

**MALTA**

**ATT Nru. V ta' l-1995**

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

**ATT biex iwaqqaf it-Tribunal għal Talbiet Żgħar.**

**ACT No. V of 1995**

AN ACT enacted by the Parliament of Malta.

**AN ACT to establish the Small Claims Tribunal.**

Nagħti l-kunsens tiegħi.

(L.S.)

UGO MIFSUD BONNICI  
President

17 ta' Marzu, 1995

**ATT Nru. V ta' l-1995**

*ATT biex iwaqqaf it-Tribunal għal Talbiet Żghar.*

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

**1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1995 dwar Tribunal għal Talbiet Żghar.** Titolu fil-qosor u bidu fis-sehh.

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-ġustizzja jista' b'avviż fil-Gazzetta jstabilixxi u jistgħu jiġu 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 tehtigħx** Tifsir.  
xort'oħra —

“Ġudikatur” tfisser Arbitru tat-Tribunal mahtur skond l-artikolu 4 ta' dan l-Att;

“Ministru” tfisser il-Ministru responsabbli għall-ġustizzja;

“Registratur” tfisser ir-Registratur tal-Qrati mahtur taht il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili; Kap. 12

“Tribunal” tfisser it-Tribunal għal Talbiet Żghar imwaqqaf taht l-artikolu 3 ta' dan l-Att.

**3. (1) Għandu jkun hemm Tribunal li jkun magħruf bhala** Twaqqif tat-Tribunal.  
t-Tribunal għal Talbiet Żghar.

(2) Bla hsara għas-subartikolu (5) ta' dan l-artikolu, it-Tribunal għal Talbiet Żgħar ikollu ġurisdizzjoni biex jisma' u jaqta' biss it-talbiet kollha ta' flus ta' ammont ta' mhux iżjed minn mitt lira Maltija.

(3) (a) Jekk l-attur jitlob il-hlas ta' diversi somom bħala li għandhom jingħataw lilu għall-istess raġuni, il-valur jiġi determinat mill-ammont totali tat-talbiet.

(b) Jekk l-attur jitlob il-hlas ta' diversi somom bħala li għandhom jingħataw lilu għal raġunijiet differenti, il-valur jiġi determinat mill-ogħla somma, irrispettivament mis-somom iżgħar.

(ċ) Jekk it-talba tkun għal kapitali u mgħaxijiet, il-valur jiġi determinat mis-somom tal-kapitali u ta' l-imgħaxijiet flimkien.

(4) It-Tribunal għandu jzomm il-laqgħat tiegħu f'dak il-post jew dawk il-postijiet f'Malta u Għawdex hekk kif il-Ministru jista' jistabbilixxi b'ordni fil-Gazzetta u t-Tribunal għandu, sa fejn ikun prattikabbli, iżomm il-laqgħat tiegħu fil-Gżira fejn il-persuna li kontriha ssir it-talba jkollha r-residenza ordinarja tagħha.

(5) Kawżi li fihom jindahlu kwistjonijiet dwar proprjetà ta' beni immobbli, piżijiet jew jeddijiet oħra mgħaqdin ma' l-immobbli, għad li t-talba ma tkunx tiskorri l-mitt lira Maltija, u kawżi ta' żgumbrament jew tkeċċija minn beni immobbli ma jidhrlux fil-ġurisdizzjoni tat-Tribunal.

Ġudikaturi.

4. (1) Fuq it-Tribunal jippresjedi Ġudikatur waħdu:

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

(2) Il-Ġudikaturi jinhatru mill-Prim Ministru. Hadd ma jkun kwalifikat jinhatar Ġudikatur hlief jekk:

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

(b) ikollu *warrant* u jkun ipprattika bħala:

(i) avukat għal mill-inqas sena, jew

(ii) prokuratur legali għal mill-inqas tliet snin.

(3) Persuna tkun skwalifikata milli tinhatar Ġudikatur jekk dik il-persuna:

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

(b) tkun membru ta' Kunsill Lokali; jew

(ċ) tkun fallut mhux meħlus; jew

(d) tkun inghatat minn xi qorti sentenza ta' prigunerija ghal xi zmien jew tkun instabet hatja minn xi qorti ta' xi wiehed mid-delitti fit-Titoli III, V jew VI tat-Taqsima II ta' l-Ewwel Ktieb tal-Kodiċi Kriminali.

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(4) Il-Ġudikaturi jirċievu dik ir-rimunerazzjoni li l-Prim Ministru jista' jistabbilixxi b'avviż fil-Gazzetta, u dawn ma għandhomx jitwaqqfu mill-prattika tal-professjoni tagħhom.

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

(6) Fit-twettieq tal-funzjonijiet tiegħu taħt dan l-Att, Ġudikatur ma jkun jaqa' taħt 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 il-ghan mill-Prim Ministru imsejsa fuq inġieba hażina jew inkapaċità li jwettaq dmirijietu minhabba f'inabilità fiżika jew debilità mentali.

5. Ġudikatur għandu jastjeni u jista' jiġi rikużat fl-istess ċirkostanzi li jokkorru fil-każ ta' mhallef tal-Qrati Superjuri.

Astensjoni jew rikuża ta' Ġudikaturi.

6. Kull min jinhatar bħala Ġudikatur ma għandux 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.

Ġurament li jittiehed minn Ġudikatur.

7. (1) It-Tribunal għandu jaqta' kull talba u kontro-talba li jkollu quddiemu prinċipalment skond l-ekwità:

It-Tribunal għandu jaqta' l-każijiet skond l-ekwità.

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

(2) It-Tribunal għandu jissospendi l-proċedimenti tiegħu jekk —

(a) il-parti tattakka t-talba bil-mezz ta' eċċezzjoni, li tinvolvi kwistjoni li taqa' barra mill-ġurisdizzjoni tat-Tribunal; u/jew

(b) ikun hemm pendenti quddiem qorti kompetenti azzjoni, li l-eżitu tagħha jkun jolqot it-talba li t-Tribunal ikollu quddiemu.

8. (1) Appell isir minn deċiżjoni ta' Tribunal lill-Qorti ta' l-Appell magħmula minn imhallef wiehed biss skond is-subartikolu (6) ta' l-artikolu 41 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Dak l-appell għandu jsir b'rikors li għandu jiġi preżentat fi zmien tmintax-il jum.

Appelli.

(2) Appell jista' jsir biss fil-każijiet li ġejjin:

(a) fuq kull haġa li jkollha x'taqsam mal-ġurisdizzjoni tat-Tribunal;

(b) fuq kull kwistjoni ta' preskrizzjoni;

(ċ) fuq kull nuqqas ta' tharis tad-dispożizzjonijiet tas-subartikolu (2) ta' l-artikolu 7;

(d) meta t-Tribunal ikun b'mod gravi mar kontra d-dettami ta' l-imparzjalità u ta' l-ekwità skond il-liġi u dik l-azzjoni tkun ippregudikat il-jeddijiet ta' min jappella.

(3) Meta l-Qorti ta' l-Appell taqta' li l-appell ikun fondat u ġustifikat, din ghandha thassar id-deċiżjoni tat-Tribunal u ghandha hi stess taqta' t-talba u l-kontro-talba oriġinali skond id-dispożizzjonijiet ta' l-artikolu 7.

Proċedura.

9. (1) Bla hsara għad-dispożizzjonijiet ta' kull regola magħmula skond l-artikolu 16 ta' dan l-Att u skond id-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, Ġudikatur jirregola l-proċedimenti quddiem Tribunal kif ikun jidhirlu xieraq skond id-dettami tal-ġustizzja naturali.

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

(a) għandu jiżgura li każ għandu, daqskemm ikun possibbli, jinstema' u jinqata' sommarjament fl-istess jum tas-smiġh tiegħu u li dak is-smiġh ma jtulx iktar minn seduta waħda;

(b) għandu jitgharraf b'kull mod li jista' jidhirlu xieraq u ma jkunx marbut bil-prattika dwar l-ahjar prova jew dwar xiehda fuq kliem haddiehor 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 sabiex jagħtu l-parir espert tagħhom, u jekk jinhatru tali periti huwa għandu jifformula elenku ta' fatti li l-perit ikollu jirrelata dwarhom;

(d) għandu jelenka d-dettalji ewlenin li fuqhom ikun sejjes id-deċiżjoni tiegħu; u

(e) ikollu l-istess setgħa daqs Maġistrat li joqgħod fil-Qorti tal-Maġistrati fil-kompetenza ċivili tagħha u b'mod partikolari jkun jista' jharrek ix-xhieda u jamministralthom il-ġurament.

(3) Ebda proċediment quddiem it-Tribunal ma jkun invalidu minhabba fin-nuqqas ta' tharis ta' xi formalità sakemm wiehed ikun mexa b'mod konformi kemm jista' jkun ma' dan l-Att jew mar-regoli magħmula tahtu.

10. (1) F'kull deċiżjoni li jagħti l-Ġudikatur għandu jiddeċiedi dwar l-ispejjeż li xi waħda mill-partijiet ikollha tbat. Sakemm ma jkunx hemm ċirkostanzi speċjali li jitolbu xort'oħra l-parti li titef il-każ 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 għan-nefġiet attwali li jkunu saru b'mod dirett dwar il-każ mill-parti li favur tagħha jkun inqata' l-każ.

Iżda f'ebda każ ma għandu jiġi deċiż dwar spejjeż li jkollhom x'jaqsmu ma' nefġiet 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) Fil-każ ta' talba vessatorja jew frivola t-Tribunal jista' jordna lill-parti li tkun għamlitha biex thallas lill-konvenut penali ta' mhux iżjed minn ħamsin lira Maltija, liema penali tkun dovuta bhala dejn ċivili.

(4) Deċiżjoni ta' Tribunal li tkun għaddiet f'ġudikat tista' tkun eżegwibbli, skond fejn tkun ir-residenza tal-persuna li kontra tagħha tintalab l-eżekuzzjoni mill-Qorti tal-Maġistrati (Malta) jew mill-Qorti tal-Maġistrati (Għawdex), bħallikieku d-deċiżjoni kienet sentenza ta' Qorti jew oħra.

11. (1) Ir-Registru tal-Qorti tal-Maġistrati (Malta) għandu jkun ir-registru tat-Tribunal: Registru tat-Tribunal.

Iżda jistgħu jiġu pprezentati atti fir-Registru tal-Qorti tal-Maġistrati (Għawdex), biex jiġu mgħoddija lir-Registru tal-Qorti tal-Maġistrati (Malta).

(2) Ir-records tat-Tribunal għandhom ikunu aċċessibbli għal kulhadd, u jingħataw kopji tagħhom fuq il-hlas tad-dritt preskritt lil kull persuna li titlobhom.

(3) L-atti tat-Tribunal għandhom jiġu depożitati u miżmuma fl-arkivji tal-qrati tal-ġustizzja f'Malta.

(4) Il-Ministru jista' b'regolamenti jippreskrivi liema records u atti jistgħu jinżammu in duplikat fir-Registru tal-Qorti tal-Maġistrati (Għawdex).

12. (1) Ir-Registratur ikun responsabbli għat-tmexxija tat-Tribunal. Ir-Registratur għandu wkoll jaqdi kull dmir ieħor li jista' jaqa' fuqu taht dan l-Att jew taht xi regoli magħmula taht dan l-Att. Dmirijiet tar-Registratur.

(2) Id-dmirijiet ta' Registratur tat-Tribunal għandhom jiġu esegwiti skond id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Meta l-partijiet  
jonqsu li jidhru.

**13.** Jekk xi parti tonqos li tidher fid-data stabbilita ghas-smiegh tal-kawża, il-Ġudikatur għandu jiddiferixxi l-kawża għal data oħra u jekk f'dik id-data oħra —

(a) il-parti li tkun għamlet it-talba tonqos li tidher, il-Ġudikatur għandu jirriġetta l-kawża u jordna li l-ispejjeż jithallsu mill-parti li tkun għamlet it-talba;

(b) il-konvenut jonqsu li jidher, il-Ġudikatur għandu jisma' u jaqta' l-kawża fl-assenza tal-konvenut.

Il-partijiet  
jistgħu ikunu  
assistiti minn kull  
persuna.

**14.** Il-partijiet jistgħu jkunu assistiti minn kull persuna.

Ilsien tal-  
proċeduri.  
Kap. 189.

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

Regoli.

**16.** Il-Ministru jista' jagħmel regoli għall-funzjonament aħjar tat-Tribunal u jista' mingħajr preġudizzju għall-generalità ta' dan il-paragrafu jagħmel regoli li —

(a) jifformulaw il-proċedura ta' quddiem it-Tribunal jew ta' l-appelli li jsiru minn deċiżjonijiet tat-Tribunal;

(b) jistabbilixxu l-formuli li għandhom jintużaw fi proċedimenti quddiem it-Tribunal jew f'appelli mit-Tribunal;

(c) jistabbilixxu r-rati ta' l-ispejjeż fi proċedimenti li jsiru quddiem it-Tribunal;

(d) jistabbilixxu d-drittijiet li jistgħu ikunu dovuti lir-registru tat-Tribunal;

(e) jistabbilixxu d-drittijiet li jistgħu ikunu dovuti lil avukati u prokuraturi legali li jidhru quddiem it-Tribunal;

(f) jifformulaw id-dmirijiet ta' Registratur relattivament għat-Tribunal;

(g) jippreskrivu kull haġa oħra li tista' jew li għandha tiġi preskritta skond dan l-Att.

Infieq għall-  
amministrazzjoni  
tat-Tribunal.

**17.** L-ispejjeż mehtieġa għall-amministrazzjoni tat-Tribunal u r-rimunerazzjoni dovuta lill-Ġudikaturi għandhom jithallsu mill-Fond Konsolidat mingħajr il-htieġa ta' xi approprjazzjoni oħra.

Emenda  
tal-Kodiċi ta'  
Organizzazzjoni  
u Proċedura Ċivili.

**18.** Minnufih wara l-artikolu 56 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jiżded dan l-artikolu ġdid li ġej:

“Tribunal  
ghal Talbiet  
Żgħar.

56A. Minkejja kull dispożizzjoni ta' dan il-Kodiċi l-Qrati Inferjuri ma għandhomx jieħdu konjizzjoni ta' xi talba li taqa' fil-ġurisdizzjoni tat-Tribunal għal Talbiet Żgħar imwaqqaf taht l-Att ta' l-1995 dwar Tribunal għal Talbiet Żgħar.”.

19. Kawżi li fil-bidu fis-seħħ ta' dan l-Att ikunu pendenti quddiem il-Qorti tal-Maġistrati għandhom ikomplu jinstemghu u jiġu maqtugħa quddiem l-imsemmija Qorti sakemm il-partijiet kollha f'dik il-kawża ma jaqblux illi l-istess kawża għandha tiġi maqtugħa mit-Tribunal, f'liema każ l-atti għandhom permezz tar-Registatur jiġu mgħoddija lit-Tribunal, li għandu minkejja d-dispożizzjonijiet ta' l-artikolu 10 jiddeċiedi wkoll dwar l-ispejjeż inkorsi quddiem il-Qorti tal-Maġistrati. F'każ bħal dak il-kawża quddiem il-Qorti tal-Maġistrati għandha tiġi intaxxata bhala ċeduta.

Dispożizzjoni  
transitorja.

20. Minnufih wara t-tifsira ta' “ogġetti” fl-artikolu 2 ta' l-Att ta' l-1994 dwar l-Affarijiet tal-Konsumatur għandha tidhol it-tifsira li ġejja:

“ “qorti ordinarja” għall-finijiet tat-Taqsima III ta' dan l-Att tinkludi t-Tribunal għal Talbiet Żgħar imwaqqaf bl-Att ta' l-1995 dwar it-Tribunal għal Talbiet Żgħar;”.

Emenda għall-Att  
ta' l-1994 dwar  
l-Affarijiet  
tal-Konsumatur.  
(Att XXVIII ta'  
l-1994).

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Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 401 tat-8 ta' Marzu, 1995.

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

LAWRENCE GONZI  
*Speaker*

I assent.

(L.S.)

UGO MIFSUD BONNICI  
President

17th March, 1995

**ACT No. V of 1995**

*AN ACT to establish the Small Claims Tribunal.*

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

Short title and commencement.

**1.** (1) This Act may be cited as the Small Claims Tribunal Act, 1995.

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

Interpretation.

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

“Adjudicator” means an Arbiter of the Tribunal appointed in accordance with section 4 of this Act;

“Minister” means the Minister responsible for justice;

Cap. 12.

“Registrar” means the Registrar of Courts appointed under the Code of Organization and Civil Procedure;

“Tribunal” means the Small Claims Tribunal established under section 3 of this Act.

Establishment of tribunal.

**3.** (1) There shall be a Tribunal to be styled the Small Claims Tribunal.

(2) Subject to subsection (5) of this section, the Small Claims Tribunal shall have jurisdiction to hear and determine only all money claims of an amount not exceeding one hundred Maltese liri.

(3) (a) If the plaintiff claims payment of several sums due for the same cause, the value of the claim is to be determined by the total amount of the claims.

(b) If the plaintiff claims payment of several sums due for different causes, the value of the claim is determined by the highest sum, irrespective of the smaller sums.

(c) If the claim is for capital and interest, the value is determined by the aggregate amount of capital and interest.

(4) The Tribunal shall hold its sittings in such place or places in Malta and Gozo as the Minister may by order in the Gazette determine and the Tribunal shall, as far as practicable, hold the sittings in the Island where the person against whom the claim is made has his ordinary residence.

(5) Causes involving questions of ownership of immovable property, or relating to easements, burdens or other rights annexed to such property, even though the claim does not exceed one hundred Maltese liri, and causes of ejectment or eviction from immovable property shall not fall within the jurisdiction of the Tribunal.

4. (1) The Tribunal shall be presided by an Adjudicator sitting alone: Adjudicators.

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

(2) Adjudicators shall be appointed by the Prime Minister. No person shall be qualified to be appointed Adjudicator 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:
  - (i) advocate for a period of at least one year, or
  - (ii) legal procurator for at least three years.

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

- (a) is a member of the House of Representatives; or
- (b) is a member of a Local Council; or
- (c) is an undischarged bankrupt; or

(d) has been sentenced by any court to imprisonment for any term or has been found guilty by any court of any of the crimes in Titles III, V or VI of Part II of Book First of the Criminal Code.

(4) Adjudicators shall receive 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) Adjudicators 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 Adjudicator 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.

Abstention or challenge of Adjudicators.

5. An Adjudicator shall abstain and may be challenged in the same circumstances as a judge of the Superior Courts.

Oath to be taken by Adjudicators.

6. Every person appointed as an Adjudicator 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.

Tribunal to decide according to equity.

7. (1) The Tribunal shall determine any claim or counterclaim before it principally in accordance with equity:

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

(2) The Tribunal shall suspend its proceedings if:—

(a) the claim is sought to be avoided by way of defence, involving an issue outside the Tribunal's jurisdiction; and/or

(b) there is pending before a competent court an action, the outcome of which would affect the claim before the Tribunal.

Appeals.

8. (1) An appeal shall lie from a decision of a Tribunal to the Court of Appeal composed of one judge only in accordance with subsection (6) of section 41 of the Code of Organization and Civil Procedure. Such appeal shall be entered by an application to be filed within eighteen days.

(2) An appeal shall only lie in the following cases:

(a) on any matter relating to the jurisdiction of the Tribunal;

(b) on any question of prescription;

(c) on any non-compliance with the provisions of subsection (2) of section 7;

(d) where the Tribunal has acted in a serious manner contrary to the rules of impartiality and equity according to law and such action has prejudiced the rights of the appellant.

(3) 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 counterclaim in accordance with the provisions of section 7.

9. (1) Subject to the provisions of any rules made in accordance with section 16 of this Act and to the provisions of subsection (2) of this section, an Adjudicator shall regulate the proceedings before a Tribunal as he thinks fit in accordance with the rules of natural justice. Procedure.

(2) Subject to any rules referred to in subsection (1) of this section, an Adjudicator—

(a) shall ensure that a case is heard and decided summarily, as far as possible, on the same day of the hearing and that the hearing shall not take longer than one sitting;

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

(d) shall only 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 in its civil jurisdiction and in particular shall have power to summon witnesses and to administer an oath to witnesses.

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

10. (1) In any award the Adjudicator shall determine the costs that any of the parties is to bear. Unless special circumstances otherwise 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 actual expenses directly made 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 and paid by any of the parties to advocates, legal procurators or any other person assisting the parties before the Tribunal.

(3) In the case of a vexatious or frivolous claim the Tribunal may order the claimant to pay to the defendant a penalty of not more than fifty Maltese liri, which penalty shall be due as a civil debt.

(4) A decision of the Tribunal which has become *res judicata* may be enforced, depending on the residence of the person against whom enforcement is sought, by the Court of Magistrates (Malta) or by the Court of Magistrates (Gozo), as if the decision was a judgment of the respective Court.

Registry of Tribunal.

**11.** (1) The Registry of the Court of Magistrates (Malta) shall be the registry of the Tribunal:

Provided that acts may be filed in the Registry of the Court of Magistrates (Gozo), for the transmission to the Registry of the Court of Magistrates (Malta).

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

(3) The acts of the Tribunal shall be deposited and kept in the archives of the courts of justice in Malta.

(4) The Minister may by regulations prescribe what records and acts may be kept in duplicate in the Registry of the Court of Magistrates (Gozo).

Duties of Registrar.

**12.** (1) The Registrar shall be responsible for the running of the Tribunal. The Registrar shall also perform any other duties which may be incumbent upon him under this Act or any rules made thereunder.

(2) The duties of Registrar of the Tribunal shall be carried out in accordance with the provisions of the Code of Organization and Civil Procedure.

Default of appearance of the parties.

**13.** If any of the parties fails to appear on the date appointed for the hearing of the cause, the Adjudicator shall adjourn the cause for another date and if on such other date —

(a) the claimant fails to appear, the Adjudicator shall dismiss the cause and order the costs to be borne by the claimant;

(b) the defendant fails to appear, the Adjudicator is to hear and determine the cause in the absence of the defendant.

Parties may be assisted by any person.

**14.** The parties may be assisted by any person.

**15.** The provisions of the Judicial Proceedings (Use of English Language) Act shall apply to the Tribunal.

Language of proceedings.  
Cap. 189.

**16.** The Minister may make rules for the better functioning of the Tribunal and may without prejudice to the generality hereof make rules —

Rules.

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

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

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

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

(e) establishing the fees that may be due to advocates and legal procurators appearing before the Tribunal;

(f) setting out the duties of Registrar in relation to the Tribunal;

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

**17.** The expenses in connection with the administration of the Tribunal and the remuneration due to Adjudicators shall be paid out of the Consolidated Fund without the necessity of any further appropriation.

Expenditure of administration of Tribunal.

**18.** Immediately after section 56 of the Code of Organization and Civil Procedure, there shall be added the following new section:

Amendment of the Code of Organization and Civil Procedure.

“Small Claims Tribunal.

56A. Notwithstanding any of the provisions of this Code the Inferior Courts shall not take cognizance of any claim falling within the jurisdiction of the Small Claims Tribunal established under the Small Claims Tribunal Act, 1995.”

**19.** Causes which on the coming into force of this Act are pending before the Court of Magistrates shall continue to be heard and determined before the said Court unless all the parties in such case agree

Transitory provision.

that the said case shall be decided by the Tribunal, in which case the acts shall be transmitted by the Registrar to the Tribunal which shall notwithstanding the provisions of section 10 also decide on the costs incurred before the Court of Magistrates. In such case the cause before the Court of Magistrates shall be taxed as if the case were withdrawn.

Amendment to the  
Consumer Affairs  
Act, 1994.  
(Act XXVIII  
of 1994).

**20.** Immediately after the definition of “Minister” in section 2 of the Consumer Affairs Act, 1994, there shall be inserted the following definition:

“ “ordinary court” for the purposes of Part III of this Act includes the Small Claims Tribunal established under the Small Claims Tribunal Act, 1995;”.

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Passed by the House of Representatives at Sitting No. 401 of 8th March, 1995.

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

LAWRENCE GONZI  
*Speaker*