

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE ABELA
President

19 ta' Ġunju, 2012

ATT Nru. VI tal-2012

ATT biex ikunu jistgħu jinbdew proċedimenti kollettivi f'każijiet ta' ksur ta' liġijiet li minn żmien għal żmien jiġu magħżula skont il-provvedimenti ta' dan l-Att, u biex jipprovdi għal hwejjeġ konnessi ma' jew incidentalment għal dan.

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2012 dwar Proċedimenti Kollettivi.

Titolu fil-qosor
dħul fis-seħh.

(2) Dan l-Att għandu jidhrol fis-seħh f'dik id-data li l-Prim Ministru jista' b'avviż fil-Gazzetta jstabilixxi, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti ta' dan l-Att.

2. F'dan l-Att kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'oħra:

Tifsir.

“l-Att” tfisser l-Att dwar Proċedimenti Kollettivi;

“awtorità pubblika” għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur.

Kap. 510.

“azzjoni ta’ grupp” tfisser proċedimenti li jiġu pprezentati f’isem għadd ta’ membri ta’ klassi individwali u li jkollhom rappreżentant ta’ klassi li tkun tissodisfa l-kriterji msemmija fis-subartikolu (2) tal-artikolu 12 tal-Att;

“azzjoni rappreżentattiva” tfisser proċedimenti li jiġu preżentati f’isem għadd ta’ membri ta’ klassi minn korp rappreżentattiv skont l-artikolu 12(1) tal-Att;

“digriet tal-proċedimenti kollettivi” tfisser digriet li jawtorizza li l-azzjoni titmexxa bħala proċediment kollettiv;

“ftehim dwar proċedimenti kollettivi” tfisser ftehim magħmul bejn membru ta’ klassi u r-rappreżentant ta’ klassi fejn il-membri ta’ klassi jagħti l-kunsens tiegħu biex ikun inkluż fil-proċedimenti kollettivi u għall-ħatra tar-rappreżentant ta’ klassi u jinkludi t-talba tal-membri ta’ klassi u jista’ jinkludi wkoll provvediment għall-ħlas minn qabel u, jew rimborż ta’ kull spiża għudizzjarja mgarrba mir-rappreżentant ta’ klassi:

Izda kull membru ta’ klassi għandu jwieġeb biss għall-ispejjeż in proporzjon għat-talba tiegħu;

Kap. 378.

“għaqda ta’ konsumaturi registrata” tfisser għaqda ta’ konsumaturi registrata kif imfisser fl-Att dwar l-Affarijiet tal-Konsumatur, kif ukoll kull għaqda ta’ konsumaturi oħra li tkun giet ufficjalment rikonoxxuta f’xi pajjiż ieħor;

“klassi” tfisser grupp ta’ persuni li batew jew li qegħdin ibatu ħsara u li t-talbiet tagħhom joriġinaw minn kwistjonijiet komuni;

Kap.431.

“korp kostitwit” tfisser korp kostitwit li huwa stabbilit bl-iskop li jagixxi fl-interessi tal-membri tiegħu u jinkludi wkoll kull korp rikonoxxut taħt l-Att dwar il-Kunsill Malti għall-Iżvilupp Ekonomiku u Soċjali, kif ukoll kull korp istitwit ieħor ta’ xorta simili rikonoxxut bħala korp kostitwit taħt xi liġi oħra jew skont prattika amministrattiva stabbilita;

“kwistjonijiet individwali” tfisser kwistjonijiet li jkunu rilevanti biss għal ċertu persuni rappreżentati individwali;

“kwistjonijiet komuni” tfisser –

(a) kwistjonijiet komuni iżda mhux neċessarjament identiċi fil-fatti, jew

(b) kwistjonijiet komuni iżda mhux neċessarjament identiċi fil-liġi li joriġinaw minn fatti komuni iżda mhux neċessarjament identiċi;

“membru ta’ klassi” tfisser persuna li tkun taqa’ fil-klassi speċifikata fid-digriet tal-proċedimenti kollettivi;

“persuna rappreżentata” tfisser membru ta’ klassi li jkun għażel li jidhol fi proċedimenti kollettivi;

“proċedimenti kollettivi” tfisser proċedimenti li jiġu ppreżentati minn rappreżentant ta’ klassi f’isem persuni li t-talbiet tagħhom ikunu jinvolvu kwistjonijiet komuni u li jistgħu jkunu istitwiti bħala azzjoni ta’ grupp jew azzjoni rappreżentattiva;

“proċedimenti li jsiru b’għażla li tidhol” tfisser proċedimenti kollettivi li jiġu ppreżentati f’isem membri ta’ klassi li jinnotifikaw lir-rappreżentant ta’ klassi kif hawn fl-Att li t-talba tagħhom għandha tiġi inkluża fil-proċedimenti kollettivi;

“rappreżentant ta’ klassi” tfisser l-attur, jiġifieri, il-persuna li tkun awtorizzata tippreżenta t-talbiet fi proċedimenti kollettivi u tinkludi rappreżentant ta’ sotto-klassi;

“TFUE” tfisser it-Trattat dwar il-Funzjonament tal-Unjoni Ewropea.

3. Jistgħu jiġu istitwiti proċedimenti kollettivi għat-twaqqif ta’ ksur, għar-rettifika tal-konsegwenzi ta’ ksur u, jew kumpens għall-ħsara meta:- Kif japplika l-Att.

(a) ksur tal-Atti elenkati fi Skeda A, li tinsab mal-Att, jew ta’ xi regolamenti magħmula taħthom, sakemm dawn ir-regolamenti ma humiex espressament esklużi fl-iskeda, u ta’ xi regolamenti li jistgħu jkunu elenkati fl-iskeda, huwa allegat li seħh;

(b) investigazzjoni quddiem awtorita` pubblika jew proċedimenti quddiem tribunal jew korp simili jew qorti ta’

ġurisdizzjoni ċivili rigward ksur ta' dawk il-liġijiet imsemmija f'paragrafu (a) tkun jew ikunu għadhom pendenti; jew

(ċ) deċiżjoni jew sentenza li tistabilixxi ksur ta' dawk il-liġijiet fir-rigward tal-istess fatti għaddiet f'gudikat.

Preżentata ta' proċedimenti kollettivi għal ksur tal-Att dwar il-kompetizzjoni. Kap. 379.

4. (1) Meta r-rappreżentant ta' klassi jipprezenta talba għal danni li tkun toriġina minn ksur tal-Att dwar il-Kompetizzjoni u, jew l-Artikoli 101 jew 102 tal-TFUE, għandhom jiġu applikati *mutatis mutandis* d-dispożizzjonijiet tal-artikolu 27A tal-Att dwar il-Kompetizzjoni.

Kap. 378.

(2) Minkejja l-provvedimenti tal-artikolu 7(1)(ċ) tal-Att, proċedimenti kollettivi jistgħu jkunu istitwiti wkoll fir-rigward ta' danni kaġunati minn prodotti difettużi taħt Taqsim VIII tal-Att Dwar l-Affarijiet tal-Konsumatur.

X'għandu jkun fih ir-rikors ġuramentat.

5. (1) Il-proċedimenti kollettivi għandhom jiġu istitwiti b'rikors ġuramentat fil-Prim'Awla tal-Qorti Ċivili jew fil-Qorti tal-Maġistrati (Għawdex) fil-ġurisdizzjoni superjuri tagħha indipendentement mill-ammont tat-talba, u d-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw għall-proċeduri taħt dan l-Att, sakemm huma konsistenti mad-dispożizzjonijiet ta' dan l-Att.

(2) L-attur għandu jitlob fir-rikors li l-Qorti tiddikjara li l-proċedura dwar proċedimenti kollettivi hi l-aktar proċedura xierqa fiċ-ċirkostanzi.

(3) Ir-rikors ġuramentat għandu –

(a) ikun fih l-isem tar-rappreżentant ta' klassi;

(b) ikun fih l-isem tal-konvenut;

(ċ) jagħti deskrizzjoni tal-klassi;

(d) jiddeskrivi l-kwistjonijiet komuni għat-talbiet li r-rappreżentant ta' klassi jkun ipprezenta fil-proċedimenti kollettivi;

(e) jiddikjara t-talba jew talbiet li jkunu qegħdin jiġu vantati u, meta dan ikun japplika, jehmeż rendikont tal-ammonti relattivi dovuti lill-membri ta' klassi;

(f) jipprovdi biżżejjed provi biex jissodisfa l-kriterji għal dikjarazzjoni u approvazzjoni kif hemm fl-artikoli 9 u 12 tal-Att; u

(g) jipprovdi lill-Qorti bi ftehim dwar proċedimenti kollettivi. Kap. 12.

Iżda d-dispożizzjonijiet tal-artikolu 156 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom, meta dan ikun japplika, jkunu wkoll japplikaw għar-rikors għuramentat fi proċedimenti kollettivi :

Iżda wkoll il-Qorti għandha tordna li r-rikors għuramentat jiġi emendat meta membri oħra ta' klassi jmexxu b'għażla li jidhlu fil-perjodu msemmi fl-artikolu 7(2) tal-Att jew wara li jkollhom il-permess tal-Qorti kif hemm fl-artikolu 8(1) tal-Att u, jew fejn rappreżentant ta' klassi għal sotto-klassi nħatar kif hemm fl-artikolu 14 tal-Att.

6. Il-Qorti għandha żżomm seduta preliminari tal-kawża Seduta preliminari tal-kawża.
u—

(a) jew tagħti digriet li jkun jordna t-tkomplija tal-proċedimenti flimkien ma' kull ordni oħra li tista' tqis xierqa; jew

(b) tagħti digriet biex tissospendi l-proċedimenti jekk il-partijiet jaqblu, matul dik is-seduta, li jippruvaw jittransiġu l-kawża permezz ta' riżolviment alternattiv tat-tilwimiet jew b'mezzi oħra.

7. (1) Il-Qorti għandha tagħti digriet dwar it-tkomplija ta' proċedimenti jekk — Digriet li jordna t-tkomplija ta' proċedimenti.

(a) hija tiddikjara li l-proċeduri jkunu xierqa għal proċedimenti kollettivi kif hemm fl-artikolu 9 tal-Att;

(b) hija tapprova li l-attur jaġixxi bħala r-rappreżentant ta' klassi kif hemm fl-artikolu 12 tal-Att; u

(ċ) hija tkun sodisfatta li t-talbiet ikunu konformi mal-artikolu 3 tal-Att.

(2) Id-digriet għandu jinkludi -

- (a) l-isem u l-indirizz tar-rappreżentant ta' klassi;
- (b) l-isem tal-konvenut;
- (c) deskrizzjoni tal-klassi;
- (d) il-kwistjonijiet komuni għat-talbiet li r-rappreżentant ta' klassi ikun ippreżenta fil-proċedimenti kollettivi;
- (e) it-talbiet li jkunu qegħdin isiru; u
- (f) informazzjoni dwar l-effett legali ta' sentenza mogħtija fi proċedimenti kollettivi:

Izda d-digriet jista' jkun fih ukoll dawk il-kundizzjonijiet li l-Qorti tista' tqis li jkunu xierqa, u l-Qorti għandha wkoll tordna li dak id-digriet jiġi publikat fil-Gazzetta u f'gurnal lokali bl-Ingliż u bil-Malti u f'kull mezz ieħor ta' komunikazzjoni jekk il-Qorti jkun jidhrilha li jkun hekk xieraq, proviżorjament a karigu tar-rappreżentant ta' klassi, u għandu jkun fih li kull terza persuna oħra li tkun trid tidhol bħala membru ta' klassi, tista' tagħmel dan sad-data speċifikata li tiġi determinata mill-Qorti, liema data ma tistax taqbeż ħames xhur mid-data tad-digriet, billi tirreġistra t-talba tagħha mar-rappreżentant ta' klassi u billi tidhol fi ftehim dwar proċedimenti kollettivi.

Membri ta' klassi.

8. (1) Membru ta' klassi li ma jmexxix b'għażla li jidhol kif hemm fl-artikolu 7 tal-Att ma jistax imexxi b'dan il-mod wara d-data speċifikata, ħlief bil-permess tal-Qorti. Il-Qorti tista' tagħti dak il- permess jekk tkun sodisfatta li d-dewmien ma kienx kaġunat bi ħtija tal-membru ta' klassi u l-kontinwazzjoni tal-proċedimenti ma jkunux ser jiġu ppreġudikati sostanzjalment li kellu jingħata l-permess.

(2) Membru ta' klassi li jkun diġà ppreżenta kawża li tinvolvi l-kwistjonijiet komuni indikati fil-proċedimenti kollettivi ma jistax ikun persuna rappreżentata kemm-il darba huwa ma jċedix jew jagħmel rikors biex jissospendi dik il-kawża qabel ma' jagħzel li jidhol fil-proċedimenti kollettivi.

(3) Membru ta' klassi ma jistax ikun persuna rappreżentata meta:

- (a) jkun diġà wasal għal transazzjoni barra l-qorti, fuq

il-kwistjonijiet komuni msemmija fid-digriet tal-procedimenti kollettivi, mal-konvenut; jew

(b) ikun digà ngħata deċiżjoni f'arbitraġġ bejn il-membri ta' klassi u l-konvenut dwar ir-rimedji li l-membri ta' klassi ried jikseb; jew

(ċ) deċiżjoni dwar il-kwistjonijiet komuni msemmija fid-digriet tal-procedimenti kollettivi li tkun digà għaddiet f'gudikat quddiem xi tribunal jew korp simili jew qorti ta' ġurisdizzjoni ċivili u dak it-tribunal jew korp simili jew qorti jkunu digà iddeċidew dwar ir-rimedji li l-membri ta' klassi ried jikseb.

9. (1) Il-Qorti għandha tiddikjara fid-digriet tagħha li l-procedimenti jkunu xierqa bħala procedimenti kollettivi meta -

Dikjarazzjoni li procedimenti jkunu xierqa b'għala procedimenti kollettivi.

(a) hija tiġi sodisfatta mir-rappreżentant ta' klassi li t-talbiet fil-procedimenti—

(i) jkunu qegħdin jiġu preżentati f'isem klassi identifikata ta' żewġ persuni jew aktar; u

(ii) jkunu kwistjonijiet komuni; u

(b) hija tiġi sodisfatta mir-rappreżentant ta' klassi li l-procedimenti kollettivi huma l-aktar mezz xieraq għal riżolviment ġust u effiċjenti ta' kwistjonijiet komuni.

(2) Meta tkun qegħda tiddeċiedi jekk il-procedimenti kollettivi huma l-aktar mezz xieraq għal riżolviment ġust u effiċjenti ta' kwistjonijiet komuni għall-finijiet tas-subartikolu (1) (b) tal-artikolu, il-Qorti għandha tiegħu kont, fost affarijiet oħra —

(a) tal-benefiċċji tal-procedimenti kollettivi proposti; u

(b) x-xorta tal-klassi.

10. Il-Qorti m'għandhiex tiċħad milli tagħti digriet dwar xi procedimenti bħala procedimenti kollettivi unikament minhabba xi waħda minn dawn ir-raġunijiet li ġejjin:

Certi affarijiet m'għandhomx iżommu milli jingħata digriet.

(a) it-talba tkun teħtieġ valutazzjoni individwali wara li jiġu deċiżi l-kwistjonijiet komuni;

(b) it-talba jkollha x'taqsam ma' kuntratti separati li jkunu jinvolvu membri ta' klassi differenti;

(c) l-ammont u x-xorta tad-danni mitluba jvarjaw fost il-membri ta' klassi differenti.

Meta Qorti tagħti digriet li proċedimenti ma jkunux proċedimenti kollettivi.

11. Meta l-Qorti ma tiddigrietax il-proċedimenti bħala proċedimenti kollettivi, il-Qorti għandha tiċċad l-azzjoni.

Approvazzjoni li attur jaġixxi bħala rappreżentant ta' klassi.

12. (1) F'azzjoni rappreżentattiva, il-Qorti għandha tapprova għaqda ta' konsumaturi reġistrata jew korp kostitwit biex dan jaġixxi bħala rappreżentant ta' klassi jekk hija sodisfatta li r-rappreżentant ta' klassi: –

(a) jkun ser jaġixxi għustament u adegwatament fl-interessi tal-membri ta' klassi; u

(b) ma jkollu, għar-rigward tal-kwistjonijiet komuni għall-membri ta' klassi, ebda interess materjali li jkun kunfliġġenti mal-interessi tal-membri ta' klassi:

Izda meta azzjoni rappreżentattiva tiġi pprezentata minn għaqda ta' konsumaturi reġistrata, dawk il-konsumaturi biss illi jikkwalifikaw taħt it-tifsira ta' 'konsumatur' fl-artikolu 2 tal-Att dwar l-Affarijiet tal-Konsumatur ikunu eliġibbli bħala membri ta' klassi.

Kap. 378.

(2) F'azzjoni ta' grupp, il-Qorti tista' tapprova li l-attur jaġixxi bħala r-rappreżentant ta' klassi jekk l-attur jissodisfaha li huwa -

(a) għandu talba li tinkwadra fi fhdan il-proċedimenti kollettivi proposti;

(b) jkun ser jaġixxi għustament u adegwatament fl-interessi tal-membri ta' klassi; u

(c) ma jkollu, għar-rigward tal-kwistjonijiet komuni għall-membri ta' klassi, ebda interess materjali li jkun kunfliġġenti mal-interessi tal-membri ta' klassi.

Dmirijiet ta' rappreżentant ta' klassi.

13. (1) Ir-rappreżentant ta' klassi għandu jaġixxi fl-aħjar interessi tal-membri ta' klassi.

(2) Ir-rappreżentant ta' klassi għandu jispjega lill-

membri ta' klassi x-xorta tal-proċedimenti kollettivi u għandu wkoll iżomhom infurmati bil-progress tal-proċedimenti inkluża kull sentenza jew digriet li jorbot lil dawk il-membri ta' klassi jew membri ta' sotto-klassi u, fejn dan ikun japplika, jekk ikunx se jappella mis-sentenza mogħtija mill-Qorti.

(3) Ir-rappreżentant ta' klassi għandu jzomm u jieħu ħsieb registru fejn inizzel l-identità u t-talbiet ta' dawk il-membri ta' klassi li jkunu jikkostitwixxu parti mill-proċedimenti kollettivi u għandu, wara li ssirlu talba, jagħmel dak ir-registru disponibbli lill-konvenut.

(4) Jekk f'xi waqt wara li l-Qorti tkun tat id-digriet tagħha li jkun jordna t-tkomplija ta' proċedimenti, il-Qorti jkun jidhrilha li r-rappreżentant ta' klassi ma jibqax jissodisfa il-kriterji imsemmija fl-artikolu 12 tal-Att jew ma jibqax, għal xi raġuni oħra, f'pożizzjoni li jirrappreżenta l-interessi tal-persuni rappreżentati, il-Qorti tista', jew fuq inizjattiva tagħha stess jew wara li jsirilha rikors minn membru ta' klassi —

Sostituzzjoni.

(a) tissostitwixxi r-rappreżentant ta' klassi b'persuna oħra li tissodisfa l-kriterji ta' approvazzjoni fl-artikolu 12 tal-Att bħala r-rappreżentant ta' klassi; u, jew

(b) tagħti kull ordni oħra li tqis li tkun xieraq.

(5) Rappreżentant ta' klassi jista' biss jirtira bħala parti fil-proċedimenti kollettivi jekk jingħata permess mill-Qorti li jirtira. Il-Qorti tagħti biss permess għall-irtirar jekk hi sodisfatta li r-rappreżentant ta' klassi —

Irtirar.

(a) jkun innotifika r-rikors lill-membri ta' klassi b'mod u manjiera li jkunu approvati mill-Qorti; u

(b) ikun issodisfa l-kundizzjonijiet illi l-Qorti setgħet imponiet.

(6) Jekk il-Qorti tagħti permess lir-rappreżentant ta' klassi biex dan jirtira mill-proċedimenti u ma jiġi approvat ebda rappreżentant ta' klassi sostitut, il-Qorti għandha tagħti ordnijiet dwar kif għandhom jitmexxew il-proċedimenti aktar 'il quddiem u dan jista' jinkludi provvediment li l-proċedimenti għandhom ikompli bħala proċediment wieħed jew aktar proċedimenti bejn partijiet differenti.

A 200

Sotto-klassijiet.

14. Jekk il-persuni rappreżentati jkunu jinkludu sotto-klassi ta' persuni li t-talbiet tagħhom jagħtu lok għal kwistjonijiet komuni li ma jkunux maqsuma mal-persuni rappreżentati kollha, il-Qorti tista' tapprova persuna li tkun tissodisfa l-kriterji ta' approvazzjoni fl-artikolu 12 tal-Att biex taġixxi bħala r-rappreżentant ta' klassi għal dik is-sotto-klassi jekk tikkunsidra illi dan ikun xieraq għall-konduzzjoni effiċjenti tat-talbiet.

Stadji ta' proċedimenti kollettivi.

15. (1) Bla ħsara għall-artikolu 16 tal-Att, fi proċedimenti kollettivi -

(a) kwistjonijiet komuni għal klassi għandhom jiġu deċiżi flimkien;

(b) kwistjonijiet komuni għal sotto-klassi għandhom jiġu deċiżi flimkien; u

(ċ) kwistjonijiet individwali għandhom jiġu deċiżi matul seduti ulterjuri.

(2) Jekk il-Qorti tordna li tkun meħtieġa l-partecipazzjoni ta' persuni rappreżentati individwali sabiex jiġu deċiżi kwistjonijiet individwali, ir-rappreżentant ta' klassi għandu jinnotifika, b'dawk is-seduti ulterjuri, lil dawk il-persuni rappreżentati individwali hekk kif jiġi ordnat mill-Qorti.

Sentenzi separati.

(3) Il-Qorti tista' tagħti ordnijiet dwar il-proċeduri li għandhom jiġu segwiti fis-seduti ulterjuri msemmija fis-subartikolu (1)(ċ) ta' dan l-artikolu inkluż li jiġu stabbiliti termini li fihom persuni rappreżentati individwali jistgħu jagħmlu talbiet dwar kwistjonijiet individwali.

(4) Il-Qorti tista' tagħti sentenza dwar kwistjonijiet komuni u sentenzi separati dwar kull kwistjoni oħra.

Il-Qorti tista' tiddeċiedi dwar kif tmexxi l-proċedimenti.

16. Il-Qorti, fuq rikors ta' xi parti jew membru ta' klassi, tista' tagħti kull digriet li tqis xieraq dwar it-tmexxija ta' proċedimenti kollettivi biex tiżgura li tingħata deċiżjoni ġusta u spedittiva u, għal dan l-għan, tista' timponi dawk il-kundizzjonijiet fuq il-partijiet li l-Qorti tqis li jkunu xierqa.

Il-Qorti tista' twaqqaf kull proċedimenti oħra.

17. Il-Qorti, minn jeddha jew fuq rikors ta' xi parti jew

membru ta' klassi, tista' twaqqaf kull proċediment li jkollu x'jaqsam mal-proċedimenti kollettivi quddiemha, b'dawk il-kundizzjonijiet li l-Qorti tqis li jkunu xierqa.

18. (1) Sentenza dwar kwistjonijiet komuni għall-persuni rappreżentati jew sotto-klassi ta' persuni rappreżentati tkun torbot lill-persuni rappreżentati, jew lil dawk fis-sotto-klassi, kif ikun il-każ. Sentenzi u digrieti.

(2) Ir-rappreżentant ta' klassi għandu jinnotifika kull sentenza jew digriet lil dawk il-persuni rappreżentati li jkunu marbutin bihom b'mod u manjiera li jkunu approvati mill-Qorti.

(3) Meta fis-sentenza li tagħti, il-Qorti tordna lill-konvenut biex iħallas kumpens, il-Qorti tista' tordna lill-konvenut biex jikkredita l-ammont dovut f'kont speċifiku tenut mir-rappreżentant ta' klassi u tista' tagħti dawk l-ordnijiet li tħoss xieraq lir-rappreżentant ta' klassi għad-distribuzzjoni effettiva ta' dak il-kumpens bejn il-membri ta' klassi.

19. (1) Rappreżentant ta' klassi ma jistax jidhol f'transazzjoni jew ċessjoni ta' xi talba jew parti minnha fi proċedimenti kollettivi mingħajr il-permess tal-Qorti. Transazzjoni jew ċessjoni.

(2) Ir-rikors għal permess li jsir taħt is-subartikolu (1) għandu —

(a) jistabilixxi l-mod u manjiera kif ir-rappreżentant ta' klassi jkun qed jipproponi li jinnotifika lill-persuni rappreżentati bil-ħsieb li jkollu li jidhol f'transazzjoni jew ċessjoni ta' xi talba jew parti minnha fi proċedimenti kollettivi; u

(b) fil-każ ta' rikors biex jidhol f'transazzjoni, jistabilixxi l-pattijiet tat-transazzjoni proposta.

(3) Meta l-Qorti jaslilha rikors magħmul taħt is-subartikolu (1) ta' dan l-artikolu, hija għandha —

(a) tistabilixxi data għal seduta biex tiddeċiedi jekk għandhiex tapprova t-transazzjoni jew ċessjoni; u

(b) tagħti digriet dwar in-notifika msemmija fis-subartikolu (2)(a) ta' dan l-artikolu.

Is-seduta biex jiġi deċiż l-approvazzjoni ta' transazzjoni jew ċessjoni.

20. (1) Persuna rappreżentata li togġezzjona għat-transazzjoni tista', bil-permess tal-Qorti, titħalla barra mit-transazzjoni.

(2) Fis-seduta li fiha jiġi deċiż dwar ir-rikors għal permess għat-transazzjoni jew għaċ-ċessjoni l-Qorti tista' —

(a) tapprova t-transazzjoni jew iċ-ċessjoni taht dawk il-pattijiet li tqis li jkunu xierqa;

(b) tiċhad li tapprova t-transazzjoni hliet jekk it-transazzjoni ma tkunx tipprovdi opportunità għal persuni rappreżentati biex javżaw lir-rappreżentant ta' klassi li huma għandhom jithallew barra minnha u tistabbilixxi l-mod u t-terminu sa meta tkun tista' ssir dik in-notifika; jew

(ċ) tordna li persuni rappreżentati jingħataw l-opportunità li javżaw lir-rappreżentant ta' klassi li huma għandhom jithallew barra mit-transazzjoni u l-mod u t-terminu sa meta għandha ssir dik in-notifika.

(3) Transazzjoni approvata mill-Qorti tkun torbot lil kull persuna rappreżentata, jew lil kull persuna rappreżentata fis-sotto-klassi, kif ikun il-każ, hliet —

(a) lil dawk li jkunu kisbu permess tal-Qorti taht is-subartikolu (1) ta' dan l-artikolu biex jithallew barra minnha; u

(b) lil dawk li jkunu avżaw lir-rappreżentant ta' klassi, kif hemm fis-subartikolu 2(b) jew (ċ) ta' dan l-artikolu, li huma għandhom jithallew barra minnha.

(4) Jekk il-Qorti tapprova t-transazzjoni jew iċ-ċessjoni, ir-rappreżentant ta' klassi għandu javża bl-approvazzjoni tagħhom lill-persuni rappreżentati, b'mod u manjiera li tkun approvata mill-Qorti.

(5) Jekk xi persuna jew aktar persuni rappreżentati jkunu ser jithallew barra mit-transazzjoni, il-Qorti għandha tagħti ordnijiet dwar kif għandhom jitmexxew il-proċedimenti aktar 'il quddiem u dan jista' jinkludi provvedimenti li l-proċedimenti

għandhom ikomplu bħala proċediment wieħed jew aktar proċedimenti bejn partijiet differenti u, għal dak l-għan —

- (a) tordna ż-żjieda, it-tneħħija jew is-sostituzzjoni tal-partijiet;
- (b) tordna li r-rikors guramentat jiġi emendat; jew
- (c) tagħmel kull ordni oħra li tkun tqis xierqa.

21. (1) Id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili dwar appelli minn sentenzi u digrieti tal-Qorti Ċivili, Prim'Awla, għandhom japplikaw *mutatis mutandis* għall-appelli minn sentenzi u digrieti mogħtija taħt dan l-Att. Appelli.

(2) Parti tista' tappella quddiem il-Qorti tal-Appell minn digriet li jiddikjara l-proċedimenti bħala proċedimenti kollettivi biss bil-permess tal-Qorti u subartiklu (3) ta' l-artiklu 229 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu japplika f'dan ir-rigward.

(3) Appell minn sentenza tal-Qorti f'isem klassi jew sotto-klassi jista' biss jiġi pprezentat minn rappreżentant ta' klassi:

Izda jekk rappreżentant ta' klassi ma jappellax, kwalunkwe membru ta' klassi jista' jipprezenta rikors quddiem il-Qorti tal-Appell, jew matul it-terminu permess biex isir l-appell jew fi żmien għaxart ijiem wara l-iskadenza tal-imsemmi terminu, biex jithalla jaġixxi bħala rappreżentant ta' klassi biex jipprezenta l-appell.

22. Il-perjodu ta' preskrizzjoni li japplika għal talba għal danni huwa miksura favur membru ta' klassi meta jinbdew il-proċedimenti kollettivi izda dak il-ksur jitqies bħallikieku ma sarx meta dan ma jibqax jiffirma parti mill-proċedimenti kollettivi. Preskrizzjoni.

23. (1) Bla ħsara għas-subartikolu (2) ta' dan l-Artikolu, l-ispejjeż jistgħu jinqatgħu favur jew kontra r-rappreżentant ta' klassi, izda ma jistgħux jinqatgħu favur jew kontra persuna rappreżentata li ma jkunx ir-rappreżentant ta' klassi. Spejjeż.

(2) Jekk il-Qorti tkun approvat il-ħatra ta' rappreżentant ta' klassi għal sotto-klassi, l-ispejjeż li jkollhom x'jaqsmu mad-deċizzjoni tal-kwistjonijiet komuni għas-sotto-klassi jistgħu jinqatgħu favur jew kontra dik il-persuna, u mhux kontra r-rappreżentant ta' klassi għall-klassi kollha.

(3) L-ispejjeż li jkollhom x'jaqsmu mad-deċizzjoni dwar kwistjonijiet individwali kif hemm fl-artikolu 15 jistgħu

jinqatgħu favur jew kontra l-persuni rappreżentati individwali rilevanti.

(4) Għaqda ta' konsumaturi reġistrata hija eżenti mill-ħlas ta' drittijiet tar-reġistru tal-Qorti kif hemm fi Skeda A, Tariffa A tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili mal-preżentata tal-proċedimenti kollettivi.

(5) Fil-każ li l-Qorti tiddeċiedi kontra r-rappreżentant ta' klassi li jkun għaqda ta' konsumaturi reġistrata, il-Qorti għandha tnaqqas id-drittijiet tar-reġistru kontra r-rappreżentant ta' klassi b'ammont ta' bejn wieħed minn għaxra u n-nofs l-ispejjeż li soltu jkunu dovuti, wara li jittiehed kont tal-pożizzjoni finanzjarja tar-rappreżentant ta' klassi u l-motivi legali għaliex il-qorti tkun iddeċidiet kontra r-rappreżentant ta' klassi.

(6) Meta l-Qorti jirriżultalha li l-proċedimenti kollettivi jkunu frivoli jew vessatorji, il-Qorti tista' tiddeċiedi li r-rappreżentant ta' klassi jhallas spejjeż tar-reġistru addizzjonali ta' mhux aktar minn elfejn u ħames mitt euro (€2,500):

Izda meta r-rappreżentant ta' klassi jkun għaqda ta' konsumaturi reġistrata, dan ikun jista' jiġi ordnat iħallas biss l-ispejjeż kollha.

(7) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, il-partijiet f'kull każ ikunu marbutin bid-dispożizzjonijiet ta' Skeda A tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Setgħa li jsiru regolamenti.

24. Il-Prim Ministru jista' minn żmien għal żmien jagħmel regolamenti għall-aħjar tweqqif tad-dispożizzjonijiet ta' dan l-Att u jista', b'mod partikolari -

(a) jestendi l-applikazzjoni ta' dan l-Att għal liġijiet oħra billi jemenda Skeda A li tinsab ma' dan l-Att; u

(b) jestendi l-applikazzjoni tal-artikolu 12(1) ta' dan l-Att għal korpi rappreżentattivi oħra.

Emendi konsegwenzjali għall-Att dwar il-Kompetizzjoni.

25. L-artikolu 27A tal-Att dwar il-Kompetizzjoni għandu jiġi emendat kif ġej:

(a) fil-paragrafu (b) tas-subartikolu (9) ta' dan l-artikolu, minflok il-kliem "jew meta proċeduri separati nbdew" għandhom jidhru l-kliem "u interrotti meta proċeduri separati nbdew"; u

(b) minnufih wara s-subartikolu (10) ta' dan l-artikolu, għandu jiżdied dan il-proviso ġdid li ġej:

“Iżda xejn f’dan l-artikolu ma għandu jiġi interpretat li jippreġudika id-dritt ta’ xi persuna li jkun sofra dannu bħala riżultat ta’ ksur tal-artikoli 5 u, jew 9 ta’ dan l-Att u, jew Artikoli 101 u, jew 102 tat-TFUE li seħħew qabel id-dhul fis-seħħ ta’ dan l-Att, milli jistitwixxi kull azzjoni fir-rigward ta’ dak id-dannu taħt xi liġi oħra li tkun fis-seħħ qabel id-dhul fis-seħħ ta’ dan l-Att.”

Skeda A

Skont l-artikolu 3 tal-Att, is-segwenti tikkostitwixxi l-lista ta’ dawk l-Atti fejn proċedimenti kollettivi jistgħu jiġu istitwiti:

- I. Att dwar il-Kompetizzjoni (Kap. 379), u Artikli 101 jew 102 tat-TFUE
- II. Att dwar l-Affarijiet tal-Konsumatur (Kap. 378) u dawk l-Atti imsemmija fl-artikolu 111 tal-Att dwar l-Affarijiet tal-Konsumatur
- III. Att dwar is-Sigurezza tal-Prodotti (Kap. 427)

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 487 tal-5 ta’ Ġunju, 2012.

MICHAEL FREND
Speaker

Raymond Scicluna
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE ABELA
President

19th June, 2012

ACT No. VI of 2012

An act to enable the institution of collective proceedings for infringements of laws as may from time to time be designated in accordance with the provisions of the said Act and to provide for matters connected therewith or incidental thereto.

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:-

Short title and
Commencement.

1. (1) The short title of this Act is the Collective Proceedings Act, 2012.

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

Interpretation.

2. In this Act unless the context otherwise requires:

“the Act” means the Collective Proceedings Act;

“class” means a group of persons who have suffered or are suffering harm and whose claims arise from common issues;

“class member” means a person falling within the class specified in the collective proceedings decree;

“class representative” means the plaintiff, that is, a person who is authorised to bring the claims in collective proceedings and includes a sub-class representative;

“collective proceedings” means proceedings which are brought by a class representative on behalf of persons whose claims raise common issues and which may be instituted as a group action or a representative action;

“collective proceedings agreement” means an agreement entered into between the class member and the class representative whereby the class member consents to his inclusion in the collective proceedings and to the appointment of the class representative and includes the claim of the class member and may also include provision for the pre-payment and, or reimbursement of any judicial costs incurred by the class representative;

Provided that every class member shall only be liable for costs in proportion to his claim;

“collective proceedings decree” means a decree authorising the action to proceed as collective proceedings;

“common issues” means -

(i) common but not necessarily identical issues of fact, or

(ii) common but not necessarily identical issues of law that arise from common but not necessarily identical facts;

“constituted body” means a body which is purposely set up to act in the interests of its members and includes also any body recognised as a constituted body under the Malta Council for Economic and Social Development Act, as well as any other body of a similar nature recognised as a constituted body under any other law or in accordance with established administrative practice; Cap. 431.

“group action” means proceedings that are brought on

behalf of a number of individual class members and whose class representative satisfies the criteria mentioned in sub-article (2) of article 12 of the Act;

“individual issues” means issues that are relevant only to certain individual represented persons;

“opt-in proceedings” means collective proceedings brought on behalf of class members who inform the class representative as provided in the Act that their claim should be included in the collective proceedings;

Cap. 510. “public authority” shall have the same meaning as defined in the Malta Competition and Consumer Affairs Authority Act;

Cap. 378. “registered consumer association” means a registered consumer association as defined in the Consumer Affairs Act and any other consumer association that has been officially recognised in any other country;

“representative action” means proceedings that are brought on behalf of a number of class members by a representative body according to article 12(1) of the Act;

“represented person” means a class member who has opted into the collective proceedings;

“TFEU” means the Treaty on the Functioning of the European Union.

Application of the Act.

3. Collective proceedings may be instituted to seek the cessation of an infringement, the rectification of the consequences of an infringement and, or compensation for harm where:-

(a) an infringement of the Acts listed in Schedule A to this Act or of any regulations made thereunder, unless these regulations are expressly excluded in the said Schedule, and of any regulations as may be listed in the Schedule is alleged to have occurred;

(b) an investigation before a public authority or proceedings before a tribunal or similar body or court of civil jurisdiction concerning an infringement of the laws mentioned in paragraph (a) is or are still pending; or

(c) a decision or judgement establishing a breach of the said laws in relation to the same facts has become *res judicata*.

4. (1) Where the class representative files a claim for damages arising from an infringement of the Competition Act and, or Articles 101 or 102 of the TFEU, the provisions of article 27A of the Competition Act shall *mutatis mutandis* apply.

Filing of collective proceedings for an infringement of the Competition Act.

(2) Notwithstanding the provisions of article 7(1)(c) of the Act, collective proceedings may also be instituted with respect to damages caused by defective products under Part VIII of the Consumer Affairs Act.

Cap. 378.

5. (1) Collective proceedings shall be instituted by means of a sworn application, in the Civil Court First Hall or the Court of Magistrates (Gozo) in its superior jurisdiction independently of the amount of the claim, and the provisions of the Code of Organisation and Civil Procedure, insofar as they are consistent with the provisions of this Act, shall apply to proceedings under this Act.

Contents of sworn application.

(2) The plaintiff shall therein request that the Court declare that the collective proceedings procedure is the most appropriate procedure in the circumstances.

(3) The sworn application shall–

(a) state the name of the class representative;

(b) state the name of the defendant;

(c) provide a description of the class;

(d) describe the common issues for the claims which the class representative has brought in the collective proceedings;

(e) state the claim or claims being requested and, if applicable, attach a breakdown of the relative amounts due to the class members;

(f) provide sufficient evidence for the satisfaction of the criteria for declaration and approval according to articles 9 and 12 of the Act; and

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(g) provide the Court with a collective proceedings agreement.

Cap. 12.

Provided that the provisions of article 156 of the Code of Organisation and Civil Procedure shall, where applicable, also apply to the sworn application in collective proceedings:

Provided further that the Court shall order the amendment of the sworn application where other class members opt- in within the period mentioned in article 7(2) of the Act or following the permission of the Court in terms of article 8(1) of the Act and, or where a class representative for a sub-class has been appointed in terms of article 14 of the Act.

Pre-trial hearing.

6. The Court shall hold a pre-trial hearing and —

(a) either issue a decree ordering the continuation of the proceedings together with other orders as it may deem fit; or

(b) issue a decree to stay the proceedings if the parties agree, during the hearing, to attempt to compromise the lawsuit by alternative dispute resolution or other means.

Decree ordering continuation of proceedings.

7. (1) The Court shall decree the continuation of proceedings if:

(a) it declares the proceedings as appropriate for collective proceedings in accordance with article 9 of the Act;

(b) it approves the plaintiff to act as the class representative in accordance with article 12 of the Act; and

(c) it is satisfied that the claims are pursuant to article 3 of the Act.

(2) The decree shall include-

(a) the name and address of the class representative;

(b) the name of the defendant;

(c) a description of the class;

(d) the common issues for the claims which the class representative has brought in the collective proceedings;

- (e) the claims sought; and
- (f) information on the legal effect of a judgment in the collective proceedings.

Provided that the decree may also contain such conditions as the Court may deem fit and the Court shall order that such decree is to be published in the Gazette and in a local English and Maltese newspaper and in any other media if the Court deems it fit, provisionally at the expense of the class representative, and shall state that any other third parties who desire to be class members, may do so within a specified date as determined by the Court, which date may not exceed five months from the date of the decree, by registering their claim with the class representative and entering into a collective proceedings agreement.

8. (1) A class member who does not opt-in in accordance with article 7 of the Act may not do so after the specified date, except with the permission of the Court. The Court may grant such permission if it is satisfied that the delay was not caused by the fault of that class member and the continuation of the proceedings would not suffer substantial prejudice if permission were granted. Class members.

(2) A class member who has already filed a cause that raises the common issues in the collective proceedings may not be a represented person unless he discontinues or applies to stay that cause before opting-in the collective proceedings.

(3) A class member may also not be a represented person where:

(a) he has already reached an out of court settlement on the common issues set out in the collective proceedings decree with the defendant; or

(b) an arbitration decision between the class member and the defendant has already been issued on the remedies sought by the class member; or

(c) a decision on the common issues set out in the collective proceedings decree has already become *res judicata* before a tribunal or similar body or court of civil jurisdiction and the said tribunal or similar body or court has already decided on the remedies sought by the class member.

Declaration of proceedings as appropriate for collective proceedings.

9. (1) The Court shall decree the proceedings as appropriate for collective proceedings when-

(a) it is satisfied by the class representative that the claims in the proceedings—

(i) are brought on behalf of an identified class of two or more persons; and

(ii) raise common issues; and

(b) it is satisfied by the class representative that the collective proceedings are the most appropriate means for the fair and efficient resolution of the common issues.

(2) In determining whether the collective proceedings are the most appropriate means for the fair and efficient resolution of the common issues for the purposes of sub-article (1)(b) hereof, the Court will take into account, amongst other things—

(a) the benefits of the proposed collective proceedings; and

(b) the nature of the class.

Certain matters not to bar issue of decree.

10. The court shall not refuse to decree proceedings as collective proceedings solely on any of the following grounds:

(a) the claim requires individual assessment after determination of the common issues;

(b) the claim relates to separate contracts involving different class members;

(c) the amount and nature of the damages sought vary among the different class members.

Where Court does not decree proceedings as collective proceedings.

11. Where the Court does not decree the proceedings as collective proceedings, the Court shall dismiss the action.

Approval of plaintiff to act as class representative.

12. (1) In a representative action, the Court shall approve a registered consumer association or a constituted body to act as a class representative, if it is satisfied that the class representative -

(a) would fairly and adequately act in the interests of the class members; and

(b) does not have, in relation to the common issues for the class members, a material interest that is in conflict with the interests of the class members:

Provided that when a representative action is brought by a registered consumer association, only consumers qualifying within the definition of ‘consumer’ in article 2 of the Consumer Affairs Act shall be eligible to be class members. Cap. 378.

(2) In a group action, the Court may approve the plaintiff to act as the class representative if it is satisfied by the plaintiff that he-

(a) has a claim which falls within the proposed collective proceedings;

(b) would fairly and adequately act in the interests of the class members; and

(c) does not have, in relation to the common issues for the class members, a material interest that is in conflict with the interests of the class members.

13. (1) The class representative shall act in the best interests of the class members. Duties of class representative.

(2) The class representative shall explain to the class members the nature of the collective proceedings and shall also keep them informed on the progress of the proceedings including any judgment or decree that is binding on those class members or sub-class members and, if applicable, on whether he shall appeal from the judgement delivered by the Court.

(3) The class representative shall keep and maintain a register on which he will record the identity and claims of those class members who are part of the collective proceedings and shall, on request, make such register available to the defendant.

(4) If at any time after the Court’s decree ordering the continuation of proceedings, it appears to the Court that the class representative no longer satisfies the criteria mentioned in article 12 of the Act or is no longer, for any other reason, in a position to represent the interests of the represented persons, the Court may, either of its own initiative or on the application of a class member — Substitution.

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(a) substitute the class representative by another person who satisfies the criteria for approval in article 12 of the Act as the class representative; and, or

(b) make any other order it considers appropriate.

Withdrawal.

(5) A class representative may only withdraw as a party to the collective proceedings if the Court gives permission for the withdrawal. The Court will only give permission for the withdrawal if it is satisfied that the class representative –

(a) has given notice of the application to withdraw to the class members in a form and manner that is approved by the Court; and

(b) has satisfied the conditions that the Court may have imposed.

(6) If the Court gives permission for the class representative to withdraw from the proceedings and no substitute class representative is approved, the Court shall give directions for the future conduct of the proceedings which may include provision that the proceedings shall continue as one or more proceedings between different parties.

Sub-classes.

14. If the represented persons include a sub-class of persons whose claims raise common issues that are not shared by all the represented persons, the Court may approve a person who satisfies the criteria for approval in article 12 of the Act to act as the class representative for that sub-class if it considers that this shall be conducive for the efficient management of the claims.

Stages of collective proceedings.

15. (1) Subject to article 16 of the Act, in collective proceedings –

(a) common issues for a class shall be determined together;

(b) common issues for a sub-class shall be determined together; and

(c) individual issues shall be determined in further hearings.

(2) If the Court directs that the participation of

individual represented persons is necessary in order to determine individual issues, the class representative shall give notice of the further hearings to those individual represented persons as directed by the Court.

(3) The Court may give directions for the procedures to follow in the further hearings referred to in sub-article (1) (c) hereof including setting a time within which individual represented persons may make claims in respect of the individual issues.

(4) The Court may give judgment in respect of the common issues and separate judgments in respect of any other issue.

Separate judgments.

16. The Court, on the application of a party or class member, may issue any decree it considers appropriate with respect to the conduct of collective proceedings to ensure its fair and expeditious determination and, for this purpose, may impose such terms on the parties as it considers appropriate.

Court may determine conduct of proceedings.

17. The Court, on its own initiative or on the application of a party or class member, may stay any proceeding related to the collective proceedings before it, on such terms as it considers appropriate.

Court may stay any other proceedings.

18. (1) A judgment on the common issues for the represented persons or a sub-class of represented persons will bind the represented persons, or those within the sub-class, as the case may be.

Judgments and decrees.

(2) The class representative shall give notice of any judgment or decree to those represented persons who are bound by it in a form and manner that is approved by the Court.

(3) Where in its judgement, the Court orders the defendant to pay compensation, it may order the defendant to credit the amount due to a specific account held by the class representative and may give such orders, as it deems necessary, to the class representative for the effective distribution of that compensation among the class members.

19. (1) A class representative may not compromise or discontinue all or part of a claim in collective proceedings without the permission of the Court.

Compromise or discontinuance.

(2) The application for permission made under sub-article (1) hereof shall—

(a) set out the form and manner by which the class representative proposes to give notice to the represented persons of the intention to compromise or discontinue all or part of a claim in the collective proceedings; and

(b) in the case of an application to compromise, set out the terms of the proposed compromise.

(3) On receipt of an application made under sub-article (1), the Court will—

(a) set a date for a hearing to determine whether to approve the compromise or discontinuance; and

(b) issue a decree for the giving of the notice referred to in sub-article (2)(a) hereof.

Hearing to determine approval of compromise or discontinuance.

20. (1) A represented person who objects to the compromise may, with the permission of the Court, be omitted from the compromise.

(2) At the hearing to determine the application for permission to compromise or withdrawal, the Court may—

(a) approve the compromise or discontinuance on terms it considers to be appropriate;

(b) refuse to approve a compromise unless the compromise provides an opportunity for represented persons to notify the class representative that they are to be omitted from it and sets out the manner and time by which that notification is to be made; or

(c) order that represented persons be given an opportunity to notify the class representative that they are to be omitted from a compromise and the manner and time by which that notification is to be made.

(3) A compromise approved by the Court binds

every represented person, or every represented person within the sub- class, as the case may be, except—

(a) those who have obtained permission of the Court under sub-article (1) hereof to be omitted from it; and

(b) those who have notified the class representative, in accordance with sub-article 2(b) or (c) hereof, that they are to be omitted from it.

(4) If the Court approves the compromise or discontinuance, the class representative shall give notice of its approval, in a form and manner that is approved by the Court, to the represented persons.

(5) If one or more of the represented persons are to be omitted from the compromise, the Court shall give directions for the future conduct of the proceedings which may include provision that the proceedings shall continue as one or more proceedings between different parties and, for that purpose—

(a) order the addition, removal or substitution of parties;

(b) order the amendment of the sworn application; or

(c) make any other order that it considers appropriate.

21. (1) The provisions of the Code of Organization and Civil Procedure relating to appeals from judgements and decrees of the Civil Court, First Hall shall *mutatis mutandis* apply to appeals from judgements and decrees delivered under this Act. Appeals.

(2) A party may appeal to the Court of Appeal from a decree declaring the proceedings as collective proceedings only with leave of the Court and sub-article (3) of article 229 of the Code of Organization and Civil Procedure shall apply in respect thereof.

(3) An appeal from a judgement of the Court on

behalf of the class or sub-class may only be filed by a class representative:

Provided that if a class representative does not appeal, any class member may file an application to the Court of Appeal, either during the time-limit allowed for the appeal or within ten days following the lapse of the said time-limit, for leave to act as the class representative to file an appeal.

Prescription.

22. The period of prescription applicable to a claim for damages is interrupted in favour of a class member on the commencement of the collective proceedings but that interruption shall be deemed inoperative if he withdraws from the collective proceedings.

Costs.

23. (1) Subject to sub-article (2) hereof, costs may be awarded in favour or against the class representative, but may not be awarded in favour of or against a represented person who is not the class representative.

(2) If the Court has approved the appointment of a class representative for a sub-class, costs associated with the determination of the common issues for the sub-class may be awarded in favour of or against that person, and not the class representative for the whole class.

(3) Costs associated with the determination of individual issues in accordance with article 15 of the Act may be awarded in favour of or against the relevant individual represented persons.

(4) A registered consumer association is exempted from the payment of Court registry fees according to Schedule A, Tariff A of the Code of Organization and Civil Procedure upon the filing of collective proceedings.

(5) In the event that the Court finds against the class representative that is a registered consumer association, the Court shall reduce court registry fees against the class representative by between one tenth and one half of the fees normally due, taking into account the economic standing of the class representative and the legal reasons for finding against the class representative.

(6) Where the Court finds that the collective proceedings are frivolous or vexatious, the Court may award

increased registry costs up to a maximum of two thousand five hundred euro (€2,500) against the class representative:

Provided that where the class representative is a registered consumer association, it may only be ordered to pay the full costs.

(7) Without prejudice to the provisions of this Act, the parties shall be subject to the provisions of Schedule A of the Code of Organization and Civil Procedure.

24. The Prime Minister may from time to time make regulations for the better carrying out of the provisions of this Act and may, in particular -

Power to make regulations.

(a) extend the application of this Act to other laws by amending Schedule A to this Act; and

(b) extend the application of article 12(1) of the Act to other representative bodies.

25. Article 27A of the Competition Act shall be amended as follows:

Consequential amendments to the Competition Act

(a) in paragraph (b) of sub-article (9) thereof, for the words “or where separate proceedings have been instituted” there shall be substituted the words “and interrupted where separate proceedings have been instituted”; and

(b) immediately after sub-article (10) thereof, there shall be inserted the following new proviso:

“Provided that nothing in this article shall be interpreted as prejudicing the right of any person who has suffered damage as a result of an infringement of articles 5 and, or 9 of this Act and, or Articles 101 and, or 102 of the TFEU occurring before the coming into force of this Act to file any action in respect of the said damage under any other law as in force prior to the coming into force of this Act.”

Schedule A

In accordance with article 3 of the Act, the following constitutes the list of Acts whereby collective proceedings may be instituted:

I. Competition Act (Cap. 379), and Articles 101 or 102 of the TFEU

II. Consumer Affairs Act (Cap. 378) and those Acts mentioned in article 111 of the Consumer Affairs Act

III. Product Safety Act (Cap. 427)

Passed by the House of Representatives at Sitting No. 487 of 5th June, 2012.

MICHAEL FRENDU
Speaker

Raymond Scicluna
Clerk to the House of Representatives

VERŽJONI ELETTRONIKA

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