidhirlu xieraq, qabel ma johrog ordni kif imsemmi hawn qabel, jirriferrixxi lura lill-Bord ir-rakkomandazzjoni ta' *standard* nazzjonali jew ir-rakkomandazzjoni biex jigi regolat settur li jkunu waslulu u l-Bord ghandu fuq hekk jerga' jikkunsidraha billi jitqiesu xi osservazzjonijiet maghmulin mill-Ministru u jista', jekk jidhirlu xieraq, jerga' jressaq ir-rakkomandazzjoni ta' *standard* nazzjonali jew ir-rakkomandazzjoni biex jigi regolat settur lill-Ministru jew minghajr emendi jew b'dawk l-emendi kif jidhirlu xieraq wara li jqis dawn l-osservazzjonijiet.

(2) Kull rakkomandazzjoni ta' *standard* nazzjonali u kull rakkomandazzjoni biex jigi regolat settur, kif ukoll kull ordni ta' *standard* nazzjonali jew kull ordni biex jigi regolat settur biex jaghtuhom schh jistghu jkollhom disposizzjonijiet differenti ghal kazijiet differenti, jista' jkun fihom disposizzjonijiet biex jigu emendati jew revokati ordinijiet ta' *standard* nazzjonali ta' qabel jew ordinijiet biex jigu regolati setturi, u jista' jkun fihom disposizzjonijiet incidental, supplementali jew konsegwenzjali li jista' jidher li jkunu jinhtiegu sabiex id-disposizzjonijiet ta' xi ordni

ta' *standard* nazzjonali jew ta' ordni biex jiġi regolat settur jkunu jistgħu jitwettqu.

(3) Ebda ordni ta' *standard* nazzjonali jew ordni biex jiġi regolat xi settur ma jkollu sehħ b' mod li jittiefsu xi jeddijiet dwar il-kondizzjonijiet ta' l-impjeg mogħtijin lil xi impjegat b' xi liġi jew taħt xi liġi minbarra dan l-Att jew minn jew taħt xi kuntratt li jkun hemm fis-seħħ.

(4) Mingħajr hsara għal dak li hemm provdut fil-proviso ta' l-artikolu 42, jekk kuntratt bejn impjegat li għalih jgħodd ordni ta' *standard* nazzjonali jew ordni biex jiġi regolat settur u l-prinċipal tiegħu jew xi ftehim kollettiv jahseb għal kondizzjonijiet ta' l-impjeg li jkunu inqas favur l-impjegat minn dawk imsemmijin fl-ordni, dak il-kuntratt ikollu sehħ bħallikieku flok dawk il-kondizzjonijiet kien hemm il-kondizzjonijiet imsemmijin fl-ordni.

5. (1) Il-kondizzjonijiet ta' l-impjeg preskritti f' ordni ta' *standard* nazzjonali, jew f' ordni biex jirregola settur, jew ftehim kollettiv, jew stabbiliti bi ftehim volontarju jew deċiżjoni taħt it-*Titolu II* ta' dan l-Att, jew meħtieġa li jiġu mharsa b' dan jew skond dan l-Att, ikunu kondizzjonijiet magħrufin ta' impjeg għall-impjegati nteressati.

Kondizzjonijiet
magħrufin ta' l-
impjeg.

(2) Meta l-kondizzjonijiet ta' l-impjeg jiġu preskritti fi ftehim kollettiv, il-prinċipal jew il-prinċipali li jkunu parti fih għandhom, fi żmien hmistax-il għnata minn meta jiġi ffirmat dak il-ftehim, jibgħatu lid-Direttur kopja tiegħu awtentikata kif imiss.

(3) In-nuqqas, minn prinċipal, ta' tharis tal-kondizzjonijiet ta' l-impjeg stabbiliti b' ordni ta' *standard* nazzjonali jew b' ordni biex jirregola settur jitqies bhala reat kontra dan l-Att.

(4) Xejn f' dan l-artikolu ma għandu jkun ta' preġudizzju għal xi drittijiet li l-partijiet jistgħu jkollhom minn xi kuntratt ta' servizz jew xi ftehim kollettiv skond id-disposizzjonijiet tat-*Titolu II* ta' dan l-Att jew ta' xi liġi oħra, inkluż il-Kodiċi Ċivili.

Kap. 16.

6. Il-Ministru jista', wara konsultazzjoni mal-Bord, jippreskrivi l-ogħla numru ta' sigħat tax-xogħol fil-gimgha, inkluża s-sahra, għall-impjegati, l-anqas perjodi ta' mistrich kuljum, l-mistrich fil-gimgha u *leave* annwali, u jista' jagħmel disposizzjonijiet differenti għal klassijiet differenti ta' impjegati inklużi disposizzjonijiet inċidentali, supplementali u konsegwenzjali, kif jitqies li jkun meħtieġ.

Hinijiet tax-
xogħol u saħra.

Ghandu jinghata avviz dwar kondizzjonijiet maghrufin ta' impjeg.

Zidiet dwar l-gholi tal-hajja.

Sahha u sigurtà fuq il-post tax-xoghol. Kap. 424.

Leave ghal maternità, leave ta' ġenitur u leave ghal raġunijiet familjari urġenti.

Il-pagi ghandhom jithallsu lill-impjegat ghal kolloxx bi flus legali.

7. Meta jdahhal mieghu mpjegat, il-prinċipal ghandu jfehmu d-disposizzjonijiet ta' kull kondizzjoni maghrufa ta' impieg li tghodd fil-każ tieghu u ghandu jaghti lill-impjegat dikjarazzjoni bil-miktub dwar dawk il-kondizzjonijiet kif jista' jiġi preskritt:

8. (1) Meta tinghata mill-Gvern lill-impjegati *whole-time* kollha tieghu zieda ġenerali fil-pagi u dik iż-żieda tkun dikjarata mill-Ministru b'avviz fil-Gazzetta li tkun ta' applikazzjoni ġenerali għall-impjegati *whole-time* kollha, kull prinċipal ghandu jzid il-pagi ta' kull wicġed mill-impjegati *whole-time* fl-impieg tieghu b'ammont ekwivalenti jew li jikkorrispondi għaż-żieda mogħtija mill-Gvern lill-impjegati tieghu b'effett mid-data li fiha ż-żieda mogħtija mill-Gvern dwar l-impjegati tieghu jkollha effett:

Iżda, fil-każ ta' impjegat li jkollu jedd għal benefiċċji *pro rata* skond dan l-Att jew xi regolamenti magħmulin tahtu, dak l-impjegat ikollu jedd għal parti minn dik iż-żieda fil-pagi fuq bażi *pro rata*.

(2) Għall-fini tas-subartikolu (1), "impjegati *whole-time*" tfisser kull impjegat li jitqies bhala impjegat *whole-time* skond xi kondizzjoni maghrufa ta' impieg kif imfissra f'dan l-Att, u tinkludi kull impjegat iċhor li jahdem ma' prinċipal partikolari għal mhux anqas minn hamsa u tletin siegħa fil-ġimgħa fuq medja ta' perjodu ta' tnaax-il xahar jew parti minnu.

9. Safejn ghandhom x'jaqsmu kondizzjonijiet ta' l-impieg, id-disposizzjonijiet ta' l-Att dwar l-Awtorità għas-Sahha u s-Sigurtà fuq il-Post tax-Xoghol u ta' xi regolamenti magħmulin tahtu ghandhom jitqiesu li jiffirmaw parti mill-kondizzjonijiet maghrufin ta' l-impieg ta' l-impjegati li għalihom jgħoddu dawk id-disposizzjonijiet jew dawk ir-regolamenti u ghandu jkollhom, malli jiġu fis-sehh, l-istess effett bħallikekku kieku ordnijiet ta' *standard* nazzjonali jew ordnijiet biex jiġi regolat settur.

10. Il-Ministru jista' wara konsultazzjoni mal-Bord, jagħmel regolamenti li jistabbilixxu l-inqas perjodi ta' *leave* għal maternità, *leave* ta' ġenitur u *leave* għal raġunijiet familjari urġenti li għalihom impjegat jista' jkollu jedd u l-kondizzjonijiet li jirregolaw dak il-jedd.

TAQSIMA III

PROTEZZJONI TAL-PAGI

11. (1) Hlief meta jkun xort'ohra espressament permess, bid-disposizzjonijiet ta' dan l-Att, l-ammont kollu tal-paga li impjegat jaqla' jew li għandha tkun l-ulu mhallsa, għandha tiġi l-ulu mhallsa bi flus li għandhom kors legali f'Malta, u kull hlas jew akkont ta' dik il-

paga magħmul f' għamla oħra u kull patt f' xi kuntratt li jahseb għal xi għamla oħra ta' hlas jkunu nulli u bla effett.

12. Izda l-hlas ta' pagi permezz ta' čekkk fuq bank f' Malta jew magħmul pagabbli fil-kont bankarju ta' impjegat għandu jitqies li jkun hlas bi flus li għandhom kors legali f' kazijiet li fihom hlas b'dan il-mod huwa soltu jew mehtieg jew ikun aċċettat mill-impjegat interessat.

(2) Il-pagi għandhom jithallsu direttament lill-impjegati li lillhom jkunu jisthoqqu hliet kif ikun xort'oħra provdut b'xi liġi jew bis-sahha ta' ordni magħmul minn qorti kompetenti jew meta l-impjegat jew l-impjegati interessati jagħtu l-kunsens li jsir xorta oħra.

12. Ebda prinċipal ma għandu jimponi f' xi kuntratt ta' servizz xi kondizzjonijiet dwar il-post li fih jew il-mod li bih, jew il-persuna jew persuni li magħhom, xi paga mħallsa lill-impjegat, jew parti minnha, għandha tintefaq jew tiġi impjegata mod ieħor, u kull kondizzjoni bhal dik li jkun hemm f' xi kuntratt bhal dak tkun nulla u bla effett.

Kondizzjonijiet
dwar l-infieq ta'
pagi.

13. (1) Pagi li jithallsu minn prinċipal lil impjegat ma jistgħux jiġu assenjati.

Sekwestru jew
assenjazzjoni ta'
pagi.

(2) Pagi li jithallsu minn prinċipal lil impjegat ma jistgħux jiġu sekwestrati hliet skond id-disposizzjonijiet ta' l-artikoli 381, 382 u 384 tal-Kodiċi ta' Organizzazzjoni u Proċedura Civili.

Kap. 12.

(3) Id-disposizzjonijiet tas-subartikoli (1) u (2) m'għandhomx ikunu japplikaw meta s-sekwestru jew assenjazzjoni jkunu mahsuba biex jassiguraw il-hlas ta' manteniment dovut lill-konjugi, jew lil wild ta' taht l-età jew lil persuna b'disabilita jew lil axxendent ta' l-impjegat.

14. Ebda prinċipal ma għandu jagħmel tnaqqis mill-pagi bhala skont, imghax jew piż ta' din ix-xorta minhabba xi akkont ta' paga magħmul lil xi impjegat bil-quddiem qabel id-data miftchma tal-hlas ta' din il-paga.

Imghax fuq
akkonti huwa
projbit.

15. (1) Hliet meta jkun espressament permess mid-disposizzjonijiet ta' dan l-Att jew mehtieg b'xi liġi oħra, jew meta ordnat minn jew bis-sahha ta' ordni ta' qorti kompetenti, jew permess fi ftehim li jkun sar bejn prinċipal jew prinċipali jew għaqda ta' prinċipali min-naha l-wahda u *trade union* jew *trade unions* li jirrapprezentaw l-impjegati nteressati min-naha l-oħra, prinċipal ma għandu jagħmel ebda tnaqqis u lanqas jagħmel kuntratt ma' impjegat li jawtorizza li jsir xi tnaqqis mill-paga li għandha tithallas mill-prinċipal lill-impjegat.

Tnaqqis mill-
pagi.

(2) Kemm-il darba ma jkunx espressament provdut b'dan jew taht dan l-Att jew xi liġi oħra, prinċipal ma jistax jikkalkola bhala parti mill-paga ta' impjegat xi beneficiju jew dħul ieħor, ukoll jekk jinghata jew jithallas mill-prinċipal, li jithallas minhabba xi kawża oħra li ma tkunx il-kuntratt tas-servizz.

(3) Hemm x'hemm fid-disposizzjonijiet ta' dan l-artikolu, fuq it-talba bil-miktub ta' impjegat, il-prinċipal jista' jagħmel tnaqqis mill-paga ta' dak l-impjegat għall-iskop ta' skema ta' pensjoni jew tfaddil jew għal xi skop li fit-twettiq tiegħu l-prinċipal ma jkollu ebda nteress finanzjarju, dirett jew indirett.

(4) Tnaqqis fil-ghamla ta' hlasijiet diretti jew indiretti bl-iskop li jinkiseb jew li jinżamm impieg ma għandux isir mill-paga ta' impjegat minn prinċipal, jew minn xi sensal jew kuntrattur tax-xogħol jew xi hadd li jingagħga haddicma ghax-xogħol.

Kuntratti subordinati ta' servizz.

16. Meta xi kuntratt ta' servizz ikun fih kondizzjonijiet dwar vaganzi ahjar mill-minimu stabbilit bil-liġi, l-ebda prinċipal ma għandu jagħmel kuntratt subordinat ta' servizz li jipprovdi għall-hlas lill-impjegat dwar xi vaganzi bħal dawk b'rata ta' kuljum anqas mir-rata normali ta' kuljum applikabbli għal dak l-impjegat.

Btajjel pubbliċi li jaħbtu f'jum tal-mistriċh tal-gimgha.

17. Meta, fil-każ ta' impjegati *whole-time*, btala pubblika barra mill-Hadd, taħbat f'jum ta' mistriċh tal-gimgha li għaliha dak l-impjegat ikollu jedd, dak l-impjegat ikollu jedd għal jum ieħor ta' *leave* għal vaganza matul is-sena kalendarja li fiha dik il-btala pubblika hekk taħbat f'jum ta' mistriċh tal-gimgha jew il-Hadd dwar kull wahda minn dawk il-btajjel pubbliċi.

Rimunerazzjoni minbarra pagi.

18. Ebda haġa f'dan l-Att ma timpedixxi l-ghemil ta' xi kuntratt minn prinċipal ma' impjegat sabiex jagħtih ikel, post ta' abitazzjoni jew *allowances* jew privileġġi oħra minbarra f'forma ta' xorb spirituż jew mediċinali dannużi, b'zieda għall-inqas pagi preskritti b'ordni ta' *standard* nazzjonali jew ordni biex jirregola settur, jew għal paga oghla stipulata, għal hin normali u sahra, bhala rimunerazzjoni għal servizzi ta' l-impjegat.

Multi.

19. (1) Sakemm ma jkunx preskritt xort'oħra fi ftehim kollettiv, meta

(a) il-pattijiet ta' kuntratt bil-miktub iffirmit mill-impjegati jew il-pattijiet ta' dikjarazzjoni bil-miktub ffirmita minn prinċipal skond l-artikolu 7 jispeċifikaw bir-reqqa il-multi jew multi li l-impjegat jista' jehel dwar kull ghemil jew ommissjoni, u

(b) il-pattijiet ta' kuntratt bħal dak jew il-pattijiet ta'

kull dikjarazzjoni bhal dik ikunu ġew approvati minn qabel mid-Direttur,

il-prinċipal ikun jista' jagħmel dak it-tnaqqis illi jkun awtorizzat b'dak il-kuntratt jew b'dik id-dikjarazzjoni.

(2) Minkejja d-disposizzjoni tas-subartikolu (1), meta impjegat jonqos minghajr kawża ġusta li jagħti lill-prinċipal tiegħu n-numru kollu ta' siegħat ta' xogħol kif ikun marbut bil-kondizzjonijiet ta' xi kuntratt ta' servizz applikabbli għalih il-prinċipal ma għandux iwahhal lill-impjegat xi multa għal dak it-telf ta' xogħol iżda jista' jnaqqas mit-total tal-paga dovuta lill-impjegat dik il-parti minnha li tikkorrispondi għax-xogħol hekk mitluf.

(3) Meta xi multa jew multi jkunu imposti minn persuna jew ghaqda ta' persuni, tkun kif tkun imsejha, awtorizzati biex jagħmlu dak ix-xogħol mill-prinċipal, dik il-persuna jew persuni jkunu responsabbli għall-għemil tagħhom, bla hsara għar-responsabbiltà tal-prinċipal, daqslikieku kienu l-prinċipal.

(4) Sakemm ma jkunx provdut xort'ohra minn xi ftehim kollettiv, meta prinċipal jissospendi impjegat mix-xogħol u waqt il-perjodu ta' sospensjoni ma jhallsux il-paga jew ihallsu anqas mill-paga li l-impjegat ikollu jedd għaliha, l-prinċipal jitqies li jkun għamel tnaqqis mill-pagi ta' l-impjegat permezz ta' multa ekwivalenti għall-ammont imnaqqas mill-paga.

20. Minkejja d-disposizzjonijiet ta' kull liġi oħra, l-jedd ta' kull impjegat għal massimu ta' tliet xhur paga skond il-paga kurrenti pagabbli mill-prinċipal lill-impjegat, u l-kumpens għall-leave li l-impjegat jista' ikollu jedd għalih, flimkien ma' kull kumpens li jkun dovut lill-impjegat għat-temm ta' l-impieg, jew kull avviż dwaru, jkun jedd bi privileġġ fuq l-attiv tal-prinċipal u għandu jithallas bi preferenza fuq kull jedd ieħor sew jekk bi privileġġ jew ipotekarju:

Il-pagi huma
djun bi
privileġġ.

Izda, f'kull każ, l-ammont massimu tal-jedd bi privileġġ ma għandux ikun aktar mill-ekwivalenti tal-paga minima nazzjonali li tithallas fil-waqt meta ssir it-talba fuq perjodu ta' sitt xhur.

21. (1) Qiegħed b'dan jitwaqqaf Fond ta' Garanzija (hawnhekk iżjed "il-quddiem imsejjah "il-Fond"), biex jiggarrantixxi l-hlas ta' pagi mhux imhallsa li jkunu dovuti minn prinċipal lil dawk l-impjegati li l-impieg tagħhom ikun ġie mitmum minhabba fil-falliment ppruvat tal-prinċipal, liema fond għandu jkun regolat u amministrat b'dak il-mod kif il-Ministru jista' jippreskrivi.

Fond ta'
Garanzija.

(2) Il-Ministru jista', wara konsultazzjoni mal-Ministru tal-Finanzi u mal-Bord, jippreskrivi regolamenti biex jingħata effett aħjar

ghad-disposizzjonijiet ta' dan l-artikolu; minghajr hsara għall-generalità ta' dak li ntqal qabel, dawn ir-regolamenti jistgħu jistabbilixxu -

(a) il-mod li bih il-Fond jiġi stabbilit u ffinanzjat fil-bidu, u għal dan il-ghan il-Ministru jista' jiddota lill-fond b'dak l-ammont u għal dak il-perjodu kif il-Ministru jista' jippreskrivi;

(b) il-livell ta' provi meħtieġa biex jiġi ppruvat l-falliment tal-prinċipal;

(c) ir-rati tal-kontribuzzjonijiet li għandhom isiru mill-Istat, mill-prinċipali u mill-impjegati biex jikkompla l-finanzjament tal-Fond;

(d) il-mod ta' kif l-Fond għandu jiġi amministrat;

(e) kull klassi ta' impiegi li hi prekluzi milli tagħmel talba taht il-Fond;

(f) il-mod u ċ-ċirkostanzi li fihom talba tista' ssir minn impjegat biex jithallas mill-Fond u l-mod u ċ-ċirkostanzi li fihom talba tithallas lill-impjegat mill-Fond;

(g) l-ammont massimu li jista' jithallas mill-Fond lil person waħda li tkun għamlet talba;

(h) id-dritt tal-Fond li jiġi surrogat fil-jeddijiet ta' l-impjegat li jithallas ammont mill-imsemmi Fond; kif ukoll id-dritt tal-Fond li jitlob ir-rifużjoni ta' kull ammont hekk imhallas, mill-prinċipal ta' l-impjegat;

(i) il-miżuri u l-proċeduri meħtieġa biex jimpedixxi l-abbuż.

(3) Il-Fond ikollu personalità ġuridika distinta u jkun jista' jidhol f'kull kuntratt, li jharrek jew jiġi mħarrek, u li jagħmel dawk l-affarijiet kollha u jidhol f'dawk l-operazzjonijiet kollha li jkunu inċidentali jew li jwasslu għat-tweġġ ta' l-ghanijiet tiegħu, kif jista' jkun preskritt mill-Ministru.

(4) Il-Fond ikollu d-dritt jiġbor, jirkupra jew jibda proċeduri għall-hlas ta' somom dovuti lilu, skond id-disposizzjonijiet ta' dan l-Att.

(5) Ir-rappreżentanza ġuridika u legali tal-Fond tkun vestita fiċ-chairperson jew f'kull persuna oħra li l-Fond jista' jawtorizza

ghal dak il-ghan.

22. (1) Kull prinċipal ghandu jhallas jew jara li jithallsu l-pagi lill-impjegati tiegħu f'intervalli regolari li ma ghandhomx ikunu aktar minn erba' ġimgħat b'lura;

Il-pagi jithallsu f'intervalli regolari.

Izda d-disposizzjonijiet ta' dan is-subartikolu ma jkunux jghoddu meta jsir ftehim bejn prinċipal jew prinċipali jew għaqdiet ta' prinċipali min-naħa l-wahda u *trade unions* li jirrappreżentaw l-impjegati nteressati min-naħa l-oħra, li jiffissa intervalli oħra għall-hlas tal-pagi.

(2) Mat-tmiem ta' kuntratt ta' servizz il-pagi kollha li jkunu għadhom ma thallsux u kull kumpens li ghandu jithallas lill-impjegat għall-*leave* mhux meħud għandhom jithallsu mad-data tal-jum tal-paga li tiġi minnufih wara iffissata skond is-subartikolu (1) bħallikieku l-kuntratt ma ntemmx.

(3) Għeluq tal-kontijiet għandu jsir mill-inqas darba fis-sena mill-prinċipal dwar impjegati li l-pagi tagħhom ikunu magħmulin minn schem ta' profitti jew kummissjoni fuq bejgħ jew hlasijiet magħmulin jew imdahhlin mill-prinċipal.

23. (1) Kull prinċipal għandu jhallas, jew jara li jithallas, lil kull wieħed mill-impjegati *whole-time* tiegħu, daww il-*bonuses* statutorji u supplementi ta' dħul fl-ammonti u fiż-żminijiet stabbiliti f'avviż legali mill-Ministru tal-Finanzi bis-saħħa ta' dan l-artikolu, sakemm dan il-*bonus* statutorju jkun fil-forma ta' somma ta' flus li, f'kull każ, ma tkunx inqas minn nofs dik li l-Gvern ikun avża fl-estimi ġenerali ta' kull sena partikolari, li sejjer iħallas lil kull wieħed mill-impjegati tiegħu matul dik is-sena;

Hlas ta' *bonus*.

Izda, meta xi persuna tkun impjegata *whole-time* ma' xi prinċipal partikolari għal żmien ta' mhux inqas minn tletin jum iżda inqas minn tnaħ-il xahar bejn l-1 ta' Jannar u l-31 ta' Diċembru ta' xi sena, dak l-impjegat ikollu dritt li jirċievi mingħand il-prinċipal tiegħu, jew mingħand kull wieħed mill-prinċipali tiegħu, proporzjon ta' l-ammont tal-*bonus* li jkollu jithallas skond dan l-artikolu, kalkolat fuq in-numru ta' granet f'kull impieg bħal dak:

Izda wkoll kull perjodu ta' impieg li ma jikkwalifikax matul l-ewwel sitt xhur ta' xi sena għandu jingħadd ma' kull perjodu ta' impieg ma' l-istess prinċipal matul it-tieni sitt xhur ta' dik is-sena għall-fini tal-perjodu ta' impieg ta' kwalifika u l-ammont totali tal-*bonus* li jkollu jithallas lil dak l-impjegat dwar il-perjodu totali ta' dak l-impieg għandu jithallas bejn il-15 u t-23 ta' Diċembru ta' dik is-sena, minkejja li l-ammont totali tal-*bonus* li jkollu hekk jithallas ikun iżjed mill-ammont normali ta' *bonus* li jkollu jithallas dwar it-tieni

sitt xhur ta' dik is-sena.

(2) F'dan l-artikolu -

"impjegat" tinkludi persuna li tkun marbuta bi ftehim ta' tahrig;

"impjegat *whole-time*" tfisser kull impjegat li jitqies li jkun impjegat *whole-time* skond xi kondizzjoni maghrufa ta' impieg kif imfisser f'dan l-Att, u tinkludi kull impjegat ichor li jkun fl-impieg ta' xi prinċipal partikolari għal mhux anqas minn hamisa u tletin siegħa f'gimgha wahda fuq medja ta' perjodu ta' tnax-il xahar jew parti minnu;

"impjegati *whole-time* tiegħu" tinkludi kull impjegat *whole-time* li jkun fl-impieg ta' xi prinċipal partikolari għal perjodu ta' mhux inqas minn tletin gurnata matul xi żmien mill-1 jew wara l-1 ta' Jannar ta' xi sena izda li ma jkunx aktar f'dak l-impieg fit-30 ta' Gunju u/jew fil-31 ta' Diċembru ta' dik is-sena.

Impjegati
whole-time
b'sigħat
imnaqqsa.

24. Impjegati *whole-time* b'sigħat imnaqqsa għandhom jithallsu mhux inqas *pro rata* mill-paga applikabbli għal impjegat *whole-time* f'impieg simili, u għandu jkollhom ukoll id-dritt għal parti minn, *pro rata* -

- (a) id-dritt għal btajjel pubbliċi bi hlas u *leave* annwali bi hlas;
- (b) il-benefiċċji msemmija fl-artikolu 10;
- (ċ) kull dritt għal *leave* għal korriment;
- (d) kull dritt għal *bonus* statutorju.

li impjegati *whole-time* f'impieg simili ma l-istess prinċipal għandhom dritt għalihom skond kondizzjonijiet magħrufin ta' impieg li jghoddu għalihom.

Impjegati *part-time*.

25. (1) Impjegati *part-time* ma għandhomx jiġu ttrattati b'mod inqas favorevoli minn impjegati *whole-time* komparabbli minhabba biss f'li huma jaħdmu *part-time* sakemm it-trattament differenti ma jkunx ġustifikat fuq bażi oggettiva.

(2) Il-Ministru jista, wara konsultazzjoni mal-Bord, jippreskrivi regolamenti li jistabbilixxu:

- (a) il-kondizzjonijiet biex wieħed jikkwalifika għall-jedd *pro rata* skond kondizzjonijiet speċifiċi ta' xogħol, inkluż l-anqas numru ta' sigħat li impjegat *part-time* għandu jaħdem biex jikkwalifika kif ukoll l-inqas perjodu ta' servizz li jista'

jinhtieg qabel ma wicied jikkwalifika;

(b) l-ghoti ta' informazzjoni fil-hin dwar id-disponibilita ta' postijiet *part-time* u *whole-time* fuq il-post tax-xoghol kif ukoll access ghal tahrig vokazzjonali u opportunitajiet ghall-avvanz fil-karriera;

(c) kull haga ohra li titqies mehtiega biex tirregola l-kondizzjonijiet tax-xoghol ta' impjegati *part-time* kjif preskritt fis-subartikolu (1).

TAQSIMA IV

PROTEZZJONI KONTRA DISKRIMINAZZJONI RELATATA MA' L-IMPIEG

26. (1) Hadd ma jista' -

(a) fil-waqt li jaghmel reklam jew joffri impieg jew fil-waqt li joffri opportunitajiet ta' impieg jew meta jigi ghall-ghazla ta' applikanti ghal impieg, jassogetta xi applikant ghal impieg jew xi klassi ta' applikanti ghal impieg ghal trattament diskriminatorju;

(b) rigward impjegati li huma digà fl-impieg tal-principjal, jassogetta dawk l-impjegati jew xi klassi ta' impjegati ghal trattament diskriminatorju, fir-rigward ta' kondizzjonijiet ta' impieg.

(2) Ghall-finijiet ta' dan l-artikolu, trattament diskriminatorju jinkludi:

(a) l-impieg jew l-ghazla ta' persuna li tkun anqas kwalifikata minn persuna tas-sess oppost, sakemm il-principjal ma jippruvax li l-azzjoni kienet bbazata fuq ragunijiet accettabbli relatati max-xorta tax-xoghol jew ghal ragunijiet relatati mat-twettiq jew ma l-esperjenza ta' xoghol maghmul qabel;

(b) azzjonijiet li jghoddu ghal impjegat, termini ta' hlasijiet jew kondizzjonijiet ta' impieg li huma anqas favorevoli minn dawk li jghoddu ghal impjegat fl-istess xoghol jew xoghol ta' valor ugwali, abbazi ta' trattament diskriminatorju;

(c) azzjonijiet li bihom il-principjal xjentement jimmani gga x-xoghol, iqassam il-bicciet ta' xoghol jew mod ichor jirranza l-kondizzjonijiet tax-xoghol hekk li impjegat ikun assenjat *status* li manifestament ikun anqas favorevoli minn

Diskriminazzjoni u ugwaljanza bejn is-sessi.

ohrajn abbaži ta' trattament diskriminatorju.

Kap. 413.

(3) Id-disposizzjonijiet tas-subartikoli (1) u (2) ghandhom ikunu minghajr preġudizzju ghad-drittijiet u obbligi preskritti fl-Att dwar Opportunitajiet Indaqs ghal Persuni b'Diżabilità, u ma ghandhomx jghoddu ghal kull preferenza jew esklużjoni li tkun raġonevolment ġustifikata meta wiehed iqis ix-xorta ta' posizzjoni battala li għandha timtela' jew l-impieg offrut, jew fejn karatteristika meħtieġa tikkostitwixxi hteġġa ġenwina u determinanti dwar ix-xogħol jew fejn il-htigiet huma stabbiliti minn liġijiet jew regolamenti applikabbli.

(4) Għall-finijiet ta' dan l-artikolu, il-kliem "joffri impieg" jinkludu r-reklutaġġ jew it-tahriġ ta' kull persuna bil-ħsieb li dik il-persuna tiġi mpjegata, u għar-rigward ta' persuna li tkun diġà qed taħdem, tinkludi ukoll l-promozzjoni għal grad oghla jew l-impieg fi klassi differenti ta' xogħol.

Xogħol ta' valur ugwali.

27. Impjegati fl-istess klassi ta' impieg ghandhom id-dritt għall-istess rata ta' rimunerazzjoni għal xogħol ta' valur ugwali:

B'dan illi prinċipal u haddiem jew *union* ta' haddiema b'riżultat ta' negozjati għal fehim kollettiv jistgħu jiftiehmu dwar skali ta' salarji, żidiet annwali u kundizzjonijiet ta' xogħol ohra differenti għal haddiema li jkunu impjegati fi żminijiet differenti, liema skali jkollhom massimu li jintlahaq wara żmien stabbilit, u

B'dan ukoll illi kull distinzjoni bejn klassijiet ta' impieg ibbażata fuq trattament diskriminatorju mod ieħor milli skond id-disposizzjonijiet ta' dan l-Att jew xi liġi ohra tkun nulla u bla effett.

Vittimizzazzjoni.

28. Hadd ma jista' jivvittimizza xi persuna talli din tkun għamlet ilment lill-awtoritajiet legittimi jew talli tkun bdiċet jew hadet schem fi proċeduri għal riżarciment abbaži tal-ksur allegat tad-disposizzjonijiet ta' dan l-Att, jew talli tkun tat informazzjoni, konfidenzjali jew le, lil korp pubbliku regolatorju stabbilit, rigward attivitajiet allegatament illegali jew korrotti magħmula mill-prinċipal ta' dik il-persuna jew minn persuni li jaġixxu f'isem u fl-interessi tal-prinċipal.

Għoti ta' fastidju.

29. (1) L-ebda prinċipal jew impjegat ma jista' jagħti fastidju lil impjegat ieħor jew jagħti fastidju lill-prinċipal billi jassoġġetta lil dik il-persuna għal kull att, talba jew kondotta mhux mixtieqa, li jinkludu kliem bil-fomm, ġesti jew il-produzzjoni, il-wiri jew iċ-ċirkolazzjoni ta' kliem miktubi, stampi jew materjal ieħor, li rigward dik il-persuna huma bbażati fuq diskriminazzjoni sesswali u li jistgħu raġonevolment jiqiesu bħala offensivi, umilijanti u intimidatorji lejn dik il-persuna.

(2) L-cbda prinċipal jew impjegat ma jista' jaghti fastidju sesswalment lil impjegat ieħor jew lill-prinċipal (hawnhekk iżjed 'il quddiem f'dan l-artikolu imsejha "l-vittma") billi -

(a) jassoġġetta l-vittma għal att ta' intimità fiżika; jew

(b) jitlob favuri sesswali mill-vittma; jew

(ċ) jassoġġetta l-vittma għal xi att jew kondotta li jkollhom konnotazzjonijiet sesswali, inklużi kliem bil-fomm, gesti jew il-produzzjoni, il-wiri jew ie-ċirkolazzjoni ta' kliem miktubin, stampi jew materjal ieħor, fejn -

(i) l-att, it-talba jew il-kondotta mhumiex mixtieqa mill-vittma u jistghu raġonevolment jiqiesu bhala offensivi, umilijanti u intimidatorji lejn il-vittma;

(ii) il-vittma tiġi trattata b'mod differenti, jew jista' raġonevolment jiġi antiċipat li l-vittma tista' tiġi hekk trattata, bhala riżultat tat-tiċhid jew is-sottomissjoni tagħha għal dak l-att, dik it-talba jew dik il-kondotta.

30. (1) Persuna li tallega li l-prinċipal ikun kiser, jew li l-kondizzjonijiet ta' l-impieg ikunu jiksru, d-disposizzjonijiet ta' l-artikoli 26, 27, 28 jew 29 tista', fi żmien tliet xhur mill-ksur allegat, tippreżenta ilment quddiem it-Tribunal Industrijali u t-Tribunal Industrijali għandu jisma' dak il-ment u jwettaq dawk l-investigazzjonijiet li jqis xierqa.

Avviż lit-
Tribunal
Industrijali.

(2) Jekk it-Tribunal Industrijali jkun soddisfatt li l-ilment jkun ġustifikat, hu jkun jista' jichu dawk il-miżuri li jidhirlu xierqa inkluz il-kanċellament ta' kull kuntratt ta' servizz jew ta' kull klawwsola fil-kuntratt jew fi ftehim kollettiv li tkun diskriminatorja, u jista' jordna li jithallsu somom raġonevoli ta' flus bhala kumpens lill-parti aggravata.

(3) Għall-finijiet tas-smigh u tad-deċiżjoni ta' kawżi dwar l-allegazzjoni ta' diskriminazzjoni, ksur tal-prinċipju ta' xogħol ta' valur ugwali, vittimizzazzjoni jew għoti ta' fastidju, it-Tribunal Industrijali jkun magħmul minn *chairperson* wahdu bil-mod stabbilit fl-artikolu 73(4).

(4) Kull azzjoni mehuda minn persuna li tagħmel ilment skond id-disposizzjonijiet ta' dan l-artikolu tkun minghajr preġudizzju għal kull azzjoni oħra li dik il-persuna li tagħmel l-ilment tkun tista' tiehu skond xi liġi oħra li tghodd u tkun ukoll minghajr preġudizzju għal kull azzjoni oħra li għaliha jista' jkun sugġett ir-risponent skond xi liġi oħra li tghodd.

Setgħa tal-
Ministru li
jaġġmel
regolamenti.

31. Bla hsara għal dak li intqal qabel, il-Ministru jista', wara konsultazzjoni mal-Bord, jippreskrivi regolamenti biex jagħti effett ahjar lid-disposizzjonijiet ta' l-artikoli 26, 27, 28 u 29 u b'mod partikolari biex tiġi eliminata kull prattika diskriminatorja fl-impieg jew fil-kondizzjonijiet ta' l-impieg ta' kull persuna jew klassi ta' persuni, biex jingħataw opportunitajiet ta' xogħol ugwali lil klassijiet ta' persuni li jkollhom svantaġġ u biex jiġi regolat l-aċċess għat-Tribunal Industrijali, u l-investigazzjoni u s-smigh mit-Tribunal Industrijali ta' ilmenti dwar l-allegazzjoni ta' diskriminazzjoni, ksur tal-prinċipju ta' xogħol ta' valur ugwali, vittimizazzjoni jew għoti ta' fastidju.

Reat.

32. Kull min jikser id-disposizzjonijiet ta' l-artikoli 28 u 29 ikun haġi ta' reat u jehel, meta jinstab haġi, multa ta' mhux iżjed minn elf lira (Lm 1000) jew prigunerija għal żmien mhux iżjed minn sitt xhur, jew dik il-multa u dik il-prigunerija flimkien.

TAQSIMA V

TEMM TA' KUNTRATTI TA' SERVIZZ

Zmien ta' sehh
ta' kuntratti ta'
servizz.

33. Persuna tista' tintrabat li tagħti s-servizzi tagħha għal żmien imsemmi jew bla limiti, jew dwar biċċa xogħol, imprima, opra jew servizz imsemmijin:

Izda meta l-impjegat ikun inżamm fl-impieg wara d-data tat-tmiem ta' kuntratt ta' servizz għal żmien speċifikat jew ikun reġa' ġie impjegat minn prinċipal għal żmien speċifikat jew għal żmien indefinit, u dan fi żmien sena mid-data tat-tmiem ta' kuntratt ta' servizz għal żmien speċifikat, il-kondizzjonijiet ta' l-impieg ma għandhomx ikunu anqas favorevoli minn dawk li kienu jkunu japplikaw jekk kemm-il darba l-kuntratt ta' servizz ikun għal żmien bla limitu u 2-żmien totali ta' prova ta' l-impjegat ma għandu jkun f'ebda każ itwal minn dak li hemm provdut f'dan l-Att.

Kuntratti għal
żmien
speċifikat.

34. (1) Mingħajr hsara għal dak li hu preskritt xort'ohra f'dan l-Att, il-kondizzjonijiet ta' l-impieg f'kuntratt għal żmien speċifikat ma għandhomx ikunu inqas favorevoli minn dawk li kienu jkunu japplikaw li kicku l-istess kuntratt ta' l-impieg fl-istess post tax-xogħol kien għal żmien bla limitu, sakemm trattament differenti ma jkunx ġustifikat għal raġunijiet oġġettivi:

Izda dan l-artikolu ma għandux jgħodd għal kuntratti ta' impjegati li jkunu qegħdin fuq tahrig vokazzjonali tal-bidu u, jew, fuq skemi ta' apprendistat.

(2) Kull impjegat b'kuntratt ta' servizz għal żmien speċifikat li jaġġlaqlu 2-żmien tal-kuntratt u li jinżamm fix-xogħol mill-prinċipal

jitqies li jkun inżamm fuq kuntratt għal żmien bla limitu jekk dak l-impjegat ma jinghatax kuntratt ta' servizz ġdid fi żmien tnax-il gurnata minn meta jkun għalaq il-kuntratt ta' qabel.

(3) Il-Ministru jista, wara konsultazzjoni mal-Bord, jagħmel regolamenti biex:

(a) jagħti effett ahjar għall-prinċipju ta' ebda diskriminazzjoni bejn impjegati fuq kuntratti għal żmien speċifikat u impjegati fuq kuntratti għal żmien bla limitu;

(b) jistabbilixxi é-ċirkostanzi fejn, għal raġunijiet oġġettivi, l-kondizzjonijiet f'kuntratti għal żmien speċifikat jistgħu jkunu differenti mill-kondizzjonijiet f'kuntratti għal żmien bla limitu;

(ċ) b'mod ġenerali biex jirregola kull haġa li għandha x'taqsam ma' kuntratti għal żmien speċifikat.

35. Il-Ministru jista, wara konsultazzjoni mal-Bord, jagħmel regolamenti li jipreskrivu l-informazzjoni minima li kull prinċipal għandu jagħti lil kull impjegat, u l-mod kif din l-informazzjoni għandha tinghata lill-impjegat, u biex jirregolaw kull haġa oħra li għandha x'taqsam ma' l-obbligu tal-prinċipal biex jinforma lil jew jikkonsulta ma' l-impjegat jew mar-rappreżentanti ta' l-impjegati dwar kondizzjonijiet ta' l-impieg, u, f'dawn ir-regolamenti, l-Ministru jista jagħti eżenzjoni mill-obbligi imposti b'dan l-artikolu jew jistabbilixxi regoli differenti għal klassijiet jew tipi differenti ta' impieg.

Dritt ta' l-impjegati għal informazzjoni minima.

36. (1) Bla hsara għad-disposizzjonijiet tas-subartikolu (16), l-cwwel sitt xhur ta' kull impieg taht kuntratt ta' servizz ikun impieg bi prova, sakemm żmien iqsar ta' impieg bi prova ma jiġix miftiehem bejn iż-żewġ partijiet:

Avviż ta' u kumpens għal temm ta' kuntratti ta' servizz.

Iżda fil-każ ta' kuntratt ta' servizz, jew ta' ftehim kollettiv, dwar impjegati li jkollhom karigi tekniċi, eżekuttivi, amministrattivi jew ta' direzzjoni u li l-pagi tagħhom ikunu għall-inqas id-doppju tal-paga minima stabbilita f'dik is-sena, dak iż-żmien ta' prova jkun ta' sena sakemm ma jiġix speċifikat mod iħor fil-kuntratt ta' servizz jew fil-ftehim kollettiv.

(2) Waqt l-impieg bi prova, l-impieg jista' jiġi mitmum minn min ikun irid miż-żewġ partijiet mingħajr ma jagħti ebda raġuni:

Iżda għandu jinghata avviż ta' ġimgha tat-temm ta' l-impieg lill-parti l-oħra fil-każ ta' impjegat li jkun ilu fl-impieg ta' l-istess prinċipal kontinwament għal aktar minn xahar.

(3) Kuntratt ta' servizz ghal żmien bla limitu jista' jintemm, bl-ghoti ta' l-avviż kif speċifikat fis-subartikolu (5), mill-impjegat minghajr ma jaghti ebda raġuni u' mill-prinċipal, bla hsara għad-disposizzjoni tas-subartikolu (14), fuq bażi ta' *redundancy* biss:

Iżda kull impjegat li l-impieg tiegħu jiġi mitmum minhabba *redundancy* ikun intitolat għall-impieg mill-ġdid jekk il-post li kien jikkupa qabel jerġa' jkun ottjenibbli fi żmien perjodu ta' sena mid-data ta' tmiem l-impieg:

Iżda wkoll impjegat bħal dak ikun hekk impjegat mill-ġdid b'kondizzjonijiet mhux inqas favorevoli minn dawk li hu kien ikun intitolat għalihom li kieku l-kuntratt tas-servizz dwaru ma kienx intemm:

Iżda, fl-ahharnett, kull impjegat li jkun ġie hekk impjegat mill-ġdid għandu, għall-finijiet ta' dan l-Att, jitqies li jkun kompli fl-impieg tiegħu nonostanti t-terminazzjoni magħmula skond dan is-subartikolu.

(4) Meta prinċipal ikun bi hsiebu jtemm l-impieg ta' impjegat minhabba *redundancy*, hu għandu jtemm l-impieg ta' dik il-persuna li tkun impjegata l-ahhar fil-klassi ta' l-impieg milquta minn dik ir-*redundancy*:

Iżda, meta dik il-persuna tkun tiġi mill-prinċipal (li ma jkunx soċjetà b'responsabilità limitata jew korp statutarju) b'konsagwinità jew b'affinità sat-tielet grad, il-prinċipal jista', minflok itemm l-impieg ta' dik il-persuna, itemm l-impieg tal-persuna li jmissha warajha.

(5) Minkejja kull ftehim kuntrarju, u minghajr preġudizzju għal dak li hemm imsemmi fil-paragrafu (f), avviż tat-temm ta' impieg li jkun bi hsiebu jagħmel il-prinċipal jew l-impjegat taht kuntratt ta' servizz għal żmien bla limitu, għandu jkun tat-tul bħal ma jingħad hawn iżjed 'il quddiem, jekk l-impjegat kien ilu fl-impieg ta' l-istess prinċipal kontinwament -

- (a) għal iżjed minn xahar iżda mhux iżjed minn sitt xhur gimgha;
- (b) għal iżjed minn sitt xhur iżda mhux iżjed minn sentejn gimghatejn;
- (c) għal iżjed minn sentejn iżda mhux erba' iżjed minn erba' snin gimghat;

(d) ghal iżjed minn erba' snin iżda tmien mhux iżjed minn seba' snin ġimghat;

(e) ghal iżjed minn seba' snin, ġimgha waħda addizzjonali ghal kull sena sussegwenti ta' servizz sa massimu ta' tnax-il ġimgha;

(f) jew dawk iż-żminijiet itwal kif jista' jiġi miftichem bejn il-prinċipal u l-impjegat fil-każ ta' karigi tekniċi, amministrattivi, eżekuttivi jew ta' direzzjoni:

Iżda l-avviż tat-temm ta' impieg ma jistax jinghata matul il-leave ghal maternità jew matul il-perjodu ta' inkapaċità għax-xogħol li għalih jirreferi is-subartikolu (17) jew matul kull perjodu ieħor kif il-Ministru jista' jippreskrivi.

(6) Meta perjodu ta' impieg b'kuntratt ta' servizz ghal żmien bla limitu jkun ta' inqas minn sitt xhur imma jkollu warajh perjodu ieħor ta' impieg simili li jibda fi żmien is-sitt xhur li jahbtu wara mill-aħħar jum ta' impieg, iż-żewġ perjodi għandhom, għall-finijiet tas-subartikolu (5) ta' dan l-artikolu, dwar it-tieni perjodu ta' impieg jiġqiesu li huma perjodu wieħed kontinwu.

(7) Il-perjodu ta' l-avviż għandu jibda jghodd mill-jum tax-xogħol li jahbat wara l-jum li fih jinghata l-avviż.

(8) Meta impjegat taht kuntratt ta' servizz ghal żmien bla limitu jirċievi avviż mill-prinċipal kif jinghad hawn qabel, huwa jista' jagħzel jew li jissokta jaħdem sakemm jagħlaq iż-żmien ta' l-avviż jew, f'kull żmien li jkun waqt li għadu miexi iż-żmien ta' l-avviż, iġiegħel lill-prinċipal li jagħtih somma li tkun daqs in-nofs tal-pagi li kien ikollhom jithallsu għaż-żmien li jkun għad jonqos biex jagħlaq iż-żmien ta' l-avviż.

(9) Meta jirċievi avviż minghand l-impjegat kif intqal qabel, il-prinċipal ikun jista' jagħzel jew li jhalli lill-impjegat li jkompli jaħdem sakemm iż-żmien ta' l-avviż jagħlaq jew, f'kull żmien matul li jkun għaddej iż-żmien ta' l-avviż, ihallas lill-impjegat somma li tkun daqs il-paga li jkun imissha tithallas dwar iż-żmien ta' l-avviż li ma jkunx għalaq.

(10) Jekk impjegat taht kuntratt ta' servizz ghal żmien bla limitu jonqos li jagħti avviż kif jinghad hawn qabel, huwa jkun sugġett li jhallas lill-prinċipal somma li tkun daqs nofs il-paga li jkun imissha tithallas dwar iż-żmien ta' l-avviż. Jekk il-prinċipal jonqos li jagħti avviż kif imsemmi hawn qabel, huwa jkun sugġett li jhallas lil dak l-impjegat somma li tkun daqs il-paga li jkun imissha tithallas

dwar iż-żmien ta' l-avviż.

(11) Prinċipal li jibghat 'l barra impjegat qabel ma jaghlaq iż-żmien speċifikat f'kuntratt ta' servizz, ikollu jhallas lill-impjegat nofs il-paga kollha li kienet tkun tmiss lill-impjegat dwar il-bqija taż-żmien espressament miftiehem.

(12) Impjegat li jitlaq mis-servizz tal-prinċipal tiegħu qabel iż-żmien speċifikat fil-kuntratt ta' servizz għandu jhallas lill-prinċipal tiegħu somma li tkun daqs nofs il-paga kollha li għaliha huwa kien ikollu jedd kieku huwa baqa' fis-servizz għall-bqija taż-żmien hekk espressament miftiehem:

Izda f'dan is-subartikolu u fis-subartikoli (8), (9), (10) u (11), ir-riferenzi għal "paga kollha" u "paga" għandhom ifissru l-paga li tithallas lil persuna impjegata minn jew f'isem il-prinċipal, esklużi kull rimunerazzjoni għal sahra, kull forma ta' *bonus*, kull *allowance*, u rimunerazzjoni mod ieħor milli bi flus u kummissjonijiet.

(13) Fil-każ ta' impjegati taht kuntratt ta' servizz imhallsa għal kull biċċa xogħol, jew b'schem fil-qligh, jew b'kummissjoni fuq il-bejgħ magħmul jew hlasijiet imdahhla mill-prinċipal, l-ammont li għandu jithallas skond is-subartikoli (8), (10), (11) u (12) għandu jkun ikkalkolat fuq il-qligh medju ta' l-impjegat matul it-tliet xhur li jiġu sew sew qabel il-jum li fih jinghata l-avviż jew l-impjegat jitlaq ix-xogħol jew jiġi mibghut 'il barra mill-prinċipal.

(14) Minkejja d-disposizzjonijiet ta' hawn qabel ta' dan l-artikolu, prinċipal jista' jibghat impjegat u l-impjegat jista' jitlaq is-servizz tal-prinċipal, minghajr ma jagħti avviż u minghajr ebda obbligu li jagħmel hlas kif dispost fis-subartikoli (10), (11) u (12) jekk ikun hemm raġuni tajba u biżżejjed biex dak l-impjegat jintbagħat jew jitlaq mis-servizz:

Izda prinċipal ma jistax iġib bhala raġuni tajba u biżżejjed-

(a) illi l-impjegat fiż-żmien li ġie mibghut kien membru ta' *trade union* jew qed ifittex l-inkarigu ta', jew qed jaġixxi bhala jeww aġixxa bhala, ir-rappreżentant ta' l-impjegati; jew

(b) hlief fil-każ ta' impjegat domestiku privat, illi l-impjegat ma jgawdix iżjed il-fiduċja tal-prinċipal; jew

(c) illi impjegat ikun iżżewweġ; jew

(d) illi impjegata tkun tqila b'tarbija jew tkun assenti mix-xogħol waqt il-*leave* għal maternità; jew

(e) illi l-impjegat kixef informazzjoni, konfidenzjali jew le, lil korp pubbliku regolatorju stabbilit, rigward attivitajiet allegatament illegali jew korrotti maghmula mill-prinċipal jew minn persuni li jaġixxu f'isem u fl-interessi tal-prinċipal; jew

(f) illi l-impjegat pprezenta ilment jew qiegħed jichu schem fi proċeduri kontra l-prinċipal li jinvolvu l-allegat ksur ta' liġijiet jew regolamenti jew illi l-impjegat irrikorra għand l-awtoritajiet kompetenti amministrattivi; jew

(g) li n-negozju li fih jaħdem l-impjegat għadda minn trasferiment ta' proprjetà, sakemm ma jipprovax li t-temm ta' l-impieg hu meħtieġ għal raġunijiet ekonomiċi, tekniċi jew ta' organizzazzjoni, li jirrikjedu bidliet fl-għadd ta' haddicma:

Izda ukoll il-prinċipal jista' jtemm l-impieg ta' impjegat meta l-impjegat jilhaq l-età li fiha wieħed jirtira kif imfisser fl-Att dwar is-Sigurtà Soċjali.

Kap. 318.

(15) Kuntratt ta' servizz ma għandux, hliet bil-kunsens ta' l-impjegat, jintemm mill-prinċipal matul xi perjodu ta' inkapaċità għax-xogħol ta' l-impjegat kaġunata b'korriment b'disgrazzja li tigri mill-impieg u waqt l-impieg jew minn xi mard li jiġi mix-xogħol li huma speċifikati fl-Att dwar is-Sigurtà Soċjali meta dan jiġri fis-servizz ta' dak il-prinċipal:

Izda -

(a) matul dak il-perjodu ta' inkapaċità l-impjegat ikollu jedd għall-paga imnaqqa b'kull benefiċċju għal korriment li jithallas skond l-Att dwar is-Sigurtà Soċjali mhux inkluż kull benefiċċju għal disabilità permanenti, kif jista' jkun provdut skond jew taht xi kondizzjoni magħrufa ta' impieg kif imfisser fit-Taqsima II tat-Titolu I ta' dan l-Att; u

(b) id-disposizzjonijiet ta' dan is-subartikolu ma jkunux iġoddu wara l-ewwel tnax-il xahar ta' inkapaċità skond il-kalendarju.

(16) Meta tispiċċa l-inkapaċità għax-xogħol imsemmija fl-aħhar subartikolu qabel dan il-prinċipal għandu, fi żmien wieħed u għoxrin jum minn talba maghmula mill-impjegat, jerga' jdahhal l-impjegat fl-impieg tiegħu ta' qabel jew, jekk il-korriment jew marda jkun giebu inkapaċità li minhabba fiha l-impjegat ma jkunx tajjeb għall-impieg ta' qabel f'impieg ieħor xieraq:

Izda t-talba ta' l-impjegat biex jerga' jiġi impjegat għandha ssir bil-miktub fi żmien sebat ijiem minn meta tispiċċa l-inkapaċità

ghax-xoghol.

(17) Impjegata *whole-time* ma tistax tintbaghat mill-prinċipal matul il-perjodu tal-*leave* ghal maternità taghha jew il-perjodu ta' hames gimgħat wara dak il-*leave* li matulu ma tkunx tista' taħdem minhabba kondizzjoni patoloġika li tinqala' mill-hlas.

(18) Kull perjodu ta' inkapaċità ghax-xoghol imsemmi fl-aħħar subartikolu qabel dan għandu jtnaqqas mill-perjodu ta' *leave* ghal mard li għalih l-impjegata jkollha jedd fiż-żmien ta' dik l-inkapaċità, hekk iżda li l-perjodu ta' inkapaċità li jkun iżjed mill-imsemmi *leave* ghal mard jitqies li hu *leave* ta' assenza mingħajr jedd għall-paga:

Iżda l-prinċipal jista' jehtieg lill-impjegata li tipproduċi prova ta' dik l-inkapaċità ghax-xoghol u jista' jehtieg li t-tabib tiegħu iżur lil dik l-impjegata u jirrapportalu fuq il-kondizzjoni ta' saħħitha.

(19) L-impjegata jkollha, meta jintemm il-*leave* ghal maternità li għalih għandha jedd taht id-disposizzjonijiet ta' dan l-Att jew il-perjodu ta' inkapaċità taghha ghax-xoghol li għalih jirreferi is-subartikolu (17), jedd li terġax tidhol ghax-xoghol fil-post li kienet tokkupa meta beda l-*leave* ghal maternità taghha, jew f' post analoġu jekk fiż-żmien meta hekk ikollha l-jedd il-post li qabel kienet tokkupa ma jkunx għadu disponibbli.

(20) Meta impjegata ma terġax tidhol ghax-xoghol kif provdut fis-subartikolu ta' qabel dan, jew, wara li tkun hekk reġgħet bdiet ix-xoghol tabbanduna s-servizz tal-prinċipal taghha, mingħajr raġuni tajba u biżżejjed fi żmien sitt xhur mid-data li fiha tkun hekk reġgħet bdiet, din tkun obbligata, bla hsara ghal kull obligu iħor taht dan l-Att, li thallas lill-prinċipal somma li tkun daqs il-pagi li rċeviet matul il-*leave* ghal maternità.

Redundancies
kollektivi.

37. (1) Prinċipal ma għandux itemm l-impieg ta' xi impjegat għar-raġuni ta' *redundancy* kollektiva qabel ma jkun innotifika bil-miktub lir-rappreżentanti ta' l-impjegati magħrufin minnu dwar il-hsieb li għandu li jtemm l-impieg u jkun ta lir-rappreżentati msemmija opportunità biex jikkonsultaw mal-prinċipal.

(2) Il-Ministru jista', wara konsultazzjoni mal-Bord, jagħmel regolamenti biex jippreskrivi l-ċirkostanzi li fihom *redundancies* għandhom jitqiesu bhala *redundancies* kollektivi; il-mod li bih għandhom jinżammu l-konsultazzjonijiet bejn il-prinċipal u r-rappreżentanti ta' l-impjegati; il-proċedura li għandha tigi adottata; il-kategoriji jew il-klassijiet ta' impiegi li huma eżenti mill-effetti ta' dan l-artikolu, u kull haġa oħra li għandha x'taqsam jew hi anċillari għal dan.

(3) Kull persuna li tonqos li thares id-disposizzjonijiet ta' dan l-artikolu jew ta' xi regolamenti maghmula tahtu, tkun hatja ta' reat kontra dan l-Att.

38. (1) Meta negozju jew azjenda ohra jittiched il-kontroll taghhom, ghal kollox jew f'parti, minn persuna (hawnhekk iżjed 'il quddiem f'dan l-artikolu msejha "il-persuna li lilha jiġi trasferit in-negozju") minghand prinċipal (hawnhekk iżjed 'il quddiem f'dan l-artikolu msejjah "min jittrasferixxi"), kull impjegat fl-impieg ta' min jittrasferixxi fid-data tat-trasferiment tan-negozju ghandu jitqies li jkun fl-impieg tal-persuna li lilha jiġi trasferit in-negozju u l-persuna li lilha jiġi trasferit in-negozju ghandha tassumi d-drittijiet u l-obbligi kollha li min jittrasferixxi ghandu rigward l-impjegat.

Trasferiment
tan-negozju.

(2) Min jittrasferixxi u l-persuna li lilha jiġi trasferit in-negozju gġandhom jinformatu lir-rappreżentanti ta' l-impjegati dwar l-impjegati rispettivi taghhom li ser jkunu milquta bit-trasferiment dwar -

- (a) id-data jew id-data mahsuba ghat-trasferiment;
- (b) ir-raġunijiet ghat-trasferiment;
- (c) l-implikazzjonijiet legali, ekonomiċi u soċjali tat-trasferiment ghal-impjegati; u
- (d) il-miżuri li ser jittichdu rigward l-impjegati.

(3) Wara t-trasferiment, il-persuna li lilha jiġi trasferit in-negozju ghandha tkompli tosserva l-patti u l-kondizzjonijiet miftchma f'xi ftehim kollettiv bl-istess mod kif kienu applikabbli ghal min jittrasferixxi taht dak il-ftehim, sad-data tat-tmiem jew eghluq tal-ftehim kollettiv, jew il-bidu fis-sehh jew l-applikazzjoni ta' ftehim kollettiv ichor.

(4) Dan l-artikolu ma jghoddx ghat-trasferiment ta' azjenda, negozju, jew parti minn azjenda jew negozju fejn min jittrasferixxi hu suggett ghal proceduri ta' falliment jew ta' stralċ ordnat mill-Qorti skond id-disposizzjonijiet ta' l-Att dwar il-Kumpanniji, jew proceduri ohra ta' falliment li nbdew bix jiġu likwidati l-assi ta' min jittrasferixxi u huma taht is-sorveljanza ta' likwidatur nominat mill-Qorti.

Kap. 386.

(5) Il-Ministru jista' jaghmel regolamenti bix jippreskrivi l-mod li bih ghandhom jinzammu l-konsultazzjonijiet bejn il-prinċipal u r-rappreżentanti ta' l-impjegati; il-proċedura li ghandha tiġi adottata; il-kategoriji jew il-klassijiet ta' impiegi li huma eżenti mill-effetti ta' dan l-artikolu, u kull haġa ohra li ghandha x'taqsam jew hi

anċillari għal dan.

(6) Kull persuna li tonqos li thares id-disposizzjonijiet ta' dan l-artikolu jew ta' xi regolamenti magħmula tahtu, tkun hatja ta' reat kontra dan l-Att.

Impjegati
mchiusa mit-
thaddim ta' l-
artikoli 36, 37 u
38,
Kap. 234.

39. Id-disposizzjonijiet ta' l-artikoli 36, 37 u 38 ma għandhomx jghoddu għall-bahrin impjegati fuq bastimenti skond id-disposizzjonijiet ta' l-Att dwar il-Bastimenti Merkantili; u fil-każ li xi disposizzjonijiet ta' l-imsemmi Att ma jkunux jaqblu mad-disposizzjonijiet ta' dan l-Att, għandhom jghoddu dawk ta' l-imsemmi Att.

Kondizzjoni
f'kuntratt ta'
servizz minghajr
effett.

40. Kull kondizzjoni f'kuntratt ta' servizz li taghti s-setgħa lill-prinċipal li jtemm l-impieg ta' impjegata meta triżzewweg jew meta ssir tqila b'tarbija tkun nulla u minghajr effett.

Ċertifikati ta'
servizz.

41. Mat-temm ta' kuntratt ta' servizz li jdum iktar minn xahar, il-prinċipal ikun marbut, fuq it-talba ta' l-impjegat, li jagħtih ċertifikat li jsemmi kemm dam l-impieg, ix-xorta tax-xogħol jew servizzi magħmulin u, jekk l-impjegat hekk jixtieq, ir-raġuni għat-temm tal-kuntratt, u r-rata tal-paga mhallsa:

Izda l-prinċipal ma jkunx meħtieġ jagħti r-raġuni tat-temm ta' l-impieg, jekk l-impieg jintemm waqt il-perjodu ta' impieg bi prova.

Kondizzjonijiet
li jkunu anqas
favorevoli mill-
Att.

42. Jekk mhux f'każ kif provdut xort'ohra b'dan l-Att, jekk kuntratt ta' servizz bejn impjegat u l-prinċipal tiegħu jew ftehim kollettiv bejn il-prinċipal u r-rappreżentanti magħrufin ta' l-union, jipprovdi għal xi kondizzjoni ta' impieg, inklużi kondizzjonijiet dwar it-temm ta' dak il-kuntratt, li jkunu anqas favorevoli għall-impjegat minn dawk speċifikati fi jew taht l-Att, dawn għandu jkollhom effett daqslikieku minflok dawk il-kondizzjonijiet li huma anqas favorevoli għall-impjegat kien hemm imdahlha l-kondizzjonijiet speċifikati fi jew taht dan l-Att:

Izda, f'każijiet eċċezzjonali, il-prinċipal jista' bi ftehim ma' l-impjegat jew mar-rappreżentant ta' l-union, jipprovdi kondizzjonijiet ta' impieg differenti minn dawk speċifikati fi jew skond dan l-Att, sakemm dan il-ftehim ikun bhala miżura temporanja biex jiġi evitati *redundancies* u sakemm il-ftehim jiġi approvat mid-Direttur, liema approvazzjoni għandha tiġi riveduta kull erba' gimgħat.

TAQSIMA VI

INFURZAR U KSUR RIGWARD IMPIEGI

43. (1) Il-Ministru jahtar dawk l-uffiċjali tad-dipartiment responsabbli għall-impiegi u relazzjonijiet industrijali li huwa jidhirlu xieraq sabiex ikunu spetturi għall-finijiet ta' dan l-Att.

Hatra ta' spetturi.

(2) Spetturi hekk mahturin kif imsemmi hawn qabel ikollhom is-setgħa -

(a) li jidhlu bla tfixkil u minghajr ma qabel javżaw f'kull hin xieraq f'kull fond jew post sugġett għall-ispezzjon taht dan l-Att;

(b) li jagħmlu f'kull fond jew post bhal dan kull eżami, test jew stharrig li huma jidhrihom meħtieġa sabiex jassiguraw ruhhom li d-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti jew ordnijiet tahtu kif ukoll kull kondizzjoni magħrufa ta' impieg qegħdin jiġu mharsa, u partikolarment -

(i) li jagħmlu mistoqsijiet, wehidhom jew quddiem ix-xhieda, lill-prinċipal jew lill-impjegati fuq kull haġa minn dawk imsemmijin;

(ii) li jordnaw li juruhom kotba, reġistri jew dokumenti ohra li skond dan l-Att jew xi ordni maħruġ tahtu għandhom jinżammu u li jikkopjaw dawk id-dokumenti jew jiehdu estratti minnhom.

(3) Fl-okkażjoni ta' zjara ta' spezzjon, spettur għandu jgħarraf lill-prinċipal jew lir-rappreżentant tiegħu bil-preżenza tiegħu, kemm-il darba huwa ma jidhirlux illi dik it-tagħrif ta' tista' tkun ta' hsara għall-qadi ta' dmirijietu.

(4) Il-fondi u postijiet sugġetti għall-ispezzjon taht dan l-Att huma kull fond jew post li dwaru jgħoddu xi disposizzjonijiet ta' dan l-Att jew ta' xi regolament jew ordni tahtu jew xi kondizzjonijiet magħrufin ta' impieg jew kull fond jew post li dwaru spettur ikollu għalfajn jahseb illi jgħoddu d-disposizzjonijiet ta' dan l-Att jew regolamenti jew ordnijiet tahtu jew kondizzjonijiet magħrufin ta' impieg.

(5) Dawn l-ispetturi -

(a) ma jistax ikollhom xi interess dirett jew indirett f'xi fondi jew postijiet li jaqgħu taht l-ispezzjon tagħhom;

(b) ma ghandhom jikxfu f'ebda zmien, lanqas wara li ma jibqghux spetturi, sigrieti ta' manifattura jew kummerè jew proċessi tax-xogħol li jkunu saru jafu bihom fil-qadi ta' dmirijiethom;

(c) ghandhom iqisu bhala assolutament konfidenzjali l-origini ta' kull ilment li bih jiġu mgharrfin b'difett jew ksur tad-disposizzjonijiet ta' dan l-Att jew ta' regolamenti jew ordnijiet tahtu jew ta' kondizzjonijiet magħrufin ta' l-impieg; u

(d) ma ghandhom qatt iġharrfu lill-prinċipal jew lir-rappreżentant tiegħu illi żjara ta' spezzjon saret minhabba li waslilhom ilment bhal dak.

(6) Kull spettur ghandu jkun fornut b'ċertifikat tal-hatra tiegħu u meta jitlob biex jidhol f'xi fond jew post għall-finijiet ta' dan l-Att, ghandu, jekk hekk mitlub, juri l-imsemmi ċertifikat.

(7) Kull spettur li jikser id-disposizzjonijiet tas-subartikolu (5), minbarra kull kastig ieħor li għalih huwa jista' jkun sugġett, jista' wkoll jitkeċċa *ipso facto* mill-impieg tiegħu mal-Gvern.

(8) Persuna ma ghandhiex -

(a) tonqos li twieġeb jew twieġeb hażin jew li iġġiegħel lil xi persuna oħra biex ma twegibx jew biex twieġeb hażin għal xi mistoqsija li spettur ikun awtorizzat jagħmel skond dan l-Att; jew

(b) tonqos li turi kotba, registri jew dokumenti oħra illi, skond is-subartikolu (2)(b)(ii), hija tkun mitluba minn spettur biex iġġiblu; jew

(c) direttament jew indirettament ma thallix illi persuna tidher quddiem spettur jew tiġi mistoqsija minnu, jew tittanta li tagħmel hekk; jew

(d) tfixkel b'xi mod lil spettur fil-qadi tad-dmirijiet tiegħu skond dan l-Att:

Izda hadd ma jkun mehtieg skond il-paragrafu (a) li jwieġeb għal xi mistoqsija li tista' tinkriminah.

Proċedimenti
kriminali.

44. (1) Fi proċedimenti kriminali magħmulin mill-Pulizija quddiem il-Qorti tal-Maġistrati għal reat kontra d-disposizzjonijiet ta' dan l-Att, id-Direttur jew uffiċjal tad-dipartiment tiegħu mqabbd minnu jista', minkejja xi disposizzjoni kuntrarja ta' xi liġi oħra, jagħmel l-akkuża quddiem il-qorti, iġib il-provi, jittratta u xort'oħra

jmexxi l-kawża għall-prosekuzzjoni minflok il-Pulizija.

(2) Id-dikjarazzjoni bil-ġurament ta' kull uffiċjal imsemmi fis-subartikolu li jahbat sew sew qabel dan li huwa ġie mqabba mid-Direttur għall-iskop hemmhekk imsemmi, tkun prova biżżejjed li hu ġie hekk imqabba, jekk din il-prova tiġi mitluba mill-akkużat.

(3) Id-Direttur jew l-uffiċjal imqabba minnu jista', madankollu, jingieb bhala xhud, imma jekk ix-xiehda tiegħu tkun tinhtieg mill-prosekuzzjoni, huwa għandu jinstema' bhala xhud qabel ma jibda dmirijietu bhala uffiċjal prosekutur (minbarra dak li jgħid il-fatti li jiffurmaw ir-reat) hlicf meta l-htieġa tax-xiehda tiegħu tinqala' wara.

45. (1) Kull prinċipal li jikser jew jonqos milli joqgħod għal xi kondizzjoni maghrufa ta' impieg preskritta b'ordni ta' *standard* nazzjonali jew b'ordni biex jirregola settur jew bi ftehim kollettiv, jew għal xi disposizzjoni ta' dan l-Att jew ta' xi regolamenti magħmulin tahtu jehel, sakemm ma jkunx hemm piena differenti stabbilita għal reat bhal dak, meta jinsab hati, multa ta' mhux inqas minn mitt lira (Lm 100) u mhux iżjed minn elf lira (Lm 1000).

(2) Meta xi prinċipal jinstab hati li -

(a) ikun naqas li jhallas pagi b'mhux anqas mir-rata applikabbli skond kondizzjoni maghrufa ta' impieg kif imfisser fit-Taqsima III ta' dan l-Att jew skond kuntratt ta' servizz, liema tkun l-oghla, jew

(b) ikun għamel tnaqqis illegali jew ikun wahhal xi multa minbarra dawk espressament permessi bl-artikolu 19, jew

(c) ikun naqas li jhallas xi *bonus* li għandu jithallas skond l-artikolu 23, jew xi hlas ichor li għandu jithallas minn prinċipal lil impjegat skond dan l-Att jew skond xi ordni magħmul tahtu, jew

(d) ikun zamm xi rimunerazzjoni jew xi pagament li għandu jithallas minflok *in-notice*, jew

(e) ikun naqas li jaghti vaganzi bi hlas kif provdut jew kif speċifikat f'xi ordni ta' *standard* nazzjonali, ordni biex jirregola settur jew kuntratt ta' servizz, jew

(f) ikun naqas li jagħmel xi pagament dovut lil impjegat skond dan l-Att jew skond xi ordni ta' *standard* nazzjonali, ordni biex jirregola settur jew xi ordni ichor magħmul taht dan l-Att,

il-qorti ghandha, fuq it-talba tal-prosekuzzjoni, minbarra li taghti l-piena stabbilita bis-subartikoli ta' qabel ta' dan l-artikolu, tordna lill-hati, wara l-prova ta' l-ammont, li jirrifondi jew ihallas lill-impjegat jew lill-impjegati li jkunu, jew lill-apprendista jew lill-apprendisti li jkunu, skond il-każ, l-imsemmi ammont dovut minnu u, fil-każ ta' vaganzi bi hlas li ma jinghatawx, somma daqs il-hlas dwarhom, u kull ordni bhal dak tal-qorti ghandu jkun ta' l-istess forza u effett u jkun esegwibbli bl-istess mod daqslikicku jkun inghata f'kawża civili bejn l-impjegat jew l-impjegati li jkunu jew l-apprendista jew l-apprendisti li jkunu, skond il-każ, u l-prinċipal:

Izda ebda haġa f'dan is-subartikolu ma tnaqqas minn xi jedd ta' l-impjegat jew l-apprendista, skond il-każ, li jiġbor b'xi mezz oħra kull ammont li hu jkollu jichu.

Kap. 9.

(5) L-artikolu 24 tal-Kodiċi Kriminali ikun iġġodod dwar reati taht dan l-Att.

Reati minn soċjetà, eċċ.

46. Meta reat kontra d-disposizzjonijiet ta' dan l-Att jew xi regolamenti jew ordnijiet maghmula bis-saħħa tiegħu jsir minn soċjetà, kumpannija, għaqda jew korp ichor ta' persuni, kull persuna li fiż-żmien li jkun sar ir-reat, kienet direttur, *manager*, segretarju jew uffiċjal ichor bhal dawk ta' dik is-soċjetà, kumpannija, għaqda jew korp ichor ta' persuni jew kienet tidher li qed tagħxi f'xi kariga tali titqies li tkun hatja ta' dak ir-reat jekk ma tippruvax li r-reat sar mingħajr it-tagħrif tagħha u li kienet eżerċitat id-diligenza kollha xierqa biex timpedixxi l-ghemil tar-reat.

Limitazzjoni ta' azzjoni.

47. (1) Proċedimenti għal reat skond dan l-Att jew skond xi regolamenti jew ordnijiet maghmulin tahtu jistgħu jinbdew f'kull żmien fi żmien sena mill-ghemil tar-reat.

(2) Fejn ir-reat jirreferi għan-nuqqas mill-prinċipal li jhallas il-paga lil impjegat jew in-nuqqas li jagħti vaganzi bi hlas kif meħtieġ b'dan l-Att jew kif speċifikat b'xi ordni ta' *standard* nazzjonal jew b'ordni biex jirregola settur, ir-reat jitqies li hu reat kontinwat jekk il-prinċipal jkun naqas li jhallas il-pagi dovuti lill-impjegat regolarment matul il-perjodu ta' preskrizzjoni.

TAQSIMA VII

AMMINISTRAZZJONI LI GHANDHA X'TAQSAM MA' IMPIEGI

Regolamenti.

48. (1) Il-Prim Ministru jkollu s-setgħa li jippreskrivi permezz ta' regolamenti l-applikabilità ta' kull artikolu jew subartikolu tat-Titolu I ta' dan l-Att għal servizz mal-gvern.

(2) Il-Ministru ikollu s-setgħa li jagħmel, u wara li jkun għamel, ibiddel jew iħassar regolamenti biex jitwettqu u jingħataw effett kull disposizzjoni ta' dan l-Att.

(3) Mingħajr preġudizzju għall-ġeneralità tas-setgħa mogħtija bis-subartikolu (2), ir-regolamenti jistgħu -

(a) jippreskrivu l-mod u ċ-ċirkostanzi li fihom persuni li jkunu 'l fuq mill-età obbligatorja għall-iskola, kif imfisser fl-Att dwar l-Edukazzjoni, u li ma jkunux għadhom għalqu t-tmintax-il scena, jistgħu jahdmu, inkluża s-setgħa li ċerti kategoriji jew klassijiet ta' impieg jiġu dikjarati bħala impiegi projbiti għal dawn il-persuni; Kap. 327.

(b) jippreskrivu dwar il-proċedura li għandha tiġi segwita mill-Bord dwar ir-Relazzjonijiet dwar l-Impiegi, inkluż il-mod li bih issir il-votazzjoni u li jimtela l-post ta' xi membru li jitbattal, il-mod li bih jitmexxa x-xogħol u l-*quorum* meħtieġ għal dan ix-xogħol;

(ċ) jippreskrivu d-drittijiet li għandhom jithallsu dwar kull haġa meħtieġa jew li tista' ssir skond dan l-Att;

(d) jippreskrivu jew mod ieħor jipprovdu għal kull haġa li għandha jew tista' tiġi preskritta jew provdut għaliha b'dan l-Att jew b'regolamenti magħmulin tahtu.

(4) Kull regolament magħmul taht dan l-Att jista' jipprovdi għal kull haġa li għandha x'taqsam mar-responsabilità għat-tharis tar-regolamenti, u dwar il-persuni li jkunu responsabbli, u għal kull haġa li għandha x'taqsam ma' l-infurzar ta' dawk ir-regolamenti, inkluża, iżda mhux limitata għal, l-imposizzjoni ta' multa li ma taqbiżx hamest elef lira (Lm 5000) għall-ksur ta', jew nuqqas ta' tharis, tad-disposizzjonijiet ta' dawk ir-regolamenti.

TITOLU II

RELAZZJONIJIET INDUSTRIJALI

TAQSIMA I

ORGANIZZAZZJONI TA' HADDIEMA U PRINĊIPALI

Sotto-taqsimi I

*Stat, registrazzjoni u tmexxija ta' trade unions
u ta' assoċjazzjonijiet ta' prinċipali*

Stat ta' *trade
unions* u ta'
assoċjazzjonijiet
ta' prinċipali.

49. (1) *Trade union* u assoċjazzjoni ta' prinċipali għandhom, għall-finijiet kollha tal-liġi, jitqiesu bħala assoċjazzjoni ta' persuni u mhux bħala enti morali, iżda -

(a) din tkun tista' tagħmel kuntratti;

(b) il-proprjetà kollha ta' l-*union* jew ta' l-assoċjazzjoni tkun vestita fil-*union* jew fl-assoċjazzjoni, iżda s-setgħat kollha, kemm jekk ta' tnehhija, amministrazzjoni jew xort'ohra, dwar dik il-proprjetà jkunu eżerċitabbli minn jew bl-awtorità tal-korp ta' persuni, ikun x'ikun imsejjah, li bir-regoli ta' l-*union* jew ta' l-assoċjazzjoni jkun inkarigat mit-tmexxija tax-xogħol tagħha;

(c) din tkun tista' tħarrek u, bla ħsara għad-disposizzjonijiet ta' dan l-Att, li tiġi mharrka, sew fi proċedimenti dwar proprjetà jew bażati fuq kuntratt, delitt jew kważi-delitt, jew fuq xi kawża ohra ta' azzjoni tkun li tkun;

(d) proċedimenti dwar kull reat li jkun allegat li sar minnha jew f'isimha jistgħu jinġiebu kontra kull wieħed mill-uffiċjali tagħha jew uffiċjali ohra kif provdut fl-artikolu 13 ta' l-Att dwar l-Interpretazzjoni;

(e) kull sentenza jew ordni mogħti f'xi proċedimenti jkun esegwibbli kontra kull proprjetà ta' l-*union* jew ta' l-assoċjazzjoni.

(2) L-għanijiet ta' xi *trade union* jew ta' assoċjazzjoni ta' prinċipali m'għandhomx, minhabba biss li jraġżnu n-negozju, ikunu kontra l-liġi hekk illi -

(a) xi membru ta' l-*union* jew ta' l-assoċjazzjoni jkun sugġett għal proċedimenti kriminali; jew

(b) xi ftehim ikun null jew jista' jiġi annullat, lanqas ma ghandha xi regola bhal dik ta' *trade union* jew ta' assoċjazzjoni ta' prinċipali tkun kontra l-liġi jew ma tkunx tista' tiġi nfużata minhabba biss li trażżan in-negozju.

50. (1) Ir-regoli ta' kull *trade union* u ta' kull assoċjazzjoni ta' prinċipali ghandu jkollhom disposizzjonijiet dwar il-hwejjeġ imsemmija fid-disposizzjonijiet li ġejjin ta' dan l-artikolu.

Regoli ta' *trade unions* u ta' assoċjazzjonijiet ta' prinċipali.

(2) Ir-regoli ghandhom -

(a) jispeċifikaw l-isem tat-*trade union* jew ta' l-assoċjazzjoni ta' prinċipali, l-indirizz ta' l-uffiċċju prinċipali taghha u l-ghanijiet li ghalihom tkun twaqqfet;

(b) jipprovdu dwar l-ghanijiet li ghalihom, u l-mod li bih, kull proprjetà jew fondi ta' l-*union* jew ta' l-assoċjazzjoni huma awtorizzati li jiġu applikati jew investiti;

(ċ) jekk xi benefiċċji finanzjarji jkunu se jinghataw lil membri tat-*trade union* jew ta' l-assoċjazzjoni ta' prinċipali mill-proprjetà jew mill-fondi taghha, jiprovdu ghall-ammonti ta' dawk il-benefiċċji u ċ-ċirkostanzi li tahtom jistghu jinghataw lill-membri;

(d) jispeċifikaw l-offiżi li ghallhom l-*union* jew l-assoċjazzjoni tista' taht ir-regoli tkeċċi membru jew tiehu xi azzjoni dixxiplinari ohra, il-pieni applikabbli ghal kull waħda minn dawk l-offiżi, u l-proċedura għas-smigh tal-każijiet fejn jiġu allegati offiżi kontra r-regoli;

(e) jiprovdu għall-elezzjoni ta' kumitat ta' tmexxija u għall-elezzjoni tiegħu mill-ġdid f'intervalli xierqa, għall-elezzjoni u l-hatra ta' uffiċċjali ta' l-*union* jew ta' l-assoċjazzjoni u ta' uffiċċjali ohra, u għall-mod li bih il-kumitat ta' tmexxija, u l-uffiċċjali kollha jistghu jitnehhew mill-kariga;

(f) jiprovdu għat-tiżmim ta' kontijiet shah u ezatti mill-*union* jew assoċjazzjoni, għall-hatra ta' udituri u għall-verifika ta' kull sena tal-kontijiet;

(g) jiprovdu għall-ispezzjon tal-kotba u ta' l-ismijiet tal-membri ta' l-*union* jew assoċjazzjoni minn kull persuna li jkollha interess fil-fondi ta' l-*union* jew assoċjazzjoni;

(h) jispeċifikaw il-mod li bih kull regola ta' l-*union* jew assoċjazzjoni tista' ssir, tinbidel jew tiġi revokata, u ċ-ċirkostanzi li tahtom u l-mod li bih l-*union* jew assoċjazzjoni

tista' tiġi xolta.

(3) Kull *trade union* u kull assoċjazzjoni ta' prinċipali għandha fuq it-talba ta' kull persuna tagħtiha kopja tar-regoli, kif ikunu fis-sehh fid-data tat-talba, jew minghajr hlas jew mal-hlas ta' somma kif jista' jiġi preskritt.

It-*trade unions*
u l-
assoċjazzjoni-
jiet ta' prinċipali
m'għandhomx
jahdmu jekk ma
jkunx
reġistrati.

51. (1) *Trade union* jew assoċjazzjoni ta' prinċipali, u kull membru u kull uffiċjal tagħha, m'għandhom jagħmlu ebda haġa li tmexxi 'l quddiem xi wieħed mill-ghanijiet li għaliha tkun għiet iffurmata kemm-il darba dik il-*union* jew assoċjazzjoni ma tkunx qabel għiet reġistrata.

(2) Kull *trade union* jew assoċjazzjoni ta' prinċipali, u kull membru u kull uffiċjal tagħha, li jikser id-disposizzjonijiet tas-subartikolu (1) jkun hati ta' reat u jehel meta jinsab hati multa ta' mhux iżjed minn hames mitt lira (Lm 500).

Reġistratur ta'
Trade Unions.

52. (1) Għall-finijiet ta' dan l-Att, uffiċjal pubbliku għandu jinhatar bhala, jew ikun nominat biex jaqdi d-dmirijiet ta', Reġistratur ta' *Trade Unions*.

(2) Ir-Reġistratur għandu jaqdi l-funzjonijiet u d-dmirijiet mogħtija lilu b'dan l-Att, u għall-fini ta' l-eżerċizzju ta' dawk il-funzjonijiet u tal-qadi ta' dawk id-dmirijiet dan ikollu s-setgħa li jkollu lil kull persuna li tagħti kull tagħrif rilevanti u li tipproduċilu kull dokument rilevanti, u jista' wkoll jagħti għuramenti.

Reġistrazzjoni
ta' *trade unions*
u ta'
assoċjazzjonijiet
ta' prinċipali.

53. (1) Kull seba' membri jew iktar ta' *trade union* jew ta' assoċjazzjoni ta' prinċipali jistgħu, billi jiffirmaw ir-regoli ta' l-*union* jew ta' assoċjazzjoni, u billi xort'ohra jharsu d-disposizzjonijiet l-ohra ta' dan l-Att dwar reġistrazzjoni, jirreġistraw il-*union* jew assoċjazzjoni skond dan l-Att:

Iżda jekk xi wieħed mill-ghanijiet ta' *trade union* jew assoċjazzjoni ta' prinċipali ma jkunx skond il-liġi r-reġistrazzjoni ta' dik il-*union* jew assoċjazzjoni tkun nulla.

(2) Biex jiġi stabbilit in-numru ta' membri ta' *trade union* għal xi wieħed mill-ghanijiet ta' dan l-Att ma jingħadd ebda individwu li ma jkunx għalaq is-sittax-il sena jew li ma jkunx jirrisjedi f'Malta; u biex jiġi stabbilit in-numru tal-membri ta' assoċjazzjoni ta' prinċipali ma tingħadd ebda persuna li magħha jew li għaliha ebda individwu ma jkun dahal fi, jew ikun jahdem taht, kuntratt ta' impieg għal servizz f'Malta.

Disposizzjoni-
jiet dwar
reġistrazzjoni.

54. (1) Kull *trade union* u kull assoċjazzjoni ta' prinċipali għandha tkun reġistrata skond id-disposizzjonijiet ta' dan l-Att.

(2) Bla hsara ghal kull disposizzjoni oħra ta' dan l-Att dwar registrazzjoni, id-disposizzjonijiet li ġejjin ghandu jkollhom effett dwar ir-registrazzjoni ta' *trade unions* u assoċjazzjonijiet ta' prinċipali taht dan l-Att, jiġifieri -

(a) applikazzjoni għar-registrazzjoni ta' l-*union* jew assoċjazzjoni u tar-regoli tagħha għandha tintbagħat jew tiġi prodotta lir-Registratur flimkien ma' żewġ kopji stampati tar-regoli u ma' lista ta' l-ismijiet ta' l-uffiċjali ta' l-*union* jew assoċjazzjoni li fiha jkunu jidhru wkoll il-karigi rispettivi tagħhom;

(b) ebda *trade union* jew assoċjazzjoni ta' prinċipali ma għandha tkun registrata taht isem li jkun l-istess bħal dak li bih xi *union* jew assoċjazzjoni oħra tkun għal dak iż-żmien registrata skond dan l-Att, jew ikun hekk jixbah lil dak l-isem li x'aktarx iqarra lill-pubbliku;

(ċ) jekk ir-Registratur ikun sodisfatt li l-*union* jew l-assoċjazzjoni tkun harsat id-disposizzjonijiet ta' dan l-Att dwar registrazzjoni, jew jekk il-Qorti ta' l-Appell tkun hekk ordnat skond l-artikolu 55, dan għandu jirreġistra l-*union* jew l-assoċjazzjoni, skond il-każ, u r-regoli tagħha;

(d) malli jirreġistra *trade union* jew assoċjazzjoni ta' prinċipali, ir-Registratur għandu jgħoddi ċertifikat ta' registrazzjoni.

(3) Kull tibdil fir-regoli ta' *trade union* jew assoċjazzjoni ta' prinċipali għandu jkun registrat mar-Registratur, u kull tibdil bħal dak m'għandux jibda jsehh hliet mid-data tar-registrazzjoni tiegħu jew minn dik id-data aktar tard li tista' tiġi speċifikata fir-regoli.

(4) Ir-regoli ta' kull *trade union* registrata jew assoċjazzjoni ta' prinċipali registrata m'għandhomx hekk jinbidlu li ma jibqgħux jissodisfaw jew iharsu d-disposizzjonijiet ta' dan l-Att li japplikaw għalihom; u r-Registratur m'għandux jirreġistra xi regoli, jew tibdil fir-regoli, li jkunu kontra d-disposizzjonijiet ta' qabel ta' dan l-artikolu.

55. (1) Jekk ir-Registratur ikun sodisfatt illi -

(a) l-applikanti għar-registrazzjoni ma jkunux ġew awtorizzati kif imiss biex japplikaw għar-registrazzjoni; jew

(b) xi wiehed mill-ghanijiet tat-*trade union* jew ta' l-assoċjazzjoni ta' prinċipali jkun kontra l-liġi; jew

Riġut jew
thassir ta'
registrazzjoni.

(ċ) l-applikazzjoni ghar-registrazzjoni jew ir-regoli ta' *l-union* jew ta' l-assoċjazzjoni ma jkunux jaqblu mad-disposizzjonijiet ta' dan l-Att,

dan ghandu jirrifjuta r-registrazzjoni.

(2) Ir-Registratur ikun jista' jhassar ir-registrazzjoni ta' kull *trade union* jew assoċjazzjoni ta' prinċipali -

(a) fuq it-talba ta' *l-union* jew ta' l-assoċjazzjoni, li tkun ipprovata b'dak il-mod li hu jista' jehtieg;

(b) mal-prova ghas-sodisfazzjon tiegħu illi ċertifikat ta' registrazzjoni jkun gie miksub b'qerq jew bi żball, jew li r-registrazzjoni kienet nulla, jew li *l-union* jew l-assoċjazzjoni kienet volontarjament kisret xi waħda mid-disposizzjonijiet ta' dan l-Att;

(ċ) jekk, għal xi raġuni, ir-regoli ta' *l-union* jew ta' l-assoċjazzjoni ma jkunux jaqblu mad-disposizzjonijiet ta' dan l-Att;

(d) jekk ikun sodisfatt li *l-union* jew l-assoċjazzjoni ma tkunx baqgħet teżisti;

(e) jekk ikun sodisfatt li l-ghadd tal-membri ta' *l-union* jew ta' l-assoċjazzjoni jkun niżel għal anqas minn seba' membri kalkolat kif provdut fl-artikolu 53(2).

(3) Meta r-Registratur jirrifjuta li jirreġistra *trade union* jew assoċjazzjoni ta' prinċipali, dan ghandu minnufih igharraf bil-miktub lill-applikanti bir-rifjut u r-raġunijiet tiegħu.

(4) Meta r-Registratur ikun bi hsiebu jhassar ir-registrazzjoni ta' *trade union* jew ta' assoċjazzjoni ta' prinċipali, dan ghandu jagħti avviż tat-thassir li jkollu fi hsiebu lill-*union* jew lill-assoċjazzjoni fejn jagħti r-raġunijiet għal dan it-thassir; u r-registrazzjoni ma tithassarx qabel ma jghaddu xahrejn mill-ghoti ta' dak l-avviż, lanqas ma ghandha r-registrazzjoni tithassar jekk, qabel it-thassir, il-*union* jew l-assoċjazzjoni tkun irrangat in-nuqqas jew xort'ohra hadet passi biex tevita t-thassir. Jekk minkejja r-raġunijiet miġjuba, jew passi ohra li jkunu ttiċhdu, mill-*union* jew mill-assoċjazzjoni, ir-Registratur jiddeċiedi li ghandu jhassar ir-registrazzjoni, dan ghandu jgharraf bil-miktub lill-*union* jew lill-assoċjazzjoni bid-deċiżjoni tiegħu:

Izda, meta *l-union* jew l-assoċjazzjoni ma tkunx baqgħet teżisti, ir-Registratur jista' jhassar ir-registrazzjoni minghajr ma jhares ebda waħda mid-disposizzjonijiet ta' dan is-subartikolu u

jaghti avviż tat-thassir fil-Gazzetta.

* (5) Fuq kull rifjut mir-Registratur li jirreġistra *trade union* jew assoċjazzjoni ta' prinċipali u fuq kull deċiżjoni minnu li jhassar xi reġistrazzjoni bhal dik, jista' jsir appell lill-Qorti ta' l-Appell b'rikors li jsir mhux aktar tard minn sebat ijiem minn mindu jikkomunika r-rifjut jew id-deċiżjoni tiegħu kif mehtieġ b'dan l-artikolu. Fuq kull appell bhal dak il-qorti tista' tagħti dawk l-ordnijiet li jidhrilha xierqa, maghduda kull direttiva dwar l-ispejjeż ta' l-appell; u kull ordni bhal dak tal-qorti jkun finali.

(6) Il-bord imwaqqaf taht l-artikolu 29 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jista' jagħmel regoli dwar dawk l-appelli, fejn jipprovdi dwar il-mod li bih jinstemghu xiehda, jippreskrivi l-proċedura li għandha tiġi mharsa, il-mod li bih jiġi notifikat l-appell lir-Registratur u b'mod ġenerali jipprovdi għal kull haġa oħra li l-qorti jidhrilha mehtieġa jew spedjenti. Kap. 12.

(7) Il-Ministru responsabbli għall-ġustizzja jista' b'regolamenti taht dan is-subartikolu jistabbilixxi d-drittijiet li għandhom jithallsu fir-reġistru tal-qorti għall-preżentata ta' atti ġudizzjarji konnessi ma' appelli taht dan l-artikolu:

Izda sakemm dawk id-drittijiet jiġu hekk stabbiliti mill-Ministru, għandhom jghoddu d-drittijiet li hemm fl-Iskeda A li tinsab mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(8) Ir-Registratur ikollu l-jedd li jinstema' fuq kull appell bhal dak u jingħata l-opportunità li jagħmel hekk.

56. (1) Ir-Registratur għandu jzomm reġistru tat-*trade unions* u ta' l-assoċjazzjonijiet ta' prinċipali kollha reġistrati skond dan l-Att, li juri l-ismijiet ta' dawk il-*unions* u assoċjazzjonijiet u dawk il-partikolaritajiet l-oħra li r-Registratur jidhirlu xierqa. Registru ta' *trade unions* u ta' assoċjazzjonijiet ta' prinċipali.

(2) Ir-reġistru tat-*trade unions* u ta' l-assoċjazzjonijiet ta' prinċipali għandu jinżamm miftuh għal spezzjon minn kull persuna mingħajr hlas fil-hinijiet xierqa kollha.

57. (1) Kull *trade union* u kull assoċjazzjoni ta' prinċipali għandha żzomm reġistrazzjoni aġġornata ta' l-ismijiet tal-membri ta' l-*union* jew assoċjazzjoni, skond il-każ, li turi d-data rispettiva tas-sħubija tagħhom, in-numri tal-karta ta' l-identità, l-indirizzi u s-snajjja' jew ix-xogħol tagħhom. Registru tal-membri għandu jinżamm minn *trade unions* u assoċjazzjonijiet ta' prinċipali.

(2) Ir-Registratur ikollu s-setgħa f'kull żmien li jispezzjona dawk ir-reġistrazzjonijiet jew li jichu hsieb li dawk ir-reġistrazzjonijiet jiġu spezzjonati minn persuna awtorizzata minnu

ghal hekk, u kull *trade union* u kull assoċjazzjoni ta' prinċipali ghandha taghti lilu u lil kull persuna oħra awtorizzata kif intqal qabel il-faċilitajiet xierqa kollha għal dak il-ghan.

Prospetti fis-sena.

58. Fit-tieni jew wara t-tieni jum ta' Ġunju u qabel l-ewwel jum ta' Lulju ta' kull sena, ir-Registatur għandu b'avviż fil-Gazzetta, jitlob u jehtieg *lit-trade unions* u assoċjazzjonijiet ta' prinċipali kollha reġistrati li jibgħatulu f'dik l-ghamla jew dak il-format li jehtieg -

(a) lista ta' l-ismijiet ta' l-uffiċjali ta' l-*union* jew assoċjazzjoni li turi wkoll il-kariga miżmuma minn kull wieħed minnhom;

(b) dikjarazzjoni li l-ismijiet tal-membri u partikolaritajiet oħra murija fir-reġistrazzjoni li għandha tinzamm skond l-artikolu 57 ikunu ġew aġġornati u li t-tibdil mehtieg ikun sar fl-imsemmija reġistrazzjoni għal dan il-ghan;

(c) dikjarazzjoni tad-dhul, fondi u nfiq ta' l-*union* jew assoċjazzjoni dwar is-sena ta' qabel;

(d) kopja tar-rapport annwali li juri l-hidma ta' l-*union* jew assoċjazzjoni matul is-sena ta' qabel jew, jekk ma jkun sar ebda rapport bħal dak, dikjarazzjoni ffirmata mis-segretarju ta' l-*union* jew assoċjazzjoni li turi l-imsemmija hidma matul dik is-sena,

u kull *trade union* u kull assoċjazzjoni ta' prinċipali ghandha thares dik il-htieġa fi zmien hmistax-il gurnata mill-pubblikazzjoni ta' l-avviż fil-Gazzetta kif imsemmi qabel.

Records ta' kontijiet.

59. (1) Kull *trade union* u kull assoċjazzjoni ta' prinċipali ghandha -

(a) tiehu hsieb li jinżammu *records* tal-kontijiet xierqa dwar l-operazzjonijiet tagħha u l-attiv u l-passiv tagħha; jiġifieri dawk ir-*records* li jkunu mehtieġa biex jagħtu harsa vera u xierqa tal-qagħda ta' l-*union* jew assoċjazzjoni u li jispjegaw l-operazzjonijiet tagħha; u

(b) tistabilixxi u żżomm sistema sodisfaċenti ta' kontroll tar-*records* tal-kontijiet tagħha, tal-flus li jkollha f'idejha u tad-dhul u rimessi tagħha kollha.

(2) Kull *trade union* u kull assoċjazzjoni ta' prinċipali ghandha tahtar uditur jew udituri li jkollhom il-kwalifiki mehtieġa b'dan l-artikolu sabiex jivverifikaw il-kontijiet tagħha; u kull *trade*

union jew assoċjazzjoni ta' prinċipali li tkun ilha mwaqqfa għal aktar minn* tmax-il xahar għandha għall-anqas darba kull sena kalendarja tiehu hsieb li dawk il-kontijiet jithejjew u jiġu verifikati minn dak l-uditur jew dawk l-udituri kif intqal qabel.

(3) Kull *trade union* u kull assoċjazzjoni ta' prinċipali għandha, mhux aktar tard minn xahar wara li l-kontijiet ikunu ġew verifikati, tibghat kopja ta' dawk il-kontijiet lir-Registratur.

(4) Kull *trade union* u kull assoċjazzjoni ta' prinċipali għandha fuq it-talba ta' xi wieħed mill-membri tagħha tagħtih kopja tal-kontijiet tagħha l-aktar riċenti jew minghajr hlaas jew mal-hlaas ta' dritt kif jista' jiġi preskritt.

