

## MALTA

### **ATT Nru. XXVIII ta' l-1994**

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

**ATT biex jipprovdi ghat-twaqqif u l-funzjonijiet tal-kariga ta' Direttur għall-Affarijiet tal-Konsumatur u ghat-twaqqif ta' Kunsill għall-Affarijiet tal-Konsumatur u ta' tribunali li jkunu magħrufa bħala t-Tribunali għal Talbiet tal-Konsumaturi, u dwar hwej-jeġ ohra li għandhom x'jaqsmu ma' dan jew johorġu b'konsegwenza minnu.**

### **ACT No. XXVIII of 1994**

AN ACT enacted by the Parliament of Malta.

**AN ACT to provide for the establishment and functions of the office of Director of Consumer Affairs and for the establishment of a Consumer Affairs Council and of tribunals to be known as the Consumer Claims Tribunals, and for other matters ancillary or consequent thereto.**

Naghti l-kunsens tieghi

(L.S.)

UGO MIFSUD BONNICI  
President

2 ta' Diċembru, 1994

**ATT Nru. XXVIII ta' l-1994**

*ATT biex jipprovdi għat-twaqqif u l-funzjonijiet tal-kariga ta' Direttur għall-Affarijiet tal-Konsumatur u għat-twaqqif ta' Kunsill għall-Affarijiet tal-Konsumatur u ta' tribunali li jkunu magħrufa bhala t-Tribunali għal Talbiet tal-Konsumaturi, u dwar hwejjeġ oħra li għandhom x'jaqsmu ma' dan jew jorġu b'konsegwenza minnu.*

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:—

**TAQSIMA I**

**Preliminari**

1. (1) Dan l-Att jista' jissejjaħ l-Att ta' l-1994 dwar l-Affarijiet tal-Konsumatur.

Titolu fil-qosor  
u bidu fis-sehh.

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-affarijiet tal-konsumatur jista' b'avviż fil-Gazzetta jstabbilixxi, u jistgħu jigu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

2. F'dan l-Att kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'oħra —

Tifsir.

“Dipartiment” tfisser id-Dipartiment għall-Affarijiet tal-Konsumatur;

“Direttur” tfisser id-Direttur għall-Affarijiet tal-Konsumatur;

“fond” tfisser kull imkien mnejn jitmexxa jew isir kull kummerċ jew negozju, maghduda posta jew vettura;

“konsumatur” tfisser kull individwu li mhux bħala parti minn xi kummerċ, negozju jew professjoni, jixtri jew jikri oġġetti minghand kummerċjant jew iqabbad is-servizzi ta’ kummerċjant bi hlas jew rikompens;

“kummerċjant”:

(a) tfisser kull persuna, inkluż korp magħqud jew mhux magħqud, li bi twettiq ta’ kummerċ jew negozju tbiegħ jew tikri, jew toffri li tbiegħ jew tikri, oġġetti jew servizzi bi profitt jew qliegħ lill-konsumatur;

(b) tfisser kull dipartiment tal-gvern, korporazzjoni pubblika, awtorità jew organizzazzjoni li jipprovdu oġġetti jew servizzi lill-konsumatur bi hlas, hekk kif il-Prim Ministru jista’ minn żmien għal żmien jistabbilixxi b’avviż fil-Gazzetta; u

(ċ) għall-finijiet ta’ l-artikoli 7, 9, 12 u s-subartikolu (3) ta’ l-artikolu 14, tinkludi kull impjegat jew kull persuna oħra li tagħxi għal dawk li jidhru qabel;

“Kunsill” tfisser il-Kunsill għall-Affarijiet tal-Konsumatur imwaqqaf taħt it-Taqsima II ta’ dan l-Att;

“Ministru” tfisser il-Ministru responsabbli għall-affarijiet tal-konsumatur;

“għaqda ta’ konsumaturi” tfisser korp volontarju ta’ persuni li l-għan ewlieni tiegħu hu l-promozzjoni ta’ protezzjoni jew edukazzjoni tal-konsumatur;

“għaqda ta’ konsumaturi registrata” tfisser għaqda ta’ konsumaturi registrata skond it-Taqsima IV ta’ dan l-Att;

“oġġetti” tinkludi kull animal ta’ liema speċi ikun sew jekk haj jew mejjet;

“residenti permanenti” tfisser persuna li jkun inħarġilha permess għal residenza skond l-artikolu 7 ta’ l-Att dwar l-Immigrazzjoni;

“Tribunal” tfisser Tribunal għal Talbiet tal-Konsumaturi mwaqqaf taħt it-Taqsima III ta’ dan l-Att.

## TAQSIMA II

**Direttur għall-Affarijiet tal-Konsumatur u  
Kunsill għall-Affarijiet tal-Konsumatur**

3. (1) Ikun hemm Direttur għall-Affarijiet tal-Konsumatur li jkun uffiċjal pubbliku mahtur mill-Prim Ministru għal dak il-ghan. Twaqqif tal-kariga ta' Direttur għall-Affarijiet tal-Konsumatur.

(2) Il-funzjonijiet ta' Direttur għall-Affarijiet tal-Konsumatur, (hawnhekk iżjed 'il quddiem f'dan l-Att imsejjah "id-Direttur") għandhom ikunu sabiex iwettaq il-*policy* stabbilita mill-Ministru, sew personalment jew permezz ta' uffiċjali pubbliċi fid-Dipartiment għall-Affarijiet tal-Konsumatur u għandhom jinkludu:

(a) l-ghoti ta' tagħrif u *guidelines* lill-pubbliku dwar hwejjeg li jolqtu l-interessi tal-konsumaturi;

(b) is-sorveljanza ta' kull konswetudni kummerċjali dwar il-provvista ta' oġġetti u servizzi lill-konsumaturi, u sabiex iwettaq u biex jiehu passi sabiex iwarrab u jara li ma jsirux konswetudnijiet kummerċjali li jistgħu jkunu ta' detriment għall-konsumaturi;

(ċ) l-investigazzjoni ta' ilmenti li jsiru minn konsumaturi dwar il-provvista ta' oġġetti u servizzi u sabiex jaġixxi daqskemm hu fis-setgħa tiegħu li jagħmel dan sabiex jirrimedja kull ilment ġustifikat li jista' jsir jaf bih;

(d) l-ghajnuna li tingħata lill-Kunsill għall-Affarijiet tal-Konsumatur fit-twettiq tal-funzjonijiet u d-dmirijiet tiegħu u l-ghoti ta' dak it-tagħrif li jista' jenhtieg mill-Kunsill dwar it-twettiq ta' dmirijietu; u

(e) it-twettiq ta' kull funzjoni jew dmir iehor li jkun assenjat jew li jista' jiġi assenjat lilu taht dan l-Att jew kull liġi oħra.

(3) Ebda haġa f'dan l-Att ma għandha tiftihem li tagħti lil konsumatur xi jedd li jehtieg mingħand id-Direttur xi parir dwar xi haġa speċifikata jew ġenerali jew li d-Direttur jaġixxi f'ismu u fl-interess tiegħu f'xi tilwima jew haġa partikolari ma' kummerċjant jew wiehed li jipprovi servizzi, quddiem xi qorti, tribunal jew band'oħra.

(4) Id-Direttur jista' jawtorizza bil-miktub lil kull uffiċjal pubbliku li jkun fid-Dipartiment sabiex iwettaq funzjonijiet mogħtija lid-Direttur bis-saħħa ta' dan l-Att jew ta' kull liġi oħra.

4. (1) Ikun hemm Kunsill magħruf bħala "il-Kunsill għall-Affarijiet tal-Konsumatur" li jkollu l-funzjonijiet u d-dmirijiet stabbiliti b'dan l-Att. Il-Kunsill ikun magħmul minn *Chairman*, *Vici Chairman*, u hames membri oħra. Kunsill għall-Affarijiet tal-Konsumatur.

(2) Il-Ministru għandu jappunta:

(a) iċ-*Chairman* u erba' membri oħra minn fost persuni li, minhabba l-esperjenza, il-kwalifiki jew l-attivitajiet tagħhom, fil-fehma tal-Ministru jistgħu jikkontribwixxu għall-promozzjoni ta' l-interessi tal-konsumatur;

(b) lid-Direttur bħala Viċi *Chairman*; u

(ċ) membru wieħed li, minhabba esperjenza, il-kwalifiki jew l-attivitajiet tiegħu, il-Ministru jqis li jista' jgħib 'il quddiem il-fehma tal-kummerċjanti.

(3) Wieħed mill-membri, mhux iċ-*Chairman*, imsemmija fil-paragrafu (a) tas-subartikolu (2) ta' dan l-artikolu għandu jiġi appuntat wara konsultazzjoni ma' dawk l-għaqdiet tal-konsumatur, jekk ikun hemm, li jkunu ġew irregistrati taħt it-Taqsima IV ta' dan l-Att, u l-membri msemmi fil-paragrafu (ċ) ta' l-istess subartikolu għandu jiġi appuntat wara konsultazzjoni ma' dawk l-organizzazzjonijiet kostitwiti li l-Ministru jqis bħala li jirrappreżentaw l-interess tal-kummerċjant.

(4) Il-membri mahturin għandhom jibqgħu fil-kariga għal dak iż-żmien, li ma jkunx iktar minn tliet snin, hekk kif jista' jiġi stabbilit fl-ittra tal-hatra tagħhom u jkunu jistgħu jergħu jinhatru.

(5) Meta l-post ta' membru mahtur ma jibqax jiġi okkupat qabel tmiem iż-żmien stabbilit fl-ittra tal-hatra tiegħu, il-Ministru jahtar persuna oħra sabiex toqgħod minflok dak il-membri għal dak iż-żmien, li ma jkunx żmien aktar minn tliet snin hekk kif il-Ministru jista' jistabbilixxi fl-ittra tal-hatra tiegħu.

(6) Il-Viċi *Chairman* jagħmilha minflok iċ-*Chairman* kull meta iċ-*Chairman* ma jkunx jista' legittimament jattendi jew inkella jkun assenti minn laqgħa tal-Kunsill.

(7) Persuna ma tkunx tista' tinhatar membru tal-Kunsill, jew tibqa' membru tal-Kunsill jekk dik il-persuna:

(a) tkun membru tal-Kamra tad-Deputati; jew

(b) tkun membru ta' Kunsill Lokali; jew

(ċ) tkun inabilitata jew interdetta skond il-liġi; jew

(d) tkun għet dikjarata falluta jew tkun għamlet kompożizzjoni mal-kredituri tagħha; jew

(e) tkun instabet hatja ta':

(i) reat li jolqot il-fiduċja pubblika; jew

(ii) serq; jew

(iii) frodi; jew

(iv) li tkun xjentement laqgħet għandha oġġetti misruqa jew miksuba bi frodi; jew

Kap. 39 (v) xi reat maħsub f'dan l-Att, fl-Ordinanza dwar l-  
 Kap. 37 Użin u l-Kejl, fl-Ordinanza tad-Dwana, fl-Att dwar  
 Kap. 313 Deskrizzjonijiet Kummerċjali, fl-Att dwar Bejjiegħa Bieb  
 Kap. 317 b'Bieb, jew f'kull liġi mħassra minn xi wieħed mill-Atti jew  
 Ordinanze msemmija jew b'kull liġi li tidhol minflokhom.

(8) Minkejja kull dispożizzjoni oħra ta' dan l-artikolu l-Ministru jista' f'kull żmien itemm il-hatra ta' membru maħtur jekk fil-fehma tiegħu dak il-membru maħtur ma jkunx iktar kapaċi li jibqa' jzomm il-kariga tiegħu jew ikun sar inkapaċi li jibqa' jwettaq sew il-funzjonijiet tiegħu.

(9) Il-Ministru jahtar uffiċjal li jkun iwettaq dmirijietu fid-Dipartiment sabiex jagħmilha ta' Segretarju tal-Kunsill mingħajr jedd ta' vot.

5. (1) Tkun il-funzjoni tal-Kunsill —

Funzjonijiet  
 tal-Kunsill.

(a) li jagħti parir lill-Ministru dwar kif jagħmel il-*policy* li għandu jimxi biha d-Direttur fit-twettiq tal-funzjonijiet tiegħu taht din il-liġi jew kull liġi oħra;

(b) li jagħti parir u jgħin lill-Ministru fuq il-miżuri għall-promozzjoni u l-protezzjoni ta' l-interessi tal-konsumaturi;

(ċ) li jissorvelja u jiskrutinja kull konswetudni ta' kummerċ u ta' negozju li għandha x'taqsam mal-provvista ta' oġġetti u servizzi lill-konsumaturi u ma' attivitajiet li għandhom x'jaqsmu ma' dan jew anċillari għalih;

(d) fuq talba tal-Ministru li jagħmel jew jinkariga li jsir kull studju jew riċerka li jistgħu jenhtiegu biex igibu 'l quddiem il-protezzjoni tal-konsumatur;

(e) li jissorvelja l-hdim u t-twettiq ta' liġijiet li sew b'mod dirett jew mhux dirett jolqtu l-konsumatur f'Malta;

(f) li jirredigi u jirrevedi direttivi dwar il-protezzjoni tal-konsumatur u l-inqas livelli dwar servizzi sabiex iressaqhom quddiem il-Ministru;

(g) li jissorvelja l-iżvilupp ta' għaqdiet ta' konsumaturi f'Malta, u li jirredigi u jirrevedi regoli ta' Prattika għal għaqdiet ta' konsumaturi registrati sabiex iressaqhom quddiem il-Ministru;

(h) li jeżamina u jaqta' dwar jekk għaqda ta' konsumaturi ikollhiex il-htigiet biex tkun għaqda ta' konsumaturi registrata skond dan l-Att; u

(i) li jwettaq kull funzjoni oħra jew dmir iehor li jistgħu jingħatawlu mill-Ministru jew li jistgħu jingħataw lill-Kunsill b'din il-liġi jew b'kull liġi oħra.

(2) (a) Il-Kunsill jista', bi ftehim mal-Ministru, minn żmien għal żmien jistabbilixxi dawk il-kummissjonijiet konsultivi li jista' jqijs li jkunu meħtieġa sabiex jgħinuh fil-funzjonijiet tiegħu.

(b) Il-kummissjonijiet ikollhom funzjoni konsultiva u li jagħtu pariri, u r-riżultanzi jew ir-rakkomandazzjonijiet tagħhom ma għandhomx jobbligaw lill-Kunsill jew lill-Ministru b'ebda mod.

(ċ) Kull kummissjoni mwaqqfa taħt dan is-subartikolu għandha tkun magħmula minn żewġ persuni jew iżjed nominati mill-Kunsill u minn għadd indaq ta' persuni oħra nominati minn organizzazzjonijiet jew individwi li jirrappreżentaw l-interess tal-fergħa jew settur tal-kummerċ jew negozju li dik il-Kummissjoni tkun twaqqfet għar-rigward tagħhom. Kummissjoni għandha f'kull każ tkun presjeduta minn membru tal-Kunsill.

(d) Kummissjoni għandha sservi bhala mezz ta' komunikazzjoni bejn fergħa jew settur kummerċjali li dwaru dik l-istess kummissjoni tkun twaqqfet u l-Kunsill, u għandha tipprova twaqqaf u ttrisolvi sitwazzjonijiet li jistgħu jinqalghu ta' konflitti ta' ideat u interessi bejn il-konsumaturi u l-kummerċjanti f'dik il-fergħa jew f'dak is-settur partikolari.

Tmexxija  
tax-xogħol  
tal-Kunsill.

6. (1) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, il-Kunsill għandu jirregola l-proċedura tiegħu stess.

(2) Il-Kunsill jiltaqa' kemm il-darba jkun meħtieġ iżda f'ebda każ inqas minn darba kull xahar kalendarju. Il-laqgħat jissejhu miċ-*Chairman* jew fin-nuqqas tiegħu mill-*Viċi Chairman*, sew b'inizjattiva tiegħu, jew fuq talba ta' tliet membri oħra tal-Kunsill.

(3) F'laqgħa tal-Kunsill *quorum* jintgħamel miċ-*Chairman*, jew mill-*Viċi Chairman* fin-nuqqas tiegħu, u minn tliet membri oħra.

(4) Id-deċiżjonijiet tal-Kunsill għandhom jittiehdu bil-maġġoranza tal-voti tal-membri preżenti u votanti, filwaqt li ċ-*Chairman* ikollu vot oriġinali u fil-każ ta' voti ndaq, vot iehor jew *casting vote*.

(5) Il-Kunsill xorta jista' jiffunzjona minkejja kull vakanza fost il-membri tiegħu.

(6) Membru tal-Kunsill li f'xi kwistjoni li tkun quddiem il-Kunsill ikollu xi interess konfligġenti mal-kariga tiegħu ta' membru tal-Kunsill għandu jiddikjara x-xorta ta' interess li jkollu u jirtira minn kull laqgħa tal-Kunsill li matulha tkun qed tiġi diskussa dik il-kwistjoni. Kull dikjarazzjoni għandha tiġi registrata fil-minuti tal-laqgħa.

Kodiċijiet  
u livelli.

7. (1) Il-Ministru jista' wara li jikkonsulta l-Kunsill minn żmien għal żmien jagħmel regolamenti li bihom jistabbilixxi:

(a) direttivi dwar protezzjoni tal-konsumatur għar-rigward tal-ghoti ta' xi servizz, jew bejgħ jew kiri ta' xi oġġett lill-konsumaturi;

(b) il-livell minimu ta' servizz ghar-rigward ta' l-ghoti ta' xi servizz lill-konsumaturi; u

(c) regoli ta' Prattika għal għaqdiet ta' konsumaturi registrati.

(2) Regolamenti li jsiru taht is-subartikolu (1) ta' dan l-artikolu jistgħu b'mod partikolari jipprovdu għall-konsegwenzi, magħdud il-jedd li ssir rexxissjoni ta' kull bejgħ u kuntratt għall-ghoti ta' servizzi, u għall-annullament ta' klawzoli partikolari f'kuntratti ta' bejgħ jew kiri jew għall-ghoti ta' servizzi li jkunu jiksru d-direttivi dwar protezzjoni tal-konsumatur jew meta s-servizzi jkunu inqas mil-livell ta' servizzi kif jista' jiġi stabbilit; dawk ir-regolamenti jistgħu b'mod partikolari jipprovdu dwar reati li jsiru bil-ksur ta' l-istess regolamenti u l-piena għal dawk ir-reati ma għandha f'ebda każ tkun iktar minn multa ta' iżjed minn elf lira Maltija.

8. (1) Id-Direttur jista', bi qbil mal-Kunsill, fuq inizjattiva tiegħu jew fuq proposta tal-Kunsill, jagħmel jew johroġ avviż pubbliku li fih jidentifika u jwissi jew jgħarraf dwar xi haġa minn dawn li ġejjin:

Dikjarazzjonijiet ta' avviż pubbliku.

(a) oġġetti li mhumiex tajba biżżejjed jew li huma perikolużi u persuni li jfornu dawk l-oġġetti;

(b) servizzi li jingħataw b'mod mhux sodisfaċenti u persuni li jfornu dawk is-servizzi;

(c) kull Prattika ta' kummerċ li hi ta' detriment għall-interessi ta' konsumaturi u ta' persuni li jieħdu sehem f'kull Prattika bħal dik; u

(d) kull haġa oħra li tolqot jew tista' tolqot hażin kull interess tal-konsumaturi f'dak li għandu x'jaqsam max-xiri ta' oġġetti jew l-ghoti ta' servizzi minn kummerċjanti.

(2) Meta jintgħamel jew jinhareġ avviż skond kif hemm fis-subartikolu (1), id-Direttur għandu jsegwi il-prinċipji tas-sewwa u ta' l-oġġettività.

(3) Kemm il-Gvern, id-Direttur kif ukoll kull uffiċjal pubbliku li jagħxi fuq istruzzjonijiet mogħtija mid-Direttur jew taht l-awtorità tiegħu, ikunu eżenti minn kull responsabbiltà legali għal kull ma jkun sar *bona fide* bi twettiq ta' dan l-artikolu mid-Direttur jew minn kull uffiċjal pubbliku kif imsemmi qabel. Din l-eżenzjoni tapplika għall-persuni kollha li jippubblikaw, jistampaw, jirreġistraw, ixandru jew jikkomunikaw dik l-informazzjoni b'kull mod li jkun.

9. (1) Kemm-il darba ma jkollux il-kunsens bil-miktub tad-Direttur, kummerċjant ma għandux jagħmel jew iġieghel lil min jagħmel xi deskrizzjoni f'għamla li tidher jew li tinstama', sew b'mod speċifiku jew billi hekk jiftihem, li tkun tisser illi:

Isem il-Kunsill jew Dipartiment ma għandux jintuza f'xi reklam.

(a) xi oġġetti jew servizzi fornuti minn xi kummerċjant ikollhom l-approvazzjoni ta' xi awtorità stabbilita bis-saħha ta' dan l-Att; jew

(b) xi attività mwettqa minn xi kummerċjant ikollha l-approvazzjoni, jew tkun qeghda titmexxa bil-ko-operazzjoni jew ghajnuna ta' xi awtorità imwaqqfa bis-saħha ta' dan l-Att.

(2) Meta ssir referenza għal isem tal-kummerċjant, isem kummerċjali, *trade-mark* jew it-tismija ta' oġġetti jew servizzi provduti jew fornuti minn kummerċjant, bhala li għandhom x'jaqsmu ma' deskrizzjoni msemmija fis-subartikolu (1) ta' dan l-artikolu, dak il-kummerċjant għandu jitqies għall-finijiet ta' dan l-artikolu bhala li kien il-persuna responsabbli għall-għemil tad-deskrizzjoni, kemm-il-darba ma jgibx prova li d-deskrizzjoni tkun saret mingħajr ma hu kien jaf biha jew li hu kellu x'jaqsmu ma' l-għemil tagħha.

(3) Meta kummerċjant jinsab ħati taht dan l-artikolu, huwa jista' jehel multa ta' mhux anqas minn ħamsin lira Maltija u mhux iżjed minn elf lira Maltija jew għal żmien ta' prigunerija ta' mhux iżjed minn sitt xhur jew għal dik il-multa u prigunerija flimkien.

Responsabbiltà ta' kummerċjant għal dak li jagħmlu l-impjegati tiegħu, eċċ.

**10.** Meta reat bi ksur ta' dan l-Att jew ta' kull regolament magħmul bis-saħha tiegħu jsir minn impjegat jew minn persuna oħra li taġixxi f'isem kummerċjant, il-kummerċjant ikun ħati wkoll tar-reat li jkun sar mill-impjegat jew mill-persuna l-oħra li tkun qed taġixxi f'ismu kemm-il darba ma jippruvax li jkun wettaq kull diligenza raġonevoli sabiex jipprevjeni t-twettiq tar-reat mill-impjegat jew mill-persuna l-oħra li tkun qed taġixxi f'isem il-kummerċjant.

Kunfidenzjalità.

**11.** (1) Kull min ikun jew f'xi żmien kien membru tal-Kunsill jew ta' xi Kummissjoni konsultiva mwaqqfa bis-saħha ta' dan l-Att, id-Direttur, jew uffiċjal pubbliku mad-Dipartiment ma għandhomx, kemm-il darba dan ma jkunx fit-twettiq ta' dmirijietu jew funzjonijiet taht dan l-Att jew taht kull liġi oħra, jew meta jkun imiss lilu li jagħmel dan bis-saħha ta' dispożizzjoni ta' dan l-Att jew ta' xi liġi oħra, sew b'mod dirett jew mhux dirett jikkomunikaw tagħrif li jkunu saru jafu bih b'effett tal-fatt li kellu dik il-kariga jew uffiċju.

(2) Ebda haġa fis-subartikolu (1) ta' dan l-artikolu ma għandha tiftihem bhala li tipprojbixxi d-Direttur jew kull uffiċjal pubbliku iehor mad-Dipartiment milli jikkomunika lill-konsumatur, li l-ilment tiegħu dwar xi haġa jkun ġie investigat mid-Direttur, tagħrif dwar xi haġa li jkun sar jaf biha b'riżultat ta' l-investigazzjoni tiegħu.

(3) Mingħajr preġudizzju għal kull responsabbiltà oħra taht xi liġi oħra, kull min jikser dan l-artikolu jehel, meta jinsab ħati, multa ta' mhux anqas minn ħamsin lira Maltija u ta' mhux iżjed minn elf lira Maltija, jew għal prigunerija ta' mhux iżjed minn sitt xhur, jew għal dik il-multa u prigunerija flimkien.

Garanziji.

**12.** (1) Meta d-Direttur jidhirlu li kummerċjant ikun ġab ruhu bi ksur tar-regolamenti taht l-artikolu 7 jew taht id-dispożizzjonijiet ta' l-artikolu 9 ta' dan l-Att, jew li jkun naqas li jikkonforma ma' dawk ir-regolamenti, id-Direttur jista', fid-diskrezzjoni tiegħu, minflok ma jibda proċedimenti kontra l-kummerċjant taht ir-regolament relattiv, jammonixxi lill-kummerċjant u jikseb mingħandu garanzija bil-miktub li l-kummerċjant sa jieqaf milli jkompli jgib ruhu skond ma hemm miktub

fil-garanzija għal dak iż-żmien li ma jkunx iktar minn tliet snin, skond ma jiġi speċifikat mid-Direttur.

(2) Id-Direttur ma jibdiex proċedimenti kontra kummerċjant meta l-kummerċjant ikun temm iġib ruħu b'dak il-mod u jkun ta l-garanzija msemmija.

(3) Id-Direttur għandu jzomm registru għall-garanziji magħmula taht dan l-artikolu, liema registru għandu jinżamm fl-uffiċċju prinċipali tad-Dipartiment u kull persuna tkun tista' tara r-registru matul dawk il-hinijiet li jkunu stabbiliti mid-Direttur.

(4) Kummerċjant li jikser garanzija magħmula skond dan l-artikolu ikun hati ta' reat u meta jinsab hati jehel multa ta' mhux inqas minn hamsin lira Maltija u mhux iżjed minn elf lira Maltija u għandu f'kull każ jibqa' marbut bil-garanzija għaž-żmien li jifdal mill-perijodu tagħha.

**13.** (1) Proċedimenti dwar reat kontra dan l-Att jista' biss jinbeda fuq istanza tad-Direttur. Proċedimenti.

(2) F'kull proċediment imsemmi fis-subartikolu (1) ta' dan l-artikolu, id-Direttur jista', minkejja kull dispożizzjoni ta' kull liġi oħra, imexxi l-prosekuzzjoni fil-Qorti tal-Maġistrati.

(3) Fil-każ li tkun tenhtieg ix-xhieda tad-Direttur bhala parti mill-każ għall-prosekuzzjoni, huwa għandu jinstama' qabel kull xhud iehor, sakemm il-htieġa li jagħti x-xhieda tiegħu ma tokkorrix fi stadju ulterjuri tal-proċedimenti.

**14.** (1) Fuq talba wkoll verbali ta' konsumatur aggravat jew ta' l-uffiċjal prosekutur f'ismu, il-Qorti għandha meta l-akkużat jinsab hati ta' reat kontra xi regolament magħmul taht l-artikolu 7 ta' dan l-Att, tohroġ ordni ta' kumpens li bih il-misjub hati għandu jkun ordnat ihallas lill-konsumatur aggravat bhala kumpens shih jew parzjali: Ordnijiet ta' kumpens.

(a) ammont li ma jkunx iktar minn mitejn u hamsin lira Maltija għal kull telf ta' flus, u

(b) ammont li ma jkunx inqas minn hmistax il-lira Maltija u mhux iktar minn mitt lira Maltija bhala danni morali għal kull uġiegh, għali, anzjetà u inkonvenjenza,

għal danni mġarrba mill-konsumatur aggravat b'riżultat tar-reat jew b'konsegwenza tiegħu.

(2) Kull kumpens ordnat taht il-paragrafu (a) tas-subartikolu (1) ta' dan l-artikolu għandu jitnaqqas minn kull ammont li jista' jingħata b'sentenza ta' qorti jew tribunal ta' ġurisdizzjoni ċivili dwar l-istess kwistjoni.

(3) Ma għandhiex issir talba għall-hruġ ta' ordni ta' kumpens meta dawk id-danni jkun sar ftehim dwarhom mal-kummerċjant jew meta l-konsumatur aggravat ikun għamel talba quddiem qorti jew tribunal ta' ġurisdizzjoni ċivili kontra l-akkużat dwar l-istess kwistjoni.

(4) Ordni ta' kumpens mahruġ taht dan l-artikolu għandu jkun magħmul mingħajr preġudizzju għall-jedd li għandu l-konsumatur aggravat li jibda azzjoni ċivili għat-tehdid ta' kull ammont dovut lilu bħala danni b'dan illi l-ammont li jkun issemma' fl-ordni ta' kumpens għandu jtnaqqas mill-ammont kollu dovut mill-akkużat bħala danni.

(5) Jista' jsir appell mill-akkużat dwar ordni ta' kumpens magħmul taht dan l-artikolu bl-istess mod kif isir appell minn sentenza.

(6) Meta s-sentenza li jkun fiha l-ordni ta' kumpens tghaddi f'gudikat, l-ordni ta' kumpens imsemmi għandu jitqies li jikkostitwixxi titolu eżekuttiv għall-finijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili u għandu jkun eżegwibbli bl-istess mod bhallikieku kien sentenza tal-Qorti tal-Maġistrati (f'kull każ fil-ġurisdizzjoni ċivili inferjuri tagħha) tal-ġzira fejn tkun tinsab il-Qorti li tohroġ l-ordni ta' kumpens.

Kap. 12

Il-Prim Ministru jista' jestendi t-thaddim ta' l-artikoli 10, 12, 13 u 14 għal-liġijiet ohra.

**15.** (1) Il-Prim Ministru jista' b'Ordni fil-Gazzetta jordna li d-dispożizzjonijiet ta' l-artikoli 10, 12, 13 u 14 ta' dan l-Att għandhom ukoll japplikaw għal reati li jiksru kull liġi ohra li tiġi amministrata mid-Direttur, jew li jiksru kull liġi li biha jiġu stabbiliti l-ogħla prezzijiet għal oġġetti jew servizzi, jew li biha jiġu stabbiliti l-inqas livelli għal oġġetti jew servizzi.

(2) Id-dispożizzjonijiet ta' l-artikoli 10, 12, 13 u 14 ta' dan l-Att għandhom ikunu japplikaw għal reati li jiksru l-liġijiet imsemmija fl-artikolu 43 ta' dan l-Att.

### TAQSIMA III

#### Tribunal għal Talbiet ta' Konsumaturi

Twaqqif ta' Tribunali.

**16.** (1) Ikun hemm żewġ Tribunali li jkunu magħrufin bħala "Tribunal għal Talbiet ta' Konsumaturi (Malta)" u "Tribunal għal Talbiet ta' Konsumaturi (Għawdex)" rispettivament.

(2) It-Tribunal għal Talbiet ta' Konsumaturi (Malta) ikollu, mingħajr preġudizzju għad-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, ġurisdizzjoni jisma' u jaqta' dwar talbiet li jsiru minn konsumaturi meta n-negozju li dwaru tkun tirreferi t-talba jkun sar f'Malta, u għandu jagħmel is-seduti tiegħu f'dak il-post jew dawk il-postijiet f'Malta hekk kif il-Ministru jista' jistabbilixxi b'Ordni fil-Gazzetta.

(3) It-Tribunal għal Talbiet ta' Konsumaturi (Għawdex) ikollu ġurisdizzjoni jisma' u jaqta' dwar talbiet li jsiru mill-konsumaturi meta n-negozju li dwaru tkun tirreferi t-talba jkun sar fil-Gżejjer ta' Għawdex jew ta' Kemmuna, u għandu jagħmel is-seduti tiegħu f'dak il-post fil-Gżejjer ta' Għawdex u ta' Kemmuna hekk kif il-Ministru wara li jikkonsulta lill-Ministru responsabbli għall-Affarijiet ta' Għawdex jista' jistabbilixxi b'Ordni fil-Gazzetta.

(4) Għall-finijiet tas-subartikoli (2) u (3) ta' dan l-artikolu negozju jitqies li jkun seħħ:

(a) fil-każ ta' bejgh jew ta' servizz li jkun sar jew inghata fil-fond tal-kummerċjant, fil-gżira fejn ikun jinsab dak il-fond;

(b) fil-każ ta' bejgh jew ta' servizz li jkun sar jew inghata barra mill-fond tal-kummerċjant:

(i) meta l-bejgh jew is-servizz ikun ġie kuntrattat telefonikament, bil-*facsimile*, bil-korrispondenza jew b'kull mezz ta' komunikazzjoni mekkaniku jew elettroniku u l-kummerċjant innifsu ma jkunx resaq lejn il-konsumatur u offra l-bejgh tal-oġġetti jew l-ghoti tas-servizz, il-gżira fejn ikun jinsab il-fond tal-kummerċjant;

(ii) fil-każijiet l-oħra fil-gżira fejn tkun saret il-konsenja tal-oġġetti jew fejn ikunu inghataw is-servizzi; b'dan illi meta l-prodott ikun ġie konsenjat jew is-servizz ikun ġie provdut fil-Gżira ta' Malta u parti fil-Gżira ta' Għawdex jew fil-Gżira ta' Kemmuna, jew ikun ġie konsenjat jew provdut waqt vjaġġ bejn il-Gżira ta' Malta u l-Gżira ta' Għawdex jew il-Gżira ta' Kemmuna, iż-żewġ Tribunali jkollhom ġurisdizzjoni.

(5) Meta skond id-dispożizzjonijiet magħmulin fis-subartikolu (4) ta' dan l-artikolu, jew skond ir-regoli magħmulin skond l-artikolu 27 ta' dan l-Att, ma jkunx jista' jiġi determinat liema Tribunal ikollu ġurisdizzjoni, għandhom japplikaw *mutatis mutandis* dawk id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili li jiddeterminaw il-konflitt ta' ġurisdizzjoni bejn il-Qorti tal-Magistrati (Malta) fil-ġurisdizzjoni ċivili tagħha u l-Qorti tal-Magistrati (Għawdex) fil-ġurisdizzjoni ċivili inferjuri tagħha.

17. (1) Jippresjedi fuq kull Tribunal, Arbitru waħdu:

Arbitri.

Iżda iktar minn Arbitru wiehed jistgħu jinhatru biex jippresjedu xi wiehed mit-Tribunali msemmija, iżda għal kull każ ikun hemm Arbitru wiehed biss.

(2) L-Arbitri jinhatru mill-Prim Ministru. Hadd ma jkun kwalifikat jinhatar Arbitru hliet jekk:

(a) ikun ċittadin ta' Malta li jkun għalaq it-tletin sena; u

(b) ikollu *warrant* u jkun ipprattika bħala avukat għal mill-inqas hames snin.

(3) Persuna tkun skwalifikata milli tinhatar Arbitru jekk:

(a) tkun membru tal-Kamra tad-Deputati; jew

(b) tkun membru ta' Kunsill Lokali; jew

(c) tkun kummerċjant; jew

(d) tkun instabet hatja ta' waħda mill-offiżi msemmija fil-paragrafu (e) tas-subartikolu (7) ta' l-artikolu 4.

(4) L-Arbitri jirċevu dik ir-rimunerazzjoni li l-Prim Ministru jista' jistabbilixxi b'avviż fil-Gazzetta, u dawn ma ghandhomx jitwaqqfu mill-prattika tal-professjoni tagħhom.

(5) L-Arbitri jinhatru għal perijodu ta' tliet snin u jkunu jistgħu jergħu jinhatru għal perijodu ieħor jew perijodi oħra ta' tliet snin kull wiehed.

(6) Fit-twettiq tal-funzjonijiet tiegħu taht dan l-Att, Arbitru ma jkun jaqa' taht ebda kontroll jew ordni ta' xi persuna jew awtorità oħra u ma jistax jitneħħa mill-kariga jekk mhux mill-Qorti ta' l-Appell fuq talba għal dak l-għan mill-Prim Ministru imsejsa fuq imġieba hażina jew inkapaċità li jwettaq dmirijietu minħabba f'inabilità fiżika jew debilità mentali.

(7) Ir-rimunerazzjoni dovuta lill-Arbitri u l-ispejjeż mehtieġa għall-amministrazzjoni tat-Tribunali ghandhom jithallsu mill-Fond Konsolidat mingħajr il-htieġa ta' xi approprjazzjoni oħra.

Astensjoni jew rikuża ta' Arbitri

**18.** Arbitru ghandu jastjeni u jista' jiġi rikużat fl-istess ċirkostanzi li jokkorru fil-każ ta' mhallef tal-Qrati Superjuri.

Gurament li jittiehed minn Arbitru.

**19.** Kull min jinhatar bħala Arbitru ma ghandux jibda jwettaq id-dmirijiet tal-kariga tiegħu sakemm ma jkunx ha quddiem l-Avukat Ġenerali ġurament biex jeżamina u jaqta' l-każijiet li jinġiebu quddiemu mingħajr dewmien, b'mod imparzjali u b'ekwità skond il-liġi.

Gurisdizzjoni tat-Tribunal.

**20.** (1) Tribunal ikollu ġurisdizzjoni li jisma' u jaqta' talbiet magħmula minn konsumaturi kontra kummerċjanti meta l-valur tat-talba, minbarra l-imghax u l-ispejjeż, ma jkunx aktar minn hames mitt lira Maltija, u meta t-talba jkollha x'taqsam ma', tohroġ minn jew tkun dwar:

(a) ix-xiri jew kiri minn konsumatur ta' oġġetti mingħand kummerċjant;

(b) l-għoti ta' servizzi minn kummerċjant lil konsumatur.

(2) Il-ġurisdizzjoni ta' Tribunal ma ghandhiex tkun waħda esklussiva, u l-għażla tkun f'idejn il-konsumatur dwar jekk ghandux iġib azzjoni kontra kummerċjant quddiem tribunal jew quddiem il-qrati ordinarji; b'dan illi:

(a) meta tkun inġiebet azzjoni quddiem it-Tribunal minn konsumatur, dak il-konsumatur ma jkollux jedd jerga' wkoll iġib azzjoni li tohroġ mill-istess talba quddiem il-qorti ordinarja; u

(b) meta tkun inġiebet azzjoni quddiem il-qrati ordinarji minn konsumatur, jew f'każ miġjub minn kummerċjant kontra konsumatur u l-konsumatur jagħmel kontro-talba, il-partijiet kollha fil-kawża jkunu jistgħu, jekk it-talba u l-kontro-talba li jista' jkun hemm ikunu jaqgħu taht il-ġurisdizzjoni ta' Tribunal, permezz ta' nota konguntiva li tiġi preżentata fl-atti tal-kawża jitolbu lil dik

il-Qorti tittrasferixxi l-każ lit-Tribunal. Malli jiġri dan il-qorti ordinarja għandha permezz tar-Registratur tittrasferixxi kopja ta' l-atti ta' dik il-kawża lit-Tribunal u tiegħaf milli tkompli tisma' dak il-każ. Id-drittijiet tar-registru għar-rigward tal-każ quddiem il-qorti ordinarja għandhom f'kull każ jiġu kanċellati, u sakemm il-partijiet ma jiftehmux xort'oħra fin-nota imsemmija, l-ispejjeż jiġu kanċellati bl-istess mod bħallikieku l-każ ikun ġie ċedut mill-attur:

Iżda każ ma għandux jiġi trasferit għal Tribunal meta l-valur tat-talba jew kontro-talba stabbilit skond ma hemm provdut fis-subartikolu (1) ta' dan l-artikolu jkun iktar minn ħames mitt lira Maltija; u

(ċ) kummerċjant ikun jista' jagħmel kontro-talba kontra konsumatur li toħroġ minn kwistjoni msemmija fis-subartikolu (1) ta' dan l-artikolu quddiem it-Tribunal f'azzjoni miġjuba kontrih minn konsumatur.

**21.** (1) Tribunal jaqta' l-kwistjonijiet f'talba jew kontro-talba preżentati quddiemu skond kull meritu u ġustizzja sostantiva tal-każ, u skond l-ekwità:

Kif jinqatghu l-kwistjonijiet quddiem it-Tribunal.

Iżda kull kwistjoni li jista' jkun hemm dwar il-preskrizzjoni għandha tinqata' skond il-liġi.

(2) Tribunal jista', meta jaqta' l-kwistjonijiet f'talba jew kontro-talba preżentati quddiemu, jordna lill-kummerċjant iħallas lill-konsumatur ammont li ma jkunx inqas minn ħmistax-il lira Maltija u mhux iktar minn mitt lira Maltija bħala danni morali għal kull ħsara, deni, ansejtà u inkonvenjenza.

**22.** (1) Appell isir minn deċiżjoni ta' Tribunal permezz ta' rikors li jiġi preżentat fi żmien tmintax-il jum tax-xogħol mid-data tad-deċiżjoni —

Appelli.

(a) fil-każ ta' appell mit-Tribunal għal Talbiet tal-Konsumaturi (Malta) quddiem il-Qorti ta' l-Appell magħmul skond id-dispożizzjonijiet tas-subartikolu (6) ta' l-artikolu 41 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jew ta' kull dispożizzjoni li tidhol minflok; u

(b) fil-każ ta' appell mit-Tribunal għal Talbiet tal-Konsumaturi (Għawdex) quddiem il-Qorti ta' l-Appell magħmul skond id-dispożizzjonijiet tas-subartikolu (3) (a) ta' l-artikolu 50 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili ta' kull dispożizzjoni li tidhol minflok.

(2) Appell skond is-subartikolu (1) ta' dan l-artikolu jista' jsir biss meta t-Tribunal ikun mar kontra d-detxami tal-ġustizzja naturali, u dik l-azzjoni tkun ippreġudikat b'mod gravi l-jeddijiet ta' min jappella. Meta l-Qorti ta' l-Appell taqta' li l-appell ikun fondat u ġustifikat, din għandha tħassar id-deċiżjoni tat-Tribunal u għandha hi stess taqta' t-talba originali u kull kontro-talba skond id-dispożizzjonijiet ta' l-artikolu 21.

Proċedura.

23. (1) Bla ħsara għad-dispożizzjonijiet ta' kull regola magħmula skond l-artikolu 27 ta' dan l-Att u skond id-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, Arbitru jirregola l-proċedimenti quddiem Tribunal bil-mod li jaħseb li jkun l-aktar xieraq għall-finijiet li tintagħmel ġustizzja, skond id-dettami tal-ġustizzja naturali.

(2) Bla ħsara għal kull regola msemmija fis-subartikolu (1) ta' dan l-artikolu, Arbitru —

(a) għandu jiżgura li każ għandu, daqskemm ikun b'mod raġonevoli possibbli, jinqata' fl-istess jum tas-smiġh tiegħu;

(b) għandu jitgħarraf b'kull mod li jista' jidhirlu xieraq u ma jkunx marbut bil-prattika dwar l-aħjar prova jew dwar xiehda fuq kliem haddieħor jekk ikun sodisfatt li x-xiehda li jkollu quddiemu tkun biżżejjed veritiera li biha jista' jasal biex jaqta' l-każ li jkun qed jittratta;

(ċ) għandu jiddeżisti kemm jista' jkun milli jqabbad periti tekniċi sabiex jagħtu l-parir espert tagħhom, u jekk jinhatru tali periti huwa għandu jifformula elenku ta' dettalji li l-perit ikollu jirrelata dwarhom;

(d) ma għandux joqghod jagħti motivi imtawwlin dwar kif ikun wasal għad-deċiżjonijiet tiegħu, iżda jkun biżżejjed li jelenka d-dettalji ewlenin li jkun sejjes id-deċiżjoni tiegħu fuqhom; u

(e) jkollu l-istess setgħa daqs Maġistrat li joqghod fil-Qorti tal-Maġistrati (Malta) fil-kompetenza ċivili tagħha jew fil-Qorti tal-Maġistrati (Għawdex) fil-kompetenza ċivili inferjuri tagħha u b'mod partikolari jkun jista' jharrek ix-xhieda u jamministralthom il-ġurament.

(3) Ebda proċediment quddiem Tribunal ma jkun invalidu minħabba f'nuqqas ta' tharis ta' xi formalità sakemm wiehed ikun mexa b'mod konformi kemm jista' jkun mar-regoli.

(4) (a) Qabel ma talba tiġi preżentata quddiem Tribunal, dik il-parti li tkun ser tagħmel it-talba għandha l-ewwel tirreferi t-talba lid-Direttur li għandu jipprova jwassal lill-partijiet fi ftehim dwar il-kwistjonijiet li jkun hemm.

(b) Jekk ma jkunx intlaħaq ftehim dwar il-kwistjonijiet kollha fi żmien hmistax-il jum ta' xogħol minn meta l-parti tkun irriferiet it-talba tagħha lid-Direttur, dik il-parti tista' mbagħad tressaq it-talba tagħha quddiem it-Tribunal.

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

(6) Id-dispożizzjonijiet ta' l-Att dwar Proċeduri Ġudizzjarji (Użu ta' l-Ilsien Inġliż) għandhom japplikaw għat-Tribunal.

Kap. 108.

Kap. 189.

24. (1) Id-dispożizzjonijiet ta' din it-Taqsima jghoddu ghal talbiet li joħorgu minn xi bejgh magħmul jew servizz mogħti wara d-dhul fis-seħħ ta' dan l-artikolu, u tkun kondizzjoni ta' kull bejgh jew servizz mogħti wara d-dhul fis-seħħ ta' dan l-artikolu li d-dispożizzjonijiet ta' din it-Taqsima għandhom ikunu jghoddu għal kull talba li toħroġ minnhom:

Kif tghodd  
din it-Taqsima.

Iżda konsumatur u kummerċjant ikunu jistgħu jaqblu li din it-Taqsima tkun tghodd ukoll għal bejgh li jkun sar, jew servizz li jkun gie provdut, qabel id-dhul fis-seħħ ta' dan l-artikolu.

(2) Il-partijiet fi transazzjoni li għalihom jirreferi s-subartikolu (1) ta' dan l-artikolu, ma jistgħux jiċċdu jew inaqqsu xi wieħed mill-jeddijiet mogħtija lil konsumatur taħt din it-Taqsima.

25. (1) F'kull deċiżjoni li jagħti l-Arbitru għandu jiddeċiedi dwar l-ispejjeż li xi waħda mill-partijiet ikollha thallas lill-parti l-oħra u sakemm ma jkunx hemm xi ċirkostanzi speċjali, il-parti li titef il-każ għandha tiġi ordnata thallas l-ispejjeż tal-parti l-oħra li favur tagħha jkun inqata' l-każ.

Spejjeż u  
eżekuzzjoni.

(2) L-ispejjeż ikunu limitati biss għal nefqiet li jkunu saru b'mod dirett dwar il-każ mill-parti li favur tagħha jkun gie deċiż li jithallsulha l-ispejjeż:

Iżda f'ebda każ ma għandu jiġi deċiż dwar spejjeż li jkollhom x'jaqsmu ma' nefqiet li jkunu jikkonsistu fi drittijiet legali jew kull dritt ieħor b'kull isem li jkunu mħallsa minn xi parti li tkun lil avukati, prokuraturi legali jew kull persuna oħra li tassisti lill-partijiet quddiem it-Tribunal.

(3) Deċiżjoni ta' Tribunal li tkun għaddiet f'gudikat tista' tkun eżegwibbli mill-Qorti tal-Maġistrati (Malta) fil-każ ta' deċiżjoni tat-Tribunal għal Talbiet ta' Konsumaturi (Malta) u mill-Qorti tal-Maġistrati (Għawdex) fil-kompetenza ċivili inferjuri tagħha fil-każ tat-Tribunal għal Talbiet ta' Konsumaturi (Għawdex) bl-istess mod bħallikieku d-deċiżjoni kienet sentenza ta' Qorti jew oħra.

26. (1) Kull Tribunal ikollu r-Registru tiegħu.

Registru,  
Segretarju u  
Deputat  
Segretarju.

(2) Ir-records ta' kull Tribunal għandhom ikunu aċċessibbli għal kulhadd, u għandhom jingħataw kopji relattivi mal-ħlas tad-dritt preskritt lil kull persuna li titlobhom.

(3) L-atti u records ta' Tribunal għandhom jiġu depożitati u miżmuma fil-post kif il-Ministru jista' jistabbilixxi, bi ftehim mal-Ministru responsabbli għall-gustizzja, b'Ordni fil-Gazzetta.

(4) Il-Ministru jahtar Segretarju għal kull Tribunal minn fost uffiċjali pubbliċi fid-Dipartiment.

(5) Bla hsara ghal dawk ir-regoli li jistghu jsiru taht din it-Taqsima, is-Segretarju jkollu l-istess funzjonijiet ghar-rigward tat-Tribunal l-istess bhalma ghandhom ir-Registratur tal-Qrati u l-Arkivist tal-Qrati ghar-rigward tal-Qrati Superjuri.

(6) Il-Ministru jahtar ukoll Deputati Segretarji minn fost ufficjali pubblici fid-Dipartiment li, bla hsara ghal regoli maghmula kif imsemmi qabel, ikollhom dawk id-dmirijiet li jinghatawllhom b'mod generali mis-Segretarju u b'mod partikolari hekk kif jitwettqu minn Deputati Registraturi fil-Qrati Superjuri.

(7) Qabel ma jibdew iwettqu l-funzjonijiet tal-kariga taghhom, Segretarju u Deputat Segretarju ghandhom jiehd u jiffirmaw gurament quddiem Kummissjunarju ghall-Guramenti li jkunu se jwettqu dmirijethom b'mod gust u imparzjali skond il-ligi.

Regoli.

27. Il-Ministru jista', bi ftehim mal-Ministru responsabbli ghall-gustizzja, jaghmel regolamenti ghall-hdim ahjar tat-Tribunali imwaqqfin b'din it-Taqsima u jista' minghajr pregradizzju ghall-mod generiku ta' dan il-paragrafu jaghmel regoli li:

(a) jiformulaw il-procedura ta' quddiem it-Tribunali jew ta' l-appelli li jsiru minn decizjonijiet tat-Tribunali;

(b) jistabilixxu kif ghandhom isiru l-procedimenti quddiem it-Tribunali jew f'appelli mit-Tribunali;

(c) jistabilixxu r-rati ta' l-ispejjez fi procedimenti li jsiru quddiem it-Tribunali;

(d) jistabilixxu d-drittijiet li jistghu ikunu dovuti lir-Registru tat-Tribunal;

(e) jiformulaw id-dmirijiet tas-Segretarju u Deputati Segretarji; u

(f) jipreskrivu kull haga ohra li tista' jew ghandha tkun hemm preskritta skond din it-Taqsima.

#### TAQSIMA IV

##### Ghaqdiet ta' Konsumaturi

Htigiet ghal  
registrazzjonijiet.

28. Ghaqda ta' konsumaturi registrata hija ghaqda ta' konsumaturi li tissodisfa l-Kunsill li tkun qeghda tikkonforma ruhha ma' dawn il-htigiet li gejjin:

(a) li l-ghaqda jkollha ghadd ta' membri regolari ta' mill-inqas mitejn u hamsin membru maggorenni li jkunu cittadini Maltin jew residenti permanenti f'Malta;

(b) li l-istatut tal-għaqda jistabbilixxi l-prinċipju li l-għan ewlieni tas-soċjetà huwa l-promozzjoni ta' protezzjoni tal-konsumatur, u li din tmexxi, tgħarraf u teduka lill-konsumaturi;

(ċ) li l-istatut ikun jipprovdi li l-għaqda titmexxa minn persuni li jiġu eletti b'mod hieles mill-membri tal-għaqda f'elezzjoni li ssir mill-inqas darba kull sena kalendarja;

(d) li l-għaqda ma jkollhiex bħala wiehed mill-għanijiet tagħha li tagħmel xi qliegh; u

(e) li għaqda tkun indipendenti minn kull għaqda, organizzazzjoni jew gruppi oħra li l-għan ewlieni tagħhom ma jkunx dak li jipproteġu l-konsumaturi.

29. (1) Kull għaqda ta' konsumaturi li tkun tixtieq tigi rikonoxxuta bħala għaqda ta' konsumaturi registrata għandha tissottometti lill-Kunsill dan li ġej:

Kif tapplika għal għarfien.

(a) applikazzjoni fuq il-formula adatta mahruġa taht l-awtorità tal-Kunsill;

(b) kopja shiħa aġġornata ta' l-istatut tagħha debitament ċertifikat mill-persuna li jkollha l-oghla kariga eżekuttiva mal-għaqda;

(ċ) lista tal-membri tal-għaqda inklużi l-indirizzi rispettivi tagħhom u numri tal-karta ta' l-identità; u

(d) l-indirizz uffiċjali tal-għaqda.

(2) Il-Kunsill għandu ma' l-ewwel opportunità li jkollu, jeżamina u jivverifika jekk l-għaqda tkunx tissodisfa l-htigiet stipulati fl-artikolu 28 ta' dan l-Att. Meta dawn il-htigiet ikunu twettqu, il-Kunsill jirreġistra lil min japplika bħala għaqda ta' konsumaturi registrata, u johroġ ċertifikat lill-għaqda li bih jikkonferma r-registrazzjoni ta' l-imsemmija għaqda u d-data ta' dik ir-registrazzjoni.

(3) Meta l-Kunsill jaqtagħha li għaqda ma tissodisfax il-htigiet għar-registrazzjoni, dan għandu fi żmien erbatax-il jum mid-data tad-deċiżjoni tiegħu jinnotifika b'dan bil-miktub lil min ikun applika filwaqt li jsemmi kif wasal għal dik id-deċiżjoni.

(4) Il-Kunsill jista' jirrifjuta li jirreġistra għaqda ta' konsumaturi taht isem jew tismija li jikkunsidra offensivi jew inkella mhux mixtieqa.

(5) Ċertifikat mahruġ mill-Kunsill li jfisser li għaqda ta' konsumaturi partikolari hija għaqda ta' konsumaturi registrata konformi mal-htigiet kollha stipulati taht is-subartikolu (1) ta' dan l-artikolu, ikun prova valida u konklusiva ta' dan il-fatt għall-finijiet u effetti kollha tal-ligi.

(6) Ebda dritt ma ghandu jithallas dwar ir-registrazzjoni ta' ghaqda ta' konsumaturi mal-Kunsill.

Registru ta' ghaqdiet ta' konsumaturi.

30. (1) Il-Kunsill iżomm registru ta' l-ghaqdiet ta' konsumaturi kollha, fejn jissemmew isimhom, id-dati tar-registrazzjoni, l-ghadd ta' membri u kull partikolarità oħra li l-Kunsill jista' jqis xierqa.

(2) Ir-registru jkun aċċessibbli għall-ispezzjon ta' kulhadd bla ebda hlas f'kull hin u mkien hekk kif jista' jiġi stabbilit mill-Kunsill:

Iżda l-identità tal-membri ta' ghaqda ta' konsumaturi registrata ma għandiex tkun aċċessibbli għal skrutinju pubbliku.

Obbligu li jinżamm dettalji dwar il-membri.

31. Kull ghaqda ta' konsumaturi registrata għandha iżomm dettalji għal kollox aġġornati ta' l-ismijiet, indirizzi u numri tal-karti ta' l-identità tal-membri tagħha.

Obbligu li jinghata tagħrif lill-Kunsill.

32. (1) Ghaqda ta' konsumaturi registrata għandha tissottometti lill-Kunsill kull rapport u tagħrif dwar il-membri komponenti u l-attivitajiet tagħha hekk kif jistgħu minn żmien għal żmien jenhtiegu. Mingħajr preġudizzju għal dak imsemmi qabel, kull ghaqda ta' konsumaturi registrata għandha f'kull sena kalendarja mhux iktar tard mill-aħħar ta' Marzu tippreżenta għand il-Kunsill rapport dwar il-membri komponenti tagħha fil-31 ta' Diċembru tas-sena ta' qabel.

(2) Ghaqda ta' konsumaturi registrata għandha tipprovdi lill-Kunsill b'kopja ta' l-emendi ta' l-istatut tagħha, liema kopja għandha tkun debitament ċertifikata mill-persuna li jkollha l-oghla kariga eżekuttiva fl-ghaqda. Kull emenda bħal dik għandha tiġi notifikata lill-Kunsill fi żmien erbatax-il jum minn meta tiġi approvata mill-ghaqda msemmija.

Il-Kunsill għandu jippubblika lista ta' kull sena.

33. Kemm jista' jkun malajr wara li tgħaddi kull sena kalendarja waħda wara l-oħra iżda mhux aktar tard minn tmiem Mejju ta' kull sena, il-Kunsill għandu jippubblika b'tagħrif ġenerali fil-Gazzetta lista ta' l-ghaqdiet ta' konsumaturi registrati li jkunu debitament registrati miegħu fil-31 ta' Diċembru tas-sena ta' qabel.

Stqarrijiet foloz jew mhux veritieri eċċ.

34. Kull min xjentement jew bi traskuraġni jagħmel stqarrija jew dikjarazzjoni falza jew mhux veritiera jew mod iehor jagħti tagħrif falz jew mhux veritier lill-Kunsill taht xi waħda mid-dispożizzjonijiet ta' din it-Taqsima jehel, meta jinsab hati, multa sa elf lira Maltija jew prigunerija għal mhux iżjed minn sitt xhur, jew għal dik il-multu u prigunerija flimkien.

Eżenzjonijiet u privileġġi.

35. Ghaqda ta' konsumaturi registrata għandha jkollha l-jeddijiet, benefiċċji, privileġġi u eżenzjonijiet mogħtija b'din it-Taqsima għal daqstant żmien kemm iddum hekk registrata u tkompli tikkonforma ruħha mal-htigiet ta' din it-Taqsima.

**36.** (1) Minkejja d-dispożizzjonijiet ta' kull liġi oħra, għaqda ta' konsumaturi registrata u kull wiehed mill-uffiċjali tagħha fil-qadi ta' dmirijietu f'isimha jkun eżenti minn kull responsabbiltà kemm ċivili jew kriminali, dwar kull pubblikazzjoni, stqarrija jew komunikazzjoni jew attività oħra, li jkunu saru *bona fide* li jkunu maħsubin unikament għall-aħjar tagħrif jew edukazzjoni jew protezzjoni tal-konsumaturi. Din l-eżenzjoni tapplika għall-persuni kollha li jipubblikaw, jistampaw, jirreġistraw, ixandru jew jikkomunikaw din l-informazzjoni b'xi mod li jkun.

Eżenzjoni mir-responsabbiltà.

(2) Għall-finijiet tas-subartikolu (1) ta' dan l-artikolu, pubblikazzjoni, stqarrija, komunikazzjoni jew attività titqies li tkun *bona fide* meta din ma ssirx jew ma tintgħamilx bi traskuraġni jew dolożament, meta din tkun isseġwi l-prinċipji tas-sewwa u ta' l-oġġettività, u ma tkunx bi ksur ta' xi regoli ta' prattika magħmula skond il-paragrafu (ċ) tas-subartikolu (1) ta' l-artikolu 7 ta' dan l-Att.

(3) Kull min jallega *male fide* minn għaqda ta' konsumaturi registrata jkun jinkombi fuqu li jipprova dawk l-allegazzjonijiet.

**37.** (1) Għaqda ta' konsumaturi registrata tista' f'isimha tagħmel rapporti jew ilmenti lill-awtorità kompetenti fuq kull ksur ta' dan l-Att, ta' kull liġi amministrata mid-Direttur jew ta' kull liġi jew regolament li l-Prim Ministru jista' minn żmien għal żmien jistabbilixxi b'avviż li jiġi pubblikat fil-Gazzetta.

Għaqdiet ta' Konsumaturi Registrati u prosekuzzjonijiet.

(2) F'kull prosekuzzjoni li ssir mill-awtorità kompetenti wara xi rapport jew ilment bis-saħħa tas-subartikolu (1) ta' dan l-artikolu, għandu jissejjaħ rappreżentant ta' l-għaqda biex jixhed dwar il-fatti li l-għaqda tkun taf bihom dwar l-ilment jew ir-rapport u biex jindika lill-Qorti kull xieħda dwar l-akkuża li jista' jkun jaf biha.

(3) Filwaqt li jkunu qegħdin isiru il-proċedimenti kriminali mibnijin fuq ilment jew rapport li jsiru mill-għaqda, uffiċjal li jkun debitament awtorizzat mill-għaqda għal dan l-ghan ikollu jedd jieħu sehem u jassisti fil-prosekuzzjoni tar-reati msemmija.

**38.** Għaqda ta' konsumaturi registrata tkun eżenti mill-hlas ta' taxa fuq *l-income*.

Eżenzjoni mit-Taxxa fuq *l-Income*.

**39.** Il-Ministru jista', fuq il-parir tal-Kunsill, jagħti lil kull għaqda ta' konsumaturi registrata dik l-għajjnuna u dawk il-facilitajiet li jista' minn żmien għal żmien iqis xierqa sabiex għaqda tkun tista' twettaq dmirijietha.

Għajjnuna lil għaqdiet ta' konsumaturi registrati.

**40.** (1) Kull meta jqis li jkun hekk meħtieġ, il-Kunsill jista' jikkonsulta ruħu ma' għaqdiet ta' konsumaturi registrati dwar kull haġa li għandha x'taqsam jew li tohroġ mill-provvista ta' oġġetti u servizzi lill-konsumaturi.

Konsultazzjoni u inizjattivi ma' għaqdiet ta' konsumaturi registrati.

(2) Il-Kunsill jista' wkoll jieħu inizjattivi jew jipparteċipa f'kampanji ma' għaqdiet ta' konsumaturi registrati kif jidhirlu xieraq minn żmien għal żmien.

Thassir ta' registrazzjoni.

**41.** Il-Kunsill ghandu jhassar ir-registrazzjoni ta' ghaqda ta' konsumaturi registrata f'wiehed minn dawn il-każijiet meta —

(a) issir talba ghal thassir mill-ghaqda stess;

(b) ikun sodisfatt li l-ghaqda ma tkunx iktar konformi mal-htigiet stipulati fl-artikolu 28 ta' dan l-Att;

(c) ghal kull raguni li tkun, l-istatut li jirregola l-ghaqda ma jkunx konformi mad-dispożizzjonijiet ta' din it-Taqsima;

(d) ikun sodisfatt li l-ghaqda tkun temmet tezisti jew taħdem;

(e) ikun sodisfatt li hemm prova biżżejjed li r-registrazzjoni ta' ghaqda kienet inkisbet bi frodi, negligenza jew żball serju;

(f) l-ghaqda tinstab, jew kull min jaġixxi f'isimha jinstab, hati ta' reat taħt l-artikolu 34 ta' dan l-Att; jew

(g) l-ghaqda tkun ghal diversi drabi aġixxiet bi ksur tar-regoli ta' Prattika magħmula taħt il-paragrafu (c) tas-subartikolu (1) ta' l-artikolu 7 ta' dan l-Att, jew li tkun f'xi haġa serja aġixxiet, ukoll jekk darba waħda biss, bi ksur ta' dawk ir-regoli.

Ghaqdiet ohra ta' konsumaturi.

**42.** Ebda haġa f'din it-Taqsima ma ghandha titqies bħala li tostakola jew tillimita l-jedd ta' persuni li jwaqqfu ghaqdiet għall-protezzjoni u l-promozzjoni ta' interessi tal-konsumaturi mingħajr ma jkunu jikkwalifikaw skond l-artikolu 28 ta' dan l-Att. F'każ bħal dan ghaqda mhux registrata ma jkollha ebda dritt li tiġi konsultata, tingħata ghajnuna jew tingħaraf mill-Kunsill, jew ghal kull dritt, privileġġ jew eżenzjoni ohrajn mogħtija b'din it-Taqsima lil ghaqdiet ta' konsumaturi registrati.

## TAQSIMA V

### Mixellanji

Id-Direttur jamministra ċertu liġijiet.  
Kap. 39.  
Kap. 313.  
Kap. 317.

**43.** Id-Direttur ikun responsabbli għall-amministrazzjoni ta' l-Ordinanza dwar l-Użin u l-Kejl, l-Att dwar Deskrizzjonijiet Kummerċjali u l-Att dwar Bejjiegħa Bieb b'Bieb.

Thassir tal-Kap. 293.

**44.** L-Att għall-Protezzjoni tal-Konsumatur huwa b'dan imħassar.

Emenda ta' ċertu liġijiet.

**45.** Il-liġijiet elenkati fl-Ewwel Kolonna ta' l-Iskeda li tinsab ma' dan l-Att għandhom isehhu skond l-emendi li jidhru fit-Tieni Kolonna ta' l-imsemmija Skeda.

## SKEDA

## (Artikolu 45)

L-Ewwel Kolonna	It-Tieni Kolonna
Kodiċi tal-Liġijiet tal-Pulizija, Kap. 10.	Fis-subartikolu (1) ta' l-artikolu 189 minflok il-kliem "fl-uffiċċju tal-Pulizija" għandhom jidhlu l-kliem "fl-uffiċċju tad-Direttur għall-Affarijiet tal-Konsumatur".
Kodiċi Ċivili, Kap. 16.	Fl-artikolu 1431 minflok il-kelma "xahar" għandhom jidhlu l-kliem "sitt xhur".
Ordinanza dwar l-Użin u l-Kejl, Kap. 39.	(a) Minflok il-kliem "Kummissarju tal-Pulizija" kull fejn jinsabu fl-Ordinanza għandhom jidhlu l-kliem "Direttur għall-Affarijiet tal-Konsumatur";  (b) minflok il-kliem "Ministru responsabbli għall-Pulizija" għandhom jidhlu l-kliem "Ministru responsabbli għall-affarijiet tal-konsumatur".
Att dwar Deskrizzjonijiet Kummerċjali, Kap. 313.	(1) (a) Minflok il-kliem "organizzazzjoni tal-konsumaturi" kull fejn jinsabu fl-Att għandhom jidhlu l-kliem "għaqda ta' konsumaturi registrata";  (b) minflok il-kliem "Dipartiment tal-Kummerċ" kull fejn jinsabu fl-Att għandhom jidhlu l-kliem "Dipartiment għall-Affarijiet tal-Konsumatur".  (2) L-artikolu 2 għandu jiġi emendat kif ġej:  (a) it-tifsir ta' "organizzazzjoni tal-konsumaturi" għandha tiġi emendata kif ġej:  (b) minflok it-tifsira ta' "Ministru" għandu jidhlu dan li ġej:  "“Ministru” tfisser il-Ministru responsabbli għall-affarijiet tal-konsumatur;";  (c) wara t-tifsira tal-kelma "reklam" għandha tidhlu din it-tifsira li ġejja:  "“għaqda ta' konsumaturi registrata” tfisser għaqda ta' konsumaturi registrata skond id-dispożizzjonijiet ta' l-Att ta' l-1994 dwar l-Affarijiet tal-Konsumatur.".
Att dwar Bejjiegha Bieb b'Bieb, Kap. 317.	(1) L-artikolu 2 għandu jiġi emendat kif ġej:  (a) minflok it-tifsir tal-kelma "Direttur" għandu jidhlu dan li ġej:

““Direttur” tfisser id-Direttur għall-Affarijiet tal-Konsumatur;”;

(b) minflok it-tifsira tal-kelma “Ministru” għandu jidhol dan li ġej:

““Ministru” tfisser il-Ministru responsabbli għall-affarijiet tal-konsumatur.”.

(2) (a) Fil-paragrafu (g) ta’ l-artikolu 3 il-kliem “hlief kuntratti li jipprovdu għall-assigurazzjoni” għandhom jithassru.

(b) Id-dispożizzjonijiet tal-paragrafu (a) hawn qabel għandu jitqies li beda jsehħ fl-1 ta’ Jannar, 1992.

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Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 338 tal-15 ta’ Novembru, 1994.

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

LAWRENCE GONZI  
*Speaker*

I assent.

(L.S.)

UGO MIFSUD BONNICI  
President

2nd December, 1994

**ACT No. XXVIII of 1994**

*AN ACT to provide for the establishment and functions of the office of Director of Consumer Affairs and for the establishment of a Consumer Affairs Council and of tribunals to be known as the Consumer Claims Tribunals, and for other matters ancillary or consequent thereto.*

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) This Act may be cited as the Consumer Affairs Act, 1994.

Short title and commencement.

(2) This Act shall come into force on such 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 this Act.

2. In this Act, unless the context otherwise requires —

Interpretation.

“consumer” means any individual who not in the course of a business, trade or profession, buys or hires goods from a trader or engages the services of a trader against a fee or reward;

“consumer association” means a voluntary body of persons whose principal objective is the promotion of consumer protection or education;

“Council” means the Consumer Affairs Council established under Part II of this Act;

“Department” means the Department of Consumer Affairs;

“Director” means the Director of Consumer Affairs;

“goods” includes any animals of whatever species whether living or dead;

“Minister” means the Minister responsible for consumer affairs;

“permanent resident” means a person in whose favour a permit of residence has been issued in accordance with section 7 of the Immigration Act;

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“premises” means any place from where any trade or business is carried out including any stall or vehicle;

“registered consumer association” means a consumer association registered in accordance with Part IV of this Act;

“trader”:

(a) means any person, including any body corporate or unincorporate, who or which in the course of a trade or business sells or hires, or offers to sell or hire, goods or services for a profit or a reward to a consumer;

(b) means a government department, a public corporation, authority or organisation which provides goods or services to consumers for a fee, as the Prime Minister may from time to time designate by notice in the Gazette; and

(c) for the purposes of sections 7, 9, 12 and subsection (3) of section 14, includes any employee or any other person acting for the above;

“Tribunal” means a Consumer Claims Tribunal set up under Part III of this Act.

## PART II

### Director of Consumer Affairs and the Consumer Affairs Council

Establishment of office of Director of Consumer Affairs.

3. (1) There shall be a Director of Consumer Affairs who shall be a public officer designated by the Prime Minister for that purpose.

(2) The functions of the Director of Consumer Affairs, (hereinafter in this Act referred to as “the Director”) shall be to

implement the policy established by the Minister, either personally or through public officers in the Department of Consumer Affairs and shall include:

(a) to provide information and guidelines to the public on matters affecting the interests of consumers;

(b) to monitor trading practices relating to the provision of goods and services to consumers, and to take measures for the suppression and prevention of any practices which may be detrimental to the interests of consumers;

(c) to investigate complaints from consumers relative to the supply of goods and services and to take such action as is in his power to redress any justified grievance that may come to his notice;

(d) to assist the Consumer Affairs Council in the performance of its functions and duties and to furnish such information as may be required by the Council in relation to the exercise of its duties; and

(e) to perform any other function or duty that is or may be assigned to him under this Act or any other law.

(3) Nothing in this Act shall be construed to give any consumer a right to require the Director to give him advice on any specific or general matter or to act on his behalf and in his interest in any particular matter or dispute with any trader or supplier of services before any court, tribunal or elsewhere.

(4) The Director may in writing authorise any public officer serving with the Department, to perform any of the functions assigned to the Director under this Act or any other law.

4. (1) There shall be established a Council to be designated "the Consumer Affairs Council" having the functions and duties set out in this Act. The Council shall consist of a Chairman, Deputy Chairman and five other members.

Consumer Affairs  
Council.

(2) The Minister shall appoint:

(a) the Chairman and four other members from among persons who, because of their experience, qualifications or activities, the Minister considers as being able to contribute towards the promotion of consumer interests;

(b) the Director as Deputy Chairman; and

(c) one member who, because of his experience, qualifications or activities, the Minister considers as being able to state the point of view of traders.

(3) One of the members, other than the Chairman, mentioned in paragraph (a) of subsection (2) of this section shall be appointed after consultation with those consumer associations, if any, registered under Part IV of this Act and the member mentioned in paragraph (c) of the same subsection shall be appointed after consultation with those constituted bodies which the Minister considers to represent the interests of traders.

(4) The appointed members shall hold office for such term, not being more than three years, as may be specified in their letter of appointment and shall be eligible for re-appointment.

(5) Where the seat of any appointed member is vacated before the expiration of the term fixed in his letter of appointment, the Minister shall appoint another person to replace such member for such term, not being a term of more than three years, as the Minister may determine in his letter of appointment.

(6) The Deputy Chairman shall act instead of the Chairman whenever the Chairman is lawfully impeded or is absent from a meeting of the Council.

(7) A person shall not be eligible to be appointed a member of the Council, or to continue to be a member of the Council if such person:

- (a) is a member of the House of Representatives; or
- (b) is a member of a Local Council; or
- (c) is legally incapacitated or interdicted; or
- (d) has been declared bankrupt or has made a composition with his creditors; or
- (e) has been convicted of:
  - (i) any crime affecting public trust; or
  - (ii) theft; or
  - (iii) fraud; or
  - (iv) knowingly receiving property obtained by theft or fraud; or
  - (v) any offence contemplated in this Act, the Weights and Measures Ordinance, the Customs Ordinance, the Trade Descriptions Act, the Door-to-Door Salesmen Act or any law repealed by any of the said Acts or Ordinances or any law replacing the same.

(8) Notwithstanding any other provision of this section the Minister may at any time terminate the appointment of an appointed

member, if in his opinion such appointed member is unfit to continue in office or has become incapable of properly performing his functions.

(9) The Minister shall appoint an officer serving in the Department to act as non-voting secretary of the Council.

5. (1) It shall be the function of the Council —

Functions of  
the Council.

(a) to advise the Minister in the formulation of the policy to be followed by the Director in the exercise of his functions under this or any other law;

(b) to advise and assist the Minister on measures for the promotion and protection of consumer interests;

(c) to monitor and keep under review trading and business practices relating to the supply of goods and services to consumers and to activities related or ancillary thereto;

(d) at the request of the Minister to undertake or commission any study or research which may be necessary to promote consumer protection;

(e) to monitor the working and enforcement of laws that directly or indirectly affect the consumer in Malta;

(f) to draw up and review consumer protection directives and minimum service standards for submission to the Minister;

(g) to monitor the development of consumer associations in Malta, and draw up and review rules of practice for registered consumer associations for submission to the Minister;

(h) to examine and determine whether a consumer association has the requirements to be a registered consumer association in accordance with this Act; and

(i) to perform any other function or duty that may be assigned to it by the Minister or that may be assigned to the Council under this or any other law.

(2) (a) The Council may, with the concurrence of the Minister, from time to time establish such advisory commissions as it may consider necessary to assist it in its functions.

(b) The commissions shall have an advisory and consultative function, and their findings or recommendations shall not be binding on the Council or the Minister.

(c) Each commission established under this subsection shall consist of two or more persons nominated by the Council and an equal number of other persons nominated by organisations or individuals representing the interests of the branch or sector of

trade or business in respect of which the commission is established. A commission shall in each case be chaired by a member of the Council.

(d) A commission shall serve as a channel of communication between the branch or sector of trade or business in respect of which it is established and the Council, and shall endeavour to prevent and resolve possible situations of conflict of views and interests between traders and consumers in that particular branch or sector.

Conduct of  
business of  
Council.

6. (1) Subject to the provisions of this Act, the Council shall regulate its own procedure.

(2) The Council shall meet as often as necessary but in no case less frequently than once every calendar month. Meetings shall be convened by the Chairman or in his absence the Deputy Chairman, either on his own initiative, or at the request of three other members of the Council.

(3) A quorum at a meeting of the Council shall be constituted by the Chairman, or in his absence the Deputy Chairman, and three other members.

(4) Decisions of the Council shall be taken by majority of votes of the members present and voting, the Chairman shall have an original vote and in the event of equality of votes a second or casting vote.

(5) The Council may act notwithstanding any vacancy among its members.

(6) Any member of the Council who in any matter before the Council has any interest in conflict with his office as member of the Council shall disclose the nature of his interest and withdraw from any meeting of the Council during which the matter is discussed. Any such disclosure shall be recorded in the minutes.

Codes and  
Standards.

7. (1) The Minister may after consulting the Council, from time to time, prescribe regulations establishing:

(a) consumer protection directives in relation to the provision of any service, or sale or hire of any goods to consumers;

(b) minimum service standards in relation to the provision of any service to consumers; and

(c) rules of practice for registered consumer associations.

(2) Regulations made under subsection (1) of this section may in particular provide for the consequences, including the right to rescind sales and contracts for the provision of services, and the nullity of particular clauses in contracts of sale or hire, or for the provision of

services which are in contravention of consumer protection directives or where the services are below service standards as may be established; such regulations may in particular provide for offences where the regulations are contravened and the penalty for such offences shall in no case exceed a fine (*multa*) of more than one thousand Maltese liri.

8. (1) The Director may, with the concurrence of the Council, on his initiative or upon a proposal of the Council, make or issue a public statement identifying and giving warnings or information about any of the following:

Public warning statements.

(a) goods that are unsatisfactory or dangerous and persons who supply those goods;

(b) services supplied in an unsatisfactory manner and persons who supply those services;

(c) trading practices detrimental to the interests of consumers and persons who engage in such practices; and

(d) any other matter that adversely affects or may adversely affect the interests of consumers in connection with the acquisition by them of goods or services from traders.

(2) When making a statement as is referred to in subsection (1), the Director shall adhere to the principles of fairness and objectivity.

(3) The Government, the Director and any public officer acting on the instructions or authority of the Director, shall be exempt from any liability for acts done in good faith in pursuance of this section by the Director or any public officer as aforesaid. Such exemption shall extend to all persons publishing, printing, recording, broadcasting or communicating such information by any means whatsoever.

9. (1) A trader shall not without the written consent of the Director make or cause to be made any representation in any visual or aural form, either specifically or by implication, to the effect that:

Name of Council or Department not to be used in advertisement.

(a) any goods or services supplied by any trader have the approval of any authority established under this Act; or

(b) any activity carried out by any trader has the approval, or is conducted with the co-operation or assistance of any authority established under this Act.

(2) Where a trader's name, tradename, trademark, or the designation of any goods or services provided or supplied by a trader, appears in relation to a representation referred to in subsection (1) of this section, that trader shall be deemed for the purposes of this section to have caused the representation to be made unless he proves that the representation was made without his knowledge or connivance.

(3) A trader convicted under this section shall be liable to a fine (*multa*) of not less than fifty Maltese liri and not more than one thousand Maltese liri or a term of imprisonment not exceeding six months or to both such fine and imprisonment.

Liability of trader  
for acts of his  
employees etc.

10. Where an offence under this Act or any regulation made thereunder is committed by an employee or other person acting on behalf of a trader, the trader shall also be guilty of the offence committed by the employee or other person acting on his behalf unless he can prove that he has exercised all reasonable diligence to prevent the commission of the offence by the employee or other person acting on behalf of the trader.

Confidentiality.

11. (1) A person who is or was at any time a member of the Council or of any advisory commission established under this Act, the Director, or a public officer with the Department shall not, save in the course of his duty or functions under this Act or any other law, or where it is competent to him to do so by reason of a provision of this Act or any other law, directly or indirectly communicate any information that came to his knowledge as a consequence of his holding that appointment or position.

(2) Nothing in subsection (1) of this section shall be construed as prohibiting the Director or any other public officer with the Department from communicating to a consumer whose complaint concerning any matter has been investigated by the Department, information concerning any matter which has come to his cognisance as a result of the investigation.

(3) Without prejudice to any other liability under any other law, any person who acts in breach of this section shall be liable on conviction to a fine (*multa*) of not less than fifty Maltese liri and not more than one thousand Maltese liri, or to a term of imprisonment not exceeding six months, or to both such fine and imprisonment.

Undertakings.

12. (1) Where it appears to the Director that a trader has engaged in conduct that constitutes a breach of, or failure to comply with any regulations made under section 7 or under the provisions of section 9 of this Act, the Director may, at his discretion, instead of instituting proceedings against the trader under the relevant regulation, caution the trader and seek an undertaking in writing from the trader that he shall refrain from the conduct specified in the undertaking for such period not exceeding three years, as may be specified by the Director.

(2) The Director shall not institute proceedings against the trader where the trader shall have ceased to engage in the said conduct and has given the said undertaking.

(3) The Director shall maintain a register of undertakings made under this section, which register shall be kept at the principal office of the Department and the register may be seen by any person at such times as may be established by the Director.

(4) A trader who acts in contravention of an undertaking made in accordance with this section shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of not less than fifty Maltese liri and not more than one thousand Maltese liri, and shall in any case remain bound by the undertaking for the remaining period of its term.

**13.** (1) Proceedings for any offence under this Act may only be instituted at the instance of the Director. Proceedings.

(2) In any proceedings referred to in subsection (1) of this section, the Director may, notwithstanding any provision of any other law, conduct the prosecution before the Court of Magistrates.

(3) Should the evidence of the Director be required as part of the case of the prosecution, he shall be heard before any other witness, unless the necessity of his giving evidence arises later in the proceedings.

**14.** (1) Upon the request even verbal of the aggrieved consumer or of the prosecuting officer on his behalf, the Court shall where the defendant is convicted for an offence against any regulation made under section 7 of this Act, make a compensation order whereby defendant is ordered to pay to the aggrieved consumer as full or partial compensation: Compensation Orders.

(a) a sum not in excess of two hundred and fifty Maltese liri for any pecuniary loss, and

(b) a sum of not less than fifteen Maltese liri and not more than one hundred Maltese liri as moral damages for any pain, distress, anxiety and inconvenience,

suffered by the aggrieved consumer as a result of the offence or arising therefrom.

(2) Any compensation ordered under paragraph (a) of subsection (1) of this section shall be reduced from any amount which may be given in a judgement by a court or tribunal of civil jurisdiction with regard to the same matter.

(3) A request for the making of a compensation order shall not be made where such damages have been settled by agreement with the trader or where the aggrieved consumer has instituted a claim before a court or a tribunal of civil jurisdiction against the defendant in respect of the same matter.

(4) A compensation order made under this section shall be without prejudice to the right of the aggrieved consumer to institute civil action for the recovery of any sum due to him as damages so however that the sum covered by the compensation order shall be reduced from the total sum due by the defendant as damages.

(5) A compensation order made under this section shall be subject to appeal by the defendant in the same manner as an appeal from sentence.

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(6) When the judgement in which a compensation order is made has become *res judicata*, the said compensation order shall be deemed to be an executive title for the purposes of the Code of Organisation and Civil Procedure and shall be enforceable in the same manner as if it were a judgement of the Court of Magistrates (in each case in its inferior civil jurisdiction) of the island where the Court making the compensation order is situate.

Prime Minister may extend operation of sections 10, 12, 13 and 14 to other laws.

**15.** (1) The Prime Minister may by Order in the Gazette direct that the provisions of sections 10, 12, 13 and 14 of this Act shall apply to offences under any other law administered by the Director, or under any law whereby maximum prices for goods or services are fixed, or whereby minimum standards are fixed for goods or services.

(2) The provisions of sections 10, 12, 13 and 14 of this Act shall apply to offences under the laws referred to in section 43 of this Act.

### PART III

#### Consumer Claims Tribunal

Establishment of Tribunals.

**16.** (1) There shall be two Tribunals to be styled "the Consumer Claims Tribunal (Malta)" and "the Consumer Claims Tribunal (Gozo)" respectively.

(2) The Consumer Claims Tribunal (Malta) shall, subject to the provisions of subsection (3) of this section, have jurisdiction to hear and determine consumer claims where the transaction to which the claim refers has taken place in Malta, and shall hold its sittings in such place or places in Malta as the Minister may by Order in the Gazette determine.

(3) The Consumer Claims Tribunal (Gozo) shall have jurisdiction to hear and determine consumer claims where the transaction to which the claim refers has taken place in the Islands of Gozo or Comino, and shall hold its sittings in such place in the Islands of Gozo and Comino as the Minister, in consultation with the Minister responsible for Gozo Affairs, may by Order in the Gazette determine.

(4) For the purposes of subsections (2) and (3) of this section a transaction shall be deemed to have taken place:

(a) in the case of a sale or a service which has been concluded or provided on the premises of the trader, in the island where those premises are situate;

(b) in the case of a sale or a service which has been concluded or provided outside the premises of the trader:

(i) where the sale or the service was contracted by telephone, fax, correspondence or by any mechanical or electronic means of communication, and the trader did not himself approach the consumer and offer the sale of the goods or the supply of the service, in the island where the premises of the trader are situate;

(ii) in all other cases in the island where the goods were delivered or the service provided; so however that where the goods were delivered or the service provided partly in the Island of Malta and partly in the Island of Gozo or in the Island of Comino, or has taken place during a voyage between the Island of Malta and the Island of Gozo or the Island of Comino, both Tribunals shall have jurisdiction.

(5) Where in accordance with the provisions set out in subsection (4) of this section, or in accordance with any rules made under section 27 of this Act, it cannot be determined which Tribunal has jurisdiction, the provisions of the Code of Organisation and Civil Procedure to determine conflict of jurisdiction between the Court of Magistrates (Malta) in its civil jurisdiction and the Court of Magistrates (Gozo) in its inferior civil jurisdiction, shall *mutatis mutandis* apply.

17. (1) Each Tribunal shall be presided by an Arbiter sitting Arbiters. alone:

Provided that more than one Arbiter may be appointed to sit in any of the said Tribunals, but only one Arbiter shall sit in any one case.

(2) Arbiters shall be appointed by the Prime Minister. No person shall be qualified to be appointed Arbiter unless such person:

(a) is a citizen of Malta over the age of thirty years; and

(b) holds the warrant and has practised the profession of advocate in Malta for a period of at least five years.

(3) A person shall be disqualified to be appointed Arbiter if such person:

(a) is a member of the House of Representatives; or

(b) is a member of a Local Council; or

(c) is a trader; or

(d) has been convicted of any of the offences referred to in paragraph (e) of subsection (7) of section 4.

(4) Arbiters shall receive such remuneration as the Prime Minister may by notice in the Gazette determine, and shall not be precluded from the exercise of their respective profession.

(5) Arbiters shall be appointed for a term of three years and shall be eligible to be re-appointed, for a further term or terms of three years each.

(6) In the exercise of his functions under this Act an Arbiter shall not be subject to the control or direction of any other person or authority and may not be removed from office except by the Court of Appeal on an application for that purpose by the Prime Minister on the grounds of misbehaviour or inability to perform his functions by reason of infirmity of body or mind.

(7) The remuneration due to Arbiters and the expenses in connection with the administration of the Tribunals shall be paid out of the Consolidated Fund without the necessity of any further appropriation.

Abstention or challenge of Arbiters.

**18.** An Arbiter shall abstain and may be challenged in the same circumstances as a Judge of the Superior Courts.

Oath taken by Arbiter.

**19.** Every person appointed as an Arbiter shall not assume the functions of his office unless and until he has taken before the Attorney General an oath to examine and decide the cases brought before him without delay, with impartiality, and equity according to law.

Jurisdiction of the Tribunal.

**20.** (1) A Tribunal shall have jurisdiction to hear and determine claims made by consumers against traders where the value of the claim, exclusive of interests and costs, does not exceed five hundred Maltese liri, and where the claim relates to, arises out of or concerns:—

(a) the purchase or hire of goods by a consumer from a trader; or

(b) the provision of services by a trader to a consumer.

(2) The jurisdiction of a Tribunal shall not be exclusive, and it shall be at the option of the consumer whether to bring an action against a trader before a Tribunal or before the ordinary courts; so however that:—

(a) where an action has been brought before a Tribunal by a consumer, it shall not be competent for the consumer to bring an action arising out of the same claim also before the ordinary court; and

(b) where an action has been brought before the ordinary courts by a consumer, or in a case brought by a trader against a consumer and the consumer sets forth a counter-claim, it shall be lawful for all the parties to the action, where the claim and the counter-claim if any are within the jurisdiction of a Tribunal, by a joint note filed in the records of the case to request that Court to transfer the case to a Tribunal. Thereupon the ordinary court shall through the Registrar transfer a copy of the records of that case to the Tribunal and shall refrain from taking further cognisance of the

case. Registry costs in respect of the case before the ordinary courts shall in any such case be waived, and unless the parties otherwise agree in the note aforesaid, costs shall be determined in a like manner as if the case was withdrawn by the plaintiff:

Provided that a case shall not be transferred to a Tribunal where the value of the claim or counter-claim determined as provided for in subsection (1) of this section exceeds five hundred Maltese liri; and

(c) it shall be lawful for a trader to make a counter-claim against a consumer arising from a matter referred to in subsection (1) of this section before the Tribunal in an action brought against him by a consumer.

**21. (1)** A Tribunal shall determine the issues in dispute in any claim or counter-claim before it according to the substantive merits and justice of the case, and in accordance with equity:

Determination of disputes before a Tribunal.

Provided that any question of prescription shall be determined according to law.

(2) A Tribunal may, when determining the issues in dispute in any claim or counter-claim before it, order the trader to pay to the consumer a sum of not less than fifteen Maltese liri and not more than one hundred Maltese liri as moral damages for any pain, distress, anxiety and inconvenience.

**22. (1)** An appeal shall lie from a decision of a Tribunal by means of an application filed within eighteen working days from the date of the decision —

Appeals.

(a) in the case of an appeal from the Consumer Claims Tribunal (Malta) to the Court of Appeal composed in accordance with the provisions of subsection (6) of section 41 of the Code of Organization and Civil Procedure or any provision in substitution thereof; and

(b) in case of an appeal from the Consumer Claims Tribunal (Gozo) to the Court of Appeal composed in accordance with the provisions of subsection (3) (a) of section 50 of the Code of Organization and Civil Procedure or any provision in substitution thereof.

(2) An appeal shall only lie in accordance with subsection (1) of this section where the Tribunal has acted contrary to the rules of natural justice, and such action has seriously prejudiced the rights of the appellant. Where the Court of Appeal finds that the grounds for appeal are justified it shall quash the decision of the Tribunal and shall itself determine the original claim and any counter-claim in accordance with the provisions of section 21.

Procedure.

**23.** (1) Subject to the provisions of any rules made in accordance with section 27 of this Act and to the provisions of subsection (2) of this section, an Arbiter shall regulate the proceedings before a Tribunal as he thinks best suited to the ends of justice in accordance with the rules of natural justice.

(2) Subject to any rules referred to in subsection (1) hereof, an Arbiter —

(a) shall ensure that a case is decided as far as is reasonably possible on the same day of the hearing;

(b) shall inform himself in any manner he thinks fit and shall not be bound by the rules of best evidence or the rules relative to hearsay evidence if he is satisfied that the evidence before him is sufficiently reliable for him to reach a conclusion on the case before him;

(c) shall refrain as far as possible from appointing technical referees to give expert evidence, and shall where experts are appointed make out a list of points upon which the expert is to give evidence;

(d) shall not be bound to give extensive reasons for his decisions but it shall be sufficient for him to list out the main points upon which his decision is based; and

(e) shall have the same power as a Magistrate sitting in a Court of Magistrates (Malta) in its civil jurisdiction or in the Court of Magistrates (Gozo) in its inferior civil jurisdiction and in particular shall have power to summon witnesses and to administer an oath to witnesses.

(3) No proceedings before a Tribunal shall be invalid because of any non-observance of any formalities if there has been substantial compliance with the rules.

(4) (a) A claim shall, before being presented before a Tribunal, be referred by the party making the claim to the Director who shall try to bring the parties into an agreement on the issues in dispute.

(b) If no agreement is reached on all the issues in dispute within fifteen working days from when the claim was referred to the Director by the party, that party may then present its claim before the Tribunal.

(5) Witnesses shall be paid fees in accordance with the Witnesses (Fees) Ordinance.

(6) The provisions of the Judicial Proceedings (Use of English Language) Act shall apply to a Tribunal. Cap. 189.

**24.** (1) The provisions of this Part shall apply to claims arising from sales made or services provided after the coming into force of this section, and it shall be a condition of any sale or provision of service after the coming into force of this section that the provisions of this Part shall apply to any claims arising therefrom: Applicability of this Part.

Provided that it shall be lawful for a consumer and a trader to agree that this Part shall also apply to sales made, or services provided, before the coming into force of this section.

(2) It shall not be lawful for the parties to a transaction to which subsection (1) of this section refers, to derogate from any right given to a consumer under this Part.

**25.** (1) In any award the Arbiter shall determine the costs that any of the parties is to pay to the other and unless special circumstances so warrant, the losing party shall be ordered to pay the costs of the party in whose favour the decision is awarded. Costs and enforcement.

(2) Costs shall be limited to expenses made directly in connection with the case by the party in whose favour the payment of costs is awarded:

Provided that in no case shall costs be awarded in connection with any expenses consisting of legal fees or any fees however so called paid by any of the parties to advocates, legal procurators or any other person assisting the parties before the Tribunal.

(3) A decision of a Tribunal which has become *res judicata* may be enforced by the Court of Magistrates (Malta) in the case of a decision of the Consumer Claims Tribunal (Malta), and by the Court of Magistrates (Gozo) in its inferior civil jurisdiction in the case of the Consumer Claims Tribunal (Gozo) in the same manner as if the decision were a judgement of the respective Court.

**26.** (1) There shall be a Registry for each Tribunal. Registry,  
Secretary and  
Deputy  
Secretary.

(2) The records of each Tribunal shall be accessible to all persons, and copies shall be given on payment of the prescribed fee to any person on request.

(3) The acts and records of a Tribunal shall be deposited and kept in any place as the Minister may, with the concurrence of the Minister responsible for justice, by Order in the Gazette establish.

(4) The Minister shall appoint a Secretary to each Tribunal from among public officers serving with the Department.

(5) The Secretary shall subject to such rules as may be made under this Part, have the same functions in relation to the Tribunal as the Registrar of the Courts and the Archivist of the Courts have in relation to the Superior Courts.

(6) The Minister shall also appoint Deputy Secretaries from among public officers serving with the Department who shall, subject to rules made as aforesaid, have such duties as are assigned to them by the Secretary in general and in particular as are performed by Deputy Registrars in the Superior Courts.

(7) Before assuming the functions of their office, a Secretary and a Deputy Secretary shall take and subscribe to an oath before a Commissioner for Oaths to perform their duties fairly and impartially according to law.

Rules.

27. The Minister may, with the concurrence of the Minister responsible for justice, make rules for the better functioning of the Tribunals established under this Part and may without prejudice to the generality hereof make rules:

(a) setting out the procedure before the Tribunals or in appeals from the Tribunals;

(b) establishing the forms that are to be used in proceedings before the Tribunals or in appeals from the Tribunals;

(c) establishing rates of costs in proceedings before the Tribunals;

(d) establishing the fees that may be due to the Registry of the Tribunal;

(e) setting out the duties of the Secretaries and Deputy Secretaries; and

(f) prescribing anything that may or is to be prescribed in accordance with this Part.

#### PART IV

##### Consumer Associations

Requirements for registrations.

28. A registered consumer association is a consumer association which satisfies the Council that it complies with the following requirements:

(a) that the association has a minimum paid up membership of two hundred and fifty members of majority age who are citizens of Malta or permanent residents in Malta;

(b) that the statute of the association states in substance that the principal object of the association is to promote consumer protection, and to guide, inform and educate consumers;

(c) that the statute makes provision for the association to be managed by persons freely elected by the members of the association in an election which is held at least once every calendar year;

(d) that the association does not have the making of profit as one of its objects; and

(e) that the association is independent of any other association, organisation or grouping whose principal object is not the protection of consumers.

29. (1) Any consumer association wishing to be recognised as a registered consumer association shall submit to the Council the following:

Application for recognition.

(a) an application on the appropriate form issued under the authority of the Council;

(b) a complete updated copy of its statute duly certified by the person who holds the most senior executive post with the association;

(c) a list of the association's members including their respective addresses and identity card numbers; and

(d) the official address of the association.

(2) The Council shall at its earliest opportunity examine and verify whether the association satisfies the requirements laid down in section 28 of this Act. Where these requirements are satisfied, the Council shall register the applicant as a registered consumer association, and shall issue a certificate to the association confirming the registration of the said association and the date thereof.

(3) Where the Council determines that an association does not satisfy the requirements for registration, it shall within fourteen days from the date of its decision give notice thereof in writing to the applicant giving the grounds for such a decision.

(4) The Council may refuse to register a consumer association under a name or designation which it considers to be offensive or otherwise undesirable.

(5) A certificate issued by the Council to the effect that a particular consumer association is a registered consumer association which complies with all the requirements laid down under subsection (1) of this section, shall be valid and conclusive evidence of the fact for all intents and purposes of law.

(6) No fees shall be charged in connection with the registration of a consumer association with the Council.

Register of consumer associations.

**30.** (1) The Council shall keep a register of all registered consumer associations, stating their names, dates of registration, number of members and any other particulars the Council may deem appropriate.

(2) The register shall be open to inspection by any person free of charge at any time and place as may be determined by the Council:

Provided that the identity of the members of a registered consumer association shall not be open to public scrutiny.

Obligation to keep records of members.

**31.** Every registered consumer association shall keep a fully updated record of the names, addresses and identity card numbers of its members.

Obligation to submit information to Council.

**32.** (1) A registered consumer association shall submit to the Council all such returns and information on its membership and activities as the Council may from time to time require. Without prejudice to the foregoing, each registered consumer association shall in every calendar year not later than the end of March lodge with the Council a return of its membership as at the 31st December of the previous year.

(2) A registered consumer association shall provide the Council with a copy of any amendments to its statute, which copy must be duly certified by the person holding the most senior executive post with the association. Any such amendment must be notified to the Council within fourteen days of its approval by the said association.

Council to publish annual list.

**33.** As soon as practicable after the lapse of each successive calendar year but not later than the end of May of each year, the Council shall publish for general information in the Gazette a list of the registered consumer associations duly registered as on the 31st December of the previous year.

False or misleading statement etc.

**34.** Any person who knowingly or recklessly makes a false or misleading statement or declaration or otherwise gives any false or misleading information to the Council under any of the provisions of this Part shall on conviction be liable to a fine (*multa*) of up to one thousand Maltese liri or to a term of imprisonment not exceeding six months or to both such fine and imprisonment.

Exemption and privileges.

**35.** A registered consumer association shall enjoy the rights benefits, privileges and exemptions granted by this Part for so long as it remains so registered and continues to comply with the requirements of this Part.

**36.** (1) Notwithstanding the provisions of any other law, a registered consumer association and any of its officials acting on its behalf shall be exempt from any liability or responsibility whether civil or criminal, in respect of any publication, statement or other communication or activity, which is *bona fide* and is intended solely for the better information, education or protection of consumers. Such exemption shall extend to all persons publishing, printing, recording, broadcasting or communicating such information by any means whatsoever.

Exemption from liability.

(2) For the purposes of subsection (1) of this section, a publication, statement, communication or activity shall be deemed to be *bona fide* when it is not made or undertaken recklessly or maliciously, adheres to the principles of fairness and objectivity, and is not in contravention of any rules of practice made in accordance with paragraph (c) of subsection (1) of section 7 of this Act.

(3) Any person alleging bad faith by a registered consumer association shall have the burden of proving such allegations.

**37.** (1) A registered consumer association may in its own name make reports or complaints to the competent authority on any breach of this Act, any law administered by the Director or any such laws or regulations as the Prime Minister may from time to time determine by notice published in the Gazette.

Registered Consumer Associations and prosecutions.

(2) In any prosecution by the competent authority made following a report or complaint under subsection (1) of this section, a representative of the association shall be called to give evidence on the facts known to the association about the complaint or report and indicate to the Court any evidence in respect of the charge of which it may be aware.

(3) In the course of the criminal proceedings made as a result of a report or complaint by the association, an official authorised by the association for this purpose shall be entitled to participate and assist in the prosecution of the said offences.

**38.** A registered consumer association shall be exempt from the payment of income tax.

Exemption from Income Tax.

**39.** The Minister may, acting on the advice of the Council, grant to any registered consumer associations such assistance and facilities as he may deem fit from time to time in order to enable them to exercise their functions.

Assistance to registered consumer associations.

**40.** (1) The Council may whenever it considers it to be necessary, consult with registered consumer associations on any matter relating to or arising from the supply of goods and services to consumers.

Consultation and initiatives with registered consumer associations.

(2) The Council may also undertake initiatives or campaigns jointly with registered consumer associations as it deems fit from time to time.

Cancellation of registration.

**41.** The Council shall cancel the registration of a registered consumer association in any of the following cases where:

- (a) a request for cancellation is made by the association;
- (b) it is satisfied that the association no longer complies with any of the requirements laid down in section 28 of this Act;
- (c) for any reason, the statute regulating the association is not in conformity with the provisions of this Part;
- (d) it is satisfied that the association has ceased to exist or to function;
- (e) it is satisfied that sufficient proof exists that the registration of the association had been procured by fraud, negligence or serious mistake;
- (f) the association or anyone acting on its behalf is convicted under section 34 of this Act; or
- (g) the association has repeatedly acted in breach of any rules of practice made under paragraph (c) of subsection (1) of section 7 of this Act, or has in any matter of gravity acted even once in breach of such rules.

Other consumer associations.

**42.** Nothing in this Part shall be construed as obstructing or limiting the right of persons to set up associations for the protection and promotion of consumer interests without qualifying in terms of section 28 of this Act. In such a case an association which is not registered shall not have any right to consultation, assistance or recognition from the Council, or to any other right, privilege or exemption conferred by this Part upon registered consumer associations.

## PART V

### Miscellaneous

Director to administer certain laws.

Cap. 39.  
Cap. 313.  
Cap. 317.

**43.** The Director shall be responsible for the administration of the Weights and Measures Ordinance, the Trade Descriptions Act and the Door-to-Door Salesmen Act.

Repeal of Cap. 293.

**44.** The Consumer Protection Act is hereby repealed.

Amendment of certain laws.

**45.** The enactments set out in the First Column of the Schedule to this Act shall have effect subject to the amendments set out in the Second Column of the said Schedule.

## SCHEDULE

**(Section 45)**

First Column	Second Column
Code of Police Laws, Cap. 10.	In subsection (1) of section 189 for the words "at the Police Office" there shall be substituted the words "at the office of the Director of Consumer Affairs".
Civil Code, Cap. 16.	In section 1431 for the words "one month" there shall be substituted the words "six months".
Weights and Measures Ordinance, Cap. 39.	(a) For the words "Commissioner of Police" wherever they occur in the Ordinance there shall be substituted the words "Director of Consumer Affairs";  (b) for the words "Minister responsible for the Police" there shall be substituted the words "Minister responsible for consumer affairs".
Trade Descriptions Act, Cap. 313.	(1) (a) For the words "consumers' organisation" wherever they occur in the Act there shall be substituted the words "registered consumer association";  (b) for the words "Department of Trade" wherever they occur in the Act there shall be substituted the words "Department of Consumer Affairs".  (2) Section 2 shall be amended as follows:  (a) the definition of "consumers' organisation" shall be deleted;  (b) for the definition of "Minister" there shall be substituted the following:  "Minister" means the Minister responsible for consumer affairs;";  (c) after the definition of the word "premises" there shall be inserted the following definition:  "registered consumer association" means a consumer association registered in accordance with the provisions of the Consumer Affairs Act, 1994."
Door-to-Door Salesmen Act, Cap. 317.	(1) Section 2 shall be amended as follows:  (a) for the definition of the word "Director" there shall be substituted the following:

““Director” means the Director of Consumer Affairs;”;

(b) for the definition of the word “Minister” there shall be substituted the following:

““Minister” means the Minister responsible for consumer affairs;”.

(2) (a) In paragraph (g) of section 3 the words “other than contracts for the provision of insurance” shall be deleted.

(b) The provisions of paragraph (a) above shall be deemed to have come into force on the 1st January, 1992.

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Passed by the House of Representatives at Sitting No. 338 of the 15th November, 1994.

RICHARD J. CAUCHI  
*Clerk to the House of Representatives*

LAWRENCE GONZI  
*Speaker*

