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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Jonathan Attard, M.P., Ministru għall-Gustizzja u r-Riforma tas-Settur tal-Kostruzzjoni, u moqri għall-Ewwel darba fis-Seduta tal-1 ta' Lulju 2025.

A BILL introduced by the Honourable Jonathan Attard, M.P., Minister for Justice and Reform of the Construction Sector, and read the First time at the Sitting of the 1st July 2025.

ATT sabiex jirregola l-proċeduri għadizzjarji ċivili li jinvolve persuni li jikkupaw kariga pubblika u sabiex jistabbilixxi l-kundizzjonijiet li fihom l-Istat u l-entitajiet pubbliċi jassumu responsabbiltà ta' natura ċivili u jirkupraw danni ċivili minn persuni li jgarrbu responsabbiltà ta' natura ċivili minhabba azzjonijiet meħuda fl-eżerċizzju ta' funzjonijiet pubbliċi.

AN ACT to regulate civil judicial proceedings involving persons holding public office and to establish the conditions under which the State and public entities assume responsibility of a civil nature and recover civil damages from persons who incur responsibility of a civil nature by reason of actions taken in the exercise of public functions.

ELEANOR SCERRI

Skrivan tal-Kamra tad-Deputati

ELEANOR SCERRI

Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT sabiex jirregola l-proċeduri ġudizzjarji ċivili li jinvolvu persuni li jokkupaw kariga pubblika u sabiex jistabilixxi l-kundizzjonijiet li fihom l-Istat u l-entitajiet pubbliċi jassumu responsabbiltà ta' natura ċivili u jirkupraw danni ċivili minn persuni li jgarrbu responsabbiltà ta' natura ċivili minhabba azzjonijiet meħuda fl-eżerċizzju ta' funzjonijiet pubbliċi.

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2025 dwar ir-Responsabbiltà ta' persuni li jokkupaw Kariga Pubblika u ta' Entitajiet Pubbliċi. Titolu fil-qosor u għan.

(2) L-għan ta' dan l-Att huwa sabiex jistabilixxi l-kundizzjonijiet li taħthom l-Istat u l-entitajiet pubbliċi jassumu responsabbiltà ta' natura ċivili, jaġixxu bħala garanti fi proċeduri li jinvolvu atti kawtelatorji, u jagħmlu tajjeb flok il-persuna kkundannata fir-rigward ta' sentenzi fil-konfront ta' persuni li jgarrbu responsabbiltà ta' natura ċivili minhabba atti mwettqa fl-eżerċizzju ta' funzjonijiet pubbliċi.

2. F'dan l-Att, sakemm ir-rabta tal-kliem ma teħtieġx xort'oħra: Tifsir.

"amministrazzjoni tal-Istat" tfisser l-amministrazzjoni pubblika kif ukoll dawk il-persuni li jokkupaw karigi stabbiliti jew li fir-rigward tagħhom tippovdi l-Kostituzzjoni u tinkludi kwalunkwe individwu impjegat jew li xort'oħra jeżerċita b'mod legittimu funzjoni pubblika bħala parti mill-operat eżekuttiv tal-Gvern;

C 3102

"att imwettaq fl-eżerċizzju ta' funzjoni pubblika" tfisser kwalunkwe att imwettaq, jew allegatament imwettaq minn persuna fi ħdan l-amministrazzjoni tal-Istat fl-eżerċizzju tal-funzjoni ta' tali persuna, u tinkludi kwalunkwe ommissjoni;

Kap. 595.

"amministrazzjoni pubblika" għandu jkollha l-istess tifsira kif mogħti lilha fl-artikolu 2 tal-Att dwar l-Amministrazzjoni Pubblika;

Kap. 603.

"Avukat tal-Istat" tfisser l-Avukat tal-Istat kif stabbilit skont l-Att dwar l-Avukat tal-Istat;

"proċeduri ġudizzjarji" tfisser proċeduri quddiem qorti jew tribunal fejn tkun qiegħda tintalab jew tingħata kundanna għall-ħlas minħabba responsabbiltà ċivili;

Kap. 319.

"responsabbiltà ċivili" tinkludi kull sejbien ta' responsabbiltà u kwalunkwe kundanna għall-ħlas ta' danni minn qorti jew minn tribunal imwaqqaf b'liġi, inkluż kull kundanna għall-ħlas ta' kumpens minn qorti ta' ġurisdizzjoni kostituzzjonali jew konvenzjonali taħt il-Kapitolu IV tal-Kostituzzjoni ta' Malta u, jew taħt l-Att dwar il-Konvenzjoni Ewropea.

Responsabbiltà personali ta' persuni li jokkupaw kariga pubblika.

3. (1) Fi kwalunkwe proċeduri ġudizzjarji istitwiti kontra persuna fi ħdan l-amministrazzjoni tal-Istat fir-rigward ta' att magħmul fl-eżerċizzju ta' funzjoni pubblika, l-Istat għandu jassumi r-responsabbiltà ta' natura ċivili u l-ħlas ta' flejjes inkluż kwalunkwe danni jew kumpens li l-Qrati jistgħu, b'deċiżjoni definittiva, jordnaw li jiġihallu minħabba l-att imwettaq fl-eżerċizzju ta' funzjoni pubblika mill-persuna fi ħdan l-amministrazzjoni tal-Istat.

(2) Kwalunkwe talba sabiex jinbdew proċeduri ġudizzjarji ċivili għall-ħlas ta' flejjes inkluż kwalunkwe danni jew kumpens kif provdut f'dan l-Att għandha, flimkien man-notifika lill-persuna fi ħdan l-amministrazzjoni tal-Istat li wettqet l-att fl-eżerċizzju ta' funzjoni pubblika, tiġi notifikata wkoll, bla ħlas lir-registratur, lil:

(a) fil-każ ta' entità fl-amministrazzjoni tal-Istat, lil-kap tal-entità jew lil persuna fi ħdan tali entità li jkollha r-rappreżentanza ġudizzjarja ta' tali entità, kif ukoll lill-Avukat tal-Istat; jew

(b) fejn minħabba x-xorta tal-kariga tal-intimat ma jkun hemm l-ebda entità kif imsemmi fil-paragrafu (a), lill-Avukat tal-Istat; jew

(ċ) fil-każ ta' Dipartiment fl-amministrazzjoni tal-Istat,

lis-Segretarju Permanenti rilevanti kif ukoll lill-Avukat tal-Istat:

Iżda kull terminu biex tiġi ppreżentata risposta fir-rigward ta' tali att minn persuna fi hdan l-amministrazzjoni tal-Istat li tkun konvenuta jew intimata fi proċeduri ġudizzjarji ma għandux jibda jiddekorri qabel ma l-att jiġi notifikat kif meħtieġ f'dan is-subartikolu.

(3) L-entità li f'isimha jew fi hdanha jkun sar l-att imwettaq fl-eżerċizzju ta' funzjoni pubblika u l-Avukat tal-Istat, għandhom id-dritt li jintervjenu *in statu et terminis* fi kwalunkwe proċedura legali relatata mal-istess att u li jipprezentaw r-risposta maħlufa u kwalunkwe att ġudizzjarju ieħor li jistgħu jipprezentaw il-partijiet fil-kawża.

(4) L-Istat għandu jservi bħala garanti għal kwalunkwe somma li l-Qrati jistgħu jordnaw li tiġi kawtelata permezz ta' atti ċivili ta' natura kawtelatorja, sakemm tingħata sentenza definittiva tal-Qorti kif provdut fis-subartikolu (1). Malli l-Istat jipprovdi tali garanzija, il-mandati jew atti kawtelatorji maħruġa kontra l-intimat għandhom jiġu revokati minnufih u dwarhom jinhareġ il-kontro-mandat u d-digriet ta' revoka u tħassir relattivi.

(5) L-Istat huwa obligat biss li jhallas flejjes inkluż id-danni jew il-kumpens li jkun ġej mir-responsabbiltà ċivili taħt dan l-Att kemm-il darba l-persuna fi hdan l-amministrazzjoni tal-Istat li tkun ġiet imħarrka ma tkunx aġixxiet b'intenzjoni kriminali doliża stabbilita minn Qorti ta' Ġurisdizzjoni Kriminali jew b'negligenza grossolana ppruvata.

(6) F'każ fejn l-Istat ikun diġà hallas flejjes inkluż id-danni jew il-kumpens, huwa għandu d-dritt li jirkupra mingħand dik il-persuna fi hdan l-amministrazzjoni tal-Istat id-danni jew il-kumpens imħallsa abbażi ta' dan l-artikolu jekk eventwalment il-Qorti tistabbilixxi b'mod definittiv li tali persuna kienet aġixxiet jew b'intenzjoni kriminali doliża, stabbilita minn Qorti ta' Ġurisdizzjoni Kriminali, jew b'negligenza grossolana ppruvata, fit-twettiq tal-att li wassal għall-ħlas ta' kwalunkwe flejjes kif provdut f'dan l-Att.

(7) Dan l-Att ma għandux jipprekludi l-bidu jew it-tkomplija ta' proċeduri kriminali jew dixxiplinarji indipendenti mill-azzjoni ċivili provduta f'dan l-artikolu, bla ħsara għall-garanziji mogħtija bis-saħħa ta' dan l-Att.

(8) F'każ ta' kunflitt bejn dan l-Att u kwalunkwe liġi oħra, ħlief għall-Kostituzzjoni, id-dispożizzjonijiet ta' dan l-Att għandom jipprevalu.

C 3104

Dispożizzjoni
tranżitorja.

4. Id-dispożizzjonijiet ta' dan l-Att għandhom japplikaw mid-data tad-dhul fis-sehħ ta' dan l-Att għall-proċeduri għidizzjarji pendenti li fihom persuna fi hdan l-amministrazzjoni tal-Istat hija l-intimata. Madankollu l-parti rikorrenti jew il-parti intimata għandhom jinnotifikaw skont l-artikolu 3(2) fi żmien ta' mhux aktar minn tletin (30) jum mid-dhul fis-sehħ ta' dan l-Att.

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jiġu stabbiliti u regolati fil-liġi l-parametri tar-responsabbiltà ċivili personali ta' persuni li jiffurmaw parti mill-amministrazzjoni tal-Istat, u sabiex jiġu identifikati ċ-ċirkostanzi li fihom istituzzjonijiet u entitajiet pubbliċi għandhom jerfgħu jew jassumu responsabbiltà minflok tali persuni jew għandhom jirkupraw danni għal atti magħmula fl-eżerċizzju ta' funzjonijiet pubbliċi.

A BILL
entitled

AN ACT to regulate civil judicial proceedings involving persons holding public office and to establish the conditions under which the State and public entities assume responsibility of a civil nature and recover civil damages from persons who incur responsibility of a civil nature by reason of actions taken in the exercise of public functions.

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

1. (1) The short title of this Act is the Holders of Public Office and Public Entities (Responsibility) Act, 2025. Short title and scope.

(2) The scope of this Act is to establish the conditions under which the State and public entities assume responsibility of a civil nature, act as guarantor in proceedings involving precautionary acts, and make good *in lieu* of the person held liable in respect of judgments against persons who incur responsibility of a civil nature by reason of acts done in the exercise of public functions.

2. In this Act, unless the context otherwise requires: Interpretation.

"act done in the exercise of a public function" means any act done, or purported to be done by a person within the State administration in the exercise of such person's function, and includes any omission;

C 3106

Cap. 319. "civil responsibility" includes any finding of responsibility and any order for the payment of damages by a court or a tribunal established by law, including any order for the payment of compensation by a court of constitutional or conventional jurisdiction under Chapter IV of the Constitution of Malta and, or under the European Convention Act;

"judicial proceedings" means proceedings before a court or tribunal in which a claim or an order for payment is made on the basis of civil responsibility;

Cap. 595. "public administration" shall have the same meaning assigned to it in article 2 of the Public Administration Act;

"State administration" means the public administration as well as holders of offices established or in respect of which provision is made in the Constitution and includes any individual employed or otherwise lawfully exercising a public function as part of the executive operations of the Government;

Cap. 603. "State Advocate" means the State Advocate as established in the State Advocate Act.

Personal responsibility of persons holding public office.

3. (1) In any judicial proceedings instituted against a person within the State administration with respect to an act done in the exercise of a public function, the State shall assume responsibility of a civil nature and the payment of moneys including any damages or compensation which the Courts may, by final judgment, order to be paid by reason of an act done in the exercise of a public function by the person within the State administration.

(2) Any request to initiate civil judicial proceedings for the payment of moneys including any damages or compensation, as provided in this Act, shall together with the service on the person within the State administration who carried out the act in the exercise of a public function be served also, without the registrar charging any fees, on:

(a) in the case of an entity within the State administration, the head of the entity or to a person within such entity having the judicial representation of such entity, as well as the State Advocate; or

(b) where by reason of the nature of the office of the respondent there is no entity as referred to in paragraph (a), to the State Advocate; or

(c) in the case of a Department within the State

administration, the relevant Permanent Secretary as well as the State Advocate:

Provided that every time limit for the filing of a reply to any such act by a person within the State administration being a defendant or a respondent in judicial proceedings shall not commence to run before the act is served as required under this sub-article.

(3) The entity on behalf of, or within which the act in the exercise of a public function has been carried out and the State Advocate, shall have the right to intervene *in statu et terminis* in any proceedings related to the said act and to file a sworn reply and any other judicial act that may be presented by the parties to the case.

(4) The State shall act as guarantor for any sum which the Courts may order to be secured by means of civil acts of a precautionary nature pending a final Court judgment as provided in sub-article (1). Once the State provides such guarantee, the warrants or precautionary acts issued against the respondent shall be immediately revoked, and a counter-warrant and the relative decree of revocation and cancellation shall be issued in respect thereof.

(5) The State shall only be obliged to pay the payment of moneys including damages or compensation arising from civil responsibility under this Act insofar as the person within the State administration who has been sued has not acted with criminal malicious intent as established by a Court of Criminal Jurisdiction, or with culpable gross negligence.

(6) In the case where the State has already paid the payment of moneys including damages or compensation, it shall have a right to recover from such person within the State administration the damages or compensation paid on the basis of this article if eventually a Court by means of a final judgment establishes that such person had acted either with criminal malicious intent as established by a Court of Criminal Jurisdiction, or with culpable gross negligence, in the performance of the act which gave rise to the payment of any amounts as provided in this Act.

(7) This Act shall not preclude the initiation or continuation of criminal or disciplinary proceedings independently of the civil action provided for in this article, without prejudice to the guarantees granted under this Act.

(8) In the case of conflict between this Act and any other law, except for the Constitution, the provisions of this Act shall prevail.

C 3108

Transitory
provision.

4. The provisions of this Act shall apply from the date of entry into force of this Act to pending judicial proceedings in which a person within the State administration is the respondent. However, the applicant or the respondent shall affect service in accordance with article 3(2) within a period not exceeding thirty (30) days from the date of entry into force of this Act.

Objects and Reasons

The objects and reasons of this Bill are to establish and regulate in law the parameters of personal civil responsibility of persons forming part of the State administration, and to identify the circumstances in which public institutions and entities shall bear or assume responsibility in place of such persons or shall recover damages for acts done in the exercise of public functions.