(5) Persuna tkun kwalifikata li tivverifika l-kontijiet ta' *trade union* jew ta' assoċjazzjoni ta' prinċipali jekk tkun kwalifikata li tkun uditur ta' kumpannija skond id-disposizzjonijiet ta' l-Att dwar il-Kumpanniji. Kap. 386.

60. (1) Fix-xahar ta' Awissu ta' kull sena r-Registratur għandu jagħmel u jibghat lill-Ministru rapport fuq it-thaddim ta' din it-Taqsima ta' dan l-Att. Ir-rapport għandu jinkludi lista tat-*trade unions* u ta' l-assoċjazzjonijiet ta' prinċipali kollha reġistrati u dikjarazzjoni dwar l-ispezzjonijiet li jkunu saru mir-Registratur skond l-artikolu 57. Rapport mir-Registratur.

(2) Il-Ministru għandu jichu hsieb li r-rapport jiġi pubblikat fil-Gazzetta.

61. Il-Ministru jista' jagħmel regoli dwar ir-reġistrazzjoni ta' *trade unions* u assoċjazzjonijiet ta' prinċipali u b' mod partikolari iżda bla hsara għall-generalità ta' dak li ntqal qabel, dwar - Regoli dwar reġistrazzjoni.

(a) is-sigill, jekk ikun hemm, li għandu jintuża mir-Registratur għall-għanijiet tar-reġistrazzjoni;

(b) il-formuli li għandhom jintużaw għal dik ir-reġistrazzjoni u għal kull applikazzjoni għaliha;

(ċ) l-ispezzjon ta' reġistri u ta' dokumenti miżmuma mir-Registratur u l-għemil ta' kopji ta' kull dhuq li jsir fihom;

(d) id-drittijiet li għandhom jingabru għar-reġistrazzjoni, għall-ispezzjon ta' kull reġistru jew dokument iħor, għal kull kopja magħmula minn xi reġistrazzjoni jew dokument, u għal kull servizz iħor provdut jew għal xi haġa preskritta jew li tista' ssir b'dan l-Att;

(c) b'mod ġenerali biex isehhu d-disposizzjonijiet ta' din it-Taqsima ta' dan l-Att.

Reati kontra l-
artikoli 57, 58 u
59.

62. (1) Jekk *trade union* jew assoċjazzjoni ta' prinċipali tirrifjuta jew volontarjament titraskura li taqdi dmir impost fuqha b'xi jew taht xi waħda mid-disposizzjonijiet ta' l-artikolu 57, 58 jew 59, it-*trade union* jew l-assoċjazzjoni ta' prinċipali tkun hatja ta' reat u tehel meta tinsab hatja multa ta' mhux iżjed minn hames mitt lira (Lm 500).

(2) Kull persuna li volontarjament tiddel jew iġġiegħel li jiġi mibdul dokument li hu mehtieg għall-finjiet tad-disposizzjonijiet ta' l-artikolu 57, 58 jew 59, bil-ħsieb li tiffalsifika d-dokument jew sabiex *trade union* jew assoċjazzjoni ta' prinċipali tkun tista' ma tharisx dawk id-disposizzjonijiet, tkun hatja ta' reat u tehel meta tinsab hatja prigunerija għal żmien ta' mhux iżjed minn sena jew multa ta' mhux iżjed minn elf lira (Lm 1000) jew dik il-prigunerija u multa flimkien.

Sotto-taqsima II

Restrizzjonijiet fuq responsabbiltà u proċedimenti legali u fuq membri ta' l-union

Helsien ta-
trade unions u
assoċjazzjonijiet
ta' prinċipali
minn kawżi
dwar għemil ta'
hsara.

63. (1) Bla hsara għad-disposizzjonijiet tas-subartikolu (2), ma tista' tittiched ebda azzjoni dwar delitt jew kważi delitt minhabba xi għemil -

(a) li jkun allegat li sar minn jew f'isem *trade union* jew minn jew f'isem assoċjazzjoni ta' prinċipali; jew

(b) li jkun allegat li ġie mheddod jew li jkun maħsub li jsir kif intqal qabel,

kontra l-*union* jew l-assoċjazzjoni f'isimha stess, jew kontra xi membri jew kontra kull uffiċjali ta' l-*union* jew assoċjazzjoni f'isimhom stess u f'isem il-membri l-oħra kollha ta' l-*union* jew assoċjazzjoni.

(2) Is-subartikolu (1) ma jolqotx ir-responsabbiltà ta' *trade union* jew ta' assoċjazzjoni ta' prinċipali li jiġu mharrkin dwar kull haġa minn dan li ġej, jekk ma tinqalax minn xi għemil bi ħsieb ta' tilwima ta' xogħol jew biex din it-tilwima titmexxa 'l quddiem, jiġifieri -

(a) xi traskuraġni, inkonvenjenza jew ksur ta' dmir, (sew jekk impost fuqhom b'xi regola ta' liġi jew b'xi legislazzjoni) li jwassal għal hsara fuq il-persuna ta' xi hadd;

jew

(b) bla hsara ghad-disposizzjonijiet tal-paragrafu (a), ksur ta' xi dmir impost dwar id-dritt għall-proprjetà, jew dwar il-pussess, il-kontroll jew l-użu ta' xi proprjetà, sew mobbli jew immobbli.

64. (1) Għemil minn persuna bil-hsieb li jkun hemm jew li titmexxa 'l quddiem tilwima ta' xogħol ma titqiesx bhala delitt jew kważi delitt għar-raġuni biss li dak l-għemil -

Għemejjel bil-hsieb li jitmexxew 'il quddiem tilwima ta' xogħol.

(a) iġieghel lil persuna oħra li tikser kuntratt ta' impieg; jew

(b) ihedded li kuntratt ta' impieg (sew jekk il-persuna tkun parti fih sew jekk le) jiġi miksur jew li jġieghel lil persuna oħra tikser kuntratt ta' impieg li fih tkun parti l-persuna l-oħra; jew

(ċ) ikun ifixkel il-kummerè, in-negozju jew l-impieg ta' persuna oħra, jew il-jedd tal-persuna l-oħra milli tiddisponi mill-kapital jew mix-xogħol tagħha kif tkun trid.

(2) Għemil li minhabba s-subartikolu (1) ma tkunx tista' tittiehed azzjoni dwaru nnifsu, u ksur ta' kuntratt bil-hsieb li jkun hemm jew li titmexxa 'l quddiem tilwima ta' xogħol, ma jitqisux bhala għemil illegali jew użu ta' mezzi illegali bil-għan li tiġi stabbilita r-responsabbiltà għal għemil bhala delitt jew kważi delitt.

(3) Ftehim jew għaqda bejn żewġ persuni jew aktar biex jagħmlu jew jichdu hsieb li jsir xi għemil bil-hsieb li jkun hemm jew biex titmexxa 'l quddiem tilwima ta' xogħol ma jitqiesx bhala delitt jew kważi delitt jekk l-għemil ikun wieħed li, jekk magħmul minghajr dak il-ftehim jew għaqda, ma tistax tittiehed azzjoni dwaru bhala delitt jew kważi delitt.

(4) Ma tistax tittiehed azzjoni għal danni dwar għemil minn persuna magħmul bil-hsieb li jkun hemm jew li titmexxa 'l quddiem tilwima ta' xogħol u skond direttiva mahruġa minn *trade union*, sew jekk dik il-persuna tkun membru tagħha sew jekk le, għar-raġuni biss li tikkonsisti fi ksur ta' kuntratt ta' impieg; u kull għemil magħmul kif intqal qabel, li ma jkunx ksur ta' ftehim kollettiv, jew ta' ftehim jew deċiżjoni li jkunu għadhom jorbtu skond id-disposizzjonijiet ta' l-artikolu 70 jew 72, jew deċiżjoni jew sentenza tat-Tribunal m'għandux waħdu jagħti l-jedd-lill-prinċipal li jtemm il-kuntratt ta' impieg tal-persuna li tkun għamlet l-għemil kif intqal qabel, jew li jiddiskrimina kontra tagħha, u m'għandux jitqies bhala interruzzjoni fis-servizz ta' dik il-persuna.

Kap. 9.

(5) Id-disposizzjonijiet ta' l-artikolu 338(t) tal-Kodiċi Kriminali m'għandhom jghoddu għal xi ftehim jew għaqda bejn żewġ persuni jew aktar biex jagħmlu jew jiehdu hsieb li jsir xi għemil bil-hsieb li jkun hemm jew li titmexxa l-quddiem tilwima ta' xogħol.

(6) Is-subartikolu (4) m'għandux ikun japplika għal:

(a) persuni impjegati bhala *Air Traffic Controllers* fil-Malta International Airport u fl-Airport Fire Fighting Section ta' dak l-ajruport;

Kap. 411.

(b) membri tal-Forza ta' Ghajnuna u Salvataġġ stabbilita bis-sahha ta' l-artikolu 8 ta' l-Att dwar il-Protezzjoni Civili;

(ċ) persuni impjegati biex jipprovdu servizzi ta' pilotaġġ u rmiġġ, servizzi ta' l-irmonk, ta' tifi ta' nar, servizzi tas-sahha medika u servizzi kontra tniġġiż kif ikun mehtieg f'każijiet ta' emerġenza fil-portijiet;

(d) dak l-anqas numru ta' persuni li jkun mehtieg biex jiġi garantit li l-hajja ma tkunx ipperikolata minhabba n-nuqqas ta' importazzjoni jew rilaxx ġewwa Malta ta' qamh, il-frotta tal-qamh, gass domestiku, karburanti għall-avjazzjoni, *diesel* u petrol u karburanti għat-thaddim ta' faċilitajiet tat-trasport bl-ajru u biex jiġġeneraw l-enerġija u faċilitajiet għall-produzzjoni ta' l-ilma, kif ikun miftiehem bejn il-prinċipal rispettiv u l-*union* rikonoxxuta, jew fin-nuqqas ta' ftehim, kif ikun deċiż minn dik l-awtorità kompetenti li tirregola dak is-settur, u fin-nuqqas ta' dan mit-Tribunal Industrijali;

(e) dak l-anqas numru ta' persuni li jkun mehtieg biex jiġi garantit li titkompla l-produzzjoni, l-provvista u d-distribuzzjoni ta' l-ilma u l-elettriku kif ikun miftiehem bejn il-prinċipal rispettiv u l-*union* rikonoxxuta jew, fin-nuqqas ta' ftehim, kif ikun deċiż mit-Tribunal Industrijali;

(f) dak l-ghadd ta' persuni li jistgħu jinhtiegu biex jinżammu b'mod kontinwat u minghajr interruzzjoni s-servizzi clenkati fl-Iskeda ta' dan l-Att u li huma mehtieġa li jithaddmu f'kull hin sabiex ikomplu jingħataw mill-Gvern servizzi essenzjali lill-komunità;

B'dan illi, għal finijiet tas-subparagrafi (d) u (e), jekk ma jkunx intlaħaq ftehim kif imsemmi fi żmien xahar minn meta jiġi fis-schh dan l-Att, il-kwistjoni tkun riferuta lill-awtorità kompetenti li tirregola dak is-settur jew lit-Tribunal Industrijali skond il-każ fuq talba ta' xi wahda mill-partijiet.

(7) Meta n-numru ta' uffiċjali pubbliċi li jkollhom jew li jkunu impjegati f'xi wahda mill-imsemmija karigi jkun akbar min-numru muri fl-imsemmija Skeda bhala essenzjalment mehtieg, is-subartikolu (6) japplika biss ghall-aktar anzjani fost dawk l-uffiċjali li flimkien jagħmlu dak in-numru (esklużi biss dawk minnhom li jkunu bil-leave awtorizzat espressament ghall-finijiet ta' dan is-subartikolu, u biss sakemm ikunu hekk bil-leave), u l-anzjanità tiġi stabbilita skond kull anzjanità li jkollha l-kariga fiha nfisha jew, fin-nuqqas ta' dik l-anzjanità, skond it-tul tas-servizz ta' l-uffiċjali fil-kariga miżmuma minnhom jew li fiha jkunu impjegati fil-hin rilevanti, u f'kazijiet ta' tul ta' servizz indaqs skond l-età ta' l-uffiċjali li jkollhom l-istess tul ta' servizz.

(8) Kull uffiċjal pubbliku li ghalih, bis-sahha tas-subartikoli (6) u (7), is-subartikolu (4) ma japplikax, ikollu s-servizz tiegħu mal-Gvern mitmum minnufih jekk, bil-hsieb li jkun hemm jew li titmexxa 'l quddiem tilwima ta' xogħol jew xi azzjoni oħra li tittiehed minn tnejn jew iżjed uffiċjali pubbliċi jew impjegati oħra (sew jekk skond direttiva minn *trade union* sew jekk le), jew b'sustenn tagħha jew b'simpatija magħha, dak l-uffiċjal jirrifjuta jew b'mod ieħor jonqos li jaqdi dawk id-dmirijiet li huma neċessarji biex ikompli jingħata s-servizz essenzjali, skond il-provvedimenti ta' dan l-Att u skond il-pattijiet tas-servizz jew skond il-kundizzjonijiet ta' l-impieg u taht l-ordnijiet ta' l-awtoritajiet kompetenti tal-Gvern.

(9) L-Iskeda li tinsab ma' dan l-Att tista' tiġi mibdula, miżjuda jew xort' oħra emendata -

(a) b'riżoluzzjoni tal-Kamra tad-Deputati; jew

(b) mill-Prim Ministru b'ordni fil-Gazzetta;

Iżda ordni bhal dak ma jistax iżid in-numru totali ta' karigi taht il-Kategorija A għal iktar minn hamsa u erbgħin (45), taht il-Kategorija B għal aktar minn mija (100) u taht il-Kategorija C għal aktar minn mitejn u hamsa u għoxrin (225).

65. Persuna jew iktar jistgħu, bil-hsieb li jkun hemm jew li titmexxa 'l quddiem tilwima ta' xogħol, ikunu f'xi jew hdejn -

Pikettjar bil-kwiet.

(a) post fejn persuna oħra taħdem jew tmexxi negozju; jew

(b) xi post ieħor fejn persuna oħra tkun qiegħda, li ma jkunx post fejn tirisjedi, u jkollha l-awtorizzazzjoni għall-ghan biss li bil-kwiet jiksbu jew jagħtu xi tagħrif, jew bil-kwiet jipperswadu lil xi persuna biex taħdem jew biex ma tmurx għax-

L-uzu jew it-
theddid ta'
vjolenza.

xoghol.

66. Kull persuna li, bil-hsieb li gġiegħel lil xi persuna oħra, li ma tagħmilx jew li tagħmel xi għemil li dik il-persuna l-oħra għandha jedd bil-liġi li tagħmel jew li ma tagħmilx, bla haqq u minghajr setgħa tal-liġi -

(a) tuża jew thedded li tuża vjolenza fuq dik il-persuna, jew fuq martu, żewġha jew uliedha, jew fuq xi persuna oħra li tghix magħha, jew tagħmel jew thedded li tagħmel hsara lill-proprjetà tagħha;

(b) kontinwament timxi wara dik il-persuna l-oħra minn post għall-ichor;

(c) tghasses jew iddawwar id-dar jew post ichor fejn dik il-persuna l-oħra toqghod, jew l-inhawi ta' dik id-dar jew dak il-post;

(d) iċċaħhad lil dik il-persuna, jew b'xi mod tfixkilha fl-uzu ta' xi għodod, ilbies jew proprjetà oħra ta' dik il-persuna l-oħra jew użati minnha,

tkun hatja ta' reat u tehel meta tinsab hatja prigunerija għal żmien ta' mhux iżjed minn tliet xhur jew multa ta' mhux iżjed minn hames mitt lira (Lm 500) jew dik il-prigunerija u multa flimkien, bla hsara għal piena akbar li jkun hemm għal dak ir-reat taht xi leġislazzjoni oħra.

Restrizzjoni
dwar membri ta'
union.

67. (1) Id-detentur ta' kariga fis-servizz pubbliku dikjarata mill-Prim Ministru li hi kariga li d-detentur tagħha ma jistax ikun membru ta' *trade union* li dwarha jista' jkun mehtieg jirrapprezenta jew jagħti parir lill-Gvern fir-relazzjonijiet industrijali ma' l-*union* jew *unions* li jirrapprezentaw lil dawk il-haddiema, ma jistax isir, u jekk hu diġà ma jistax jibqa', membru ta' dik it-*trade union*; u d-disposizzjonijiet ta' dan is-subartikolu għandhom ikunu patt mifhum tal-kondizzjonijiet tas-servizz tiegħu mal-Gvern.

(2) Bla hsara għad-disposizzjonijiet tas-subartikolu (3), dwar persuna li tkun impjegata f'dik il-kariga amministrattiva jew eżekuttiva, f'xi korporazzjoni jew korp ichor imwaqqaf b'liġi jew f'xi kumpannija jew soċjetà oħra jew f'xi korp ichor li jkollu personalità ġuridika distinta (hawnhekk iżjed 'il quddiem imsejjah "prinċipal li hu entità legali"), li tkun tehtieg li d-detentur ta' dik il-kariga jirrapprezenta jew jagħti pariri lill-prinċipal li hu entità legali fir-relazzjonijiet tiegħu ma' l-*union* jew ma' l-*unions* li jirrapprezentaw lill-impjegati l-oħra tiegħu jew xi taqsima minnhom, ikun patt mifhum tal-kuntratt ta' l-impieg ta' dik il-persuna li ma tistax tkun waqt li tkun qiegħda f'dik il-kariga, membru ta' xi wahda mill-

imsemmija *trade unions*.

(3) Is-subartikolu (2) ghandu japplika biss ghal dawk il-karigi, li -

(a) ma jkunux aktar minn tlieta fil-każ ta' prinċipal li hu entità legali li jimpjega mhux aktar minn mitejn persuna;

(b) ma jkunux aktar minn sebgha fil-każ ta' prinċipal li hu entità legali li jimpjega aktar minn mitejn persuna,

kif dak il-prinċipal ikun wera bil-miktub lit-*trade union* li taghha d-detentur ta' l-imsemmija karigi ma jkunx jista' jkun membru.

TAQSIMA II

TEMM VOLONTARJU TA' TILWIM TA' XOGHOL

68. Il-Ministru jahtar *Panel* ta' konċiljazzjoni li jkun magħmul minn mhux inqas minn hames persuni biex jagħmluha ta' konċiljaturi f'tilwimiet ta' xogħol kif jistgħu jiġu riferuti lilhom minn żmien għal żmien, hekk iżda li -

Panel ta' konċiljazzjoni.

(a) il-*panel* ikun magħmul minn dawk il-persuni mahturin mill-Ministru wara konsultazzjoni mal-Kunsill Malti għall-Iżvilupp Ekonomiku u Soċjali;

(b) il-hatra tkun għal żmien ta' sentejn;

(c) waqt il-perjodu tal-hatra, il-Ministru jkun jista' jissostitwixxi membri jew jimla vakanzi kull meta jkun meħtieġ, wara konsultazzjoni mal-Kunsill Malti għall-Iżvilupp Ekonomiku u Soċjali;

Izda l-ebda persuna kif imsemmija fl-artikolu 73(3) ma tista' tiġi nominata jew mahtura fuq il-*Panel* ta' konċiljazzjoni.

69. (1) Meta jkun hemm jew ikun hemm il-biża' li se jkun hemm tilwima ta' xogħol, il-partijiet jistgħu jiffiehem li jirreferu t-tilwima -

Setgħat tal-Ministru sabiex isir ftehim u ma jinqalghax tilwim.

(a) lid-Direttur; jew

(b) lil konċiljatur li jista' jintgħażel -

(i) jew mill-istess partijiet fit-tilwima, bi ftehim bejniethom;

(ii) jew, jekk ma jkunx hemm fehim bhal dan, mid-Direttur minn fost il-*Panel* ta' konċiljazzjoni stabbilit bis-sahha ta' l-artikolu 68:

Izda xejn ma jipprekludi d-Direttur jew id-delegat tiegħu milli jistieden il-partijiet fit-tilwima biex jattendu għal laqgħat ta' konċiljazzjoni.

(2) Il-funzjonijiet tal-konċiljatur mahtur skond s-subartikolu (1) jkunu:

(a) li jikkomunika mal-partijiet fit-tilwima ta' xogħol minnufih malli tiġi riferita lifu;

(b) li jorganizza u jippresjedi laqgħat ta' konċiljazzjoni bejn il-partijiet kif ikun meħtieġ biex tintemm it-tilwima ta' xogħol;

(ċ) li jikkonsidra r-raġunijiet u ċ-ċirkostanzi tat-tilwima ta' xogħol;

(d) li jipprova jwassal għa temm tat-tilwima ta' xogħol bi fehim bejn il-partijiet kemm jista' jkun malajr; u

(e) li jagħmel dawk ir-rakkomandazzjonijiet li l-konċiljatur jidhirlu xierqa biex tintemm it-tilwima ta' xogħol.

(3) Meta jkun hemm jew jkun hemm biża' li se jkun hemm tilwima ta' xogħol, u l-partijiet jonqsu milli jinnominaw jew jaqblu dwar il-hatra ta' konċiljatur skond is-subartikolu (1), jew meta l-konċiljatur mahtur jirrapporta falliment fil-konċiljazzjoni, id-Direttur għandu jirreferi l-kwistjoni lill-Ministru u jagħti kopja ta' dik ir-referta lill-partijiet fit-tilwima.

(4) Meta tilwima ta' xogħol tiġi riferita lill-Ministru skond l-ahħar subartikolu qabel dan, il-Ministru jista', jekk jidhirlu xieraq -

(a) jahtar qorti ta' inkjesta biex tistharreġ u tistabbilixxi r-raġunijiet u ċ-ċirkostanzi tat-tilwima;

(b) fuq l-applikazzjoni taż-żewġ partijiet fit-tilwima, jirreferi dik it-tilwima lit-Tribunal Industrijali.

Kap. 12.

(5) Qorti ta' inkjesta jkollha l-istess setgħat li bil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili huma mogħtija lil qorti superjuri, hlief illi ma jkollhiex is-setgħa li tordna d-detenzjoni ta' xi persuna, u bla ħsara għall-ġeneralità ta' dak li ntqal qabel, qorti ta' inkjesta tista' tharrek xhieda u taġhti ġuramenti, tahtar assessuri, u teħtieġ kull

persuna li fil-fehma tagħha jkollha tagħrif speċjali dwar il-kwistjoni li fuqha ssir l-inkjesta li tagħti, bil-miktub jew xort'ohra, u li tikkonferma bil-gurament, dik il-fehma u daww il-partikolaritajiet dwar dik il-kwistjoni kif il-qorti tista' tehtieg. Meta l-qorti tkun magħmula minn iktar minn persuna waħda, il-gurament jinghata miċ-chairman.

70. Jekk ftehim dwar tilwima ta' xogħol (li jkun ftehim li ma jkunx kontra xi liġi jew xi att ieħor li jkollu sahha ta' liġi, li jirregola l-pagi u l-pattijiet u l-kondizzjonijiet l-oħra ta' l-impieg) jintlahaq b'riżultat ta' miżuri mehuda taħt l-artikolu 69, u memorandum tal-pattijiet ta' dak il-ftehim ikun sar bil-miktub u jkun gie ffirmat mill-partijiet jew mir-rappreżentanti tagħhom u kopja tiegħu, flimkien ma' dikjarazzjoni li dak ikun ftehim għall-finijiet ta' dan l-artikolu ffirmata kif intqal qabel, tkun inghatat lill-Ministru -

Ftehim
volontarju.

(a) ebda waħda mill-partijiet ma tkun tista' b'azzjoni unilaterali tipprova tikseb revizjoni tal-pattijiet tal-ftehim qabel ma tghaddi għall-anqas sena mid-data ta' dak il-ftehim; u

(b) kull ftehim bhal dak ikun jorbot liz-żewġ partijiet, lill-haddiema rappreżentati fit-tilwima u lill-haddiema milquta mill-ftehim u għandu jorbot lil kull suċċessur ta' xi waħda mill-partijiet fit-tilwima.

71. Il-Ministru jista' jagħmel regolamenti għal kull wieċed mill-għanijiet li ġejjin -

Regolamenti.

(a) biex jirregola l-proċeduri li fuqhom għandu jimxi l-Panel ta' konċiljazzjoni u l-konċiljaturi mahtura fuq il-panel;

(b) biex jirregola l-għamla u l-proċedura tal-qrati ta' inkjesta.

72. (1) Qiegħed jiġi b'dan imwaqqaf *Joint Negotiating Council* bhala makkinarju speċjali għal negozjati dwar tilwimiet ta' xogħol li għandhom x'jaqsam ma' kondizzjonijiet tas-servizz ta' persuni li jipprovdu s-servizzi elenkati fl-artikolu 64(6):

Sistema ta'
negozzati għal
uffiċjali
pubbliċi.

Izda l-Kunsill u kull sistema ta' negozjati oħra mwaqqfa b'dan l-artikolu jew tahtu, ma għandhom bl-ebda mod jikkonsidraw xi, jew jindahlu f'xi, kwistjoni li taqa' taht il-funzjonijiet tal-Kummissjoni dwar is-Servizz Pubbliku.

(2) Il-Kunsill ikun magħmul minn mhux aktar minn erba' membri li jirrappreżentaw lill-Gvern u mhux aktar minn erba' membri li jirrappreżentaw lit-trade union li jkollha bhala membri tagħha l-oghla numru ta' persuni li jipprovdu s-servizz essenzjali fis

settur rilevanti jew fil-qasam involut fit-tilwima: **Izda l-membri mahturin mit-trade union maghrufa skond id-disposizzjonijiet ta' dan is-subartikolu ghandhom jigu hekk mahtura mit-trade union fl-istess hin li tigi ufficjalment registrata tilwima ta' xoghol, u ghandhom jigu mfissra bil-miktub f'ittra indirizzata lis-Segretarju Permanenti fl-Ufficċju tal-Prim Ministru:**

Izda ukoll, skond il-proviso ta' qabel dan, l-ghamla tal-Kunsill tista' tvarja jekk ikun hemm izjed minn tilwima wahda riferita lill-Kunsill u dawn it-tilwimiet huma separati u huma maghmula minn trade union differenti kif speċifikat fl-ewwel paragrafu ta' dan is-subartikolu.

(3) Bla hsara ghal dak li hemm provdut fis-subartikolu (4), id-deċizjonijiet tal-Kunsill jittiehdu biss b'vot unanimu. Kull deċizjoni li hekk tittiehed jew ftehim li hekk jintlaħaq ghandu jorbót lill-Gvern u lill-ufficjali pubbliċi kollha li ghalihom tapplika dik id-deċizjoni jew dak il-ftehim.

(4) Meta dwar xi tilwima ta' xoghol li taqa' taht il-funzjonijiet tal-Kunsill ma jkun jista' jintlaħaq ebda ftehim li jkun accettabbli ghall-membri kollha, u *chairperson* tal-Kunsill jirregistra nuqqas ta' ftehim, *chairperson* ghandu jirreferi l-kwistjoni lit-Tribunal Industrijali fi żmien hmistax-il gurnata li jkun gie registrat in-nuqqas ta' ftehim, u t-Tribunal Industrijali jkun marbut li jaghti deċizjoni finali dwar it-tilwima ta' xoghol (inkluż li jaghmel rakkomandazzjonijiet) sa mhux aktar minn xahrejn mir-riferta, sakemm, fl-opinjoni ta-*chairperson* tat-Tribunal Industrijali, ma jkunx mehtieg perjodu itwal ghal raguni valida li ghandha tissemma u titnizzel fil-proċeduri tat-Tribunal.

(5) Il-Ministru jista', wara konsultazzjoni mal-Kunsill, jaghmel regolamenti biex jaghti effett aktar shih lid-disposizzjonijiet ta' dan l-artikolu u lil kull disposizzjoni rilevanti ohra ta' dan l-Att, u b'mod partikolari, izda bla hsara ghall-generalità ta' dak li ntqal qabel, dawk ir-regolamenti jistghu -

(a) jistabbilixxu l-proċedura tal-makkinarju ta' negozjati mwaqqfa b'dan l-artikolu;

(b) jispeċifikaw b'aktar dettall u xort'ohra jistabbilixxu l-funzjonijiet, setghat u dmirijiet ta' kull makkinarju bhal dak u ta' kull sotto-kumitat jew korp ichor tieghu, u ta' kull wiehed mi-*chairpersons* jew mill-membri ohra tieghu;

(c) jipprovdu għal kull haġa li għandha x'taqsam jew li hi anċillari għal dak li ntqal qabel.

(6) Id-disposizzjonijiet ta' l-artikolu 70 għandhom jghoddu għal kull ftehim milhuq kif provdut fis-subartikolu (3) jew fis-subartikolu (4) kif japplikaw għal ftehim kif imfisser f' dak l-artikolu.

TAQSIMA III

IT-TRIBUNAL INDUSTRIJALI

73. (1) Qiegħed b'dan jitwaqqaf tribunal li jkun magħruf bhala t-Tribunal Industrijali.

Twaqqif u
għamla ta'
Tribunal
Industrijali.

(2) Il-Prim Ministru għandu jahtar *panel* ta' mhux aktar minn hmistax-il persuna biex jagħmluha ta' *chairpersons* tat-Tribunal Industrijali, wara konsultazzjoni mal-Kunsill Malti għall-Iżvilupp Ekonomiku u Soċjali, hekk izda li -

(a) għall-inqas tlieta mill-membri hekk mahtura jkunu avukati b'esperjenza ta' għall-inqas seba' snin;

(b) dawn il-persuni jigu mahtura għal perjodu li ma jkunx aktar minn tliet snin mid-data tal-hatra tagħhom u jistgħu jerggħu jigu mahtura mill-ġdid għal perjodi oħra li kull wieġed minnhom ma jkunx ta' aktar minn tliet snin;

(c) dawn il-persuni jservu bhala *chairpersons* jew wara xulxin jew skond it-tqassim tad-dmirijiet u suġġetti għal dawk id-disposizzjonijiet dwar rikuża u ċirkostanzi oħra, kif jista' jigi preskritt mill-Ministru.

(3) Hlief kif provdut fis-subartikolu (4), it-Tribunal Industrijali jkun magħmul minn -

(a) *chairperson* li jigi magħżul skond id-disposizzjonijiet tas-subartikolu (2); u

(b) żewġ membri oħra tat-Tribunal, li għandhom jintgħazlu miċ-*chairperson* tat-Tribunal biex jirrapprezentaw, kemm jista' jkun indaqs, l-interessi fit-tilwima, minn fost żewġ listi ta' persuni mahtura mill-Ministru biex iservu bhala membri tat-Tribunal kull meta tinqala l-htieġa, lista minnhom tkun magħmula minn persuni mahtura mit-*trade unions* rappreżentati fuq il-Kunsill Malti għall-Iżvilupp Ekonomiku u Soċjali u l-lista l-oħra tkun magħmula minn persuni mahtura minn assoċjazzjonijiet ta' prinċipali u organizzazzjonijiet oħra li jirrapprezentaw lil prinċipali rappreżentati fuq il-Kunsill Malti

ghall-Iżvilupp Ekonomiku u Soċjali:

Izda jekk il-partijiet f'tilwima ta' xogħol jiftehmu, f'dak iż-żmien li *ie-chairperson* jistabbilixxi għal hekk, fuq l-għażla taż-żewġ membri li għandhom joqogħdu ma-*chairperson*, *ie-chairperson* għandu jagħmel l-għażla skond dak il-ftehim.

(4) Fil-każi kollha koperti bl-artikolu 75, it-Tribunal ikun magħmul mi-*ie-chairperson* waħdu, izda f'dawk il-każi koperti bl-artikolu 75(1)(b) *ie-chairperson* għandu jkun wieċed mill-membri mahtura skond is-subartikolu (2)(a).

(5) Fil-każi kollha li fihom il-Gvern, jew xi korp jew kumpannija msemmija fl-artikolu 80(3), ikunu parti, it-Tribunal għandu jkun magħmul minn -

(a) *chairperson* li jigi magħżul skond id-disposizzjonijiet tas-subartikolu (2);

(b) membru magħżul mi-*ie-chairperson* tat-Tribunal mill-lista ta' persuni nominati mit-*trade unions* kif preskritt fis-subartikolu (3)(b); u

(c) membru li għandu jirrappreżenta l-interess tal-Gvern, jew tal-korp jew kumpannija involuta fit-tilwima ta' xogħol, li tkun persuna mahtura *ad hoc* mill-Ministru.

(6) Il-Prim Ministru jista', minn żmien għal żmien, kif jidhirlu xieraq u wara konsultazzjoni kif provdut fis-subartikolu (2), jibdel l-għamla tal-lista msemmija f'dak il-paragrafu, izda persuna li fil-fatt tkun qed isservi ta' *chairperson* tat-Tribunal għandha, minkejja t-tneħħija ta' isimha minn fuq il-lista, tibqa' hekk isservi fil-proċedimenti li fihom tkun qed isservi bħala *chairperson* sakemm jintemmu dawk il-proċedimenti u għall-fini ta' l-interpretazzjoni ta' kull sentenza mogħtija fihom.

(7) Il-Ministru jista', minn żmien għal żmien, kif jidhirlu xieraq, jitlob nomini godda minghand *trade unions*, assoċjazzjonijiet u organizzazzjonijiet imsemmija fis-subartikolu (3)(b), u jista' jbidel l-għamla tal-listi msemmija f'dak is-subartikolu skond hekk, izda ebda persuna li fil-fatt tkun qed tagħmilha ta' membru tat-Tribunal ma għandu jkollha isimha mneħħi mil-lista sakemm ikun hemm pendenti quddiem it-Tribunal proċedimenti li dwarhom tkun giet magħżula bħala membru.

(8) Il-Ministru għandu wkoll isemmi uffiċjal pubbliku biex jagħmilha ta' Segretarju tat-Tribunal, u jista' wkoll jqabbad uffiċjali pubbliċi oħra biex iġhinu lis-Segretarju fil-qadi ta' dmirijietu. Is-Segretarju tat-Tribunal ikollu *mutatis mutandis* dawk id-dmirijiet li bil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili huma mogħtija lir-Registratur tal-Qrati. Kap. 12.

(9) Ir-registru tat-Tribunal ikun ir-registru tal-qrati superjuri; u r-records tat-Tribunal jinżammu hemmhekk.

74. (1) Meta l-passi li jkun ha l-Ministru taht l-artikolu 68 biex iwasslu għal ftehim amikevoli ta' tilwima ta' xogħol ma jkunux wasslu għal ftehim, kull wahda mill-partijiet tista' favza b'dan lill-Ministru bil-miktub. Biex imur Tribunal.

(2) Meta l-partijiet kollha fi kwistjoni ta' xogħol jiftehmu li jibagħtu l-kwistjoni quddiem it-Tribunal Industrijali, dawn jistgħu jitolbu lill-Ministru bil-miktub biex jibghat it-tilwima quddiem it-Tribunal.

(3) Malli jirċievi avviż skond is-subartikolu (1), u meta jkun sodisfatt illi l-avviż jew it-talba tkun għet riċevuta minghand prinċipal *bona fide* jew minghand assoċjazzjoni ta' prinċipali jew minghand *trade union* li tirrappreżenta l-interessi tal-haddiema mdahhla fit-tilwima, il-Ministru għandu jibghat it-tilwima lit-Tribunal biex tiġi deċiża minnu; u l-Ministru għandu jagħmel hekk fi żmien wieċed u għoxrin jum mid-data ta' l-avviż jew tat-talba.

(4) Il-Ministru jista' jibghat lit-Tribunal għall-parir kull haġa dwar jew li tinqala' minn tilwima ta' xogħol, jew tilwim ta' xogħol in ġenerali, jew tilwim ta' xogħol ta' xi klassi, jew xi haġa oħra li fil-fehma tiegħu għandha hekk tintbagħat.

75. (1) Minkejja kull ma jinsab f'kull liġi oħra, it-Tribunal Industrijali jkollu l-gurisdizzjoni esklużiva li jikkunsidra u jiddeċiedi - Tkceċija ingusta.

(a) il-kazijiet kollha fejn jiġi allegat li saret tkceċija ingusta; u

(b) il-kazijiet kollha li jaqgħu taht il-gurisdizzjoni tat-Tribunal Industrijali bis-saħħa tat-Titolu I ta' dan l-Att jew ta' regolamenti preskritti tahtu.

għal kull għan barra minn proċeduri dwar reati kontra xi liġi, u r-rimedju ta' haddiem hekk imkceċi jew li mod ieħor jallega il-ksur tad-dritt tiegħu skond it-Titolu I ta' dan l-Att ikun biss billi l-ilment tiegħu jintbagħat lit-Tribunal Industrijali u mhux xort'oħra.

Izda ebda haġa f'dan is-subartikolu ma ghandha tinftiehem li tolqot id-disposizzjonijiet tal-Kostituzzjoni ta' Malta dwar uffiċjali pubbliċi jew ma ghandha tolqot it-thaddim ta' l-Ordinanza dwar il-Haddiema tal-Port jew ta' l-Att li Jirregola l-Impiegi fit-Trasport Pubbliku; u f'dan l-artikolu l-espressjoni "haddiem" ma tinkludix uffiċjali pubbliċi jew xi persuna li ghalha japplikaw l-imsemmija Ordinanza jew Att.

(2) Meta jiġi allegat li haddiem ikun tkeċċa b' mod ingust minn prinċipal, jew fejn jiġi allegat li kien hemm ksur ta' xi dmir taht it- Titolu I ta' dan l-Att jew ta' xi regolament preskritt tahtu, il-każ ghandu jintbaghat lit-Tribunal għad-deċiżjoni tiegħu fuq talba bil-miktub għal hekk magħmula mill-haddiem li jallega l-ksur jew minn xi persuna oħra f'isem u għal dak il-haddiem.

(3) Kull referta magħmula skond is-subartikolu ta' qabel dan, ghandha ssir permezz ta' dikjarazzjoni li ssemmi l-fatti tal-kawża, ipprezentata fir-reġistru tat-Tribunal u ghandha, fil-każijiet kollha, hekk tiġi pprezentata mhux iktar tard minn erba' xhur mid-data effettiva tal-ksur allegat.

76. (1) *lċ-chairperson* tat-Tribunal jiġta' jiġi rikuzat, jew ghandu jastjeni, milli jservi bħala *chairperson* f'kull waħda miċ-ċirkostanzi msemmija fl-artikolu 734 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili; u f'kull każ bhal dak id-disposizzjonijiet tas-Sub-Titolu II tat-Titolu II tat-Tielet Ktieb ta' dak il-Kodiċi għandhom japplikaw safejn dawn ikunu applikabbli u sugġetti għad-disposizzjonijiet l-oħra ta' dan l-Att:

Izda jekk il-persuni kollha mahtura skond l-artikolu 73(2) jiġu rikuzati, it-Tribunal ghandu jkun ippresedut minn persuna oħra mahtura *ad hoc* mill-Ministru, li ma tistax tkun rikuzata.

(2) Kull membru tat-Tribunal barra miċ-*chairperson* jiġta' jiġi rikuzat, jew ghandu jastjeni, jekk hu jkun xehed f'xi qorti ta' inkjesta jew quddiem konċiljatur dwar it-tilwima ta' xogħol li tkun quddiem it-Tribunal, jew jekk xi parti fit-tilwima tkun fi hsiċbha ssejjahlu bħala xhud; u f'kull każ bhal dak, u fil-każ ta' kull impediment legittimu iehor ta' xi membru bhal dak, huwa ghandu jiġi miċdul minn persuna oħra magħżula miċ-*chairperson* minn fost il-lista xierqa msemmija fl-artikolu 73(3)(b), jew, f'kull każ li fih japplika l-artikolu 73(5)(ċ), minn persuna oħra mahtura *ad hoc* mill-Prim Ministru.

77. (1) It-Tribunal ikollu dawk is-setgħat li bil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili huma mogħtija lill-Qorti Ċivili, Prim'Awla.

(2) Bla hsara ghad-disposizzjonijiet ta' qabel ta' dan l-artikolu, it-Tribunal ikollu s-setgħa li jharrek xhieda u li jagħti ġuramenti, li jinnomina assessuri, u li jehchiegħ lil kull persuna li fil-fehma tiegħu jkollha tagħrif speċjali ta' xi haġa rilevanti, jew dwar xi haġa li jkollha x'taqsam mat-tilwima ta' xogħol jew ma' l-ilment mibgħut lilu, jew tal-kwistjoni mibgħuta lilu, li tagħtih, bil-miktub jew xort'ohra, u li tikkonferma bil-ġurament, dik il-fehma u dawk il-partikolaritajiet dwar dik it-tilwima, każ jew ilment li t-Tribunal jista' jehchiegħ, u jista' jawtorizza lil kull persuna li tagħti l-ġurament għal dan l-ghan.

(3) Ix-xhieda għandhom jithallsu d-drittijiet skond l-Ordinanza dwar id-Drittijiet tax-Xhieda.

Kap. 108.

78. (1) It-Tribunal għandu jiddeċiedi l-kwistjoni mibgħuta lilu fi żmien perjodu li ma jkunx iktar minn xahar mid-data ta' meta l-kwistjoni tkun intbagħtet, sakemm fil-fehma tač-*chairperson* ma jkunx meħtiegħ żmien itwal għal raġuni valida li għandha tiġi msemmija u reġistrata fil-proċeduri tat-Tribunal.

Aktor
disposizzjonijiet
dwar it-
Tribunal.

(2) Il-każ għal kull parti fit-tilwima jista' jiġi pprezentat mill-parti innifisha li tista' tagħzel li tiġi rappreżentata jew mgħejjuna minn persuna jew persuni tal-fiduċja tagħha.

(3) Bla hsara għad-disposizzjonijiet ta' dan l-Att u ta' kull regola magħmula jew li huma meqjusa li saru taht dan l-artikolu, it-Tribunal għandu jirregola l-proċedura tiegħu stess. Tkun xi tkun il-proċedura li tiġi wżata, it-Tribunal għandu jiehu hsieb jiżgura li l-ġustizzja ssir skond il-meriti tas-sustanza tal-każ; u, bla hsara għar-regoli tal-ġustizzja naturali, it-Tribunal għandu jasal għall-konklużjonijiet tiegħu fuq kull haġa b'dak l-mod li jidhirlu xieraq.

(4) It-Tribunal għandu jzomm il-laqgħat fil-pubbliku kemm-il darba, meta jqis ix-xorta tat-tilwima jew kwistjoni ohra quddiemu, ič-*chairperson* ma jkunx jidhirlu xieraq li jmexxi l-proċedimenti jew parti minnhom fil-privat.

(5) Meta l-membri tat-Tribunal huma aktar minn wiehed u ma jistgħux jilhqu ftehim dwar is-sentenza, id-deċiżjoni jew il-parir tagħhom, il-każ jiġi deċiż mič-*chairperson* li jaġixxi bis-setgħat kollha ta' arbitru.

(6) Il-Ministru jista' jagħmel regoli li jistabbilixxu l-proċedura li għandha tiġi imharsa minn u quddiem it-Tribunal u xort'ohra jagħmel disposizzjonijiet dwar dawk il-proċedimenti kif jidhirlu meħtiegħ jew spedjenti.

Drittijiet.

79. (1) Il-Ministru jista' jagħmel regolamenti li jkunu jiffissaw id-drittijiet li għandhom jithallsu lil xi persuna li tkun qed tidher għall-partijiet waqt proċeduri quddiem it-Tribunal.

(2) It-Tribunal għandu fis-sentenza jew fid-deċiżjoni tiegħu jintaxxa id-drittijiet tal-persuna jew persuni illi jkunu qegħdin jidhru għal xi wahda mill-partijiet skond Tariffa li tkun saret taht id-disposizzjonijiet tas-subartikolu ta' qabel dan.

(3) Hadd ma jista' jitlob il-hlas ta' drittijiet li jkunu iktar minn dawk li jiġu intaxxati mit-Tribunal jew, fejn ma jkunx hemm taxxa simili, iktar mit-Tariffa.

(4) Jekk xi parti tintalab thallas iktar milli hu jew jista' ikun preskritt f'xi liġi, din tista' jitlob lura kull hlas żejjed li jkun sar permezz ta' ittra bil-miktub lis-Segretarju tat-Tribunal, u dan imbagħad jgħaddi biex jivverifika t-talba, u jekk tiġi hekk verifikata, jordna 'l min ikun irċieva l-hlas żejjed biex jirrifondi dan il-hlas lill-parti.

(5) Meta t-Tribunal jaqtagħha li l-hlas żejjed mitlub kien eċċessiv, dan jista' jordna lil min ikun irċieva dak il-hlas żejjed li jhallas penali ta' mhux iżjed minn elf lira lis-Segretarju, li meta jirċievi din il-penali għandu jgħaddiha lill-Fond Konsolidat.

(6) Kull ordni li tinghata għar-rifużjoni ta' hlas skond id-disposizzjonijiet tas-subartikolu (4) u kull ordni għall-hlas ta' penali skond id-disposizzjonijiet tas-subartikolu (5), ikun titolu eskkuttiv għall-finijiet u effetti tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili u jkun esegwibbli bħala tali mill-Prim'Awla tal-Qorti Ċivili bl-istess mod u bl-istess mezzi provduti f'dak il-Kodiċi.

Kap. 12.

Disposizzjonijiet dwar is-sentenzi u d-deċiżjonijiet tat-Tribunal.

80. (1) Fl-ghoti ta' kull sentenza, deċiżjoni jew parir, it-Tribunal għandu jqis il-politika soċjali tal-Gvern bażata fuq principji ta' ġustizzja soċjali u l-htigiet ta' kull pjan nazzjonali ta' żvilupp u politika ekonomika oħra tal-Gvern li jkunu qed jiġu mwettqa, u għandu jara li jiġi żgurat li s-sentenza, id-deċiżjoni jew il-parir tiegħu iġhinu t-twettiq ta' kull politika u pjani bħal dawk.

(2) Meta xi każ quddiem it-Tribunal jolqot jew ikun dwar uffċjali pubbliċi -

(a) it-Tribunal għandu jiżgura li ma jkunx hemm indhil fuq il-funzjonijiet tal-Kummissjoni dwar is-Servizz Pubbliku, u għandu jastjeni milli jiehu konjizzjoni ta' kull haga li taqa' taht il-funzjonijiet ta' dik il-Kummissjoni; u

(b) kull sentenza jew deċiżjoni tat-Tribunal tkun

suġġetta għas-setgħa suprema tal-Kamra tad-Deputati.

(3) Meta l-kwistjoni quddiem it-Tribunal tkun toqot jew tkun dwar persuni impjegati ma' entijiet morali mwaqqfin b'ligi u immexxija minn Bord jew korp ieħor mahtur mill-Gvern, jew tkun dwar persuni impjegati ma' kumpanniji li fihom il-Gvern għandu interess li bih jikkontrollhom, kull sentenza jew deċiżjoni tat-Tribunal għandha tara li tistabbilixxi jew iżzomm relattività xierqa bejn il-pattijiet u l-kondizzjonijiet ta' dawk l-impjegati u l-pattijiet u l-kondizzjonijiet ta' uffiċjali pubbliċi.

(4) It-Tribunal m'għandux jagħti xi sentenza jew deċiżjoni li tkun kontra xi ligi, jew xi att ieħor li jkollu forza ta' ligi, li jirregola l-pagi u pattijiet u kondizzjonijiet oħra ta' impieg.

81. (1) Meta fuq ilment ta' tkeċċija ingusta mibgħut lit-Tribunal skond l-artikolu 75, it-Tribunal -

Serġat tat-Tribunal f'kazijiet ta' tkeċċija.

(a) isib li r-raġunijiet ta' l-ilment ikunu bbażati tajjeb, u

(b) fuq talba speċifika ta' min jagħmel l-ilment biex jerga' jidhol fl-impieg tiegħu jew jerga' jiġi impjegat mill-prinċipal, magħmula fir-referta jew fid-dikjarazzjoni dwar il-kaz,

it-Tribunal jidherli li jkun prattikabbli u skond l-ekwità li minn jagħmel l-ilment, jerga' jidhol fl-impieg tiegħu jew jerga' jiġi impjegat mill-prinċipal, it-Tribunal għandu jagħmel ordni f'dak is-sens, fejn jagħti l-kondizzjonijiet li taħthom jidherli, xieraq li min jagħmel l-ilment għandu jerga' jidhol fl-impieg tiegħu jew jerga' jiġi impjegat:

Iżda meta min jagħmel l-ilment ikun impjegat f'dik il-kariga amministrattiva jew eżekuttiva li teħtieġ fiduċja speċjali fil-persuna tad-detentur ta' dik il-kariga jew fil-hila tiegħu li jaqdi d-dmirijiet tagħha, it-Tribunal m'għandux jordna li min jagħmel l-ilment jerga' jidhol jew jerga' jiġi impjegat; iżda meta min jagħmel l-ilment ikun ġie mahtur jew magħżul għal dik il-kariga kif intqal qabel mill-haddicma shabu, it-Tribunal jista' jordna li dan jerga' jidhol jew jerga' jiġi impjegat fil-kariga li kellu qabel ma' ġie hekk mahtur jew magħżul.

(2) Meta, fuq ilment magħmul skond l-artikolu 75, it-Tribunal isib li r-raġunijiet għall-ilment ikunu bbażati tajjeb -

(a) f'każi ta' tkeċċija mingħajr kawża ġusta, jekk ma jkunx hemm talba speċifika biex jerga' jidhol fl-impieg jew jerga' jiġi impjegat, jew it-Tribunal jiddeċiedi li ma għandux

jagħmel ordni biex jerġa' jidhol fl-impieg jew jerġa' jiġi impjegat kif inqal qabel, it-Tribunal għandu jagħti sentenza ta' kumpens, li għandha tithallas mill-prinċipal lil min jagħmel l-ilment, rigward it-tkeċċija:

Iżda, meta jistabbilixxi l-ammont ta' dak il-kumpens it-Tribunal għandu jqis id-danni reali u telfien li jkun b'at-tali haddiem li jkun ġie imkeċċi minghajr kawża ġusta kif ukoll ċirkostanzi oħra, inklużi l-età u s-snaġja tal-haddiem li jistgħu jaffettwaw il-potenzjal ta' l-impieg ta' dak il-haddiem;

(b) Fkull każ iehor it-Tribunal għandu jagħti dak l-ordni li jidhirlu meħtieġ biex jirrimedja l-ksur jew jista' jagħti sentenza ta' kumpens li għandu jithallas mill-prinċipal lil min jagħmel l-ilment, jew jista' jagħti sentenza ta' kumpens u jagħmel dawk l-ordnijiet li jidhirlu xierqa biex jirrimedja l-ksur.

Effetti ta' sentenzi jew deċiżjonijiet mit-Tribunal.

82. (1) Kull sentenza jew deċiżjoni li tingħata mit-Tribunal tkun torbot lill-partijiet kollha, lill-haddiema rappreżentati fit-tilwima u lill-haddiema milquta minn dik is-sentenza jew deċiżjoni u għandha tkun torbot lil kull suċċessur ta' xi waħda mill-partijiet fit-tilwima ta' xogħol:

Iżda ebda waħda mill-partijiet ma tkun tista' tfittex li tichu azzjoni unilaterali għar-reviżjoni ta' xi sentenza jew deċiżjoni tat-Tribunal qabel ma tghaddi għall-anqas sena mid-data ta' dik is-sentenza jew deċiżjoni.

(2) Sentenza jew deċiżjoni tat-Tribunal tista' tingħata b'effett retroattiv għal data li -

(a) fil-każ ta' tkeċċija ingusta, ma tkunx qabel id-data ta' dik it-tkeċċija, u

(b) Fkull każ iehor, mhux qabel id-data li fiha jkun attwalment sar il-ksur jew, jekk dik id-data ma tistax tkun speċifikata, mhux qabel id-data li fiha t-tilwima ta' xogħol li għaliha tapplika s-sentenza jew id-deċiżjoni tkun inqal għet għall-ewwel darba.

(3) Fil-każi ta' tkeċċija minghajr kawża ġusta u fil-każi li jaqgħu taħt il-ġurisdizzjoni tat-Tribunal skond l-artikolu 75(1)(a) u (b), jkun hemm dritt ta' appell fuq punt ta' liġi. Dan l-appell għandu jsir b'rikors lill-Qorti ta' l-Appell kkonstitwita skond l-artikolu 41(6) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Dan ir-rikors għandu jiġi ppreżentat mhux aktar tard minn tnaqqas-il ġurnata mid-data tad-deċiżjoni tat-Tribunal;

Iżda meta jsir appell lill-Qorti ta' l-Appell, u wahda mill-partijiet titlob li l-appell jiġi dikjarat null u bla effett minhabba f'li ma kienx bbażat fuq punt ta' liġi deċiż mit-Tribunal jew li l-appell huwa null u bla effett fil-liġi għal kull raġuni oħra tkun li tkun, dak l-appell għandu jintbagħat mir-Registratur lill-Qorti ta' l-Appell biex jingħata digriet *in camera* dwar l-ammissibilità jew xort' oħra ta' l-appell.

(4) L-eskuzzjoni tas-sentenzi u deċiżjonijiet tat-Tribunal issir bil-mod preskritt b'dan l-Att u bil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, u tkun fis-setgħa fit-Tribunal innifsu.

Kap. 12.

83. (1) Jekk tinqala xi kwistjoni dwar l-interpretazzjoni ta' xi sentenza jew deċiżjoni tat-Tribunal (barra minn deċiżjoni skond dan l-artikolu), il-Ministru jew kull wahda mill-partijiet fil-proċedimenti jistgħu jitolbu lit-Tribunal biex jagħti deċiżjoni fuq dik il-kwistjoni u t-Tribunal għandu jiddeċiedi l-kwistjoni wara li jisma l-partijiet jew, jekk il-partijiet ikunu hekk f'lehm, mingħajr ma jismagħhom. Id-deċiżjoni tat-Tribunal għandha tiġi komunikata lill-partijiet u tkun torbot bl-istess mod daqslikieku kienet parti mis-sentenza originali.

Interpretazzjoni ta' sentenzi u deċiżjonijiet tat-Tribunal.

(2) Għall-finijiet ta' dan l-artikolu l-membri tat-Tribunal għandhom kemm jista' jkun ikunu l-istess membri tat-Tribunal li jkun tas-sentenza li tagħha tkun qed tintalab l-interpretazzjoni.

(3) Jekk matul is-smigh ta' xi talba magħmula skond is-subartikolu (1), it-Tribunal isib li t-talba hija vessatorja, it-Tribunal jista' jordna li l-parti li tkun għamlitha thallas lill-parti l-oħra penali ta' mhux iżjed minn mitejn lira (Lm200). Kull penali bħal dik tingabar bhala deċiżjoni ċivili.

TITOLU III

DISPOSIZZJONIJIET SUPPLEMENTARI

84. (1) Bla hsara għad-disposizzjonijiet tat-*Titolu II* ta' dan l-Att, u bla preġudizzju għad-disposizzjonijiet speċjali li jinsabu fih dwar uffċjali pubbliċi, id-disposizzjonijiet tat-*Titolu II* ta' dan l-Att, barra mid-disposizzjonijiet ta' l-artikoli 69 u 72 u mid-disposizzjonijiet dwar it-tkeċċija jew tmiem ta' impieg, għandu jkollhom effett dwar impieg mal-Gvern u għal haddiema li huma impjegati tal-Gvern kif għandhom effett dwar impieg ieħor u haddiema oħra. Id-disposizzjonijiet esklużi b'dan is-subartikolu ma japplikawx għal impjegati tal-Gvern.

Applikazzjoni ta' l-Att għal impjegati tal-Gvern.

(2) F'dan l-artikolu "impieg mal-Gvern" tfisser impieg taht jew għall-finijiet ta' dipartiment tal-Gvern, barra minn impieg bhala membru ta' forza dixxiplinata, u "impjegat tal-Gvern" tfisser persuna

Spejjeż
mehtieġa biex l-
Att jista'
jithaddem.

Thassir u
riżerva.
Kap. 135.
Kap. 266.

li għal dak iż-żmien tkun f'impieg mal-Gvern.

85. L-ispejjeż kollha mehtieġa biex jitwettqu id-disposizzjonijiet ta' dan l-Att, maghduda l-ispejjeż tat-Tribunal u ta' kull kunsill, qorti ta' inkjesta jew xi persuna oħra mahtura b'dan l-Att jew tahtu, ikunu għall-karigu tal-Fond Konsolidat u jithallsu minnu.

86. (1) L-Att li jirregola l-Kondizzjonijiet ta' l-Impieg u l-Att dwar ir-Relazzjonijiet Industrijali huma b'dan imhassra.

(2) Minkejja d-disposizzjonijiet tas-subartikolu (1), kull regolament, ordni u leġislazzjoni sussidjarja maghmula taht jew li tkun giet miżmuma fis-sehh bl-Att li jirregola l-Kondizzjonijiet ta' l-Impieg jew bl-Att dwar ir-Relazzjonijiet Industrijali u kull ordni ta' *standard* nazzjonali u kull dwar Kunsilli tal-Pagi u li jirregolaw il-Pagi li jkunu fis-sehh fid-data ta' meta dan l-Att jiġi fis-sehh, għandhom ikompli jseħhu minn hemm il-quddiem u għandu jkollhom effett daqslikieku kienu saru taht dan l-Att, u jistgħu jiġu emendati u revokati skond hekk.

SKEDA

(Artikolu 64(6))

Lista u numru ta' karigi li huma mehtieġa li jithaddmu sabiex f'kull hin jitkomplu jinghataw mill-Gvern servizzi essenzjali lill-komunità

| <i>Karigi</i> | <i>Numru</i> |
|---|--------------|
| KATEGORIJA A | |
| SERVIZZI AMMINISTRATTIVI | |
| Direttur Ġenerali (Sahha) | |
| Direttur Amministrattiv responsabbli għal Servizzi Farmaċewtiċi | |
| Direttur Amministrattiv responsabbli għall-Isptarijiet | |
| Direttur Amministrattiv responsabbli għas-Sahha Pubblika | |
| Direttur Amministrattiv responsabbli għal Kura tas-Sahha Primarja | |
| Konsulenti f'Karigi Amministrattivi | 3 |
| Uffiċjali Mediċi Prinċipali | 3 |
| Uffiċjali tal-Port/Uffiċjali Mediċi ta' l-Ajruport | 2 |
| SERVIZZI KLINIĊI F'MALTA | |
| <i>Konsulenti</i> | |
| Id-Diretturi kollha u <i>Chairpersons</i> Kliniċi (għal dak li għandu x'jaqsam mad-dmirijiet amministrattivi u responsabbiltajiet biex jaċċertaw it-tmexxija effettiva tad-dipartimenti rispettivi) | 12 |
| Amministratur Mediku - Sptar Ġenerali ta' Ghawdex | 1 |
| <i>Manager - Servizzi ta' Infermiera</i> | |
| Sptar San Luqa | |
| Sptar Monte Karmeli | |
| Sptar Boffa | |
| Sptar Ġenerali ta' Ghawdex | |
| San Vinċenz De Paule | |

A 1904

Manager - Servizzi tal-Qwiebel

Manager - Radjografija

Manager - Fizjoterapija

Manager - Servizzi tal-Laboratorju

KATEGORIJA B - TOBBA

Għall-finijiet ta' din il-kategorija, il-kliem "on call" ifissru li l-persuna tista' tiġi msejha permezz ta' telefon, *pager* jew mod ieħor u hi mistennija li teżerċita għidizzju kliniku u l-kelma "residenti" tfisser preżenti fuq il-post tax-xogħol fl-isptar biex jinghataw servizzi ta' emerġenza; il-kliem "bi nhar" ifissru mit-8.00 ta' filghodu sa' l-10.30 ta' filghaxija u l-kliem "bil-lejl" ifissru mill-10.30 ta' filghaxija sat-8.00 ta' filghodu.

Dipartiment ta' l-Incidenti u Emerġenza

On Call 1 Konsulent

Residenti bi nhar 6 Registratur Anzjan/
Registratur/SHO/MO/HM

Residenti bil-lejl 4 Registratur Anzjan//
Registratur/SHO/MO/HM

Medicina

Konsulenti *On Call* 1 Gastroenterologija

..... 1 Diabetologija

..... 1 Newrologija

..... 1 Nefrologija

..... 1 Hematologija

..... 1 Respiratorju

..... 1 Kardiologija

..... 1 Mard li jittied

Residenti 2 Registraturi Anzjani

..... 2 Registratur/SHO

..... 3 Housemen

Kirurgija

Konsulenti On Call 1 Kirurgija Ortopedika

..... 1 ENT

..... 1 Oftalmologija

..... 1 Kardjo Toračika

..... 1 Urologija

..... 1 Kirurgija plastika

..... 1 Newro Kirurgija

..... 1 Kirurgija Vaskolari/Trapjant

Resident 2 Registraturi Anzjani

..... 1 Reg. Anz. Ostopedika

..... 2 Reg/SMO Kirurgija Gen.

..... 1 Reg/SHO Ortopedika

..... 1 Reg/SHO Oftalmologija

..... 1 Reg/SHO Kardjotoračika

..... 1 Reg/SHO Urologija

..... 1 Reg/SHO ENT

..... 4 Housemen

Pedijatrija

Konsulenti On Call 1 Konsulent Pedjatra

..... 1 Kirurgu Pedjatra

..... 1 Kardjologu Pedjatra

..... 1 Onkologu Pedjatra

A 1906

Residenti 1 Registratur Anzjan
..... 3 Reġ/SHO/Houseman

Ostetrija u Ġinekoloġija

Konsulenti *On Call* 1 Konsulent Ostetniku

Residenti 1 Registraturi Anzjani

..... 2 Reġ/SHO

..... 2 Housemen

Anestesija

Konsulenti *On Call* 3 Konsulenti Anestesisti

Residenti 5 Registraturi Anzjani

..... 1 Reġ. Anz. għall-ITU

Radjoloġija

Konsulenti *On Call* 1 Konsulent Radjoloġista

Residenti 1 Reġ. Anzjan/ Reġ/ SHO

Trasfużjoni tad-Demm

Konsulenti *On Call* 1 Konsulent

Residenti 1 SHO/MO/Houseman

Patoloġija

Uffiċjali inkarigati *On Call* 1 Tossikoloġija

..... 1 Viroloġija

..... 1 Batterjoloġija

..... 1 Kontroll ta' Infezzjonijiet

..... 1 Histopatoloġija

..... 1 Bijokimika

..... 1 Laboratorju tas-Sahha Pubblika

*Psikjatrija*Konsulenti *On Call* 1 Konsulent PsikjatraResidenti 2 Reġ Anz/ Reġ/ SHO/ *Houseman**Ġerjatrija*Konsulenti *On Call* 1 Konsulent ĠerjatrikuResidenti 2 Reġ Anz/ Reġ/ SHO/ *Houseman**Onkologija*Konsulenti *On Call* 1 Konsulent OnkologuResidenti 2 Reġ Anz/ Reġ/ SHO/ *Houseman**Dermatologija*Konsulenti *On Call* 1 Konsulent Dermatologu**KATEGORIJA Ċ***Servizzi ta' Infermerija*

Ghall-finijiet ta' din il-kategorija il-kliem "bi nhar" ifissru mis-7.00 ta' filghodu sas-7.00 ta' filghaxija u l-kliem "bil-lejl" ifissru mis-7.00 ta' filghaxija sas-7.00 ta' filghodu.

Special Care Baby Unit 11-Haddiema Kollha*Intensive Therapy Unit* 1 Infermier ghal' kull pazjent*High Dependency Unit* 1 Infermier ghal' kull żewġ pazjenti*Renal Unit* 1 Infermier ghal' kull erba' pazjenti u
wicked ghal' kull każ speċjali

Emerġenza u Inċidenti 8 Infermiera bi nhar u 5 bil-lejl

Labour Ward u *Theatre* 5 Qwiebel u 2 Infermiera/Qwiebel ghat-*Theatre*Swali ta' l-Operazzjoni..... Haddiema biex jipprovdu s-
servizzi fi 3 swali bi nhar u 2 swali bil-lejl*Coronary Intensive Care Unit* 1 Infermier ghal' kull pazjent*Coronary Care Unit* 3 Infermiera bi nhar u 3 bil-lejl

A 1908

| | |
|----------------------------------|---|
| <i>General Acute Wards</i> | 2 Infermiera bi nhar u 2 bil-lejl |
| <i>Chronic Wards</i> | 1 Infermier bi nhar u 1 bil-lejl |
| <i>Gynaecology Wards</i> | 4 Infermiera/Qabla bi nhar u 3 bil-lejl |
| <i>Antenatal Wards</i> | 2 Qwiebel bi nhar u 2 bil-lejl |
| <i>Post natal Wards</i> | 4 Qwiebel bi nhar u 3 bil-lejl |

Servizzi Paramediċi u Ohra

Ghall-finijiet ta' din il-kategorija il-kliem "bi nhar" ifissru mis-7.00 ta' filghodu sas-7.00 ta' filghaxija u l-kliem "bil-lejl" ifissru mis-7.00 ta' filghaxija sas-7.00 ta' filghodu.

| | |
|------------------------------------|-------------------------------------|
| Radjografi | 2 bi nar u 2 bil-lejl |
| Fizjoterapisti | 4 bi nhar |
| Teknologisti tal-Laboratorju | 4 bi nhar u 4 bil-lejl |
| Farmaċisti | 3 bi nhar u 1 bil-lejl |
| Inġinier Elettriċista | 1 bi nhar u <i>on call</i> bil-lejl |
| Inġinier Mekkaniku | 1 bi nhar u <i>on call</i> bil-lejl |
| Haddiema fil-Manutenzjoni | 3 bi nhar u 3 bil-lejl |

Servizzi fl-Isptar Ġenerali ta' Ghawdex

1 Konsulent *on call* għal kull waħda minn Mediċina Ġenerali, Kirurgija Ġenerali, Ortopedija/Anestesija

4 Reg Anz/ Reg/ SHO/ biex ikopru swali u d-Dipartiment ta' l-Emergenza

1 Farmaċista

1 Teknologista tal-Laboratorju

1 Haddiem fil-Manutenzjoni

Infermiera u Qabla kif applikabbli għall-Isptarijiet f'Malta

Servizz ta' Xufiera ta' l-Ambulanzi

Matul il-ġurnata 8 Xufiera f'Malta u 3 f'Ghawdex |

Matul il-lejl 4 Xufiera f'Malta u 2 f'Ghawdex |

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 802 tal-21 ta' Ottubru, 2002.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

**THE EMPLOYMENT AND
INDUSTRIAL RELATIONS ACT, 2002**

ARRANGEMENT OF ACT

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I assent.

(L.S.)

GUIDO DE MARCO
President

25th October, 2002

ACT No. XXII of 2002

AN ACT to consolidate, with amendments, the Conditions of Employment (Regulation) Act (Cap. 135) and the Industrial Relations Act (Cap. 266).

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:-

GENERAL

1. (1) The short title of this Act is the Employment and Industrial Relations Act, 2002.

Short title and commencement.

(2) This Act shall come into force on such date as the Minister responsible for Employment and Industrial Relations may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and for different provisions of this Act.

2. (1) In this Act, unless the context otherwise requires -

Definitions.

"act" and "action" each includes omission and references to doing an act or taking action shall be construed accordingly;

"apprentice" has the same meaning as is assigned to it by article 29 of the Employment and Training Services Act,

Cap. 343.

"class" when used in the context of a group or a category of employees shall refer to the groups or categories listed in a collective agreement:

Provided that where there is no collective agreement or where a collective agreement does not stipulate groups or categories of employees, it shall refer to the work performed or expected to be performed independently of the title or name given to the post;

"collective agreement" means an agreement entered into between an employer, or one or more organisations of employers, and one or more organisations of employees regarding conditions of employment in accordance with the provisions of any law in force in Malta;

"comparable whole-time employee" means a whole-time employee in the same establishment who is engaged in the same or similar work or occupation, due regard being given to other considerations including seniority, qualification and skills:

Provided that where there is no comparable whole-time employee in the same establishment, the comparison shall be made by reference to collective agreements covering similar comparable whole-time employees in other establishments:

Provided further that where there is no applicable collective agreement, reference shall be made to law or in default of provision by law to the prevailing practice as may be established by the Employment Relations Board;

"conciliator" means a person appointed as such under article 68;

"conditions of employment" means wages, the period of employment, the hours of work and leave and includes any conditions related to the employment of any employee under a contract of service including any benefits arising therefrom, 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, but it does not include professional ethics arising from any professional relationship between an employer and an employee;

"confinement" means the birth of a living child or the birth of a child whether living or dead after seven months of pregnancy;

"contract of service" and "contract of employment" means an agreement, (other than service as a member of a disciplined force)

whether oral or in writing, in any form, whereby a person binds himself to render service to or to do work for an employer, in return for wages, and, in so far as conditions of employment are concerned, includes an agreement of apprenticeship;

"Council" means the Joint Negotiating Council established by article 72;

"court of inquiry" means a person or persons appointed as a court of inquiry under article 69;

"Director" means the Director responsible for Employment and Industrial Relations

"disciplined force" has the same meaning as is assigned to it by article 47 of the Constitution of Malta;

"discriminatory treatment" means any distinction, exclusion or restriction which is not justifiable in a democratic society including discrimination made on the basis of marital status, pregnancy or potential pregnancy, sex, colour, disability, religious conviction, political opinion or membership in a trade union or in an employers' association;

"employee" means any person who has entered into or works under a contract of service, or any person who has undertaken personally to execute any work or service for, and under the immediate direction and control of another person, including an outworker, but excluding work or service performed in a professional capacity or as a contractor for another person when such work or service is not regulated by a specific contract of service;

"employer" includes a partnership, company, association or other body of persons, whether vested with legal personality or not;

"employees' representative" for the purposes of articles 35, 36(14), 37 and 38 means the recognized union representative;

Provided that, where there exists no recognised union, the terms shall mean such representative of the union representing the employees, notwithstanding that in the case of non-unionised employees, the terms shall mean such representative duly elected from amongst the non-unionised employees, by means of a secret ballot called for such purpose by the Director;

"employers' association" means an organisation consisting wholly or mainly of employers and of which the principal purpose is by its rules the regulation of relations between employers and

workers or trade unions;

"employment", in relation to a trade dispute, includes any relationship whereby one person does work or performs services for another (other than a service as a member of a disciplined force);

"hours of work" means the time on any day during which employees are available for service to the employer, exclusive of the intervals allowed for meals and rest;

"Industrial Tribunal" means the Industrial Tribunal set up under Title II of this Act;

"Minister" means the Minister from time to time responsible for Employment and Industrial Relations;

"national standard order" means an order made under this Act regulating the conditions of employment of employees in general;

"outworker" means a person to whom articles, materials or services of any nature are given out by an employer for the performance of any type of work or service where such work or service is to be carried out either in the home of the outworker or in some other premises not being premises under the control and management of that other person;

"overtime" means any hours of work in excess of the normal hours of work;

"parent" includes an adoptive parent or any person who has the legal custody of a child;

"part-time employee" means an employee whose normal hours of work, calculated on a weekly basis or on an average over a period of employment of up to one year, are less than the normal hours of work of a comparable whole-time employee and who is not a whole-time employee with reduced hours;

"period of employment" means the time in any day during which employees are available for service to the employer, but inclusive of the intervals allowed for meals and rest;

"personal injury" includes any disease and any impairment of a person's physical or mental condition;

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

"*pro rata*" means the proportion that the weekly number of hours for which the employee is engaged bears to the number of weekly hours, excluding overtime, of a comparable whole-time employee;

"public office", "public officer" and "public service" have the same meaning as is assigned to them by article 124 of the Constitution of Malta;

"recognised conditions of employment" are those conditions of employment recognised in terms of Part II of Title I of this Act;

"recognition" for the purposes of this Act, shall mean the express recognition of a registered trade union by an employer or by an employers' association for the purposes of collective bargaining;

"registered", in relation to a trade union or an employers' association and to the rules thereof, means registered under this Act;

"Registrar" means the Registrar of Trade Unions appointed or designated under article 52;

"registration" means registration under this Act of a trade union or of an employers' association and of the rules thereof;

"sectoral regulation order" means an order made under this Act regulating the conditions of employment of a sector or class of employees;

"trade dispute" means a dispute between employers and workers, or between workers and workers, which is connected with any one or more of the following matters:

(a) terms and conditions of employment, or the physical conditions in which any workers are required to work;

(b) engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers;

(c) allocation of work or the duties of employment as between workers or groups of workers;

(d) matters of discipline;

(e) facilities for officials of trade unions;

(f) machinery for negotiation or consultation, and other procedures, relating to any of the foregoing matters, including the recognition by employers or employers' associations of the right of a trade union to represent workers in any such negotiation or consultation or in the carrying out of such procedures;

(g) the membership or non-membership of a worker in a particular trade union;

"trade union" means an organisation consisting wholly or mainly of workers and of which the principal purpose is by its rules the regulation of relations between workers and employers or employers' associations;

"Tribunal" means the Industrial Tribunal established by article 73;

"unfair dismissal", in relation to a worker, means:-

(a) the termination by the employer in respect of that worker of a contract of employment for an indefinite time (other than probationary employment as defined in this Act) being a termination which is not made solely on the grounds of redundancy or for a good and sufficient cause in accordance with the relevant provisions of this Act or any regulations prescribed hereunder, or

(b) which is made in contravention of the provisions of article 64(4), or

(c) which, though made on grounds of redundancy or for a good and sufficient cause, is discriminatory as defined in this Act or any regulations prescribed hereunder;

and includes any failure by the employer to re-employ such person or to re-employ him as provided in article 36(3);

"wages" means remuneration or earnings, payable by an employer to an employee and includes any bonus payable under article 23 other than any bonus or allowance related to performance or production;

"weekly day of rest" means a period of twenty four consecutive hours starting from the time when the employee normally commences his term of duty;

"whole-time employee" means an employee who is deemed to be a whole-time employee in terms of any recognised conditions of employment:

Provided that where a person is employed in more than one whole-time employment, that employment in respect of which social security contributions are payable shall be deemed to be the whole-time employment of the employee, and any other employment shall be deemed to be part-time employment;

"whole-time employee with reduced hours" means a whole-time employee who in agreement with the employer works for less than the number of hours of work applicable in terms of the recognised conditions of employment to a whole-time employee, provided that such employment is the principal employment of the employee, in respect of which social security contributions are payable;

"worker" has the same meaning as "employee" but for the purposes of Title II of this Act, "worker" means an employee who works or normally works or seeks to work -

- (a) under a contract of employment; or
- (b) under any contract (whether express or implied and, if express, whether oral or in writing) whereby he undertakes to do or perform personally any work or services for another party to the contract who is not a professional client of his; or
- (c) in employment under or for the purposes of a department of Government, otherwise than as a member of a disciplined force, in so far as any such employment does not fall within paragraph (a) or (b) of this definition,

and in relation to a trade dispute to which an employer is a party, "worker" includes any worker even if not employed by that employer.

(2) For the purposes of this Act, a dispute to which a trade union or an employers' association is a party shall be treated as a dispute to which workers or, as the case may be, employers are parties.

(3) Any provision of this Act requiring compliance with or observance of any provision of this Act (however such requirement is worded), or making provision with respect to any contravention thereof, shall be construed as requiring compliance with and observance of, or as equally applicable to, any provision of any regulation or rule made under this Act.

(4) The masculine gender includes the feminine and the singular includes the plural, unless the context otherwise requires.

TITLE I

EMPLOYMENT RELATIONS

PART I

EMPLOYMENT RELATIONS BOARD

Employment
Relations
Board.

3. (1) A Board to be designated Employment Relations Board and hereinafter referred to as the "Board", shall be appointed by the Minister.

(2) The Board shall be composed as follows:

(a) an independent chairperson;

(b) the Director responsible for Employment and Industrial Relations who shall act as Deputy Chairperson;

(c) four representatives of employees nominated by the Malta Council for Economic and Social Development from amongst the representative national workers' organisations sitting on the said Council;

(d) four representatives of employers nominated by the Malta Council for Economic and Social Development from amongst the representative national employers' organisations sitting on the said Council; and

(e) three other persons to be appointed by the Minister.

(3) The functions of the Board shall be -

(a) to make recommendations to the Minister as to any national minimum standard conditions of employment, hereinafter referred to as a national standard recommendation, for eventual inclusion in a national standard order;

(b) to make recommendations to the Minister as to any sectoral conditions of employment, hereinafter referred to as a sectoral regulation recommendation, for eventual inclusion in a sectoral regulation order;

(c) To advise the Minister on any matter relating to conditions of employment, or on any matter referred to the

Board by the Minister.

(4) The Minister shall appoint a public officer to act as secretary to the Board.

(5) Subject to the provisions of this Act and to any regulations made thereunder the Board shall regulate its own procedure:

Provided that the Chairperson of the Board shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

(6) The Board shall have the power to co-opt non voting members and to appoint sub-committees.

PART II

RECOGNISED CONDITIONS OF EMPLOYMENT

4. (1) Where the Minister receives any national standard recommendation or any sectoral regulation recommendation he may, subject as hereinafter provided, make a national standard order or a sectoral regulation order, as the case may be, to be published in the Gazette, giving effect to the national standard recommendation or the sectoral regulation recommendation as from such date as may be specified in the order:

National
Standard Orders
and Sectoral
Regulation
Orders.

Provided that the Minister may, if he thinks fit, before making an order as aforesaid, refer the national standard recommendation or the sectoral regulation recommendation received by him back to the Board and the Board shall thereupon reconsider it having regard to any observations made by the Minister and may, if it thinks fit, re-submit the national standard recommendation or the sectoral regulation recommendation to the Minister either without amendment or with such amendments as it thinks fit having regard to those observations.

(2) Any national standard recommendation and any sectoral regulation recommendation as well as any national standard order or sectoral regulation order for giving effect thereto, may make different provisions for different cases and may contain provisions for the amendment or revocation of previous national standard orders or sectoral regulation orders and may contain any incidental, supplemental or consequential provisions which may appear necessary for carrying out the provisions of any national standard order and any sectoral regulation order.

(3) No national standard order or sectoral regulation order shall have effect so as to prejudice any rights as to conditions of employment conferred on any employee by or under any law other than this Act or by or under any existing contract.

(4) Without prejudice to what is provided in the proviso to article 42, if a contract between an employee to whom a national standard order or a sectoral regulation order applies and the employer or any collective agreement provides for conditions of employment less favourable to the employee than those specified in the order, it shall have effect as if for those conditions there were substituted the conditions specified in the order.

Recognised conditions of employment.

5. (1) The conditions of employment prescribed in a national standard order, or in a sectoral regulation order, or a collective agreement or determined by voluntary settlement or award under the Title II of this Act, or required to be observed by or under this Act, shall be the recognised conditions of employment for the employees concerned.

(2) Where the conditions of employment are prescribed in a collective agreement, the employer or employers being a party thereto shall, within fifteen days of the signing of such agreement, send to the Director a copy thereof duly authenticated.

(3) Non observance by an employer of conditions of employment established by a national standard order or by a sectoral regulation order shall be deemed to be an offence under this Act;

(4) Nothing in this article shall prejudice any rights the parties may have arising out of any contract of service or any collective agreement under the provisions of the Title II of this Act or any other law, including the Civil Code.

Cap. 16.

Working hours and overtime.

6. The Minister may, after consultation with the Board, prescribe the maximum weekly working hours, including overtime, for employees, minimum periods of daily rest, weekly rest and annual leave, and may make different provisions for different classes of employees including any incidental, supplemental or consequential provisions as may be deemed necessary.

Conditions of employment to be brought to notice.

7. On engagement of any employee, the employer shall explain to the employee the provisions of any recognised conditions of employment as may be applicable and shall deliver to the employee a written statement about such conditions as may be prescribed.

8. (1) Where a general increase in wages is granted by the Government to all its whole-time employees and such increase is declared by the Minister by notice in the Gazette to be of general application to all whole-time employees, every employer shall increase the wages of every whole-time employee in his employment by an amount equivalent or corresponding to the increase granted by the Government to its employees with effect from the date on which the increase granted by the Government in respect of its employees takes effect:

Cost of living increases.

Provided that, in the case of an employee who is entitled to pro rata benefits in accordance with this Act or any regulations issued hereunder, such employee shall be entitled to a portion of such cost of living increase on a pro rata basis.

(2) For the purpose of sub-article (1) of this article, "whole-time employees" means any employee who is deemed to be a whole-time employee in accordance with any recognised condition of employment as defined in this Act and includes any other employee who is in employment with any particular employer for not less than thirty-five hours per week averaged in a twelve month period or part thereof.

9. In so far as conditions of employment are concerned, the provisions of the Occupational Health and Safety Authority Act and any regulations issued thereunder shall be deemed to form part of the recognised conditions of employment of employees to whom such provisions or regulations may apply and shall, on coming into force, have the same effect as if they were national standard orders or sectoral regulation orders.

Occupational health and safety. Cap. 424.

10. The Minister may, after consultation with the Board, make regulations establishing minimum periods of maternity leave, parental leave and leave for urgent family reasons to which an employee shall be entitled and the conditions regulating such entitlement

Maternity leave, parental leave and leave for urgent family reasons.

PART III

PROTECTION OF WAGES

II. (1) Except where otherwise expressly permitted by the provisions of this Act, the entire amount of the wages earned by, or payable to, any employee shall be paid to him in money being legal tender in Malta, and every payment of, or on account of, any such wages made in any other form and any covenant in any contract providing for other form of payment shall be null and void:

Wages to be paid entirely in legal tender to the employee.

Provided that payment of wages by cheque on a bank in Malta or payable to the Bank account of an employee shall be deemed to be payment in legal tender in cases in which payment in this manner is customary or necessary or is consented to by the employee concerned.

(2) Wages shall be paid directly to the employees to whom they are due except as may otherwise be provided by any law or in virtue of an order made by a competent court or where the employee or employees concerned agree to the contrary.

Terms as to spending of wages.

12. No employer shall impose in any contract of service any terms as to the place in which, or the manner in which, or the person or persons with whom, any wages paid to the employee, or any part thereof, are to be spent or otherwise employed, and any such term contained in any such contract shall be null and void.

Attachment or assignment of wages.

13. (1) Wages payable by an employer to an employee may not be assigned.

(2) Wages payable by an employer to an employee may not be attached save according to the provisions of articles 381, 382 and 849 of the Code of Organisation and Civil Procedure.

Cap. 12.

(3) The provisions of sub-articles (1) and (2) shall not apply where the assignment or attachment is intended to ensure the payment of maintenance due to the spouse, or to a minor child or to a person with disability or to an ascendant of the employee.

Interest on advances prohibited.

14. No employer shall make any deduction from wages by way of discount, interest or any charge of a similar nature in view of any advance of wages made to any employee in anticipation of the covenanted date of payment thereof.

Deduction from wages.

15. (1) Except where expressly permitted by the provisions of this Act or required by any other law, or where ordered by or in virtue of an order of a competent court, or permitted in an agreement entered into between an employer or employers or an organisation of employers on the one hand and a trade union or trade unions representative of the employees concerned on the other, an employer shall not make any deductions nor enter into any contract with an employee authorising any deductions to be made from the wages to be paid by the employer to the employee.

(2) Unless expressly provided by or under this Act or any other law, an employer shall not compute as part of the wages of an employee any other benefit or income, even though granted or paid by the employer, which is payable on account of any cause other than

the contract of service.

(3) Notwithstanding the provisions of this article, at the request in writing of an employee, the employer may make deductions from the wages of such employee for the purpose of a superannuation or thrift scheme or for any purpose in the carrying out of which the employer has no beneficial financial interest, direct or indirect.

(4) Deductions in the form of direct or indirect payments for the purpose of obtaining or retaining employment shall not be made from the wages of an employee by an employer, or by any intermediary or labour contractor or recruiter.

16. Where any contract of service contains conditions as to holidays better than the minimum established by law, no employer may enter into a subordinate contract of service providing for the payment to the employee in respect of any of such holidays of a daily rate lower than the normal daily rate applicable to such employee.

Subordinate contracts of service.

17. Where, in the case of whole-time employees, a public holiday other than a Sunday, falls on a weekly day of rest to which such employee is entitled, such employee shall be entitled to an additional day of vacation leave during the calendar year when such public holiday so falls on a weekly day of rest or on a Sunday in respect of each such public holiday.

Public holidays falling on weekly day of rest.

18. Nothing in this Act shall prevent the making of any contract by an employer with an employee for giving to him food, a dwelling place or other allowances or privileges other than in the form of intoxicating liquor or noxious drugs, in addition to the minimum wages prescribed by a national standard order or a sectoral regulation order, or to a higher stipulated wage, for normal time and overtime, as a remuneration for the employee's services.

Remuneration other than wages.

19. (1) Unless otherwise prescribed in a collective agreement, where -

Fines.

(a) the terms of any written contract of service signed by the employees or the terms of a written statement signed by an employer in accordance with article 7 specify in detail the fine or fines to which the employee may become liable in respect of an act or omission; and

(b) the terms of any such contract or the terms of any such statement have been previously approved by the Director,

it shall be lawful for the employer to make such deductions as may be

authorised by such contract or such written statement.

(2) Notwithstanding the provision of sub-article (1), where an employee fails, without just cause to give to his employer the total number of hours of work as bound by the terms of any contract of service applicable to him, the employer shall not inflict on the employee any fine for such loss of work but may deduct from the total wages due to the employee that part thereof which corresponds to the work so lost.

(3) Where any fine or fines are imposed by a person or by a group of persons, however named, authorised to perform such function by the employer, such person or persons shall be liable for their acts, without prejudice to the liability of the employer, as if they were the employer.

(4) Unless otherwise prescribed in a collective agreement, when an employer suspends an employee from work and during the period of suspension does not pay him wages or pays him less than the wage to which the employee is entitled, the employer shall be deemed to have made a deduction from the wages of the employee by way of a fine equivalent to the amount underpaid to him in wages.

Wages to be privileged debts

20. Notwithstanding the provisions of any other law any claim by any employee in respect of a maximum of three months of the current wage payable by the employer to the employee, and compensation for leave to which the employee is entitled, together with any compensation due to the employee in consideration of the termination of employment, or any notice thereof, shall constitute a privileged claim over the assets of the employer and shall be paid in preference to all other claims whether privileged or hypothecary.

Provided that, in every case, the maximum amount of the privileged claim shall not exceed the equivalent of the national minimum wage payable at the time of the claim over a period of six months.

Guarantee fund.

21. (1) There is hereby established a Guarantee Fund (hereinafter referred to as "the Fund") for the purpose of guaranteeing payment of unpaid wages due by an employer to those employees whose employment is terminated because of the employer's proved insolvency, which fund shall be regulated and administered in such manner as the Minister may prescribe.

(2) The Minister may, after consultation with the Minister of Finance and with the Board, prescribe regulations for the purpose of giving better effect to the provisions of this article; without prejudice to the generality of the foregoing, such regulations may establish -

- (a) the manner in which the Fund shall be set up and initially funded and for this purpose the Minister is authorised to endow the fund with such amount and for such period as the Minister may prescribe;
- (b) the level of proof required in order to prove insolvency of the employer;
- (c) the rate of contribution which the State, employers and employees shall contribute towards the continued funding of the Fund;
- (d) the manner in which such Fund shall be administered;
- (e) any class of employment that is precluded from making a claim under the Fund;
- (f) the manner and the circumstances in which a claim may be made by an employee for payment from the Fund and the manner and the circumstances in which a claim shall be paid to an employee out of the Fund;
- (g) the maximum amount which can be paid out of the Fund to any single claimant;
- (h) the right of the Fund to be subrogated into the rights of the employee to whom an amount is paid from the said Fund; as well as the right of the Fund to claim refund of any amounts so paid, from the employer of the employee;
- (i) the measures and procedures that may be required in order to prevent abuse.

(3) The Fund shall have a distinct legal personality and shall be capable of entering into contracts, of suing and being sued, and doing all such things and entering into such transactions as are incidental or conducive for the fulfilment of its objectives as may be prescribed by the Minister.

(4) The Fund shall be empowered to collect, recover and institute proceedings for the payment of sums due to it, in terms of the provisions of this Act.

(5) The legal and judicial representation of the Fund shall vest in the chairperson or in any other person as the Fund may authorise for this purpose.

Wages to be paid at regular intervals.

22. (1) Every employer shall pay or cause to be paid wages to his employees at regular intervals which shall not exceed four weeks in arrears:

Provided that the provisions of this sub-article shall not apply where an agreement is entered into between an employer or employers or organisations of employers on the one hand and trade union representatives of the employees concerned on the other, fixing other intervals for the payment of wages.

(2) On termination of a contract of service all wages outstanding and any compensation payable to the employee for leave entitlement unavailed of, shall be paid by the date of the next pay day determined under sub-article (1) as if the contract had not been terminated.

(3) A settlement of accounts shall be made at least once a year by the employer in respect of employees whose wages consist of a share of profits or of a commission on sales or payments made or received by the employer.

Payment of bonus.

23. (1) Every employer shall pay, or cause to be paid, to each of his whole-time employees, such statutory bonuses and income supplements in the amount and at the times as may be established by legal notice issued by the Minister of Finance by virtue of this article; provided that such statutory bonus shall be in the form of a sum of money which, in either case, shall not be less than one-half of that which the Government shall have announced in the general estimates of any particular year as payable by the Government to each of its employees during that year:

Provided that, where any person has been in whole-time employment with any particular employer for a period of not less than thirty days but less than twelve months between the 1st January and the 31st December of any year, such employee shall be entitled to receive from his employer, or from any of his employers, a proportionate amount of the bonus payable under this article, calculated on the number of days in any such employment:

Provided further that any unqualifying period of employment during the first six months of any year shall be added to any period of employment with the same employer during the second six months of that year for the purposes of the qualifying period of employment and the total amount of bonus due to that employee with respect to the total period of such employment shall be paid between the 15th and the 23rd day of December of that year, notwithstanding that the total amount of bonus so payable shall exceed the normal

amount of bonus payable in respect of the second six months of that year.

(2) In this article -

"employee" includes a person under agreement of apprenticeship;

"his whole-time employees" includes any whole-time employee who has been in employment with any particular employer for a period of not less than thirty days during any time as from or after the 1st January of any year but is no longer in such employment on the 30th June and/or the 31st December of that year;

"whole-time employee" means any employee who is deemed to be a whole-time employee in accordance with any recognised condition of employment as defined in this Act and includes any other employee who is in employment with any particular employer for not less than thirty-five hours per week averaged in a twelve month period or part thereof.

24. Whole-time employees with reduced hours shall be paid not less *pro rata* than the wage applicable to a whole-time employee in similar employment, and they shall be also entitled to a share *pro rata* of -

Whole-time employees with reduced hours.

- (a) the entitlement of public holidays with pay and annual vacation leave;
- (b) the benefits contemplated in article 10;
- (c) any entitlement of injury leave;
- (d) any entitlement to statutory bonus.

to which whole-time employees in similar employment with the same employer are entitled in terms of the recognised conditions of employment applicable to them.

25. (1) Part-time employees shall not be treated in a less favourable manner than comparable whole-time employees solely because they work part-time unless different treatment is justified on objective grounds.

Part-time employees.

(2) The Minister may, after consultation with the Board, prescribe regulations establishing:

(a) the conditions for qualification for pro rata entitlement to specific conditions of work, including the minimum number of hours which a part-time employee must work in order to qualify as well as the minimum period of service that may be required prior to qualification;

(b) the provision of timely information on the availability of part-time and whole-time positions in the place of work as well as access to vocational training or career advancement opportunities;

(c) any other matter which is deemed necessary in order to regulate the conditions of work of part-time employees as prescribed in sub-article (1).

PART IV

PROTECTION AGAINST DISCRIMINATION RELATED TO EMPLOYMENT

Discrimination
and gender
equality

26. (1) It shall not be lawful for any person -

(a) when advertising or offering employment or when advertising opportunities for employment or when selecting applicants for employment, to subject any applicants for employment or any class of applicants for employment to discriminatory treatment;

(b) in regard to employees already in the employment of the employer, to subject any such employees or any class of employees to discriminatory treatment, in regard to conditions of employment.

(2) For the purposes of this article, discriminatory treatment shall include:

(a) the engaging or selection of a person who is less qualified than a person of the opposite sex, unless the employer can prove that the action was based on acceptable grounds related to the nature of the work or on grounds related to previous work performance and experience;

(b) actions which apply to an employee, terms of payment or employment conditions that are less favourable than those applied to an employee in the same work or work of equal value, on the basis of discriminatory treatment;

(c) actions whereby the employer knowingly manages

respect of that person is based on sexual discrimination and which could reasonably be regarded as offensive, humiliating or intimidating to such person.

(2) It shall not be lawful for an employer or an employee to sexually harass another employee or the employer (hereinafter in this article referred to as "the victim") by:

(a) subjecting the victim to an act of physical intimacy;
or

(b) requesting sexual favours from the victim; or

(c) subjecting the victim to any act or conduct with sexual connotations, including spoken words, gestures or the production, display or circulation of written words, pictures or other material where -

(i) the act, request or conduct is unwelcome to the victim and could reasonably be regarded as offensive, humiliating or intimidating to the victim;

(ii) the victim is treated differently, or it could reasonably be anticipated that the victim could be so treated, by reason of the victim's rejection of or submission to the act, request or conduct.

Reference to
Industrial
Tribunal.

30. (1) A person who alleges that the employer is in breach of, or that the conditions of employment are in breach of articles 26, 27, 28 or 29, may within three months of the alleged breach, lodge a complaint to the Industrial Tribunal and the Industrial Tribunal shall hear such complaint and carry out any investigations as it shall deem fit.

(2) If the Industrial Tribunal is satisfied that the complaint is justified, it may take such measures as it may deem fit including the cancellation of any contract of service or of any clause in a contract or in a collective agreement which is discriminatory and may order the payment of reasonable sums of money as compensation to the aggrieved party.

(3) For the purposes of hearing and deciding cases of alleged discrimination, breaches of the principle of work of equal value, victimisation or harassment, the Industrial Tribunal shall be composed of a chairperson alone in the manner set out in article 73(4).

(4) Any action taken by a complainant in accordance with the

provisions of this article shall be without prejudice to any further action that such complainant may be entitled to take under any other applicable law and shall also be without prejudice to any other action to which the respondent may be subject in accordance with any other applicable law.

31. Subject to the foregoing, the Minister may, after consultation with the Board, prescribe regulations to give better effect to the provisions of articles 26, 27, 28 and 29 and in particular for the elimination of any discriminatory practices in the employment or in the conditions of employment of any person or class of persons, for providing equal opportunities of employment for classes of persons who are at a disadvantage and to regulate access to the Industrial Tribunal and investigation and hearing by the Industrial Tribunal of complaints of alleged discrimination, breaches of the principle of work of equal value, victimisation or harassment.

Power of
Minister to
make
regulations.

32. Any person contravening the provisions of articles 28 and 29 shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding one thousand liri (Lm 1000) or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

Offence.

PART V

TERMINATION OF CONTRACTS OF SERVICE

33. A person may bind himself to give his services for a fixed term or for an indefinite term, or in respect of a specified task, undertaking, work or service:

Duration of
contracts of
service.

Provided that where the employee has been retained in employment after the date of termination of a contract of service for a specified time or has been re-employed by the employer for a fixed or indefinite term within one year from the date of termination of a contract of service for a specified time, the conditions of employment shall not be less favourable than those which would have been applicable had the contract of service been for an indefinite time and the aggregate probationary period shall in no case be longer than that provided for under this Act.

34. (1) Saving as otherwise prescribed by this Act, the conditions of employment in a fixed term contract shall not be less favourable than those which would have been applicable had the same contract of employment at the same place of work been for an indefinite time, unless different treatment is justified on objective grounds:

Fixed-term
contracts

Provided that this article shall not apply to contracts of employees on initial vocational training and, or, on apprenticeship schemes.

(2) Any employee on a fixed term contract of service whose contract has expired and is retained by his employer shall be deemed to be retained on an indefinite period contract if the said employee is not given a new contract of service within the first twelve working days following the expiry of the previous contract.

(3) The Minister may, after consultation with the Board, make regulations to -

(a) give better effect to the principle of non-discrimination between employees on fixed-term contracts and employees on indefinite contracts;

(b) establish the circumstances when, for objective reasons, conditions in fixed term contracts may be different from conditions in indefinite contracts;

(c) generally to regulate any matter relating to fixed-term contracts.

Rights of employees to minimum information.

35. The Minister may, after consultation with the Board, make regulations prescribing the minimum information which every employer shall be bound to provide to every employee and the manner in which such information is to be given to the employee and to regulate any other matter relating to the employer's obligation to inform or consult the employee or the employees' representatives on employment conditions, and, in such regulations the Minister may grant exemption from the obligation imposed by this article or establish different rules for different classes or types of employment.

Notice of and compensation for termination of contracts of service.

36. (1) Saving the provisions of sub-article (16), the first six months of any employment under a contract of service shall be probationary employment unless otherwise agreed by both parties for a shorter probation period:

Provided that in the case of a contract of service, or collective agreement, in respect of employees holding technical, executive, administrative or managerial posts and whose wages are at least double the minimum wage established in that year, such probation period shall be of one year unless otherwise specified in the contract of service or in the collective agreement.

(2) During the probationary period the employment may be terminated at will by either party without assigning any reason:

Provided that a week's notice of the termination of employment shall be given to the other party in the case of an employee who has been in the employment of the same employer continuously for more than one month.

(3) A contract of service for an indefinite time may be terminated, by giving notice as set out in sub-article (5), by the employee without assigning any reason and by the employer, saving the provision of sub-article (14), only on grounds of redundancy:

Provided that any employee whose employment is terminated on grounds of redundancy shall be entitled to re-employment if the post formerly occupied by him is again available within a period of one year from the date of termination of employment:

Provided further that such an employee shall be so re-employed at conditions not less favourable than those to which he would have been entitled if the contract of service relating to him had not been terminated:

Provided, finally, that any employee who shall have been so re-employed shall, for the purposes of this Act, be deemed to have continued in his employment notwithstanding the termination made under this sub-article.

(4) Where an employer intends to terminate the employment of an employee on grounds of redundancy, he shall terminate the employment of that person who was engaged last in the class of employment affected by such redundancy:

Provided that, where such person is related to the employer (not being a limited liability company or a statutory body) by consanguinity or affinity up to the third degree, the employer may, instead of terminating the employment of such person, terminate that of the person next in turn.

(5) Notwithstanding any agreement to the contrary, and without prejudice to what is stated in sub-paragraph (f), notice of the termination of employment proposed either by the employer or by the employee under a contract of service for an indefinite time, shall be of the following respective duration, if the employee has been in the employment of the same employer continuously -

- (a) for more than one month but not more than six months one week;

(b) for more than six months but not more than two years two weeks;

(c) for more than two years but not more than four years four weeks;

(d) for more than four years but not more than seven years eight weeks;

(e) for more than seven years, an additional 1 week for every subsequent year of service up to a maximum of twelve weeks;

(f) or such longer periods as may be agreed by the employer and employee in the case of technical, administrative, executive or managerial posts;

Provided that notice of termination of employment may not be given during maternity leave or during the period of incapacity for work to which sub-article (17) refers or during such other period as the Minister may prescribe.

(6) Where one period of employment on a contract of service for an indefinite time is of less than six months but is followed by another period of employment in the same class of employment commencing within the next following six months from the last day of employment, the two periods shall, for the purposes of sub-article (5), in regard to the second period of employment be deemed to be one continuous period.

(7) The period of notice shall begin to run from the working day next following the day on which notice is given.

(8) On receiving notice from the employer as aforesaid the employee under a contract of service for an indefinite time shall have the option either of continuing to perform work until the period of notice expires or, at any time during the currency of the period of notice, of requiring the employer to pay him a sum equal to half the wages that would be payable in respect of the unexpired period of notice.

(9) On receiving notice from the employee as aforesaid, the employer shall have the option either to allow the employee to continue to perform work until the period of notice expires or, at any

time during the currency of the period of notice, to pay the employee a sum equal to the wages that would have been payable in respect of the unexpired period of notice.

(10) If an employee under a contract of service for an indefinite time fails to give notice as aforesaid, he shall be liable to pay to the employer a sum, equal to half the wages that would be payable in respect of the period of notice. If the employer fails to give the said notice, he shall be liable to pay to such employee a sum equal to the wages that would be payable in respect of the period of notice.

(11) An employer who dismisses an employee before the expiration of the time definitely specified by a contract of service, shall pay to the employee one-half of the full wages that would have accrued to the employee in respect of the remainder of the time specifically agreed upon.

(12) An employee who abandons the service of his employer before the time definitely specified by the contract of service shall pay to his employer a sum equal to one-half of the full wages to which he would have become entitled if he had continued in the service for the remainder of the time so specifically agreed upon:

Provided that in this sub-article and in sub-articles (8), (9), (10) and (11), reference to "full wages" or "wages" is to mean the wage payable to an employed person by or on behalf of his employer, excluding any remuneration for overtime, any forms of bonus, any allowances, and remuneration in kind and commissions.

(13) In the case of employees under a contract of service paid by the unit of work, or by a share in the profits, or by a commission on the sales or payments made or received by the employer, the amount payable in terms of sub-articles (8), (10), (11) and (12) shall be calculated on the average earning of the employee during the three months immediately preceding the day on which notice is given or the abandonment or termination of employment takes place.

(14) Notwithstanding the foregoing provisions of this article, an employer may dismiss the employee and the employee may abandon the service of the employer, without giving notice and without any liability to make payment as provided in sub-articles (10), (11) and (12) if there is good and sufficient cause for such dismissal or abandonment of service:

Provided that an employer may not set up as a good and sufficient cause -

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(a) that the employee at the time of the dismissal was a member of a trade union, or is seeking office as, or acting or has acted in the capacity of an employees' representative; or

(b) except in the case of a private domestic employee, that the employee no longer enjoys the employer's confidence; or

(c) that the employee contracts marriage; or

(d) that an employee is pregnant with child or is absent from work during maternity leave; or

(e) that the employee discloses information, whether confidential or otherwise, to a designated public regulating body, regarding alleged illegal or corrupt activities being committed by his employer or by persons acting on the employer's name and interests; or

(f) that the employee has filed a complaint or is participating in proceedings against the employer involving alleged violation of laws or regulations or is having recourse to competent administrative authorities; or

(g) that the business in which the employee is engaged has undergone a transfer of ownership, unless he proves that the termination is necessary for economic, technical or organisational reasons entailing changes in the workforce:

Provided further that the employer can terminate the employment of an employee when the employee reaches retirement age as defined in the Social Security Act.

Cap. 318.

(15) A contract of service shall not, except with the consent of the employee, be terminated by the employer during any period of incapacity for work of the employee caused by personal injury by accident arising out of and in the course of employment or by any of the occupational diseases specified in the Social Security Act in each case occurring in the service of that employer:

Provided that -

(a) during such period of incapacity wages less injury benefit payable under the Social Security Act not including any benefit for permanent disability shall accrue in favour of the employee as may be provided by or under any recognised condition of employment as defined in Part II of Title I of this Act; and

(b) the provisions of this sub-article shall not apply beyond the first twelve calendar months of incapacity.

(16) On the cessation of the incapacity for work referred to in the last preceding sub-article the employer shall, within twenty-one days from an application made by the employee, re-instate the employee in his former employment or, if the injury or disease has caused a disablement rendering the employee unfit for the former employment, in other suitable employment:

Provided that the application for re-instatement by the employee shall be made in writing within seven days of the cessation of the incapacity for work.

(17) A whole-time female employee shall not be dismissed by the employer during the period of her maternity leave or the period of five weeks following the end of such leave in which she is incapable for work owing to a pathological condition arising out of confinement.

(18) Any period of incapacity for work referred to in the last preceding sub-article shall be deducted from the period of sick leave to which the employee is entitled at the time of such incapacity, so however that the period of incapacity which exceeds such entitlement shall be deemed to be leave of absence without entitlement to wages:

Provided that the employer may require the employee to produce evidence of such incapacity for work and may require his own doctor to visit such employee and to report to him on the condition of her health.

(19) The employee shall, at the termination of maternity leave to which she is entitled under the provisions of this Act or of the period of her incapacity for work to which sub-article (17) refers, be entitled to resume work in the post she occupied on the commencement of her maternity leave, or in an analogous post if at the time when she becomes so entitled the post she formerly occupied is no longer available.

(20) Where a female employee does not resume work as provided in the preceding sub-article, or, after having so resumed work, abandons the service of her employer without good and sufficient cause within six months from the date of such resumption, she shall be liable, without prejudice to any other liability under this Act, to pay the employer a sum equivalent to the wages she received during the maternity leave.

Collective
redundancies.

37. (1) An employer shall not terminate the employment of any employee on grounds of collective redundancy before he has notified in writing the employees' representatives recognised by him of the termination of employment contemplated by him and has provided the said representatives with an opportunity to consult with the employer.

(2) The Minister may, after consultation with the Board, make regulations prescribing the circumstances when redundancies are to be deemed collective redundancies; the manner in which consultations between the employer and the employees' representatives are to take place; the procedure to be adopted; the categories or classes of employment that are exempted from the effects of this article and any other matter that is related or ancillary thereto.

(3) Any person who fails to comply with the provisions of this article or of any regulations made thereunder shall be guilty of an offence against this Act.

Transfer of
business.

38. (1) When a business or other undertaking is taken over, in whole or in part by a person (hereinafter in this article referred to as the "transferee") from any employer (hereinafter in this article referred to as the "transferor") any employee in the employment of the transferor on the date of transfer of the undertaking shall be deemed to be in the employment of the transferee and the transferee shall take on all the rights and obligations which the transferor has towards the employee.

(2) The transferor or the transferee shall inform the employees' representatives of their respective employees affected by the transfer with:

- (a) the date or proposed date of the transfer;
- (b) the reasons for the transfer;
- (c) the legal, economic and social implications of the transfer for the employees; and
- (d) the measures envisaged in relation to the employees.

(3) Following the transfer, the transferee shall continue to observe the terms and conditions agreed in any collective agreement on the same terms applicable to the transferor under that agreement, until the date of termination or expiry of the collective agreement or the entry into force or application of another collective agreement.

(4) This article shall not apply to any transfer of an undertaking, business or part of an undertaking or business where the transferor is the subject of bankruptcy proceedings or in a winding up by the Court in accordance with the provisions of the Companies Act or other insolvency proceedings which have been instituted with a view to the liquidation of the assets of the transferor and are under the supervision of a court appointed liquidator. Cap. 386.

(5) The Minister may make regulations prescribing the manner in which consultations between the employer and the employees' representatives are to take place; the procedure to be adopted; the categories or classes of employment or undertakings that are exempted from the effects of this article and any other matter that is related or ancillary thereto.

(6) Any person who fails to comply with the provisions of this article or of any regulations made thereunder shall be guilty of an offence against this Act.

39. The provisions of articles 36, 37 and 38 shall not apply in respect of seamen employed on ships under the provisions of the Merchant Shipping Act; and in the event of any conflict between any of the provisions of the said Act and any of the provisions of this Act, the former shall apply. Employees excluded from operation of articles 36, 37 and 38. Cap. 234.

40. Any condition in a contract of service which empowers the employer to terminate the employment of a female employee on her contracting marriage or becoming pregnant with child shall be null and void. Condition in contract of service without effect.

41. On the termination of a contract of service lasting over one month, the employer shall be bound, at the employee's request, to give him a certificate stating the duration of the employment, the nature of the work or services performed and, if the employee so desires, the reason for the termination of the contract, and the rate of wages paid: Certificates of service.

Provided that the employer shall not be required to state the reason of termination of employment, if the employment was terminated during probation.

42. Unless in such case as is otherwise provided by this Act, if a contract of service between an employee and his employer or a collective agreement entered into between the employer and the recognised union representatives, provides for any conditions of employment, including conditions relating to the termination of the contract, less favourable to the employee than those specified in or under this Act, they shall have effect as if for those conditions less Conditions less favourable than Act.

favourable to the employee there were substituted the conditions specified in or under this Act:

Provided that, in exceptional cases, the employer in agreement with the employee or union representatives may provide for different conditions of employment than those specified in or under this Act as long as such agreement is a temporary measure to avoid redundancies and as long as it is approved by the Director, which approval needs to be reviewed every four weeks.

PART VI

ENFORCEMENT AND NON-COMPLIANCE RELATED TO EMPLOYMENT

Appointment of inspectors.

43. (1) The Minister shall appoint such officers of the department responsible for employment and industrial relations as he may think fit to be inspectors for the purposes of this Act.

(2) Inspectors so appointed as aforesaid shall be empowered -

(a) to enter freely and without previous notice at all reasonable times any premises or place liable to inspection under this Act;

(b) to carry out in any such premises or place any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the provisions of this Act or of any regulations or orders thereunder as well as any recognised conditions of employment are being observed, and in particular -

(i) to interrogate, alone or in the presence of witnesses, the employer or the employees on any of the said matters;

(ii) to require the production of any books, registers or other documents the keeping of which is prescribed by this Act or by any order issued under this Act and to copy such documents or make extracts therefrom.

(3) On the occasion of an inspection visit, an inspector shall notify the employer or his representative of his presence, unless he considers that such a notification may be prejudicial to the performance of his duties.

(4) The premises and places liable to inspection under this Act are any premises or places in respect of which any provisions of this Act or of any regulation or order thereunder or any recognised conditions of employment apply or any premises or places in respect of which an inspector has reasonable cause to believe that this Act or any regulations or orders thereunder or any recognised conditions of employment apply.

(5) Such inspectors -

(a) shall be prohibited from having any direct or indirect interest in any premises or places which may be subject to inspection by them;

(b) shall not reveal at any time even after ceasing to be inspectors any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties;

(c) shall treat as absolutely confidential the source of any complaint bringing to their notice a defect or a breach of the provisions of this Act or of any regulations or orders thereunder or of any recognised conditions of employment; and

(d) shall not in any case give intimation to the employer or his representative that a visit of inspection was made as a consequence of the receipt of such a complaint.

(6) Every inspector shall be furnished with a certificate of his appointment and on applying for admission to any premises or place for the purpose of this Act, shall, if so required, produce the said certificate.

(7) Any inspector who acts in contravention of the provisions of sub-article (5), shall, in addition to any other punishment to which he may be liable, be also liable to dismissal *ipso facto* from his employment with the Government.

(8) A person shall not -

(a) omit to answer or answer falsely or cause any other person not to answer or to answer falsely to any question which an inspector is authorised to ask under this Act; or

(b) fail to produce any books, registers or other documents which, pursuant to sub-article (2)(b)(ii), he is required by an inspector to produce; or

(c) directly or indirectly prevent any person from appearing before or being questioned by an inspector, or attempt so to do; or

(d) obstruct in any manner an inspector in the performance of his duties under this Act;

Provided that no person shall be required under paragraph (a) to answer any question which may incriminate him.

Criminal proceedings.

44. (1) In criminal proceedings instituted by the Police before the Court of Magistrates for an offence against the provisions of this Act, the Director or any officer of his department deputed by him may, notwithstanding the provisions of any law to the contrary, lay the charge before the court, produce the evidence, plead and otherwise conduct the prosecution instead of the Police.

(2) The sworn statement of any officer mentioned in the last preceding sub-article to the effect that he has been deputed by the Director for the purpose therein stated, shall be conclusive evidence of such fact, should the proof thereof be required by the accused.

(3) The Director or the officer deputed by him may, nevertheless, be produced as a witness, but should his evidence be required as part of the case for the prosecution, he shall be heard in evidence before assuming the duties of prosecuting officer (other than that of stating the facts constituting the offence) unless the necessity of his evidence arises subsequently.

Penalties.

45. (1) Any employer who contravenes or fails to comply with any recognised conditions of employment prescribed by a national standard order or by a sectoral regulation order or collective agreement, or with any provisions of this Act or any regulations made thereunder shall, unless a different penalty is established for such offence, on conviction be liable to a fine (*multa*) of not less than one hundred liri (Lm 100) and not exceeding one thousand liri (Lm 1000).

(2) Where any employer is convicted of -

(a) having failed to pay wages at not less than the rate applicable in accordance with a recognised condition of employment as defined in Part III of this Act or with a contract of service whichever shall be the higher, or

(b) having made any illegal deduction or inflicted any fine other than those specifically permitted by article 19, or

(c) having failed to make payment of any bonus payable under article 23, or any other payment due by an employer to any employee under this Act or under any order made thereunder, or

(d) having withheld any remuneration or any payment in lieu of notice, or

(e) having failed to allow paid holidays as provided for or specified in any national standard order, sectoral regulation order or contract of service, or

(f) having failed to effect payment of any moneys due to an employee under this Act or under any national standard order or sectoral regulation order or any other order made under this Act.

the court shall, at the request of the prosecution, besides awarding the punishment imposed by the preceding sub-articles of this article, order the offender, on proof of the amount, to refund or pay to the employee or employees concerned, or to the apprentice or apprentices concerned, as the case may be, the said amount due by him and, in the case of holidays with pay not allowed, a sum equal to the pay thereof, and any such order by the court shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted between the employee or employees concerned or the apprentice or apprentices concerned, as the case may be, and the employer:

Provided that nothing in this sub-article shall derogate from any right of the employee or apprentice, as the case may be, to recover by any other means any amount due to him.

(3) Article 24 of the Criminal Code shall apply in respect of offences under this Act. Cap. 9.

46. Where an offence against the provisions of this Act or of any regulations or orders made thereunder is committed by a partnership, company, association or other body of persons, every person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of such partnership, company, association or other body of persons or was purporting to act in any such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence. Offence by partnership, etc.

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Limitation of
action.

47. (1) Proceedings for an offence under this Act or of any regulations or orders made thereunder may be commenced at any time within one year from the commission of the offence.

(2) Where the offence relates to the failure by an employer to pay wages to an employee, or failure to allow paid holidays as required by this Act or by any national standard order or sectoral regulation order, the offence shall be deemed to be a continuous offence if the employer had failed to pay the wages due to the employee regularly over the period of prescription.

PART VII

ADMINISTRATION RELATED TO EMPLOYMENT

Regulations.

48. (1) The Prime Minister shall have power to prescribe by regulations the applicability of any article or sub-article of Title I of this Act to service with the government.

(2) The Minister shall have power to make and when made vary or repeal regulations for the purpose of carrying out and giving effect to any of the provisions of this Act.

(3) Without prejudice to the generality of the power conferred by sub-article (2), the regulations may -

Cap. 327.

(a) prescribe the manner and the circumstances in which persons who are above compulsory school age, as defined in the Education Act, and who have not yet attained the age of 18 years, may be employed, including the power to designate certain categories or class of employment as prohibited employment for such persons;

(b) prescribe the procedure to be adopted by the Employment Relations Board, including the method of voting and of filling casual vacancies in membership, the method of and the quorum necessary for the transaction of business;

(c) prescribe fees to be levied with respect to any matter required or allowed under this Act;

(d) prescribe or otherwise provide for any matter which is to be or may be prescribed or provided for by this Act or by regulations made thereunder.

(4) Any regulation made under this Act may provide for any matter relating to liability for the observance of such regulations, and the persons who may be liable, and for any matter relating to the

enforcement of the said regulations, including, but not limited to; the imposition of a fine (*multa*) not exceeding five thousand liri (Lm 5000) in respect of any contravention of, or failure to comply with, the provisions of such regulations.

TITLE II

INDUSTRIAL RELATIONS

PART I

ORGANIZATION OF WORKERS AND EMPLOYERS

Sub-Part I

Status, registration and conduct of trade unions and employers' Associations

49. (1) A trade union and an employers' association shall, for all purposes of law, be treated as an association of persons and not as a body corporate, but -

Status of trade unions and employers' associations.

(a) it shall be capable of making contracts;

(b) all property belonging to the union or association shall vest in the union or association, but all powers, whether of disposal, administration or otherwise, in relation to such property shall be exercisable by or by the authority of the body of persons, by whatever name called, entrusted by the rules of the union or association with the conduct and management of its business;

(c) it shall be capable of suing and, subject to the provisions of this Act, of being sued, whether in proceedings relating to property or founded on contract, tort or quasi-tort, or any other cause of action whatsoever;

(d) proceedings in respect of any offence alleged to have been committed by it or on its behalf may be brought against any of its officers or other officials as provided in article 13 of the Interpretation Act;

Cap. 249.

(e) any judgement or order made in any proceedings shall be enforceable against any property of the union or association.

(2) The purposes of any trade union or employers' association shall not, by reason only that they are in restraint of trade, be unlawful

so as -
(a) to make any member of the union or association liable to criminal proceedings; or

(b) to make any agreement void or voidable, nor shall any such rule of a trade union or employers' association be unlawful or unenforceable by reason only that it is in restraint of trade.

Rules of trade unions and employers' associations.

50. (1) The rules of every trade union and of every employers' association shall contain provisions in respect of the matters mentioned in the following sub-articles of this article.

(2) The rules shall -

(a) specify the name of the trade union or employers' association, the address of its principal office and the objects for which it is established;

(b) make provision as to the purposes for which, and the manners in which, any property or funds of the union or association are authorised to be applied or invested;

(c) if any financial benefits are to be available for members of the trade union or of the employers' association out of its property or funds, make provision as to the amounts of those benefits and the circumstances in which they are to be available to members;

(d) specify the offences for which the union or association may under the rules expel a member or take other disciplinary action, the penalties applicable for each of those offences, and the procedure for the hearing of cases in which offences against the rules are alleged;

(e) make provision for the election of a governing body and for its re-election at reasonable intervals, for the election or appointment of officers of the union or association and other officials, and for the manner in which the governing body, officers and other officials can be removed from office;

(f) make provision for the keeping of full and accurate accounts by the union or association, for the appointment of auditors and for the annual auditing of the accounts;

(g) make provision for the inspection of the books and names of members of the union or association by every person

having an interest in the funds of the union or association;

(h) specify the manner in which any rules of the union or association can be made, altered or revoked, and the circumstances and manner in which the union or association can be dissolved.

(3) Every trade union and every employers' association shall at the request of any person supply him with a copy of the rules, as in force at the date of the request, either free of charge or on payment of a fee as may be prescribed.

51. (1) A trade union or an employers' association, and any member, officer or other official thereof, shall not perform any act in furtherance of any of the purposes for which it is formed unless such union or association has first been registered.

Trade unions and employers' associations not to carry on business unless registered.

(2) Any trade union or employers' association, and any member, officer or other official thereof, who contravenes the provisions of sub-article (1) shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding five hundred liri (Lm 500).

52. (1) For the purposes of this Act, a public officer shall be appointed as, or designated to perform the functions of, Registrar of Trade Unions.

Registrar of Trade Unions.

(2) The Registrar shall perform the functions and duties conferred on him by this Act, and for the purpose of the exercise of those functions and of the performance of those duties he shall have power to require any person to give him any relevant information and to produce to him any relevant document, and may also administer oaths.

53. (1) Any seven or more members of a trade union or of an employers' association may, by subscribing their names to the rules of the union or association, and otherwise complying with the provisions of this Act relating to registration, register the union or association under this Act:

Registration of trade unions and employers' associations.

Provided that if any of the purposes of a trade union or of an employers' association is unlawful the registration of such union or association shall be void.

(2) In determining the number of the members of a trade union for any of the purposes of this Act no account shall be taken of any individual who has not attained the age of sixteen years or who does not reside in Malta; and in determining the number of the members of

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an employers' association no account shall be taken of any person with whom or for whom no individual has entered into or works under a contract of employment for service in Malta.

Provisions with respect to registration.

54. (1) Every trade union and every employers' association shall be registered in accordance with the provisions of this Act.

(2) Without prejudice to any other provision of this Act relating to registration, the following provisions shall have effect with respect to the registration of trade unions and employers' associations under this Act, that is to say -

(a) an application to register the union or association and its rules shall be forwarded or produced to the Registrar together with two printed copies of the rules and with a list of the names of the officials of the union or association in which there shall also be shown their respective offices;

(b) no trade union or employers' association shall be registered under a name identical with that by which another union or association is for the time being registered under this Act, or so nearly resembling any such name as to be likely to deceive the public;

(c) if the Registrar is satisfied that the union or association have complied with the provisions of this Act relating to registration, or if the Court of Appeal has so directed under article 55, he shall register the union or association, as the case may be, and its rules;

(d) upon registering a trade union or an employers' association, the Registrar shall issue a certificate of registration.

(3) Every alteration of the rules of a registered trade union or employers' association shall be registered with the Registrar, and any such alteration shall not take effect except from the date of its registration or from such later date as may be specified in the rules.

(4) The rules of any registered trade union or employers' association shall not be so altered as to cease to satisfy or comply with the provision of this Act applicable thereto; and the Registrar shall not register any rules, or alteration to the rules, which contravene the foregoing provisions of this article.

Refusal or cancellation of registration.

55. (1) If the Registrar is satisfied that -

(a) the applicants for registration have not been duly authorised to apply for registration; or

(b) any of the purposes of the trade union or employers' association is unlawful; or

(c) the application for registration or the rules of the union or association are not in conformity with the provisions of this Act,

he shall refuse registration.

(2) It shall be lawful for the Registrar to cancel the registration of any trade union or employers' association -

- (a) at the request of the union or association, to be evidenced in such manner as he may require;
- (b) on proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake, or that the registration was void, or that the union or association has wilfully contravened any of the provisions of this Act;
- (c) if, for any reason, the rules of the union or association are not in conformity with the provisions of this Act;
- (d) if he is satisfied that the union or association has ceased to exist;
- (e) if he is satisfied that the membership of the union or association has been reduced to less than seven members calculated as provided in article 53(2).

(3) Where the Registrar refuses to register a trade union or an employers' association, he shall forthwith inform the applicants in writing of the refusal and of the grounds thereof.

(4) Where the Registrar proposes to cancel the registration of a trade union or of an employers' association, he shall give notice of the proposed cancellation to the union or association specifying the reason therefor; and the registration shall not be cancelled before the expiration of two months from the giving of such notice, nor shall the registration be cancelled if, prior to the cancellation, the union or association has remedied any default or otherwise taken steps to avoid cancellation. If notwithstanding any representations made, or other steps taken, by the union or association, the Registrar decides that he ought to cancel the registration, he shall inform the union or association in writing of his decision:

Provided that, where the union or association has ceased to exist, the Registrar may cancel the registration without complying

with any of the provisions of this sub-article and give notice of the cancellation in the Gazette.

(5) From any refusal by the Registrar to register a trade union or an employers' association and from any decision by him to cancel any such registration, an appeal shall lie to the Court of Appeal by application made not later than seven days from the communication by him of his refusal or decision as required by this article. On any such appeal the court may make such orders as it may deem proper, including a direction as to the costs of appeal; and any such order of the court shall be final.

Cap. 12.

(6) The board established under article 29 of the Code of Organization and Civil Procedure may make rules governing such appeals, providing for the method of giving evidence, prescribing the procedure to be followed, the manner of notifying the Registrar of the appeal and generally providing for such other matter as the court may deem necessary or expedient.

(7) The Minister responsible for justice may by regulations under this sub-article establish the fees payable in the registry of the court for the filing of judicial acts in connection with appeals under this article:

Provided that until such fees are so established by the Minister, the fees established in Schedule A to the Code of Organization and Civil Procedure shall apply.

(8) The Registrar shall be entitled to be heard on any such appeal and shall be given the opportunity to do so.

Register of trade unions and employers' associations.

56. (1) The Registrar shall keep a register of all trade unions and employers' associations registered under this Act, showing the names of such unions and associations and such other particulars as the Registrar may deem appropriate.

(2) The register of trade unions and employers' associations shall be open to inspection by any person free of charge at all reasonable times.

Register of members to be kept by trade unions and employers' associations.

57. (1) Every trade union and every employers' association shall keep an up-to-date record of the names of the members of the union or association, as the case may be, showing their respective date of membership, identity card numbers, addresses and trades or occupations.

(2) The Registrar shall have power at any time to inspect such records or to cause such records to be inspected by a person

authorised by him in that behalf, and every trade union and every employers' association shall give him and any other person authorised as aforesaid all reasonable facilities for that purpose.

58. On or after the second day of June and before the first day of July in every year, the Registrar shall by notice in the Gazette, call upon and require all registered trade unions and employers' associations to transmit to him, in such form or format as he may require - Annual returns.

(a) a list of the names of the officers of the union or association, showing also the office held by each of them;

(b) a declaration that the names of members and other particulars shown in the record required to be kept by article 57 have been brought up-to-date and that the necessary alterations have been made to the said record for that purpose;

(c) a statement of the receipts, funds and expenditure of the union or association in respect of the preceding year;

(d) a copy of the annual report showing the activities of the union or association during the preceding year or, if no such report has been made, a statement signed by the secretary of the union or association showing the said activities during that year,

and every trade union and every employers' association shall comply with such requirement, within fifteen days from the publication of the notice in the Gazette as aforementioned.

59. (1) Every trade union and every employers' association shall - Accounting records.

(a) cause to be kept proper accounting records with respect to its transactions and its assets and liabilities, that is to say such records as are necessary to give a true and fair view of the state of affairs of the union or association and to explain its transactions; and

(b) establish and maintain a satisfactory system of control of its accounting records, its cash holdings and all its receipts and remittances.

(2) Every trade union and every employers' association shall appoint an auditor or auditors having the qualifications required by this article to audit its accounts; and every trade union or employers' association which has been in existence for more than twelve months shall once at least in every calendar year cause such accounts to be

prepared and audited by such auditor or auditors as aforesaid.

(3) Every trade union and every employers' association shall, not later than one month from the auditing of the accounts, transmit a copy of such accounts to the Registrar.

(4) Every trade union and every employers' association shall at the request of any of its members supply him with a copy of its most recent audited accounts either free of charge or on payment of a fee as may be prescribed.

(5) A person shall be qualified to audit the accounts of a trade union or of an employers' association if he is qualified to audit the accounts of a company in accordance with the provisions of the Companies Act.

Cap. 386.

Report by Registrar.

60. (1) In the month of August of each year the Registrar shall make out and send to the Minister a report on the working of this Part of this Act. The report shall include a list of all registered trade unions and employers' associations and a statement as to the inspections carried out by the Registrar under article 57.

(2) The Minister shall cause the report to be published in the Gazette.

Rules with respect to registration.

61. The Minister may make rules with respect to the registration of trade unions and employers' associations and in particular, but without prejudice to the generality of the foregoing, with respect to -

(a) the seal, if any, to be used by the Registrar for the purposes of registration;

(b) the forms to be used for such registration and for any application therefor;

(c) the inspection of registers and documents kept by the Registrar and the making of copies of any entries therein;

(d) the fees to be charged for registration, for the inspection of any register or other document, for any copies made out of any entries or documents, and for any other service provided or other matter prescribed or permitted by this Act;

(e) generally for carrying into effect the provisions of this Part of this Act.

62. (1) If a trade union or an employers' association refuses or wilfully neglects to perform a duty imposed on it by or under any of the provisions of article 57, 58 or 59, the trade union or employers' association shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding five hundred liri (Lm 500).

Offences against articles 57, 58 and 59.

(2) Any person who wilfully alters or causes to be altered a document which is required for the purposes of the provisions of article 57, 58 or 59, with intent to falsify the document or to enable a trade union or employers' association to evade any of those provisions, shall be guilty of an offence and shall be liable on conviction to imprisonment for a period not exceeding one year or to a fine (*multa*) of one thousand liri (Lm 1000) or to both such imprisonment and fine.

Sub-Part 2

Restrictions on legal liability and proceedings and on union membership

63. (1) Subject to the provisions of sub-article (2) of this article, no action in tort or quasi-tort shall lie in respect of any act -

Immunity of trade unions and employers' associations to actions in tort.

(a) alleged to have been done by or on behalf of a trade union or by or on behalf of an employers' association; or

(b) alleged to be threatened or to be intended to be done as aforesaid,

against the union or association in its own name, or against any members, officers or officials of the union or association on behalf of themselves and all other members of the union or association.

(2) Sub-article (1) of this article shall not affect the liability of a trade union or of an employers' association to be sued in respect of the following, if not arising from any act done in contemplation or furtherance of a trade dispute, that is to say -

(a) any negligence, nuisance or breach of duty, (whether imposed on them by any rule of law or by or under any enactment) resulting in personal injury to any person; or

(b) without prejudice to paragraph (a), breach of any duty so imposed in connection with the ownership, possession, control or use of property, whether movable or immovable.

64. (1) An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable in tort or quasi-

Acts in contemplation or furtherance of trade disputes.

tort on the grounds only -

(a) that it induces another person to break a contract of employment; or

(b) that it consists in his threatening that a contract of employment (whether one to which he is a party or not) will be broken or that he will induce another person to break a contract of employment to which that other person is a party; or

(c) that it is an interference with the trade, business or employment of another person, or with the right of another person to dispose of his capital or his labour as he wills.

(2) An act which by reason of sub-article (1) is itself not actionable, and a breach of contract in contemplation or furtherance of a trade dispute, shall not be regarded as the doing of an unlawful act or as the use of unlawful means for the purposes of establishing liability in tort or quasi-tort.

(3) An agreement or combination by two or more persons to do or procure the doing of any act in contemplation or furtherance of a trade dispute shall not be actionable in tort or quasi-tort if the act is one which, if done without any such agreement or combination, would not be actionable in tort or quasi-tort.

(4) An act done by a person in contemplation or furtherance of a trade dispute and in pursuance of a directive issued by a trade union, whether he belongs to it or not, shall not be actionable in damages on the ground only that it consists in a breach of a contract of employment; and any act done as aforesaid, not being an act in breach of a collective agreement, or of a settlement, decision or agreement which is still binding in accordance with the provisions of article 70 or 72, or of a decision or award of the Tribunal, shall not by itself entitle the employer to terminate the contract of employment of, or discriminate against, any person doing any such act as aforesaid, and shall not constitute a break in the service of such person.

Cap. 9.

(5) The provisions of article 338(t) of the Criminal Code shall not apply to any agreement or combination by two or more persons to do or procure the doing of any act in contemplation or furtherance of a trade dispute.

(6) Subarticle (4) of this article shall not apply to:

(a) persons employed as Air Traffic Controllers at the Malta International Airport and in the Airport Fire Fighting Section of the said airport;

(b) members of the Assistance and Rescue Force established by virtue of article 8 of the Civil Protection Act; Cap. 411.

