

## **Nru. 41**

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1. 9. 2000

### **MALTA**

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#### **KAMRA TAD-DEPUTATI**

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ABBOZZ ta' Ligi mressaq mill-Onorevoli Josef Bonnici, M.P., Ministru ghas-Servizzi Ekonomiċi, u moqri għall-Ewwel darba fis-Seduta ta' l-20 ta' Lulju, 1999.

**ATT** biex ihassar u jissostitwixxi l-Att dwar Kontroll fuq il-Kwalità (Esportazzjonijiet, Importazzjonijiet u Oġġetti Lokali), Kap. 225.

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**RICHARD J. CAUCHI**

*Skrivan tal-Kamra tad-Deputati*

#### **HOUSE OF REPRESENTATIVES**

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A **BILL** introduced by the Honourable Josef Bonnici, M.P., Minister for Economic Services, and read the First time at the Sitting of the 20th July, 1999.

**AN ACT** to repeal and to replace the Quality Control (Exports, Imports and Local Goods) Act, Cap. 225.

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**RICHARD J. CAUCHI**

*Clerk of the House of Representatives*

## ABBOZZ TA' LIĠI msejjah

ATT biex iħassar u jissostitwixxi l-Att dwar Kontroll fuq il-Kwalità (Esportazzjonijiet, Importazzjonijiet u Ogġetti Lokali), Kap. 225.

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

### TAQSIMA I Preliminari

1. (1) It-titolu ta' dan l-Att hu l-Att dwar is-Sigurezza Generali u Kwalità tal-Prodotti. Titolu u bidu fis-sehh.

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

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

"affarijiet ta' ikel" tfisser kull sustanza jew prodott, kemm jekk ikunu proċessati, proċessati parzjalment jew mhux proċessati maħsuba biex jittieklu mill-bniedem, minbarra:

(a) prodotti mediċinali, jiġifieri kull sustanza jew għaqda ta' sustanzi pprezentati biex jiġi ttrattat jew evitat il-mard fil-bniedem jew fl-annimali; tinkludi wkoll kull sustanza jew għaqda ta' sustanzi li tista' tiġi amministrata lill-bniedem jew lill-annimali biex issir djanjosi medika jew biex il-funzjonijiet fiżjoloġiċi fil-bniedem jew fl-annimali jergħu jiġu

lura ghan-normal, jew jiġu korretti jew modifikati;

(b) prodotti tat-tabakk jiġifieri prodotti li jintużaw biex persuna tpejjep, ixxomm, tiġbed, jew tomghod, safejn dawn il-prodotti jkunu magħmulin, ukoll parzjalment, minn tabakk;

(c) ilma għall-konsum mill-bniedem, jiġifieri kull ilma wżat għal dak il-ghan, sew fl-istat oriġinali tiegħu, kif ukoll wara trattament, irrispettivament mill-oriġini tiegħu, kemm jekk provdut biex jiġi kkunsmat, jew biex jiġi wżat fi stabbiliment li jipproduċi l-ikel għall-manifattura, proċessar, ippreżervar jew *marketing* ta' prodotti jew sustanzi maħsuba għall-konsum mill-bniedem u li jaffettwa t-tjubija ta' l-ikel fil-forma tiegħu kompluta;

(d) ilmijiet naturali minerali, jiġifieri ilma mikrobijologikament bnin li joriġina mill-ilma ta' taht l-art jew minn depożitu ta' ilma, u li johroġ minn għajn mqabbda ma' toqba jew aktar minn toqba wahda naturali, u li jista' jintgħaraf faċilment minn ilma tax-xorb mix-xorta tiegħu u mill-istat oriġinali tiegħu, dawn iż-żewġ karatteristiċi jkunu baqghu intatti minhabba fix-xorta ta' ilma ta' taht l-art ta' dan l-ilma;

(e) sustanzi narkotiċi jew psikotropiċi, kif dawn huma imfissra fil-Konvenzjoni tan-Nazzjonijiet Uniti kontra t-Traffiku Illeċitu fi Droggi Narkotiċi u Sustanzi Psikotropiċi, magħmul fi Strasbourg fil-31 ta' Jannar, 1995, li għalih Malta hija parti;

"bejgh" tinkludi:

(a) il-provvista ta' prodotti mibjugħa, mikrija jew offruti għall-bejgh jew għall-kiri f'operazzjonijiet li għandhom x'jaqsmu ma' kummerċ jew negozju u kull attività oħra li għandha x'taqsam ma' prodotti li l-Ministru jista', minn żmien għal żmien, jistabilixxi b'regolamenti magħmula taht dan l-Att;

(b) il-provvista ta' kull prodott li, għall-ghanijiet ta' *marketing* jew riklamar, jiġi offrut bhala premju jew rigal jew b'mod ieħor jingħata in konnessjoni ma' divertiment pubbliku, kemm jekk dak id-divertiment ikun provdut bi hlas jew b'xejn; u

(c) il-provvista ta' prodotti f'operazzjonijiet li għandhom x'jaqsmu ma' l-ghoti ta' servizz lil konsumatur minn terza persuna;

"Dipartiment" tfisser id-Dipartiment għall-Affarijiet tal-Konsumatur;

"Direttur" tfisser id-Direttur għall-Affarijiet tal-Konsumatur, u tinkludi, fil-limitu ta' l-awtorità mogħtija, kull uffiċjal li jiġi awtorizzat għaldaqshekk minnu bil-miktub għal xi wiehed mill-għanijiet ta' dan l-Att;

"distributtur" tinkludi kull persuna fil-katina tal-provvista li l-attività tagħha ma taffettwax il-proprjetajiet ta' sigurtà ta' prodott, u għandha tinkludi bejjiegha bl-ingrossa, bejjiegha bl-imnut, aġenti li jahdmu b'kummissjoni u intermedjarji oħra;

"fond" tinkludi kull posta, *stand*, kjosk, vettura, inġenji ta' l-ajru, inġenji tal-baħar u kull imkien iehor minbarra fond li jintuża għal skopijiet ta' abitazzjoni, minn fejn jitmexxa jew isir kummerċ jew negozju, u għandha tinkludi wkoll makni tal-bejgħ awtomatiċi kemm jekk ikunu qegħdin fil-fond tan-negozju kemm jekk le;

"konsumatur" għandha l-istess tifsir kif mogħti lilha bl-artikolu 2 ta' l-Att dwar l-Affarijiet tal-Konsumatur u tinkludi kull persuna li barra minn f'operazzjonijiet li għandhom x'jaqsmu ma' negozju, kummerċ jew professjoni, tixtri jew mod iehor takkwista jew mod iehor jiġu f'idejha prodotti; Kap. 378.

"liċenza" tinkludi liċenzi tan-negozju u kull liċenza oħra kummerċjali jew biex wiehed jopera;

"Malta" għandha l-istess tifsir kif mogħtija lilha bl-artikolu 124 tal-Kostituzzjoni;

"Ministru" tfisser il-Ministru responsabbli għall-Affarijiet tal-Konsumatur u tinkludi, fil-limitu ta' l-awtorità mogħtija, kull persuna jew awtorità li tiġi awtorizzata għaldaqshekk minn dak il-Ministru għall-finijiet ta' dan l-Att;

"prodott" tfisser kull haġa, oġġett jew sustanza manifatturata li hija maħsuba jew offruta għall-użu minn konsumaturi jew x'aktarx tintuża minn konsumaturi, provduta kemm bi hlas jew le f'operazzjonijiet ta' kummerċ jew negozju u kemm jekk tkun ġdida, użata jew rikondizzjonata, iżda teskludi -

(a) prodotti sekondaman provduti bħala antikitajiet;

(b) prodotti li għandhom jiġu msewwija jew rikondizzjonati qabel ma jintużaw, sakemm min jipprovi dawk il-prodotti jinforma b'dan b'mod ċar lill-persuni li jissupplixxi l-prodott;

(ċ) sustanzi mediċinali kif imfissra f'din it-Taqsima ta' dan l-Att;

(d) affarijiet ta' l-ikel kif dawn il-kliem huma mfissra f'din it-Taqsima ta' dan l-Att:

Izda għal dak li għandu x'jaqsam ma' kontroll fuq il-kwalità, deskrizzjoni ġeografika jew tal-prodott, jew il-htigiet dwar il-kompożizzjoni tal-prodott, affarijiet ta' l-ikel għandhom jiġu meqjusa bħala prodotti u għandhom jiġu regolati bid-dispożizzjonijiet ta' dan l-Att;

"prodott mhux perikoluż" tfisser kull prodott li, taht kondizzjonijiet ta' użu normali, jew li jkunu raġonevolment prevedibbli, inkluża il-hajja ta' dak il-prodott, ma johloqx riskju jew johloq biss ir-riskji minimi, li huma kompatibbli ma' l-użu tal-prodott, li huma kunsidrati bħala aċċettabbli u konsistenti ma' livell għoli ta' protezzjoni għas-sigurtà u s-saħħa tal-bniedem, meta wiehed iqis partikolarment il-fatturi li ġejjin:

(a) il-karatteristiċi tal-prodott, inklużi l-kompożizzjoni, l-ippakkjar, l-istruzzjonijiet biex jingħaqad f'haġa waħda u l-manutenzjoni tiegħu;

(b) l-effett li jkollu fuq prodotti oħra, meta jkun raġonevolment prevedibbli li jiġi wżat ma' prodotti oħra;

(ċ) il-preżentazzjoni tal-prodott, l-immarkar fuqu, kull istruzzjoni għall-użu u għad-disponiment tiegħu u kull indikazzjoni jew informazzjoni oħra mogħtija mill-produttur;

(d) il-kategoriji ta' konsumaturi li jkunu taht riskju meta jużaw il-prodott, partikolarment tfal, persuni b'diżabilità u anzjani:

Izda l-possibbiltà li jistgħu jintlaħqu livelli għola ta' sigurtà jew id-disponibbiltà ta' prodotti oħra li jkollhom livell aktar baxx ta' riskju ma jikkostitwux bażi biex prodott jiġi meqjus bħala "prodott perikoluż";

"prodott perikoluż" tfisser kull prodott li ma jikkonformax mat-tifsira ta' "prodott mhux perikoluż";

"produttur" tfisser:

(a) il-manifattur ta' prodott, meta jkun stabbilit f'Malta, u kull persuna oħra li tippreżenta ruħha bħala l-manifattur billi twaħhal mal-prodott isimha, *trade mark* jew marka oħra

distintiva, jew

(b) il-persuna li tirrikondizzjona l-prodott; jew

(ċ) ir-rappreżentant tal-manifattur, meta l-manifattur ma jkunx stabbilit f'Malta jew, jekk ma jkunx hemm rappreżentant stabbilit f'Malta, l-importatur tal-prodott; jew

(d) persuni ohra fil-katina tal-provvista, safejn l-attivitajiet taghhom jistghu jaffettwaw l-aspetti ta' sigurtà ta' prodott imqieghed fis-suq;

"proprietarju", ghal dak li ghandu x'jaqsam ma' stabbiliment ta' manifattura, tfisser il-persuna jew persuni li jmexxu l-kummerċ jew in-negozju, u tinkludi s-sidien ta', jew min jokkupa, l-fond li fih jitmexxa dak l-istabbiliment, u d-detenturi ta' liċenzji li ghandhom x'jaqsmu ma' dak l-istabbiliment jew dak il-fond;

"qorti" tfisser il-Qorti tal-Maġistrati bhala qorti ta' ġudikatura kriminali;

"riklam" tinkludi kull avviż, apparat, ċirkolari, tiketta, pakkett, kont, dokument, rappreżentazzjoni, xandir jew avviż pubbliku, preżentazzjoni viżwali jew akustika jew it-tnejn, u "tirreklama" ghandha tinftehem f'dan is-sens;

"standard" ghandu jkollha l-istess tifsira kif moghtija lilha skond l-Att dwar l-Awtorità Maltija dwar *Standards*.

Kap. 419.

## TAQSIMA II Sigurtà ta' Prodotti Ġenerali

3. (1) Konsumatur ghandu d-dritt -

Dritt tal-konsumatur.

(a) li jitqieghdu prodotti għall-konsum fis-suq li jkunu minghajr periklu;

(b) li jirċievi informazzjoni xierqa rigward l-aspetti ta' sigurtà u ta' l-użu ta' dawk il-prodotti kif support; u

(ċ) li jkun informat b'mod xieraq bi prodotti li johlqu riskji għas-saħha u s-sigurtà tal-konsumaturi, u li jinbieghu jew jiġu offruti għall-bejgħ lilu.

(2) Id-disposizzjonijiet tas-subartikolu (1) ma jkunux inforzabbli direttament f'xi qorti jew tribunal, iżda għandhom jiġu osservati fl-interpretazzjoni u fl-implimentazzjoni ta' dan l-Att u ta' xi regolamenti magħmula tahtu.

Prodotti mhux  
perikolużi.

4. (1) Il-produtturi għandhom iqieghdu fis-suq prodotti li ma jkunux perikolużi biss.

(2) Id-disposizzjonijiet ta' dan l-Att għandhom japplikaw bl-istess mod għall-prodotti manifatturati f' Malta jew importati f' Malta.

(3) Kull persuna li tikser id-disposizzjonijiet ta' dan l-artikolu tkun hatja ta' reat kontra dan l-Att.

Sigurtà ġenerali  
ta' prodotti .

5. (1) Id-disposizzjonijiet ta' dan l-Att għal dak li għandu x'jaqsam ma' sigurtà ġenerali ta' prodotti japplikaw safejn ma jkunx hemm disposizzjonijiet speċifiċi li jirregolaw is-sigurtà ta' prodott partikolari f' regolamenti partikolari magħmula taht dan l-Att jew taht xi liġi oħra.

(2) Meta regoli speċifiċi jkun fihom disposizzjonijiet li jimponu htigiet ta' sigurtà fuq prodott partikolari, il-htigiet ta' dan l-Att dwar sigurtà ġenerali ta' prodotti ma għandhomx japplikaw għal dak il-prodott.

(3) Meta jiġu mposti htigiet speċifiċi taht xi liġi li jirregolaw ċerti aspetti biss ta' sigurtà tal-prodott jew kategoriji ta' riskju għal prodott partikolari, dawk il-htigiet għandhom japplikaw għal dak il-prodott għal dak li għandu x'jaqsam ma' l-aspetti ta' sigurtà jew riskji rilevanti, b'esklużjoni tad-disposizzjonijiet ta' dan l-Att dwar sigurtà ta' prodotti, u l-htigiet ta' dan l-Att dwar is-sigurtà ġenerali ta' prodotti għal dak li jirrigwarda aspetti oħra ta' sigurtà jew riskji għandhom ikomplu japplikaw.

(4) Bla ħsara għad-disposizzjonijiet tas-subartikoli (1) sa (3), id-disposizzjonijiet ta' dan l-Att dwar sigurtà ġenerali ta' prodotti għandhom jipprevalu fuq kull haġa li jkun hemm kuntrarja f' xi liġi oħra.

Obbligi ta'  
produtturi u  
importaturi.

6. Mingħajr preġudizzju għal kull obbligu ieħor skond dan l-Att, produtturi u importaturi għandhom -

(a) jagħtu lill-konsumaturi informazzjoni rilevanti biex ikunu jistgħu jagħmlu stima tar-riskji li jkun hemm fi prodott matul l-użu tiegħu normali jew raġonevolment prevedibbli, meta dawk ir-riskji ma jkunux immedjatement ovvjji mingħajr twissija xierqa;

(b) jiehdu dawk il-prekawzjonijiet mehtieġa biex jiġu evitati jew imnaqqsa dawk ir-riskji;

(c) jadottaw dawk il-miżuri li jkunu proporzjonati mal-karatteristiċi tal-prodotti li jissuplixxu biex konsumaturi jkunu

jistghu ikunu informati dwar ir-riskji li dawn il-prodotti jista' jkollhom u biex jieħdu azzjoni xierqa inkluża, jekk ikun hekk meħtieġ, li l-prodott in kwistjoni jiġi rtirat mis-suq biex jiġu evitati dawn ir-riskji.

(2) Il-miżuri indikati fis-subartikolu (1) jistghu jinkludu, kull fejn ikun xieraq, l-immarkar tal-prodotti jew il-lottijiet tal-prodott b'tali mod illi jistghu jiġu identifikati, testjar ta' kampjuni ta' prodotti fis-suq, l-investigazzjoni ta' ilmenti, u li d-distributuri jinżammu informati dwar dik is-sorveljanza.

(3) Kull persuna li tikser id-disposizzjonijiet ta' dan l-artikolu tkun hatja ta' reat kontra dan l-Att.

7. (1) Id-distributuri jkunu meħtieġa li jaġixxu b'attenzjoni xierqa biex jiġi żgurat it-tharis tal-htigiet ta' sigurtà ġenerali stabbiliti bis-saħħa ta' dan l-Att, partikolarment billi ma jipprovdux prodotti li jkunu jafu jew li raġonevolment għandhom ikunu jafu, fuq il-bażi ta' informazzjoni li jkollhom bħala nies li jahdmu f'dak il-kummerċ, negozju jew xogħol rilevanti ma jharsux dik il-htieġa.

Tharis ta' htigiet ta' sigurtà ġenerali mid-distributuri .

(2) Kull distributur li jipprovdi prodotti li jkun jaf jew li jmissu jkun jaf, bħala bniedem li jahdem f'dak il-kummerċ, negozju jew xogħol rilevanti, li jkunu perikolużi, jew li b'mod iehor jikser id-disposizzjonijiet tas-subartikolu (1) ikun hati ta' reat kontra dan l-Att.

8. Id-distributuri għandhom id-dmir li jassistu fis-sorveljanza tas-sigurtà ta' prodotti imqieghdha fis-suq, billi jgħaddu informazzjoni dwar riskji fi prodotti lil min jipprovdi dawk il-prodotti u lill-konsumaturi, u billi jikkooperaw fl-azzjoni li tittiehed biex jiġu evitati dawn ir-riskji.

Sorveljanza fuq is-sigurtà ta' prodotti.

9. (1) Fl-assenza ta' regoli speċifiċi, it-tharis ta' prodott tal-htieġa dwar sigurtà ġenerali għandu jkun stmat billi wiehed iqis -

Stima dwar il-htieġa ta' sigurtà ġenerali.

(a) l-*Istandards* Nazzjonali volontarji kollha rilevanti li jagħtu seħħ lil *Standard* Ewropew; jew

(b) l-ispeċifikazzjonijiet tekniċi Ewropej kollha rilavanti, jekk ikun hemm; jew

(ċ) fin-nuqqas ta' dak hawn fuq imsemmi, l-*standards* nazzjonali kollha rilevanti kif ukoll kodiċijiet ta' Prattika tajba dwar is-saħħa u s-sigurtà, fis-settur konċernat, l-ghola livell ta' konossenza f'dak il-kamp u teknologija fis-settur konċernat, u *standards* ta' sigurtà li l-konsumaturi huma raġonevolment intitolati li jippretendu.

(h) kull funzjoni ohra li tista' tiġi assenjata lilu b'dan jew skond dan l-Att jew skond xi ligi ohra.

Infurzar ta' l-Att.

16. (1) Sakemm ma jiġix provdut xort'ohra, l-infurzar tad-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti magħmula tahtu jkun vestit fid-Direttur, iżda d-Direttur jista' jiddelega bil-miktub xi wahda mis-setghat vestiti fih bis-saħħa ta' dan l-Att lil kull uffiċjal pubbliku li jahdem fid-Dipartiment tiegħu jew, bil-kunsens tal-Ministru, lil xi persuna ohra.

(2) Kull uffiċjal, awtorizzat kif intqal qabel, għandu, meta jkun mehtieġ, juri l-awtorizzazzjoni bil-miktub, iffirmata mid-Direttur.

Setgħa ta' spezzjon.

17. (1) Kull Maġistrat jista' b'mandat, wara rikors konfermat bil-ġurament mid-Direttur jew minn xi uffiċjal pubbliku, awtorizzat kif imiss bil-miktub mid-Direttur għal xi wiehed mill-ghanijiet ta' dan l-Att, li jkollu għalfejn raġonevolment jahseb li prodotti perikolużi qed jinżammu jew jinsabu f'xi fond, minbarra fond li jintuża esklużivament għal ghanijiet ta' abitazzjoni, jawtorizza lil dak l-uffiċjal biex -

(a) jidhol u jfittex kull fond tali u li jwettaq hemmhekk kull spezzjoni li tista' tkun mehtieġa;

(b) jikkonfiska kull prodott perikoluż li jinsab hemmhekk:

Iżda meta d-Direttur ikollu raġuni tajba li jissuspetta li dawk l-prodotti perikolużi x'aktarx jiġu mneħħija jew distrutti, jew li x'aktarx ix-xiehda ta' l-għemil ta' xi reat kontra dan l-Att tiġi mohbija, id-Direttur jista' bil-miktub jawtorizza huwa stess kull uffiċjal pubbliku biex iwettaq, rigward dak il-fond, kull wahda mis-setghat imsemmija f'dan is-subartikolu, u l-awtorità hekk mogħtija mid-Direttur ikollha l-istess effett bħal mandat mahruġ minn Maġistrat.

(2) L-ebda dhul jew tfittxija ma jistgħu jsiru barra l-hinijiet normali tan-negozju ta' l-istabbiliment konċernat, sakemm id-Direttur ma jkollux raġuni għaliex jahseb li xi dewmien jista' jgħib miegħu t-telf jew il-habi ta' xi xiehda jew jista' mod iehor jippreġudika r-riżultat tat-tfittxija.

(3) Waqt kull dhul u tfittxija skond din it-Taqsima ta' dan l-Att, id-Direttur jista' jitlob l-assistenza tal-Pulizija.

Spezzjon ta' prodotti.

18. Kull uffiċjal pubbliku, awtorizzat intqal qabel, jista', għal kull wiehed mill-ghanijiet ta' dan l-Att, jispezzjoni kull prodott li -

(a) ikun ġie mibjugh jew ikun qed jiġi offrut għall-bejgħ jew konsum jew użu mill-konsumaturi; jew

(b) ikun fil-pussess ta', jew taht il-kontroll ta', xi produttur jew distributtur, jew li ġie depożitat għand, jew mod iehor mogħti lil, xi persuna għall-għan ta' bejgħ jew preparazzjoni għall-bejgħ,

kull fejn il-prodott jinsab.

19. Uffiċjal awtorizzat li jidhol f'xi fond bis-saħħa ta' xi wahda mid-disposizzjonijiet ta' din it-Taqsima ta' dan l-Att jista' jkun akkompanjat minn dawk il-persuni oħra, u jieħu miegħu dak l-apparat, li jidhirlu xieraq.

L-uffiċjal jista' jkun akkompanjat.

20. Uffiċjal awtorizzat ikollu s-setgħa, meta dan ikun meħtieġ biex iwettaq b' mod xieraq il-funzjonijiet tiegħu skond l-artikoli 17 sa 19, li -

Setgħat oħra ta' uffiċjal awtorizzat.

(a) jixtri kampjun ta' kull prodott jew ta' kull materjal li jista' jintuza fil-preparazzjoni, manifattura jew tagħqid f'haġa wahda ta' dak il-prodott;

(b) jiftaħ bil-forza kull bieb u jneħhi kull ostakolu jew xkiel għal dak id-dhul, dik it-tfitxxija jew dik il-konfiska;

(ċ) jeħtieġ li kull persuna li tmexxi kummerċ jew negozju, jew li hi impjegata in konnessjoni ma' xi kummerċ jew negozju, biex tipproduċi kull ktieb jew dokument, inklużi dawk li huma maħzuna f'*computer* jew f'xi *network* iehor ta' informazzjoni, li għandhom x'jaqsmu mal-kummerċ jew man-negozju, u li jieħu kopji tagħhom;

(d) jieħu jew iżomm, mingħajr ma jhallas flus għalihom, kull oġġett jew kampjun tiegħu, jew xi materjal iehor, li jidhirlu li huma maħsuba għall-bejgħ, jew ġew mibjugħa jew instabu minnu fuq jew f'xi fond, għall-għan li jkun jista' jistabbilixxi jekk ikun sar reat kontra dan l-Att;

(e) li jikkonfiska u jzomm kull oġġett, jew xi kampjun, komponent jew materjal, jew dokumenti biex tista' tingabar ix-xieħda dwar il-possibbiltà li jkun ġie kommess reat kontra dan l-Att jew li tista' tkun meħtieġa bhala xieħda fi proċedimenti taht xi wahda mid-disposizzjonijiet ta' dan l-Att jew ta' regolamenti magħmula tahtu; u

(f) fejn ikun meħtieġ, biex jiżgura li jiġu mharsa d-disposizzjonijiet ta' dan l-Att, li jeħtieġ li kull persuna li jkollha

l-awtorità biex taghmel hekk, biex tiftah kull kontenitur jew makna tal-bejgh awtomatika, u jekk dik il-persuna tonqos milli thares dik il-htieġa, l-uffiċjal awtorizzat jista' jipproċedi biex jaghmel dan huwa stess, jekk ikun hemm bżonn billi jiftah bil-forza dak il-kontenitur jew dik il-makna.

Riċevuta għal  
prodotti  
konfiskati.

**21. (1)** Meta uffiċjal awtorizzat jikkonfiska xi oġġetti, dokumenti jew notamenti oħra fit-twettiq tas-setgħat tiegħu skond l-artikolu 17, hu għandu jinforma lill-persuna li minghandha l-hwejjeġ ġew konfiskati u jgħatiha riċevuta xierqa.

(2) Fil-każ ta' oġġetti konfiskati minn makna tal-bejgh awtomatika, l-uffiċjal awtorizzat għandu jinforma lill-persuna li isimha u l-indirizz tagħha huma mniżżlin fuq il-makna bħala li hu il-proprjetarju tagħha jew, jekk l-ebda isem u indirizz ma huma hekk imniżżlin, lill-persuna, jekk ikun hemm, li tkun qed tokkupa l-fond li fuq jkun hemm il-makna jew li miegħu l-makna tkun imwahnha.

Applikabbiltà  
ta' l-Att dwar  
Segretezza  
Professjonali .  
Kap. 377.

**22.** Ebda haġa li tinsab fl-Att dwar Segretezza Professjonali ma għandha tiftiehem li teskludi jew xort'oħra tirrestringi lid-Direttur, jew xi uffiċjal pubbliku tad-Dipartiment, awtorizzat kif imiss mid-Direttur skond l-artikolu 17, milli jikkomunika lill-konsumatur, li l-ilment tiegħu dwar dik il-haġa tkun għet investigata, informazzjoni dwar dak li jkun instab, li jirriżulta direttament min dik l-investigazzjoni, dwar dik il-haġa.

Xkiel jew għoti  
ta'  
informazzjoni  
falza.

**23.** Kull min xjentement ifixkel, jirreżisti, jgħedded jew mod iehor jagħti xi informazzjoni li tkun mhux veritiera jew falza lid-Direttur jew lil xi uffiċjal awtorizzat fil-qadi ta' xi wahda mill-funzjonijiet tiegħu imsemmija fl-artikolu 15, jew xjentement jonqos milli jassisti jew iħares xi htieġa magħmula legalment minn uffiċjal bħal dan, ikun haġi ta' reat taħt dan l-Att.

Avviż bil-  
miktub.

**24.** Meta uffiċjal awtorizzat jkollu għalfejn raġonevolment jahseb li prodott ikun perikoluż jew mod iehor x'aktarx jikkawża hsara, u jista' jagħti lil persuna responsabbli ordni bil-miktub fejn jordnalu li sakemm dak l-avviż ma jiġix irtirat, il-prodott ma għandux jintuża, jinbiegħ, jiġi offert għall-bejgh jew negozjat jew m'għandux jiġi imqiegħed f'post iehor blief f'dak il-post li jista' jiġi speċifikat fl-ordni. Kull persuna li xjentement tikser jew tghin fil-ksur ta' avviż bil-miktub bħal dan tkun haġi ta' reat kontra dan l-Att:

Izda id-Direttur għandu, malajr kemm jista' jkun, izda mhux aktar tard minn xahrejn minn meta jintbagħat l-avviż, lil persuna responsabbli, jiddeċidi dwar is-sigurtà jew mod iehor tal-prodott, u għandu -

(a) jekk jiġi stabbilit li l-prodott ma jkunx perikoluż,

jirtira l-avviż; jew

(b) jekk jiġi stabbilit li l-prodott hu perikoluż, jipprojbixxi li jiġi użat jew mibjugh mill-ġdid, jordna il-qbid u l-konfiska tal-prodott, kif ukoll li l-prodott jinzamm f'dak il-fond kif id-Direttur jista' jispeċifika għall-ispejjeż tal-produttur.

25. Fi proċeduri għal reat kontra dan l-Att, il-Qorti tista', jekk jidhrilha li prodott ikun perikoluż, tordna li dak il-prodott jiġi distrutt jew mod iehor isir disponiment minnu bi spejjeż tal-produttur.

Disponiment ta' prodotti.

26. (1) Meta d-Direttur ikollu għalfejn raġonevolment jahseb li operatur ta' kummerċ jew negozju naqas milli jhares xi disposizzjoni ta' dan l-Att jew ta' xi regolament magħmul tahtu, huwa jista' b'avviż bil-miktub (li jkun magħruf bhala "l-avviż") notifikat lil dak il-proprjetarju -

Nuqqas ta' operatur li jhares id-disposizzjonijiet ta' dan l-Att.

(a) jispeċifika d-disposizzjoni jew ir-regolament li l-proprjetarju jkun naqas milli jhares u jispeċifika dawk l-affarijiet li jikkostitwixxu n-nuqqas ta' tharis mill-proprjetarju;

(b) jispeċifika l-mizuri ta' rimedju li huma mehtieġa li jittiehdu;

(ċ) jehtieġ li l-proprejaru jwettaq dawk il-mizuri jew mizuri ekwivalenti, f'dak iż-żmien li jista' jiġi speċifikat fl-avviż.

(2) Kull persuna li tonqos milli thares avviż tkun hatja ta' reat kontra dan l-Att.

27. (1) Għandu jkun hemm Direttur ta' Sorveljanza fuq is-Suq li jiġi maħtur f'dik il-kariga mill-Prim Ministru.

Direttur ta' Sorveljanza fuq is-Suq.

(2) Il-funzjonijiet tad-Direttur ta' Sorveljanza fuq is-Suq ikunu dawn li ġejjin:

(a) li jwaqqaf, li jaġġorna perjodikament u li jimplimenta programmi ta' sorveljanza fuq setturi dwar il-kategoriji ta' prodotti u riskji;

(b) li jsegwi u jaġġorna it-tagħrif xjentifiku dwar is-sigurtà ta' prodotti kif ukoll rapporti kull tant żmien dwar attivitajiet ta' sorveljanza, dak li jinstab u r-riżultati milhuqa;

(ċ) jirrevedi u jagħmel stima kull tant żmien dwar kif jiffunzjonaw l-attivitajiet ta' kontroll u kemm huma effettivi, u, jekk ikun mehtieġ, li jirrevedi kif issir is-sorveljanza u ta' l-

organizzazzjoni li tkun giet imwaqqfa;

(d) kull funzjoni ohra li tista' tiġi assenjata lilu taht xi liġi ohra.

Hruġ ta' dikjarazzjoni pubblika.

**28.** (1) Id-Direttur jista', bi ftehim mad-Direttur ta' Sorveljanza fuq is-Suq, jagħmel jew johroġ dikjarazzjoni pubblika, li tidentifika -

(a) prodotti li huma jew jistghu jkunu perikolużi;

(b) il-produtturi u d-distributuri ta' daww il-prodotti;

(ċ) daww il-produtturi, distributuri jew persuni ohra, li l-operat jew l-attivitajiet tagħhom rigward prodotti partikolari jistghu jaffettwaw b'mod hażin l-interessi ta' konsumaturi skond dan l-Att; jew

(d) kull haġ'ohra li tista' taffettwa hażin is-sigurtà tal-konsumaturi.

Kap. 378.

(2) Id-disposizzjonijiet tas-subartikolu (1) għal dak li għandu x'jaqsam mas-sigurtà ta' prodott għandhom jipprevalu fuq id-disposizzjonijiet ta' l-artikolu 8(1) ta' l-Att dwar l-Affarijiet tal-Konsumatur.

(3) Id-disposizzjonijiet ta' l-artikolu 8(2) u (3) ta' l-Att dwar l-Affarijiet tal-Konsumatur għandhom japplikaw għal dikjarazzjonijiet pubbliċi magħmula jew mahruġa skond dan l-artikolu, u l-eżenzjoni minn kull responsabbiltà legali skond l-imsemmi subartikolu (3) għandha tkun estiża għad-Direttur ta' Sorveljanza fuq is-Suq.

Garanzji dwar kontravvenzjonijiet kontra dan l-Att.

Kap. 378.

**29.** (1) Id-Direttur jista', minflok ma jibda proċeduri dwar il-ksur ta' xi wahda mid-disposizzjonijiet ta' dan l-Att, jehtieg kull persuna li tkun kisret xi wahda mid-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti magħmulin tahtu, li tagħti garanzija bil-miktub li tieqaf minn dak l-aġir u li tiehu kull azzjoni ta' rimedju jew azzjoni ohra li d-Direttur jista' jispeċifika, u d-disposizzjonijiet ta' l-artikolu 12 ta' l-Att dwar l-Affarijiet tal-Konsumatur għandhom, *mutatis mutandis*, japplikaw għal garanziji magħmula taht dan l-Att.

(2) Kull persuna li tikser xi garanzija magħmula skond is-subartikolu (1) tkun hatja ta' reat kontra dan l-Att.

#### TAQSIMA IV Proċedimenti

Proċedimenti.

**30.** Proċedimenti dwar reat taht dan l-Att jistghu jinbdew biss

fuq istanza tad-Direttur, li jista' imexxi l-prosekuzzjoni fil-Qorti.

**31.** L-azzjonijiet kriminali ghal reati taht dan l-Att ikunu preskrizzjoni. Preskrizzjoni.  
preskritti wara sentejn.

**32.** (1) Persuna li tinsab hatja ta' reat skond l-artikolu 23 tehel, meta tinsab hatja, multa ta' mhux inqas minn mitejn lira iżda Multi.  
mhux iżjed minn elf lira, jew prigunerija ghal mhux iżjed minn sitt xhur, jew dik il-multa u l-prigunerija flimkien.

(2) Persuna li tinsab hatja ta' xi reat iehor skond dan l-Att tehel, meta tinsab hatja, multa ta' mhux inqas minn hames mitt lira iżda mhux iżjed minn hamest elef lira, jew prigunerija ghal mhux iżjed minn tliet snin, jew dik il-multa u l-prigunerija flimkien.

(3) Persuna li tinsab hatja ta' reat ghat-tieni darba jew drabi ohra wara, tehel, meta tinsab hatja, multa ta' mhux inqas minn seba' mija u hamsin lira iżda mhux iktar minn ghaxart elef lira, jew prigunerija ghal mhux iżjed minn erba' snin, jew dik il-multa u l-prigunerija flimkien.

(4) Il-Qorti tista', meta persuna tinsab hatja ta' reat kontra dan l-Att, b'eċċezzjoni ta' reati kontra l-artikolu 23, jekk jidhrilha li ċ-ċirkostanzi hekk jehtieġu, tordna wkoll s-sospensjoni jew it-thassir ta' kull liċenza jew liċenzi mahruġa lill-persuna mixlija jew dwar il-fond involut fil-proċedimenti.

(5) Minghajr hsara ghall-generalità ta' dak li intqal qabel, kull persuna li tinsab hatja ta' reat skond l-artikoli 26 jew 29 tehel multa addizzjonali ta' mhux aktar minn mitejn lira ghal kull ġurnata li ma tharix avviz jew garanzija.

**33.** Meta persuna tinstab hatja ta' reat kontra dan l-Att, il-Qorti ghandha tordna lil dik il-persuna biex thallas lura lid-Direttur, fi Hlas lura lid-Direttur.  
żmien kif li jiġi stipulat, kull spiża dwar il-proċedimenti mibdija kontriba. Dawn l-ispejjeż ghandhom jinkludu spejjeż magħmula fil-qbid, tnehhija, detenzjoni, testjar, analiżi, spezzjon u ezami ta' prodotti, jew kampjuni tagħhom, involuti f'dawn il-proċedimenti.

**34.** Kumpannija jew xi soċjetà kummerċjali ohra li jkollha personalità ġuridika distinta u kemm jekk imwaqqfa jew registrata f'Malta jew barra minn Malta, tista' tinstab hatja ta' reat kontra dan l-Att. Reat minn kumpannija.

**35.** L-Avukat Ġenerali jkollu dritt ta' appell kontra xi deċiżjoni mogħtija fi proċedimenti miġjuba taht dan l-Att jew konnessi ma' regolamenti magħmula tahtu. Dritt ta' appell.

## TAQSIMA V Mixxellanji

Applikabbiltà ta' l-Att dwar l-Affarijiet tal-Konsumatur.

Kap. 378.

**36.** Xejn f'dan l-Att ma ghandu jinftehem bhala li jaffettwa b'mod hażin id-drittijiet ta' konsumaturi li johorġu mid-disposizzjonijiet li jirregolaw ir-responsabbiltà għall-prodotti difettużi skond it-Taqsima VII ta' l-Att dwar l-Affarijiet tal-Konsumatur.

Regolamenti dwar drittijiet u l-forma ta' dokumenti.

**37.** Il-Ministru jista' jagħmel regolamenti -

(a) li jistabilixxu u jawtorizzaw id-drittijiet li jistgħu jiġu imposti mid-Direttur fl-eżerċizzju ta' xi wahda mill-funzjonijiet assenjati lilu taht dan l-Att jew regolamenti magħmula tahtu; u

(b) li jippreskrivu l-forma ta' xi dokument li għandu jintuża għal xi wiehed mill-ghanijiet ta' dan l-Att.

Notifika ta' dokumenti.

**38.** (1) Kull dokument li hu mehtieg jew awtorizzat minn jew skond dan l-Att li jingħata jew jiġi notifikat lil xi persuna, jista' jingħata jew jiġi notifikat jew -

(a) billi jingħata lil dik il-persuna jew jithalla jew jintbagħat fl-indirizz tiegħu ta' residenza ordinarja jew l-aħħar magħrufa; jew

(b) f'każ ta' kumpannija jew korp ieħor jew assoċjazzjoni ta' persuni, billi jintbagħat lill-uffiċċju registrazzjoni jew prinċipali.

(2) Meta d-dokument għandu jingħata jew jiġi notifikat lill-proprjetarju ta' xi fond jew lil min jokkupa dak il-fond u ma jkunx prattikabbli, wara riċerka raġonevoli, li jiġi verifikat l-isem u l-indirizz tal-persuna li lilha għandu jingħata jew jiġi notifikat, jew jekk il-fond ma jkunx okkupa, id-dokument jista' jingħata jew jiġi notifikat billi jiġi indirizzat lill-persuna konċernata billi jiġi indirizzat "lill-proprjetarju" jew "lill-okkupant" tal-fond u, jekk ma jkunx hemm persuna fil-fond li lilha d-dokument jista' jingħata, billi dak id-dokument jitwawwal, jew kopja tiegħu titwawwal, ma' xi parti li tidher tal-fond.

Regolamenti dwar prodotti.

**39.** Il-Ministru jista', fuq il-parir ta' l-Awtorità Maltija dwar *Standards*, jagħmel regolamenti -

(a) biex jippreskrivi livelli minimi ta' kwalità permissibbli għal dak li għandu x'jaqsam ma' xi klassi, kategorija jew xorta ta' prodott, inkluż l-ippakkjar tiegħu;

(b) biex jippreskrivi htigiet mandatorji rigward id-disinn, il-metodi ta' manifattura, kostruzzjoni, sigurtà, tlestija, testjar, kontroll fuq il-kwalità, tikkettjar, klassifikazzjoni, ippakkjar, gradazzjoni, hażna, trasport u impatt fuq l-ambjent ta' kull klassi, kategorija jew xorta ta' ogġetti, materjali, sustanzi, impjant, stallazzjoni jew strutturi;

(c) biex jaddotta u jimplementa kull rabta u obbligazzjoni li ghandha x'taqsam ma' prodotti li torigina minn jew skond xi trattat, konvenzjoni jew ftehim internazzjonali ieħor, kemm jekk dan ikun bilaterali, reġjonali jew multilaterali, li tieghu Malta tkun parti;

(d) li jirrigwardaw il-hwejjeġ li ghandhom jitqiesu biex jiġi deciż meta, u f'liema hinijiet, ghandhom jittiehdu kampjuni;

(e) li jirridgwardaw il-mod kif jittiehdu kampjuni, inkluzi l-passi li ghandhom jittiehdu biex jiġi żgurat li l-kampjuni mehuda jkunu ġusti u adegwati;

(f) li jirrigwardaw il-mod kif wiehed ghandu jaġixxi rigward kampjuni, inkluż, fejn ikun hekk xieraq, id-diviżjoni ta' kampjuni f'biċċiet;

(g) rigward il-persuni li lilhom ghandhom jinghataw il-kampjuni jew il-biċċiet tal-kampjuni u l-persuni li ghandhom iżommu l-kampjuni jew il-biċċiet tal-kampjuni;

(h) rigward l-avviżi li ghandhom jinghataw lil, u l-informazzjoni li ghandha tinghata minn, persuni responsabbli għal xi prodott;

(i) rigward il-metodi li ghandhom jintużaw fl-analiżi jew fl-eżami ta' kampjuni, jew fil-klassifikazzjoni u evalwazzjoni tar-riżultati ta' l-analiżi jew l-eżami;

(j) rigward iċ-ċirkostanzi li fihom analista jew eżaminatur ghandu, għal raġunijiet ta' konflitt ta' interessi, jiġi prekluz milli janalizza jew jeżamina kampjun partikolari; u

(k) biex jiġu stabbiliti l-proċessi li bihom jista' jinghad li prodotti partikolari jkunu għaddew minn proċess ta' rikondizzjonar għal xi għan ta' dan l-Att.

#### 40. Il-Ministru jista' jagħmel regolamenti -

(a) biex jistabbilixxi s-sistemi u l-proċeduri għall-iskambju ta' informazzjoni ma' pajjiżi oħra u

Regolamenti  
dwar  
sorveljanza fuq  
is-suq.

organizzazzjonijiet internazzjonali dwar affarijiet konnessi mas-sigurtà ta' prodott;

(b) biex jinholqu proċeduri li jiffavorixxu l-iskambju ta' informazzjoni b'mod mgħaġġel għal dak li għandu x'jaqsam mas-sigurtà ta' prodott;

(ċ) il-forom u l-metodi ta' notifika kooperazzjoni u kollaborazzjoni rigward hwejjeġ li għandhom x'jaqsmu mas-sigurtà ta' prodott ma' pajjiżi oħra u organizzazzjonijiet internazzjonali, kemm fuq bażi multilaterali jew reġjonali jew mod iehor;

(d) biex jiġu stabbiliti s-sistemi u l-proċeduri għall-iskambju ta' informazzjoni u l-koordinazzjoni u kollaborazzjoni amministrattiva rigward is-sigurtà ta' prodott bejn dipartimenti tal-Gvern, awtoritajiet pubbliċi u entitajiet oħra taħt il-kontroll generali tal-Gvern.

Ilsien tar-regolamenti.

**41. (1)** Regolamenti magħmula taht xi disposizzjoni ta' dan l-Att jistgħu jsiru bl-ilsien Inġliż biss.

(2) F'każ ta' konflitt jew inkompatibilità bejn it-test Malti u t-test Inġliż ta' xi regolamenti magħmula taht dan l-Att, il-verżjoni tat-test Inġliż għandha tipprevali.

Thassir u riżerva. Kap. 225.

**42.** L-Att dwar il-Kontroll fuq il-Kwalità (Esportazzjonijiet, Importazzjonijiet u Oġġetti Lokali), hawnhekk iżjed il' quddiem imsejjah "l-Att revokat", hu revokat u kull referenza f'xi liġi oħra għall-Att revokat għandha tinftiehem bhala referenza għal dan l-Att:

Iżda kull ordni magħmul bis-sahha ta' l-Att revokat għandu jibqa' fis-sehh bhallikieku kien sar taht dan l-Att sakemm jiġi revokat jew mibdul b'regolamenti magħmulin taht dan l-Att.

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### Ghanijiet u Raġunijiet.

L-għan prinċipali ta' dan l-Abbozz huwa biex jagħmel disposizzjonijiet godda għall-protezzjoni ahjar ta' konsumaturi minn prodotti perikolużi u biex prodotti perikolużi jiġu projbiti u mneħħija mis-suq, u biex jiġi revokat l-Att dwar il-Kontroll fuq il-Kwalità (Esportazzjonijiet, Importazzjonijiet u Oġġetti Lokali).

**A BILL  
entitled**

AN ACT to repeal and to replace the Quality Control (Exports, Imports and Local Goods) Act, Cap. 225.

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 -

**PART I  
Preliminary**

1. (1) The title of this Act is General Product Safety and Quality Act. Title and commencement

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

2. In this Act, unless the context otherwise requires - Definitions.

"advertisement" includes any notice, device, circular, label, packaging, invoice, document, representation, broadcast or public announcement, visual or acoustic presentation or both, and "to advertise" shall be construed accordingly;

"consumer" shall have the meaning assigned to it by article 2 of the Consumer Affairs Act and shall include any person who otherwise than in the course of a business, trade or profession, buys or otherwise purchases or otherwise acquires products; Cap. 378.

"court" means the Court of Magistrates sitting as a court of criminal judicature;

"Department" means the Department of Consumer Affairs;

"Director" means the Director of Consumer Affairs, and includes, to the extent of the authority given, any officer authorised by him, in writing, to act in that behalf for any of the purposes of this Act;

"distributor" includes any person in the supply chain whose activity does not affect the safety properties of a product and shall include wholesalers, retailers, commission agents and other intermediaries;

"foodstuff" means any substance or product, whether processed, partially processed or unprocessed, intended to be ingested by humans, with the exception of:

(a) medicinal products, that is any substance or combination of substances presented for treating or preventing disease in human beings or animals; it also includes any substance or combination of substances which may be administered to human beings or animals with a view to making a medical diagnosis or to restoring, correcting or modifying physiological functions in human beings or in animals;

(b) tobacco products, that is products for the purpose of smoking, sniffing, sucking or chewing, inasmuch as they are, even partly, made of tobacco;

(c) water intended for human consumption, that is all water used for that purpose, either in its original state or after treatment, regardless of origin, whether supplied for consumption, or whether used in a food production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption and affecting the wholesomeness of the foodstuff in its finished form;

(d) natural mineral waters, that is microbiologically wholesome water, originating in an underground water table or deposit and emerging from a spring tapped at one or more natural or bore exits, and which can be clearly distinguished from ordinary drinking water by its nature and by its original state, both characteristics having been preserved intact because of the underground nature of such water;

(e) narcotic or psychotropic substances, as the term is defined in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, done at Strasbourg on the 31st day of January, 1995, to which Malta is a party;

"licence" includes trading licences and any other commercial or operating licences;

"Malta" has the same meaning as is assigned to it by article 124 of the Constitution;

"Minister" means the Minister responsible for consumer affairs and includes, to the extent of the authority given, any person or authority authorised by him to act in that behalf for any purpose of this Act;

"premises" includes any stall, stand, kiosk, vehicle, aircraft, seacraft and any other place other than premises used for dwelling purposes, where a trade or business is carried out or may take place, and shall also include vending machines, whether or not situated on business premises;

"producer" means:

(a) the manufacturer of the product, when he is established in Malta, and any other person presenting himself as the manufacturer by affixing to the product his name, trade mark or other distinctive mark, or

(b) the person who reconditions the product; or

(c) the manufacturer's representative, when the manufacturer is not established in Malta or, if there is no representative established in Malta, the importer of the product; or

(d) others in the supply chain, in so far as their activities may affect the safety aspects of a product placed on the market;

"product" includes any manufactured article, item or substance which is intended or offered for use by consumers or is likely to be used by consumers, supplied whether for consideration or not in the course of a trade or business and whether new, used or reconditioned, but excludes -

(a) second-hand products supplied as antiques;

(b) products which are to be repaired or reconditioned prior to being used, provided that the supplier clearly informs the persons to whom he supplies the product to that effect;

(c) medicinal products, as the term is defined in this Part of this Act;

(d) foodstuffs, as the term is defined in this Part of this Act:

Provided however that in so far as quality control, geographical or product designation or compositional requirements are concerned, foodstuffs shall be considered as products and shall be regulated by the provisions of this Act;

"proprietor", in relation to a manufacturing undertaking, means the person or persons by whom the trade or business is carried on, and includes owners and occupiers of premises where such undertaking is carried out and holders of licences in respect of any such undertaking or premises;

"safe product" means any product which, under normal or reasonably foreseeable conditions of use, including duration, does not present any risk or only the minimum risks, compatible with the product's use, which are considered as acceptable and consistent with a high level of protection for the safety and health of persons, taking into account in particular the following factors:

(a) the characteristics of the product, including its composition, packaging, instructions for assembly and maintenance;

(b) the effect on other products, where it is reasonably foreseeable that it will be used with other products;

(c) the presentation of the product, the labelling, any instructions for its use and disposal and any other indication or information provided by the producer;

(d) the categories of consumers at risk when using the product, in particular children, the disabled and the elderly:

Provided that the possibility of obtaining higher levels of safety or the availability of other products presenting a lesser degree of risk shall not constitute grounds for considering a product to be an unsafe product.

"sale" includes -

(a) the supply of products sold, hired or supplied or offered for sale or hire in the course of a trade or business, and any other activity concerning products which the Minister may, from time to time, specify by regulations made under this Act;

(b) the supply of any product which, for marketing or advertising purposes, is offered as a prize or reward or is otherwise given in connection with any public entertainment, whether such entertainment is provided against payment or gratuitously; and

(c) the supply of products in the course of the provision of a service to a consumer by a third party;

"standard" shall have the meaning attributed to it in the Malta Standards Authority Act;

Cap. 419.

"unsafe product" means any product that does not conform to the definition of "safe product".

## PART II General Product Safety

3. (1) A consumer has the right -

Consumer's  
right.

(a) to have consumer products placed on the market which are safe;

(b) to receive adequate information regarding the safety aspects and the proper use of such products; and

(c) to be adequately informed with regard to products which give rise to risks to the health and safety of consumers and which are sold or offered for sale to him.

(2) The provisions of subarticle (1) shall not be directly enforceable in any court or tribunal, but shall be adhered to in the interpretation and implementation of this Act and any regulations made thereunder.

4. (1) Producers shall be obliged to only place safe products on the market.

Safe products.

(2) The provisions of this Act shall apply equally to products manufactured in or imported into Malta.

(3) Any person who contravenes the provisions of this article shall be guilty of an offence under this Act.

5. (1) The provisions of this Act in respect of general product safety shall apply in so far as there are no specific provisions governing the safety of a particular product, in particular regulations made under this Act or under any other law.

General product  
safety.

(2) Where specific rules contain provisions imposing safety requirements on a particular product, the requirements of this Act in respect of general product safety shall not apply to such a product.

(3) Where specific requirements are made under any law governing only certain aspects of product safety or categories of risk for a particular product, those requirements shall apply to such a product with regard to the relevant safety aspects or risks to the exclusion of the provisions of this Act relating to general product safety, and the requirements of this Act in respect of general product safety with regard to other safety aspects or risks shall continue to apply.

(4) Subject to the provisions of subarticles (1) to (3), the provisions of this Act in respect of general product safety shall prevail over anything to the contrary in any other law.

Obligations of  
producers and  
importers.

6. (1) Without prejudice to any other obligation under this Act, producers and importers shall -

(a) provide consumers with the relevant information to enable them to assess the risks inherent in a product throughout the normal or reasonably foreseeable period of its use, where such risks are not immediately obvious without adequate warnings;

(b) take those precautions necessary to prevent or minimise such risks;

(c) adopt measures commensurate with the characteristics of the products which they supply, to enable consumers to be informed of risks which these products might present and to take appropriate action including, if necessary, withdrawing the product in question from the market to avoid these risks.

(2) The measures indicated in subarticle (1) may include, whenever appropriate, marking of the products or product batches in such a way that they can be identified, sample testing of marketed products, investigating complaints, and keeping distributors informed of such monitoring.

(3) Any person who contravenes any of the provisions of this article shall be guilty of an offence under this Act.

7. (1) Distributors shall be required to act with due care to ensure compliance with the general safety requirement established by virtue of this Act, in particular by not supplying products which they know or should reasonably know, on the basis of the information in their possession as practitioners in the relevant trade, business or occupation, do not comply with such requirement.

Compliance with general safety requirement by distributors.

(2) Any distributor who supplies products which he knows or should, as practitioner in the relevant trade, business or occupation, know to be unsafe, or who otherwise contravenes the provisions of subarticle (1) shall be guilty of an offence against this Act.

8. Distributors are under a duty to assist in monitoring the safety of products placed on the market, by passing on information on product risks to their suppliers and to consumers, and to co-operate in action taken to avoid these risks.

Monitoring safety of products.

9. (1) In the absence of specific rules, the conformity of a product to the general safety requirement shall be assessed having regard to -

Assessment of general safety requirement.

(a) any relevant voluntary National Standards giving effect to a European Standard; or

(b) to any relevant European technical specifications, if any; or

(c) failing the above, to any other relevant National Standards as well as to codes of good practice in respect of health and safety, the state of the art and technology in the sector concerned, and to the standards of safety which consumers are reasonably entitled to expect.

(2) In this article, the terms "National Standard", "European Standard" and "technical specifications" shall have the meaning attributed to them in the Malta Standards Authority Act.

Cap. 419.

10. (1) Notwithstanding that a product conforms with the provisions mentioned in article 9(1)(a), (b) or (c), the Director may take such appropriate measures imposing restrictions on its being placed on the market or requiring its withdrawal from the market where he has reason to believe that, despite its conformity, the product would still be dangerous to the health and safety of consumers.

Director may impose restrictions.

(2) The Director shall, whenever feasible, give the parties concerned an opportunity to submit their views before adopting the measures under subarticle (1):

Provided that where, because of the urgency of the measures to be taken, the Director has taken measures before giving such an opportunity, he shall do so as soon as practicable, after the measure has been taken by the Director.

(3) The Director shall, whenever he considers it possible and reasonable to do so, first seek to achieve voluntary compliance by the producers or distributors involved.

Notification.

11. (1) Where the Director takes measures pursuant to article 10, he shall as soon as possible, notify the parties concerned with the reasons for such measures.

Cap. 378.

(2) The provisions of articles 97, 98 and 99 of the Consumer Affairs Act shall apply *mutatis mutandis* to measures taken by the Director.

General offences.

12. Any person who -

(a) sells, hires, exposes or offers for sale or hire or has in his possession for the purposes of such sale, hire, exposure or offer, any product which does not comply with the provisions of this Act or of any regulation made under this Act; or

(b) deposits with, or otherwise supplies to, any other person any such product, under whatever title, whether for consideration or not, for the purpose of such sale, hire, offer or exposure,

shall be guilty of an offence under this Act.

Failure of any product to comply with requirements.

13. Where any product which fails to comply with the requirements of this Act or any regulation made thereunder, is part of a batch, lot or consignment of products of the same class, type or description, it shall be presumed, unless the contrary is proved, that all the products in that batch, lot or consignment fail to comply with those requirements.

Failure to give information.

14. It shall be an offence under this Act for a producer to fail to give any information as may be required by the Director in the exercise of his functions under this Act.

### PART III

#### Product Control and Enforcement

Functions of Director.

15. The Director shall be responsible for the administration of this Part of this Act, and shall in the exercise of his functions and duties under this Act, be empowered:

(a) to prohibit, by order in writing, the placing on the market of any product which is unsafe or which does not comply with the provisions of this Act or any regulations made thereunder;

(b) to prohibit, by order in writing, for such time as may be necessary for tests to be carried out, any person from supplying, offering or otherwise exposing any product or product batches whenever it appears in his discretion that there exist reasonable grounds to believe a product to be unsafe;

(c) to require, by order in writing, the immediate withdrawal of unsafe products from the market and, whenever he deems it necessary, to order the destruction of such products under such conditions as he may deem appropriate;

(d) to take such measures as he may consider to be necessary to suppress or prevent practices which are detrimental to product safety;

(e) to impose, by order in writing, conditions on product marketing, advertising, labelling and marking as may be necessary in the interest of public safety;

(f) to publish copies of orders issued by him under any of the provisions of this Act;

(g) to carry out or to cause to be carried out, on an adequate scale up to the final stage, of use all product control activities, including inspections, analyses, examinations or other investigations concerning the safety properties of products, even after such products have been placed on the market as safe; and

(h) any other functions as may be assigned to him by or under this Act or any other law.

**16.** (1) Unless otherwise specified, enforcement of the provisions of this Act or any regulations made thereunder, shall vest in the Director, provided that the Director may delegate in writing any of the powers vested in him by virtue of this Act to any public officer working in the Department, or, with the consent of the Minister, to any other person.

Enforcement of  
Act.

(2) Any officer, authorised as aforesaid, shall, when required, produce the written authorization signed by the Director.

Power of inspection.

**17. (1)** Any Magistrate may by warrant, upon an application confirmed on oath by the Director or by any public officer duly authorised in writing by the Director for any of the purposes of this Act, and who has reasonable grounds to believe that unsafe products are kept or otherwise to be found on any premises other than premises exclusively used for dwelling purposes, authorise such officers to -

(a) enter and search any such premises and carry out therein any inspection as may be necessary;

(b) seize any unsafe products found therein:

Provided that where the Director has reasonable cause to suspect that such unsafe products are likely to be removed, destroyed or the evidence of the commission of any offence under this Act may be otherwise suppressed, he may himself in writing authorise any public officer to exercise, in relation to such premises, any of the powers mentioned in this subarticle, and the authority so given by the Director shall have the same effect as a warrant issued by a Magistrate.

(2) No entry and search shall be effected outside the normal business hours of the establishment concerned, unless the Director has cause to believe that delay could cause the loss or suppression of any evidence or may otherwise prejudice the outcome of the search.

(3) In the course of any entry and search under this Part of this Act, the Director may request the assistance of the Police.

Inspection of products.

**18.** Any public officer, authorised as aforesaid, may, for any of the purposes of this Act, inspect any product which -

(a) has been sold or is offered for sale or consumption or use by consumers; or

(b) is in the possession of, or under the control of, any producer or distributor, or which has been deposited with or otherwise delivered to any person for the purpose of sale or of preparation for sale,

wherever the product is to be found.

Officer may be accompanied.

**19.** An authorised officer, who enters any premises by virtue of any of the provisions of this Part of this Act, may be accompanied by such other persons and take with him such equipment as he considers necessary.

**20.** It shall be lawful for an authorised officer, where necessary for the proper performance of his functions under articles 17 to 19, to -

Other powers of authorised officer.

(a) purchase a sample of any product or any material capable of being used in the preparation, manufacture or assembly of such product;

(b) break open any door and remove any impediment or obstruction to such entry, search or seizure;

(c) require any person carrying on a trade or business or employed in connection with a trade or business to produce any books or documents, including those stored in a computer or in any other information network, relating to the trade or business, and to take copies thereof;

(d) seize and detain, without paying any consideration, any goods or a sample thereof, or any other material, which appears to him to be intended for sale, or to have been sold, or is found by him on or in the premises, for the purpose of ascertaining whether an offence under this Act has been committed;

(e) seize and detain any goods, or any sample, component or material, or documents for the purpose of gathering evidence concerning the possible commission of an offence under this Act or which may be required as evidence in proceedings under any of the provisions of this Act or of regulations made under it; and

(f) where necessary, in order to ensure compliance with the provisions of this Act, require any person having authority to do so, to open any container or vending machine, and if that person does not comply with the requirement, the authorised officer may proceed to do so himself, if necessary by breaking open such container or machine.

**21.** (1) Where an authorised officer seizes any goods, documents or other records in the exercise of his powers under article 17, he shall inform the person from whom they are seized and give due receipt.

Receipt for seized goods.

(2) In the case of goods seized from a vending machine, the authorised officer shall inform the person whose name and address are stated on the machine as being that of the proprietor or, if no name and address are so stated, the occupier, if any, of the premises on which the machine stands or to which it is affixed.

Applicability of Professional Secrecy Act. Cap. 377.

**22.** Nothing contained in the Professional Secrecy Act shall be construed as precluding or otherwise restricting the Director, or any public officer of the Department, duly authorised by the Director in terms of article 17, from communicating to the consumer, whose complaint regarding such matter has been investigated, information concerning findings related to such matter directly resulting from such investigation.

Obstructing or giving false information.

**23.** Whosoever shall wilfully obstruct, resist, threaten or otherwise give misleading or false information to the Director or to an authorised officer in the exercise of any of the functions mentioned in article 15, or wilfully fails to assist or comply with any requirement lawfully made by such officer, shall be guilty of an offence under this Act.

Written notice.

**24.** Where an authorised officer has reasonable cause to believe that a product is unsafe or otherwise likely to cause injury, he may give the person responsible a written notice ordering him that until such time as the said notice is withdrawn, the product shall not be used, sold, offered for sale or traded or shall not be removed except to such place as the notice may specify. Any person who knowingly breaches or assists in breaching such written notice shall be guilty of an offence under this Act:

Provided that the Director shall, as soon as practicable, but not later than two months from the service of such notice, on the person responsible, determine the safety or otherwise of the product and shall -

(a) if it is established that the product is safe, withdraw the notice; or

(b) if the product is established to be unsafe, prohibit its further use or sale, order its seizure and confiscation, as well as retention of the product in such premises as the Director may specify at the expense of the producer.

Disposal of products.

**25.** In proceedings for an offence under this Act, the Court may, if it deems a product to be unsafe, order that such product be destroyed or otherwise disposed of at the expense of the producer.

Failure of operator to comply with the provisions of this Act.

**26.** (1) Where the Director has reasonable grounds to believe that the operator of a trade or business has failed to comply with any provision of this Act or of any regulation made under it, he may, by a written notice (to be known as a "notice") served on that proprietor -

(a) specify the provision or regulation which the proprietor has failed to comply with and specify the matters which constitute the proprietor's failure to comply;

(b) specify remedial measures which are required to be taken; and

(c) require that the proprietor implement such measures or equivalent measures, within such a period of time as may be specified in the notice.

(2) Any person who fails to comply with a notice shall be guilty of an offence under this Act.

**27.** (1) There shall be a Director of Market Surveillance, who shall be appointed to that post by the Prime Minister.

Director of  
Market  
Surveillance.

(2) The functions of the Director of Market Surveillance shall be the following:

(a) to establish and periodically update sectoral surveillance programmes in respect of all categories of products and risks;

(b) to follow-up and update scientific knowledge concerning the safety of products, as well as periodical reports on surveillance activities, findings and results achieved;

(c) periodically review and assess the functioning of the control activities and their effectiveness, and, if necessary, revise the surveillance approach and organisation put in place;

(d) any other functions as may be assigned to him under any other law.

**28.** (1) The Director may, with the concurrence of the Director of Market Surveillance, make or issue a public statement, which identifies -

Issue of public  
statement.

(a) products which are or may be unsafe;

(b) the producers and distributors of such products;

(c) those producers, distributors or other persons, whose practices or activities in relation to particular products may adversely affect the interests of consumers in terms of this Act;  
or

(d) any other matter that may adversely affect the safety of consumers.

Cap. 378.

(2) The provisions of subarticle (1) in relation to product safety shall prevail over the provisions of article 8(1) of the Consumer Affairs Act.

(3) The provisions of article 8(2) and (3) of the Consumer Affairs Act shall apply to public statements made or issued under this article and the exemption from liability under the said subsection (3) shall extend to the Director of Market Surveillance.

Undertakings in respect of contraventions against this Act.

Cap. 378.

**29.** (1) The Director may, instead of initiating proceedings in respect of the violation of any of the provisions of this Act, require any person who has violated any of the provisions of this Act or any regulations made thereunder, to undertake in writing to refrain from such conduct and to take any remedial or other action as the Director may specify and the provisions of article 12 of the Consumer Affairs Act shall apply *mutatis mutandis* to undertakings made under this Act.

(2) Any person who acts in contravention of an undertaking made in accordance with subarticle (1) shall be guilty of an offence under this Act.

#### **PART IV Proceedings**

Proceedings.

**30.** Proceedings in relation to any offence under this Act may only be instituted at the instance of the Director, who may conduct the prosecution before the Court.

Prescription.

**31.** Criminal actions for offences under this Act shall be prescribed by the lapse of two years.

Fines.

**32.** (1) A person found guilty of an offence under article 23 shall, on conviction, be liable to a fine (*multa*) of not less than two hundred liri and not exceeding one thousand liri, or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) A person found guilty of any other offence under this Act shall be liable, on conviction, to a fine (*multa*) of not less than five hundred liri but not exceeding five thousand liri or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(3) A person found guilty of a second or subsequent offence shall, on conviction, be liable to a fine (*multa*) of not less than seven hundred and fifty liri but not exceeding ten thousand liri or to imprisonment not exceeding four years or to both such fine and imprisonment.

(4) The Court may, upon conviction for any offence committed under this Act, with the exception of offences committed under article 23, if it feels that circumstances so warrant, additionally order the suspension or cancellation of any licence or licences issued in favour of the person charged or in respect of the premises involved in the proceedings.

(5) Without prejudice to the generality of the foregoing, any person convicted in relation to an offence under articles 26 or 29 shall additionally be liable to the additional fine (*multa*) of not more than two hundred liri for each day that a notice or undertaking has not been complied with.

33. Where a person has been convicted of an offence under this Act, the Court shall order that person to reimburse to the Director, within such period as it shall stipulate, any costs incurred in connection with the proceedings instituted against him. Such costs shall include expenses incurred in the seizure, lifting, detention, testing, analysis, inspection and examination of products, or samples thereof, involved in the said proceedings.

Reimbursement to the Director.

34. A company or any other commercial partnership having a distinct legal personality and whether constituted or registered in Malta or abroad may be found guilty of an offence under this Act.

Offence committed by a company.

35. The Attorney General shall have the right to appeal from any judgement given in proceedings instituted under this Act or in connection with regulations made thereunder.

Right to appeal.

## PART V Miscellaneous

36. Nothing in this Act shall be construed as adversely affecting the rights of consumers arising from the provisions regulating liability for defective products under Part VII of the Consumer Affairs Act.

Applicability of Consumer Affairs Act.

Cap. 378.

37. The Minister may make regulations -

(a) establishing or authorising charges that may be imposed by the Director in the exercise of any of the functions assigned to him under this Act or regulations made under it; and

Regulations in respect of charges and forms of documents.

(b) prescribing the form of any document to be used for any of the purposes of this Act.

Service of documents.

**38.** (1) Any document which is required or authorised by or under this Act to be given or served on any person, may be given or served either -

(a) by delivering it to that person or by leaving it or sending it addressed to him at his usual or last known residence; or

(b) in the case of a company or other body or association of persons, by delivering it to the registered or principal office.

(2) Where the document is to be given or served on the owner or the occupier of any premises and it is not practicable, after reasonable enquiry, to ascertain the name and address of the person to or on whom it should be given or served or the premises are unoccupied, the document may be given or served by addressing it to the person concerned by addressing it to "the owner" or "the occupier" of the premises and, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

Regulations with respect to products.

**39.** The Minister may, on the advice of the Malta Standards Authority, make regulations -

(a) prescribing levels of minimum permissible quality in relation to any class, category or type of product, including the packaging thereof;

(b) prescribing mandatory requirements with respect to the design, methods of manufacture, construction, safety, finishing, testing, quality control, labelling, classification, packaging, grading, storage, transportation and environmental impact of any class, category or type of goods, materials, substances, plant, installations or structures;

(c) adopting and implementing any commitments and obligations relating to products arising out of or under any treaty, convention or other international agreement, whether bilateral, regional or multilateral, to which Malta is a party;

(d) concerning the matters to be taken into account in determining whether, and at what times, samples should be procured;

(e) regarding the manner of procuring samples, including the steps to be taken to ensure that the samples procured are fair and adequate samples;

(f) regarding the method of dealing with samples, including, where appropriate, their division into parts;

(g) regarding the persons to whom the samples or parts of the samples are to be delivered and the persons by whom they are to be retained;

(h) regarding the notices which are to be given to, and the information which is to be furnished by, the persons responsible for any product;

(i) regarding the methods which are to be used in analysing or examining samples, or in classifying and evaluating the results of analyses or examinations;

(j) regarding the circumstances in which an analyst or examiner is to be precluded, by reason of conflict of interest, from analysing or examining a particular sample; and

(k) establishing the processes whereby particular products may be said to have undergone a reconditioning process for any of the purposes of this Act.

**40.** The Minister may make regulations for -

Regulations  
with respect of  
market  
surveillance.

(a) the establishment of systems and procedures for the exchange of information with other countries and international organisations on product safety issues;

(b) the setting up of procedures to allow the rapid exchange of information in respect of the safety of a product;

(c) forms and methods of notification, co-operation and collaboration in respect of product safety issues with other countries and international organisations, whether on a multilateral or regional basis or otherwise;

(d) the establishment of systems and procedures for the exchange of information and administrative co-ordination and collaboration with regard to product safety between government departments, public authorities and other entities under the general control of Government.

Language of regulations.

**41. (1)** Regulations made under any provision of this Act may be made in the English language only.

(2) In the event of conflict or incompatibility between the Maltese and English texts of any regulations made under this Act, the English language version shall prevail.

Repeal and saving.  
Cap. 225.

**42.** The Quality Control (Exports, Imports and Local Goods) Act, hereinafter referred to as "the repealed Act", is hereby repealed and any references in any law to the repealed Act, shall be construed as references to this Act:

Provided that any orders made by virtue of the repealed Act shall remain in force as if made under this Act until such time as they are repealed or replaced by regulations made under this Act.

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### **Objects and reasons**

The main object of the Bill is to make new provision for the better protection of consumers from unsafe products and for the prohibition and withdrawal of unsafe products and for the repeal of the Quality Control (Exports, Imports and Local Goods) Act.