

VERŻJONI ELETTRONIKA

*Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 20,671, 23 ta' Lulju, 2021*

*Taqsim A*

---

MALTA

**ATT Nru XLVIII tal-2021**

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

**ATT li jemenda l-Att dwar l-Inġiniera,  
Kap. 321.**

**ACT No. XLVIII of 2021**

AN ACT enacted by the Parliament of Malta.

**AN ACT to amend the *Inġiniera Act*,  
Cap. 321.**



Nagħti l-kunsens tiegħi.

(L.S.)

**GEORGE VELLA**  
**President**

23 ta' Lulju, 2021

**ATT Nru XLVIII tal-2021**

*ATT li jemenda l-Att dwar l-Inġiniera, Kap. 321.*

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

**1.** It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2021 li jemenda l-Att dwar l-Inġiniera u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar l-Inġiniera, minn hawn 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.

Kap. 321.

**2.** (1) Fl-artikolu 1 tal-Att prinċipali l-kliem "Att dwar il-Professjoni tal-Inġinerija" għandu jiġi sostitwit bil-kliem "L-Att dwar l-Inġiniera" u t-titolu tal-Att prinċipali għandu jiġi emendat skont dan.

Emenda tal-artikolu 1 tal-Att prinċipali.

(2) Il-kliem "Att dwar il-Professjoni tal-Inġinerija", kull fejn jokkorru fil-Liġijiet ta' Malta, għandhom jiġu sostitwiti bil-kliem "Att dwar l-Inġiniera".

A 1072

Emenda tal-  
artikolu 2 tal-  
Att prinċipali.

3. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minnufih qabel it-tifsira "Bord" għandha tiżdied it-tifsira ġdida li ġejja:

" "attivitajiet riżervati" tfisser iċ-ċertifikazzjoni ta' kwalunkwe servizz ta' inġinerija ta' natura mekkanika jew elettrika, li tista' titwettaq biss u esklużivament minn inġinier, li għandu rabta diretta u speċifika mal-kwalifiki professjonali, bħat-tifsira tal-professjoni, l-ambitu ta' attivitajiet koperti minn professjoni jew riżervati għaliha, l-użu ta' titoli u diligenza professjonali dovuta li hija marbuta direttament u speċifikament mal-ħarsien u s-sigurtà tal-konsumatur, u l-istess attivitajiet għandhom jitwettqu minn, jew taħt l-awtorizzazzjoni u l-gwida ta' inġinier li huwa detentur ta' warrant, jew persuna legali kompetenti fil-qasam, kif rikonoxxuti mill-Bord;"

(b) it-tifsira "Bord" għandha tiġi sostitwita b'din li ġejja:

" "Bord" tfisser Bord tal-Inġiniera mwaqqaf skont l-artikolu 6;"

(ċ) minnufih wara t-tifsira "Bord", kif sostitwita, għandhom jiżdiedu t-tifsiriet godda li ġejjin:

" "Direttiva dwar is-Servizzi" tfisser id-Direttiva 2006/123/KE tal-Parlament Ewropew u tal-Kunsill tat-12 ta' Diċembru 2006 dwar is-servizzi fis-suq intern;

"fornitur ta' servizz" tfisser persuna naturali li tkun ċittadina ta' Stat Membru jew persuna legali li tkun stabbilita fi Stat Membru li toffri jew tipprovdi servizz skont id-Direttiva dwar is-Servizzi;"

(d) fit-test Inġliż, it-tifsira "Engineer" għandha tiġi mħassra;

(e) it-tifsira "Inġinier" għandha tiġi sostitwita b'din li ġejja:

" "Inġinier" tfisser kull persuna li kisbet warrant skont l-artikolu 4 tal-Att;"

u fit-test Inġliż il-kliem "engineer" u "engineers", kull fejn jokkorru fl-Att prinċipali, għandhom jiġu sostitwiti bil-kliem "inġinier" u "inġiniera" skont dan;

(f) minnufih wara t-tifsira "Ministru" għandha tizzied it-tifsira ġdida li ġejja:

"persuna legali" tfisser kumpanija jew intrapriża mwaqqfa taht il-liġi ċivili jew kummerċjali, inkluża soċjetà koperattiva, u persuni legali oħra regolati mil-liġi pubblika jew privata, għajr għal dawk li ma jagħmlux profitt, iffurmati skont il-liġi ta' Stat Membru u li jkollhom ufficċju registrat, amministrazzjoni ċentrali jew post prinċipali tan-negozju tagħhom fi hdan l-Unjoni Ewropea;"

(g) it-tifsira "provditur ta' servizz" għandha tiġi mħassra;

(h) minnufih wara t-tifsira "professjoni ta' inginier" għandhom jizziedu t-tifsiriet ġodda li ġejjin:

"riċevitur ta' servizz" tfisser kull persuna naturali jew legali li tkun ċittadin ta' Stat Membru, jew li tgawdi mid-drittijiet mogħtija lilha mill-Atti Komunitarji, jew kull persuna legali li tkun stabbilita fi Stat Membru li, għal għanijiet professjonali jew xort'oħra, tuża jew tixtieq tuża servizz;

"servizzi ta' inginerija" tfisser attivitajiet ta' disinn, speċifikazzjoni, żvilupp, installazzjoni, kummissjonar, tħaddim, manutenzjoni u dekkummissjonar ta' kwalunkwe proċess, informazzjoni u sistemi relatati mekkaniċi, elettrici, kimiċi u l-imsemmija attivitajiet għandhom jitwettqu minn jew taht l-awtorizzazzjoni u l-gwida ta' inginier li għandu warrant, kompetenti fil-qasam kif rikonoxxut mill-Bord;

"stabiliment" tfisser it-twettiq attwali ta' attività ekonomika, kif imsemmija fl-Artikolu 49 tat-Trattat, mill-fornitur ta' servizz għal perjodu indefinit u permezz ta' infrastruttura stabbli minn fejn jitwettaq in-negozju tal-forniment tas-servizzi tal-inginerija;"

(i) fit-tifsira "Stat Membru", il-kliem "Żona Ekonomika Ewropea;" għandhom jiġu sostitwiti bil-kliem "Unjoni Ewropea";

(j) minnufih wara t-tifsira "Stat Membru", kif emendata, għandhom jizziedu t-tifsiriet ġodda li ġejjin:

"Stat Membru ta' stabiliment" tfisser l-Istat

Membru li fih il-fornitur tas-servizz konċernat huwa stabbilit;

"tagħlim tul il-ħajja" tfisser l-edukazzjoni ġenerali, l-edukazzjoni u t-taħriġ vokazzjonali, l-edukazzjoni mhux formali u t-tagħlim informali kollha li ttiehdu tul il-ħajja, li jirriżultaw f'titjib fl-għarfien, fil-ħiliet u l-kompetenzi, li jista' jinkludi l-etika professjonali;

"Trattat" tfisser it-Trattat dwar il-Funzjonament tal-Unjoni Ewropea;

"Unjoni Ewropea" għandu jkollha l-istess tifsira mogħtija lilha fit-Trattat;"

Emenda tal-artikolu 3 tal-Att prinċipali.

**4.** Il-proviso tas-subartikolu (4) tal-artikolu 3 tal-Att prinċipali għandu jiġi mħassar.

Emenda tal-artikolu 4 tal-Att prinċipali.

**5.** L-artikolu 4 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "subartikolu (2)" għandu jiġi sostitwit bil-kliem "artikolu 3(2)";

(b) is-subartikolu (2) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(2) Mingħajr preġudizzju għall-provisos tal-artikolu 5B(6), kull persuna li qiegħda teżerċita l-professjoni skont dan l-Att tista' tuża l-isem "Inġinier" jew l-abbrevjazzjoni tiegħu "Inġ." ma' isimha, jekk hija detentur ta' warrant."

Emenda tal-artikolu 5B tal-Att prinċipali.

**6.** L-artikolu 5B tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minnufih wara l-kliem "fuq bażi temporanja u okkażjonali" għandu jiżdied il-kliem "mingħajr ma tkun teħtieġ li ssegwi l-proċeduri biex jinkiseb warrant,";

(b) fis-subartikolu (1)(b) tiegħu, il-kliem "jew l-edukazzjoni u t-taħriġ li jwasslu għall-professjoni" għandu jiġi mħassar u l-kliem "jkunu regolati" għandu jiġi sostitwit bil-kliem "tkun regolata";

(ċ) fis-subartikolu (2)(ċ) tiegħu, il-kliem "id-detentur tal-warrant" għandu jiġi sostitwit bil-kliem "il-persuna";

(d) is-subartikolu (4) tiegħu għandu jiġi sostitwit b'dan li

gej:

"(4) Il-Bord għandu jeżamina n-natura temporanja u okkażjonali tal-provvista tal-attivitajiet riżervati każ b'każ.";

(e) minnufih wara s-subartikolu (6) tiegħu għandhom jiżdiedu l-provisos godda li ġejjin:

"Izda l-attivitajiet riżervati għandhom ikunu provduti taħt it-titolu professjonali tal-Istat Membru ta' stabbiliment, sa fejn dak it-titolu jeżisti f'dak l-Istat Membru għall-attività riżervata inkwistjoni. Dak it-titolu għandu jkun indikat bil-lingwa uffiċjali jew waħda mil-lingwi uffiċjali tal-Istat Membru ta' stabbiliment, b'mod li jiġi evitat kull kunflitt mat-titolu professjonali f'Malta. Fejn ma jeżistix titolu professjonali fl-Istat Membru ta' stabbiliment, il-fornitur tas-servizz għandu jindika l-kwalifika formali tiegħu b'waħda mil-lingwi uffiċjali ta' Malta:

Izda wkoll fejn il-kwalifiki professjonali ġew verifikati mill-Bord skont it-termini tal-paragrafu (b) tas-subartikolu (5), l-attivitajiet riżervati għandhom jiġu provduti taħt it-titolu professjonali ta' "Inġinier" jew l-abbrevjazzjoni tiegħu "Inġ." flimkien ma' isem il-fornitur tas-servizz u n-numru ta' registrazzjoni tal-liċenzja temporanja mogħtija mill-Bord.";

(f) minnufih wara l-provisos godda tas-subartikolu (6) tiegħu, kif miżjuda, għandu jiżdied is-subartikolu ġdid li ġej:

"(7) Fejn ċittadin ta' Stat Membru għandu l-kwalifiki professjonali li huma rikonoxxuti minn Stat Membru ieħor, izda fejn l-ambitu tal-attivitajiet professjonali huwa iktar ristrett minn dawk ta' Malta, u d-differenzi bejn l-oqsma tal-attività huma tant li programm sħiħ tal-edukazzjoni u t-taħriġ ikun meħtieġ għall-professionist biex jikkumpensa għan-nuqqasijiet, il-Bord tal-Warrant jista' jagħti lill-kandidat aċċess parzjali għall-professjoni għall-għanijiet tal-istabbiliment f'Malta għall-provvista ta' servizzi temporanja u okkażjonali, jekk il-professionist jaqbel ma' dan:

Izda din l-attività professjonali kwalifikata tista' tkun mifruda oġġettivament minn attivitajiet oħra li jaqgħu taħt il-professjoni: f'dan il-każ, l-eżerċizzju tal-

A 1076

professjoni għandu jitwettaq taħt it-titolu professjonali tal-Istat Membru domiciljari, sakemm dan ma johlloqx konfużjoni għar-riċevituri tas-servizz f'Malta."

Emenda tal-artikolu 6 tal-Att prinċipali.

7. L-artikolu 6 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "Bord tal-Professjoni tal-Inġinerija" għandu jiġi sostitwit bil-kliem "Bord tal-Inġiniera";

(b) is-subartikolu 3 tiegħu għandu jiġi mħassar; u

(c) is-subartikoli (4) sa (9) tiegħu għandhom jiġu enumerati mill-ġdid bhala s-subartikoli (3) sa (8) rispettivament.

Sostituzzjoni tal-artikoli 8, 9, 10 u 11 tal-Att prinċipali.

8. L-artikoli 8, 9, 10 u 11 tal-Att prinċipali għandhom jiġu sostitwiti b'dawn li ġejjin:

"Persuni legali.

8. (1) Kull persuna legali li tkun stabbilita f'Malta jew fi Stat Membru ieħor tista' ttiprovdi servizzi ta' inġinerija f'Malta, iżda kwalunkwe attivitajiet riżervati jittieħdu f'isem l-imsemmija persuna legali minn detentur tal-warrant, jew minn kull persuna li tingħata liċenzja speċjali marbuta mal-istess attivitajiet skont l-artikolu 5, jew minn persuna msemmija fl-artikolu 5B, sakemm fl-aħħar każ, ir-rekwiżiti tal-artikolu 5B ikunu sodisfatti.

(2) Mingħajr preġudizzju għal xi responsabbiltà jew obligazzjoni skont il-liġi tal-persuna legali nnifisha, il-fatt li l-attivitajiet riżervati jittieħdu f'isem persuna legali skont is-subartikolu (1), minn detentur tal-warrant, jew minn kull persuna li tingħata liċenzja speċjali taħt l-artikolu 5, jew minn persuna msemmija fl-artikolu 5B, ma għandux jeżonera l-imsemmi detentur tal-warrant, jew id-detentur tal-liċenzja speċjali, jew il-persuna msemmija fl-artikolu 5B, minn xi responsabbiltà jew mill-obbligazzjonijiet tagħhom skont il-liġi fir-rigward tal-attivitajiet riżervati li jkunu ħadu f'isem il-persuna legali.

(3) L-isem tad-detentur tal-warrant, jew tal-persuna mogħtija liċenzja speċjali skont l-artikolu 5, jew tal-persuna msemmija fl-artikolu 5B, li twettaq l-attivitajiet riżervati f'isem persuna legali skont is-subartikolu (1), għandha tiġi identifikata b'mod ċar f'kull komunikazzjoni formali jew kuntratt ta' servizz mar-riċevitur tas-servizz u f'kull materjal ta' kummerċ li jirrigwarda l-attivitajiet riżervati.

Dispożizzjonijiet relatati mal-assigurazzjoni għal responsabbiltà applikabbli għal detenturi ta' warrant u liċenzja speċjali.

9. (1) Detenturi tal-warrant, persuni li jingħataw liċenzja speċjali taħt l-artikolu 5, u persuni li jeżerċitaw il-professjoni ta' inginier fuq bażi temporanja u okkażjonali skont l-artikolu 5B, li fl-eżerċizzju tal-professjoni ta' inginier għandu riskju dirett u partikolari għas-saħħa jew is-sikurezza tar-riċevitur jew ta' terza persuna, jew għas-sigurtà finanzjarja tar-riċevitur, għandhom jabbonaw f'assigurazzjoni għal responsabbiltà professjonali xierqa għan-natura u l-limitu tar-riskju, jew jipprovdu garanzija jew arrangament simili li huwa ekwivalenti jew essenzjalment komparabbli f'dak li jirrigwarda l-għan tiegħu. Fil-każ ta' persuni li jeżerċitaw il-professjoni ta' inginier fuq bażi temporanja u okkażjonali skont l-artikolu 5B, id-dispożizzjonijiet tal-artikolu 6(1)(b) tal-Att dwar is-Servizzi (Suq Intern) għandhom japplikaw:

Kap. 500.

Iżda dik l-assigurazzjoni għal responsabbiltà professjonali jew garanzija jew arrangament simili għandha tissussisti jew tibqa' attiva għal mill-anqas ħames snin mid-data li fuqha l-attività riżervata relattiva li twassal għall-obbligu ta' abbonament għal assicurazzjoni għal responsabbiltà professjonali, jew tipprovdi garanzija jew arrangament simili skont is-subartikolu (1), għandha tkun kompluta.

(2) Kull persuna li tkun stabbilita f'Malta għandha tkun marbuta li tkun koperta b'assigurazzjoni għal responsabbiltà professjonali, jew li tipprovdi garanzija jew arrangament simili taħt dan l-artikolu u għandha, kull sena u fi żmien gimgħa li toħroġ, temenda jew iġġedded tali assicurazzjoni, garanzija jew arrangament simili, tipprovdi lill-Bord b'attestazzjonijiet ta' dik il-kopertura maħruġa minn istituzzjonijiet ta' kreditu u assiguratari li jkunu stabbiliti fi Stat Membru:

Iżda persuna li teżerċita l-professjoni ta' inginier skont l-artikolu 5B għandha tkun unikament obbligata li tipprovdi lill-Bord id-dikjarazzjoni msemmija fil-paragrafu (a) tas-subartikolu (2) tal-artikolu 5B.

(3) Għall-għan ta' dan l-artikolu:

"riskju dirett u partikolari" tfisser riskju li joħroġ direttament mill-għoti tas-servizz;

"saħħa u sikurezza" tfisser, dwar riċevitur jew terza persuna, il-prevenzjoni ta' mewt jew korriment serju personali;

"sigurtà finanzjarja" tfisser, dwar riċevitur, il-prevenzjoni ta' telf sostanzjali ta' flus jew tal-valur ta' proprjetà;

"assigurazzjoni għal responsabbiltà professjonali" tfisser assicurazzjoni li tkun maħruġa minn fornitur fir-rigward ta' responsabbiltajiet potenzjali lil riċevituri u, fejn applikabbli, minn terzi li johorġu mill-ġhoti tas-servizz.

(4) Id-dispożizzjonijiet tas-subartikolu (1) ma għandhomx japplikaw għal detentur tal-warrant li hu impjegat tal-amministrazzjoni pubblika fir-rigward ta' kwalunkwe attivitajiet jew servizzi, li skont il-Liġijiet ta' Malta jistgħu jitwettqu biss minn detentur tal-warrant, u li huwa jipprovdi f'isem l-amministrazzjoni pubblika fl-iskop tal-impjeg tiegħu u dan għaliex l-amministrazzjoni pubblika tkun responsabbli għall-obbligazzjonijiet ta' detentur tal-warrant li jirrizultaw mis-subartikolu (1), anke jekk tali impjegat ma jibqax impjegat tal-amministrazzjoni pubblika:

Għall-finijiet ta' dan is-subartikolu "amministrazzjoni pubblika" tfisser il-Gvern ta' Malta inklużi l-ministeri u d-dipartimenti tiegħu, il-korpi speċjalizzati u l-aġenziji, l-entitajiet tal-Gvern u l-organizzazzjonijiet li fihom il-Gvern ikollu kontroll effettiv, sew jekk dik l-organizzazzjoni tkun jew ma tkunx imwaqqfa b'liġi.

Servizzi ta' inġinerija mwettqa fuq bażi temporanja u okkażjonali.

10. Kull detentur tal-warrant jew kull persuna li tingħata liċenzja speċjali taht l-artikolu 5, jew kull persuna li teżerċita l-professjoni ta' inġinier fuq bażi temporanja u okkażjonali skont l-artikolu 5B, għandha twettaq servizzi ta' inġinerija mingħajr influwenza li mhix xierqa u għandha tirrifjuta li twettaq kwalunkwe minn dawn is-servizzi meta l-indipendenza tagħha hija kompromessa.

Ftehim ipprojbitt.

11. Kull ftehim jew arrangament ieħor li jkollu l-ħsieb li jeżenta lil detentur tal-warrant, jew lil xi persuna li tkun ingħatat liċenzja speċjali taht l-artikolu 5, jew lil xi persuna li teżerċita l-professjoni ta' inġinier fuq bażi temporanja u okkażjonali taht l-artikolu 5B, minn xi responsabbiltà, piż jew dmir taht l-Att tal-2021 li jemenda l-Att dwar l-Inġiniera, jew taht xi liġi oħra, jew li teħlishom minnhom, ħlief taht assicurazzjoni, garanzija jew arrangament simili magħmula taht l-artikolu 9, biex jingħatalhom indennizz kontra kull tali responsabbiltà, piż jew dmir, ikun null u mingħajr effett."

Att Nru XLVIII tal-2021.

Sostituzzjoni tal-artikoli 13 u 14 tal-Att prinċipali.

9. L-artikoli 13 u 14 tal-Att prinċipali għandhom jiġu sostitwiti

b'dawn li ġejjin:

"Irtirar jew  
thassir ta'  
warrant jew  
liċenzja  
speċjali.

13. (1) Warrant jew liċenzja speċjali maħruġa, mogħtija jew magħmula taħt id-dispożizzjonijiet ta' dan l-Att tista' tiġi rtirata jew ikkanċellata mill-Bord fuq talba tad-detentur tal-warrant jew tal-liċenzja, kif ikun il-każ.

(2) Minkejja dak imsemmi precedentement, warrant jew liċenzja speċjali, jistgħu jerġgħu jinħargu, jew jingħataw jew isiru mill-ġdid, f'kull żmien, jekk il-kundizzjonijiet għal dak il-ħruġ ikunu ġew sodisfatti.

Sospensjoni,  
revoka jew  
thassir ta'  
warrant jew  
liċenzja  
speċjali.

14. Il-Bord jista', b'ordni bil-miktub, jissospendi jew jirrevoka jew iħassar warrant jew liċenzja speċjali maħruġa skont l-artikolu 5, jekk id-detentur tal-warrant jew tal-liċenzja, skont kif ikun il-każ:

(a) ikun instab ħati, wara inkjesta mill-Bord, ta' xi wiehed mill-atti jew ommissjonijiet li ġejjin:

(i) dizonestà, imġiba ħażina jew ommissjoni serja fl-eżerċizzju tal-professjoni tiegħu;

(ii) imġiba li tiskredita l-professjoni;

(iii) nuqqas ta' ħarsien ta' regolamenti dwar l-istandards jew il-prattiċi professjonali, jew ta' xi wiehed mill-obbligi legali skont dan l-Att jew fir-rigward ta' attivitajiet riżervati; jew

(iv) nuqqas ta' ħarsien ta' xi kundizzjoni annessa mal-warrant jew fil-liċenzja speċjali maħruġa taħt id-dispożizzjonijiet tal-artikolu 16; jew

(b) ikun instab ħati minn qorti kompetenti ta' reat taħt id-dispożizzjonijiet ta' dan l-Att jew ta' xi regolamenti li jsiru taħtu; jew

(ċ) mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 12, ikun instab ħati minn qorti kompetenti ta' reat li jolqot il-fiduċja pubblika jew ta' serq jew ta' frodi jew li jkun xjentement irċieva proprjetà miksuba b'serq jew bi frodi."

**10.** Fl-artikolu 15 tal-Att prinċipali l-kliem "; u meta tithassar ir-registrazzjoni ta' soċjetà ta' inġinieri l-membri ta' dik is-soċjetà ma għandhomx jibqgħu jaġixxu għan-nom u in rappreżentanza tas-soċjetà u s-soċjetà ma għandhiex tibqa' tuża l-isem "Inġinier" jew l-abbrevjazzjoni tiegħu "Inġ." għandu jiġi mħassar.

Emenda tal-  
artikolu 15 tal-  
Att prinċipali.

A 1080

Sostituzzjoni tal-artikolu 16 tal-Att prinċipali.

**11.** L-artikolu 16 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Il-Bord jista' johroġ warrant mill-ġdid.

16. Il-Bord jista', wara li tgħaddi sena mid-data tar-revoka jew irtirar tal-warrant jew liċenzja speċjali, u jekk il-Bord jirrakkomanda hekk, johroġ mill-ġdid warrant jew liċenzja speċjali taħt id-dispożizzjonijiet ta' dan l-Att, sugġett għal dawk il-kundizzjonijiet li l-Bord jidhirlu meħtieġa."

Thassir tal-artikolu 17 tal-Att prinċipali.

**12.** L-artikolu 17 tal-Att prinċipali għandu jiġi mħassar.

Sostituzzjoni tal-artikolu 19 tal-Att prinċipali.

**13.** L-artikolu 19 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Reati.

19. (1) Kull persuna li, sabiex tikseb il-warrant jew liċenzja speċjali jew bl-għanijiet tal-artikolu 5B, tagħti xi tagħrif inkorrett jew xort'oħra taġixxi b'mod qarrieqi jew bi frodi, għandha tkun hatja ta' reat u tista' tehel, meta tinsab hatja, multa ta' mhux iżjed minn elfejn u ħames mitt euro (€2,500), jew piena ta' prigunerija għal mhux iżjed minn tnax-il xahar, jew dik il-multa u l-prigunerija flimkien.

(2) Kull persuna li, ma tkunx intitolata skont dan l-Att, tassumi jew tuża l-isem ta' "Inġinier" jew l-abbrevjazzjoni tiegħu "Inġ.", jew b'xi mod tindika li hi intitolata teżerċita l-professjoni ta' inġinier, tkun hatja ta' reat u tista' tehel, meta tinsab hatja, multa ta' mhux iżjed minn elf, mitejn u ħamsin euro (€1,250), u fir-rigward tat-tieni reat jew reati oħra sussegwenti l-piena ta' prigunerija għal żmien ta' mhux iżjed minn tliet xhur, jew dik il-multa u l-prigunerija flimkien.

(3) Mingħajr preġudizzju għal xi dispożizzjoni oħra tal-liġi li tgħid il-kuntrarju, kull persuna li, meta ma tkunx detentur ta' warrant jew ta' liċenzja speċjali, jew li ma tkunx intitolata li teżerċita temporanjament skont id-dispożizzjonijiet tal-Att tal-2021 li jemenda l-Att dwar l-Inġiniera, teżerċita l-professjoni ta' inġinier, tkun hatja ta' reat u tista' tehel, meta tinsab hatja, multa ta' mhux inqas minn ħames mitt euro (€500), iżda ta' mhux iżjed minn ħamest elef euro (€5,000), u fir-rigward tat-tieni reat jew reati oħra sussegwenti, multa ta' mhux inqas minn seba' mitt euro (€700) iżda ta' mhux iżjed minn tnax-il elf u ħames mitt euro (€12,500), jew piena ta' prigunerija għal żmien ta' mhux iżjed minn sitt xhur, jew dik il-multa u l-prigunerija flimkien.

Att Nru XLVIII tal-2021.

(4) Kull persuna li taġixxi bi ksur tad-dispożizzjonijiet tal-artikolu 9 tkun ħatja ta' reat u tista' tehel, meta tinsab ħatja, multa ta' mhux inqas minn ħames mitt euro (€500) iżda ta' mhux iżjed minn ħamest 'elef euro (€5,000), u fil-każ ta' reat kontinwu multa addizzjonali ta' sebgħin euro (€70) għal kull ġurnata li matulha jissussisti r-reat.

(5) Kull persuna li taġixxi bi ksur tad-dispożizzjonijiet tal-artikolu 9 tkun ħatja ta' reat u tista' tehel, meta tinsab ħatja, multa ta' mhux inqas minn ħames mitt euro (€500) iżda mhux iktar minn elf u mitejn euro (€1,200), u fil-każ ta' reat kontinwu multa addizzjonali ta' sebgħin euro (€70) għal kull ġurnata li matulha jissussisti r-reat."

**14.** Is-subartikolu (4) tal-artikolu 20 tal-Att prinċipali għandu għandu jiġi mħassar.

Emenda tal-artikolu 20 tal-Att prinċipali.

**15.** L-artikolu 21 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 21 tal-Att prinċipali.

(a) il-paragrafu (f) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(f) l-awtorità, jekk hemm, li għandha tiddeċiedi kull kwistjoni dwar ħlasijiet mitluba għall-għoti ta' servizzi ta' inġinerija u l-proċedura li fuqha għandha timxi kull tali awtorità;"

(b) fil-paragrafu (g) tiegħu l-kliem "jew għar-registrazzjoni ta' soċjetà ta' inġinieri" għandu jiġi mħassar; u

(ċ) fil-paragrafu (j) tiegħu l-kliem "jew soċjetà ta' inġinieri" għandu jiġi sostitwit bil-kliem "jew persuna legali".

**16.** L-artikolu 22 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 22 tal-Att prinċipali.

"Eċċezzjonijiet.  
Kap. 426.

22. Id-dispożizzjonijiet ta' dan l-Att għandhom japplikaw mingħajr preġudizzju għad-dispożizzjonijiet tal-Att dwar il-Komunikazzjonijiet u t-Transazzjonijiet Elettroniċi."

**17.** Minnufih wara l-artikolu 22 tal-Att prinċipali, għandu jidder l-artikolu 23 għid li ġej:

Żieda ta' artikolu għid mal-Att prinċipali.

"Thassir.  
L.S. 321.03.  
L.S. 321.05.

23. (1) Ir-Regolamenti tal-Assigurazzjoni għal Indennizz u r-Regolamenti dwar it-Tifsira ta' Xogħol tal-Inġinerija għandhom jiġu mħassra.

A 1082

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1), ir-regolamenti li qed jiġu mħassra għandhom jibqgħu applikabbli għall-għan ta' kwalunkwe att, deċiżjoni, azzjoni jew proċeduri li ttiehdu fir-rigward ta' kull ksur tal-istess regolamenti li qed jiġu mħassra, li seħħew, jew li kienu istitwiti qabel ma' daħal fis-seħħ l-Att tal-2021 li jemenda l-Att dwar l-Inġiniera."

Att Nru  
XLVIII tal-  
2021.

---

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 489 tal-14 ta' Lulju, 2021.

CLAUDETTE BUTTIGIEG  
*Deputy Speaker*

RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

**GEORGE VELLA**  
**President**

23rd July, 2021

**ACT No. XLVIII of 2021**

*An ACT to amend the Inġiniera Act, Cap. 321.*

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:

**1.** The short title of this Act is the Inġiniera (Amendment) Act, 2021 and this Act shall be read and construed as one with the Inġiniera Act, hereinafter referred to as "the principal Act".

Short title

Cap. 321.

**2.** (1) In article 1 of the principal Act the words "Engineering Profession Act" shall be substituted by the words "Inġiniera Act" and the title of the principal Act shall be amended accordingly.

Amendment of article 1 of the principal Act.

(2) The words "Engineering Profession Act", wherever they occur in the Laws of Malta, shall be substituted by the words "Inġiniera Act".

A 1084

Amendment of  
article 2 of the  
principal Act.

3. Article 2 of the principal Act shall be amended as follows:

(a) the definition "Board" shall be substituted by the following:

" "Board" means the Board tal-Inginiera established by article 6;"

(b) the definition "Engineer" shall be deleted;

(c) immediately after the definition "Board", as substituted, there shall be added the following new definitions:

" "engineering services" means activities of design, specification, development, installation, commissioning, operation, maintenance and decommissioning of any mechanical, electrical, chemical process, information and related systems and such activities shall be carried out by or under the authorization and guidance of an engineer who is a warrant holder, competent in the field as recognized by the Board;

"establishment" means the actual pursuit of an economic activity, as referred to in Article 49 of the Treaty, by the service provider for an indefinite period and through a stable infrastructure from where the business of provision of engineering services is carried out;

"European Union" shall have the same meaning assigned to it in the Treaty;

"Inginier" means any person who has obtained a warrant in terms of article 4 of the Act;"

and the words "engineer" and "engineers" shall be substituted by the words "ingnier" and "ingniera" accordingly, wherever they occur in the principal Act;"

"legal person" means a company or firm constituted under civil or commercial law, including a cooperative society, and other legal persons governed by public or private law, save for those which are non-profit-making, formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the European Union;"

(d) in the definition "Member State" the words "European Economic Area" shall be substituted by the words

"European Union";

(e) immediately after the definition "Member State", as amended, there shall be added the following new definition:

" "Member State of establishment" means the Member State in whose territory the provider of the service concerned is established;"

(f) immediately after the definition "profession of engineer" there shall be added the following new definitions:

" "recipient of service" means any natural or legal person who is a national of a Member State or who benefits from the rights conferred upon him by Community Acts, or any legal person established in a Member State who, for professional or other purposes, uses or intends to use a service;

"reserved activities" means the certification of any engineering service of a mechanical or electrical nature, which may solely and exclusively be carried out by an inginier, having a direct and specific link with the professional qualifications, such as the definition of the profession, the scope of activities covered by a profession or reserved to it, the use of titles and professional due diligence which is directly and specifically linked to consumer protection and safety, and such activities shall be carried out by, or under the authorisation and guidance of an inginier who is a warrant holder, or a legal person competent in the field as recognised by the Board;"

(g) in the Maltese text the definition "provditur ta' servizz" shall be deleted;

(h) the definition "service provider" shall be substituted by the following:

" "service provider" means a natural person who is a national of a Member State or a legal person established in a Member State who offers or provides a service in terms of the Services Directive;"

(i) immediately after the definition "service provider", as substituted, there shall be added the following new definitions:

" "Services Directive" means Directive 2006/123/EC

of the European Parliament and of the Council of 12 December 2006 on services in the internal market;

"Treaty" means the Treaty on the Functioning of the European Union;";

(j) in the Maltese text, immediately after the new definition "Stat Membru ta' stabbiliment" there shall be added the definition "tagħlim tul il-ħajja":

" "tagħlim tul il-ħajja" tfisser l-edukazzjoni ġenerali, l-edukazzjoni u t-taħriġ vokazzjonali, l-edukazzjoni mhux formali u t-tagħlim informali kollha li ttieħdu tul il-ħajja, li jirriżultaw f'titjib fl-għarfien, fil-ħiliet u l-kompetenzi, li jista' jinkludi l-etika professjonali;"

Amendment of article 3 of the principal Act.

4. The proviso to sub-article (4) of article 3 of the principal Act shall be deleted.

Amendment of article 4 of the principal Act.

5. Article 4 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof the words "sub-article (2)" shall be substituted by the words "article 3(2)";

(b) sub-article (2) thereof shall be substituted by the following:

"(2) Without prejudice to the provisos to article 5B(6), any person who is exercising the profession in accordance with this Act may use the designation "Inġinier" or its abbreviation "Inġ." with his name, if he is a warrant holder."

Amendment of article 5B of the principal Act.

6. Article 5B of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, immediately after the words "on a temporary and occasional basis" there shall be added the words "without being required to follow the procedures to obtain a warrant,";

(b) in sub-article (1)(b) thereof the words "or the education and training leading to the engineering profession" shall be deleted, and in the Maltese text the words "jkunu regolati." shall be substituted by the words "tkun regolata.";

(c) in sub-article (2)(c) thereof the words "the warrant holder" shall be substituted by the words "the person";

(d) sub-article (4) thereof shall be substituted by the following:

"(4) The Board shall assess the temporary and occasional nature of the provision of the reserved activities on a case by case basis.";

(e) immediately after sub-article (6) thereof there shall be added the following new provisos:

"Provided that reserved activities shall be provided under the professional title of the Member State of establishment, in so far as such title exists in that Member State for the reserved activity concerned. That title shall be indicated in the official language or one of the official languages of the Member State of establishment, in such a way as to avoid any conflict with the professional title in Malta. Where no such professional title exists in the Member State of establishment, the service provider shall indicate his formal qualification in one of the official languages of Malta:

Provided further that where professional qualifications have been verified by the Board in terms of paragraph (b) of sub-article (5), the reserved activities shall be provided under the professional title of "Ingénieur" or its abbreviation "Ing." together with the service provider's name and the temporary licence registration number provided by the Board.";

(f) immediately after the new provisos to sub-article (6) thereof, as added, there shall be added the following new sub-article:

"(7) Where a national of a Member State has professional qualifications recognised by another Member State, but the scope of professional activities is narrower than those in Malta, and the difference between the fields of activity are such that a full programme of education and training would be required for the professional to compensate for the shortcomings, the Warranting Board may grant the candidate partial access to the profession for the purposes of establishment in Malta for temporary and occasional provision of services, provided that the professional so agrees:

Provided that such qualified professional

A 1088

activity can be objectively separated from other activities falling under the profession: in this case, the exercise of the profession will be carried out under the professional title of the home Member State, as long as this does not create confusion for the recipients of the service in Malta."

Amendment of article 6 of the principal Act.

**7.** Article 6 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof the words "Engineering Profession Board" shall be substituted by the words "Board tal-Inġiniera";

(b) sub-article 3 thereof shall be deleted; and

(c) sub-articles (4) to (9) thereof shall be renumbered as sub-articles (3) to (8) respectively.

Substitution of articles 8, 9, 10 and 11 of the principal Act.

**8.** Articles 8, 9, 10 and 11 of the principal Act shall be substituted by the following:

"Legal persons.

8. (1) Any legal person established in Malta or in another Member State may provide engineering services in Malta, provided that any reserved activities are undertaken on behalf of the said legal person by a warrant holder, or by any person who is granted a special licence relative to such activities in terms of article 5, or by a person referred to in article 5B, provided that in the latter case, the requirements of article 5B have been complied with.

(2) Without prejudice to any liability or obligations in terms of law of the legal person itself, the fact that reserved activities are undertaken on behalf of a legal person in terms of sub-article (1), by a warrant holder, or by any person who is granted a special licence under article 5, or by a person referred to in article 5B, shall not exonerate the said warrant holder, or special licence holder, or the person referred to in article 5B, from any liability or from their obligations in terms of law in respect of the reserved activities they have undertaken on behalf of the legal person.

(3) The name of the warrant holder, or of the person granted a special licence in terms of article 5, or of the person referred to in article 5B, undertaking reserved activities on behalf of a legal person in terms of sub-article (1), shall be clearly identified in any formal communication or contract of service to the recipient of the service and on any marketing material related to reserved activities.

Provisions related to liability insurance applicable to warrant and special licence holders.

9. (1) Warrant holders, persons who are granted a special licence under article 5, and persons who exercise the profession of inginier on a temporary and occasional basis in terms of article 5B, whose exercise of such profession of inginier presents a direct and particular risk to the health or safety of the recipient or a third person, or to the financial security of the recipient, shall subscribe to professional liability insurance appropriate to the nature and extent of the risk, or provide a guarantee or similar arrangement which is equivalent or essentially comparable with regard to its purpose. In the case of persons who exercise the profession of Inġinier on a temporary and occasional basis in terms of article 5B, the provisions of article 6(1)(b) of the Services (Internal Market) Act shall apply:

Cap. 500.

Provided that such professional liability insurance or guarantee or similar arrangement shall subsist, or be kept active for a minimum of five years from the date on which the relative reserved activity giving rise to the obligation to subscribe to professional liability insurance, or provide a guarantee or similar arrangement in terms of sub-article (1), shall have been completed.

(2) Every person established in Malta shall be bound to be covered by a professional liability insurance, or provide a guarantee or similar arrangement under this article and shall each year, and within a week of taking out, amending or renewing such insurance, guarantee or similar arrangement, provide the Board with attestations of such cover issued by credit institutions and insurers established in a Member State:

Provided that a person exercising the profession of inginier in accordance with article 5B shall only be obliged to provide to the Board the declaration referred to in paragraph (a) of sub-article (2) of article 5B.

(3) For the purpose of this article:

"direct and particular risk" means a risk arising directly from the provision of the service;

"health and safety" means, in relation to a recipient or a third person, the prevention of death or serious personal injury;

"financial security" means, in relation to a recipient, the prevention of substantial losses of money or of value of property;

"professional liability insurance" means insurance taken out by a provider in respect of potential liabilities to recipients and, where applicable, third parties arising out of the provision of the service.

(4) The provisions of sub-article (1) shall not apply to a warrant holder who is employed by the public administration in respect of any activities or services, which according to the Laws of Malta may only be rendered by a warrant holder, and which he provides in the name of the public administration within the scope of his employment owing to the public administration being responsible for the obligations of the warrant holder that arise from sub-article (1), even if such employee does not remain employed in the public administration:

For the purpose of this sub-article, "public administration" means the Government of Malta including its ministries and departments, the specialised bodies and the agencies, Government entities and the organizations in which Government has a controlling interest, whether or not such organization is established by law.

Engineering services performed on a temporary and occasional basis.

10. Every warrant holder or any person who is granted a special licence under article 5, or any person who exercises the profession of inginier on a temporary and occasional basis in terms of article 5B, shall perform engineering services without undue influence and shall refuse to undertake any such services where his independence is compromised.

Prohibited agreements.

11. Any agreement or other arrangement with the intention to exempt a warrant holder, or any person who is granted a special licence under article 5, or any person who exercises the profession of inginier on a temporary and occasional basis under article 5B, from any responsibility, liability or duty under the Inġiniera (Amendment) Act, 2021, or under any other law, or to relieve them therefrom, except under an insurance, guarantee, or similar arrangement as provided under article 9, to indemnify them against any such responsibility, liability or duty, shall be null and void."

Act No. XLVIII of 2021.

**9.** Articles 13 and 14 of the principal Act shall be substituted by the following:

Substitution of articles 13 and 14 of the principal Act.

"Withdrawal or cancellation of a warrant or a special licence.

13. (1) A warrant or a special licence issued, granted or made under the provisions of this Act may be withdrawn or cancelled by the Board at the request of the warrant holder or the licensee, as the case may be.

(2) Notwithstanding the foregoing, a warrant or special licence may be re-issued or granted or made at any time if the conditions for such issue are satisfied.

Suspension, revocation or cancellation of a warrant or a special licence.

14. The Board may, by order in writing, suspend or revoke or cancel a warrant or a special licence issued in terms of article 5 if the warrant holder or licensee, as the case may be:

(a) has been found guilty, after an inquiry by the Board, of any of the following acts or omissions:

(i) dishonesty, misconduct or gross negligence in the exercise of his profession;

(ii) discreditable conduct to the profession;

(iii) failure to comply with regulations with respect to professional standards or practices, or with any legal obligation in terms of this Act or related to reserved activities; or

(iv) has failed to comply with any condition attached to a warrant or special licence issued under the provisions of article 16; or

(b) has been found guilty by a competent court of an offence under the provisions of this Act or of any regulations made thereunder; or

(c) without prejudice to the provisions of article 12, has been found guilty by a competent court of a crime affecting public trust or theft or fraud or knowingly receiving property obtained by theft or fraud."

**10.** In article 15 of the principal Act the words "; and upon the cancellation of the registration of a partnership of engineers the members of that partnership shall cease to act in the name and on behalf of the partnership and the partnership shall cease to use the designation "Inġinier" or the corresponding abbreviation "Inġ." shall be deleted.

Amendment of article 15 of the principal Act.

A 1092

Substitution of article 16 of the principal Act.

**11.** Article 16 of the principal Act shall be substituted by the following:

"Board may re-issue warrant.

16. The Board may, after the expiration of one year from the date of the revocation or withdrawal of a warrant or special licence, and if the Board so recommends, re-issue a warrant or special licence under the provisions of this Act, subject to such conditions as the Board may deem necessary."

Deletion of article 17 of the principal Act.

**12.** Article 17 of the principal Act shall be deleted.

Substitution of article 19 of the principal Act.

**13.** Article 19 of the principal Act shall be substituted by the following:

"Offences.

19. (1) Any person who, for the purpose of obtaining the warrant or special licence or for the purposes of article 5B, gives any incorrect information or otherwise acts in a deceitful or fraudulent manner shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) not exceeding two thousand and five hundred euro (€2,500), or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

(2) Any person who, not being entitled to in terms of this Act, assumes or uses the designation "Inġinier" or its abbreviation "Inġ.", or in any manner indicates that he is entitled to exercise the profession of inginier shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) not exceeding one thousand two hundred and fifty euro (€1,250), and in respect of a second or subsequent offences, to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Act No.  
XLVIII of  
2021.

(3) Without prejudice to any other provisions of law to the contrary, any person who, not being the holder of a warrant or a special licence or who is otherwise not entitled to practise temporarily in accordance with the provisions of the Inġiniera (Amendment) Act, 2021 practises the profession of inġinier, shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not less than five hundred euro (€500) but not exceeding five thousand euro (€5,000), and in respect of a second or subsequent offences, to a fine (*multa*) of not less than seven hundred euro (€700) but not exceeding twelve thousand, five hundred euro (€12,500), or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(4) Any person who contravenes the provisions of article 9 shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not less than five hundred euro (€500) but not exceeding five thousand euro (€5,000), and in the case of a continuing offence to an additional fine (*multa*) of seventy euro (€70) for each day during which the offence subsists.

(5) Any person who contravenes the provisions of article 9 shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not less than five hundred euro (€500) but not exceeding one thousand, two hundred euro (€1,200), and in the case of a continuing offence to an additional fine (*multa*) of seventy euro (€70) for each day during which the offence subsists."

14. Sub-article (4) of article 20 of the principal Act shall be deleted.

Amendment of  
article 20 of the  
principal Act.

15. Article 21 of the principal Act shall be amended as follows:

Amendment of  
article 21 of the  
principal Act.

(a) paragraph (f) thereof shall be substituted by the following:

"(f) the authority, if any, by which any dispute concerning fees charged for the provision of engineering services may be settled and the procedure to be followed by any such authority;"

(b) in paragraph (g) thereof the words "or for the registration of a partnership of engineers" shall be deleted; and

(c) in paragraph (j) thereof the words "or a partnership of engineers" shall be substituted by the words "or a legal person".

VERŻJONI ELETTRONIKA

A 1094

Substitution of article 22 of the principal Act.

**16.** Article 22 of the principal Act shall be substituted by the following:

"Savings. 22. The provisions of this Act shall be applied without prejudice to the provisions of the Electronic Commerce Act."  
Cap. 426.

Addition of new article to the principal Act.

**17.** Immediately after article 22 of the principal Act there shall be added the following new article 23:

"Repeal. 23. (1) The Indemnity Insurance Regulations and the Practice of Engineering (Definition) Regulations shall be deleted.  
S.L. 321.03.  
S.L. 321.05.

(2) Notwithstanding the provisions of sub-article (1), the repealed regulations shall remain applicable for the purpose of any act, decision, action or proceedings taken in respect of any breach of the said repealed regulations, that occurred, or were instituted prior to the coming into force of the Inginiera (Amendment) Act, 2021."

Act No.  
XLVIII of  
2021.

---

Passed by the House of Representatives at Sitting No. 489 of the 14th July, 2021.

CLAUDETTE BUTTIGIEG  
*Deputy Speaker*

RAYMOND SCICLUNA  
*Clerk of the House of Representatives*



# VERŻJONI ELETTRONIKA