(c) persons employed to provide pilotage and mooring, tug services, fire fighting, medical health services and pollution combating services as may be required in cases of port emergency;

(d) such minimum number of persons needed to guarantee that life is not endangered through the non import or discharge into Malta of wheat, grain, domestic gas, aviation fuel, diesel and petrol and oil fuel for the operation of air transport facilities and power generation and water facilities, as agreed upon by their respective employer and the recognised trade union or in default of such agreement, as shall be decided by the appropriate controlling body or in the absence of such body, the Industrial Tribunal;

(e) such minimum number of persons as may be required to guarantee the combined production, provision and distribution of water and electricity, as agreed upon by their respective employer and the recognised trade union or in default of such agreement, as shall be decided by the Industrial Tribunal;

(f) such number of persons as may be required to maintain the continued and uninterrupted services listed in the Schedule to this Act and required to be manned at all times for the continued provision by the Government of essential services to the community;

Provided that, for the purposes of subparagraphs (d) and (e) if no agreement is reached as aforesaid within a period of one month from the date of coming into force of this Act, the matter shall be referred to the appropriate controlling body or Industrial Tribunal, as the case may be, at the request of any one of the parties.

(7) Where the number of public officers holding or employed in any of the offices aforesaid is greater than the number indicated in the said Schedule as essentially required, sub-article (6) shall apply only to the more senior among those officers who together make up that number (excluding only any of them who are on leave authorised expressly for the purposes of this sub-article, and only while they are so on leave), seniority being determined by any seniority inherent in the office itself or, in the absence of such seniority, by the length of the officers' service in the office held by them or in which they are employed at the relevant time, and in cases of equal lengths of service

by the age of the officers having the same length of service.

(8) Any public officer to whom, by virtue of sub-articles (6) and (7), sub-article (4) does not apply, shall have his service with the Government terminated forthwith if, in contemplation or furtherance of a trade dispute or of any other action taken by two or more public officers or other workers (whether or not in pursuance of a directive issued by a trade union), or in support thereof or in sympathy therewith, such officer refuses or otherwise fails to carry out those duties that are necessary for the continued provision of the essential service, in accordance with this Act and with the terms of service or conditions of employment and under the direction of the competent authorities of the Government.

(9) The Schedule to this Act may be altered, added to or otherwise amended -

- (a) by a resolution of the House of Representatives; or
- (b) by the Prime Minister by order in the Gazette:

Provided that an order as aforesaid may not increase the total number of officers in Category A to more than forty-five (45); in Category B to more than one hundred (100) and in Category C to more than two hundred and twenty-five (225).

Peaceful picketing

65. It shall be lawful for one or more persons in contemplation or furtherance of a trade dispute to attend at or near -

- (a) a place where another person works or carries on business; or
- (b) any other place where another person happens to be, not being a place where he resides,

for the purpose only of peacefully obtaining or communicating information, or peacefully persuading any person to work or abstain from working.

Use or threats of violence

66. Any person who, for the purpose of compelling any other person to abstain from doing or to do any act which such other person has a legal right to do or to abstain from doing, wrongfully and without legal authority -

- (a) uses or threatens to use violence against such person, or the wife, husband or child of such person, or a member of his household, or causes or threatens to cause damage to his property;

- (b) persistently follows such other person from place to place;
- (c) watches or besets the house or other place where such other person resides or the approaches to such house or place;
- (d) deprives such person, or in any manner hinders him in the use of, any tools, clothing or other property owned or used by such other person.

shall be guilty of an offence and be liable on conviction to imprisonment for a period not exceeding three months or to a fine (*multa*) not exceeding five hundred liri (Lm500) or to both such imprisonment and fine, without prejudice to any heavier punishment to which the offence may be liable under any other enactment.

67. (1) The holder of an office in the public service declared by the Prime Minister to be an office the holder whereof may not be a member of a trade union in respect of which he may be required to represent or advise the Government in industrial relations with the union or unions representing its employees, shall not become, and if he is shall cease to be, a member of that trade union; and the provisions of this sub-article shall be an implied term of his terms of service with the Government.

Restriction on
union
membership.

(2) Subject to the provisions of sub-article (3), in respect of a person employed in such managerial or executive post, in any corporation or other body established by law or in any company or other partnership or in any other body having a distinct legal personality (hereinafter referred to as a "corporate employer"), as will require the holder of that position to represent or advise the corporate employer in its relations with the union or unions representing its other employees or any part thereof, it shall be an implied term of the contract of employment of such person that he shall not, while occupying such position, be a member of any of the trade unions aforesaid.

(3) Sub-article (2) shall apply only to such posts, being:

- (a) not more than three in the case of a corporate employer employing not more than two hundred persons;
- (b) not more than seven in the case of a corporate employer employing more than two hundred employees,

as such employer shall have indicated in writing to the trade union of which the holder of the said posts may not be a member.

PART II

VOLUNTARY SETTLEMENT OF DISPUTES

Conciliation
Panel.

68. The Minister shall appoint a Conciliation panel composed of not less than five persons to serve as conciliators in trade disputes as may be referred to them from time to time, so however that:

(a) the panel shall be composed of such persons appointed by the Minister after consultation with the Malta Council for Economic and Social Development;

(b) the appointment shall be for a period of two years;

(c) during the term of the appointment, the Minister may substitute members or fill in vacancies whenever necessary, after consultation with the Malta Council for Economic and Social Development:

Provided that no person as is mentioned in article 73(3), shall be nominated or appointed on the Conciliation panel.

Powers of the
Minister for
promoting
conciliation and
preventing
disputes.

69. (1) Where a trade dispute exists or is apprehended, the parties to the dispute may agree to refer the dispute to -

(a) the Director, or

(b) a conciliator who may be chosen -

(i) either by the same parties to the dispute in agreement between them;

(ii) or, if there is no such agreement, by the Director from amongst the Conciliation panel established by virtue of article 68:

Provided that nothing shall preclude the Director or his delegate from inviting the parties to the dispute to attend conciliation meetings.

(2) The functions of the conciliator appointed in accordance with sub-article (1) shall be -

(a) to communicate with the parties to the trade dispute immediately on the referral;

(b) to organise and preside conciliation meetings between the parties as may be necessary in order to resolve the trade dispute;

(c) to consider the causes and circumstances of the trade dispute;

(d) to endeavour to bring about an amicable settlement of the dispute as expeditiously as possible; and

(e) to make such recommendations as the conciliator may deem fit in order to resolve the trade dispute.

(3) Where a trade dispute exists or is apprehended and the parties fail to nominate or to agree on the appointment of a conciliator in accordance with sub-article (1), or where an appointed Conciliator reports a deadlock, the Director shall refer the matter to the Minister and copy such referral to the parties to the dispute.

(4) Where a trade dispute is referred to the Minister in accordance with the last preceding sub-article, the Minister may, if he thinks fit:

(a) appoint a court of inquiry to inquire into and establish the causes and circumstances of the dispute;

(b) on an application by both parties to the dispute, refer such trade dispute to the Industrial Tribunal.

(5) A court of inquiry shall have the same powers as are by the Code of Organization and Civil Procedure conferred on a superior court, except that it shall not have the power to order the detention of any person, and without prejudice to the generality of the aforesaid, a court of inquiry may summon witnesses and administer the oath, appoint assessors, and require any person who appears to it to have special knowledge of the matter of the inquiry to furnish, in writing or otherwise, and to confirm on oath, such opinion and such particular relating to that matter as the court may require. Where the court consists of more than one person, the oath shall be administered by the Chairperson. Cap. 12.

70. If a settlement of a trade dispute (being a settlement not inconsistent with any enactment, or other instrument having the force of law, regulating wages and other terms and conditions of employment) is reached as a result of measures taken under article 69, and a memorandum of the terms of that settlement has been drawn up in writing and has been signed by the parties or their representatives and a copy thereof, together with a declaration that is a settlement for the purposes of this article signed as aforesaid, has been delivered to the Minister - Voluntary settlements

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(a) it shall not be open to any of the parties to seek by unilateral action a revision of the terms of the settlement before the expiration of at least one year from the date of that settlement; and

(b) any such settlement shall be binding on the parties to it, on the workers represented in the dispute and the workers affected by it and shall be binding on any successor in title of any one of the parties to the dispute.

Regulations.

71. The Minister may make regulations for any of the following purposes -

(a) for regulating the procedures to be followed by the Conciliation Panel and by the conciliators appointed on the panel;

(b) for regulating the composition and procedure of courts of inquiry.

Negotiating
machinery for
public officers.

72. (1) There is hereby established a Joint Negotiating Council as a special negotiating machinery with respect to trade disputes concerning the conditions of work of persons providing the services listed in article 64(6):

Provided that the Council and any other negotiating machinery established by or under this article, shall not in any way deal with or encroach on any matter falling within the functions of the Public Service Commission.

(2) The Council shall consist of not more than four members representing the Government, and not more than four members representing the trade union having as its members the largest number of persons providing the essential service in the relevant section or area involved in the dispute:

Provided that the members appointed by the recognised trade union in accordance with the provisions of this sub-article, shall be so appointed by the union concurrently with the official registration of a trade dispute and shall be signified in writing by letter addressed to the Permanent Secretary in the Office of the Prime Minister:

Provided further that, in accordance with the preceding proviso, the composition of the Council may vary if there is more than one dispute that has been referred to the Council and such disputes are separate and are made by a different trade union as specified in the first paragraph of this sub-article.

(3) Saving what is provided in sub-article (4), the decisions of the Council shall only be taken by a unanimous vote. Any decision so taken or agreement so reached shall be binding on the Government and on all public officers to whom that decision or agreement applies.

(4) Where in respect of any trade dispute falling within the functions of the Council an agreement acceptable to all the members cannot be reached, and the Chairperson of the Council registers disagreement, the Chairperson shall refer the matter to the Industrial Tribunal within fifteen days of such disagreement being registered and the Industrial Tribunal shall be bound to reach a final decision on the trade dispute (including the making of recommendations) by not later than two months from the referral, unless in the opinion of the Chairperson of the Industrial Tribunal, a longer period is necessary for a valid reason which must be stated and recorded in the proceedings of the Tribunal.

(5) The Minister may, after consultation with the Council, make regulations to give fuller effect to the provisions of this article and to any other relevant provisions of this Act, and in particular, but without prejudice to the generality of the aforesaid, such regulations may -

(a) determine the procedure of the negotiating machinery established by this article;

(b) specify in more detail and otherwise determine the functions, powers and duties of any such machinery and of any sub-committee or other body thereof, and of any of their chairpersons or other members;

(c) provide for any matter connected with or ancillary to any of the foregoing matters.

(6) The provisions of article 70 shall apply to an agreement reached as provided in sub-article (3) or sub-article (4) as they apply to a settlement referred to in that article.

PART III

THE INDUSTRIAL TRIBUNAL

73. (1) There is hereby established a tribunal to be known as the Industrial Tribunal.

Establishment
and composition
of Industrial
Tribunal.

(2) The Prime Minister shall appoint a panel of not more than fifteen persons to act as chairpersons of the Industrial Tribunal, after consultation with the Malta Council for Economic and Social

Development, so however that -

(a) at least three of the members so appointed shall be persons who are advocates of at least seven years experience;

(b) such persons shall be appointed for a period that does not exceed three years from the date of their appointment and may be re-appointed for further periods each of not more than three years;

(c) such persons shall serve as chairpersons either in turn or in accordance with such distribution of duties and subject to such provisions as to inability to serve and other circumstances, as may be prescribed by the Minister.

(3) Save as is provided in sub-article (4), the Industrial Tribunal shall consist of -

(a) a Chairperson chosen in accordance with the provisions of sub-article (2); and

(b) two other members of the Tribunal who shall be selected by the Chairperson of the Tribunal to represent, so far as may be equally, the interests in dispute, from two panels of persons appointed by the Minister to serve as members of the Tribunal as occasion may require, one panel consisting of persons nominated by trade unions represented on the Malta Council for Economic and Social Development and the other panel consisting of persons nominated by employers' associations and other organisations representing employers represented on the Malta Council for Economic and Social Development;

Provided that if the parties to a trade dispute agree, within such time as the Chairperson shall fix for the purpose, on the selection of the two members who are to sit with the Chairperson, the Chairperson shall make the selection according to that agreement.

(4) In all cases covered by article 75, the Tribunal shall be composed of a Chairperson alone provided that in those cases covered by article 75(1)(b), the Chairperson shall be one of the members appointed in accordance with sub-article (2)(a).

(5) In all cases in which the Government, or any body or company referred to in article 80(3), is a party, the Tribunal shall be composed of -

(a) a Chairperson chosen in accordance with the provisions of sub-article (2);

(b) a member selected by the Chairperson of the Tribunal from the panel of persons nominated by trade unions as prescribed in sub-article (3)(b); and

(c) a member representing the government, or other body or company involved in the trade dispute who shall be appointed *ad hoc* by the Minister.

(6) The Prime Minister may, from time to time, as he shall see fit and after consultation as provided in sub-article (2), vary the composition of the panel referred to in that paragraph, but a person actually serving as Chairperson of the Tribunal shall, notwithstanding the removal of his name from the panel, continue so to serve in the proceedings in which he is serving as chairperson until the conclusion of those proceedings and for the purpose of the interpretation of any award given therein.

(7) The Minister may, from time to time, as he shall see fit, request fresh nominations from the trade unions, associations and organisations referred to in sub-article (3)(b), and may vary the composition of the panels referred to in that sub-article accordingly, but no person actually serving as a member of the tribunal shall have his name removed from the panel whilst proceedings in respect of which he was selected as a member are still pending before the Tribunal.

(8) The Minister shall also designate a public officer to be Secretary of the Tribunal and may also detail other public officers to assist the Secretary in the performance of his duties. The Secretary of the Tribunal shall have *mutatis mutandis* such powers and duties as are by the Code of Organisation and Civil Procedure vested in the Registrar of Courts.

Cap. 12.

(9) The registry of the Tribunal shall be the Registry of the Superior Courts; and the records of the Tribunal shall be kept therein.

74. (1) Where steps taken by the Minister under article 68 to promote an amicable settlement of a trade dispute have not resulted in a settlement, any of the parties may notify the Minister in writing accordingly.

Reference to Tribunal.

(2) Where all the parties to a trade dispute agree to refer the dispute to the Industrial Tribunal, they may request the Minister in writing to refer the dispute to the Tribunal.

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(3) Upon receipt of a notification under sub-article (1) and upon being satisfied that the notification or request has been received from a *bona fide* employer or from an employers' association or from a trade union representing the interests of the workers concerned in the dispute, the Minister shall refer the dispute to the Tribunal for settlement by it; and he shall do so within twenty-one days from the date of the notification or request.

(4) The Minister may refer to the Tribunal for advice, any matter relating to or arising out of a trade dispute, or trade disputes generally, or trade disputes of any class, or any other matter which in his opinion ought to be so referred.

Jurisdiction of
the Industrial
Tribunal.

75. (1) Notwithstanding any other law, the Industrial Tribunal shall have the exclusive jurisdiction to consider and decide -

(a) all cases of alleged unfair dismissals; and

(b) all cases falling within the jurisdiction of the Industrial Tribunal by virtue Title I of this Act or any regulations prescribed thereunder,

for all purposes other than proceedings in respect of an offence against any enactment and the remedy of a worker so dismissed or otherwise alleging a breach of his right under Title I of this Act shall be by way of reference of the complaint to the Industrial Tribunal and not otherwise;

Cap. 171.
Cap. 214.

Provided that nothing in this sub-article shall be construed as affecting the provisions of the Constitution of Malta with respect to public officers or shall affect the operation of the Port Workers Ordinance, or of the Public Transport (Regulation of Employment) Act, and in this article the expression "worker" does not include public officers or any person to whom the Ordinance or the Act aforesaid applies.

(2) Where it is alleged that a worker has been unfairly dismissed by an employer, or where there is an alleged breach of any obligation under Title I of this Act or any regulations prescribed thereunder, the matter shall be referred to the Tribunal for a decision by it by means of a referral in writing made by the worker alleging the breach, or by some other person acting in the name and on behalf of such worker.

(3) Any referral made in accordance with the last preceding sub-article shall be made by means of a declaration stating the facts of the case, presented in the Registry of the Tribunal and shall, in all cases, be so presented by not later than four months from the effective

date of the alleged breach.

76. (1) The Chairperson of the Tribunal may be challenged, or shall abstain, from sitting in any of the circumstances set out in article 734 of the Code of Organisation and Civil Procedure; and in any such case the provisions of Sub-Title II of Title II of Book Third of that Code shall apply in so far as they are applicable and subject to the other provisions of this Act:

Procedure of the
Tribunal.
Cap. 12.

Provided that if all the persons appointed in accordance with article 73(2) are successfully challenged, the Tribunal shall be chaired by another person appointed *ad hoc* by the Minister and who shall not be challenged.

(2) Any member of the Tribunal other than the Chairperson may be challenged, or shall abstain, if he has given evidence in any court of inquiry or before a conciliator concerning the trade dispute before the Tribunal, or if any party to the dispute proposes to call him as a witness; and in any such case, and in the case of any other lawful impediment of any such member, he shall be replaced by another person selected by the Chairperson from the appropriate panel referred to in article 73(3)(b), or, in any case in which article 73(5)(c) applies, by another person appointed *ad hoc* by the Prime Minister.

77. (1) The Tribunal shall have such powers as are, by the Code of Organisation and Civil Procedure, vested in the Civil Court, First Hall.

General powers
of the Tribunal.
Cap. 12.

(2) Without prejudice to the foregoing provision of this article, the Tribunal shall have the power to summon witnesses and to administer the oath, to appoint assessors, and to require any person who appears to it to have special knowledge of any relevant matter, or of any of the matters to which the trade dispute or complaint referred to it relates, or of the matter referred to it, to furnish in writing or otherwise, and to confirm on oath, such opinion and such particulars relating to that dispute, matter or complaint as the Tribunal may require, and may authorise any person to administer the oath for that purpose.

(3) Witnesses shall be paid fees in accordance with the Witnesses (Fees) Ordinance.

Cap. 108.

78. (1) The Tribunal shall decide any issue referred to it within a period that does not exceed one month from the date of the referral, unless in the opinion of the Chairperson, a longer period is necessary for a valid reason which must be stated and registered in the proceedings of the Tribunal.

Further
provisions with
respect to the
Tribunal.

A 1966

(2) The case for any party to a dispute may be presented by the party itself which may choose to be represented or aided by a person or persons of its trust.

(3) Subject to the provisions of this Act and to any rules made or deemed to be made under this article, the Tribunal shall regulate its own procedure. Whatever the procedure adopted, the Tribunal shall endeavour to ensure that justice is done according to the substantive merits of the case; and, subject to the rules of natural justice, the Tribunal shall reach its conclusions on any matter in such a manner as it deems appropriate.

(4) The Tribunal shall hold its sittings in public unless, having regard to the nature of the dispute or other matter before it, the Chairperson deems it proper to conduct the proceedings or part thereof in private.

(5) Where the members of the Tribunal are more than one and they are unable to agree as to their award, decision or advice, the matter shall be decided by the Chairperson acting with full powers of an umpire.

(6) The Minister may make rules establishing the procedure to be followed by and before the Tribunal and otherwise making such provisions with respect to such proceedings as he may deem necessary or expedient.

Fees.

79. (1) The Minister may by regulations prescribe the fees payable to any person representing the parties in proceedings before the Tribunal.

(2) The Tribunal shall in its award or decision tax the fees of the person or persons representing either party in accordance with the Tariff made under the preceding sub-article.

(3) No person shall charge fees in excess of those taxed by the Tribunal or in the absence of such taxation, in excess of the Tariff.

(4) Any party who is charged fees in excess of any tariff which is or may be prescribed by law may claim back the excess by a written request to the Secretary of the Tribunal, who shall thereupon verify the claim, and if so verified, shall order the person to whom the excess was paid to refund it to that party.

(5) If the Tribunal finds that there was gross overcharging it may order the person so overcharging to pay a penalty not exceeding one thousand liri to the Secretary, who shall upon receiving that penalty transmit it to the Consolidated Fund.

(6) An order for reimbursement made in terms of sub-article (4) and an order to pay a penalty made in terms of sub-article (5), shall be an executive title for all intents and purposes of the Code of Organisation and Civil Procedure and shall be enforceable as such by the Civil Court, First Hall in the same manner and by the same means laid down in that Code. Cap.12.

80. (1) In giving any award, decision or advice, the Tribunal shall take into consideration the social policies of the Government based on principles of social justice and the requirements of any national development plan and other economic policies of the Government in the course of implementation, and shall endeavour to ensure that its award, decision or advice is in furtherance of any such policies and plans. Provisions affecting awards and decision of Tribunal.

(2) Where any matter before the Tribunal concerns or relates to public officers -

(a) the Tribunal shall ensure that there is no encroachment on the functions of the Public Service Commission, and shall abstain from taking cognizance of any matter which is within the functions of that Commission; and

(b) any award or decision of the Tribunal shall be subject to the overriding authority of the House of Representatives.

(3) Where the matter before the Tribunal concerns or relates to persons employed with bodies corporate established by law and managed by a board or other body appointed by the Government or to persons employed with companies in which the Government has a controlling interest, any award or decision of the Tribunal shall endeavour to establish or maintain due relativity between the terms and conditions of those employees and the terms and conditions of public officers.

(4) The Tribunal shall not make any award or decision which is inconsistent with any enactment, or other instrument having the force of law, regulating wages and other terms and conditions of employment.

81. (1) Where on a complaint for unfair dismissal referred to the Tribunal under article 75, the Tribunal - Powers of Tribunal in cases of dismissal.

(a) finds that the grounds of the complaint are well-founded, and

(b) on the specific request of the complainant to be reinstated or re-engaged made in the referral or in the statement of his case,

the Tribunal considers that it would be practicable and in accordance with equity, for the complainant to be reinstated or re-engaged by the employer, the Tribunal shall make an order to that effect, stating the terms on which it considers that it would be reasonable for the complainant to be so reinstated or re-engaged:

Provided that where the complainant is employed in such managerial or executive post as requires a special trust in the person of the holder of that post or in his ability to perform the duties thereof, the Tribunal shall not order the reinstatement or re-engagement of the complainant; but where the complainant was appointed or selected to such post as aforesaid by his fellow workers the Tribunal may order his reinstatement or re-engagement in the post held by him before such appointment or selection.

(2) Where on a complaint made under article 75, the Tribunal finds that the grounds for the complaint are well-founded -

(a) in cases of unfair dismissal, if there is no specific request for reinstatement or re-engagement or the Tribunal decides not to make an order for reinstatement or re-engagement as aforesaid, the Tribunal shall make an award of compensation, to be paid by the employer to the complainant, in respect of the dismissal:

Provided that, in determining the amount of such compensation, the Tribunal shall take into consideration the real damages and losses incurred by the worker who was unjustly dismissed, as well as other circumstances, including the worker's age and skills as may affect the employment potential of the said worker;

(b) in all other cases, the Tribunal may make such order as it deems necessary in order to remedy the breach or it may make an award of compensation to be paid by the employer to the complainant, or it may award such compensation and make such orders as it may deem necessary in order to remedy the breach.

82. (1) Any decision or award made by the Tribunal shall be binding on the parties to it, on the workers represented in the dispute and the workers affected by it and shall be binding on any successor in title of any one of the parties to the dispute:

Provided that it shall not be open to either of the parties to seek by unilateral action a revision of any award or decision of the Tribunal before the expiration of at least one year from the date of such award or decision.

(2) A decision or award of the Tribunal may be made retrospective to a date which -

(a) in the case of an unfair dismissal, is not earlier than the date of such dismissal; and

(b) in any other case is not earlier than the actual occurrence of the breach or, if such date is not determinable, is not earlier than the date on which the trade dispute to which the decision or award relates first arose.

(3) In cases of unfair dismissal and in cases falling under the jurisdiction of the Industrial Tribunal in accordance with article 75(1)(a) and (b), there shall be a right of appeal on a point of law. Such appeal shall be made by an application to the Court of Appeal constituted in accordance with article 41(6) of the Code of Organisation and Civil Procedure. Such application shall be filed by not later than twelve days from the date of the decision of the Tribunal: Cap. 12.

Provided that when an appeal is lodged to the Court of Appeal and a plea is entered by either of the parties that the appeal is null and void because it is not based on a point of law decided by the Tribunal or that the appeal is null and void at law for any other reason whatsoever, that appeal shall be referred by the Registrar to the Court of Appeal for a decree *in camera* on the admissibility or otherwise of the appeal.

(4) The enforcement of the awards and decisions of the Tribunal shall be carried out in the manner prescribed in this Act and in the Code of Organisation and Civil Procedure, and shall vest in the Tribunal itself.

83. (1) If any question arises as to the interpretation of any award or decision of the Tribunal (other than a decision under this article), the Minister or any party to the proceedings may apply to the Tribunal for a decision of such question and the Tribunal shall decide the matter after hearing the parties or, if the parties have so agreed, without any such hearing. The decision of the Tribunal shall be notified to the parties and shall be binding in the same manner as if it had formed part of the original award.

Interpretation of
awards and
Decisions of
Tribunal.

(2) For the purposes of this article the membership of the Tribunal shall be as far as may be reasonably possibly identical to the membership of the Tribunal when it made the award the interpretation of which is requested.

(3) If during the hearing of any application made under sub-article (1) of this article, the Tribunal finds that the application is vexatious, the Tribunal may order the offending party to pay to the other party a penalty not exceeding two hundred liri (Lm200). Any such penalty shall be recoverable as a civil debt.

TITLE III

SUPPLEMENTARY PROVISIONS

Application of Act to government employees.

84. (1) Subject to the provisions of Title II of this Act, and without prejudice to the special provisions therein contained with respect to public officers, the provisions of Title II of this Act, other than the provisions of articles 69 and 72 and the provisions relating to dismissals or termination of employment, shall have effect in relation to government employment and to workers who are government employees as they have in relation to other employment and to other workers. The provisions excluded by this sub-article shall not apply to government employees.

(2) In this article "government employment" means employment under or for the purposes of a government department, otherwise than as a member of a disciplined force, and "government employee" means a person who for the time being is in government employment.

Expenses necessary for putting Act in operation.

85. All expenses required to put into operation the provisions of this Act, including the expenses of the Tribunal and of any council, court of inquiry or of any person appointed by or under this Act, shall be a charge on and be paid out of the Consolidated Fund.

Repeals and saving.
Cap. 135.
Cap. 266.

86. (1) The Conditions of Employment (Regulation) Act and the Industrial Relations Act are hereby repealed.

(2) Notwithstanding the provisions of sub-article (1), all regulations, orders and subsidiary legislation made under or kept in force by the Conditions of Employment (Regulation) Act and by the Industrial Relations Act and any National Standard Order and Wages Council Wage Regulation Order in force on the date on which this Act comes into effect, shall continue in force thereafter and shall have effect thereafter as if made under this Act, and may be amended or repealed accordingly.

SCHEDULE

(Article 64(6))

List and number of offices required to be manned at all times for the continued provision by the Government of essential services to the community.

Offices *Number*

CATEGORY A**ADMINISTRATIVE SERVICES**

Director General (Health)

Administrative Director responsible for Pharmaceutical Services

Administrative Director responsible for Hospitals

Administrative Director responsible for Public Health

Administrative Director responsible for Primary Health Care

Consultants in Administrative Posts 3

Principal Medical Officers 3

Port/Airport Medical Officers 2

CLINICAL SERVICES IN MALTA*Consultants*

All Directors and Clinical Chairpersons (with respect to administrative duties and responsibilities to ensure the effective running of their respective departments) 12

Medical Administrator – Gozo General Hospital 1

Manager Nursing Services

 St. Luke's Hospital

 Mount Carmel Hospital

 Boffa Hospital

 Gozo General Hospital

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St. Vincent De Paule

Manager Midwifery services

Manager Radiography

Manager Physiotherapy

Manager Laboratory Services

CATEGORY B - DOCTORS

For the purposes of this category, the term "on call" shall mean that the person may be contacted by phone, pager or otherwise and is expected to exercise clinical judgement and the term "resident" shall mean present on site in the hospital to deliver emergency services; the term "by day" shall mean from 8.00 am to 10.30 pm and the term "by night" shall mean from 10.30 pm to 8.00am.

Accident and Emergency Department

On Call I Consultant

Resident by day 6 Senior Registrar/
Registrar/SHO/MO/HM

Resident by night..... 4 Senior Registrar/
Registrar/SHO/MO/HM

Medicine

Consultants On Call I Gastroenterology

..... I Diabetology

..... I Neurology

..... I Nephrology

..... I Haematology

..... I Respiratory

..... I Cardiology

..... 1. Infectious Disease

Resident 2 Senior Registrars

..... 2. Registrar/SHO

.....3. Housemen

Surgery

Consultants On Call 1 Orthopaedic Surgery

..... 1 ENT

..... 1 Ophthalmology

..... 1 Cardio Thoracic

..... 1 Urology

..... 1 Plastic Surgery

..... 1 Neuro Surgery

..... 1 Vascular/Transplant Surgery

Resident 2 Senior Registrars

..... 1 Sen. Reg. Orthopaedics

..... 2 Reg/SMO Gen Surgery

..... 1 Reg/SHO Orthopaedics

..... 1 Reg/SHO Ophthalmology

..... 1 Reg/SHO Cardiothoracic

..... 1 Reg/SHO Urology

..... 1 Reg/SHO ENT

..... 4 Housemen

Paediatrics

Consultants On Call 1 Consultant Paediatrician

..... 1 Paediatric Surgeon

..... 1 Paediatric Cardiologist

..... 1 Paediatric Oncologist

Resident 1 Senior Registrar

A 1974

.....3 Reg/SHO/Houseman

Obstetrics and Gynaecology

Consultants On Call1 Consultant Obstetrician

Resident1 Senior Registrars

.....2 Reg/SHO

.....2 Housemen

Anaesthesia

Consultants On Call3 Consultant Anaesthetists

Resident5 Senior Registrars

.....1 Sen Reg for ITU

Radiology

Consultants On Call1 Consultant Radiologist

Resident1 Senior Reg/ Reg/ SHO

Blood Transfusion

Consultants On Call1 Consultant

Resident1 SHO/MO/Houseman

Pathology

Officers in charge on Call1 Toxicology

.....1 Virology

.....1 Bacteriology

.....1 Infection Control

.....1 Histopathology

.....1 Biochemistry

.....1 Public Health Laboratory

Psychiatry

Consultants On Call 1 Consultant Psychiatrist

Resident 2 Sen Reg/ Reg/ SHO/ Houseman

Geriatrics

Consultants On Call 1 Consultant Geriatrician

Resident 2 Sen Reg/ Reg/ SHO/ Houseman

Oncology

Consultants On Call 1 Consultant Oncologist

Resident 2 Sen Reg/ Reg/ SHO/ Houseman

Dermatology

Consultants On Call 1 Consultant Dermatologist

CATEGORY C*Nursing Services*

For the purposes of this category, the term "by day" shall mean from 7.00 am to 7.00 pm and the term "by night" shall mean from 7.00 pm to 7.00am.

Special Care Baby Unit Full staff complement

Intensive Therapy Unit 1 Nurse per patient

High Dependency Unit 1 Nurse per 2 patients

Renal Unit 1 Nurse for every 4 patients plus 1 for every special case

Accident and Emergency 8 Nurses by day and 5 nurses by night

Labour Ward and Theatre 5 Midwives plus 2 nurses/midwives for Theatre

Operating Theatres Staff to provide services in 3 Theatres by day and 2 Theatres by night

Coronary Intensive Care Unit 1 Nurse per patient

Coronary Care Unit 3 Nurses by day and 3 Nurses by night

General Acute Wards 2 Nurses by day and 2 Nurses by night

A 1976

Chronic Wards 1 Nurse by day and 1 Nurse by night
Gynaecology Wards 4 Nurses/Midwife by day and 3 by night
Antenatal Wards 2 Midwives by day and 2 by night
Post natal Wards 4 Midwives by day and 3 by night

Paramedic and Other services

For the purposes of this category, the term "by day" shall mean from 7.00 am to 7.00 pm and the term "by night" shall mean from 7.00 pm to 7.00am.

Radiographers 2 by day and 2 by night
Physiotherapists 4 by day
Laboratory Technologists 4 by day and 4 by night
Pharmacists 3 by day and 1 by night
Electrical Engineer 1 by day and on call by night
Mechanical Engineer 1 by day and on call by night
Maintenance Staff 3 by day and 3 by night

Services at Gozo General Hospital

1 Consultant on call on each of General Medicine, General Surgery, Orthopaedics/Anaesthesia

4 Sen. Reg/ Reg/ SHO/ to cover wards and Emergency Department

1 Pharmacist

1 Lab Technologist

1 Maintenance Staff

Nursing and Midwifery as applicable to Malta Hospitals

Ambulance Drivers Service

By day 8 Drivers in Malta and 3 in Gozo

By night 4 Drivers in Malta and 2 in Gozo

A 1977

Passed by the House of Representatives at Sitting No. 802 of 21st October,
2002.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives