

MALTA

ATT Nru. VII ta' l-1994

ATT mahruġ b'ligi mill-Parlament ta' Malta.

ATT biex Jippromwovi s-Sahha u s-Sigurtà fuq il-Post tax-Xoghol.

ACT No. VII of 1994

AN ACT enacted by the Parliament of Malta.

AN ACT for the Promotion of Occupational Health and Safety.

Naghti l-kunsens tiegħi.

(L.S.)

ĊENSU TABONE
President

1 ta' Marzu, 1994

ATT Nru. VII ta' l-1994

Att biex Jippromwovi s-Sahha u s-Sigurtà fuq il-Post tax-Xogħol

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:—

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1994 għall-Promozzjoni tas-Sahha u s-Sigurtà fuq ix-Xogħol.

Titolu fil-qosor
u bidu fis-sehh.

(2) Id-disposizzjonijiet li ġejjin ta' dan l-Att għandhom jidhlu fis-sehh f'dik id-data li l-Ministru jista' jistabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu stabbiliti għal disposizzjonijiet differenti.

2. (1) Il-harsien tas-sahha u s-sigurtà fuq ix-xogħol għandu jitqies ta' interess pubbliku.

Dikjarazzjoni ta'
prinċipji u
dmirijiet.

(2) (a) Huwa d-dmir ta' min ihaddem lil xi persuna ohra li jiżgura li l-post fejn isir ix-xogħol ikun hieles minn sogri bla bżonn għas-sahha u minn perikli li jistgħu jiġu evitati għall-inkolumità fiżika u psikoloġika tal-haddiema.

(b) Huwa d-dmir ukoll ta' min ihaddem li jiżgura illi kull proċess ta' xogħol imqabbad minnu jkun hieles minn kull sogru bla bżonn għas-sahha u minn kull periklu li jista' jiġi evitat għall-inkolumità fiżika u psikoloġika tal-haddiema impjegati minnu u ta' haddiema impjegati minn xi persuna li lilha jkun qabbad xi xogħol, sew jekk tkun persuna li timpjega lilha nnifisha, kuntrattur jew sub-kuntrattur:

Iżda fil-każ ta' xogħol mogħti lil xi persuna li timpjega lilha nnifisha, kuntrattur jew sub-kuntrattur, kif imsemmi hawn fuq, min ihaddem ikun responsabbli biss jekk ikun ipprovdha

faċilitajiet, inklużi għodda, tagħmir, mod kif, pjanti jew post tax-xogħol, jew l-użu ta' dawn il-faċilitajiet u jkun jaf li dawn il-faċilitajiet jew l-użu tagħhom ordinarjament jipprezentaw sogru jew periklu għas-saħha jew sigurtà.

(ċ) Huwa dmir ta' kull min jahdem fuq post tax-xogħol li jhares is-saħha u s-sigurtà tal-haddiema l-oħra fl-istess post, kif ukoll tiegħu stess.

(d) Huwa d-dmir tal-Gvern li jara li jiġu mharsa l-livelli ta' protezzjoni tas-saħha u s-sigurtà fuq ix-xogħol, stabbiliti b'regolamenti magħmula taht dan l-Att.

(3) Meta jitqiesu s-sogri u l-perikli msemmija fis-subartikolu preċedenti għandu jinghata rigward għall-htieġa inevitabbli li jiġu esposti għalihom dawk li jiġu mpjegati biex jikkontrollaw u jikkumbattu dawk is-sogri u perikli.

Kummissjoni li
Tippromwovi
s-Saħha u
s-Sigurtà fuq
il-Post tax-Xogħol.

3. (1) Għandu jkun hemm Kummissjoni għall-Promozzjoni tas-Saħha u s-Sigurtà fuq il-Post tax-Xogħol u li tkun tikkonsisti fi:

(a) president, mahtur mill-President ta' Malta;

(b) id-Direttur tax-Xogħol u t-Tabib Principali tal-Gvern, bħala viċi-presidenti;

(ċ) rappreżentant tal-Korporazzjoni ta' Xogħol u Tahriġ, mahtur mill-istess Korporazzjoni;

(d) rappreżentant tal-Kummissarju tal-Pulizija, mahtur mill-istess Kummissarju;

(e) żewġ persuni mahtura mill-Ministru biex jirrappreżentaw l-interessi tal-haddiema minn fost persuni indikati minn Għaqdiet tal-Haddiema jew Organizzazzjonijiet ta' Għaqdiet ta' Haddiema; u

(f) żewġ persuni mahtura mill-Ministru biex jirrappreżentaw l-interessi ta' min ihaddem, minn fost persuni indikati minn organizzazzjonijiet ta' min ihaddem.

(2) Hames persuni jikkostitwixxu *quorum*, b'dana illi ta' l-inqas jew il-president jew wiehed miż-żewġ viċi-presidenti u wahda mill-persuni msemmija fil-paragrafu (e) u wahda mill-persuni msemmija fil-paragrafu (f) fis-subartikolu ta' qabel dan ikun preżenti.

(3) Il-Ministru għandu jahtar persuna biex taġixxi bħala Segretarju tal-Kummissjoni.

(4) Il-President tal-Kummissjoni għandu jokkupa l-kariga għal perijodu ta' tliet snin, filwaqt li l-membri l-oħra tal-Kummissjoni jokkupaw il-kariga għal sena, u l-President u l-membri tal-Kummissjoni jistgħu jiġu mahtura mill-ġdid wara li jintemm il-perijodu rispettiv tal-hatra tagħhom.

(5) Il-Kummissjoni għandha tiltaqa' mill-inqas darba fix-xahar.

(6) Il-Kummissjoni għandha tibghat, fix-xahar ta' Jannar ta' kull sena, ir-rapport tagħha għas-sena preċedenti, lill-Ministri responsabbli għax-Xogħol u għas-Saħha, u dan ir-rapport għandu jittqiegħed fuq il-mejda tal-Kamra tad-Deputati mill-Ministru responsabbli għax-Xogħol fi żmien xahar.

4. (1) Il-Kummissjoni jkollha funzjonijiet konsultattivi, informattivi, kif ukoll kważi-ġudizzjarji.

Funzjonijiet
tal-Kummissjoni.

(2) Il-Kummissjoni għandha tifformola u tippubblika Kodiċijiet ta' Prattika, li jimmiraw biex fil-postijiet tax-xogħol, meqjusa skond kategoriji, ikun hemm livell għoli ta' harsien tas-saħha u tas-sigurtà.

(3) Il-Kummissjoni għandha tippromwovi lill-Ministru dawk ir-regolamenti kollha li jidhrilha li għandhom ikunu fis-seħh għall-harsien tas-saħha u s-sigurtà, u regolamenti differenti jistghu jigu proposti għal kategoriji differenti ta' postijiet tax-xogħol.

(4) Il-Kummissjoni għandha tiehu l-passi meħtieġa biex jingħata kull taġrif possibbli fuq il-postijiet tax-xogħol, ukoll matul apprendistat jew taħriġ, u lill-pubbliku in ġenerali għar-rigward ta' materji ta' saħha u sigurtà fuq ix-xogħol.

(5) Il-Kummissjoni għandha tippromwovi r-riċerka xjentifika li twassal għal mezzi aħjar ta' prevenzjoni ta' mard, korriment jew mewt marbuta max-xogħol.

(6) Il-Kummissjoni, permezz tal-Kumitat Ġudizzjarju tagħha mwaqqaf skond l-artikolu 5, għandha tisma' u tiddeċiedi appelli magħmula skond l-artikolu 13 kontra ordnijiet mahruġa minn spetturi maħtura taht dan l-Att.

(7) Il-Kummissjoni jkollha d-dmir li tagħti parir lill-Ministri responsabbli għax-Xogħol u għas-Saħha rigward dak kollu li għandu x'jaqsam mas-saħha u s-sigurtà fuq il-post tax-xogħol.

(8) Il-Kummissjoni tista' tiġi fdata mill-Ministri responsabbli għax-Xogħol jew għas-Saħha b'kull funzjoni oħra li għandha x'taqsam mas-saħha u s-sigurtà fuq il-post tax-xogħol.

(9) Fit-twettiq tal-funzjonijiet tagħha taht dan l-Att, il-Kummissjoni tista' twaqqaf sotto-kumitati biex jittrattaw oqsma partikolari ta' kompetenza, u tista' tinnomina minn barra fuq dawn is-sotto-kumitati persuni li, fl-opinjoni tal-Kummissjoni, għandhom kapacià professjonali jew perizja dwar xi materja ttrattata taht dan l-Att, iżda meta f'xi sotto-kumitat tittiehed xi deċiżjoni b'vot, il-membri nominati minn barra ma jivvutawx.

5. (1) Il-Kummissjoni għandha tahtar Kumitat Ġudizzjarju biex jisma' u jiddeċiedi appelli magħmula minn deċiżjonijiet ta' spetturi maħtura skond dan l-Att.

Kumitat
Ġudizzjarju.

(2) Il-Kumitat Ġudizzjarju ghandu jkun kompost mill-President tal-Kummissjoni li jkun *ex-officio* il-President tal-Kumitat Ġudizzjarju u erba' membri oħra tal-Kummissjoni:

Iżda ghandu jiġi mahtur membru minn dawk il-membri mahtura skond il-paragrafu (e) tas-subartikolu (1) ta' l-artikolu 3 u membru ieħor mill-membri mahtura skond il-paragrafu (f) tas-subartikolu (1) ta' l-imsemmi artikolu:

Iżda wkoll illi meta l-President tal-Kumitat Ġudizzjarju jastjeni milli jisma' xi appell, il-Kummissjoni ghandha tahtar wiehed miż-żewġ vici-presidenti tagħha biex jippresiedi l-Kumitat Ġudizzjarju għas-smiġħ ta' dak l-appell:

Iżda wkoll illi meta xi membru tal-Kumitat Ġudizzjarju jastjeni mis-smiġħ ta' xi appell, il-Kummissjoni ghandha tahtar membru ieħor għas-smiġħ ta' dak l-appell.

(3) Il-membri mahtura biex iservu fuq il-Kumitat Ġudizzjarju jibqgħu jokkupaw din il-kariga sakemm jagħlaq iż-żmien tal-kariga tagħhom fuq il-Kummissjoni.

(4) Il-Ministru ghandu jahtar Avukat jew Prokuratur Legali bħala Segretarju tal-Kumitat Ġudizzjarju għal perijodu ta' tliet snin, liema perijodu jista' jiġi mġedded.

(5) (a) Bla hsara għad-disposizzjonijiet tas-subartikolu (3) ta' l-artikolu 15, il-Kumitat Ġudizzjarju ghandu jzomm is-seduti tiegħu fil-pubbliku, u, bla hsara għal kull regolamenti magħmula taħt l-artikolu 16, ghandu jimxi skond ir-regoli ġenerali tal-proċedura.

(b) Il-Kumitat Ġudizzjarju jkollu d-dritt jitlob il-parir ta' esperti skond kif jidhirlu xieraq.

(c) Il-President tal-Kumitat Ġudizzjarju jkollu d-dritt jamministra l-ġurament u li jeżamina lix-xhieda.

(d) Id-deċizzjonijiet tal-Kumitat Ġudizzjarju għandhom ikunu bil-miktub u għandhom jinqraw pubblikament, jitqiesu finali u esekuttivi u ma jkunux soġġetti għal konsiderazzjoni mill-ġdid mill-qrati ordinarji hlief fuq punti ta' liġi jew ta' ġustizzja naturali.

6. (1) Il-Ministru ghandu d-dmir li jikkonsulta formalment lill-Kummissjoni qabel ma jagħmel regolamenti kif provdut fl-artikolu 16:

Iżda l-Ministru jista' jiffissa żmien raġonevoli li ma jkunx anqas minn hamest ijiem biex jingħatalu l-parir dwar regolamenti proposti u jekk il-Kummissjoni ma tagħtix il-parir tagħha f'dak iż-żmien huwa jkun jista' jgħaddi għall-pubblikazzjoni ta' dawk ir-regolamenti:

Iżda wkoll il-Ministru jista', meta jidhirlu li hemm urgenza, javża b'dan lill-Kummissjoni u fin-nuqqas ta' l-ghoti ta' parir fi żmien jumejn, huwa jista' jgħaddi għall-pubblikazzjoni ta' dawk ir-regolamenti:

(2) Meta l-Ministru jirċievi parir ta' esperti dwar materji ta' saħħa u sigurtà fuq post tax-xogħol minn barra d-Dipartiment tax-Xogħol, huwa għandu jgħaddi dak il-parir lill-Kummissjoni għall-konsiderazzjoni tagħha.

7. (1) Bla hsara għad-dispożizzjonijiet ta' l-artikolu preċedenti, il-Ministru jista', meta jagħmel regolamenti, jeżerċita d-diskrezzjoni tiegħu għar-rigward ta' l-aħjar mod ta' ħarsien tas-saħħa u s-sigurtà fuq il-post tax-xogħol, iżda meta d-diverġenza mill-opinjoni tal-Kummissjoni tkun sostanzjali, huwa għandu jispjega bil-kitba lill-Kummissjoni raġunijiet tad-deċiżjoni tiegħu fi żmien tliet gimgħat mill-pubblikazzjoni tar-regolamenti.

Dmir tal-Ministru meta ma jilqax parir tal-Kummissjoni.

(2) Meta Kodiċi ta' Prattika ma jkunx jikkonforma mar-regolamenti magħmula taht dan l-Att, għandhom jipprevalu r-regolamenti.

8. (1) Tkun ir-responsabbiltà b'mod ġenerali ta' min ihaddem illi jiżgura li jittiehdu l-miżuri u l-prekawżjonijiet raġonevoli kollha biex:

Dmir ta' min jimpjega.

(a) kull post tax-xogħol taht il-kontroll tiegħu, ikun, sa fejn huwa raġonevolment Prattiku, hieles minn kull periklu għas-saħħa u għas-sigurtà;

(b) l-ambjent tax-xogħol f'postijiet taht il-kontroll tiegħu ikun raġonevolment favorevoli għas-saħħa u hieles, sa fejn huwa evitabbli, minn dak li jikkaguna tensjoni fiżika jew psikoloġika;

(ċ) jipprevjeni diżgrazzji, korrimenti u mard industrijali;

(d) jipprovdi faċilitajiet fuq il-post tax-xogħol għall-ewwel għajjnuna fil-każ ta' diżgrazzja jew korriment; u

(e) jgħarraf lil kull min jaħdem kemm dwar il-perikoli għas-saħħa u sigurtà li jkun hemm fil-post tax-xogħol u dwar l-aħjar mod ta' prevenzjoni.

(2) Tkun ir-responsabbiltà wkoll ta' min ihaddem:

(a) li jgħarraf, bil-mod jew metodu li jista' jiġi preskritt, lid-Direttur tax-Xogħol jew xi persuna msemmija f'dan l-Att jew f'xi regolamenti jew ordnijiet magħmula taht dan l-Att b'kull diżgrazzja jew korriment jew b'kull marda konnessa max-xogħol, fuq post tax-xogħol li jkun taht il-kontroll tiegħu; u

(b) li jzomm registru b'dak il-mod li jista' jiġi preskritt, ta' kull diżgrazzja industrijali fuq dak il-post tax-xogħol.

9. Kemm-il darba mhux preskritt mod ieħor, għandha tkun ir-responsabbiltà tad-Direttur tax-Xogħol —

Responsabbiltajiet tad-Direttur tax-Xogħol.

(a) li japplika d-dispożizzjonijiet ta' dan l-Att u ta' kull regolament jew ordnijiet magħmula tahtu;

(b) li jagħmel, direttament jew permezz ta' haddieħor, l-investigazzjonijiet kollha ta' dak li jidhirlu xieraq —

(i) dwar livelli ta' saħħa jew sigurtà attwalment osservati jew li għandhom jiġu osservati jew dwar il-

prekawzjonijiet mehuda jew li ghandhom jittiehdu għall-prevenzjoni ta' diżgrazzji, korrimenti jew mard fuq post tax-xogħol partikolari jew f'kull kategorija ta' postijiet tax-xogħol, jew f'postijiet tax-xogħol in generali;

(ii) dwar kull materja oħra konnessa mas-saħħa jew is-sigurtà fuq post tax-xogħol jew postijiet tax-xogħol in generali;

(iii) sabiex tiġi stabbilita l-kawża ta' kull disgrazzja, korriment jew marda industrijali; u

(iv) dwar kull materja li għandha x'taqsam ma' l-implimentazzjoni u l-eżekuzzjoni ta' dan l-Att jew ta' kull regolamenti jew ordnijiet magħmulin tahtu.

L-ispetturi.

10. (1) Il-Ministru għandu jahtar spetturi, għall-implimentazzjoni generali u l-eżekuzzjoni ta' dan l-Att jew ta' kull regolamenti magħmula tahtu, kif ukoll biex jagħmlu dak ix-xogħol jew jassumu dawk ir-responsabbiltajiet li jistghu jiġu preskritti.

(2) L-ispetturi għandu jkollhom dawn is-setgħat —

(a) li jidhlu liberament u mingħajr pre-avviż, f'kull hin raġonevoli, f'kull post tax-xogħol;

(b) li jinterrogaw, waħedhom jew fil-preżenza ta' xhieda, inkluża dik il-persuna li, jekk ikun il-każ, tkun qed tressaq l-ilment, kull min ihaddem jew haddiem, inkluża kull persuna li tkun qed tagixxi għal min ihaddem jew li tkun qed tagħmel xi xogħol għalih, dwar kull materja li taqa' taht dan l-Att jew taht xi regolamenti magħmulin tahtu;

(c) li jispezzjonaw kull dokument li ż-żamma tiegħu hija preskritta b'dan l-Att jew b'regolamenti magħmula tahtu, jew kull dokument ieħor li jista' jitfa' dawl rigward is-saħħa u s-sigurtà fuq xi post partikolari tax-xogħol;

(d) li jiehdu pussess, wara li jhallu riċevuta, ta' kull oġġett meħtieġ biex jiġi mistharreġ jew biex jintuża bhala prova ta' disgrazzja, korriment jew mard fuq post tax-xogħol;

(e) li jeżaminaw jew jaraw li jiġu eżaminati l-postijiet tax-xogħol u kull oġġett li jkunu fihom, u li jiehdu kampjuni ta' materjali għall-eżami, għall-protezzjoni tas-saħħa u s-sigurtà fuq il-postijiet tax-xogħol;

(f) li jordnaw illi xejn ma jintmiss f'post tax-xogħol għaż-żmien raġonevolment neċessarju għall-iskop ta' xi eżami, investigazzjoni jew spezzjoni msemmija fil-paragrafi ta' qabel dan;

(g) li jesigū t-thaddim ta' kull tagħmir, makna, apparat, oġġett jew proċess kif ukoll it-thaddim ta' kull sistema jew proċedura li fil-fehma tagħhom jistghu jkunu rilevanti għal xi eżami, investigazzjoni jew spezzjoni msemmija fil-paragrafi (a) sa (e); u

(h) li jesigü minghand min ihaddem biex jipproduci a spejjez tieghu —

(i) ċertifikat iffirmit minn perit, dwar is-sigurtà ta' xi bini jew struttura inkluži strutturi temporanji;

(ii) ċertifikat iffirmit minn inginier mekkaniku jew ta' l-elettriku li jkollu *warrant* biex jipprattika l-professjoni tieghu dwar is-sigurtà ta' xi installazzjoni mekkanika jew elettrika skond il-każ, inkluża kull stallazzjoni temporanja;

(iii) ċertifikat mediku dwar is-saħħa fuq ix-xogħol ta' xi haddiem jew klassi ta' haddiema;

(iv) kull informazzjoni li jista' jkollha x'taqsam mas-saħħa u s-sigurtà fuq il-post tax-xogħol, inkluża informazzjoni dwar miżuri protettivi.

(3) Kull spettur għandu jinhariġlu dokument ta' identità iffirmit mid-Direttur tax-Xogħol u dan id-dokument għandu jintwera meta jsir xi eżami, investigazzjoni jew spezzjoni.

(4) Minkejja d-disposizzjonijiet ta' dan l-artikolu, min ihaddem jista' ma jġix imġieghel biex jipproduci ċertifikat mediku jew tagħrif ta' natura medika dwar xi persuna, kemm-il darba —

(i) dik il-persuna ma tagħtix il-kunsens tagħha għall-produzzjoni ta' dak id-dokument; jew

(ii) id-dokument ma jġix mogħti lil tabib.

(5) Spettur ma jistax jidhol f'post tax-xogħol li jkun f'dak iż-żmien użat bhala dar ta' abitazzjoni minghajr il-kunsens ta' min joqghod f'dik id-dar jew jekk ma jkunx akkumpanjat minn uffiċjal tal-pulizija ta' grad ta' mhux inqas minn dak ta' Spettur.

11. Spettur jista' jagħti ordni, bil-fomm jew bil-kitba, biex ihares is-saħħa jew is-sigurtà fuq il-post tax-xogħol, u kull persuna għandha tobdi l-ordni hekk mogħtija minnufih:

Ordnijiet mogħtija minn spetturi.

Iżda dik il-persuna li tirċievi l-ordni, kemm jekk haddiem kemm min ihaddem, tista' tiddefendi ruhha mill-akkuża li ma obdiex l-ordni jekk tipprova li t-twettieq ta' l-ordni kien ikun ta' ħsara immedjata għas-saħħa u sigurtà fuq ix-xogħol:

Iżda wkoll illi kull ordni mogħtija bil-fomm għandha tiġi konfermata bil-miktub u notifikata fi żmien tlett ijiem lill-persuna li tkun ingħatat.

12. (1) Spettur jista' jordna li post tax-xogħol jew parti minn post tax-xogħol jiġu mbarrati.

Arji mbarrati.

(2) Meta post tax-xogħol jew xi parti minnu jkun imbarrat, hadd m'għandu jidhol f'dak il-post jew parti mbarrata minghajr il-permess ta' l-ispettur.

(3) Iżda spettur jista' jordna wkoll li post jew parti minn post tax-xogħol precedentement imbarrat, jerga' jkun miftuħ għall-aċċess.

Appelli minn ordni ta' spettur.

13. (1) Kull persuna, sew jekk haddiem, min ihaddem jew terza persuna, li thoss ruħha aggravata b'ordni mogħtija minn spettur, tista' tappella minnha lill-Kummissjoni.

(a) L-appelli magħmula minn haddiema jew minn min ihaddem għandhom jiġu preżentati fi żmien tlett ijiem tax-xogħol mill-jum tan-notifika ta' l-ordni bil-miktub.

(b) Appelli magħmula minn terzi persuni għandhom jiġu preżentati fi żmien tlett ijiem tax-xogħol mill-jum li fih l-ordni relattiv isir magħruf mit-terza persuna.

(2) L-appell għandu jsir bil-miktub u għandu jiġi notifikat lis-Segretarju tal-Kummissjoni.

(3) Il-Kummissjoni għandha minnufih tirreferi l-appelli kollha li tirċievi lill-Kumitat Ġudizzjarju.

(4) Il-Kumitat Ġudizzjarju għandu jisma' lill-appellant, lill-ispettur, u x-xhieda li jinġiebu. Id-Direttur tax-Xogħol jista' jintervjeni f'kull appell u jagħmel is-sottomissjonijiet tiegħu u jipproduċi xhieda.

(5) Il-Kumitat Ġudizzjarju jista' jilqa' jew jiċhad l-appell u jista' wkoll jemenda in parti jew jibdel għal kollox ordni mogħtija minn xi spettur.

Protezzjoni ta' l-ispetturi.

14. (1) L-ispetturi għandhom jitqiesu li huma uffiċjali pubbliċi.

(2) Ebda persuna ma tista' timmolesta jew tfixkel spetturi fil-qadi tad-dmirijiet tagħhom jew tkisser jew tbaġħbas xi sigill magħmul, jew tagħmir ta' kontroll installat, imqiegħed jew imholli minnhom f'xi post tax-xogħol.

Obbligu ta' segretezza.

15. (1) Kull informazzjoni li tingħata lil jew li tiġi riċevuta minn spettur jew minn uffiċjal tal-Kummissjoni fl-eżekuzzjoni tad-dmirijiet u l-funzjonijiet tagħhom taħt dan l-Att għandha titqies li tkun għet mogħtija u riċevuta bl-obbligu li tinżamm sigrieta u li tiġi svelata biss lill-Kummissjoni:

Iżda dak li jiġi riferit lil terzi persuni għal skopijiet ta' investigazzjoni jew eżami xjentifiku, kif ukoll għal skopijiet ta' statistika uffiċjali, ma għandux jitqies li jkun sar bi ksur ta' l-obbligu tas-segretezza.

(2) Il-Kummissjoni fit-twettiq tal-funzjoni tagħha għandha tfittex li thares id-drittijiet għal proprjetà intellettuali u segretezza kummerċjali, u, sa fejn hu kompatibbli mal-funzjoni prinċipali tagħha, tassigura li ma jsirux pubbliċi informazzjonijiet li jistgħu jiksru dawn id-drittijiet.

(3) Meta l-Kummissjoni jew xi sotto-kumitat tagħha jew il-Kumitat Ġudizzjarju, jqisu illi seduta pubblika tista' tippregudika d-drittijiet ta' xi persuna għal proprjetà intellettuali jew segretezza kummerċjali, il-Kummissjoni jew sotto-kumitat jew Kumitat Ġudizzjarju, kif ikun il-każ, għandhom iżommu s-seduta bil-magħluq.

16. Bla preġudizzju għas-setgħat mogħtija bid-disposizzjonijiet ta' qabel ta' dan l-Att, u bla ħsara għad-disposizzjonijiet ta' l-artikolu 6, il-Ministru jista' jagħmel regolamenti għall-ħarsien tas-saħħa u s-sigurtà fuq il-post tax-xogħol, biex jistabbilixxi l-prekawzzjonijiet li għandhom jittiehdu għal dan l-iskop u, in ġenerali, bl-iskop li tiġi implimentata kull disposizzjoni ta' dan l-Att u, in partikolari, iżda mingħajr preġudizzju għall-ġeneralità ta' qabel, il-Ministru jista' jagħmel regolamenti —

Setgħa ta' hrug ta' regolamenti.

(a) li jistabbilixxu l-proċedura li għandha tiġi segwita mill-Kummissjoni, is-sotto-kumitati tagħha u l-Kumitat Ġudizzjarju;

(b) li jippreskrivu dak kollu li huwa meħtieġ jew li huwa awtorizzat li jiġi preskritt b'dan l-Att.

17. (1) Kull persuna li tagħxi bi ksur tad-disposizzjonijiet ta' l-artikoli 8, 11, 12 u 14 jew bi ksur ta' xi disposizzjoni ta' xi regolamenti magħmula taht dan l-Att, u kull persuna li tiftiehem jew tipprowa, jew li tgħin, thajjar, tagħti parir jew tqabbad lil xi persuna oħra, biex tikser id-disposizzjonijiet hawn imsemmija tkun hatja ta' reat kontra dan l-Att.

Reati.

(2) Kull persuna li tagħmel xi reat kontra dan l-Att tehel, meta tinsab hatja, il-piena ta' priġunerija għal żmien ta' mhux iżjed minn sentejn jew multa ta' mhux iżjed minn elfejn lira Maltija, jew dik il-multu u priġunerija flimkien u l-Qorti tista' wkoll, fuq it-talba tal-prosekuzzjoni, thassar il-liċenzi kollha jew liċenzi speċifiċi, *warrants* jew permessi maħruġa lil jew f'isem il-persuna misjuba hatja in konnessjoni mal-post tax-xogħol fejn ikun sar ir-reat.

(3) Minkejja d-disposizzjonijiet ta' l-artikolu 370 tal-Kodiċi Kriminali, proċedimenti għal reat kontra dan l-Att għandhom jittiehdu quddiem il-Qorti tal-Maġistrati (Malta) jew il-Qorti tal-Maġistrati (Għawdex), kif ikun il-każ, u għandhom ikunu skond id-disposizzjonijiet tal-Kodiċi Kriminali li jirregolaw il-proċedura quddiem l-imsemmija qrati bhala qrati ta' ġudikatura kriminali.

(4) F'kull proċedimenti msemmija fis-subartikolu ta' qabel dan, id-Direttur tax-Xogħol, jew kull uffiċjal tad-Dipartiment tiegħu jew kull spettur delegat mill-imsemmi Direttur, jista' jeżamina jew jikkontro-eżamina x-xhieda, jipproduċi provi, jagħmel sottomissjonijiet biex isostni l-akkuża u b'mod ġenerali jmexxi l-prosekuzzjoni f'isem il-pulizija, u d-dikjarazzjoni bil-ġurament ta' l-uffiċjal jew spettur li huwa ġie hekk delegat mid-Direttur tax-Xogħol għal dak il-ghan għandha tkun prova konklusiva ta' dak il-fatt.

(5) Minkejja d-disposizzjonijiet tas-subartikolu ta' qabel dan, id-Direttur tax-Xogħol u l-uffiċjal jew spettur delegat minnu jistgħu jingiebu bhala xhieda, iżda jekk ix-xiehda tagħhom tkun meħtieġa bhala parti mill-każ tal-prosekuzzjoni, huma għandhom jinstemghu qabel ma jibdew jaġixxu kif provdut fis-subartikolu (4) sakemm il-htieġa tax-xiehda tagħhom ma tinqalax sussegwentement.

(6) Minkejja d-disposizzjonijiet tal-Kodiċi Kriminali, l-Avukat Ġenerali għandu jkollu dejjem dritt għal appell lill-Qorti ta' l-Appell Kriminali minn kull deċiżjoni mogħtija mill-Qorti tal-Maġistrati (Malta) jew Qorti tal-Maġistrati (Għawdex) dwar proċedimenti għal reat kontra dan l-Att.

Thassir u riżerva.

18. (1) L-Ordinanza dwar il-Fabbriki hija b'dan imħassra.

(Kap. 107)

(2) Kull regolamenti magħmula taħt l-Ordinanza dwar il-Fabbriki għandhom, sakemm isir provvediment ieħor taħt jew bis-saħha ta' dan l-Att, jibqgħu fis-seħħ u għandu jibqa' jkollhom effett bhallikieku magħmula taħt dan l-Att u, minkejja kull haġa li tinsab f'dawk ir-regolamenti u fl-Ordinanza dwar il-Fabbriki dwar reati, pieni u proċedimenti kriminali, id-disposizzjonijiet tas-subartikoli (2) sa (6) ta' l-artikolu 17 ta' dan l-Att għandhom, *mutatis mutandis*, japplikaw għal dawk ir-regolamenti.

Tifsir.

19. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġx xort'ohra —

“haddiem” tfisser kull persuna li tagħmel xogħol fiżiku jew intellettuali għal, jew tipprovdi servizz lil, persuna oħra taħt kuntratt ta' servizz, u tinkludi haddiem ta' barra, persuna li timpjega lilha nnifisha, apprendist jew *trainee*;

“Kumitat Ġudizzjarju” tfisser il-Kumitat stabbilit bl-artikolu 5;

“Kummissjoni” tfisser il-Kummissjoni stabbilita bl-artikolu 3;

“min ihaddem” tfisser il-persuna li għaliha jsir xogħol jew jiġi mogħti servizz minn haddiem u

(a) fil-każ ta' azjenda kummerċjali, industrijali jew agrikola, jew ta' xi natura oħra, tinkludi d-diretturi, *managers*, soċji, proprjetarji jew kull persuna oħra responsabbli għall-*management* jew tregħija ta' l-azjenda kif ukoll il-persuni li attwalment ikunu jippossjedu, jokkupaw jew ikunu *de facto* inkarigati minn dawn l-entijiet;

(b) fil-każ ta' kull organizzazzjoni oħra, inklużi dawk volontarji jew kull xorta ta' impieg ieħor taħt kuntratt ta' servizz, tinkludi kull persuna li tidderiegi fuq kulhadd jew li tieħu hsieb it-tregħija ta' kuljum;

(c) fil-każ ta' xogħol magħmul taħt kuntratt għal servizzi, tfisser il-kuntrattur jew is-sub-kuntrattur iżda ma tinkludix id-diretturi, *managers*, soċji jew proprjetarji, okkupanti jew pussessuri jew il-persuna jew persuni li *de facto* jmexxu post tax-xogħol, hlief sal-limitu li għandu x`jaqsam ma għodda, materjal jew tagħmir provduti minnhom dwar xi difetti tagħhom jew fihom li kienu jafu bihom iżda ma żvelawhomx u li setgħu jkunu jafu bihom;

“Ministru” tfisser il-Ministru responsabbli għax-xogħol;

“post fejn isir ix-xoghol” u “post tax-xoghol” ifissru kull post f'Malta fejn haddiem jagħmel xogħol jew jipprovdi servizz għal min iħaddem, u mingħajr hsara għall-generalità ta' dan li ntqal qabel, jinkludu fabbrika, hanut, uffiċċju, tarzna, barriera, minjiera, sit tal-bini, struttura, triq, għalqa, razzett, baċir, vettura, ajruplan jew bastiment u jinkludu kull ajruplan jew bastiment reġistrat f'Malta jew li jkollu liċenza biex jaħdem minn Malta;

“preskritt” tfisser preskritt b'regolamenti magħmula taħt dan l-Att;

“spettur” tfisser spettur maħtur skond l-artikolu 10.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 234 tat-23 ta' Frar, 1994.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati.

I assent.

(L.S.)

CENSU TABONE
President
1st March, 1994

ACT No. VII of 1994

AN ACT for the Promotion of Occupational Health and Safety.

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

Short title
and
commencement.

1. (1) This Act may be cited as the Occupational Health and Safety (Promotion) Act, 1994.

(2) The following provisions of this Act shall come into force on such date as the Minister may appoint by notice in the Gazette, and different dates may be appointed for different provisions.

Declaration
of principles
and duties.

2. (1) The protection of occupational health and safety is to be considered of public interest.

(2) (a) It is the duty of an employer of any person to ensure that the work place is free from unnecessary hazards to health and from avoidable dangers to the physical and psychological integrity of workers.

(b) It is also the duty of an employer to ensure that any work process carried out on his order is free from unnecessary hazards to health and from avoidable dangers to the physical and psychological integrity of the workers employed by him and of any workers employed by a self-employed person, contractor or sub-contractor to whom the employer shall have assigned any work:

Provided that in the case of work assigned to a self-employed person, contractor or sub-contractor as aforesaid, the employer shall only be liable if he has provided facilities, including tools, equipment, knowhow, plans, or place of work, or the use of such facilities, and he is aware that such facilities, or the use

thereof, would ordinarily present a hazard or danger to health or safety.

(c) It is the duty of every worker in a place of work to safeguard the health and safety of other workers as well as his own.

(d) It is the duty of the Government to see that the levels of occupational health and safety protection established by regulations made under this Act are maintained.

(3) In assessing the hazards and dangers referred to in the foregoing subsection due regard shall be given to the inevitable necessity of exposure thereto of the persons employed to control and combat such hazards and dangers.

3. (1) There shall be a Commission for the Promotion of Occupational Health and Safety which shall consist of:—

(a) a president, appointed by the President of Malta;

(b) the Director of Labour and the Chief Government Medical Officer, as vice-presidents;

(c) a representative of the Employment and Training Corporation appointed by the said Corporation;

(d) a representative of the Commissioner of Police appointed by the said Commissioner;

(e) two persons appointed by the Minister to represent the interest of workers from amongst persons indicated by Trade Unions or organisations of Trade Unions; and

(f) two persons appointed by the Minister to represent the interest of employers from amongst persons indicated by organisations of employers.

(2) Five members shall constitute a quorum, provided that at least either the president or one of the two vice-presidents, and one of the persons mentioned in paragraph (e) and one of the persons mentioned in paragraph (f) of the foregoing subsection are present.

(3) The Minister shall appoint a person to act as Secretary of the Commission.

(4) The President of the Commission shall hold office for a term of three years while the other members of the Commission shall hold office for a term of one year, and the President and members of the Commission may be reappointed at the end of their respective term of office.

(5) The Commission shall meet at least once a month.

Commission
for the
Promotion of
Occupational
Health
and Safety.

(6) The Commission shall send, in the month of January of every year, its report for the preceding year to the Ministers responsible for Labour and Health and this report is to be laid on the table of the House of Representatives by the Minister responsible for Labour within one month.

Functions
of the
Commission.

4. (1) The Commission shall have consultative, informative and quasi-judicial functions.

(2) The Commission shall formulate and publish Codes of Practice, aimed at promoting a high level of safeguard of health and safety according to the different categories of work places.

(3) The Commission shall propose to the Minister those regulations which it deems should be in force so as to protect occupational health and safety, and different regulations may be proposed for different categories of work places.

(4) The Commission shall take the necessary measures so that all possible information be given at work places, also during apprenticeship or training, and to the public in general with regard to matters of occupational health and safety.

(5) The Commission shall promote scientific research aimed at better methods of prevention of occupational disease, injury or death.

(6) The Commission, through its Judicial Committee set up in terms of section 5, shall hear and decide upon appeals lodged in terms of section 13 against orders issued by inspectors appointed under this Act.

(7) The Commission shall have the duty to advise the Ministers responsible for Labour and for Health with regard to all matters of occupational health and safety.

(8) The Commission may be entrusted by the Ministers responsible for Labour or for Health with other functions concerning occupational health and safety.

(9) In the exercise of its functions under this Act, the Commission may set up sub-committees to deal with particular areas of competence and it may co-opt on such sub-committees from outside its membership competent persons who, in the opinion of the Commission, have a professional or expert knowledge on any matter dealt with under this Act, provided that when in a sub-committee a decision is taken by vote the co-opted members shall not vote.

The Judicial
Committee.

5. (1) The Commission shall appoint a Judicial Committee to hear and decide upon appeals from decisions of inspectors appointed under this Act.

(2) The Judicial Committee shall be composed of the President of the Commission who shall be *ex-officio* President of the Judicial Committee and four other members of the Commission:

Provided that one member shall be appointed from the members appointed in terms of paragraph (e) of subsection (1) of section 3 and another member from the members appointed in terms of paragraph (f) of subsection (1) of the said section:

Provided also that when the President of the Judicial Committee abstains from the hearing of any appeal, the Commission shall appoint one of its vice-presidents to preside over the Judicial Committee for the hearing of that appeal:

Provided further that when a member of the Judicial Committee abstains from the hearing of any appeal, the Commission shall appoint another member for the hearing of that appeal.

(3) The members appointed on the Judicial Committee shall continue to hold this office until the termination of their period of office on the Commission.

(4) The Minister shall appoint an Advocate or a Legal Procurator to act as Secretary of the Judicial Committee for a period of three years, which period may be renewed.

(5) (a) Saving the provisions of sub-section (3) of section 15, the Judicial Committee shall hold its sittings in public and, subject to any regulations made under section 16, shall conduct matters according to the general rules of procedure.

(b) The Judicial Committee shall have the right to seek expert advice as it may deem fit.

(c) The President of the Judicial Committee shall have the right to administer the oath and examine witnesses.

(d) The decisions of the Judicial Committee shall be in writing and shall be read out in public, be deemed final and conclusive and shall not be subject to review by the ordinary courts except on points of law or of natural justice.

6. (1) The Minister is bound to consult formally the Commission before making regulations as provided in section 16:

Duty of
Minister to
consult the
Commission.

Provided that the Minister may set a reasonable time which shall not be less than five days for the receipt of advice on proposed regulations, and if the Commission does not give its advice within that time he may proceed to publish those regulations:

Provided further that the Minister may, when he deems the matter urgent, give notice thereof to the Commission, and in default of the giving of advice within two days, he may proceed to publish those regulations.

(2) When the Minister receives expert advice on matters of occupational health and safety from outside the Department of Labour, he shall pass that advice to the Commission for consideration.

Duty of the Minister when Commission's advice is not accepted.

7. (1) Without prejudice to the provisions of the preceding section, the Minister shall, when making regulations, exercise his own discretion with regard to the best way to safeguard occupational health and safety, but when there exists substantial divergence from the opinion of the Commission, he shall state in writing to the Commission the reasons for his decision within three weeks from the publication of the regulations.

(2) When a Code of Practice does not conform with regulations made under this Act, the regulations shall prevail.

Duty of the employer.

8. (1) It shall be the duty in general of an employer to ensure that all reasonable measures and precautions have been taken:—

(a) to render every place of work under his control, free from all dangers to health and safety, so far as reasonably practical;

(b) so that the work environment in work places under his control is reasonably favourable to health and free from avoidable physical or psychological stress;

(c) to prevent industrial accidents, injuries and disease;

(d) to provide facilities at the place of work for first aid in case of accident or injury; and

(e) inform every worker therein about the dangers to health and safety in the workplace and about the best methods of prevention.

(2) It shall also be the duty of an employer:—

(a) to inform, in such mode or manner as may be prescribed, the Director of Labour or any person mentioned in this Act or in regulations or orders made under this Act of any industrial accident or injury, or of any work-connected disease, at a place of work under his control; and

(b) to keep a record, in such manner as may be prescribed, of all industrial accidents occurring at such place of work.

Responsibilities of the Director of Labour.

9. Unless otherwise prescribed, it shall be the responsibility of the Director of Labour:—

(a) to apply the provisions of this Act and of any regulations or orders made thereunder;

(b) to carry out, directly or through others, any investigations as he may deem fit:—

(i) on levels of health or safety actually being observed or expected to be observed or on the precautions taken or expected to be taken for preventing any accident, injury or disease at any particular place of work or at any category of places of work or at places of work in general;

(ii) on any other matter connected with health or safety at any place of work or places of work in general;

(iii) in order to establish the cause of any industrial accident, injury or disease; and

(iv) on any matter connected with the implementation and enforcement of the provisions of this Act or of any regulations or any orders made thereunder.

10. (1) The Minister shall appoint inspectors for the general implementation and enforcement of this Act or of any regulations made thereunder, as well as for performing such work or assuming such responsibilities as may be prescribed. Inspectors.

(2) Inspectors shall have the following powers:—

(a) to enter freely and without previous notice, at all reasonable times, any work place;

(b) to question, alone or in the presence of witnesses, including the person, if such is the case, putting forward the complaint, any employer or worker, including any person acting on behalf of any employer or carrying out work for him, on any of the matters falling under this Act or under any regulations made thereunder;

(c) to inspect any document the keeping of which is prescribed by this Act or by any regulations made thereunder, or any document which may throw light with regard to occupational health and safety at any particular place of work;

(d) to take possession, upon receipt therefor, of any object required for tests or evidence of any occupational accident, injury or disease;

(e) to examine or see to the examination of places of work and of any object therein, and to take samples of materials for examination, for the purpose of protecting occupational health and safety;

(f) to order that nothing be disturbed at a place of work for any period which is reasonably required for the purpose of any examination, investigation or inspection referred to in the foregoing paragraphs;

(g) to require the operation or the setting in motion of any equipment, machine, device, thing or process as well as the operation of any system or procedure which in their opinion may be relevant to any examination, investigation or inspection referred to in paragraphs (a) to (e); and

(h) to require any employer to provide at his expense:—

(i) a certificate signed by an architect and civil engineer, relating to the safety of any building or structure, including any temporary structures;

(ii) a certificate signed by a mechanical or electrical engineer having a warrant to practise his profession regarding the safety of any mechanical or electrical installation as the case may be, including any temporary installation;

(iii) a medical certificate relating to the occupational health of any worker or any class of workers;

(iv) any information relative to occupational health and safety, including information which refers to protective measures.

(3) An inspector shall be issued with an identification document signed by the Director of Labour and such document shall be produced at the time of any examination, investigation or inspection.

(4) Notwithstanding the provisions of this section, an employer may not be required to produce any medical certificate or record of a medical nature relating to any person unless:

(i) that person gives his consent to the production of such document; or

(ii) the document is produced to a medical officer.

(5) An inspector shall not enter a place of work which is at the time used as a dwelling house without the consent of the occupier, or unless he is accompanied by a police officer not below the rank of Inspector.

Orders issued by inspectors.

11. An inspector may give an order, verbally or in writing, to safeguard occupational health or safety, and every person shall obey such order forthwith:

Provided that the person who receives the order, whether worker or employer, may defend himself from the charge of having disobeyed the order if he proves that compliance with the order would have been of immediate detriment to occupational health and safety:

Provided further that any order given verbally shall be confirmed in writing and served upon the person to whom it was given within three days.

Barred areas.

12. (1) An inspector may order that a place of work or part of a place of work be barred.

(2) When a place of work or part thereof is barred, no person shall enter the barred area without the inspector's permission.

(3) Provided that an inspector may also order that a place of work or part thereof so barred, be re-opened for access.

Appeals from orders given by an inspector.

13. (1) Any person, whether worker, employer or third person, who deems himself aggrieved by an order given by an inspector, may appeal therefrom to the Commission.

(a) Appeals by workers or employers shall be lodged within three working days from the day of service of the order in writing.

(b) Appeals by third persons shall be lodged within three working days from the day when the relative order comes to the notice of the third person.

(2) The appeal is to be lodged in writing and served upon the Secretary of the Commission.

(3) The Commission shall forthwith refer all appeals received to the Judicial Committee.

(4) The Judicial Committee shall hear the appellant, the inspector and any witnesses produced. The Director of Labour may intervene in any appeal and make his own submissions and produce witnesses.

(5) The Judicial Committee may allow or reject the appeal and may also amend in part or alter completely an order given by an inspector.

14. (1) Inspectors shall be deemed to be public officers.

Protection of inspectors.

(2) No person shall molest or disturb inspectors in the performance of their duties or break or tamper with any seal made, or with any monitoring equipment installed, put up or left by them in a place of work.

15. (1) All information which is passed to or received by an inspector or an official of the Commission in the performance of their duties and functions under this Act shall be deemed to have been given and received under the obligation of secrecy and to be disclosed only to the Commission:

Secrecy obligation.

Provided that what is referred to third persons for purposes of investigation or scientific testing, as well as for official statistical purposes, shall not be deemed to breach the obligation of secrecy.

(2) The Commission, in the fulfilment of its function shall strive to safeguard the rights to intellectual property and business secrecy, and it shall ensure, as far as compatible with its primary function, that information which may infringe these rights is not divulged.

(3) Where the Commission or any of its subcommittees, or the Judicial Committee, is of the opinion that the holding of any sitting in public would prejudice the rights of any person to intellectual property or business secrecy, the Commission or subcommittee or Judicial Committee, as the case may be, shall hold the sitting with closed doors.

16. Without prejudice to the powers conferred by the foregoing provisions of this Act, and subject to the provisions of section 6, the

Power to make regulations.

Minister may make regulations for safeguarding occupational health and safety, for determining the precautions to be taken for this purpose and generally for the purpose of carrying into operation any of the provisions of this Act, and in particular but without prejudice to the generality of the foregoing, the Minister may make regulations:—

- (a) establishing the procedure to be followed by the Commission, its subcommittees and the Judicial Committee;
- (b) prescribing anything that is required or authorised by this Act to be prescribed.

Offences.

17. (1) Any person who acts in contravention of the provisions of sections 8, 11, 12 and 14 or in contravention of any of the provisions of any regulations made under this Act, and any person who conspires or attempts, or aids, abets, counsels or procures any other person, to contravene the provisions aforementioned shall be guilty of an offence against this Act.

(2) Any person who commits an offence against this Act shall, on conviction, be liable to imprisonment for a period of not more than two years or to a fine (*multa*) of not more than two thousand Maltese liri, or to both such fine and imprisonment; and moreover the court may, at the request of the prosecution, cancel all or specific licences, warrants or permits issued to or in the name of the person found guilty in connection with the place of work where the offence was committed.

(3) Notwithstanding the provisions of section 370 of the Criminal Code, proceedings for an offence against this Act shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

(4) In any proceedings referred to in the foregoing subsection it shall be lawful for the Director of Labour, or for any officer of his Department or any inspector deputed by the said Director, to examine or cross-examine witnesses, produce evidence, make submissions in support of the charge and generally conduct the prosecution on behalf of the police, and the sworn statement of the officer or inspector that he has been deputed by the Director of Labour for that purpose shall be conclusive evidence of that fact.

(5) Notwithstanding the provisions of the foregoing subsection the Director of Labour and the officer or inspector deputed by him may be produced as witnesses but should their evidence be required as part of the case for the prosecution they shall be heard before they commence to act as provided in subsection (4) unless the necessity of their evidence arises subsequently.

(6) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against this Act.

18. (1) The Factories Ordinance is hereby repealed.

Repeal and
Saving.

(2) Any regulations made under the Factories Ordinance shall, until other provision is made under or by virtue of this Act, continue in force and have effect as if made under this Act and, notwithstanding anything contained in those regulations and in the Factories Ordinance with regard to offences, punishments and criminal proceedings, the provisions of subsections (2) to (6) of section 17 of this Act shall, *mutatis mutandis*, apply to those regulations.

Cap. 107.

19. In this Act, unless the context otherwise requires:—

Interpretation.

“Commission” means the Commission established by section 3;

“employer” means the person for whom work or service is performed by a worker and

(a) in relation to a commercial, industrial, agricultural or other enterprise, includes the directors, managers, partners, owners or any other person responsible for the management and direction thereof as well as the persons actually possessing, occupying or *de facto* in charge of such entities;

(b) in relation to all other organisations including voluntary ones or any other form of employment under a contract of service includes any of the persons in overall direction and day to day management;

(c) in relation to work performed under a contract for services means the contractor or subcontractor but shall not include the directors, managers, partners or owners, occupiers or possessors or the person or persons *de facto* in charge, except to such extent as regards any tools, materials or equipment provided by them with regard to any defects thereof or therein known and not declared and could have been known;

“inspector” means an inspector appointed under section 10;

“Judicial Committee” means the Committee established by section 5;

“Minister” means the Minister responsible for labour;

“prescribed” means prescribed by regulations made under this Act;

“worker” means any person who performs physical or intellectual work for, or provides service to, another person under a contract of service, and includes an outworker, a self-employed person, an apprentice and a trainee;

“work place” and “place of work” mean any place in Malta wherein a worker performs or provides service for an employer, and without prejudice to the generality of the foregoing, include a factory, shop, office, yard, quarry, mine, building site, structure, road, field, farm, dock, vehicle, aircraft or vessel and include any aircraft or vessel registered in Malta or licensed to operate from Malta.

Passed by the House of Representatives at Sitting No. 234 of 23rd February, 1994.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives.