

**Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni
u għall-Affarijiet tal-Konsumatur**

TAQSIM TAL-ATT

	Artikoli
TaqSIM I	Preliminari
TaqSIM II	Twaqqif, Funzjonijiet u Tmexxija tal-Affarijiet tal-Awtorità
TaqSIM III	Twaqqif, Dmirijiet u Tmexxija tal-Affarijiet tal-Bord tal-Gvernaturi
TaqSIM IV	Twaqqif tal-Uffiċċju għall-Kompetizzjoni
TaqSIM V	Twaqqif tal-Uffiċċju għall-Affarijiet tal-Konsumatur
TaqSIM VI	Twaqqif tad-Divizjoni dwar Regolamenti Tekniċi
TaqSIM VII	Twaqqif tal-Istitut dwar l-iStandards u Metroloġija
TaqSIM VIII	Akkwist u Forniment ta' Informazzjoni
TaqSIM IX	Twaqqif tat-Tribunal tal-Appell tal-Kompetizzjoni u tal-Konsumatur
TaqSIM X	Uffiċjali u Impiegati tal-Awtorità
TaqSIM XI	Disposizzjonijiet Finanzjarji
TaqSIM XII	Trasferiment ta' Ċertu Proprietà lill-Awtorità
TaqSIM XIII	Mixxellanji
TaqSIM XIV	Emendi tal-Att dwar l-Affarijiet tal-Konsumatur
TaqSIM XV	Emendi tal-Att dwar il-Kompetizzjoni
TaqSIM XVI	Emenda tal-Att dwar l-Amministrazzjoni Pubblika
TaqSIM XVII	Thassir tal-Att dwar l-Awtorità Maltija dwar l-iStandards
TaqSIM XVIII	Emendi tal-Att dwar is-Sigurezza tal-Prodotti
TaqSIM XIX	Emendi tal-Att dwar il-Metroloġija
TaqSIM XX	Emenda tal-Att dwar il-Gustizzja Amministrattiva
TaqSIM XXI	Emendi tal-Att dwar Kuntratti fuq l-Għatba tal-Bieb
TaqSIM XXII	Emendi tal-Att dwar Deskrizzjonijiet Kummerċjali
TaqSIM XXIII	Emendi tal-Att dwar is-Sigurtà fl-Ikel
TaqSIM XXIV	Emendi tal-Att dwar il-Kontroll tal-Pestiċidi
TaqSIM XXV	Emenda tal-Kodiċi tal-Organizzazzjoni u Proċedura Ċivili
 L-Ewwel Skeda	 Forma ta' Ġurament
It-Tieni Skeda	Regoli ta' Proċedura relatati mat-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur
It-Tielet Skeda	Lista ta' atti legislattivi tal-UE għal-liema finijiet l-Uffiċċju għall-Affarijiet tal-Konsumatur huwa l-Awtorità Kompetenti Nazzjonali
Ir-Rabà Skeda	Direttorati

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE ABELA
President

29 ta' April, 2011

ATT Nru. VI tal-2011

ATT biex jipprovdi għat-twaqqif ta' Awtorità biex tippromwovi, iżżomm u tinkoragġixxi kompetizzjoni, biex tissalvagwardja l-interessi tal-konsumatur u ttejjeb l-ħarsien tiegħu, biex tippromwovi prattiċi ta' negozju tajba, biex taddotta u tikkordina standards fir-rigward ta' prodotti jew servizzi, biex tirregola dawk l-attivitajiet u biex tipprovdi dwar ħwejjeg anċillari jew incidentali ma' dawn jew marbuta magħhom, biex tipprovdi għat-twaqqif, ġurisdizzjoni u proċedura ta' tribunal tal-appell u tagħmel emendi għal ligijiet oħra.

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

**TAQSIMA I
PRELIMINARI**

Titolu fil-qosor
dħul fis-seħħħ.

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2011 dwar l-Awtoritá ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur.

(2) Dan l-Att għandu jidhol fis-seħħ f'dik id-data li l-Ministru jista' b'avviż fil-Gazzetta jistabbilixxi, u jistgħu jiġu hekk stabbiliti dati differenti għal disposizzjonijiet differenti ta' dan l-Att.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġx Tifsir xort'ohra:-

"abbozz ta' *standard*" tfisser dokument li jkun fih it-test tal-ispeċifikazzjonijiet teknici dwar xi suġġett partikolari, li jkun qed jiġi kkunsidrat biex jiġi adottat u kif ċirkolat għall-kummenti u l-iskrutinju pubbliku;

"Awtorità" tfisser l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur mwaqqfa bl-artikolu 3;

"awtorità kompetenti nazzjonali" għall-finijiet tal-artikolu 17(1)(o) għandu jkollha l-istess tifsira mogħtija lill-"awtorità kompetenti" fl-artikolu 3(c) tar-Regolament dwar il-Koperazzjoni u l-Protezzjoni tal-Konsumatur;

"awtorità pubblika" tfisser:

- (i) il-Gvern, inkluż kull Ministeru jew Dipartiment tiegħu;
- (ii) aġenzija tal-Gvern imwaqqfa skont l-Att dwar l-Amministrazzjoni Pubblika; u
- (iii) entità tal-Gvern kif imfisser fl-Att dwar l-Amministrazzjoni Pubblika;

"Bord" tfisser il-Bord tal-Gvernaturi mwaqqaf bl-artikolu 8;

"Chairman" tfisser ic-*Chairman* tal-Bord li jkun ċ-*Chairman* tal-Awtorità maħtur skont l-artikolu 9(1);

"Direttur Ĝenerali (Affarijiet tal-Konsumatur)" tfisser il-persuna hekk maħtura bis-saħħha tal-artikolu 16(2);

"Direttur Ĝenerali (Kompetizzjoni)" tfisser il-persuna hekk maħtura bis-saħħha tal-artikolu 13(2);

"Direttur Ĝenerali (Regolamenti Teknici)" tfisser il-persuna hekk maħtura bis-saħħha tal-artikolu 19(2);

"Direttur Ĝenerali (*Standards* u Metroloġija)" tfisser il-persuna hekk maħtura bis-saħħha tal-artikolu 21(2);

"entitajiet" tfisser l-Uffiċċju għall-Kompetizzjoni, l-Uffiċċju għall-Affarijiet tal-Konsumatur, id-Divizjoni dwar Regolamenti Teknici, u l-Istitut dwar l-iStandards u Metroloġija, u entità għandha tiftiehem rispettivament kif jitlob l-kuntest;

"Gazzetta" tfisser il-Gazzetta tal-Gvern;

Kap. 379.
 "għaqda ta' intraprizi" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar il-Kompetizzjoni;

Kap. 378.
 "għaqda ta' konsumaturi" jew "għaqda ta' konsumaturi registrata" tfisser għaqda registrata skont it-Taqsima IV tal-Att dwar l-Affarijiet tal-Konsumatur;

Kap. 379.
 "intrapriża" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar il-Kompetizzjoni;

L.S. 379.08.
 "konċentrazzjoni" għandu jkollha l-istess tifsira mogħtija lilha fir-regolament 2(d) tar-Regolamenti dwar il-Kontroll ta' Konċentrazzjonijiet;

"korp ta' għemil ta' standards Ewropew" tfisser xi wieħed minn dawn il-korpi li ġejjin:

- CEN - Kumitat Ewropew għall-Għemil ta' Standards;

- CENELEC - Kumitat Ewropew għall-Għemil ta' Standards fl-Elettroteknika;

- ETSI - Istitut Ewropew għal Standards fit-Telekomunikazzjonijiet;

Kap. 378.
 "Kumitat għall-Kordinazzjoni" tfisser l-kumitat mwaqqaf bl-artikolu 5;

"kummerċjant" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar l-Affarijiet tal-Konsumatur;

"kunflitt ta' interess" tfisser dik is-sitwazzjoni li fiha membri tal-Bord, uffiċċali u impjegati tal-Awtorità u nies li jagħtu l-pariri, konsulenti u persuni oħra mqabbda mal-Awtorità ikollhom interassi privati jew personali suffiċċjenti biex jinfluwenzaw jew jidhru li qed jinfluwenzaw l-eżercizzju oggettiv tad-dmirijiet uffiċċali tagħhom;

Kap. 378.
 "Kunsill" tfisser il-Kunsill għall-Affarijiet tal-Konsumatur" kif mwaqqaf taħt l-artikolu 4 tal-Att dwar l-Affarijiet tal-Konsumatur;

"marka ta' konformità" tfisser marka, maħruġa skont ir-regolamenti magħmula taħt l-artikolu 24, li turi konformità ma' standard applikabbli;

"Ministru" tfisser il-Ministru responsabbi għall-kompetizzjoni, affarijiet tal-konsumatur, standardizzazzjoni, metrologija u regolamenti

tekniċi;

"Ministeru" tfisser il-Ministeru responsabbli għall-kompetizzjoni, affarijiet tal-konsumatur, standardizzazzjoni, metroloġija u regolamenti teknici;

"permess" tfisser awtorizzazzjoni mogħtija mill-Istitut dwar l-iStandards u Metroloġija taħt l-artikolu 24 għall-użu ta' marka ta' konformità;

"persuna" tinkludi individwi, kull korp magħqud u kull korp ta' persuni sew jekk għandu personalità ġuridika distinta sew jekk le;

"prattika restrittiva" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar il-Kompetizzjoni; Kap. 379.

"President" tfisser il-President tat-Tribunal tal-Appell kif mwaqqaf bl-artikolu 31;

"preskritt" tfisser preskritt taħt dan l-Att sakemm mhux xort'oħra mfisser;

"prodott" tfisser kull prodott fabbrikat industrijalment u kull prodott agrikolu, inkluż prodotti tal-ħut;

"programm ta' standards" tfisser programm ta' xogħol li jelenka s-sugġetti dwar liema jkun qed jitwettaq xogħol ta' għemil ta' standards;

"Regolament dwar il-Koperazzjoni u l-Protezzjoni tal-Konsumatur" tfisser ir-Regolament (KE) Nru. 2006/2004 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' Ottubru 2004 dwar il-kooperazzjoni bejn l-awtoritajiet nazzjonali responsabbli għall-infurzar tal-ligijiet tal-protezzjoni tal-konsumaturi (test b'rilevanza għaż-ŻEE);

"Segretarju Permanenti" tfisser il-persuna maħtura għal superviżjoni tal-Awtorità skont l-Att dwar l-Amministrazzjoni Pubblika; Kap. 497.

"Segretarju Permanenti Ewlieni" tfisser il-persuna maħtura skont l-artiklu 14 tal-Att dwar l-Amministrazzjoni Pubblika;

"sena finanzjarja" tfisser kull perjodu ta' tnax-il xahar li jispiċċa fil-31 ta' Dicembru; iżda l-ewwel sena finanzjarja għandha tibda fid-data tad-dħul fis-seħħ ta' dan l-Att u tispiċċa fil-31 ta' Dicembru tas-sena ta' wara;

"speċifikazzjoni teknika" tfisser speċifikazzjoni li tinsab f'xi

dokument li tistipola l-karatteristiċi meħtieġa minn prodott u, jew, servizz bħalma huma livelli ta' kwalità, funzjonalità, sigurezza jew dimensjonijiet, inkluži l-ħtiġiet applikabbi għall-prodott u, jew, is-servizzi għar-rigward tal-isem li bih il-prodott, u, jew, servizz jinbiegħ, terminoloġija, simboli, ittestjar u metodi ta' ttestjar, ippakkettjar, immarkar jew ittikkettjar użati u proceduri ta' stima ta' konformità. Din il-frażi tkopri wkoll metodi ta' produzzjoni u processi li jintużaw għar-rigward ta' prodotti agrikoli, prodotti maħsuba għall-konsum mill-bnedmin u mill-annimali, u prodotti medicinali, kif ukoll metodi ta' produzzjoni u processi li jirrigwardaw prodotti oħra, meta dawn ikollhom effett fuq il-karatteristiċi tagħhom.

Għall-finijiet ta' din it-tifsira, "proceduri ta' stima ta' konformità" tfisser kull procedura użata, direttament u indirettament, sabiex jiġi stabilit li ħtiġiet rilevanti f'regolamenti tekniċi jew *standards* jitwettqu, inkluži fost l-oħrajn, proceduri għat-tehid ta' kampjuni, ttestjar u spezzjoni; valutazzjoni, verifika u assigurazzjoni ta' konformità, registrazzjoni, akkreditament u approvazzjoni kif ukoll kull kombinazzjoni ta' dawn kollha;

"*standard*" tfisser spċifikazzjoni teknika approvata minn korp ta' ghemil ta' *standards* rikonoxxut għal applikazzjoni ripetuta jew kontinwa, ma' liema mhijiex obbligatorja l-konformità, sew jekk jinkludi ħtiġiet oħra sew jekk le, u li hu wieħed minn dawn li ġejjin:-

- *Standard Internazzjonali:* *standard* adottat minn organizzazzjoni ta' ghemil ta' *standards* internazzjonali, minbarra xi korp ta' ghemil ta' *standards* Ewropew, u li jkun disponibbli għall-pubbliku;

- *Standard Ewropew:* *standard* adottat minn korp ta' ghemil ta' *standards* Ewropew u li jkun disponibbli għall-pubbliku;

- *Standard Nazzjonali:* *standard* adottat mill-Awtoritā u li jkun disponibbli għall-pubbliku;

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

"Tribunal tal-Appell" tfisser it-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur mwaqqaf bl-artikolu 31;

"uffiċjal" u "impjegat" tinkludi uffiċjal pubbliku inkarigat jagħmel xogħol f'xi waħda mill-entitajiet mwaqqfa taħt dan l-Att;

"uffiċjal pubbliku" għandu jkollha l-istess tifsira mogħtija lilha

fl-artikolu 124 tal-Kostituzzjoni ta' Malta imma ma tinkludix imħallef tal-qrati superjuri jew magistrat tal-qrati inferjuri;

"Uffiċċju Uniku ta' Kooperazzjoni" għandu jkollha l-istess tifsira mogħtija lil "uffiċċju uniku ta' kooperazzjoni" fl-artikolu 3(d) fir-Regolament dwar il-Koperazzjoni u l-Protezzjoni tal-Konsumatur; u

"università approvata" għandu jkollha l-istess tifsira mogħtija liha fit-tifsira "awtorità kompetenti" skont l-artikolu 2 tal-Att dwar ir-Rikonoxximent Reċiproku ta' Kwalifik. Kap. 451.

TAQSIMA II TWAQQIF, FUNZJONIJIET U TMEXXIJA TAL-AFFARIJIET TAL-AWTORITA'

3. (1) Ikun hemm korp, li jkun magħruf bħala l-Awtorità Twaqqif tal-Awtorità. ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur.

(2) L-Awtorità tkun korp magħqu quid li jkollha personalità ġuridika separata u distinta u li tista', fil-qadi tal-funzjonijiet tagħha tagħmel kuntratti, takkwista, ikollha fil-pussess tagħha jew tiddisponi minn proprjetà reali u personali, tharrek jew tiġi mharrka u tagħmel dak kollu li jkun incidentali jew li jirriżulta fit-twettiq tal-funzjonijiet tagħha, inkluż li tislef jew tissellef il-flus.

(3) (a) Iċ-Chairman għandu jkollu ir-rappreżentazzjoni legali u ġudizzjarja tal-Awtorità:

Iżda l-Bord jista' jahtar wieħed jew izjed mill-uffiċċiali jew impiegati tal-Awtorità biex jidhru f'isem u jirrapreżentaw lilha f'kull proċedura u f'kull att, kuntratt, strument jew dokument ieħor ikun x'ikun, jew fil-każ ta' vakanza fil-post tac-*Chairman*:

Iżda wkoll f'kwistjonijiet li jirreletaw esklusivament għar-responsabbiltajiet ta' entità li tifforma parti mill-Awtorità kif mwaqqfa skont it-Taqsimiet IV sa VII ta' dan l-Att, ir-rappreżentazzjoni legali u ġuridika tal-Awtorità f'dawk il-kwistjonijiet għandha tvesti fid-Direttur Ĝenerali li jmexxi l-entità.

(b) Kull dokument li jidher li jkun strument magħmul jew maħruġ mill-Awtorità u ffirmat miċ-*Chairman* jew mid-Diretturi Ĝenerali dwar kull haġa delegata lilhom f'isem l-Awtorità għandu jkun riċevut bħala prova u għandu, sakemm ma jkunx ippruvat il-kuntrarju, jitqies bħala strument magħmul jew maħruġ mill-Awtorità.

(4) L-organi ewlenin tal-Awtorità huma l-Bord tal-Gvernaturi, L-organi tal-Awtorità. l-Kumitat ghall-Kordinazzjoni u l-erba' entitajiet rispettivi.

(5) Meta f'dan l-Att issir xi haġa minn jekk kontra jew fir-rigward tal-Awtorità, jekk xi avviż li jkun ser jingħata lil jekk mingħand l-Awtorità, sew dik il-haġa jekk dak l-avviż jistgħu wkoll isiru minn jekk kontra jew fir-rigward ta' jekk jingħataw minn jekk lill-entità li taħt il-ġurisdizzjoni tagħha tkun taqa' dik il-haġa; u għall-finijiet hawn qabel imsemmija kull referenza f'dan l-Att għall-Awtorità tħalli referenza għal dik l-entità xierqa.

(6) L-Awtorità għandha tassumi l-persuna preċedentement vestita fl-Uffiċċju tal-Kompetizzjoni Ġusta, Dipartiment għall-Affarijiet tal-Konsumatur, l-Awtorità Maltija dwar l-*Istandards* u l-Kumpannija Limitata tal-Laboratorju Nazzjonali ta' Malta u, mid-dħul fis-seħħi ta' dan l-Att, għandha tassumi r-responsabbiltà għall-assi, l-passiv u l-obbligazzjonijiet kollha preċedenti li daħlu fihom l-imsemmija Uffiċċju, Dipartiment, Awtorità u Kumpannija jew korpi oħra f'isimhom.

Funkzjonijiet tal-Awtorità.

4. (1) L-Awtorità għandu jkollha bħala l-ġħan tagħha l-kisba u ż-żamma ta' swiegħ li jaħdnu sew għall-benefiċċju tal-konsumaturi u l-operaturi ekonomiċi.

(2) Il-funkzjonijiet tal-Awtorità għandhom ikunu dawn li ġejjin:

(a) li tippromwovi u ssaħħaħ l-kompetizzjoni;

(b) li tissalvagwardja l-interessi tal-konsumatur u ttejjeb il-ħarsien tagħhom;

(c) li tippromwovi *standards* volontarji u tipprovdni servizzi relatati mal-ghemil tal-*istandards*;

(d) li tippromwovi l-istratgeġja nazzjonali tal-metroloġija;

(e) li tippromwovi it-trasposizzjoni u l-adozzjoni mingħajr xkiel ta' regolamenti teknici; u

(f) li twettaq dawk il-funkzjonijiet oħra li jistgħu jiġu assenjati lilha taħt din il-ligi jew ligi jew regolamenti oħra.

Twaqqif tal-Kumitat ghall-Kordinazzjoni.

5. (1) Ikun hemm imwaqqaf Kumitat għall-Kordinazzjoni, magħmul miċ-*Chairman* u d-Diretturi Ĝenerali tal-erba' entitajiet rispettivi.

(2) Il-Kumitat ta' Kordinazzjoni għandu jkun responsabbi mill-kordinazzjoni tal-implimentazzjoni tal-politika tal-Awtorità stabbilita mill-Bord u għandu jagħmilha ta' punt ta' kuntatt u r-rabta ewlenja ta' komunikazzjoni u kordinazzjoni bejn il-Bord tal-

Gvernaturi u l-entitajiet. Il-Kumitat ta' Kordinazzjoni għandu wkoll ikollu dawk id-dmirijiet li jistgħu jiġu mogħtija lilu minn żmien għal-żmien mill-Bord.

(3) Iċ-Chairman għandu jippresjedi fuq il-Kumitat ghall-Kordinazzjoni.

(4) Iċ-Chairman għandu jkun responsabbi għas-servizzi korporattivi tal-Awtorità, l-amministrazzjoni u l-organizzazzjoni tagħha u l-kontroll amministrattiv tal-uffiċjali u l-impiegati tagħha.

6. (1) Il-Bord għandu jaħtar wieħed mill-uffiċjali tal-Awtorità bħala l-Awditur Intern, li għandu:

Twaqqif tal-funzjoni ta' Awditur Intern.

(a) jipprovdi indukrar tas-sistemi ta' kontroll intern u l-kontroll tar-riskji tal-Awtorità u jassisti u jappoġġa lill-Awtorità fit-twettiq tar-responsabbiltajiet tagħha f'dak ir-rigward;

(b) jipprovdi holqa ta' komunikazzjoni ma' awdituri esterni u jevalwa u jikkordina r-rapport tal-progress ta' verifika interna u finanzjarja tal-Awtorità;

(c) jiiskrutinja u jivaluta kull transazzjoni li tidħol fiha l-Awtorità b'valor li jkun aktar minn elf euro (€1,000); u

(d) jirrevedi u jevalwa l-effettivitā tat-tmexxija finanzjarja tal-Awtorità skont il-linji ta' politika u fit-twettiq tal-funzjonijiet regolatorji u ta' konformità tagħha fir-rigward tagħhom.

(2) L-Awditur Intern għandu jirraporta direttament u esklusivav lill-Bord skont il-proċeduri stabbiliti mill-Awtorità.

7. (1) L-erba' entitajiet mwaqqfa fit-Taqsimiet IV sa VII, għandu jkollhom r-responsabbiltajiet provdu f'dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur, l-Att dwar is-Sigurezza tal-Prodotti, l-Att dwar il-Metroloġija rispettivament, u kull ligi jew regolamenti oħra.

Respon-sabbiltajiet tal-entitajiet.
Kap. 379.
Kap. 378.
Kap. 427.
Kap. 454.

(2) L-Awtorità għandha tottjeni l-funzjonijiet mniżżla fl-artikolu 4 permezz tar-responsabbiltajiet vestiti fl-entitajiet rispettivi, kif provdut taht is-subartikolu (1).

(3) Ir-responsabbiltajiet vestiti f'kull entità għandhom ikunu eżerċitati mid-Direttur Generali li jmexxi l-entità rispettiva u permezz t'hekk kull Direttur Generali għandu jaġixxi b'mod independenti u awtonomu, liberu mid-direzzjoni jew kontroll ta' kull persuna jew

awtorità mingħajr ħsara għall-artikolu 12:

Iżda fit-twettiq tar-responsabbiltajiet vestiti fl-entitajiet, id-Diretturi Ĝenerali għandhom jiżguraw illi jimplimentaw il-politika mwaqqfa mill-Bord jagħtu effett lill-politika tal-Gvern u għal dan il-ġhan, huma għandhom ikunu soġġetti għas-superviżjoni u l-kontroll generali tal-Bord.

TAQSIMA III

TWAQQIF, DMIRIJIET U TMEXXIJA TAL-AFFARIJIET TAL-BORD TAL-GVERNATURI

Twaqqif tal-Bord tal-Gvernaturi.

Għamla tal-Bord.

8. Ikun hemm mwaqqaf Bord tal-Gvernaturi fi ħdan l-Awtorità.

9. (1) Il-Bord ikun magħmul kif ġej:

(a) iċ-*Chairman*, maħtur mill-Ministr, filwaqt li jkun sodisfatt illi l-persuna għandha l-kwalifikasi u l-esperjenza meħtieġa u li jista' wkoll jokkupa kull kariga oħra fi ħdan l-Awtorità;

(b) mhux anqas minn sebgħa u mhux iżjed minn għaxar membri oħra, li għandhom jiġu maħtura mill-Ministr, b'tal-inqas sebgħa minnhom li jkunu:

(i) membru li jkollu l-*warrant* biex jipprattika t'avukat b'seba' snin esperjenza u preferibbilment bi specjalizzazzjoni fil-ligi tal-kompetizzjoni u, jew tal-konsumatur;

(ii) membru li jkollu grad fl-ekonomija minn università approvata b'seba' snin esperjenza u kwalifikasi, preferibbilment fl-organizzazzjoni industrijali u, jew imġiba fl-ekonomija;

(iii) membru li jkollu l-*warrant*, maħruġ skont l-Att dwar il-Professjoni tal-Inġinerija, biex jipprattika bħala inginier, b'seba' snin esperjenza;

(iv) membru li jkollu l-*warrant* biex jipprattika bħala spiżjar b'seba' snin esperjenza preferibbilment fir-regolament ta' prodotti medicinali u attivitajiet farmaċewti;

(v) membru li jkollu l-*warrant* biex jipprattika bħala *accountant* pubbliku certifikat b'seba' snin esperjenza;

(vi) membru, wara konsultazzjoni mal-korpi kostitwiti li jirrappreżentaw organizzazzjonijiet nazzjonali ta' min iħaddem li jpgøġu fil-Kunsill Malti għall-Iżvilupp Ekonomiku u Soċjali; u

(vii) membru ieħor, wara konsultazzjoni ma' għaqdien nazzjonali rikonoxxuti tal-konsumatur:

Iżda fl-eventwalità li ma jkunx hemm għaqda bħal dik, il-Ministru jista' jaħtar membru temporanju mill-għaqdien li jirrappreżentaw il-haddiema sakemm jiġi nominat membru li jirrapreżenta l-għaqda nazzjonali tal-konsumatur; u

(c) wieħed mill-membri kif maħtur fis-subparagrafi (b)(i) sa (v) għandu jkun maħtur Deputat *Chairman* mill-Ministru.

(2) Id-Deputat *Chairman* għandu jkollu is-setgħat kollha u jaqdi l-funzjonijiet kollha ta' *Chairman* matul l-assenza jew l-inkapaċitā ta' dan tal-aħħar li jagħmilha ta' *Chairman*, jew meta ċ-*Chairman* ikun fuq btala, jew matul kull vakanza fil-kariga ta' *Chairman* u b'mod alternattiv il-Ministru jista' wkoll, f'kull waħda miċ-ċirkostanzi hawn qabel imsemmija, jaħtar persuna oħra biex tagħmilha ta' *Chairman*.

(3) Il-membri tal-Bord għandhom ikunu maħtura mill-Ministru għal żmien ta' sena jew għal żmien itwal kif jista' jkun speċifikat fl-istruktur tal-ħatra, liema żmien m'għandux ikun iktar minn tliet snin u jkunu eligibbli biex jinhattru mill-ġdid.

(4) (a) Il-Bord għandu jinkariga wieħed mill-uffiċjali tal-Awtorită biex jagħmilha ta' segretarju għal dak il-perjodu li hu jqis xieraq. Dmirijiet tas-segretarju.

(b) Ikun id-dmir tas-segretarju illi jagħmel il-preparazzjonijiet meħtieġa għall-laqgħat tal-Bord u li jżomm l-minuti ta' dawk il-laqgħat.

(5) (a) Persuna ma tkunx eligibbli li tīgi maħtura bħala jew li żżomm il-kariga ta' membru tal-Bord jekk dik l-persuna:- Persuni mhux eligibbli li żżommu l-kariga

(i) tkun Ministru, Segretarju Parlamentari, membru tal-Kamra tad-Deputati, membru ta' xi Kunsill Lokali jew membru tal-Parlament Ewropew; jew

(ii) tkun Imħallef jew Magistrat; jew

(iii) tkun legalment inkapaċitata jew interdetta; jew

(iv) kienet ġiet dikjarata falluta jew tkun għamlet transazzjoni jew arranġament mal-kredituri tagħha, sakemm ma tkunx ġiet rijabilitata fil-kummerċ skont il-Kodiċi tal-Kummerċ; jew

(v) kienet ġiet misjuba ħatja minn qorti kompetenti fuq reat li jinvolvi frodi jew xi haġa diżonesta oħra, jew tkun kisret xi disposizzjoni tal-liġi li jkollha l-għan li tipproteġi l-membri tal-pubbliku kontra telf finanzjarju li jiġi kkawżat minn diżonestà, inkompetenza jew għemil ħażin minn persuni involuti f'attivitajiet tal-kummerċ jew fit-twettiq ta' professjoni, jew tkun ħadet sehem f'xi prattika tan-negozju li l-Ministru jidhirlu li tkun oppressiva jew qarrieqa jew inkella mhux xierqa (kemm jekk tkun kontra l-liġi jew le) jew li inkella turi diskreditu fil-metodi ta' kif tmexxi n-negozju jew il-professjoni tagħha, jew kienet ġiet misjuba ħatja ta' xi reat kontra dan l-Att jew xi Att ieħor illi l-Awtorità tamministra jew xi regolamenti magħmulu taħtha; jew

(vi) ikollha interess finanzjarju jew xi interess ieħor f'xi impriżza jew attivitā li x'aktarx taffettwa l-esekuzzjoni tad-dmirijiet tagħha:

Iżda l-Ministru jista' jiddetermina illi l-interess ta' dik il-persuna x'aktarx mhux ser jaffettwa it-twettiq tal-funzjonijiet tiegħu u fuq dik id-determinazzjoni dik il-persuna għanda tikkwalifika biex iżżomm il-kariga ta' membru tal-Awtorità iżda biss jekk l-interess dikjarat u d-determinazzjoni tal-Ministru ikunu pubblikati fil-Gazzetta; jew

(vii) ma tkunx mod ieħor adatta u xierqa biex iżżomm dik il-kariga skont il-paragrafu (b).

(b) Biex jistabbilixxi jekk persuna tkunx adatta u xierqa, il-Ministru għandu jqis l-integrità ta' dik il-persuna, il-kompetenza u l-kapaċità tagħha biex twettaq ir-responsabbiltajiet ta' dik il-kariga, id-diliġenzo li biha dik il-persuna tkun qed twettaq jew x'aktarx twettaq dawk ir-responsabbiltajiet u jekk l-interessi ta' xi persuna huma, jew x'aktarx ikunu, mhedda waqt li tkun f'dik il-kariga.

(c) Kull persuna li l-Ministru jaħtar jew ikun bi ħsiebu

jaħtar bhala membru tal-Bord għandha, meta tkun hekk mitluba mill-Ministru, tagħtih dik l-informazzjoni li l-Ministru jidhirlu meħtieġa għat-twettiq tad-dmirijiet tal-Ministru taħt il-paragrafi (a) u (b).

(d) Membru tal-Bord jista' jitneħħa mill-kariga mill-Ministru jekk ma jkunx kapaċi jwettaq il-funzjonijiet tal-kariga tiegħu, kemm jekk dan ikun dovut għal inkapaċità mentali jew fizika jew għal xi raġuni oħra, jew minħabba imġiba hażina; u għall-finijiet ta' dan il-paragrafu, assenza ripetuta u mhux ġustifikata minn laqgħat tista' titqies li tammonta għal imġiba hażina.

(e) L-ismijiet tal-membri kollha tal-Bord u kull tibdin f'dik l-ishubija għandhom jiġu pubblikati fil-Gazzetta.

(f) Kull membru tal-Bord jista' jirriżenja mill-kariga permezz ta' ittra indirizzata lill-Ministru.

(6) Iċ-Chairman u l-membri l-oħra tal-Bord għandhom jitħallsu dak l-ħlas kif il-Ministru jista' jistabbilixxi.

(7) Kull membru tal-Bord li għandu interess dirett jew indirett f'xi haġa magħmulu jew li hi maħsuba li ssir mill-Bord, li ma jkunx interess li jiskwalifika dak il-membru milli jibqa' membru, għandu, mhux aktar tard mill-ewwel laqgħa li tinżamm wara li jkun sar jaf biċ-ċirkostanzi rilevanti, jiżvela n-natura tal-interess tiegħu lill-Bord, u l-membru li għandu dan l-interess għandu jirtira minn kull laqgħa li fiha dik il-haġa tkun qed tiġi diskussa. L-iżvelar ta' dan it-taqħrif għandu jingħata lill-Ministru mingħajr dewmien. Meta l-interess ta' dak il-membru jkun tali li jiskwalifikah milli jibqa' membru, hu għandu jirraporta dan il-fatt lill-Ministru minnufih u joffri r-riżenja tiegħu.

(8) Jekk membru jirriżenja jew jekk il-kariga ta' membru tal-Bord tkun mod ieħor vakanti jew jekk membru jkun għal xi raġuni inkapaċi li jwettaq il-funzjonijiet tal-kariga tiegħu, il-Ministru jista' jaħtar persuna li tkun kwalifikata biex tiġi maħtura bħala membru, biex tkun membru temporanju tal-Bord; u kull persuna hekk maħtura għandha, bla ħsara għad-disposizzjonijiet tas-subartikolu (3), tieqaf milli tibqa' membru meta tiġi maħtura persuna biex timla l-vakanza jew, kif ikun il-każ, meta l-membru li ma kienx kapaċi jwettaq il-funzjonijiet tal-kariga tiegħu jerġa' jibda jwettaq dawk il-funzjonijiet.

10. (1) Bla ħsara għad-disposizzjonijiet l-oħra ta' dan l-Att, il-Bord jista' jirregola l-proċedura tiegħu stess.

Tmexxija tal-affarrijiet tal-Bord.

(2) Il-Bord għandu jiltaqa' kull meta jkun meħtieġ, imma fl-

ebda kaž ma tkun inqas minn darba f'kull xahar kalendarju.

(3) Il-Bord jista' jezerċita l-funzjonijiet tiegħu minkejja xi vakanza fis-shubija tiegħu, sakemm dawk il-vakanzi ma jkunux iżjed minn tnejn u sakemm ikun hemm *quorum* preżenti għal-laqgħa li jkun jikkonsisti fiċ-*Chairman* jew Deputat *Chairman* u mhux anqas minn nofs in-numru tal-membri l-oħra li jagħmlu l-Bord fil-ħin tal-laqgħa.

(4) Il-laqgħat tal-Bord għandhom jissejhū miċ-*Chairman*, jew mid-Deputat *Chairman*, fl-assenza taċ-*Chairman*, jew fuq inizjattiva tiegħu stess jew fuq talba bil-miktub ta' xi tlieta mill-membri oħra tal-Bord.

(5) (a) Id-deċiżjonijiet għandhom jittieħdu b'maġgoranza sempliċi tal-voti tal-membri li jkunu preżenti u li jivvotaw.

(b) Iċ-*Chairman* jew, fl-assenza tiegħu, id-Deputat *Chairman*, jew xi persuna oħra li tkun maħtura biex tagħmilha ta' *Chairman*, ikollu vot originali u, f'każ ta' voti ndaqqs, vot deċiżiv.

(c) Bla ħsara għal ġtiġiet l-oħra ta' dan l-Att, l-ebda deċiżjoni ma tkun valida jekk ma tkunx sostnuta minn tal-inqas tliet membri tal-Bord.

(6) Kull att magħmul minn persuna *bona fede*, bħala membru tal-Bord, għandu jkun validu bħallikieku kienet membru minkejja li wara jiġi skopert li kien hemm xi difett fil-ħatra jew fil-kwalifikati tagħha.

(7) L-ebda att jew proċediment tal-Bord m'għandu jiġi mistoqsi minħabba l-ksur tad-disposizzjonijiet tal-artikolu 10 minn membru.

Dmirijiet tal-Bord.

11. (1) Bla ħsara għal xi dmir iehor mogħti lili b'dan l-Att jew b'xi li ġi jew regolamenti oħra, il-Bord għandu jkollu dawn id-dmirijiet li ġejjin:

(a) li jistabbilixxi l-politika li għandha tīgħi segwita mill-Awtorità fi ħdan il-kuntest tal-politika stabilità mill-Gvern u skont il-funzjonijiet mniżżejjla fl-artikolu 4 u biex jiżgura l-implementazzjoni proprja u xierqa tagħhom mill-entitajiet;

(b) li jiżgura li l-entitajiet iwettqu r-responsabbiltajiet tagħhom taħt dan l-Att skont il-politika relatata tal-Gvern;

(c) li jiżgura li l-entitajiet għandhom ir-riżorsi neċċesarji biex iwettqu b'mod effettiv ir-responsabbiltajiet

tagħhom;

(d) li jiggarrantixxi l-indipendenza funzjonali tal-entitajiet;

(e) li jippubblika l-pjan ta' dħul u nefqa wara l-approvazzjoni tiegħu mill-Ministru wara konsultazzjoni mal-Ministru responsabbli ghall-Finanzi;

(f) li jippubblika r-rapporti annwali;

(g) li japrova kull Memorandum ta' Ftehim, ftehim bilaterali jew multilaterali proposti;

(h) li jagħti parir, jagħmel proposti u rakkomandazzjonijiet lill-Ministru fuq kull ħaża marbuta mal-funzjonijiet tiegħu; u

(i) li jsegwi il-korp nazzjonali dwar l-akkreditament biex jiżgura li qed iħares il-ħtigjet msemmija fl-artikolu 8 tar-Regolament (KE) Nru. 765/2008 tal-Parlament Ewropew u tal-Kunsill.

(2) L-entitajiet għandhom jipprovdu lill-Bord b'dik l-informazzjoni kollha kif jista' jkun meħtieġ għat-twettiq xieraq tad-dmirijiet tiegħu:

Iżda l-membri tal-Bord ma jkollhomx aċċess għal informazzjoni kunfidenzjali dwar xi persuna individwali, dar jew intraprija akkwistata mill-entitajiet fit-twettiq tar-responsabbiltajiet tagħhom.

(3) Il-Bord jista' bl-approvazzjoni tal-Ministru jaħtar bordijiet u kumitati konsultattivi *ad hoc* biex jassistuh fit-twettiq tal-funzjonijiet tiegħu.

12. (1) Tkun il-funzjoni tal-Ministru li jiżgura li l-Awtorità tkun infurmata bi shiħi dwar il-politika tal-Gvern relatata mal-affarijiet tal-konsumatur u l-kompetizzjoni, *standards*, metroloġija u regolamenti tekniċi u li jikkontrolla t-twettiq xieraq ta' dik il-politika.

Relazzjonijiet
bejn il-Ministru
u l-Awtorità u
kontroll mis-Segretarju
Permanentu.

(2) Hlief kif provdut f'dan l-Att, l-Att dwar l-Affarijiet tal-Konsumatur, l-Att dwar il-Kompetizzjoni, l-Att dwar is-Sigurezza tal-Prodotti, l-Att dwar il-Metroloġija, l-Att dwar is-Sigurtà fl-Ikel, l-Att dwar il-Kontroll tal-Pestiċidi u kull Att jew regolamenti ohra amministrat mill-Awtorità, l-Awtorità għandha tkun taħt id-direzzjoni generali u kontroll tal-Ministru, u soġġetta għal dik id-direzzjoni u kontroll, taħt is-superviżjoni tas-Segretarju Permanenti responsabbli

Kap. 378.
Kap. 379.
Kap. 427.
Kap. 454.
Kap. 449.
Kap. 430.

għall-Ministeru.

(3) Il-Ministru jista', għar-rigward ta' dawk l-affarijiet li jkunu jidhrulu li jolqtu l-interess pubbliku, minn żmien għal żmien, jagħti lill-Awtorità direttivi bil-miktub ta' xorta ġenerali, li ma jkunux inkonsistenti mad-disposizzjonijiet ta' dan l-Att, l-Att dwar l-Affarijiet tal-Konsumatur, l-Att dwar il-Kompetizzjoni, l-Att dwar is-Sigurezza tal-Prodotti, l-Att dwar il-Metrologija, l-Att dwar is-Sigurtà fl-Ikel, l-Att dwar il-Kontroll tal-Pestiċidi u kull Att jew regolamenti oħra amministrati mill-Awtorità, dwar il-politika li għandha tīgi segwita mill-Awtorità fit-twettiq tal-funzjonijiet tagħha, b'dan l-Att jew taħtu, u l-Awtorità għandha, kemm jista' jkun malajr, iġġib fis-seħħ dawk id-direttivi kollha.

(4) Is-subartikoli (2) u (3) m'għandhomx japplikaw għar-rigward tas-setgħat imwettqa mid-Diretturi Ġenerali tal-Ufficċju għall-Kompetizzjoni u l-Ufficċju għall-Affarijiet tal-Konsumatur taħt dan l-Att, l-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur rispettivament jew xi ligi jew regolamenti oħra dwar prioritizzazzjoni, investigazzjoni u determinazzjoni tal-każijiet u infurzar.

(5) L-Awtorità għandha tagħti lill-Ministru faċilitajiet biex jakkwista informazzjoni rigward il-proprietà u l-attivitàjiet finanzjarji tagħha u għandha tagħtih dawk il-prospetti, kontijiet u informazzjoni oħra dwarhom u tagħtih il-faċilitajiet biex ikun jista' jivverifika l-informazzjoni mogħtija, b'dak il-mod u f'dawk iż-żminijiet li hu jista' raġonevolment jitlob.

(6) Jekk l-Awtorità tonqos milli thares xi direttiva maħruġa skont dan l-artikolu, il-Prim Ministru jista' jagħmel ordni li biha jittraferixxi lill-Ministru kull jew parti mill-funzjonijiet tagħha.

Kap. 497.

(7) L-operar tal-Awtorità għandu jkun dak li hemm fil-ftehim dwar il-ħidma tal-Awtorità li jkun hemm qbil dwaru bejn is-Segretarju Permanenti u l-Awtorità u għal dan il-ġhan l-Artiklu 40 tal-Att dwar l-Amministrazzjoni Pubblika għandu *mutatis mutandis* japplika.

(8) L-artikolu 38 tal-Att dwar l-Amministrazzjoni Pubblika għandu *mutatis mutandis* japplika sakemm l-applikazzjoni tiegħu ma tiġix f'kunflitt mad-disposizzjonijiet ta' dan l-Att, l-Att dwar l-Affarijiet tal-Konsumatur, l-Att dwar il-Kompetizzjoni, l-Att dwar is-Sigurezza tal-Prodotti, l-Att dwar il-Metrologija, l-Att dwar is-Sigurtà fl-Ikel, l-Att dwar il-Kontroll tal-Pestiċidi u kull Att jew regolamenti oħra amministrati mill-Awtorità.

TAQSIMA IV

TWAQQIF TAL-UFFIČĊJU GHALL-KOMPETIZZJONI

13. (1) Għandu jiġi mwaqqaf uffiċċju, li jkun magħruf bħala l-Uffiċċju ghall-Kompetizzjoni, li għandu jkun immexxi mid-Direttur Ĝenerali (Kompetizzjoni).

(2) Id-Direttur Ĝenerali (Kompetizzjoni) għandu jkun persuna bi kwalifik professionali, kompetenza rikonoxxuta, esperjenza u speċjalizzazzjoni fil-kamp tal-ligi tal-kompetizzjoni, u, jew fl-ekonomija tal-organizzazzjoni industrijali, u, preferibbilment, b'għarfien tal-affarijiet tal-konsumatur, u għandu jiġi maħtur mill-Bord wara konsultazzjoni mal-Ministru, għal perjodu ta' tliet snin u dan il-perjodu jista' jiġi mtawwal għal perjodi oħra ta' tliet snin kull wieħed:

Iżda l-ewwel Direttur Ĝenerali (Kompetizzjoni) għandu jiġi maħtur mill-Ministru.

14. (1) Ir-responsabbiltajiet tal-Uffiċċju għall-Kompetizzjoni għandhom ikunu dawn li ġejjin:-

Responsab-
bilitajiet tal-
Uffiċċju.

(a) li jinvestiga, jiddetermina u jrażżan prattiċi restrittivi;

(b) li jeżamina u jikkontrolla konċentrazzjonijiet bejn intrapriżi rigward l-effett tagħhom fuq l-istruttura tal-kompetizzjoni fis-suq;

(c) li jaġixxi bħala l-awtorità kompetenti nazzjonali f'Malta kif magħruf bis-sahħha tal-artikolu 35(1) tar-Regolament tal-Kunsill (KE) Nru. 1/2003;

(d) li jirrevedi s-swieq u l-attivitajiet kummerċjali li għandhom x'jaqsmu mal-provvista ta' oggetti u servizzi u li jiġib informazzjoni u evidenza sabiex ikun jista' jaċċerta jekk dawk s-swieq u attivitajiet jistgħux jaffetwaw b'mod hażin l-interessi tal-konsumatur;

(e) li jistudja s-swieq u jirrakkomanda azzjoni fejn meħtieġ;

(f) li jinkoraġġixxi l-intrapriżi u l-ghaqdiet ta' intrapriżi biex iħarsu l-liġi tal-kompetizzjoni u jippromwovu prattiċi ta' negozju tajba;

(g) li jagħti parir lill-awtoritatijiet pubbliċi dwar l-implikazzjonijiet tal-proposti għal-leġislazzjoni;

- (h) li jagħti parir lill-awtoritajiet pubbliċi dwar ħwejjeg ta' kompetizzjoni li jistgħu jqumu fit-twettiq tal-funzjonijiet tagħhom;
- (i) li jagħti parir fuq restrizzjonijiet ta' kompetizzjoni imposti bil-ligi, politika jew prattika amministrattiva;
- (j) li jgħin fit-thejjija ta' pjan ta' dħul u nefqa tal-Aworità;
- (k) li jipparteċipa f'laqgħat organizzati minn aġenziji u organizzazzjonijiet internazzjonali;
- (l) li jagħti parir lill-Bord fuq materji tal-kompetizzjoni;
- (m) li jissottometti lill-Bord rapport annwali dwar ix-xogħol tiegħu; u
- (n) jeżerċità b'mod ġenerali is-setgħat mogħtija lilu taħt dan l-Att u taħt l-Att dwar il-Kompetizzjoni u kull regolamenti magħmula taħthom.

Kap. 379.

(2) Fit-twettiq tar-responsabbiltajiet imsemmija fis-subartikoli (1)(d) u (e), id-Direttur Ĝenerali (Kompetizzjoni) għandu jikkopera mad-Direttur Ĝenerali (Affarijiet tal-Konsumatur) jekk dan tal-aħħar ikun qed jirrevedi jew jistudja l-istess suq.

(3) Xejn f'dan l-Att ma għandu jiftiehem bħala li jagħti lil xi persuna, konsumatur jew intrapriża d-dritt li jitlob lid-Direttur Ĝenerali (Kompetizzjoni) li jaġixxi f'ismu u fl-interessi tiegħu f'xi materja jew tilwima partikolari ma' xi kummerċjant, fornitur ta' servizzi jew intrapriża quddiem xi qorti, tribunal jew x'imkien iehor.

Gradi differenti ta' priorità.

15. (1) L-Uffiċċju għall-Kompetizzjoni jista' jalloka gradi differenti ta' priorità għall-każijiet miġjuba jew pendentí quddiemu u meta jagħmel hekk għandu jikkonsidra, fost fatturi oħra, dawn li ġejjin:

- (a) il-livell ta' hsara lill-konsumatur li tirriżulta mill-allegat jew suspettat ksur tal-ligi;
- (b) il-limitu ta' beneficiju lill-konsumatur li jirriżulta mill-intervent tal-Uffiċċju għall-Kompetizzjoni;
- (c) in-natura u l-gravità tal-allegat jew suspettat ksur tal-ligi;

(d) l-istadju tal-investigazzjoni;

(e) jekk il-prattiċi allegati għadhomx għaddejjin jew jekk l-effetti ta' hsara għadhomx jippersistu; u

(f) jekk l-allegata imġiba illegali hijiex qiegħda tīgħi eżaminata jew jekk tistax tīgħi eżaminata aħjar minn awtorità pubblika oħra taht ir-regim regolatorju tagħha.

(2) L-Uffiċċju ghall-Kompetizzjoni għandu minn żmien għal-żmien johrog linji ta' gwida taħt dan l-artikolu. Dawn il-linji ta' gwida għandhom jipprovd d-dritt li wieħed isaqsi għal informazzjoni fuq il-grad ta' prioritā allokat lil każ jew lil ilment mill-intrapriża jew l-għaqda ta' intraprizi konċernata jew min ressaq l-ilment rispettivament u għall-obbligu tal-Uffiċċju li jipprovd tweġiба motivata fi żmien terminu speċifiku.

TAQSIMA V TWAQQIF TAL-UFFIČĊJU GHALL-AFFARIJET TAL-KONSUMATUR

16. (1) Għandu jiġi mwaqqaf uffiċċju, li jkun magħruf bħala l-Uffiċċju ghall-Affarijiet tal-Konsumatur fi ħdan l-Awtorită li għandu jkun immexxi mid-Direttur Ģenerali (Affarijiet tal-Konsumatur).

Twaqqif tal-Uffiċċju ghall-Affarijiet tal-Konsumatur.

(2) Id-Direttur Ģenerali (Affarijiet tal-Konsumatur) għandu jkun persuna bi kwalifik professionali, kompetenza rikonoxxuta, esperjenza u speċjalizzazzjoni fil-kamp tal-liġi tal-konsumatur, u, jew imġiba fl-ekonomija u għandu jiġi maħtur mill-Bord, wara konsultazzjoni mal-Ministru, għal perjodu ta' tlett snin u dan il-perjodu jista' jiġi mtawwal għal perjodi oħra ta' tliet snin kull wieħed:

Iżda l-ewwel Direttur Ģenerali (Affarijiet tal-Konsumatur) għandu jiġi maħtur mill-Ministru.

17. (1) Ir-responsabbiltajiet tal-Uffiċċju ghall-Affarijiet tal-Konsumatur għandhom ikunu dawn li ġejjin:

Responsabbiltajiet tal-Uffiċċju ghall-Affarijiet tal-Konsumatur.

(a) li jipprovd informazzjoni, pariri u linji ta' gwida lill-pubbliku li għandhom x'jaqsmu mal-affarijiet tal-konsumatur;

(b) li jsegwi l-prattiċi ta' negozju relatati mal-provvista ta' oggetti u servizzi lill-konsumatur, u li jieħu miżuri għat-trażżeen u l-prevenzjoni ta' kull prattika li tista' tkun ta' detriment lill-konsumatur;

- (c) li jirčievi u jinvestiga ilmenti tal-konsumatur rigward il-provvista ta' oggetti u servizzi u biex jieħu dik l-azzjoni li hi fis-setgħa tiegħu sabiex jirrimedja kull aggravju ġustifikat li jista' jiġi ghall-attenzjoni tiegħu;
- (d) li jipprovd pariri kontinwi lill-konsumatur dwar id-drittijiet tiegħu;
- (e) li jidderiġi lill-konsumatur lejn l-organizzazzjoni propria li tkun l-iżżej xierqa biex tagħti għajjnuna dwar ilmenti spċċifici;
- (f) li jinkoragġixxi lill-kummerċjanti biex iħarsu l-ligi tal-konsumatur u li jippromwovi prattiċi tajba ta' negozju fit-twettiq tal-attivitajiet li jistgħu jaffetwaw l-interessi ekonomici tal-konsumatur f'Malta;
- (g) li jipprovd pariri lill-kummerċjanti fuq materji relatati mal-affarijiet tal-konsumatur;
- (h) li jipprovd medjazzjoni bejn l-konsumatur u l-kummerċjanti;
- (i) li jirrevedi s-swiegħ u l-attivitajiet kummerċjali li għandhom x'jaqsmu mal-provvista ta' oggetti u servizzi u li jigbor informazzjoni u provi sabiex ikun jista' jaċċerta jekk dawk s-swiegħ u attivitajiet jistgħux jaffetwaw b'mod hażin l-interessi tal-konsumatur;
- (j) li jistudja s-swiegħ u jirrakkomanda azzjoni ta' rimedju fejn meħtieġ;
- (k) li jassisti lill-Kunsill fit-twettiq tal-funzjonijiet u dmirijiet tiegħu u li jipprovdilu dik l-informazzjoni kif tista' tkun mitluba mill-Kunsill dwar l-eżerċizzu tad-dmirijiet tiegħu;
- (l) li jagħti parir lill-awtoritajiet pubblici dwar l-implikazzjonijiet fuq il-konsumatur li jqumu minn proposti legislattivi;
- (m) li jagħti parir lill-awtoritajiet pubblici dwar affarijiet tal-konsumatur li jistgħu jqumu fit-twettiq tal-funzjonijiet tagħhom;
- (n) li jagħti parir dwar l-impatt fuq l-interessi tal-konsumatur li l-ligi, politika jew prattiċi amministrattivi jista' jkollhom;

(o) li jaġixxi bħala jew iwettaq il-funzjonijiet tal-awtorità kompetenti nazzjonali skont ir-Regolament dwar il-Koperazzjoni u l-Protezzjoni tal-Konsumatur;

(p) li jaġixxi bħala u jwettaq l-funzjonijiet ta' ufficċċju uniku ta' kooperazzjoni f'Malta responsablli biex jikkordina l-applikazzjoni tar-Regolament dwar il-Koperazzjoni u l-Protezzjoni tal-Konsumatur;

(q) li jiżviluppa l-istrateġiji neċessarji għat-twettiq tar-responsabbiltajiet tiegħu;

(r) biex jgħin fit-thejjija ta' pjan ta' dħul u nefqa tal-Awtorità;

(s) li jagħti parir lill-Bord fuq kwistjonijiet ta' interess lill-konsumatur;

(t) li jissottometti lill-Bord rapport annwali dwar ix-xogħol tiegħu; u

(u) jeżerċita b'mod ġenerali s-setgħat mogħtija lili taħt dan l-Att, l-Att dwar l-Affarijiet tal-Konsumatur u kull ligi jew regolamenti dwar l-affarijiet tal-konsumatur.

Kap. 378.

(2) Fit-twettiq tar-responsabbiltajiet imsemmija fl-artikoli 17(1)(i) u (j), l-artikolu 14(2) għandu *mutatis mutandis* jaapplika għad-Direttur Ĝenerali (Affarijiet tal-Konsumatur).

(3) Xejn f'dan l-Att jew f'xi ligi oħra ma għandu jiftiehem bħala li jaġhti lil xi konsumatur id-dritt li jitlob lid-Direttur Ĝenerali (Affarijiet tal-Konsumatur) li jaġixxi f'ismu u fl-interessi tiegħu f'xi materja jew tilwima partikolari ma' xi kummerċjant jew fornitur ta' servizzi quddiem xi qorti, tribunal jew arbitru.

18. (1) Ghall-finijiet tal-artikolu 17(1)(o), l-Ufficċċju għall-Affarijiet tal-Konsumatur għandu jkun l-awtorità kompetenti nazzjonali fir-rigward tal-ligġijiet tal-UE elenkti fit-Tielet Skeda.

Akkwist ta' Informazzjoni.

(2) Il-Ministru jista' b'ordni jemenda t-Tielet Skeda.

TAQSIMA VI TWAQQIF TAD-DIVIŻJONI DWAR REGOLAMENTI TEKNIČI

19. (1) Għandha tīgi mwaqqfa diviżjoni fi ħdan l-Awtoritā li tkun magħrufa bħala d-Diviżjoni dwar Regolamenti Tekniċi li għandha tkun immexxija mid-Direttur Ĝenerali (Regolamenti Tekniċi).

Twaqqif tad-Diviżjoni dwar Regolamenti Tekniċi.

Tekniċi).

(2) Id-Direttur Ĝenerali (Regolamenti Tekniċi) għandu jkun persuna bi kwalifiċi professionali, kompetenza rikonoxxuta, esperjenza u speċjalizzazzjoni f'armonizzazzjoni teknika u affarijet relatati mal-evalwazzjoni ta' konformità, u għandu jiġi maħtur mill-Bord, wara konsultazzjoni mal-Ministru, għal perjodu ta' tlett snin u dan il-perjodu jista' jiġi mtawwal għal perjodi oħra ta' tliet snin kull wieħed:

Iżda l-ewwel Direttur Ĝenerali (Regolamenti Tekniċi) għandu jiġi maħtur mill-Ministru.

Responsabilitajiet tad-Diviżjoni dwar Regolamenti Tekniċi.

Kap. 427.

Kap. 449.

Kap. 430.

20. (1) Ir-responsabbiltajiet tad-Diviżjoni dwar Regolamenti Tekniċi għandhom ikunu dawn li ġejjin:-

(a) li tabbozza legislazzjoni dwar l-oqsma ta' kompetenza u maħruġa bis-saħħha tal-artikolu 38 tal-Att dwar is-Sigurezza tal-Prodotti, l-artikolu 10 tal-Att dwar is-Sigurtà fl-Ikel u l-artikolu 5 tal-Att dwar il-Kontroll tal-Pesticidi u b'kull ligi oħra;

(b) li tagħti parir lill-Bord u aġenziji tal-Gvern oħra u lis-setturi privat;

(c) li tassisti s-setturi kollha tal-industrija biex jifhmu u jikkonformaw mal-ħtiġiet essenzjali imposti b'regolamenti tekniċi, maħruġa bis-saħħha tal-Att dwar is-Sigurezza tal-Prodotti, l-Att dwar is-Sigurtà fl-Ikel u l-Att dwar il-Kontroll tal-Pesticidi u b'kull ligi oħra, u l-ħtiġiet ta' teknika, kwalità u sigurtà ta' *standards* armonizzati Ewropej u internazzjonali;

(d) li tikkordina u timplimenta l-programm regolatorju tal-entità fl-oqsma li jaqgħu taħt it-responsabbiltà tagħha u, b'mod partikolari, teżerċita l-funzjonijiet konsultattivi mogħtija lil din id-Diviżjoni bis-saħħha tal-artikolu 38 tal-Att dwar is-Sigurezza tal-Prodotti, l-artikolu 9(1) tal-Att dwar is-Sigurtà fl-Ikel u b'kull ligi oħra;

(e) li tistabbilixxi, bil-kunsens tal-Ministru u taċ-*Chairman* tal-Awtorită, kumitat teknici għal dawk l-oqsma li jaqgħu taħt il-kompetenza tagħha, u li tippresjedi u tikkordina x-xogħol ta' dawk il-kumitat;

(f) li tagħmilha ta' Punt ta' Kuntatt tal-Prodott u tipprovdi appoġġ lill-punt fokali għal kull ħtiega ta'

notifikazzjoni, sabiex tiżgura l-prinċipju tal-moviment hieles tal-oġġetti kif mniżżeq fl-artikolu 9 tar-Regolament tal-Kunsill (KE) Nru. 764/2008;

(g) li tifformola u tagħti seħħ lill-programmi ta' assistenza teknika indirizzati lejn operaturi fil-kummerċ bil-għan li tigi faċilitata l-konformità tagħhom mar-regolamenti tekniċi u *standards* relevanti;

(h) li tikkomunika lill-pubbliku ġenerali u lill-partijiet interessati kull informazzjoni dwar programmi regulatorji fl-oqsma ta' kompetenza tagħha;

(i) li tipprovd i-tħalli u informazzjoni dwar ir-regolamenti tekniċi fl-oqsma ta' kompetenza;

(j) li tipparteċipa f'attivitàjet relevanti nazzjonali u internazzjonali;

(k) li twettaq valutazzjoni tar-riskji u tikkordina l-attivitàjet tas-sorveljanza fuq is-suq kif preskrittivi fl-artikolu 27 tal-Att dwar is-Sigurezza tal-Prodotti;

(l) li jghin fit-thejjija tal-pjan ta' dħul u nefqa tal-Awtorità;

(m) li jissottometti lill-Bord rapport annwali dwar ix-xogħol tiegħu;

(n) li tiżviluppa l-istratxji neċċesarji għall-implementazzjoni tar-responsabbiltajiet tagħha;

(o) li teżerċita b'mod ġenerali s-setgħat mogħtija lilha taħt dan l-Att, u taħt l-Att dwar is-Sigurezza tal-Prodotti, l-Att dwar is-Sigurtà fl-Ikel, l-Att dwar il-Kontroll tal-Pestiċidi u kull Att ieħor jew regolamenti magħmula taħtu; u

(p) li tissorvelja l-implementazzjoni tal-ligi taħt l-Att dwar Servizzi li jingħataw fis-Suq Intern u li ssegwi l-applikazzjoni tagħha.

(2) Id-Diviżjoni dwar Regolamenti Tekniċi għandha tkun l-awtorità f'Malta inkarigata bl-implementazzjoni:

(a) tar-Regolament (KE) Nru 764/2008 tal-Parlament Ewropew u tal-Kunsill tad-9 ta' Lulju 2008 li jistabbilixxi l-proċeduri relatati mal-applikazzjoni ta' certi regoli tekniċi nazzjonali għal prodotti legalment kummerċjalizzati fi Stat

Membru ieħor;

(b) tar-Regolament (KE) Nru 765/2008 tal-Parlament Ewropew u tal-Kunsill tad-9 ta' Lulju 2008 li jistabbilixxi r-rekwiziti għall-akkreditament u għas-sorveljanza tas-suq relatati mal-kummerċjalizzazzjoni ta' prodotti; u

(c) u attivitajiet relatati.

TAQSIMA VII

TWAQQIF TAL-ISTITUT DWAR L-ISTANDARDS U METROLOGIJA

Twaqqif tal-
Istitut dwar l-
iStandards u
Metrologija.

21. (1) Għandu jiġi mwaqqaf istitut fi ħdan l-Awtorità li jkun magħruf bħala l-Istitut dwar l-*iStandards* u Metrologija għandu jkun immexxi mid-Direttur Ĝenerali (*Standards* u Metrologija).

(2) Id-Direttur Ĝenerali (*Standards* u Metrologija) għandu jkun persuna bi kwalifikati professionali, kompetenza rikonoxxuta, esperjenza u speċjalizzazzjoni fil-kamp ta' *standards* u f'affarijiet tal-metrologija, kalibrazzjoni u ttestjar, u għandu jiġi maħtur mill-Bord, wara konsultazzjoni mal-Ministru, għal perjodu ta' tlett snin u dan il-perjodu jista' jiġi mtawwal għal perjodi oħra ta' tliet snin kull wieħed:

Iżda l-ewwel Direttur Ĝenerali (*Standards* u Metrologija) għandu jiġi maħtur mill-Ministru.

Responsab-
biltajiet tal-
Istitut dwar l-
iStandards u
Metrologija.

22. (1) Ir-responsabbiltajiet tal-Istitut dwar l-*iStandards* u Metrologija għandhom ikunu dawn li ġejjin:-

(a) li jagħmel, jaddotta u jippubblika *standards*, dwar kull klassi, kategorija jew tip ta' prodotti u, jew servizzi;

(b) li jikkordina, jsegwi u jgħib 'il quddiem l-għemil ta' *standards* u attivitajiet relatati fid-diversi livelli korporattivi, nazzjonali, reġjonali u internazzjonali, u biex jipprovd i, jew, jiżgura li jkun hemm servizzi relatati ta' sostenn adatti:

Għall-finijiet ta' dan il-paragrafu, "servizzi relatati ta' sostenn" tinkludi:

(i) il-promozzjoni tal-adozzjoni u l-applikazzjoni ta' kull aspett ta' metrologija bħala ħaġa miżjudha meħtiega għall-għemil ta' *standards*;

(ii) id-disponibbiltà jew l-iżgurar tad-disponibbiltà ta' servizzi tal-ittejt;

(iii) l-offerta ta' servizzi tal-iċċertifikar;

(c) li jaġixxi bħala l-korp kompetenti għall-finijiet tar-Regolament (KE) Nru 66/2010 tal-Parlament Ewropew u tal-Kunsill ta' 25 Novembru 2009 dwar skema ta' Ekotikketta tal-UE (Test b'relevanza għaż-ŻEE) u r-Regolament (KE) No 1221/2009 tal-Parlament Ewropew u tal-Kunsill ta' 25 Novembru 2009 dwar il-parteċipazzjoni volontarja ta' organizzazzjonijiet fi skema Komunitarja ta' ġestjoni u verifika ambjentali (EMAS) li jhassar ir-Regolament (KE) Nru 761/2001 u d-Deċiżjonijiet tal-Kummissjoni 2001/681/KE u 2006/193/KE;

(d) li jikkonsidra kull applikazzjoni għal permess ghall-użu ta' marka ta' konformità u ghall-ghoti ta' permessi għal dak l-ghan;

(e) li jgħarraf lill-publiku bil-punti ġgodda inkluži fil-programm ta' *standards* u bit-thejjija jew l-lemenda ta' *standard*, kemm-il darba dak l-*standard* ma jkunx traspożizzjoni identika jew ekwivalenti ta' *standard* Internazzjonali jew Ewropew. Din l-informazzjoni għandha tindika, b'mod partikolari, jekk l-*standard* involut:

- ikunx se jittrasponi *standard* internazzjonali mingħajr ma jkun l-ekwivalenti tiegħu;
- huwiex se jkun *standard* nazzjonali ġdid; jew
- ikunx se jemenda *standard* nazzjonali; u

(f) li jikkopera ma' korpi Nazzjonali, Ewropej, Regionali jew korpi internazzjonali oħra fil-qasam tal-ġhemmil ta' *standards* u jiskambja informazzjoni magħhom b'mod generali, u b'mod partikolari sa dak il-limitu daqskemm jista' jiġi provdut dwaru f'xi obbligu internazzjonali li Malta tintrabat bih jew hekk kif jista' jiġi preskritt;

(g) li jkun responsabbli għall-esekuzzjoni, manutenzjoni u konservazzjoni tal-iStandards ta' Kejl Nazzjonali u li jżomm dejjem l-eżattezza tagħhom bit-tqabbil ma' *standards* ta' kejl internazzjonali;

(h) li jiprovdji *Standards* ta' Kejl Funzjonali ta' eżattezza adatta għall-użu f'Malta, bi tqabbil ma' l-iStandards ta' Kejl Nazzjonali;

(i) li jkun responsabbli għall-iStandards ta' Kejl Nazzjonali u t-träċċabilità tagħhom;

Kap. 454.

- (j) li jipprovdi servizzi ta' kalibrar;
- (k) li jwettaq xogħol xjentifiku u tekniku fl-oqsma kollha tal-metrologija u metodi ta' kejl;
- (l) li jieħu sehem fix-xogħol ta' organizzazzjonijiet nazzjonali oħra interessati fil-metrologija;
- (m) li jixerred informazzjoni li għandha x'taqsam mal-metrologija;
- (n) li jkun responsabbli għall-infurzar tar-regolamenti tal-metrologija kollha maħruġa bis-saħħa tal-Att dwar il-Metrologija regolamenti oħra;
- (o) li jkun responsabbli għall-esekuzzjoni u l-kalibrar ta' *standards* ta' kejl u ta' tagħmir ta' verifika;
- (p) li jgħasses, jsegwi u jissorvelja l-fabbrikazzjoni u t-tiswija ta' strumenti li jkejjlu;
- (q) li jgħib għall-attenzjoni tal-awtoritajiet kull frodi firrigward ta' kejl fl-ghoti ta' oggett i u servizzi;
- (r) li jipprovdi biex isiru eżamijiet bil-għan li jkun accertat jekk persuna jkollhiex bieżżejjed ħila, għarfien u integrità professjonal biex tkun tista' taqdi kif għandu jkun il-funzjonijiet tagħha li jridu jiġu mwettqa bis-saħħa tal-Att dwar il-Metrologija;
- (s) li jikkollabora mal-korpi ta' spezzjoni rilevanti fl-oqsma ta' strumenti li jkejjlu u prodotti ppakkjati minn qabel;
- (t) li jżomm kuntatt ma' istituzzjonijiet nazzjonali barranin li għandhom għanijiet simili u li jirrappreżenta lill-Malta f'istituzzjonijiet metroloġici internazzjonali;
- (u) li jissottommetti lill-Bord rapport annwali dwar ix-xogħol tiegħu;
- (v) li jiżviluppa l-istratēġiji neċċesarji għall-implimentazzjoni tar-responsabbiltajiet tiegħu;
- (w) li jgħin fit-thejjija tal-pjan ta' dħul u nefqa tal-Awtoritā; u
- (x) li jeżercità b'mod ġenerali ir-responsabbiltajiet mogħtija lilu taħt dan l-Att, u taħt l-Att dwar il-Metrologija u

taħt kull Att ieħor jew regolamenti magħmula taħtu.

(2) L-Istitut dwar l-iStandards u Metroġija għandu jkun l-korp nazzjonali inkarigat bil-kordinazzjoni tal-ġhemil ta' standards u attivitajiet relatati, u għandu jkun responsabbi għall-affarijiet relatati mal-metroġija u metroġija legali.

(3) L-Istitut dwar l-iStandards u Metroġija għandu jiffaċilita l-ħtiġiet tal-ittestjar.

(4) Is-setgħa mogħtija lill-Istitut dwar l-iStandards u Metroġija biex jagħmel, jaddotta u jippubblika standards għandha tiftiehem li tinkludi s-setgħa, eżerċitabbli bl-istess mod, li jbiddel, jissostitwixxi jew jirrevoka xi standard bħal dak.

23. (1) L-Istitut dwar l-iStandards u Metroġija għandu jippubblika fil-Gazzetta lista ta' standards magħmula, adottati jew trasposti minnu flimkien mal-ekwivalenza internazzjonali tagħhom, jekk din tkun tapplika, u għandu jindika wkoll f'dawk l-avviżi mnejn tkun tista' tinkiseb kopja ta' dawk l-standards.

Tigi pubblikata
lista ta'
standards.

(2) Minkejja d-disposizzjonijiet l-oħra ta' dan l-Att u ta' kull ligi oħra, il-lista ta' standards imsemmija qabel kif ukoll kull standards magħmula, adottati jew trasposti mill-Istitut dwar l-iStandards u Metroġija jistgħu jsiru, jiġu pubblikati, jiġu preskritti jew jitqiegħdu għad-disposizzjoni tal-pubbliku bl-ilsien Malti jew Ingliz.

24. (1) L-Istitut dwar l-iStandards u Metroġija għandu jagħti permess ghall-użu ta' marka ta' konformità dwar xi prodott u, jew, servizzi li jissodisfaw l-standards, regolamenti teknici u kodiċi ta' prattiċi u jwettaq il-kondizzjonijiet stipulati fihom li tkun qiegħda tigi dikjarata konformità magħħom.

Marka ta'
konformità.

(2) L-Istitut dwar l-iStandards u Metroġija m'għandux joħrog permess jekk ma jkollux dik il-prova u ma jiġux mogħtija lilu dawk l-opportunitajiet u l-faċilitajiet li jistgħu jkunu raġonevolment meħtieġa sabiex l-Istitut jkun jista' jissodisfa ruħu li l-prodott u, jew, is-servizzi li dwarhom tkun saret l-applikazzjoni jkunu jikkwalifikaw għal dak il-permess.

(3) F'kull permess mogħti dwar xi prodott u, jew, servizz, l-Istitut barra milli jiddeskrivi dak il-prodott u, jew, servizz, għandu wkoll:-

- (a) isemmi l-persuna li jkun inħargilha l-permess; u
- (b) jispeċċifika l-standards applikabbi għal dak il-

prodott u, jew servizzi:

Iżda, meta ma jkun hemm ebda tibdil fiċċirkostanzi l-oħra li kienu ġġustifikaw l-ghoti ta' licenza, l-Istitut dwar l-iStandards u Metroloġija għandu dwar kull permess bħal dak jawtorizza, fuq talba, is-sostituzzjoni tal-persuna msemmija fiha kif jiġi ppruvat li jkun meħtieg.

(4) Għall-finijiet ta' din it-Taqsima, l-isem tal-persuna li jkun inħarġilha l-permess kif imsemmi fil-paragrafu (a) tas-subartikolu (3) għandu jitqies li jagħmel parti mid-deskrizzjoni tal-prodott u, jew, servizz li għalihom jirreferi.

Setgħat tal-Istitut dwar l-iStandards u Metroloġija li jispezzjona fondi u jakkwista informazzjoni.

25. L-uffiċċjali awtorizzati bil-miktub għal hekk mill-Istitut dwar l-iStandards u Metroloġija jkunu jistgħu fil-ħinijiet kollha raġonevoli jidħlu, għall-finijiet ta' dan l-Att, f'kull fond fejn prodotti u, jew, servizzi huma prodotti, fabbrikati jew ipproċessati u li għalihom ikun hemm permess fis-seħħ, u jkollhom dritt jispezzjonaw dak il-fond, jeżaminaw dawk l-oġġetti u jieħdu kampjuni tagħhom bil-mod preskrirt mill-Ministru.

TAQSIMA VIII AKKWIST U FORNIMENT TA' INFORMAZZJONI

Forniment ta' informazzjoni.

26. F'din it-Taqsima, kemm-il darba ma jkunx speċifikat xort'oħra, kull referenza għal "Uffiċċċi" għandha tiftiehem bhala referenza għall-"Uffiċċju għall-Kompetizzjoni" u għall-"Uffiċċju għall-Affarijiet tal-Konsumatur" u l-kliem "Direttur Ġenerali" u "Diretturi Ġenerali" għandhom jirreferu kemm għad-Direttur Ġenerali (Kompetizzjoni) kif ukoll għad-Direttur Ġenerali (Affarijiet tal-Konsumatur).

27. (1) L-Uffiċċji jistgħu jikkonsultaw ma' awtoritajiet pubbliċi fl-applikazzjoni ta' dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull Att ieħor, jew regolamenti magħmula taħthom li l-Uffiċċji huma intitolati li jinfurzaw.

(2) L-Uffiċċji jistgħu jitolbu informazzjoni mingħand awtoritajiet pubbliċi kif huma jqisu neċċesarju għall-applikazzjoni ta' dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull Att ieħor, jew regolamenti magħmula taħthom li l-Uffiċċji huma intitolati li jinfurzaw.

(3) L-Uffiċċji fuq naħa waħda u l-awtoritajiet pubbliċi fuq in-naħa l-oħra għandhom jipprovdu lil xulxin bl-informazzjoni neċċesarja għall-applikazzjoni tad-disposizzjoni jiet ta' dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull Att ieħor, jew regolamenti magħmula taħthom u dik l-

informazzjoni għandha tīgħi provduta fi żmien raġonevoli skont iċ-ċirkostanzi partikolari tal-kwistjonijiet involuti.

(4) L-Uffiċċċi jistgħu jidħlu fi ftehim għall-iskambju ta' informazzjoni u forom oħra ta' kollaborazzjoni ma' awtoritajiet pubbliċi.

(5) Kull ftehim li jidħol fih l-Uffiċċċu għall-Kompetizzjoni skont is-subartikolu (4) m'għandux jaapplika għal investigazzjonijiet mibdija minnu li jkollhom x'jaqsmu mal-allegat ksur tal-Artikoli 101 u, jew 102 tat-TFUE.

(6) Meta jippreżentaw informazzjoni taħt id-disposizzjonijiet ta' dan l-artikolu, l-Uffiċċċi u l-awtoritajiet pubbliċi għandhom jidentifikaw b'mod ċar l-informazzjoni, inkluż dokumenti, li huma jqisu li jkunu interni jew li jkun fihom sigreti tan-negozju jew informazzjoni kunfidenzjali oħra u għandha tīgħi provduta verżjoni separata mhux kunfidenzjali.

(7) Meta jkun sar skambju ta' informazzjoni kif provdut b'dan l-artikolu, l-Uffiċċċi jew l-awtorità pubblika li tirċievi l-informazzjoni għandha tiżgura l-istess livell ta' kunfidenzjalità daqs dak ta' min jipprovi l-informazzjoni.

28. (1) Hlief fejn stabbilit mil-ligi, il-membri tal-Bord, id-Diretturi Ĝenerali u uffiċċiali u impjegati oħra tal-Awtoritā u persuni li jagħtu pariri, konsulenti jew persuni oħra mqabbda mal-Awtoritā m'għandhomx jikkomunikaw jew jagħmlu aċċessibbli xi informazzjoni, inkluż dokumenti, li huma jqisu li hija interna jew li jkun fiha sigreti tan-negozju jew informazzjoni kunfidenzjali oħra.

Żvelar ta' informazzjoni kunfidenzjali.

(2) Mingħajr ħsara għal xi proċeduri dixxiplinari li jistgħu jittieħdu kontra impjegati pubbliċi taħt ir-regoli u l-proċeduri applikabbli, kull persuna li tikser id-disposizzjonijiet tas-subartikolu (1) tkun ħatja ta' reat kontra dan l-Att u, tista', meta tinsab ħatja, teħel multa ta' mhux inqas minn elfejn euro (€2,000) u mhux iżjed minn ghaxart'elef euro (€10,000).

29. (1) Kull persuna, intrapriža jew għaqda ta' intrapriži jew xi korp ieħor li tissottometti informazzjoni jew kummenti f'waħda mis-sitwazzjonijiet imniżżla hawn isfel jew sussegwentement tissottometti iżżejjed informazzjoni lid-Direttur Ĝenerali fil-kors tal-investigazzjoni, għandha b'mod ċar tidentifika kull materjal li hi tikkonsidra kunfidenzjali, tagħti r-raġunijiet, u tiprovvdi verżjoni separata mhux kunfidenzjali, fejn applikabbli sa dik id-data stabbilita mid-Direttur Ĝenerali biex turi l-fehmiet tagħha:

Identifikazzjoni u protezzjoni ta' informazzjoni kunfidenzjali.

Kap. 379.

- min jagħmel l-ilment taħt l-Att dwar il-Kompetizzjoni jew taħt l-Att dwar l-Affarijiet tal-Konsumatur;

Kap. 378.

- persuna, intrapriża jew għaqda ta' intrapriżi jew xi korp ieħor li tkun qed thares talba għall-forniment ta' informazzjoni taħt id-disposizzjonijiet ta' dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull Att ieħor, jew regolamenti magħmula taħthom;

- indirizzat tal-istqarrija tal-oġgezzjonijiet magħmula taħt l-artikolu 12A(1) tal-Att dwar il-Kompetizzjoni fejn jintwerew il-fehmiet tiegħu dwar l-oġgezzjoni;

- min jagħmel l-ilment fejn juri l-fehmiet tiegħu fuq l-istqarrija ta' oġgezzjonijiet taħt l-artikolu 12A(2) tal-Att dwar il-Kompetizzjoni;

- indirizzat ta' stedina mid-Direttur Ĝenerali biex jippreżenta l-fehmiet tiegħu taħt l-artikolu 12A(3)(b) tal-Att dwar il-Kompetizzjoni;

- min jagħmel l-ilment fejn juri l-fehmiet tiegħu fuq l-ittra mid-Direttur Ĝenerali (Kompetizzjoni) li jinfurmah bil-ħsieb tal-Uffiċċju illi l-ilment magħmul taħt l-artikolu 14(2) tal-Att dwar il-Kompetizzjoni ser jiġi miċħud;

- indirizzat ta' stedina mid-Direttur Ĝenerali biex jibdew diskussjonijiet li jwasslu għall-ftehim taħt l-artikolu 12B tal-Att dwar il-Kompetizzjoni.

(2) Bla ħsara għas-sabartikolu (1), id-Diretturi Ĝenerali jistgħu jitkolu lill-persuni, intrapriži u għaqdiet ta' intrapriži jew xi korp ieħor biex jissottomettu dokumenti jew stqarrijiet skont dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull Att ieħor, jew regolamenti magħmula taħthom biex jidher id-dokumenti jew partijiet mid-dokumenti illi huma jqisu illi għandhom sigħreti tan-negozju jew informazzjoni oħra kunfidenzjali li jappartjenu lilhom u li jidher id-dokumenti l-intrapriżi firrigward ta' liema dawk d-dokumenti għandhom jiġu kkunsidrati kunfidenzjali.

(3) Fil-każ ta' stqarrija tal-oġgezzjonijiet mibgħuta mid-Direttur Ĝenerali (Kompetizzjoni) taħt l-Att dwar il-Kompetizzjoni, meta taqsira tal-każ titfassal bis-saħħha tal-artikolu 12C(2)(a) u l-

artikolu 12D(2) tal-Att dwar il-Kompetizzjoni u fil-każ ta' deċiżjoni jew ordni meħuda mid-Diretturi Ĝenerali taħt l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur jew xi Att ieħor, jew regolamenti magħmula taħthom, persuni, intrapriži jew għaqda ta' intrapriži jistgħu jiġi miltuba biex jidher kien xi parti mill-istqarrija ta' ogħżejjekk, mit-taqsira tal-każ, mid-deċiżjoni jew mill-ordni li fil-fehma tagħhom ikun fiha sigħreti tan-negozju jew informazzjoni kunfidenzjali oħra.

(4) Id-Direttur Ĝenerali jista' jiġi m'istabbilixxi terminu f'liema perjodu il-persuni, intrapriži u l-għaqda ta' intrapriži jew xi korp ieħor għandhom:

- (a) jissostanzjaw il-pretenzjoni tagħhom dwar il-kunfidenzjalitā fir-rigward ta' kull dokument individwali jew parti minn dak id-dokument, stqarrija jew parti minn dik l-istqarrija;
- (b) jipprovdu lid-Direttur Ĝenerali b'verżjoni mhux kunfidenzjali tad-dokumenti jew stqarrijiet, li fihom il-passaġġi (siltiet) kunfidenzjali jiġi mħassra; u
- (c) jipprovdu deskrizzjoni qasira ta' kull parti mill-informazzjoni mħassra.

(5) F'każ li l-persuni, intrapriži jew l-għaqda ta' intrapriži jew xi korp ieħor jonqsu milli jħarsu s-subartikoli (1) sa (3), id-Direttur Ĝenerali jista' iqis illi d-dokumenti jew stqarrijiet konċernati m'għandhomx informazzjoni kunfidenzjali u jista' konsegwentement jassumi illi l-persuni, intrapriži u l-għaqda ta' intrapriži jew xi korp ieħor m'għandhom l-ebda ogħżejjekk għall-iżvelar tad-dokumenti jew stqarrijiet konċernati fl-intier tagħhom.

(6) Meta l-persuni, intrapriži jew l-għaqda ta' intrapriži jew xi korp ieħor jissodisfaw il-kondizzjonijiet fis-subartikoli (1) sa (3), id-Direttur Ĝenerali għandu:

- (a) jaċċetta provviżorjament it-talbiet li jkunu jidhru ġustifikati; jew
- (b) jinforma lil persuna jew lill-intrapriża jew lill-għaqda ta' intrapriži jew xi korp ieħor illi hu ma jaqbilx mal-pretenzjoni kollha jew parti minnha dwar l-kunfidenzjalitā, fejn jidher illi l-pretenzjoni mhix ġustifikata.

(7) Id-Direttur Ĝenerali jista' jdawwar lura l-aċċettazzjoni provviżorja tal-pretenzjoni kollha jew parti minnha dwar il-

kunfidenzjalità, fî stadju iżjed tard.

(8) Meta d-Direttur Ĝeneral ma jaqbilx mal-pretensjoni dwar il-kunfidenzjalità mill-bidu jew meta jkun tal-fehma illi l-acċettazzjoni proviżorja tal-pretensjoni dwar il-kunfidenzjalità għandha tiġi mreggħa' lura, u għaldaqstant ikun hemm il-ħsieb li jiżvela l-informazzjoni, id-Direttur Ĝenerali għandu jinforma bil-miktub lill-persuna jew lill-intrapriża jew lill-għaqda ta' intrapriži jew lil xi korp ieħor bil-ħsieb tiegħu li jiżvela l-informazzjoni, jagħti r-raġunijiet tiegħu, u jistabbilixxi terminu f'liema dik il-persuna jew intrapriża jew għaqda ta' intrapriži jew xi korp ieħor jistgħu jinforma wh bil-mitkub dwar il-fehmiet tagħhom. Jekk, wara s-sottomissjoni ta' dawk il-fehmiet, nuqqas ta' qbil fuq il-pretensjoni dwar il-kunfidenzjalità jippersisti, id-Direttur Ĝenerali għandu jieħu deċiżjoni dwar dan.

(9) F'dawk il-każijiet meta l-persuna jew l-intrapriża jew l-għaqda ta' intrapriži jew xi korp ieħor ma taqbilx mad-deċiżjoni tad-Direttur Ĝenerali fis-subartikolu (8), il-persuna jew l-intrapriża jew l-għaqda ta' intrapriži jew xi korp ieħor tista' tappella quddiem it-Tribunal tal-Appell fi żmien għaxart' ijiem minn meta d-deċiżjoni tad-Direttur Ĝenerali tiġi notifikata u d-deċiżjoni tal-Tribunal tal-Appell għandha tkun finali.

(10) Il-persuni li jagħmlu ilmenti jew intrapriži jew għaqda ta' intrapriži jew xi korp ieħor jew kull persuna li tikkollabora f'investigazzjoni mmexxijja mill-Ufficċċi għandhom, jekk ikunu jridu jibqgħu anonimi, jitkolbu hekk lid-Direttur Ĝenerali. Id-Direttur Ĝenerali għandu jaċċetta din it-talba għall-anonimità jekk jidhirlu li ttalba hija ġustifikata. Id-Direttur Ĝenerali għandu jipproteġi l-anonimità billi jipprovdi aċċess għall-verżjoni mhux kunfidenzjali jew għat-taqṣira tad-dokumenti preżentati. Is-subartikoli (6) u (7) għandhom japplikaw għal talbiet ghall-anonimità. Meta d-Direttur Ĝenerali ma jqisx illi t-talba għall-anonimità hija ġustifikata, is-subartikoli (8) u (9) għandhom japplikaw.

Pubblikazzjoni
ta'
informazzjoni.

30. (1) L-Awtorità għandha, suġġett għall-protezzjoni ta' sigrieti tan-negozju u informazzjoni oħra kunfidenzjali, tippubblika minn żmien għal żmien dik l-informazzjoni illi tkun tagħti kontribut lil suq mistuħ u kompetitiv jew għall-benefiċċju tal-konsumatur.

(2) Meta tiġi ppubblikata informazzjoni kif hemm imsemmi fis-subartikolu (1), l-Awtorità għandha ssegwi l-principji tas-seċċa u tal-oggettivitā.

(3) Id-Diretturi Ĝenerali u kull ufficjal li jkun qed jaġixxi fuq l-istruzzjonijiet jew l-awtorità tal-imsemmija Diretturi Ĝenerali,

ikunu eżentati minn kull responsabbiltà għal dak l-għemil li jkun sar *bona fede* bi twettiq skont dan l-artikolu. Din l-eżenzjoni tapplika għall-persuni kollha li jippubblikaw, jistampaw, jirregistraw, ixandru jew jikkomunikaw dik l-informazzjoni b'kull mezz li jkun.

TAQSIMA IX

TWAQQIF TAT-TRIBUNAL TAL-APPELL TAL-KOMPETIZZJONI U TAL-KONSUMATUR

31. (1) Għandu jkun hemm tribunal, li jkun magħruf bħala t-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur, li jeżerċita u jwettaq il-funzjonijiet mogħtija lilu b'dan l-Att, bl-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur jew b'kull regolament magħmul taħthom.

Twaqqif tat-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur.

32. (1) It-Tribunal tal-Appell għandu jkun magħmul mill-President li għandu jkun Imħallef, u żewġ membri oħra minn elenku ta' membri ordinarji magħżula mill-President.

Għamla.

(2) Għandu jkun hemm elenku ta' sitt membri ordinarji, kollha b'tal-anqas għaxar snin ta' esperjenza rilevanti, maħtura mill-President ta' Malta fuq il-parir tal-Prim Ministro, li jkun magħmul minn żewġ ekonomisti, preferibbilment wieħed speċjalizzat fl-ekonomija tal-organizzazzjoni industrijali u l-ieħor fl-imġiba fl-ekonomija, *accountant* pubbliku certifikat u tliet persuni oħra b'kompetenza rikonoxxuta u għarfien ta' hwejjeg fil-ligi tal-kompetizzjoni, protezzjoni tal-konsumatur, industria u l-kummerċ.

(3) Fl-għażla taż-żewġ membri ordinarji li jkunu fit-Tribunal tal-Appell taħt is-subartikolu (1), il-President għandu jieħu kont tan-natura tal-każ u tas-suq konċernat.

(4) Il-membri ordinarji tat-Tribunal tal-Appell għandhom jiġu maħtura għal perjodu ta' tliet snin u jkunu eligibbli għall-ħatra mill-ġdid.

(5) Il-membri ordinarji tat-Tribunal tal-Appell jistgħu jirriżenjaw mill-kariga tagħihom permezz ta' ittra indirizzata lill-President ta' Malta. Ir-riżenja jkollha effett meta l-kitba li tissinjifika r-riżenja tkun rċevuta mill-President ta' Malta jew minn persuna awtorizzata minnu.

(6) Membru ordinarju tat-Tribunal tal-Appell ma jistgħax jitneħħa mill-kariga tiegħi jaġixxi skont l-parir tal-Prim Ministro minħabba f'inkapaċċita' ippruvata li jwettaq id-dmirijiet tal-kariga tiegħi (kemm jekk għal mard korporali jew mentali jew għal xi raġuni oħra) jew imġiba hażina.

(7) Avviż ta' kull ġħatra fit-Tribunal tal-Appell u ta' kull tibdil ieħor fis-shubija tiegħu għandu jiġi pubblikat fil-Gazzetta.

(8) (a) It-Tribunal tal-Appell għandu jkun independenti fit-twettiq tal-funzjonijiet tiegħu.

(b) Il-membri tiegħu fit-twettiq tal-funzjonijiet tagħhom għandhom jaġixxu fuq il-ġudizzju individwali tagħhom u m'għandhomx ikunu suġġetti għad-direzzjoni jew kontroll ta' xi persuna jew awtoritā.

(9) (a) Il-membri ordinarji tat-Tribunal tal-Appell, m'għandhomx jitwaqqfu mill-prattika tal-professjoni rispettiva tagħhom, iżda matul il-kariga tal-ħatra tagħhom huma għandhom jitwaqqfu mill-prattika tal-professjoni tagħhom f'każijiet quddiem it-Tribunal.

(b) Il-membri ordinarji tat-Tribunal tal-Appell għandhom jirċievu dak il-ħlas kif il-Prim Ministru jista' b'avviż fil-Gazzetta jistabbilixxi:

Iżda dak il-ħlas ma jistax jinbidel matul il-kariga tal-ħatra għall-iżvantaġġ tagħhom.

(c) Il-ħlas dovut lill-membri ordinarji tat-Tribunal tal-Appell għandu jithallas mill-Fond Konsolidat mingħajr il-ħtieġa ta' iż-żejjed approprazzjoni.

(10) Persuna ma tikkwalifikax biex tinhatar jew tibqa' membru ordinarju tat-Tribunal tal-Appell jekk:

(a) tkun falluta mhux meħlusa; jew

(b) tkun ingħatat sentenza ta' priġunerija għal sitt xhur jew iż-żejjed minn xi qorti; jew

(c) tkun instabet ħatja ta' xi reat kontra dan l-Att, l-Att dwar il-Kompetizzjoni jew l-Att dwar l-Affarijiet tal-Konsumatur jew xi regolament ieħor magħmula taħthom; jew

(d) tkun Membru tal-Kamra tad-Deputati jew tal-Parlament Ewropew jew ta' Kunsill Lokali.

(11) Kull membru ordinarju tat-Tribunal tal-Appell għandu, qabel ma jibda jiġi trattat xi każ, jiddikjara kull interess li huwa jista' jkollu fil-proċedimenti u l-President għandu, fejn iqis illi dak l-interess jista' jkun ta' hsara għall-indipendenza tal-membru konċernat jew tat-Tribunal tal-Appell, jaħtar membru ieħor mill-

elenku.

(12) Meta jibdew proċeduri u ma tkun ingħatat l-ebda deċiżjoni finali u wieħed mill-membri ordinarji ikun waqaf mill-kariga ta' membru jew għal kull raġuni oħra ma jkunx jista' jwettaq il-funzjonijiet tal-kariga tiegħu, il-President jista' jagħzel li jaħtar membru ieħor mill-elenku minflok dan u jekk ikun strettament meħtieg għad-determinazzjoni xierqa tal-każ jibda mill-ġdid il-proċeduri, jew ikompli jisma' il-każ b'membru ordinarju wieħed biss:

Iżda meta ž-żmien tal-hatra jkun għadda u l-membru ordinarju ma jkunx ġie maħtur mill-ġdid, il-membru ordinarju għandu jkompli jisma' l-każ sakemm jinqata'.

(13) Il-membri ordinarji tat-Tribunal tal-Appell, għandhom, tul jew wara l-kariga tagħhom, jaġixxu b'integrità u ma jkollhom x-xaqsmu ma' xi attivitā li tagħmel ħsara lill-amministrazzjoni xierqa tal-ġustizzja jew li, minħabba t-tagħrif miksub minn sigrieti tan-negozju jew xi informazzjoni kunfidenzjali oħra, waqt il-kariga tagħhom, tqajjem kunflitt ta' interess u tagħmel ħsara lill-interessi tal-intrapriżi konċernati. Kull persuna li tikser dan is-subartikolu tkun ħatja ta' reat kontra dan l-Att, u meta tinsab ħatja, tista' teħel multa ta' mhux inqas minn elfejn euro (€2,000) u l-qorti tista', flimkien mal-multa, tagħti l-piena ta' interdizzjoni temporanja jew interdizzjoni ġenerali perpetwa.

33. (1) Ir-Reġistratur tal-Qrati jew xi persuna oħra li tagħixxi minfloku jew f'ismu skont il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jkun ir-Reġistratur tat-Tribunal tal-Appell.

Registru tat-Tribunal tal-Appell.

(2) Kull att tat-Tribunal tal-Appell jew li miġjuba quddiemu għandu jinżamm fir-Reġistratu tal-Qrati Superjuri li għandu jkun ir-reġistratu tat-Tribunal tal-Appell.

(3) Il-Ministru responsabbli għall-ġustizzja jista' permezz ta' regolamenti taħt dan l-Att jistabbilixxi:

(a) id-drittijiet li jistgħu jkunu dovuti lir-Reġistratu tat-Tribunal tal-Appell;

(b) id-drittijiet li jistgħu jkunu dovuti lil avukati, prokuraturi legali jew persuni oħra li jirrapreżentaw il-partijiet li jidhru quddiem it-Tribunal tal-Appell; u

(c) id-drittijiet li jistgħu jkunu dovuti lil esperti li jidhru quddiem it-Tribunal tal-Appell;

Iżda sakemm dawk id-drittijiet jiġu preskritti mill-Ministru taħt

il-paragrafi (a) sa (c), id-drittijiet stabbiliti fil-Kodiċi ta' Organizzazzjoni u Proċedura Čivili għandhom japplikaw.

(4) Ir-Registru tat-Tribunal tal-Appell għandu jżomm verżjoni kunfidenzjali u verżjoni mhux kunfidenzjali tar-registri tat-Tribunal tal-Appell kif jista' jkun awtorizzat hekk mit-Tribunal tal-Appell.

(5) Ir-records tat-Tribunal tal-Appell għandu jkun aċċessibli għall-persuni kollha, u kopji għandhom jingħataw bi ħlas tad-dritt preskritt lil kull persuna fuq talba:

Iżda għandu jittieħed kont għall-protezzjoni ta' kull informazzjoni kunfidenzjali u sigreti tan-negożju.

(6) Kull att għandu jiġi preżentat, maħruġ u notifikat skont id-disposizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Čivili, suġġett għal kull regola magħmula taħt dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull Att ieħor, jew regolamenti magħmula taħthom jew sakemm il-Ministr permezz ta' regolamenti ma jippreskrivix xort'oħra.

Persunal u seduti tat-Tribunal tal-Appell.

Kap. 12.

Hatra ta' avukat.

Kompetenza tat-Tribunal.

Kap. 378.
Kap. 379.

34. (1) Ir-Registratur għandu jipprovdi l-persunal meħtieġ għaż-żamma tas-seduti tat-Tribunal tal-Appell. L-uffiċjali hekk nominati għandhom, fit-twettiq tħad-dmirijiet tagħhom, igawdu u jeżercitaw dawk is-setgħat vesti bil-Kodiċi ta' Organizzazzjoni u Proċedura Čivili f'uffiċjali li jwettqu dmirijiet simili.

(2) Is-seduti tat-Tribunal tal-Appell għandhom jsiru f'dawk il-ġranet u f'dawk il-ħinijiet kif iffissatti mill-President fil-bini tal-Qrati Superjuri.

35. Il-President ta' Malta, fuq parir tal-Prim Ministru, għandu, taħt dawk it-termini u kondizzjonijiet li l-Ministru responsabbi għall-ġustizzja jqis xierqa, jaħtar avukat, li jkollu *postgraduate degree* li tkopri l-ligi tal-kompetizzjoni u, jew konsumatur, fuq baži *full-time* biex jgħin lit-Tribunal tal-Appell bħala referendarju biex jabbozza deċiżjonijiet, jirriċerka u jwettaq kull xogħol ieħor relatat mal-kompetenza tat-Tribunal tal-Appell kif mogħtija lilu mill-President.

36. (1) Mingħajr hsara għall-artikolu 70(3) it-Tribunal tal-Appell presedut mill-President tiegħu jkollu kompetenza li jisma' u jaqta' appelli minn deċiżjonijiet, ordnijiet jew miżuri tad-Direttur Ĝeneral (Kompetizzjoni) u d-Direttur Ĝeneral (Affarijiet tal-Konsumatur) kif stabbilit fl-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull regolament magħmul taħt l-imsemmija Atti.

(2) Id-deċiżjonijiet ta' każjiet quddiem it-Tribunal tal-Appell

għandhom ikunu skont l-opinjoni unanima tal-membri li jiddeċiedu l-każ jew skont deċiżjoni b'maġgoranza liema maġgoranza trid tinkludi l-President.

37. (1) It-Tribunal tal-Appell għandu jkollu s-setħat u għandu jsegwi l-proċeduri mniżżla fid-disposizzjonijiet ta' dan l-Att u fit-Tieni Skeda, l-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur u r-regolamenti magħmula tahthom.

Proċeduri tat-Tribunal tal-Appell.

(2) Il-Ministru jista', jagħmel regoli mhux inkonsistenti ma' dan l-Att, l-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur u kull regolament magħmula taħtu, li jippreskrivu kif għandhom jissegwew u jintużaw il-proċeduri u l-forom quddiem it-Tribunal tal-Appell.

(3) Fin-nuqqas ta' disposizzjonijiet jew regoli kif imsemmi qabel, it-Tribunal tal-Appell għandu jirregola l-proċeduri tiegħu.

TAQSIMA X UFFIĆJALI U IMPJEGATI TAL-AWTORITA'

38. Mingħajr ħsara għad-disposizzjonijiet tal-Kostituzzjoni, kull ligi applikabbli ġħaliha, u mingħajr ħsara għad-disposizzjonijiet l-oħra ta' dan l-Att, l-impieg u ħatra ta' ufficijal u impjegati oħra tal-Awtorità għandhom isiru mill-Bord u t-termini u l-kondizzjonijiet tal-impieg u l-ħatra tagħhom għandhom jiġu stabbiliti mill-Bord bi qbil mal-Ministru:

Hatriet tal-persuna.

Iżda illi, minkejja l-artikolu 12(8), għall-finijiet tas-subartikolu (1), il-Bord għandu jsewgi kull direttiva jew linji ta' gwida maħruġa taħt il-paragrafi (c), (d) u (e) tas-subartikolu (1) tal-artikolu 38 tal-Att dwar l-Amministrazzjoni Pubblika.

39. Il-Bord għandu jaħtar u jimpjega, b'dak il-ħlas u fuq dawk it-termini u kondizzjonijiet li jista', skont l-artikolu 38, jistabbilixxi, dawk l-ufficijal u impjegati tal-Awtorità kif jista' minn żmien għal żmien ikunu meħtieġa għat-twettiq xieraq u effiċjenti tal-funzjonijiet tal-Awtorità.

Ħatra ta' ufficijal u impjegati tal-Awtorità.

40. (1) Is-Segretarju Permanenti Ewljeni, fuq id-direzzjoni tal-Prim Ministru jista', minn żmien għal żmien, jidderi li ufficijal pubbliku għandu jiġi inkarigat għal xogħol mal-Awtorità f'dik il-kapaċċità u taħt dawk il-kondizzjonijiet b'effett minn dik id-data li hu jista' jispeċċika.

Inkarigu ta' ufficijal pubbliku għal xogħol mal-entitajiet.

(2) Il-perjodu li matulu direttiva kif hawn qabel imsemmi għandha tapplika għal xi ufficijal speċifikat fiha, għandu, kemm-il darba l-ufficijal ma jirtirax mis-servizz pubbliku, jew xort'oħra ma

jkomplix fil-kariga f'data qabel, jew kemm-il darba ma jkunx sp̄ecifikat perjodu differenti f'dik id-direttiva, jintemmetta meta sseħħ xi ġrajja minn dawn li ġejjin:

(a) l-aċċettazzjoni minn dak l-uffiċjal ta' offerta ta' trasferiment għas-servizz ta', u impjieg permanenti mal-Awtoritā skont id-disposizzjonijiet tal-artikolu 42; jew

(b) ir-revoka ta' dik id-direttiva mis-Segretarju Princípali Permanent fuq direttiva tal-Prim Ministru.

(3) Meta direttiva kif hawn aktar qabel imsemmi tīgħi revokata mis-Segretarju Princípali Permanenti dwar xi uffiċjal, is-Segretarju Princípali Permanenti jista' b'direttiva oħra u fuq direttiva tal-Prim Ministru, jalloka lil dak l-uffiċjal għal dmirijiet mal-Awtoritā f'dik il-kariga u b'seħħ minn dik id-data li tista' tīgħi sp̄ecifikata fid-direttiva tas-Segretarju Princípali Permanenti, u d-disposizzjonijiet tas-subartikolu (2) għandhom malli jsir dan jaapplikaw dwar il-perjodu ta' tul ta' kull direttiva oħra bħal dik dwar dak l-uffiċjal.

*Status ta'
uffiċjali pubblici
inkarigati
jagħmlu xogħol
mal-entitajiet.*

41. (1) Meta uffiċjal pubbliku jiġi inkarigat jagħmel xogħol mal-Awtoritā taħt xi disposizzjoni tal-artikolu 40, dak l-uffiċjal għandu, matul il-perjodu li fih dik id-direttiva jkollha effett fir-rigward tiegħu, jkun taħt l-awtoritā amministrattiva u l-kontroll tal-Awtoritā, imma huwa għandu ghall-finijiet u l-effetti kollha jibqa' u jkun ikkonsidrat u ttrattat bħala uffiċjal pubbliku.

(2) Bla īxsara għall-ġeneralità t'hawn aktar qabel, uffiċjal inkarigat jagħmel xogħol kif hawn qabel imsemmi:

(a) m'għandux matul il-perjodu li matulu huwa jkun hekk inkarigat:-

(i) jiġi mċahħad milli jaapplika għal trasferiment f'xi Dipartiment tal-Gvern skont it-termini u l-kondizzjonijiet ta' servizz marbuta mal-ħatra miżmuma minnu taħt il-Gvern li kellu fid-data li fiha huwa hekk kien inkarigat biex jagħmel ix-xogħol; jew

(ii) ikun hekk impjegat li l-ħlas u l-kondizzjonijiet ta' servizz tiegħu ikunu inqas favorevoli minn dawk li jkunu marbuta mal-ħatra miżmuma minnu taħt il-Gvern u li jkun qed igawdi fid-data hawn qabel imsemmija jew li kieku kienu jkunu marbuta ma' dik il-ħatra, matul dak il-perjodu, li kieku dak l-uffiċjal ma kienx ġie inkarigat jagħmel xogħol mal-Awtoritā:

Iżda dawk it-termini u kondizzjonijiet

m'għandhomx jitqiesu li huma inqas favorevoli għax ma jkunux fil-ħwejjeg kollha identiči jew oħla minn dawk li l-uffiċċjal konċernat ikollu fid-data tal-offerta, jekk dawk it-termini u l-kundizzjonijiet, meħuda globalment, fil-fehma tal-Prim Ministru joffru beneficiċċi li jkunu sostanzjalment daqshom jew aħjar; u

(b) ikun intitolat li s-servizz tiegħu mal-Awtorită jiġi meqjus bħala servizz mal-Gvern ghall-finijiet ta' kull pensjoni, gratwita, jew beneficiċju taħt l-Ordinanza dwar il-Pensjonijiet u l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, u ghall-fini ta' kull dritt jew privileġġ iehor li kien intitolat għalih, u jkun responsabbli għal dak kollu li jista' jkun responsabbli għalih, li kieku dak l-uffiċċjal ma jkunx ġie mqabba jaqdi dmirijietu mal-Awtorită:

Kap. 93.
Kap. 58

Iżda fil-kalkolu tal-emolumenti pensjonabbli ta' dak l-uffiċċjal għall-finijiet ta' xi ligi li għandha x'taqsam mal-pensjonijiet għal servizz mal-Gvern, m'għandu jittieħed ebda kont ta' xi *allowance*, bonus jew gratwitajiet mhalla lil dak l-uffiċċjal mill-Awtorită li tkun iżjed minn dak li għandu jedd għalih bħala uffiċċjal pubbliku.

(3) Meta ssir applikazzjoni kif hemm provdut fis-subartikolu (2)(a)(i), għandha tingħata l-istess konsiderazzjoni bhallikieku l-applikant ma kienx ġie inkarigat jagħmel servizz mal-Awtorită.

(4) L-Awtorită għandha thallas lill-Gvern dawk il-kontribuzzjonijiet li jistgħu minn żmien għal żmien jiġu stabbiliti mill-Ministru responsabbli għall-Finanzi fir-rigward tan-nefqa ta' pensjonijiet u gratwitajiet li jaqla' uffiċċjal li jiġi inkarigat jagħmel xogħol mal-Awtorită kif hawn qabel imsemmi matul l-perjodu li fih ikun qed jagħmel dak ix-xogħol.

42. (1) L-Awtorită tista', bl-approvazzjoni tal-Prim Ministru, toffri lil uffiċċjal li jkun inkarigat jagħmel xogħol mal-Awtorită taħt id-disposizzjonijiet tal-artikolu 40, impieg permanenti magħha b'dak il-ħlas u b'dawk it-termini u l-kondizzjonijiet li ma jkunux inqas favorevoli minn dawk li dak l-uffiċċjal ikun qed igawdi fid-data ta' dik l-offerta.

Offerta ta'
impieg
permanenti mal-
Awtorită lill-
uffiċċjali pubblici
inkarigati
jagħmlu xogħol
mal-Awtorită.

(2) It-termini u l-kondizzjonijiet komprizi f'xi offerta magħmulu kif hawn qabel imsemmi m'għandhomx jitqiesu li jkunu inqas favorevoli sempliċiment minħabba li ma jkunux f'kull rigward identiči ma' jew aħjar minn dawk li l-uffiċċjal involut ikun qed igawdi fid-data ta' dik l-offerta, jekk dawk it-termini u l-kondizzjonijiet, meħuda ilkoll flimkien, ikunu fil-fehma tal-Prim Ministru, joffru

benefiċċji sostanzjalment ekwivalenti jew ahjar.

Kap. 93.
Kap. 58.

(3) Kull uffiċċjal pubbliku li jaċċetta impieg permanenti li jiġi offrut lilu mal-Awtoritā, taħt id-disposizzjonijiet tas-subartikolu (1) għandu, għall-finijiet kollha barra minn dawk tal-Ordinanza dwar il-Pensjonijiet u tal-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, u bla ħsara għad-disposizzjonijiet tal-artikolu 63, jitqies li temm milli jibqa' fis-servizz mal-Gvern u li daħal fis-servizz mal-Awtoritā fid-data minn meta jaċċetta, u għall-finijiet tal-imsemmija Ordinanza u l-imsemmi Att, sakemm din tkun applikabbli għalihi, servizz mal-Awtoritā għandu jitqies bħala servizz mal-Gvern fil-parametri tat-tifsiriet relattivi rispettivament.

Kap. 58.

(4) Kull uffiċċjal bħal dak hawn qabel imsemmi li, minnufih qabel ma jaċċetta impieg permanenti mal-Awtoritā, jkun intitolat għal benefiċċju taħt l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, jkompli jkollu dak il-jedd għal benefiċċju taħt dak l-Att għal kull fini bħallikieku s-servizz tiegħi mal-Awtoritā kien servizz mal-Gvern.

Kap. 93.

(5) L-Awtoritā għandha thallas lill-Gvern dawk il-kontribuzzjonijiet li jistgħu minn żmien għal żmien jiġu stabbiliti mill-Ministru responsabbi għall-Finanzi dwar in-nefqa ta' pensjonijiet u gratwitajiet li jaqla' uffiċċjal li jkun aċċetta impieg permanenti mal-Awtoritā kif hawn qabel imsemmi matul l-perjodu li jibda għaddej mid-data minn meta dak l-uffiċċjal ikun aċċetta.

(6) Għall-finijiet tal-Ordinanza dwar il-Pensjonijiet, l-emolumenti pensjonabbli ta' dak l-uffiċċjal pubbliku meta jirtira għandhom jitqiesu li jkunu l-emolumenti pensjonabbli li jithallsu lil xi uffiċċjal fis-servizz tal-Gvern fil-grad u fil-livell inkrementali li jikkorrispondi mal-kariga u l-livell inkrementali li jkollu l-uffiċċjal meta jirtira minn mal-Awtoritā.

(7) (a) Għall-finijiet ta' dan l-artikolu, karigi u gradi salarjali mal-Awtoritā għandhom ikunu klassifikati fil-gradi u l-livelli inkrementali li jkunu l-aktar jikkorrispondu ma' dawk ta' min hu fis-servizz taħt il-Gvern b'riferenza għad-deskrizzjoni ta' xogħol, kapacitajiet, responsabbiltajiet u fatturi oħra li jixxiebhu.

(b) Il-klassifikazzjoni msemmija fil-paragrafu (a) għandha ssir minn bord li jkun magħmul minn *Chairman* li jiġi maħtur mill-Ministru responsabbi għall-Finanzi u magħmul ukoll minn żewġ membri oħra, wieħed maħtur mill-Ministru centralment responsabbi għal politika dwar il-persunal fis-servizz pubbliku u wieħed li jiġi maħtur mill-Awtoritā. Il-klassifikazzjoni tkun suġġetta għall-approvazzjoni finali tal-Ministru responsabbi għall-Finanzi.

(c) Dik il-klassifikazzjoni għandha sseħħi fī żmien tliet xħur minn kull meta jsir aġġustament tas-salarji ta' impjegati fis-servizz mal-Gvern u, jew, ta' impjegati tal-Awtorità.

(d) Ebda kariga ma għandha tigi klassifikata fi grad oħħla minn dak ta' Grad 3 fis-servizz tal-Gvern jew dak il-grad ieħor li l-Ministru responsabbi għall-Finanzi jista' minn żmien għal żmien jistabbilixxi b'avviż fil-Gazzetta.

(e) Bla ħsara għall-artikolu 113 tal-Kostituzzjoni, hadd ma jista', wara klassifikazzjoni kif hawn qabel imsemmi, ikun intitolat għal drittijiet taħt l-imsemmija Ordinanza dwar il-Pensjonijiet li jkunu inqas favorevoli minn dawk li kien ikun intitolat għalihom qabel dik il-klassifikazzjoni. Kap. 93.

43. L-Awtorità tista' tingaġġa dawk il-konsulenti jew persuni li jagħtu l-pariri kif hi tqis meħtieg biex jassistuha fit-twettiq tal-funzjonijiet tagħha.

Ingäġgar ta' konsulenti u nies li jagħtu pariri.

44. Kull persuna maħtura bħala ufficjal tal-Awtorità għandha, qabel ma tidħol għad-dmirijiet tagħha, tieħu l-ġurament li ser twettaq d-dmirijiet tal-kariga jew tal-impieg tagħha fedelment u b'imparzjalitā. Il-forma tal-ġurament għandu jkun dak li hemm mniżżeż fl-Ewwel Skeda u għandu jingħata mill-President tat-Tribunal tal-Appell.

Gurament ta' segretezza.

45. (1) Meta ufficjal pubbliku jew impjegat tal-Awtorità, konsulent, persuna li tagħti l-pariri jew kull persuna oħra ingaġġata mill-Awtorità, ikollu xi interess fi, jew materjali għal, xi kwistjoni li għandha tiġi kkunsidrata mill-Awtorità, hu-

Żvelar ta' interess.

(a) għandu jiżvela lill-Bord ix-xorta tal-interess tiegħu fl-ewwel laqgħa tal-Bord wara li jinkiseb dak l-interess jew qabel ma tiġi kkunsidrata l-kwistjoni, skont liema tiġi l-ewwel;

(b) għandu la jinfluwenza u lanqas jipprova jinfluwenza deċiżjoni li għandha x'taqsam mal-kwistjoni;

(c) ma għandu jieħu ebda sehem fil-konsiderazzjoni ta' dik il-kwistjoni.

(2) Meta tqum kwistjoni dwar jekk imgħiba segwita minn persuna, tirriżultax jew le f'nuqqas tagħha milli tikkonforma ruħha mal-ħtiġiet tas-subartikolu (1), il-kwistjoni għandha tigeżżeha mill-Bord u kemm id-deċiżjoni u l-motivazzjoni tiegħu għandhom jiġu mniżżeż fil-minuti tal-laqgħa li fiha jkunu ttieħdu.

(3) Meta jsir xi żvelar lill-Bord skont is-subartikolu (1),

għandhom jiġu mniżzla d-dettalji ta' dak l-iżvelar fil-minuti ta' dik il-laqgħa.

(4) Meta persuna li għaliha japplika s-subartikolu (1) tonqos milli tagħmel l-iżvelar meħtieġ, il-Bord għandu jiddeċiedi dwar liema azzjoni adatta għandu jieħu, li tista' tinkludi t-tnejħija mill-kariga jew it-terminazzjoni tal-kuntratt tal-persuna konċernata.

Kodiċi tal-Etika.

46. (1) Uffiċjali u impiegati tal-Awtorită għandhom jimxu ma' kull Kodiċi tal-Etika applikabbi għall-impiegati pubblici u għandu jkollhom, bla ħsara għal kull li ġi kuntrarja, l-istess obbligi taħtu:

Iżda d-Diretturi Ĝenerali għandhom, bl-approvazzjoni tal-Kumitat għall-Kordinazzjoni, ihejju valuri ta' servizz u Kodiċijiet tal-Etika fir-rigward tal-entitajiet rispettivi tagħhom, sabiex jiġi s-supplimentat kull Kodiċi tal-Etika tas-servizz pubbliku.

(2) (a) Il-membri tal-Bord, uffiċjali u impiegati tal-Awtorită u persuni li jagħtu l-pariri, konsulenti u persuni oħra inkarigati mal-Awtorită għandhom, wara t-tmiem tal-kariga tagħhom, jaġixxu b'integrita' u ma jkollhom x'jaqsmu ma xi attivitā li, minħabba t-tagħrif miksub minn sigrieti tan-negożju u informazzjoni kufidenzjali oħra waqt il-kariga tagħhom, tkun tqajjem kunflitt ta' interess u tagħmel ħsara lill-interessi ta' xi persuna; u

(b) kull persuna li tikser dan l-artikolu tkun ħatja ta' reat kontra dan l-Att, u meta tinsab ħatja, tista' teħel multa ta' mhux inqas minn elfejn euro (€2,000) u l-qorti tista', flimkien mal-multa, tagħti l-piena ta' interdizzjoni temporanja jew interdizzjoni ġenerali perpetwa.

Eżenzjoni minn
responsbiltà.

(3) Ma tista' tittieħed ebda azzjoni kontra l-Awtorită, l-organi tal-Awtorită, il-membri tal-Bord, uffiċjali u impiegati tal-Awtorită, persuni li jagħtu l-pariri, konsulenti u persuni oħra inkarigati mal-Awtorită dwar xi att jew ommissjoni in konnessjoni ma'dan l-Att jew regolamenti magħmula taħtu, sakemm dak l-att jew ommissjoni jidhru li saru jew li naqsu milli jsiru, skont il-każ, b'mala fede.

TAQSIMA XI

DISPOSIZZJONIJIET FINANZJARJI

Disposizzjoni
jiet tal-Att dwar
l-Amministrazz-
joni
Finanzjarja u l-
Verifika.
Kap. 174.

47. (1) L-Awtorită għandha tkun gvernata bid-disposizzjonijiet tal-Att dwar l-Amministrazzjoni Finanzjarja u l-Verifika, sakemm ma jkunx spċifikat xort'oħra fil-ftehim ta' hidma tal-Awtorita' magħmul bejn is-Segretarju Permanenti u l-Awtorita' kif msemmi fl-artikolu 12(7) f'liema każ ikunu japplikaw id-disposizzjonijiet ta' dan tal-ahħar.

48. (1) Bla īsara għad-disposizzjonijiet li ġejjin ta' dan l-artikolu, l-Awtorità għandha hekk tmexxi l-affarijiet tagħha li daqstant mill-ispiżza meħtieġa għat-twettiq xieraq tal-funzjonijiet tagħha għandha, daqskemm dan ikun possibbli, tinhareg mid-dħul tagħha.

L-infieg tal-Awtorità isir mid-dħul tagħha.

(2) Għall-finijiet tas-subartikolu (1), l-Awtorità, għandha timponi kull dritt, ħlas u pagament iehor preskritt jew meqjus li hu preskritt b'dan l-Att jew taħtu jew taħt xi ligi oħra relatata li tipprovi dwar affarijiet li huma taħt is-setgħat rispettivi u l-funzjonijiet tagħha:

Iżda fejn l-entitajiet huma fdati speċifikament mil-ligi biex jitkolbu drittijiet jew jipponu multi amministrattivi, dawk id-drittijiet u multi għandhom jiġu imposti mill-entitajiet konċernati.

(3) L-Awtorità għandha titħallas ukoll mingħand il-Gvern, mill-Fond Konsolidat, dawk l-ammonti li l-Kamra tad-Deputati, hawnhekk iżżejjed 'il quddiem imsejha "il-Kamra", tista' minn żmien għal żmien tawtorizza li jiġu approprijati sabiex minnhom issir kull nefqa li l-Awtorità tista' jkollha tagħmel u li ma tkunx tista' tinhareg mid-dħul tagħha u l-ispejjeż ta' xogħliljet speċifikati biex dawn jitkomplew jew xort'oħra jsiru minnha, li jkunu xogħliljet ta' infrastruttura jew ta' xorta kapitali simili.

(4) Kull eċċess ta' dħul fuq l-infieg għandu, bla īsara għal dawk id-direttivi li l-Ministru, wara konsultazzjoni mal-Ministru responsabbi għall-Finanzi, jista' jagħmel minn żmien għal żmien, jiġi applikat mill-Awtorità għall-formazzjoni ta' fondi ta' riżerva sabiex dawn jintużaw għall-għanijiet tagħha u bla īsara għall-ġeneralità tas-setgħat mogħtija lill-Ministru b'dan is-subartikolu, kull direttiva li ssir mill-Ministru kif hawn aktar qabel imsemmi tista' tkun tordna t-trasferment lill-Gvern, jew l-applikazzjoni b'dak il-mod kif jista' jiġi speċifikat fid-direttiva, ta' xi parti mid-drittijiet, rati jew ħlasijiet oħra miġbura skont is-subartikolu (2).

(5) Il-flus kollha tal-Awtorità li ma jkunux meħtieġa minnufih biex minnħom issir l-ispiżza jistgħu jiġu investiti b'dak il-mod li jista' jkun approvat minn żmien għal żmien mill-Ministru.

49. (1) Bil-ġħan li tkun tista' twettaq kull funzjoni tagħha skont dan l-Att, l-Awtorità tista', bl-approvazzjoni bil-miktub tal-Ministru, li tingħata wara konsultazzjoni mal-Ministru responsabbi għall-Finanzi, tissellef jew tigħbor flus b'dak il-mod, mingħand dik il-persuna, korp jew awtorità, u taħt dawk it-termini u l-kondizzjonijiet li l-Ministru, wara konsultazzjoni kif imsemmija qabel, jista' jaaprova bil-miktub.

Setgħa li tissellef jew toriġina kapital.

(2) L-Awtorità tista' wkoll, minn żmien għal żmien, tissellef, permezz ta' *overdraft* jew xort oħra, dawk l-ammonti li tista' teħtieg sabiex twettaq il-funzjonijiet tagħha taħt dan l-Att:

Iżda għal kull ammont li jkun jeċċedi l-mija u għoxrin elf euro (€120,000), għandha tingħata l-approvazzjoni tal-Ministru bil-miktub.

Avvanzi mill-Gvern.

50. Il-Ministru responsabbi għall-Finanzi jista', wara konsultazzjoni mal-Ministru, jagħmel avvanzi lill-Awtorità ta' dawk l-ammonti li huwa jista' jaqbel li jkunu meħtieġa mill-Awtorità biex twettaq kull funzjoni tagħha skont dan l-Att, u jista' jagħmel dawk l-avvanzi skont dawk it-termini u l-kondizzjonijiet li huwa jista', wara konsultazzjoni kif imsemmija qabel, iqis li jkunu xierqa. Avvanz bħal dak jista' jsir mill-Ministru responsabbi għall-Finanzi mill-Fond Konsolidat, u mingħajr ebda appoprjazzjoni oħra ħlief dan l-Att, b'ordni bil-miktub, li jawtorizza lill-*Accountant General* biex jagħmel dak l-avvanzi.

Self mingħand il-Gvern.

51. (1) Il-Ministru responsabbi għall-Finanzi jista', għal kull ġtiega tal-Awtorità ta' xorta kapitali, jikkuntratta jew jiġbor kull self, jew jidħol f'passiv, għal dawk il-perjodi u b'dawk it-termini u kondizzjonijiet hekk kif huwa jista' jqis li jkunu xierqa, u kull ammont dovut għar-rigward ta' jew f'konnessjoni ma' xi self jew passiv bħal dak għandu jkun imniżżeel fuq il-Fond Konsolidat.

(2) Avviż dokumentat għandu jitpoġġa fuq il-Meċċa tal-Kamra dwar kull self, passiv jew avvanz magħmul jew li jsir taħt id-dispozizzjonijiet ta' qabel ta' dan l-artikolu kemm jista' jkun prattikabbli malajr.

(3) Sakemm ma jibda jsir il-ġbir ta' xi self bħal dak imsemmi fis-subartikolu (1), jew bil-ġħan li l-Awtorità tiġi pprovduta b'kapital funzjonali, il-Ministru responsabbi għall-Finanzi jista', b'kitba magħmul minnu nnifsu, u mingħajr ebda appoprjazzjoni oħra ħlief dan l-Att, jawtorizza lill-*Accountant General* li jagħmel avvanzi lilha mit-Treasury Clearance Fund taħt dawk it-termini li jistgħu jiġi spċifikati mill-Ministru meta dawn isiru.

(4) Ir-rikavat minn kull self li jingabar bil-ġħan li jsiru avvanzi lill-Awtorità, u kull flejjes oħra li għandhom jiġi avvanzati lill-Awtorità taħt dan l-artikolu, għandhom jitqiegħdu ġewwa fond spċifikament stabbilit għal dak il-ġħan u li jkun magħruf bħala "Fond għal Self lill-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur".

(5) Ammonti li jirċievi l-*Accountant General* mill-Awtorità fir-rigward ta' avvanzi magħmul lilha taħt is-subartikolu (3)

għandhom jithallsu, f'dawk li huma ammonti riċevuti bħala ħlas lura billi jitqiegħdu fit-Treasury Clearance Fund u, f'dawk li huma ammonti riċevuti mill-Accountant General bħala imgħax fuq dawk l-avvanzi billi jitqiegħdu fil-Fond Konsolidat.

52. (1) L-Awtorità għandha tara li jitħejjew f'kull sena finanzjarja, u għandha mhux iktar tard minn erbgħa ġimġħat qabel t-tmiem ta' dik is-sena taddotta, estimi tad-dħul u l-infieq tal-Awtorità għas-sena finanzjarja li tiġi minnufih wara li jiddistingu, b'mod partikolari, bejn kull waħda minn dawk l-entitajiet kif jista' jkun stabbilit taħt id-disposizzjonijiet ta' dan l-Att:

Iżda l-estimi għall-ewwel sena finanzjarja tal-Awtorità għandhom jiġu preparati u addottati f'dak iż-żmien li l-Ministru jista' b'avviż bil-miktub jispeċifika lill-Awtorità.

(2) Fit-thejjija ta' dawk l-estimi, l-Awtorità għandha tieħu kont ta' kull fond u flejjes oħra li jistgħu jkunu dovuti li jithallsu lilha mill-Fond Konsolidat matul is-sena finanzjarja rilevanti, sew bis-saħħha ta' dan l-Att jew ta' Att ta' approprazzjoni jew ta' kull ligi oħra u hija għandha hekk thejji l-imsemmija estimi b'mod li tiżgura li d-dħul totali tagħha huwa mill-inqas suffiċjenti biex minnu jithallas kull ammont li sewwasew għandu jintefaq mill-kont tad-dħul tagħha inkluż, iżda bla hsara għall-ġeneralità ta' dik il-frażi, d-deprezzament.

(3) L-estimi għandhom isiru f'dik l-ghamlu u għandu jkun fihom dik l-informazzjoni u dak it-tqabbil ma' snin ta' qabel hekk kif il-Ministru responsabbli għall-Finanzi jista' jordna.

(4) Kopja tal-estimi għandha, meta dawn jiġu adottati mill-Awtorità, tintbagħha minnufih lill-Ministru u lill-Ministru responsabbli għall-Finanzi.

(5) Il-Ministru għandu, mal-ewwel opportunità, u mhux iktar tard minn sitt ġimġħat wara li jkun irċieva kopja tal-estimi mill-Awtorità, jaaprova hom bl-emendi jew mingħajrhom wara konsultazzjoni mal-Ministru responsabbli għall-Finanzi.

53. (1) M'għandha ssir jew tiġġarrab ebda nefqa mill-Awtorità kemm-il darba ma tkun saret l-ebda disposizzjoni fl-estimi approvati kif provdut fl-artikolu 52.

(2) Mingħajr hsara għad-disposizzjonijiet tas-subartikolu (1):-

(a) sakemm jiskadi l-perjodu ta' sitt xħur mill-bidu ta' sena finanzjarja, jew sakemm issir l-approvazzjoni tal-estimi għal dik is-sena, skont liema data tigi l-ewwel, l-Awtorità tista' tagħmel jew iġġarrab spiżza għat-twettiq tal-funzjonijiet tagħha

taħt dan l-Att li ma tkunx globalment iżjed min-nofs l-ammont approvat mill-Ministru għas-sena finanzjarja precedenti;

(b) in-nefqa approvata għar-rigward ta' intestatura jew subintestatura tal-estimi tista', bl-approvazzjoni tal-Ministru, li tingħata wara konsultazzjoni mal-Ministru responsabbli ghall-Finanzi, issir jew tiġgarrab fir-rigward ta' xi intestatura jew subintestatura oħra tal-estimi;

(c) dwar l-ewwel sena finanzjarja, l-Awtorità tista' tidħol għal nefqa sakemm l-estimi għal dik is-sena jiġu approvati, liema nefqa ma tkunx iżjed fit-total minn dawk l-ammonti li l-Ministru responsabbli għall-finanzi jista', wara konsultazzjoni mal-Ministru jippermetti; u

(d) jekk fir-rigward ta' xi sena finanzjarja jinstab li l-ammont approvat fl-estimi ma jkunx suffiċjenti jew inkella tkun inqalghet ħtiega għal nefqa rigward għan li ma jkunx hekk provdut fl-estimi, l-Awtorità tista' taddotta estimi supplimentari għall-approvazzjoni tal-Ministru, u f'kull każ bħal dak id-disposizzjonijiet ta' dan l-Att applikabbli għall-estimi għandhom kemm jista' ikun japplikaw għall-estimi supplimentari.

Pubblikazzjoni
tal-estimi
approvati.

54. Il-Ministru jista', mal-ewwel opportunità u mhux iktar tard minn tmien ġimħat wara li jkun rċieva kopja tal-estimi u tal-estimi supplimentari tal-Awtorità, jew jekk f'xi żmien waqt dak il-perjodu l-Kamra ma tkunx qiegħda f'sessjoni, fi żmien tmien ġimħat mill-bidu tas-sessjoni li minnufih tmiss wara, għandu jara illi dawk l-estimi jitqiegħdu fuq il-Mejda tal-Kamra.

Kontijiet u
verifika.

55. (1) L-Awtorità għandha tara li jinżammu kontijiet u *records* oħra kif imiss dwar tal-operazzjonijiet tagħha, u għandha tara li jitħejja prospett ta' kontijiet dwar kull sena finanzjarja.

(2) Il-kontijiet tal-Awtorità għandhom jiġu verifikati minn awditur jew awduri li jinħatru mill-Awtorità u bl-approvazzjoni tal-Ministru responsabbli għall-finanzi u barra minn hekk ikunu soġġetti għal skrutinju mill-Monitoring Unit tal-Immaniġġjar Finanzjarju, u għall-verifika mid-Direttorat għall-Auditjar Intern u l-Investigazzjonijiet u mill-Auditur Ģenerali, skont il-każ.

(3) Mhux aktar tard minn sitt ġimħat mit-tmiem ta' kull sena finanzjarja, l-Awtorità għandha tippreżenta lill-Ministru permezz tas-Segretarju Permanenti, dikjarazzjoni tal-kontijiet verifikata flimkien ma' kopja ta' kull rapport magħmul mill-awditur fuq dak il-prospett jew il-kontijiet tal-Awtorità.

(4) Il-Ministru għandu jara li kopja ta' dik id-dikjazzjoni u rapport jitqiegħdu fuq il-Mejda tal-Kamra mhux aktar tard minn sitt ġimġhat wara li jiġu rċevuti jew, meta l-Kamra ma tkunx f'sessjoni, mhux aktar tard mit-tieni ġimġha li l-Kamra terġa tibda s-seduti.

56. (1) Il-flus kollha tal-Awtorità għandhom jitqiegħdu f'bank jew banek nominati bħala bankiera tal-Awtorità permezz ta' riżoluzzjoni tal-Awtorità. Dawk il-flus għandhom, sa kemm ikun prattiku, jitqiegħdu f'dawk il-banek minn jum ghall-jum, ħlief dak l-ammont li l-Awtorità tista' tawtorizza li għandu jinżamm sabiex isiru nefqiet żgħar minnu u ħlasijiet ta' flus likwidi immedjati.

Depožitu tad-dħul u ħlasijiet li jsiru mill-Awtorità.

(2) Kull ħlas mill-fondi tal-Awtorità, minbarra nefqiet żgħar li ma jkunux jaqbżu ammont stabbilit mill-Awtorità, għandhom isiru minn dak l-uffiċċjal jew dawk l-uffiċċjali tal-Awtorità li hija taħtar jew tinnomina għal dak l-għan.

(3) Ċekkijiet li jinħarġu fuq, u żbanki li jsiru minn, xi kont tal-bank tal-Awtorità għandhom ikunu iffirmsi minn dak l-uffiċċjal ta' hekk kif jista' jīgi maħtur jew nominat mill-Awtorità għal dak il-għan u għandhom ikunu kontroiffirmsi miċ-*Chairman* jew dak il-membru jew uffiċċjal ieħor awtorizzat mill-Awtorità għal dak l-għan.

(4) L-Awtorità għandha wkoll tagħmel disposizzjonijiet dwar:-

(a) il-mod ta' kif il-ħlasijiet għandhom jiġu awtorizzati jew approvati u l-uffiċċjal jew uffiċċjali li għandhom jawtorizzawhom jew japprovawhom;

(b) it-titolu ta' kull kont miżsum f'bank jew banek fejn jiġu depożitati l-flus tagħha, u t-trasferiment ta' fondi minn kont għall-ieħor; u

(c) il-metodu li għandu jiġi adottat meta jkun qed jithallsu flus mill-fondi tagħha, u ġeneralment dwar kull haġa li hi rilevanti għaż-żamma u l-kontroll xieraq tal-kontijiet u l-kotba u l-kontroll tal-finanzi tagħha.

57. L-Awtorità m'għandhiex tagħti jew tidħol f'xi kuntratt għall-ġhoti ta' ogġetti jew materjali jew għall-esekuzzjoni ta' xogħliji, jew għall-ġhoti ta' servizzi, lil jew għall-benefiċċju tal-Awtorità, ħlief skont ir-regolamenti fis-seħħi li jirregolaw l-akkwist ta' ogġetti u servizzi fis-settur pubbliku.

Kuntratti ta' provvista ta' xogħliji.

58. L-Awtorità għandha, mhux aktar tard minn sitt ġimġhat wara t-tmiem ta' kull sena finanzjarja, tippreżenta lill-Ministru permezz tas-Segretarju Permanenti rapport ġenerali dwar l-attivitàjet

Rapport Annwali.

tal-Awtorità matul dik is-sena finanzjarja, li jiddistingwi, b'mod partikolari, bejn kull waħda mill-entitajiet hekk kif jiġi mwaqqfa taħt id-disposizzjonijiet ta' dan l-Att u li jkun fih dik l-informazzjoni dwar il-proċeduri u l-politika tal-Awtorità kif il-Ministru jista' minn żmien għal żmien jehtieg.

Tqegħid tar-Rapport Annwali quddiem il-Kamra.

Trasferiment ta' attiv lill-Awtorità.

59. Il-Ministru għandu jara li kopja tar-rapport ippreżentat lilu skont l-artikolu 58 titqiegħed fuq il-Mejda tal-Kamra mhux aktar tard minn sitt ġimħat wara li jiġi rċevut jew, meta l-Kamra ma tkunx f'sessjoni, mhux aktar tard mit-tieni ġimgħa li l-Kamra terġa' tibda seduti.

TAQSIMA XII TRASFERIMENT TA' ĊERTU PROPRJETA' LILL-AWTORITÀ

60. (1) (a) Il-proprietà u intrapriżi tad-Dipartiment tal-Konsumatur u tal-Kompetizzjoni, tal-Awtorità Maltija dwar l-iStandards u tal-Kumpannija b'responsabilità limitata tal-Laboratorju Nazzjonali ta' Malta, u wżati minn xi wieħed minnhom, minnufi qabel id-data tad-dħul fis-seħħ ta' din it-TaqSIMA ta' dan l-Att, jew ta' proprietà tal-Gvern, u użati minn xi wieħed mill-imsemmija Dipartiment, Awtorità jew Kumpannija fit-twettiq ta' xi waħda mill-funzjonijiet li b'dan l-Att qed jiġi trasferiti lil jew vestiti fl-Awtorità għandhom, fid-data fuq imsemmija, bis-saħħha ta' dan l-Att u mingħajr ebda assikurazzjoni oħra, jiġi trasferiti lil u jkunu vestiti fl-Awtorità taħt l-istess titolu li bih kienu wżati jew miżmuma mill-imsemmija Dipartiment, Awtorità jew Kumpannija minnufi qabel l-imsemmija data.

(b) L-attiv immobбли minn żmien għal żmien spċifikat f'ordni magħmula mill-President ta' Malta u ppubblikata fil-Gazzetta, hawn iżjed 'il quddiem imsejjha "l-attiv immobibli", li jkun attiv immobibli li, minnufi qabel id-dħul fis-seħħ ta' din it-TaqSIMA, kien proprietà tal-Gvern u minnu użat għat-ħaddim tal-funzjonijiet li b'dan l-Att qed jiġi trasferiti lill-Awtorità jew vestiti fiha għandhom, b'seħħ minn dik il-ġurnata li tista' tkun spċifikata f'xi ordni bħal dik, u bis-saħħha ta' dan l-Att u mingħajr ebda assigurazzjoni oħra, jkunu trasferiti lill-Awtorità u vestiti fiha b'dak it-titolu li bih kienu miżmuma mill-Gvern minnufi qabel dik id-data.

(2) It-trasferiment u l-vestiment hawn qabel imsemmija għandhom jestendu għal dik il-proprietà u dawk l-intrapriżi kollha kemm huma u, bla ħsara ghall-ġeneralità hawn qabel imsemmija, għandhom jinkludu kull impjant, tagħmir, apparat, strument, vettura, ingenu, bini, struttura, stallazzjoni, art, xogħol, hażna u proprietà oħra, mobbli jew immobibli, attiv, setgħa, jedd u privileġġ u kull ħaġa meħtieġa jew ancillari għal dawn, li jkunu qiegħdin jinżammu jew

jiġu gawduti f'konnessjoni magħhom jew li jkunu jappartjenu lilhom, kif ukoll kull obbligazzjoni li taffettwa jew tkun konnessa ma' xi proprjetà jew intrapriżi hawn qabel imsemmija jew xi haġa oħra fihom inkluża kif hawn qabel imsemmija.

61. (1) Bla īxsara għad-disposizzjonijiet ta' dan l-Att, kull ligi, regola, regolament, ordni, sentenza, digriet, deċiżjoni, att, titolu, kuntratt, ftehim, strument, dokument, mandat u arrangiament iehor, li jkun jeżisti minnufih qabel id-data tad-dħul fis-seħħ ta' din it-Taqsima, li jaffettwa jew ikun konness ma' xi waħda mill-proprjetajiet jew intrapriżi trasferiti lill-Awtoritā b'dan l-Att jew tahtu u li fihom il-Gvern jew l-awtoritā tal-Gvern jkunu parti jew imsemmija, għandu jkollu kull seħħ u effett kontra jew favur l-Awtoritā, u għandu jkun infurzabbli liberament u effettivament, bħallikieku minflok il-Gvern jew l-awtoritā tal-Gvern, kien hemm imsemmi jew kien hemm parti fih l-Awtoritā, u hekk ukoll fis-sostituzzjoni tal-Gvern jew l-awtoritā tal-Gvern.

Kif jiftieħmu l-ligijiet u affarrijiet oħra relatati.

(2) Kull referenza f'xi ligi għall-Uffiċċju għall-Kompetizzjoni ġusta, Dipartiment tal-Affarijet tal-Konsumatur, Dipartiment tal-Kompetizzjoni u tal-Konsumatur, Awtoritā Maltija dwar l-iStandards u l-Kumpannija b'responsabilità limitata tal-Laboratorju Nazzjonali ta' Malta għandha tingara u tiftiehem bhala riferenza għall-Awtoritā u, jew għal xi waħda mill-entitajiet skont ma tista' titwaqqaf taħt dan l-Att, skont kif il-każ iż-ikun jinħtieg.

62. (1) Meta xi haġa tkun inbdiet minn jew taħt l-awtoritā tal-Gvern, id-Dipartiment tal-Kompetizzjoni u tal-Konsumatur, l-Awtoritā Maltija dwar l-iStandards u l-Kumpannija b'responsabbiltà limitata tal-Laboratorju Nazzjonali ta' Malta qabel id-data tad-dħul fis-seħħ ta' din it-Taqsima, u dik il-ħaġa jkollha x'taqsam ma' xi proprjetajiet jew intrapriżi jew xi dritt jew responsabbiltà trasferita lill-Awtoritā b'dan l-Att jew taħtu, dik il-ħaġa tista' tkompli titwettaq u tintemm mill-Awtoritā jew kif awtorizzat minnha.

Disposizzjonijiet Tranżitorji.

(2) Meta, minnufih qabel id-dħul fis-seħħ ta' din it-Taqsima ta' dan l-Att, ikun hemm pendi xi proċeduri legali li fihom il-Gvern, id-Dipartiment tal-Kompetizzjoni u tal-Konsumatur, l-Awtoritā Maltija dwar l-iStandards u l-Kumpannija b'responsabbiltà limitata tal-Laboratorju Nazzjonali ta' Malta jkunu jew huma intitolati li jkunu parti, u dawk il-proċeduri jkollhom x'jaqsmu ma' xi waħda mill-proprjetajiet jew intrapriżi, jew ma' xi dritt jew piż trasferiti bi jew taħt dan l-Att, l-Awtoritā għandha, sa mid-data hawn fuq imsemmija, tigi sostitwita f'dawk il-proċeduri minflok il-Gvern jew l-imsemmija Dipartiment, Awtoritā jew Kumpannija, skont il-każ, jew għandha tintgħamel parti fihom bl-istess mod kif il-Gvern, kull Dipartiment, Awtoritā jew Kumpannija bħal dawk setgħu

jagħmlu parti kif hawn imsemmi hawn fuq, u dawk il-proċeduri m'għandhomx jieqfu minħabba s-sostituzzjoni.

(3) Il-Ministru jista', permezz ta' ordni, jagħmel dawk id-disposizzjonijiet incidental, konsegwenzjali u supplementali li huwa jista' jqis meħtiega jew spedjenti għall-fini li jiddetermina, kif imiss, l-attiv trasferit lill-Awtorità b'dan l-Att u jiġgura u jagħti kull effett lit-trasferiment ta' proprjetà jew intraprija jew lil kull dritt jew responsabbiltà lill-Awtorità b'dan l-Att u jagħmel dawk l-ordnijiet li jistgħu jkunu meħtiega sabiex jagħmel kull setgħa u dmir eżerċitabbi mill-Gvern, id-Dipartiment tal-Kompetizzjoni u tal-Konsumatur, l-Awtorità Maltija dwar l-iStandards u l-Kumpannija b'responsabbilità limitata tal-Laboratorju Nazzjonali ta' Malta fir-rigward ta' xi proprjetà jew intraprija trasferiti eżerċitabbi minn jew f'isem l-Awtorità.

TAQSIMA XIII MIXXELLANJI

Persuni li jitqiesu bhala ufficjali pubblici.
Kap. 9.

Servizz ta' atti tal-Awtorità.

Kap. 378.
Kap. 379.

63. Għall-finijiet tal-Kodiċi Kriminali u ta' kull disposizzjoni oħra ta' xorta penali f'xi ligi oħra, il-membri tal-Bord, ufficjali u impiegati tal-Awtorità, għandhom jitqiesu li huma ufficjali pubblici.

64. (1) Għall-finijiet ta' dan l-artikolu "atti" tfisser kull talba għal informazzjoni, miżura, ordni, direzzjoni, stqarrija, deċiżjoni jew forom oħra ta' komunikazzjoni maħruġa mill-Awtorità.

(2) Meta l-Awtorità tkun meħtiega li, jew tiddeċiedi li, tinnotifika l-atti tagħha taħt dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijet tal-Konsumatur jew taħt xi Att ieħor, jew regolamenti oħra magħmula taħthom, hija għandha tagħmel hekk b'xi wieħed mill-metodi li ġejjin:

(a) billi jiġi ikkunsinnat lill-persuna jew jithalla fl-indirizz fejn il-persuna tkun soltu toqgħod jew fejn ikollha n-negozju jew fil-post tax-xogħol jew fl-indirizz postali tagħha f'idejn xi membru tal-familja tagħha jew tad-dar jew f'idejn xi persuna fis-servizz tagħha jew il-prokuratur tagħha jew persuna awtorizzata minnha biex tirċievi l-posta tagħha:

Iżda, il-kopja ma tistgħax tithallha f'idejn persuni ta' età anqas minn erbatax-il sena, jew f'idejn persuna li, minħabba mard tal-moħħ, ma tistgħax tagħti xieħda ta' dik in-notifika. Persuna titqies li hija kapaċi li tagħti dik ix-xieħda, sakemm ma jiġix ippruvat il-kuntrarju; u n-notifika ma tistax tiġi attakkata bħala irregolari, għal waħda minn dawk ir-raġunijiet, jekk jinsab illi fil-fatt il-kopja tkun waslet f'idejn il-

persuna li lilha kellha tkun innotifikata:

Iżda wkoll meta persuna li lilha jkun indirizzat att tirrifjuta li tirċevieh personalment mingħand uffiċjal tal-Awtoritā, it-Tribunal tal-Appell jista' fuq applikazzjoni tal-Awtoritā u wara li jisma' l-uffiċjal tal-Awtoritā u wara li jikkonsidra ċ-ċirkostanzi kollha tal-incident, jiddikjara li servizz ikun sar lil dik il-persuna fil-ġurnata u l-ħin tar-rifjut u tali dikjarazzjoni għandha titqies bħala prova tas-servizz għall-finijiet u l-effetti kollha tal-ligi;

(b) billi jintbagħat bil-posta registrata lill-persuna fl-indirizz fejn hi tkun soltu toqghod jew ikollha n-negozju tagħha;

(c) jekk ikun ingħata indirizz għas-servizz ta' atti mill-persuna, billi dan jithalla, jew jintbagħat bil-posta registrata indirizzat lill-persuna f'dak l-indirizz; jew

(d) f'kull każ fejn l-Awtoritā tqis li l-kunsinna minnufih tal-att ikun meħtieg, billi jintbagħat, permezz ta' makna *facsimile* jew bil-posta elettronika, f'apparat jew faċilità għar-reċeżżjoni ta' *facsimiles* jew posta elettronika li tkun tinsab fl-indirizz fejn il-persuna tkun soltu toqghod jew ikollha n-negozju tagħha jew, jekk ikun ingħata indirizz għan-notifikasi ta' atti mill-persuna, f'dak l-indirizz, kemm-il darba l-makna *facsimile* tal-Awtoritā tiġġenera messaġġ li jkun jikkonferma li t-trasmissjoni tkun ghaddiet b'success għal dak li hu l-ghadd totali ta' paġni tal-avviż jew inkella l-faċilità tal-Awtoritā għar-reċeżżjoni ta' posta elettronika tiġġenera messaġġ li jkun jikkonferma li l-posta elettronika tkun ġiet riċevuta:

Iżda d-disposizzjonijiet tal-paragrafu (d) m'għandhomx jaapplikaw għan-notifikasi ta' dokumenti pprezentati quddiem it-Tribunal tal-Appell jew xi qorti.

(3) Jekk mir-riferta tal-impjegat inkarigat minn servizz tal-att jinstab li l-persuna li għandha tīgħi notifikasi bl-att, għalkemm ma tirriżultax li qiegħda barra minn Malta u d-dħul fil-post tar-residenza tagħha ma jkunx jista' jsir, jew il-post tar-residenza tagħha ma jkunx magħruf, it-Tribunal tal-Appell, jista' wara applikazzjoni mill-Awtoritā, jordna illi n-notifikasi ssir billi titwaħħal kopja tal-att fil-post, fil-belt jew fid-distrett fejn soltu jitwaħħlu l-atti uffiċjali, u billi jiġi ppubblikat dak l-avviż fil-qosor fil-Gazzetta u f'ġurnal ta' kuljum wieħed jew iktar minn wieħed skont kif it-Tribunal tal-Appell jiddeċiedi u, meta jkun possibbli, jekk il-post tar-residenza jkun magħruf, billi titwaħħal kopja tal-avviż mal-bieb ta' dik ir-residenza. It-Tribunal tal-Appell jista' wkoll jaddotta dawk il-miżuri ohra li

jkunu jidhrulu xierqa sabiex l-att issir taf bih il-persuna li lilha għandu ikun notifikat. F'dawk il-każijiet is-servizz għandu jitqies li jkun sar fit-tielet ġurnata tax-xogħol wara l-aħħar data meta tkun għet ppubblikata jew minn meta tkun twaħħlet il-kopja, skont liema tiġi l-aktar tard. F'każijiet meta s-servizz ikun ġie ornat li jsir b'urgenza, is-servizz jitqies li jkun sar f'dak iż-żmien speċifiku, wara t-twaħħil jew il-pubblikazzjoni skont kif it-Tribunal tal-Appell jista' jistabbilixxi, liema żmien għandu jissemma fl-istess pubblikazzjoni jew twaħħil.

(4) Fil-każ ta' korp li jkollu personalità ġuridika distinta, in-notifika lil dak il-korp għandha ssir billi tithalla kopja tal-att:

(a) fl-uffiċċju registrat, fl-uffiċċju principali tieghu, jew fil-post tan-negożju jew fl-indirizz postali ta' xi persuna jew persuni vestiti bir-rappreżentazzjoni legali jew ġuridika jew f'idejn is-segretarju tal-kumpannija jew impjegat ta' dak il-korp; jew

(b) f'idejn persuna jew persuni vestiti bir-rappreżentazzjoni legali jew ġuridika tagħha jew segretarju tal-kumpannija bil-mod provdut fis-subartikolu (2).

(5) Id-disposizzjonijiet ta' dan l-artikolu għandu wkoll japplika fir-rigward tan-notifika ta' att maħruġa mill-entitajiet tal-Awtorità taħt dan l-Att jew xi ligi oħra infurzata minnhom.

Setgħa tal-Ministru li jagħmel regolamenti.

65. (1) Il-Ministru jista', wara konsultazzjoni mal-Bord, kif ikun il-każ, minn żmien għal żmien jagħmel regolamenti:

(a) li jippreskrivu drittijiet jew ħlasijiet li jistgħu jingabru mill-Awtorità taħt dan l-Att jew xi Att ieħor, jew regolamenti magħmul taħthom u amministrati minnha;

(b) li jipprovdu ghall-metodi addizzjonali għat-twettiq ta' servizz tal-atti tal-Awtorità jew għat-tibdil jew tneħħija ta' xi waħda mill-metodi preskritti taħt l-artikolu 64;

(c) b'mod ġenerali għat-tmexxija aħjar tal-ghanijiet u finijiet ta' dan l-Att, jew kull Att ieħor, jew regolamenti magħmul taħthom amministrat mill-Awtorità;

(d) li jippreskrivu l-marka jew is-simbolu li għandu jintuża biex jindika konformità ma' xi *standard*, regolamenti tekniċi u kodiċi ta' prattika kif indikat fl-artikolu 24;

(e) li jippreskrivu l-mod u l-forma kif għandha ssir applikazzjoni għal marka ta' konformità, it-tagħrif li tali

applikazzjoni għandu jkollha, u d-drittijiet li għandhom jithallsu dwarha;

(f) li jippreskrivu l-mod u l-forma kif għandhom jinħarġu l-permessi mill-Awtoritā u d-drittijiet li għandhom jithallsu dwarhom;

(g) li jipprovdu dwar il-pubblikazzjoni ta' abbozzi ta' *standards* u l-mod kif il-pubbliku jista' jressaq l-ilmenti tiegħu dwarhom lill-Awtoritā; u

(h) li jippreskrivu kull ħażja li tkun jew li tista' tiġi preskritta taħt dan l-Att jew xi Att ieħor, jew regolamenti magħmula taħthom applikati mill-Awtoritā.

(2) Minkejja kull disposizzjoni f'xi Att ieħor jew regolamenti, meta l-Ministru taħt Att bħal dak jew regolamenti jkollu s-setgħa li jagħmel regolamenti dwar kwistjonijiet li jaqgħu taħt il-kompetenza tal-Awtoritā, il-Ministru għandu, mingħajr īxsara għal xi konsultazzjoni oħra meħtieġa taħt Att bħal dak jew regolamenti, jikkonsulta mal-Bord.

66. (1) Għandhom jitwaqqfu id-Direttorati kif elenkti fir-Raba' Skeda, li jkollhom ir-responsabbiltajiet kif hemm deskritti. Il-Ministru jista', wara li jikkonsulta lill-Bord, b'Ordni fil-Gazzetta, jabolixxi xi wieħed jew aktar minn dawk id-Direttorati, ivarja r-responsabbiltajiet tagħhom u jwaqqaf dak id-Direttorat ieħor kif jista' minn żmien għal żmien iqis neċessarju:

Twaqqif tad-Direttorati.

Iżda l-Bord jista', b'mod temporanju jew għall-fini speċifika, jawtorizza lid-Direttur Ģenerali li jkun imexxi lill-entità konċernata, li jippermetti li funzjoni partikolari ta' waħda mid-Direttorati tiġi mwettqa minn Direttorat ieħor fi ħdan l-istess entità, jekk ikun spedjenti għall-eżeċizzju xieraq ta' dik il-funzjoni jew għal dak il-għan speċifiku.

(2) Kull Direttorat, hekk imwaqqaf, għandu jkun immexxi minn persuna li jkollha kwalifikasi professjonal i rikonoxxuti u esperjenza fil-qasam tal-operat ta' dak id-Direttorat u li għandu jinħatar mill-Bord, wara konsultazzjoni mal-Ministru, għal żmien ta' tliet snin u dak iż-żmien jista' jiġi mtawwal għal perjodi itwal ta' tliet snin kull wieħed:

Iżda l-ewwel kap ta' kull Direttorat għandu jkun maħtur mill-Ministru.

(3) Id-Direttur Ģenerali ta' kull entità rispettiva għandu -

(a) bla īhsara għall-artikolu 5(4), jassumi r-responsabbiltà kollha tas-superviżjoni u kontroll ġenerali tad-Direttorati fi ħdan dik l-entità;

(b) jagħti lil kull Direttorat fi ħdan dik l-entità dawk id-dmirijiet li huma skont jew bid-disposizzjonijiet ta' dan l-Att vestiti f'kull Direttorat; u

(c) jikkordina x-xogħlijiet tad-Direttorati fi ħdan dik l-entità.

Responsabili
tajjebi tħalli
tad-Direttorati.

67. Fil-qadi tar-responsabbiltajiet tagħhom, id-Direttorati għandhom jassistu lid-Direttur Ĝenerali tal-entità konċernata biex jwettqu r-responsabbiltajiet ta' dik l-entità b'mod effettiv u effiċjenti fil-qasam tal-operat rispettiv tagħhom.

Lingwa tar-regolamenti.

68. (1) Regolamenti li jeħtieġu jsiru taħt xi disposizzjoni ta' dan l-Att jistgħu jsiru bl-ilsien Ingliz biss meta l-użu tal-ilsien Malti jkun diffiċċli minħabba fit-terminoloġija teknika adottata.

(2) F'każ ta' konflitt jew inkompatibilità bejn it-test Malti u t-test Ingliz ta' xi regolamenti magħmulin taħt dan l-Att, għandha tipprevali l-verżjoni tat-test Ingliz.

Multi
amministrattivi.
Kap. 12.

69. Kull multa amministrattiva li għandha tithallas lill-Awtorită tkun tista' tingabar bhala dejn ċivili minnha u tikkostitwixxi titolu eżekuttiv għall-finijiet u l-effetti kollha tat-Titolu VII tat-Taqsima I tat-Tieni Ktiegħi tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Disposizzjonijiet
Tranzitorji dwar
l-Att dwar il-Kompetizzjoni u
l-Att dwar l-Affarijiet tal-Konsumatur.
Kap. 379.
Kap. 378.

70. (1) Id-disposizzjonijiet tal-Att dwar il-Kompetizzjoni u tal-Att dwar l-Affarijiet tal-Konsumatur li kienu jeżistu qabel id-dħul fis-seħħ ta' dan l-Att għandhom ikomplu japplikaw, kif ikun il-każ, għal kull:

(a) investigazzjoni pendenti fid-data tad-dħul fis-seħħ ta' dan l-Att quddiem id-Direttur tal-Uffiċċju għall-Kompetizzjoni Ĝusta u d-Direttur tal-Affarijiet tal-Konsumatur, it-tnejn kif sostitwiti mid-Direttur Ĝenerali (Kompetizzjoni) u d-Direttur Ĝenerali (Affarijiet tal-Konsumatur) b'dan l-Att;

(b) proċedura pendenti fid-data tad-dħul fis-seħħ ta' dan l-Att quddiem il-Kummissjoni għall-Kompetizzjoni Ĝusta u l-Bord tal-Appell għall-Affarijiet tal-Konsumatur, it-tnejn kif sostitwiti mit-Tribunal tal-Appell, it-Tribunal għal Talbiet ta' Konsumaturi u l-qrat; u

(c) deċiżjoni u sentenza li ma jkunux *res judicata* fid-

data tad-dħul fis-seħħ ta' dan l-Att.

(2) Mingħajr ħsara għall-artikolu 27A(10)(c) tal-Att dwar il-Kompetizzjoni, fil-każ ta' ksur tal-Att dwar il-Kompetizzjoni, tal-Artikoli 101 u, jew 102 tat-TFUE jew tal-Att dwar l-Affarijiet tal-Konsumatur, li seħħew qabel id-dħul fis-seħħ ta' dan l-Att imma li dwarhom ma nbdiet l-ebda investigazzjoni mid-Direttur tal-Uffiċċju għall-Kompetizzjoni Ĝusta, mill-Kummissjoni Ewropea, minn awtorità kompetenti nazzjonali u mid-Direttur tal-Affarijiet tal-Konsumatur, u l-ebda proċeduri ma nbdew quddiem l-qratu ordinarji jew it-Tribunal għal Talbiet ta' Konsumaturi, id-disposizzjonijiet ta' dan l-Att u d-disposizzjonijiet tal-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur kif emendati b'dan l-Att, għandhom japplikaw:

Iżda fir-rigward tal-applikazzjoni ta' mizuri ta' xorta punittiva taħt l-Att dwar il-Kompetizzjoni, l-intrapriża konċernata għandu jkollha l-opportunita' li tagħżel jekk jiġux applikati l-mizuri fis-seħħ qabel id-dħul fis-seħħ ta' dan l-Att jew il-mizuri provduti f'dan l-Att:

Iżda wkoll la darba l-intrapriża konċernata tkun ikkomunikat l-għażla tagħha, id-deċiżjoni tagħha tkun finali.

(3) Għall-finijiet tas-subartikolu (1)(b) it-Tribunal tal-Appell għandu jkun vestit bis-setgħat:

(a) tal-Kummissjoni għall-Kummer Ĝust kif provdut fl-Att dwar il-Kompetizzjoni qabel id-dħul fis-seħħ ta' dan l-Att; u

Kap. 378.

(b) tal-Bord tal-Appell għall-Affarijiet tal-Konsumatur kif provdut fl-Att dwar l-Affarijiet tal-Konsumatur qabel id-dħul fis-seħħ ta' dan l-Att.

(4) Għall-finijiet tas-subartikolu (1)(a) id-Direttur Ĝenerali (Kompetizzjoni) ikun vestit bis-setgħat tad-Direttur tal-Uffiċċju għall-Kompetizzjoni Ĝusta kif provdut fl-Att dwar il-Kompetizzjoni qabel id-dħul fis-seħħ ta' dan l-Att.

(5) Għall-finijiet tas-subartikolu (1)(a) id-Direttur Ĝenerali (Affarijiet tal-Konsumatur) ikun vestit bis-setgħat tad-Direttur għall-Affarijiet tal-Konsumatur kif provdut fl-Att dwar l-Affarijiet tal-Konsumatur qabel id-dħul fis-seħħ ta' dan l-Att.

71. Ir-regolamenti magħmula taħt l-Att dwar l-Awtorità Maltija dwar l-iStandards għandhom jibqgħu fis-seħħ bħallikieku magħmula taħt id-disposizzjonijiet ta' dan l-Att u jistgħu jiġu

Regolamenti.
Kap. 419.

emendati u revokati skont hekk.

Standards
nazzjonali.

72. *Standards nazzjonali għandhom ikunu nominati bħala SM XXX:YYYY, fejn XXX huwa numru integer u YYYY hija s-sena tal-adozzjoni.*

TAQSIMA XIV

EMENDI TAL-ATT DWAR L-AFFARIJET TAL-KONSUMATUR

(KAP. 378.)

Emenda tal-Att
dwar l-Affarijiet
tal-Konsumatur.
Kap. 378.

Emenda tat-
titolu twil tal-
Att prinċipali.

73. (1) Din it-TaqSIMA temenda l-Att dwar l-Affarijiet tal-Konsumatur, u għandha tinqara u tiftiehem ħaġa waħda mal-Att dwar l-Affarijiet tal-Konsumatur, minn hawn iżjed 'il quddiem f'din it-TaqSIMA msejjah "l-Att prinċipali".

(2) It-titlu twil tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Biex jipprovd i-ghas-setgħat tad-Direttur Ĝeneral (Affarijiet tal-Konsumatur), għat-twaqqif u l-funzjonijiet ta' Kunsill għall-Affarijiet tal-Konsumatur u għat-twaqqif u l-kompetenza tat-Tribunal għat-Talbiet tal-Konsumatur u għal-hwejjeg ancillari jew konsegwenti għalihom.".

Emenda tat-
Taqsimiet II u
XII tat-taqsim
tal-Att prinċipali

74. It-TaqSIMA tal-Att għandu jiġi emendat kif ġej:

(a) minflok il-kliem "TAQSIMA II. Direttur għall-Affarijiet tal-Konsumatur u Kunsill għall-Affarijiet tal-Konsumatur 3-15" għandhom jiġu sostitwiti l-kliem "TAQSIMA II. Direttur Ĝeneral (Affarijiet tal-Konsumatur) u Kunsill għall-Affarijiet tal-Konsumatur 3-15";

(b) il-kliem "TAQSIMA XII. Bord ta' l-Appell għall-Affarijiet tal-Konsumatur 110A-110G" għandhom jiġu mħassra; u

(c) minflok il-kliem "TAQSIMA XIII. Mixxellanji 111" għandhom jiġu sostitwiti l-kliem "TAQSIMA XII. Mixxellanji 111".

Emenda tal-
artikolu 2 tal-
Att priċipali.

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

(a) it-tifsira "Bord ta' l-Appell" għandha tīgi mħassra;

(b) minnufih wara t-tifsira "Stat Membru" għandha tidħol din it-tifsira ġidida li ġejja:

" "Tribunal tal-Appell" tfisser it-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur kif

imwaqqaf bl-artikolu 31 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;";

- (c) it-tifsira "Dipartiment" għandha tiġi mhassra;
- (d) it-tifsira "Direttur" għandha tiġi sostitwita b' dan li ġej:

" "id-Direttur Ģenerali" tfisser id-Direttur Ģenerali (Affarijiet tal-Konsumatur) kif maħtur bl-artikolu 16 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;";

u kull fejn tidher il-kelma "Direttur" fl-Att prinċipali din għandha tiġi sostitwita bil-kelma "Direttur Ģenerali";

- (e) minnufih qabel it-tifsira "Direttur Ģenerali" għandha tidħol din it-tifsira ġdida li ġejja:

" "il-Bord" tfisser il-Bord tal-Gvernaturi kif mwaqqfa bl-artikolu 8 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;";

- (f) minnufih qabel it-tifsira ġdida "il-Bord" għandha tidħol din it-tifsira ġdida li ġejja:

" "awtorità pubblika" għandu jkollha l-istess tifsira kif mogħtija lilha fl-artikolu 2 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;";

- (g) minnufih qabel it-tifsira ġdida "awtorità pubblika" għandha tidħol din it-tifsira ġdida li ġejja:

" "Awtorità" tfisser l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur kif imwaqqfa bl-artikolu 3 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;"; u

- (h) minnufih wara t-tifsira "Tribunal tal-Appell" għandha tidħol din it-tifsira ġdida li ġejja:

" "l-Uffiċċju" tfisser l-Uffiċċju għall-Affarijiet tal-Konsumatur kif imwaqqaf taht l-artikolu 16(1) tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u

għall-Affarijet tal-Konsumatur".

Emenda tat-titulu ta' Taqsima II tal-Att principali.

76. It-Titolu tat-Taqsima II tal-Att principali għandu jiġi sostitwit b'dan li ġej:-

"Direttur Ĝeneral (Affarijet tal-Konsumatur) u l-Kunsill tal-Affarijet tal-Konsumatur".

Sostituzzjoni tal-artikolu 3 tal-Att principali

77. Minflok l-artikolu 3 tal-Att principali għandu jidħol dan li ġej:

"Responsabilità tad-Direttur Ĝenerali.

3. Id-Direttur Ĝenerali għandu jkun responsabbli għall-amministrazzjoni u l-infurzar ta' dan l-Att u ġħal dan il-ġħan għandu jeżercita r-responsabbiltajiet vestiti fl-Uffiċċju għall-Affarijet tal-Konsumatur bl-artikolu 17 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijet tal-Konsumatur, u b'dan l-Att:

Iżda d-Direttur Ĝenerali jista' jiddelega xi setgħa minn tiegħu lil kull uffiċċjal jew impjegat tal-Awtorità.".

Emenda tal-artikolu 4 tal-Att principali.

78. L-artikolu 4 tal-Att principali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1), il-kliem "Il-Kunsill ikun magħmul minn *chairman*, viċi *chairman*, u ħames membri oħra." għandhom jiġu sostitwiti bil-kliem "Il-Kunsill ikun magħmul minn *chairman* u ħames membri oħra u wieħed minn dawn għandu jiġi appuntat viċi *chairman*.";

(b) il-paragrafu (b) tas-subartikolu (2) għandu jiġi mhassar u l-paragrafu (c) għandu jiġi enumerat mill-ġdid bhala l-paragrafu (b); u

(c) fis-subartikolu (3), il-kliem "fil-paragrafu (c)" għandhom jiġu sostitwiti bil-kliem "fil-paragrafu (b)".

Sostituzzjoni tal-artikolu 5 tal-Att principali.

79. L-artikolu 5 tal-Att principali għandu jiġi sostitwit b'dan li ġej:

"5. Tkun il-funzjoni tal-Kunsill:

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

(b) fuq talba tal-Ministru, li jagħmel jew jinkariga li jsir kull studju jew riċerka li jistgħu jenħtiegu

biex iġibu 'l quddiem il-protezzjoni tal-konsumatur;

(c) li jissorvelja l-ħdim u t-twettiq ta' ligijiet li sew b'mod dirett jew mhux dirett jolqtu l-konsumatur f'Malta;

(d) li jaġixxi bħala forum fejn ilaqua' flimkien lil dawk l-awtoritajiet pubbliċi li fl-eżercizzju tal-funzjonijiet tagħhom jittrattaw sitwazzjonijiet ta' kunflitt bejn l-interessi tal-kummerċjanti u dawk tal-konsumaturi jew li jkunu responsabbi biex iharsu l-interessi tal-konsumaturi, bil-ghan li jistabilixxi relazzjoni ta' koperazzjoni iżjed mill-qrib fost dawk l-awtoritajiet pubbliċi biex iġibu 'l quddiem il-benesseri tal-konsumaturi;

(e) li jissorvelja l-iżvilupp ta' għaqdiet ta' konsumaturi f'Malta, u li jirrediġi u jirrevedi regoli ta' prattika għal għaqdiet ta' konsumaturi registrati sabiex iressaqhom quddiem il-Ministr;

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

(g) li jwettaq kull funzjoni oħra jew dmir ieħor li jistgħu jingħatawlu mill-Ministru jew li jistgħu jingħataw lill-Kunsill b'din il-ligi jew b'kull ligi oħra".

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

Emenda tal-artikolu 7 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, il-kliem "u lill-Kunsill, jew lil min ikun minnhom," għandhom jiġu mħassra; u

(b) fis-subartikolu (3) tiegħu, il-kliem "sitta u erbgħin elf u ħames mijha u sebgha u tmenin euro u sebgha u erbgħin centeżmu (€46,587.47)" kull fejn jidhru għandhom jiġu sostitwiti bil-kliem "sebgha u erbgħin elf euro (€47,000)".

81. Fis-subartikolu (1) tal-artikolu 8 tal-Att prinċipali, il-kliem ", bi qbil maċ-chairman f'każ ta' urġenza, jew tal-Kunsill," għandhom jiġu mħassra.

Emenda tal-artikolu 8 tal-Att prinċipali.

82. L-artikolu 9 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 9 tal-Att prinċipali.

(a) il-kelma "Dipartiment" fin-nota marginali tiegħu għandha tīgi sostitwita bil-kelma "Uffiċċju";

(b) is-subartikolu (1) tiegħu, għandu jiġi sostitwit

b'dan li ġej:

"(1) Mingħajr preġudizzju għall-arrangamenti magħmulin kif hemm fl-artikolu 9A, kemm-il darba kummerċjant ma jkollux il-kunsens bil-miktub tad-Direttur Ĝenerali, huwa m'għandux jagħmel jew iġieghel lil min jagħmel xi deskrizzjoni f'għamla li tidher jew tinstema', jew b'mod spċifiku jew billi hekk jiftiehem, li tkun tfisser illi:

- (a) xi oġġetti jew servizzi fornuti minn kummerċjant ikollhom l-approvazzjoni tal-Awtoritā, tal-Uffiċċċu jew tal-Kunsill; jew
- (b) xi attivitā mwettqa minn xi kummerċjant ikollha l-approvazzjoni, jew tkun qiegħda ssir bil-kooperazzjoni jew l-ghajjnuna tal-Awtoritā, l-Uffiċċċu jew il-Kunsill."; u
- (c) is-subartikolu (3) tiegħu għandu jiġi emendat kif ġej:

"(3) Meta kummerċjant, jinstab ġati li kiser dan l-artikolu huwa jeħel multa ta' mhux anqas minn mijha u għoxrin euro (€120) u mhux iżjed minn elfejn u tlett mijha u ħamsin euro (€2,350).".

Žieda ta'
artikolu ġdid
mal-Att
principali.

83. Minnufih wara l-artikolu 9 tal-Att prinċipali, għandu jiżdied dan l-artikolu ġdid li ġej:

"Approvazzjoni
mid-Direttur
Ġenerali ta'
kodiċi ta' mgħiba
u l-użu ta'
simboli
uffiċċiali.

9A. (1) Fil-promozzjoni ta' prattiċi tajba ta' negozju, id-Direttur Ĝenerali għandu, bl-approvazzjoni tal-Bord, jagħmel arrangamenti għall-approvazzjoni ta' kodici ta' mgħiba u jista', skont dawn l-arrangamenti, jagħti l-approvazzjoni tiegħu jew jirtira l-approvazzjoni tiegħu minn kull kodici ta' mgħiba.

(2) Kull arraġġament bħal dak għandu jispecifika l-kriterji li għandhom jiġu applikati mid-Direttur Ĝenerali biex jiddetermina jekk għandux japprova jew jirtira l-approvazzjoni minn kodici ta' mgħiba.

(3) Kull arraġġament bħal dak għandu b'mod partikolari:-

(a) jispecifika t-tip ta' kodiċi ta' mġiba li tista' tkun is-suġġett ta' applikazzjoni lid-Direttur Ĝenerali għall-approvazzjoni li tindika l-karatteristici rekwiżiti tal-kodiċi ta' imgħiba, inkluż il-persuni li huma, jew li ser ikunu suġġetti għall-kodiċi ta' mġiba, il-manjiera b'liema huwa, jew ser ikun operat u l-persuni responsabbli għall-operat tiegħu; u

(b) jipprovd iġħalli użu skont l-arrangamenti ta' simbolu uffiċjali maħsub biex juri li kodiċi ta' mġiba huwa approvat mid-Direttur Ĝenerali.

(4) Id-Direttur Ĝenerali għandu jippubblika kull arranġament taħt is-subartikolu (1) f'dik il-manjiera kif hu iqis xieraq.

(5) Ghall-finijiet ta' dan l-artikolu "kodiċi ta' mġiba" għandha jkollha l-istess tifsira mogħtija lilha fl-artikolu 51A.".

84. L-artikolu 11 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 11 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, il-kliem "jew ta' xi kummissjoni konsultattiva mwaqqfa bis-saħħha ta' dan l-Att, id-Direttur, jew uffiċjal pubbliku mad-Dipartiment ma għandhomx" għandhom jiġu sostitwiti bil-kliem "m'għandux";

(b) is-subartikolu (2) tiegħu għandu jiġi mhassar;

(c) fis-subartikolu (3) tiegħu, il-kliem "multa ta' mhux anqas minn mijja u sittax-il euro u sebgħa u erbgħin centeżmu (116.47) u ta' mhux iżjed minn elfejn u tliet mijja u disgħa u għoxrin euro u sebgħa u tletin centeżmu (2,329.37)" għandhom jiġu sostitwiti bil-kliem "multa ta' mhux anqas minn mijja u għoxrin euro (€120) u ta' mhux iżjed minn elfejn tlett mijja u ħamsin euro (€2,350)."; u

(d) is-subartikolu (3) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (2) tiegħu.

85. Fis-subartikolu (3) tal-artikolu 12 tal-Att prinċipali, il-kliem "tad-Dipartiment" għandhom jiġu sostitwiti bil-kliem "tal-Uffiċċċu".

Emenda tal-artikolu 12 tal-Att prinċipali.

Žieda tal-artikolu 12B
mal-Att
principali.

86. Minnufih wara l-artikolu 12A tal-Att principali, għandu jiżdied dan l-artikolu ġdid li ġej:

"Ilmenti ta' 12B.(1) Mingħajr īxsara ghall-artikolu 12A, entità kwalifikata tista' wkoll tagħmel ilment lid-Direttur Ĝenerali li fir-rigward ta' oggetti u servizzi:

(a) l-istruttura tas-suq konċernat jew xi aspett minn dik l-istruttura;

(b) kull mgħiba, sew fis-suq konċernat jew le, ta' persuna jew iżjed li tipprovdi jew takkwista oggetti jew servizzi fis-suq konċernat; jew

(c) xi mgħiba fir-rigward tas-suq konċernat ta' klijenti ta' persuna li tipprovdi jew takkwista oggetti jew servizzi,

tkun jew tidher li tkun qegħda tagħmel īxsara b'mod sinifikanti lill-interessi tal-konsumatur.

(2) Id-Direttur Ĝenerali għandu, fi żmien ħamsa u erbgħin ġurnata wara l-ġurnata li fih jircievi l-ilment, jippubblika risposta li tgħid kif hu jipproponi li jittratta l-ilment, u b'mod partikolari:

(a) jekk hu ddecidex li jieħu azzjoni, jew li ma jieħux azzjoni, bhala risposta għall-ilment; u

(b) jekk hu ddecida li jieħu azzjoni, x' azzjoni qed jipproponi li jieħu.

(3) Ir-risposta għandha tagħti rr-aġunijiet tad-Direttur Ĝenerali għall-proposti tiegħi.

(4) Id-Direttur Ĝenerali:-

(a) għandu joħrog gwida dwar il-preżentazzjoni mill-entità kwalifikata ta' kull każ raġunat għall-ilment; u

(b) jista' joħrog kwalunkwe gwida oħra kif jidher xieraq għall-finijiet ta' dan l-artikolu.

Emenda tal-artikolu 13 tal-Att principali.

87. Fis-subartikolu (2) tal-artikolu 13 tal-Att principali, il-kliem "tad-Dipartiment" għandhom jiġu sostitwiti bil-kliem "tal-Uffiċċju".

88. Is-subartikolu (1) tal-artikolu 14 tal-Att principali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 14 tal-Att principali.

(a) il-paragrafu (a) tiegħu għandu jiġi sostitwit bil-kliem "ammont li ma jkunx iktar minn sitt mitt euro (€600) għal kull telf ta' flus, u"; u

(b) il-paragrafu (b) tiegħu għandu jiġi sostitwit bil-kliem "ammont li ma jkunx inqas minn ħamsa u tletin euro (€35) u mhux iktar minn sebgħa mijha u ħamsin euro (€750) bħala danni morali għal kull ugiegħ, għali, ansjetà u inkonvenjenza.". Emenda tal-artikolu 14B tal-Att principali.

89. Fl-artikolu 14B tal-Att principali, il-kliem "Bord ta' l-Appell" kull fejn jidhru u il-kelma "Bord" fis-subartikolu (7) tiegħu għandhom jiġu sostitwiti bil-kliem "Tribunal tal-Appell".

90. Fl-artikolu 20 tal-Att principali, il-kliem "tliet elef u erba' mijha u erbgħa u disghin euro u sitt ċenteżmi (3,494.06)" kull fejn jidhru għandhom jiġu sostitwiti bil-kliem "tlett elef u ħames mitt euro (€3,500)".

Emenda tal-artikolu 20 tal-Att principali.

91. Fl-artikolu 21 tal-Att principali, il-kliem "ammont li ma jkunx inqas minn erbgħa u tletin euro u erbgħa u disghin ċenteżmu (34.94) u mhux iktar minn mitejn u tnejn u tletin euro u erbgħa u disghin ċenteżmu (232.94)" għandhom jiġu sostitwiti bil-kliem "ammont li ma jkunx inqas minn ħamsa u tletin euro (€35) u mhux iktar minn ħames mitt euro (€500)".

Emenda tal-artikolu 21 tal-Att principali.

92. L-artikolu 22 tal-Att principali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 22 tal-Att principali.

(a) fis-subartikolu (1) tiegħu, minnufih qabel il-kliem "isir minn deciżjoni ta' Tribunal" għandhom jidħlu il-kliem "magħmul taħt is-subartikoli (2) u (3) "; u

(b) fis-subartikolu (2) tiegħu, il-kliem "Indipendentement mill-ammont tat-talba, jista' dejjem isir appell fil-każijiet li ġejjin" għandhom jiġu sostitwiti bil-kliem "Appell jista' jsir fil-każijiet li ġejjin".

93. (1) Fil-proviso tas-subartikolu (1) tal-artikolu 25 tal-Att principali, il-kliem "mija u sittax-il euro u sebgħha u erbgħin ċenteżmu (116.47)" għandhom jiġu sostitwiti bil-kliem "mija u għoxrin euro (€120)".

Emenda tal-artikolu 25 tal-Att principali.

(2) Is-subartikolu (3) tal-artikolu 25 tal-Att principali għandu jiġi sostitwit b'dan li ġej:

"(3) Deċiżjoni tat-Tribunal li tkun saret *res judicata* tista' tiġi infurzata, abbaži tar-residenza tal-persuna li l-infurzar ikun qed isir kontriha, mill-Qorti tal-Maġistrati (Malta) jew mill-Qorti tal-Maġistrati (Għawdex), bħala titolu eżekkutiv taħt il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili:

Iżda d-drittijiet li jithallsu fil-Qorti dwar mandat maħruġ għall-fini li tiġi infurzata deċiżjoni tat-Tribunal għandu jkun jammonta għal nofs id-drittijiet applikabbli tal-qorti li jaapplikaw fil-każ ta' mandati maħruġin għall-fini ta' infurzar ta' sentenzi tal-Qorti tal-Maġistrati msemmija hawn qabel."

Emenda tal-artikolu 25A tal-Att prinċipali.

94. L-artikolu 25A tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"25A. Id-Direttur Ĝenerali għandu jissorvelja mill-viċin id-deċiżjonijiet tat-Tribunal biex jidentifika kummerċjanti li l-imġiba tagħhom fis-suq tista' tkun qiegħda tikser l-Att jew regolamenti magħmulin taħtu jew li ma jkunux qed jonoraw id-deċiżjonijiet tat-Tribunal jew tal-Qorti tal-Appell għad-detriment tal-konsumaturi u jista' jieħu kull azzjoni taħt dan l-Att jew regolamenti magħmulin taħtu kontra dawk il-kummerċjanti biex jindirizza kull dannu lil konsumatur li jista' jirriżulta mill-imġiba ta' dawk il-kummerċjanti:

Iżda kull azzjoni li jieħu d-Direttur Ĝenerali taħt dan l-artikolu tkun mingħajr preġudizzju għall-obbligazzjoni tal-kummerċjant li jikkonforma ruhu mad-deċiżjoni tat-Tribunal jew tal-Qorti tal-Appell."

Emenda tal-artikolu 26 tal-Att prinċipali.

95. Fis-subartikoli (4) u (6) tal-artikolu 26 tal-Att prinċipali, il-kliem "minn fost uffiċjali pubbliċi fid-Dipartiment", għandhom jiġu mħassra.

Emenda tal-artikolu 34 tal-Att prinċipali.

96. Fl-artikolu 34 tal-Att prinċipali, il-kliem "elfejn u tliet mijha u disgħha u għoxrin euro u sebgħha u tletin ċenteżmu (€2,329.37)" għandhom jiġu sostitwiti bil-kliem "elfejn u tlett mijha u ħamsin euro (€2,350)".

Emenda tal-artikolu 61 tal-Att prinċipali.

97. Fl-artikolu 61 tal-Att prinċipali, il-kliem "erba' mijha u ħamsa u sittin euro u sebgħha u tmenin ċenteżmu (€465.87)" għandu jiġi sostitwiti bil-kliem "ħames mitt euro (€500)".

Emenda tal-artikolu 67 tal-Att prinċipali.

98. Fl-artikolu 67 tal-Att prinċipali, il-kliem "Limitazzjoni ta' azzjoni" fin-nota marginali għandhom jiġu sostitwiti bil-kliem "Preskrizzjoni".

99. L-artikolu 78 tal-Att prinċipali għandu jiġi emendat kif
Emenda tal-
attartikolu 78 tal-
Att prinċipali.
ġej:

- (a) il-kelma "preskrizzjoni" fin-nota marginali tiegħu
ghandha tiġi sostitwita bil-kliem "limitazzjoni ta' azzjoni"; u
- (b) il-kliem "ta' preskrizzjoni" għandu jiġi mħassar.

100. Fl-artikolu 91 tal-Att prinċipali, il-kliem "mija u sittax-il
Emenda tal-
euro u sebgħa u erbgħin ċenteżmu (€116.47)" għandhom jiġu
attartikolu 91 tal-
Att prinċipali.
sostitwiti bil-kliem "mija u għoxrin euro (€120)".

101. Fil-paragrafu (b) tas-subartikolu (5) tal-artikolu 94 tal-Att
prinċipali, il-kliem "il-Bord ta' l-Appell" għandhom jiġu sostitwiti
Emenda tal-
attartikolu 94 tal-
Att prinċipali.
bil-kliem "it-Tribunal tal-Appell".

102. Fis-subartikolu (3) tal-artikolu 95 tal-Att prinċipali, il-
Emenda tal-
kliem "il-Bord ta' l-Appell" għandhom jiġu sostitwiti bil-kliem "it-
attartikolu 95 tal-
Att prinċipali.
Tribunal tal-Appell".

103. L-artikolu 97 tal-Att prinċipali għandu jiġi emendat kif
Emenda tal-
ġej:
attartikolu 97 tal-
Att prinċipali.

- (a) il-kliem "il-Bord ta' l-Appell" u "il-Bord", kull fejn
jidhru, għandhom jiġu sostitwiti bil-kliem "it-Tribunal tal-
Appell";
- (b) is-subartikolu (3) tiegħu għandu jiġi mħassar; u
- (c) is-subartikolu (4) tiegħu għandu jiġi enumerat mill-
ġdid bħala s-subartikolu (3).

104. Fl-artikolu 98 tal-Att prinċipali, il-kliem "il-Bord ta' l-
Appell" għandu jiġi sostitwit bil-kliem "it-Tribunal tal-Appell".
Emenda tal-
attartikolu 98 tal-
Att prinċipali.

105. Fl-artikolu 106 tal-Att prinċipali, il-kliem "mhux inqas
minn erba' mijja u ħamsa u sittin euro u sebgħa u tmenin ċenteżmu
Emenda tal-
(€465.87) u mhux iktar minn sitta u erbgħin elf, ħames mijja u sebgħa
attartikolu 106 tal-
u tmenin euro u sebgħa u erbgħin ċenteżmu (€46,587.47)" għandhom
Att prinċipali.
jiġu sostitwiti bil-kliem "mhux inqas minn erba' u sebgħin euro
(€470) u mhux iktar minn sebgħa u erbgħin elf euro (€47,000).".

106. L-artikolu 106A tal-Att prinċipali għandu jiġi emendat kif
Emenda tal-
ġej:
attartikolu 106A
tal-Att
prinċipali.

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

"(2) Multa amministrattiva imposta għal ksur taħt

is-subartikolu (1) għandha tkun ta' mhux inqas minn erba' mijja u sebghin euro (€470) u mhux iktar minn sebgha u erbghin elf euro (€47,000)."; u

(b) fil-proviso tas-subartikolu (2) tiegħu il-kliem "mhux aktar minn mitejn u tnejn u tletin euro u erbgha u disghin centeżmu (€232.94)" għandhom jiġu sostitwiti bil-kliem "mhux aktar minn mitejn u tletin euro (€230)".

Sostituzzjoni
tal-artikolu 109
tal-Att
principali.

107. L-artikolu 109 tal-Att principali għandu jiġi sostitwit b'dan li ġej:

"109. Ma tista' tittieħed ebda azzjoni kontra d-Direttur Ĝenerali jew xi uffiċjal tiegħu jew xi persuna awtorizzata li jkun qed jaġixxi taħt id-direzzjoni jew kontroll tiegħu, jew kontra xi membru tal-Kunsill, għal xi att jew omissjoni li jkollhom x'jaqsmu ma' dan l-Att, jew ma' regolamenti magħmulin taħtu, sakemm dak l-att jew omissjoni ma jkunux ġew magħmula b'mala fede.".

Tahsir tal-
artikolu 110 tal-
Att principali.

108. L-artikolu 110 tal-Att principali għandu jiġi mhassar.

Tahsir ta'
intestatura u
titolu tal-Att
principali.

109. L-intestatura "Taqsima XII" u t-titolu tagħha tal-Att principali, minnufih qabel l-imħassar artikolu 110 tal-Att principali, għandhom jiġi mhassra.

Tahsir tal-
artikolu 110A
tal-Att
principali.

110. L-artikolu 110A tal-Att principali għandu jiġi mhassar.

Emenda tal-
artikolu 110B
tal-Att
principali.

111. L-artikolu 110B tal-Att principali għandu jiġi emendat kif
ġej:

(a) il-kliem "il-Bord ta' l-Appell" kull fejn jidhru, għandhom jiġu sostitwiti bil-kliem "it-Tribunal tal-Appell"; u

(b) fis-subartikolu (3) tiegħu, fil-paragrafu (a) il-kliem "lis-segretarju" għandhom jiġu sostitwiti bil-kliem "lir-Registratur", u fil-paragrafu (b) il-kliem "mas-segretarju" għandhom jiġu sostitwiti bil-kliem "mar-Registrator".

Emenda tal-
artikolu 110C
tal-Att
principali.

112. Fl-artikolu 110C tal-Att principali, il-kliem "il-Bord ta' l-Appell" kull fejn jidhru, għandhom jiġu sostitwiti bil-kliem "it-Tribunal tal-Appell".

Emenda tal-
artikolu 110D
tal-Att
principali.

113. Fl-artikolu 110D tal-Att principali, il-kliem "tal-Bord ta' l-Appell" fin-nota marġinali tiegħu u kull fejn jidhru għandhom jiġu sostitwiti bil-kliem "tat-Tribunal tal-Appell".

114. L-artikolu 110E tal-Att prinċipali għandu jiġi emendat kif
ġej:

Emenda tal-
artikolu 110E
tal-Att
prinċipali.

- (a) is-subartikoli (1), (3), (4), (5) u (6) tiegħu
għandhom jiġu mhassra;
- (b) is-subartikoli (2) u (7) tiegħu għandhom jiġu
enumerati mill-ġdid bħala s-subartikoli (1) u (2) rispettivament;
- (c) il-kliem "tal-Bord ta' l-Appell" fin-nota marginali
tiegħu u l-kliem "Il-Bord ta' l-Appell" fis-subartikolu (1), kif
enumerat mill-ġdid, għandhom jiġu sostitwiti bil-kliem "tat-
Tribunal tal-Appell" u bil-kliem "It-Tribunal tal-Appell"
rispettivament; u
- (d) fis-subartikolu (2) kif enumerat mill-ġdid, minnflokk
il-kliem "fis-subartikolu (2)" għandhom jidħlu l-kliem "fis-
subartikolu (1)".

115. Is-subartikolu (1) tal-artikolu 110F tal-Att prinċipali
għandu jiġi sostitwit b'dan li ġej:

Emenda tal-
artikolu 110F
tal-Att
prinċipali.

"(1) Kull parti f'appell quddiem it-Tribunal ta' l-
Appell, inkluż id-Direttur Generali, li jħossu aggravat minn
deċiżjoni tat-Tribunal tal-Appell jista', fuq punti ta' ligi jew
punti ta' ġustizzja naturali, jappella quddiem il-Qorti tal-Appell
permezz ta' rikors li jiġi preżentat fir-registratu ta' dik il-Qorti fi
żmien ħmistax-il ġurnata mid-data tad-deċiżjoni tat-Tribunal
tal-Appell.".

116. L-artikolu 110G tal-Att prinċipali għandu jiġi emendat kif
ġej:

Emenda tal-
artikolu 110G
tal-Att
prinċipali.

- (a) il-kliem "il-Bord ta' l-Appell" fin-nota marginali
tiegħu u kull fejn jidhru għandhom jiġu sostitwiti bil-kliem "it-
Tribunal tal-Appell"; u
- (b) fis-subartikolu (1) tiegħu, il-kliem "Mingħajr
preġudizzju ghall-artikolu 97(3)" għandhom jiġu mhassra; u
- (c) minnufih wara s-subartikolu (2) tiegħu, għandu
jidħol dan il-proviso li ġej:

"Iżda fil-każ ta' ordni ta' tharis, it-Tribunal tal-
Appell jew il-Qorti tal-Appell tista', tul id-dewmien tal-
każ, timmodifika l-ordni ta' tharis kif hi tqis neċessarju
minnflokk tissospendih.".

Żieda tal-artikolu ġdid
110H mal-Att
principali.

117. Minnufih wara l-artikolu 110G tal-Att principali, għandu jiżdied dan l-artikolu ġdid li ġej:

"Notifika u
pubblikazzjoni
ta' deċiżjonijiet.

"110H. (1) Kull deċiżjoni jew ordni tad-Direttur Ĝenerali mogħtija skont id-disposizzjonijiet ta' dan l-Att għandha tkun notifikata lill-partijiet konċernati u lil min ressaq l-ilment skont l-artikolu 64 tal-Att tal-2011 dwar l-Awtorită ta' Malta għall-Kompetizzjoni u għall-Affarijjiet tal-Konsumatur b'kont meħud tas-sigreti tan-negozju jew informazzjoni kunfidenzjali oħra.

(2) It-Tribunal tal-Appell u d-Direttur Ĝenerali għandhom jippubblikaw mingħajr dewmien žejjed id-deċiżjonijiet jew ordnijiet meħuda taħt dan l-Att u permezz t'hekk it-Tribunal tal-Appell u d-Direttur Ĝenerali għandhom iqisu l-interess legittimu tal-partijiet konċernati fil-protezzjoni tas-sigreti tan-negozju tagħhom jew informazzjoni kunfidenzjali oħra.

(3) Kull deċiżjoni mogħtija mit-Tribunal tal-Appell fil-proċedimenti quddiemu għandhom jitqiesu li ġew notifikati lill-partijiet fid-data ta' meta ġiet pronuzjata.

(4) It-Tribunal tal-Appell għandu jipprovdi:

(a) kemm verżjoni kompleta kif ukoll verżjoni mhux kunfidenzjali tad-deċiżjoni tiegħu f'dokument jew fuq xi mezz ieħor durabbli lid-Direttur Ĝenerali; u

(b) kopja tad-deċiżjoni tiegħu, fuq talba, lill-partijiet fil-każ, u jiżgura meta jagħmel hekk il-protezzjoni tas-sigreti tan-negozju jew ta' informazzjoni kunfidenzjali oħra.".

Enumerazzjoni
mill-ġdid ta'
Taqṣima.

118. L-intestatura "Taqṣima XIII", minnufih wara l-artikolu ġdid 110H, għandha tīgi enumerata mill-ġdid bħala "Taqṣima XII".

Emenda tat-Tieni Skeda tal-Att
principali.

119. It-Tieni Skeda tal-Att principali għandha tiġi emendata kif
ġejja:

(a) fil-paragrafu (2) tagħha, il-kliem "għandu jkun

elfejn, tliet mijà u disghà u għoxrin euro u sebgħà u tletin ġenteżmu (€2,329.37)" għandu jiġi sostitwit bil-kliem "għandu jkun elfejn u tlett mitt euro u ħamsin ġenteżmu (€2,350)";

(b) il-paragrafu (4) tagħha għandu jiġi sostitwit b'dan li ġej:

"4. Mingħajr ħsara ghall-ġeneralita' tar-regola 3, dawn li ġejjin għandhom jkunu f'kull ċirkostanza kkunsidrati bħala ċirkostanzi aggravanti:

- meta l-ksur huwa prattika kummerċjali mhux ġusta inkluża fl-Ewwel Skeda, l-ammont bażiku għandu jiżdied b'somma ta' mhux anqas minn elf, seba' mijà u ħamsin euro (€1,750) u mhux aktar minn erbat elef, sitt mijà u ħamsin euro (€4,650);

- fil-każ tat-tieni ksur jew ksur sussegwenti, l-ammont bażiku għandu jiżdied b'elfejn, tliet mijà u ħamsin euro (€2,350) għal kull ksur sussegwenti;

- fejn il-prattika jew l-iskema li tikkostitwixxi l-ksur hija l-mezz prinċipali li biha l-kummerċjant jmexxi jew jopera l-kummerċ tiegħu, l-ammont bażiku għandu jiżdied b'somma li mhix anqas minn elf, seba' mijà u ħamsin euro (€1,750) u mhux aktar minn erbat elef, sitt mijà u ħamsin euro (€4,650);

- fejn il-prattika jew l-iskema li tikkostitwixxi l-ksur qiegħda spċifikatament timmira għall-konsumaturi li huma vulnerabbli, l-ammont bażiku għandu jiżdied b'elfejn, tliet mijà u ħamsin euro (€2,350);

- fejn il-prattika kummerċjali mhux ġusta hija akkumpanjata minn xi wieħed mill-fatturi msemmija fl-artikolu 51E(2) tal-Att, l-ammont bażiku għandu jiżdied b'somma li mhix anqas minn elf, seba' mijà u ħamsin euro (€1,750) u mhux aktar minn erbat elef, sitt mijà u ħamsin euro (€4,650).";

(c) il-paragrafu (6) tagħha għandu jiġi sostitwit b'dan li ġej:

"6. L-ammont finali tal-multa amministrativa, f'kull kaž, m'għandux jaqbeż s-seba' u erbgħin elf euro (€47,000) jew ikun anqas minn erba' mijja u sebghin euro (€470).";

(d) il-paragrafu (8) tagħha għandu jiġi sostitwit b'dan li ġej:

"8. Għall-ksur imsemmi taħt l-artikolu 12, l-ammont tal-multa m'għandux jkun anqas minn erbat elef, sitt mijja u ħamsin euro (€4,650) u mhux aktar minn ħdax-il elf, sitt mijja u ħamsin euro (€11,650).";

(e) il-paragrafu (9) tagħha għandu jiġi sostitwit b'dan li ġej:

"9. Għall-ksur isemmi taħt l-artikolu 14B, l-ammont tal-multa m'għandux jkun anqas minn erbat elef, sitt mijja u ħamsin euro (€4,650) u mhux aktar minn ħdax-il elf, sitt mijja u ħamsin euro (€11,650).";

(f) il-paragrafu (10) tiegħu għandu jiġi sostitwit b'dan li ġej:

"10. Għall-ksur isemmi taħt l-artikolu 94, l-ammont tal-multa m'għandux jkun anqas minn erbat elef, sitt mijja u ħamsin euro (€4,650) u mhux aktar minn tlieta u għoxrin elf u tlett mitt euro (€23,300):

Iżda fil-kaž ta' nuqqas ta' ħarsien, id-Direttur Generali jista' jimponi wkoll multa kwotidjana ta' mhux anqas minn mijja u għoxrin euro (€120) u mhux aktar minn mitejn u tletin euro (€230) għal kull ġurnata ta' nuqqas ta' ħarsien.".

TAQSIMA XV EMENDI TAL-ATT DWAR IL-KOMPETIZZJONI (KAP. 379.)

Emenda tal-Att
dwar il-Kompetizzjoni.
Kap. 379.

Emenda tal-
artikolu 2 tal-
Att prinċipali.

120. Din it-TaqSIMa temenda l-Att dwar il-Kompetizzjoni, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar il-Kompetizzjoni, minn hawn iż-żejjed 'il quddiem f'din it-TaqSIMa msejjah "l-Att prinċipali".

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

(a) minnufih wara t-tifsira "Awtorità Nazzjonali dwar il-Kompetizzjoni" għandha tidħol din it-tifsira ġidida li ġejja:

" "il-Bord" tfisser l-Bord tal-Gvernaturi kif mwaqqaf bl-artikolu 8 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;";

(b) it-tifsira "chairman" għandha tiġi mhassra;

(c) it-tifsira "Direttur" għandha tiġi sostitwita b'dan li ġej:

" "Direttur Ġenerali" tfisser id-Direttur Ġenerali (Kompetizzjoni) maħtur bl-artikolu 13 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;";

u minflok il-kelma "Direttur", kull fejn din tinsab fl-Att prinċipali, għandhom jidħlu l-kliem "Direttur Ġenerali";

(d) minnufih wara t-tifsira "Direttur Ġenerali" għandha tidħol din it-tifsira ġdida li ġejja:

" "entità kwalifikata" għandu jkollha l-istess tifsira mogħtija lilha taħt l-artikolu 2 tal-Att dwar l-Affarijiet tal-Konsumatur;";

(e) it-tifsira "Kummissjoni" għandha tiġi mhassra;

(f) it-tifsira "Ministru" għandha tiġi sostitwita b'dan li ġej:

" "Ministru" tfisser il-Ministru responsabbli għall-affarijiet tal-kompetizzjoni;";

(g) it-tifsira "Kummissjoni Ewropea" għandha tiġi sostitwita b'dan li ġej:

" "Kummissjoni Ewropea" tfisser il-Kummissjoni Ewropea kif mwaqqfa bl-artikolu 13 tat-Trattat dwar l-Unjoni Ewropea;";

(h) minnufih wara t-tifsira "prattika restrittiva" għandha tidħol din it-tifsira ġdida li ġejja:

" "President" tfisser il-President tat-Tribunal tal-Appell;";

(i) fit-tifsira "prattika restrittiva" il-kliem "Artikolu 81 tat-Trattat tal-KE" u "Artikolu 82 tat-Trattat tal-KE" għandhom

jigu sostitwiti bil-kliem "Artikolu 101 tat-TFUE" u "Artikolu 102 tat-TFUE" rispettivamente;

(j) it-tifsira "Trattat tal-KE" għanda tiġi sostitwita b'dan li ġej:

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

(k) minnufih wara t-tifsira "Trattat TFUE" għandha tiżdied din it-tifsira ġidida li ġejja:

" "Tribunal tal-Appell" tfisser it-Tribunal tal-Appell għall-Kompetizzjoni u ghall-Konsumatur kif mwaqqaf bl-artikolu 31 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;" ; u

(l) it-tifsira "Uffiċċju" għandha tiġi sostitwita b' dan li ġej:

" "Uffiċċju" tfisser l-Uffiċċju għall-Kompetizzjoni, kif imwaqqaf bl-artikolu 13 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;" .

Emenda tal-artikolu 3 tal-Att principali.

122. L-artikolu 3 tal-Att principali għandu jiġi emendat kif ġej:

(a) in-nota marginali tiegħu għandha tiġi sostitwita bil-kliem "Responsabbiltà tad-Direttur Ĝeneralis"; u

(b) l-artikolu 3 tiegħu għandu jiġi sostitwit b'dan li ġej:

"Id-Direttur Ĝeneralis għandu ikollu l-kompetenza esklussiva li japplika d-disposizzjonijiet ta' dan l-Att u għal dan il-għan hu għandu jeżerċitā responsabbiltajiet vestiti fl-Uffiċċju għall-Kompetizzjoni taħt l-artikolu 14 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur u taħt dan l-Att:

Iżda d-Direttur Ĝeneralis jista' jiddelega xi setgħa minn tiegħu lil kull uffiċċjal jew impiegat tal-Awtorità".

Tahsir tal-artikolu 4 tal-Att principali.

123. L-artikolu 4 tal-Att principali għandu jiġi mhassar.

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

Emenda tal-
artikolu 5 tal-
Att prinċipali.

(a) fis-subartikolu (1) tiegħu fit-test Malti biss, minflok il-kliem "li jsiru bil-ħsieb jew li jkollhom l-effett li jimpedixxu, irażżnu jew ixekklu l-kompetizzjoni" għandhom jidħlu l-kliem "li jkollhom bħala għan jew riżultat tagħhom il-prevenzjoni, ir-restrizzjoni jew id-distorsjoni tal-kompetizzjoni";

(b) fis-subartikolu (5) tiegħu, il-kliem "Artikolu 81 tat-Trattat tal-KE" għandhom jiġu sostitwiti bil-kliem "Artikolu 101 tat-TFUE"; u

(c) fis-subartikolu (6) tiegħu, il-kliem "Artikolu 81(1) tat-Trattat tal-KE" u "Artikolu 81(3) tat-Trattat tal-KE" għandhom jiġu sostitwiti bil-kliem "Artikolu 101(1) tat-TFUE" u "Artikolu 101(3) tat-TFUE" rispettivament.

125. Fis-subartikolu (1) tal-artikolu 8 tal-Att prinċipali, il-kliem "konsultazzjoni mad-Direttur", għandhom jiġu sostitwiti bil-kliem "konsultazzjoni mal-Bord".

Emenda tal-
artikolu 8 tal-
Att prinċipali.

126. L-artikolu 9 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-
artikolu 9 tal-
Att prinċipali.

(a) fis-subartikolu (2) tiegħu, il-paragrafi (b) u (d) għandhom jiġu mhassra u l-paragrafi (c), (e) u (f) għandhom jiġu enumerati mill-ġdid bħala (b), (c) u (d) rispettivament;

(b) is-subartikolu (3) tiegħu għandu jiġi mhassar; u s-subartikoli (4) u (5) għandhom jiġu enumerati mill-ġdid bħala subartikoli (3) u (4) rispettivament; u

(c) fis-subartikolu (4) tiegħu kif enumerat mill-ġdid, il-kliem "Artikolu 82 tat-Trattat tal-KE" għandhom jiġu sostitwiti bil-kliem "Artikolu 102 tat-TFUE".

127. Minnufih wara l-artikolu 11 tal-Att prinċipali għandu jidħol dan l-artikolu ġdid li ġej:

Sostituzzjoni
tal-artikolu 11
tal-Att
prinċipali.

"Inkjesti f'setturi tal-ekonomija u f'tipi ta' ftehim.

11A.(1) Fejn it-tendenza tal-kummerċ, ir-rigidità tal-prezzijiet jew ċirkostanzi oħra jissuġġerixxu li l-kompetizzjoni tista' tkun ristretta, jew imxekkla fi ħdan is-suq Malti, id-Direttur Generali jista' jmexxi l-inkesta fis-settur partikolari tal-ekonomija jew f'tip partikolari ta' ftehim madwar setturi varji. Fil-kors ta' dik l-inkesta, id-Direttur Generali jista' jitlob lill-intrapriżi jew l-għaqda ta' intrapriżi konċernati biex jipprovdu l-informazzjoni neċessarja għall-applikazzjoni tal-artikoli 5 u 9 tal-Att u l-Artikoli 101 u 102 tat-TFUE u jista' jagħmel l-ispezzjonijiet neċessarji tiegħu għal dak il-ghan.

(2) Ghall-finijiet tas-subartikolu (1) ta' dan l-artikolu, l-artikolu 12 għandu jkun japplika *mutatis mutandis*.

(3) Id-Direttur Generali jista' b'mod partikolari jitlob lill-intrapriżi jew l-għaqda ta' intrapriżi konċernati biex jikkomunikawlu l-ftehim, id-deċiżjonijiet u l-prattiċi miftiehma kollha.

(4) Id-Direttur Generali jista' jippubblika rapport preliminari fuq ir-riżultati tal-inkesta f'setturi partikolari tal-ekonomija jew tipi partikolari ta' ftehim madwar setturi varji u jistieden kummenti minn partijiet interessati qabel jippubblika r-rapport finali.

(5) Kull persuna, intrapriża jew għaqda ta' intrapriżi li ma jħarsux it-talba tad-Direttur Generali skont it-termini tas-subartikoli (1) u (3), fil-limiti ta' zmien imposti mid-Direttur Generali, tikkommetti ksur ta' dan l-att, u dana mingħajr ħsara għal kull responsabbiltà taħt dan l-Att jew xi ligi oħra."

Emenda tal-artikolu 12 tal-Att prinċipali għandu jiġi emendat kif

gej:

(a) il-kliem "sew hu sew il-Kummissjoni jkunu jistgħu jaqdu l-funzjonijiet tagħhom;" fis-subartikolu (1) tiegħu

għandhom jiġu sostitwiti bil-kliem "hu jkun jista' jaqdi l-funzjonijiet tiegħu;"; u

(b) is-subartikoli (2) sa (10) tiegħu għandhom jiġu sostitwiti bis-subartikoli (2) sa (14) li ġejjin:-

"(2) Fil-kors ta' kull investigazzjoni magħmula mill-Ufficċju skont is-subartikolu (1), id-Direttur Ĝenerali jista' jitlob lil kull intrapriża jew għaqda ta' intrapriżi biex tiprovdih b'kull tagħrif jew dokument fil-pussess tagħha li d-Direttur Ĝenerali jkollu għalfejn jaħseb li jkun rilevanti ghall-kwistjoni li tkun qed tiġi investigata, f'dak iż-żmien li fiċ-ċirkostanzi tal-investigazzjoni d-Direttur Ĝenerali iqis li jkun raġonevoli:

Iżda l-ebda haġa f'dan is-subartikolu m'għandha tiftiehem illi qed tawtorizza lid-Direttur Ĝenerali biex jordna l-produzzjoni ta' xi dokument jew jiġi żvelat xi tagħrif li jista' jkun suggett għad-dmir tas-sigriet professjonal.

(3) Meta jibghat talba għall-informazzjoni lil intrapriża jew għaqda ta' intrapriżi, id-Direttur Ĝenerali għandu jispecifika l-bażi legali u l-ghan ta' dik it-talba, jispecifika liema informazzjoni hija mitluba u jiffissa perjodu ta' żmien li fih l-informazzjoni għandha tkun provduta u jindika l-multi amministrattivi provduti fl-artikoli 21(4), (5) u (6).

(4) Meta intrapriżi jew għaqdiet ta' intrapriżi jipprezentaw informazzjoni li jkun fiha sigreti kummerċjali jew informazzjoni kunfidenzjali oħra, l-artikolu 29 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur għandu japplika.

(5) Kull intrapriža li turi illi l-operat tagħha qed jiġi affetwat direttament bl-investigazzjoni li tkun qed issir mid-Direttur Ĝenerali u kull għaqda ta' intrapriżi, persuna, jew għaqda tal-konsumatur registrata li ttenni li hi jew il-membri tagħha qed tkun jew ikunu affettwati b'mod hażin, minhabba l-ksur ta' xi disposizzjoni ta' dan l-Att li jkunu l-oġgett tal-investigazzjonijiet, jistgħu jagħmlu talba bil-miktub sabiex jagħmlu is-sottomissjonijiet tagħhom quddiem id-Direttur Ĝenerali fi kwalunkwe stadju li jkun u d-Direttur Ĝenerali għandu jaċċetta t-talba jekk hu jikkonsidra li hi ġustifikata u jistabbilixxi l-manjiera ta' kif jiġu prezentati s-sottomissjonijiet.

(6) Waqt kull investigazzjoni, d-Direttur Ĝenerali jiċċista' jirċievi dikjarazzjonijiet bil-miktub jew verbalment minn kull persuna, kif ukoll jagħmel kopji ta' kull dokument mogħti lilu, u ir-record ta' dawk id-dikjarazzjonijiet u ta' dawk il-kopji debitament attestati mid-Direttur Ĝenerali jkunu jistgħu jingħebu bħala prova quddiem it-Tribunal tal-Appell jew quddiem xi qorti tal-ġustizzja:

Iżda, u mingħajr preġudizzju għas-subartikolu (7) (a), fil-każ ta' persuna naturali, li ma tkunx intrapriža jew direttur, maniġer, segretarju jew uffiċċjal iehor bħal dawk ta' intrapriżi, l-istqarrijiet jistgħu jittieħdu biss bil-kunsens minn qabel ta' dik il-persuna.

(7) (a) Id-Direttur Ĝeneralista', għall-finijiet ta' kull investigazzjoni taħt dan l-artikolu, jidħol u jagħmel tfittxija f'kull fond, art u f'kull mezz ta' trasport tal-intrapriża jew għaqda ta' intrapriżi fejn huwa jkollu għalfejn jaħseb li tkun tista' tinstab informazzjoni rilevanti għall-investigazzjoni, u fil-kors ta' kull tfittxija bħal dik jista' jikkonfiska kull oggett jew dokument, jew jieħu estratti minn jew jieħu kopji ta' dokumenti, jew jordna li ma jitneħha ebda oggett minn xi fond, art jew mezz ta' trasport bħal dak, u b'rabta ma' kull ordni bħal dik jista' jagħlaq u jissigilla kwalunkwe parti jew il-partijiet kollha ta' dan il-fond, art jew mezz ta' trasport, jew jissigilla xi oggett u, jew jitlob lil xi rappreżentant jew xi wieħed mill-membri tal-persunal tal-intrapriża jew tal-ghaqda ta' intrapriżi konċernati għal spjegazzjoni tal-fatti jew għad-dokumenti relatati mas-suġġett u l-ghan tal-ispezzjoni u jniżżejjel it-tweġibiet.

(b) L-uffiċjali li jkunu qed imexxu l-ispezzjoni taħt il-paragrafu (a) għandhom jeżerċitaw is-setgħat tagħhom fuq wirja ta' awtorizzazzjoni bil-miktub ffirmsata mid-Direttur Ĝenerali li tispecifika s-suġġett u l-ghan tal-ispezzjoni u l-pieni mniżżla taħt l-artikolu 21(4) u (5).

(8) (a) Jekk ikun hemm suspett raġjonevoli li kotba jew *records* oħra relatati man-negozju u mas-suġġett tal-ispezzjoni, li jistgħu jkunu rilevanti biex jagħtu prova ta' ksur tal-artikoli 5 u, jew 9 u, jew tal-Artikoli 101, u, jew 102 tat-TFUE, ikunu miżmuma f'xi fond iehor, art jew mezz ta' trasport, inkluż id-djar ta' diretturi, manigħers jew membri oħra tal-persunal tal-intrapriża jew għaqdiet ta' intrapriżi konċernati, id-Direttur Ĝeneralista', debitament awtorizzat b'mandat maħruġ minn Magistrat, jordna li titmexxa spezzjoni f'dak il-fond, art jew mezz ta' trasport.

(b) Il-Maġistrat, meta jiddeċiedi jekk joħroġx mandat taħt il-paragrafu (a) għandu jiżgura illi l-miżuri koersivi maħsuba la jkunu arbitrarji u lanqas eċċessivi, b'kont meħud, b'mod partikolari, għall-gravità tas-suspettak ksur ta' ligi, għall-importanza tal-provi mfittxija, għall-involviment tal-intrapriża jew l-għaqda ta' intrapriži konċernati u għall-probabbiltà raġjonevoli illi kotba tan-negozju u *records* relatati mas-suġġett tal-ispezzjoni huma miżmuma fil-fondijiet dwar liema intalab il-mandat.

(c) Il-mandat imsemmi fil-paragrafu (a) għandu jispecifika s-suġġett, l-ghan tal-ispezzjoni, id-data f'liema l-ispezzjoni ser tibda u l-pieni provduti fl-artikolu 21(4) u (5).

(d) L-uffiċjali li jkunu qed imexxu l-ispezzjoni taħt dan is-subartikolu għandhom jeżerċitaw is-setgħat tagħħom fuq wirja tal-mandat imsemmi fil-paragrafu (a) u għandhom għall-fini ta' dan is-subartikolu jkollhom is-setgħa li jidħlu jew ifittxu f'dak il-fond, art jew mezz ta' trasport u tul spezzjoni bħal dik, jistgħu jissekwestraw kull oggett jew dokument, jew jieħdu estratti jew kopji ta' dokumenti, jew jordnaw li ma jitneħha ebda oggett minn dak il-fond, art jew mezz ta' trasport.

(9) (a) Fil-kors ta' kull tfittxija kif imsemmi fis-subartikoli (7) u (8), id-Direttur Ĝenerali jista' jitlob l-assistenza tal-Pulizija u f'dak il-każ il-Pulizija għandu jkollha mandat minn Maġistrat biex tassisti id-Direttur Ĝenerali fit-tfittxija.

(b) Meta l-assistenza tal-Pulizija tintalab mill-Kummissjoni Ewropea skont l-Artikolu 20(6) tar-Regolament tal-Kunsill (KE) Nru. 1/2003, ikun hemm bżonn ta' mandat minn Maġistrat.

(10) Fil-ħruġ ta' mandat li jippermetti lill-Kummissjoni Ewropea li tmexxi spezzjoni skont l-Artikolu 21 tar-Regolament tal-Kunsill (KE) Nru. 1/2003, il-Magistrat għandu jsegwi d-disposizjonijiet tal-paragrafu (3) tiegħu.

(11) Tul il-kors tal-ispezzjoni taħt dan l-artikolu, l-intrapriżi jew l-għaqda ta' intrapriżi jew persuni soġġetti għall-ispezzjoni jista' jkollhom rappreżentanza legali jew konsulenti oħra tal-għażla tagħhom:

Iżda d-dritt ta' assistenza bħal dik m'għandux ikollha l-effett li tissospendi jew iddewwem l-ispezzjoni.

(12) Id-Direttur Ĝenerali għandu dejjem jagħti lill-persuna li tkun fil-fond jew li tkun fil-kontroll tal-ħaġa konfiskata riċevuta ta' kull ħaġa konfiskata. Kull ħaġa li tiġi konfiskata skont il-ligi mid-Direttur Ĝenerali u kull ordni mogħtija mid-Direttur Ĝenerali skont is-subartikolu (7) tista' tinżamm jew tista' tibqa' fis-seħħ sakemm id-Direttur Ĝenerali iqis neċessarju.

(13) L-ebda tfittxija ma tista' tibda f'xi fond wara s-sebgha ta' filgħaxija u qabel is-sebgha ta' filgħodu tal-ġħada, kemm-il darba ma jkunx hemm għalfejn wieħed jaħseb li d-dewmien ikun jista' jwassal għat-telfien ta' informazzjoni meħtieġa u t-tfittxija tkun għiet espressement awtorizzata mid-Direttur Ĝenerali jew l-Magistrat, kif ikun il-każ, biex issir bejn l-imsemmija hinijiet.

(14) Ebda ħaġa f'dan l-artikolu ma għandha titqies li tnaqqas is-setgħat tal-Pulizija taħt il-Kodiċi Kriminali jew taħt xi ligi oħra.". Kap. 9.

129. L-artikolu 12A tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni
tal-artikolu 12A
tal-Att
prinċipali.

"Meta d-Direttur Ĝeneralu
jirriżultalu illi seta' seħħ ksur tal-artikoli 5 u,
jew 9 ta' dan l-Att u, jew ksur tal-Artikoli 101 u,
jew 102 tat-TFUE, hu għandu jinnotifika lill-partijiet konċernati bil-miktub bl-oggezzjonijiet
imressqa kontrihom skont id-disposizzjonijiet tal-artikolu 64 tal-Att tal-2011 dwar l-Awtorită
ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur u għandu jiffissa terminu ta'
żmien f'liema huma jistgħu jinfurmawh bil-fehmiet tagħhom bil-miktub, u l-partijiet konċernati jistgħu fis-sottomissionijiet tagħhom
jiktbu il-fatti kollha illi huma jafu bihom u li
jistgħu jkunu rilevanti għad-difiża tagħhom kontra l-oggezzjonijiet mressqa mid-Direttur
Ĝenerali u għandhom jehmżu d-dokumenti rilevanti kollha bħala prova ta' dan.

(2) (a) Meta d-Direttur Ĝenerali joħroġ stqarrija ta' oggezzjonijiet fir-rigward ta'
kwistjoni li dwarha jkun irċieva ilment, hu
għandu jipprovdil lil dik il-persuna li ressdaq l-ilment kopja mhux kunfidenzjali tal-istqarrija ta'
oggezzjonijiet.

(b) Il-paragrafu (a) m'għandux
japplika meta l-proċedura ta' riżoluzzjoni taħt l-artikolu 12B tkun bdiet, madanakollu id-Direttur
Ĝenerali għandu jinforma bil-miktub lill-persuna li ressdaq l-ilment dwar in-natura u s-suġġett tal-proċedura.

(c) Taħt il-paragrafi (a) u (b), id-Direttur Ĝenerali għandu jiffissa terminu ta'
żmien f'liema dik il-persuna li ressdaq l-ilment
għandha tħarraf il-fehmiet tagħha bil-miktub.

(3) (a) Id-Direttur Ĝenerali għandu
jagħti lill-partijiet li jkunu rċevew mingħandu
stqarrija ta' oggezzjonijiet kif imsemmija fis-subartikolu (1), kif ukoll lil dik il-persuna li tkun
ressdaq l-ilment, l-opportunità sabiex
jiżviluppaw l-argumenti tagħhom bil-fomm,
jekk ikun hekk mitlub fis-sottomissionijiet tagħhom bil-miktub.

(b) Id-Direttur Ĝeneral i jista', fejn xieraq, jistieden kull persuna oħra biex tinfurmah bil-miktu il-fehmiet tagħha fit-terminu stabbilit mid-Direttur Ĝeneral u jista' jagħti lil dik il-persuna l-opportunità li tissottometti l-fehmiet tagħha bil-fomm jekk hekk titlob fis-sottomissionijiet tagħha bil-miktu.

(4) Mingħajr ħsara għad-dritt tal-persuni msemmija fis-subartikolu (3), li jitkolbu laqgħa separata u individwali, id-Direttur Ĝeneral i jista' ukoll, fuq inizjattiva tiegħu, u, kif iqis xieraq, jistieden lil ftit jew kull wieħed mill-partijiet li jkunu ssottomettew osservazzjonijiet bil-miktu skont is-subartikolu (3), għal laqgħa f'liema huma għandhom jiżviluppaw l-argumenti tagħhom u jagħmlu kontro-sottomissionijiet fil-preżenza ta' xulxin u jirrispondu għall-mistoqsijiet tad-Direttur Ĝeneral:

Iżda tul dik il-laqgħa, id-Direttur Ĝeneral għandu jiġura li qed jittieħed kont ghall-protezzjoni tas-sigreti tan-negozju u informazzjoni kunfidenzjali oħra.

(5) Il-partijiet notifikati bi stqarrija ta' ogħżejjonijiet kif imsemmi fis-subartikolu (1) għandhom jkunu intitolati li jkollhom aċċess għall-fajl tal-każ tagħhom wara li jkunu ġew notifikati, bla ħsara għan-nuqqas ta' żvelar ta' informazzjoni jew dokumenti identifikati mid-Direttur Ĝeneral li jkun fihom sigreti tan-negozju jew xi informazzjoni kunfidenzjali oħra, jew dokumenti interni tad-Direttur Ĝeneral jew tal-Awtoritajiet dwar il-Kompetizzjoni ta' Stati Membri oħra.

(6) Fejn, fuq konklużjoni tal-investigazzjoni, jirriżulta lid-Direttur Ĝeneral li l-ftehim, deċiżjoni, prattika miftiehma jew mgħiba investigata tikser id-disposizzjonijiet tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew tikser id-disposizzjonijiet tal-Artikoli 101 u, jew 102 tat-TFUE, huwa għandu joħrog deċiżjoni li sar ksur, u jagħti r-raġunijet tiegħu:

Iżda d-Direttur Ĝenerali għandu jibbaża d-deċiżjonijiet tiegħu taht dan is-subartikolu biss fuq oggezzjonijiet mniżżla fl-istqarrija ta' oggezzjonijiet msemmija fis-subartikolu (1).

(7) Fl-interpretazzjoni ta' dan l-Att u fl-eżerċizzju tar-responsabbiltajiet tiegħu, b'mod partikolari l-formulazzjoni tad-deċiżjonijiet, ordnijiet jew rapporti tiegħu, id-Direttur Ĝenerali għandu jirrikorri għas-sentenzi tal-Qorti tal-Ġustizzja tal-Unjoni Ewropea, u għal-deċiżjonijiet u stqarrijiet rilevanti tal-Kummissjoni Ewropea inkluż avviżi interpretattivi dwar id-disposizzjonijiet rilevanti tat-TFUE u legislazzjoni sussidjarja relativa għall-kompetizzjoni u jista' jirrikorri wkoll għad-deċiżjonijiet tiegħu u dawk tat-Tribunal tal-Appell.

(8) Kif tīgi notifikata deċiżjoni tad-Direttur Ĝenerali kif imsemmi fis-subartikolu (6) dik id-deċiżjoni għandha, bla hsara għad-dritt t'appell taht l-artikolu 13A, tikkostitwixxi titolu eżekkutiv għall-finijiet u l-effetti kollha tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi tal-Organizzazzjoni u Proċedura Ċivil:

Iżda, minkejja d-disposizzjonijiet tal-artikolu 256(2) tal-Kodiċi tal-Organizzazzjoni u Proċedura Ċivili, it-titolu eżekkutiv imsemmi f'dan is-subartikolu ma jkunx infurzabbli qabel ma jgħaddu għoxrin ġurnata mid-data ta' meta d-deċiżjoni ġiet notifikata lill-intrapriża jew għaqda ta' intrapriżi konċernati skont l-artikolu 19(1).

(9) Kull deċiżjoni tad-Direttur Ĝenerali tista' tīgi riveduta jew mibdula mid-Direttur Ĝenerali fejn ikun jirrizulta illi:

- (a) it-tagħrif li fuqu kienet ibbażata d-deċiżjoni kienet falza, qarrieqa jew nieqsa; jew
- (b) il-kondizzjonijiet tas-suq ikunu tbiddlu b'mod sinifikanti.".

Żieda tal-artikoli ġonna
12B, 12C u 12D
fl-Att prinċipali.

130. Minnufih wara l-artikolu 12A tal-Att prinċipali għandhom jiżdied dawn l-artikoli ġonna li ġejjin:-

"Procedura ta' riżoluzzjoni f'każijiet ta' kartelli.

12B.(1) Tul investigazzjoni dwar ftehim jew prattika miftiehma bejn intrapriżi li joperaw fl-istess livell tas-suq u fi ħdan l-istess suq rilevanti jew deċiżjoni ta' għaqda ta' intrapriżi li jkollha l-għan li tipprevjeni, tirrestringi jew tiddeforma l-kompetizzjoni skont l-artikolu 5 u, jew l-Artikolu 101 tat-TFUE, id-Direttur Generali jista', qabel ma joħrog stqarrija ta' ogħżejjonijiet, jistieden lil ftit minn jew kull waħda mill-intrapriżi konċernati jew lill-ġħaqda ta' intrapriżi konċernata biex jindikaw bil-miktub, fit-terminu ffissat minnu, jekk huma għandhomx il-ħsieb li jidħlu f'diskussionijiet ta' riżoluzzjoni bil-għan li jdaħħlu possibbilment sottomissionijiet riżoluttivi:

Iżda d-Direttur Generali m'għandux ikun obbligat li jieħu kont ta' twegibet riċevuti wara t-tmiem ta' dak it-terminu.

(2) Meta żewġ intrapriżi jew iktar fl-istess entità ekonomika jindikaw il-volontà tagħhom li jidħlu f'diskussionijiet riżoluttivi skont is-subartikolu (1), sat-tmiem tat-terminu ta' zmien iffissat mid-Direttur Generali, huma għandhom jinnominaw rappreżtant kongunt biex jidhol f'isimhom fid-diskussionijiet mad-Direttur Generali:

Iżda meta jiffissa t-terminu ta' zmien skont is-subartikolu (1), id-Direttur Generali għandu jindika lill-intrapriżi rilevanti li jifformaw parti mill-istess entità ekonomika, li n-nomina tar-rappreżtant kongunt ha jsir għall-fini unika biex titwettaq il-ħtieġa preskritta b'dan is-subartikolu u m'għandu jkollha l-ebda effett fuq l-allokazzjoni ta' responsabbiltà għall-ksur bejn l-intrapriżi differenti fi ħdan dik l-imsemmija entità ekonomika.

(3) Intrapriżi jew għaqda ta' intrapriżi li jieħdu sehem fid-diskussionijiet ta' riżoluzzjoni jistgħu jiġu infurmati mid-Direttur Generali dwar:

(a) l-oġġeżżonijiet li hu bi ħsiebu jressaq kontra tagħhom;

(b) il-provi użati biex jistabbilixxi l-oġgezzjonijet maħsuba;

(c) il-veržjonijiet mhux kunfidenzjali ta' kull dokument aċċessibli speċifikat elenkat fil-fajl tal-każ f'dak il-ħin; u

(d) il-margini tal-multi potenzjali:

Iżda fil-każ ta' paragrafu (c) l-aċċess jista' jingħata biss fuq talba tal-intrapriża jew l-għaqda ta' intrapriži konċernata u meta dik it-talba tkun neċċesarja biex tippermetti lill-parti tkun certa fuq il-pożizzjoni tagħha rigward il-perjodu ta' żmien jew kull aspett partikolari ieħor tal-kartell.

(4) Meta jintroduċu is-sottomissjonijiet tagħhom dwar ir-riżoluzzjoni, l-intraprizi jew l-għaqda tal-intraprizi li jkunu qed jieħdu sehem fid-diskussionijiet ta' riżoluzzjoni għandhom jikkonfermaw lid-Direttur Ĝenerali illi huma ser jitkolbu aċċess għall-fajl u permess biex jissottomettu l-fehmiet tagħhom bil-fomm wara li jirċievu l-istqarrija tal-oġgezzjonijiet biss jekk l-istqarrija tal-oġgezzjonijiet ma tkunx tirrifletti l-kontenut tas-sottomissjonijiet ta' riżoluzzjoni tagħhom.

(5) L-informazzjoni mogħtija skont is-subartikolu (3) għandha tkun kunfidenzjali vis-a-vis terzi persuni, ħlief fejn l-awtorizzazzjoni espliċita għall-iżvelar tkun ġiet mogħtija minn qabel mid-Direttur Ĝenerali.

(6) Jekk ikun hemm progress fid-diskussionijiet ta' riżoluzzjoni, id-Direttur Ĝenerali jiġi jiffissa terminu ta' żmien f'liema l-partijiet jistgħu jikkommettu ruħhom li jsegwu l-proċedura ta' riżoluzzjoni billi jdaħħlu sottomissionijiet riżoluttivi li jirriflettu ir-riżultati tad-diskussionijiet ta' riżoluzzjoni u li jirrikonox Xu il-parteċipazzjoni tagħhom fi ksur tal-artikolu 5, u, jew l-Artikolu 101 tat-TFUE kif ukoll r-responsabbiltà tagħhom:

Iżda, qabel ma d-Direttur Ĝenerali jiffissa terminu ta' żmien biex jintroduċi s-sottomissjonijiet riżoluttivi tagħhom, il-partijiet konċernati għandhom ikunu intitolati li jkollhom l-informazzjoni specifikata fis-subartikolu (3) żvelata lilhom, fuq talba, fil-ħin:

Iżda wkoll id-Direttur Ĝenerali m'għandux ikun obbligat li jieħu kont tas-sottomissjonijiet riżoluttivi riċevuti wara t-tmiem ta' dak it-terminu.

(7) Meta l-istqarrija ta' oggezzjonijiet notifikata lill-partijiet tkun tirrifletti l-kontenut tas-sottomissjonijiet riżoluttivi tagħhom, it-tweġiba bil-miktub tal-intraprizi jew għaqda tal-intraprizi konċernata dwar l-istqarrija ta' oggezzjonijiet għandha, fit-terminu ffissat mid-Direttur Ĝenerali, tikkonferma illi l-istqarrija ta' oggezzjonijiet indirizzata lilhom tirrifletti l-kontenut tas-sottomissjonijiet riżoluttivi tagħhom.

(8) Bla ħsara għad-disposizzjonijiet tas-subartikolu (7), id-Direttur Ĝenerali jista' mbagħad jipproċedi ghall-adozzjoni ta' deċiżjoni skont is-subartikolu 12A:

Iżda d-Direttur Ĝenerali jista' jippremja lill-intraprizi jew għaqda ta' intraprizi konċernati għar-riżoluzzjoni billi jnaqqas għaxra fil-mija mill-ammont tal-multa li tkun ser tīgi imposta.

(9) Il-fatt li intrapriza ikkoperat mad-Direttur Ĝenerali taħt din il-proċedura ta' riżoluzzjoni għandha tkun indikata fid-deċiżjoni finali, sabiex tīgi spjegata r-raġuni dwar il-livell tal-multa.

(10) Id-Direttur Ĝenerali jista' jiddeċiedi f'kull ħin waqt il-proċedura biex jwaqqaf id-diskussionijiet ta' riżoluzzjoni għal kollo f'każ specifiku jew fir-rigward ta' wieħed jew iżjed mill-partijiet involuti, jekk hu jikkonsidra illi l-efficjenzi proċedurali x'aktarx mhux ser jintlaħqu.

Rabtiet.

12C.(1) Fejn id-Direttur Ĝeneralijkun bi ħsiebu jaddotta deċiżjoni li teħtieġ li l-ksur għandu jieqaf u l-intrapriża jew l-għaqda ta' intrapriżi konċernati joffru rabtiet li jilhqu it-thassib espressi lilhom mid-Direttur Ĝeneralij f-l-istima preliminari tal-każ, id-Direttur Ĝeneralij jista' b'deċiżjoni jagħmel dak l-irbit vinkolanti fuq l-intrapriża jew l-għaqda ta' intrapriżi. Dik id-deċiżjoni tista' tapplika għal perjodu speċifikat u għandha tikkonkludi li ma jkunx hemm aktar raġunijiet għalfejn id-Direttur Ĝeneralij għandu jaġixxi:

Iżda d-Direttur Ĝeneralij jista', jerġa jibda l-proċeduri mill-ġdid meta jirriżultalu illi:

(a) jkun hemm bidla materjali f'kwalunkwe fatt li fuqu ġiet ibbażata d-deċiżjoni; jew

(b) l-intrapriża jew l-għaqda ta' intrapriżi konċernati mxew kontra l-irbit tagħhom; jew

(c) id-deċiżjoni ġiet ibbażata fuq tagħrif provdut mill-partijiet li kienet mhux kompluta, inkorretta jew qarrieqa.

(2) (a) Meta d-Direttur Ĝeneralij ikun bi ħsiebu jadotta deċiżjoni taħt is-subartikolu (1), hu għandu jippubblika taqsira konċiża tal-każ u l-kontenut ewljeni tal-irbiet jew tal-kors t'azzjoni proposta.

(b) Terzi persuni interessati jistgħu jissottomettu l-osservazzjonijiet tagħhom fit-terminu ta' żmien ffissat mid-Direttur Ĝeneralij fil-pubblikazzjoni.

(c) It-terminu ta' żmien msemmi fil-paragrafu (b) ma jistax ikun inqas minn xahar.

(d) Fil-pubblikazzjoni msem-mija fil-paragrafu (a) id-Direttur Ĝeneralij għandu jieħu kont tal-interess leġittimu tal-intrapriżi fil-protezzjoni ta' sigrieti tan-negozju jew informazzjoni kunfidenzjali oħra.

(3) Meta xi intrapriža jew għaqda ta' intrapriži jonqsu milli jħarsu jew jaġixxu kontra r-rabta li saret vinkolanti b'deċiżjoni li tkun saret skont is-subartikolu (1), hi tkun qiegħda, mingħajr hsara għal kull responsabbiltà oħra taħt dan l-Att, jew taħt xi ligi oħra tikkommetti ksur ta' dan l-Att u id-disposizzjonijiet tal-artikolu 12A għandhom japplikaw *mutatis mutandis*.

Meta d-Direttur
Generali isib li
m'hemm x sur.

12D. Fejn jirriżulta lid-Direttur Generali, illi l-imġiba mistħarrġa fl-investigazzjoni ma tikkostitwix ksur tad-disposizzjonijiet tal-artikolu 5 u, jew artikolu 9, u, jew l-Artikolu 101 u, jew l-Artikolu 102 tat-TFUE, hu jista' jagħti deċiżjoni għal dak il-għan.

(2) Meta d-Direttur Generali ikun bi ħsiebu jadotta deċiżjoni taħt is-subartikolu (1), id-disposizzjonijiet tal-artikolu 12C(2) għandhom japplikaw *mutatis mutandis*".

**131. L-artikolu 13 tal-Att prinċipali għandu jiġi emendat kif
li ġej:**

Emenda tal-
artikolu 13 tal-
Att prinċipali.

- (a) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:

"Meta joħrog deċiżjoni li jkun sab ksur taħt l-artikolu 12A, id-Direttur Generali għandu flimkien ma' dik id-deċiżjoni joħrog ordni ta' waqfien u ebda tkomplija li biha hu jordna lill-intrapriža jew għaqda ta' intrapriži konċernati, skont il-każ, li tieqaf u ma tkompliex tipparteċċipa f'tali ftehim, deċiżjoni, prattika jew mgħiba, u, jew ordni ta' konformità li tippreskrivi rimedji fl-imġiba jew ta' struttura indirizzati lill-intrapriža jew għaqda ta' intrapriži konċernati, bil-għan li jwaqqfu l-ksur b'mod immedjet u effettiv"; u

- (b) is-subartikolu (2) tiegħu għandu jiġi mhassar u is-subartikoli (3) u (4) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (2) u (3) rispettivament.

132. L-artikoli 13A u 14 tal-Att prinċipali għandhom jiġu sostitwiti b'dawn l-artikoli li ġejjin:

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

"Appell
quddiem it-
Tribunal tal-
Appell.

13A.(1) L-intrapriža jew l-għaqda ta' intrapriži konċernati jistgħu jappellaw permezz ta' rikors preżentat quddiem it-Tribunal tal-Appell, minn kull deċiżjoni li ssib ksur, ordni ta' waqfien u ebda tkomplija jew ordni ta' konformità, jew multa amministrattiva u, jew minn xi ħlas ta' penali kwotidjan mahruġ jew impost mid-Direttur Ĝenerali skont id-disposizzjonijiet ta' dan l-Att fiż-żmien għoxrin ġurnata mid-data tan-notifika skont l-artikolu 19(1).

(2) L-appell għandu jiġi notifikat lid-Direttur Ĝenerali, u d-Direttur Ĝenerali għandu jippreżenta r-risposta tiegħi fiż-żmien għoxrin ġurnata mid-data tan-notifika tal-appell.

(3) Il-preżentata tal-appell skont is-subartikolu (1) m'għandux ikollu l-effett li jissospendi l-ordni, multa amministrattiva u, jew il-ħlas ta' penali kwotidjan li dwarhom qed isir l-appell sakemm it-Tribunal tal-Appell, fuq talba raġunata mill-parti fl-istess rikors tal-appell, u wara li jinstema' d-Direttur Ĝenerali, mat-tissospendix l-ordni, multa amministrattiva u, jew il-ħlas ta' penali kwotidjan taħt dawk il-kondizzjonijiet li jidrilha xierqa u tagħti r-raġunijiet tagħha għal dan, sakemm tingħata s-sentenza finali tal-appell.

(4) It-Tribunal tal-Appell jista' jew jikkonferma fl-intier jew in parti jew ihassar id-deċiżjoni u, jew l-ordni tad-Direttur Ĝenerali u jista' jikkonferma, jirrevoka jew jvarja il-multa amministrattiva u, jew il-ħlas ta' penali kwotidjan impost mid-Direttur Ĝenerali fil-limiti tal-artikolu 21, filwaqt li jittieħed kont tal-gravità u t-tul taż-żmien li dam il-ksur kif ukoll kull ċirkostanza attenwanti jew aggravanti.

(5) Id-Direttur Ĝenerali u kull parti f'appell quddiem it-Tribunal tal-Appell li jhossuhom aggravati b'deċiżjoni tat-Tribunal tal-Appell jistgħu jappellaw fuq punt ta' ligi quddiem il-Qorti tal-Appell permezz ta' rikors preżentat fir-registru ta' dik il-qorti, fi żmien għoxrin ġurnata mid-data ta' dik id-deċiżjoni tat-Tribunal tal-Appell.

Tmexxija ta'
ilmenti u dritt
ta' appell.

14. (1) L-ilmenti għandhom jiġu riċevuti mid-Direttur Ĝenerali bil-miktub, u d-Direttur Ĝenerali għandu jippreskrivi dawk il-ħtiġiet ġenerali li persuna li tressaq ilment għandha ssegwi meta tiprovo informazzjoni:

Iżda dik il-persuna li tressaq l-ilment għandha titlob fl-ilment tagħha sabiex titwettaq investigazzjoni fuq dawk il-prattiċi li huma allegatament ristrettivi.

(2) Meta d-Direttur Ĝenerali jara li, fuq il-baži tal-informazzjoni fil-pussess tiegħu m'hemmx raġunijiet suffiċċenti sabiex jaġixxi fuq ilment, hu għandu jinforma lill-persuna li tkun ressquet l-ilment bir-raġunijiet tiegħu u għandu jistabbilixxi terminu ta' żmien li fih il-persuna li tkun ressquet l-ilment tkun tista' turi l-fehmiet tagħha bil-miktub. Id-Direttur Ĝenerali m'għandux ikun obbligat li jieħu in-konsiderazzjoni sottomissjonijiet oħra bil-miktub li jkun rċieva wara l-għeluq ta' dak it-terminu.

(3) Meta l-persuna li ressquet l-ilment turi l-fehmiet tagħha lid-Direttur Ĝenerali fit-terminu ffissat minnu u is-sottomissjonijiet bil-miktub magħmulu mill-persuna li tkun ressquet l-ilment ma jwasslux għal evalwazzjoni differenti tal-ilment, id-Direttur Ĝenerali għandu jiċħad l-ilment permezz ta' deċiżjoni.

(4) Meta l-persuna li tkun ressquet l-ilment tonqos milli turi l-fehmiet tagħha lid-Direttur Ĝenerali fit-terminu ta' żmien lilha ffissat minnu, l-ilment jiġi meqjus li gie irtirat.

(5) Meta l-persuna li tkun ressquet l-ilment ma taqbilx mad-deċiżjoni tad-Direttur Ĝenerali skont is-subartikolu (3) jew mad-deċiżjoni tad-Direttur Ĝenerali fejn isib li ma jkunx hemm ksur skont l-artikolu 12D, hija tista' tappella permezz ta' rikors preżentat quddiem it-Tribunal tal-Appell fi żmien għoxrin ġurnata min-notifika tagħha u dan skont l-artikolu 19(1).

(6) Meta, fuq appell mressaq minn dik il-persuna li tkun ressquet l-ilment, it-Tribunal tal-Appell ma jaqbilx mad-deċiżjoni tad-Direttur Ĝenerali li tkun ċaħdet l-ilment skont is-subartikolu (3), hija għandha tinforma lid-Direttur Ĝenerali b'dan u hu għandu għalhekk jibda l-investigazzjoni.

(7) Meta, fuq appell mressaq minn dik il-persuna li tkun ressjet l-ilment, it-Tribunal tal-Appell ma jaqbilx mad-deċiżjoni tad-Direttur Ĝenerali li jkun sab li m'hemmx ksur skont l-artikolu 12D, u jsib illi hemm ksur, hu għandu jagħti deċiżjoni f'dan is-sens u jirrimetti d-deċiżjoni lid-Direttur Ĝenerali li għandu jieħu kull miżura li huwa jqis xieraq skont id-disposizzjonijiet ta' dan l-Att fir-rigward tal-imsemmi ksur.

(8) Kull parti f'appell quddiem it-Tribunal tal-Appell, inkluż id-Direttur Ĝenerali, li thoss ruħha aggravata b'deċiżjoni tat-Tribunal tal-Appell mahruġa skont is-subartikolu (7) tista' tappella fuq punt ta' li ġi quddiem il-Qorti tal-Appell, permezz ta' rikors ppreżentat fir-registru ta' dik il-qorti, fi żmien għoxrin ġurnata mid-data ta' dik id-deċiżjoni tat-Tribunal tal-Appell u d-disposizzjonijiet tas-subartikolu (7) għandhom jaapplikaw *mutatis mutandis* għall-Qorti tal-Appell.

(9) Kull deċiżjoni li jkun ha t-Tribunal tal-Appell fuq appell minn deċiżjoni li jkun ha d-Direttur Ĝenerali mogħtija skont is-subartikolu (3) tkun waħda finali.

(10) Appell magħmul taħt dan l-artikolu ma jissospendix l-operat ta' xi deċiżjoni li minnha jsir l-appell.".

Żieda tal-artikoli ġodda
14A, 14B u 14C
tal-Att
prinċipali.

133. Minnufih wara l-artikolu 14 tal-Att prinċipali għandhom jiżdiedu l-artikoli ġodda li ġejjin:-

"Ilmenti ta'
interess
ġenerali.

14A.(1) Mingħajr ħsara għall-artikolu 12, entità kwalifikata tista' wkoll tressaq ilment lid-Direttur Ĝenerali illi fir-rigward ta' ogħgetti jew servizzi partikolari:

(a) l-istruttura tas-suq konċernat jew xi aspett minn dik l-istruttura;

(b) xi mgħiba, sew jekk fis-suq konċernat u sew jekk le, ta' persuna waħda jew iżjed li tipprovd i jew takkwista ogħġetti jew servizzi fis-suq konċernat; jew

(c) xi mgħiba fir-rigward tas-suq konċernat ta' klijenti ta' persuna li tipprovd i jew takkwista ogħġetti jew servizzi, hija jew tidher li qed tagħmel ħsara b'mod sinifikanti lill-interessi tal-konsumatur.

(2) Id-Direttur Ĝeneral i għandu, fi żmien disghin ġurnata wara l-ġurnata li fih jirċievi l-ilment, jippubblika risposta li tghid kif hu jipproponi li jittratta l-ilment, u b'mod partikolari:

(a) jekk hu ddeċidiekk li jieħu azzjoni, jew li ma jieħux azzjoni, bhala risposta għall-ilment; u

(b) jekk hu ddeċida li jieħu azzjoni, x'azzjoni qed jipproponi li jieħu.

(3) Ir-risposta għandha tagħti r-raġunijiet tad-Direttur Ĝenerali għall-proposti tiegħu.

(4) Id-Direttur Ĝenerali-

(a) għandu joħroġ gwida dwar il-preżentazzjoni mill-entità kwalifikata ta' każ raġunat għall-ilment; u

(b) jista' joħroġ kwalunkwe gwida oħra kif jidher xieraq għall-finijiet ta' dan l-artikolu.

Sospensjoni
jew
terminazzjoni
ta' proceduri.

Ittri ta'
gwida.

14B. (1) Id-Direttur Ĝenerali jista' jissospendi il-proċeduri jew jirrifjuta ilment skont l-Artikolu 13 tar-Regolament tal-Kunsill(KE) Nru. 1/2003.

(2) Meta d-Direttur Ĝenerali jiċħad jew jissospendi ilment skont is-subartikolu (1), hu għandu jinforma mingħajr dewmien lil dik il-persuna li tkun ressqa l-ilment b'dik l-awtorità tal-kompetizzjoni li tkun qiegħda tmexxi jew digà imxiet f'dak il-każ.

14C. (1) Meta d-Direttur Ĝenerali jqis xieraq, hu jista', wara talba minn intrapriża, jipprovdi gwida fuq kwistjonijiet godda dwar l-interpretazzjoni tal-artikoli 5 u, jew 9 u l-Artikoli 101, u, jew 102 tat-TFUE f'dikjarazzjoni bil-miktub magħrufa bhala "ittra ta' gwida".

(2) Id-Direttur Ĝenerali għandu jikkonsidra bhala xieraq li joħroġ ittra ta' gwida taħt is-subartikolu (1) biss jekk il-kondizzjonijiet kumulattivi li ġejjin ikunu seħħew:

(a) il-gwida informali mitluba hija kumpatibbli mal-prioritajiet ta' infurzar tal-Uffici;

(b) il-valutazzjoni sostantiva tal-ftehim jew prattika fid-dawl tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew l-Artikoli 101, u, jew 102 tat-TFUE, tqajjem mistoqsija dwar l-applikazzjoni tal-liġi li dwarha ma jkunx hemm kjarifika fil-qafas legali eżistenti Malti jew tal-UE, fi gwida ġenerali pubblika disponibbli, f'sentenzi jew deċiżjonijiet jew f'ittri ta' gwida preċedenti;

(c) evalwazzjoni prima-facie tal-fatti tal-każ tissuġġerixxi illi l-kjarifika tal-kwistjoni ġdida permezz ta' ittra ta' gwida ser tkun utli, b'kont meħud tal-elementi li ġejjin:

- l-importanza ekonomika tal-ogġetti u servizzi konċernati bil-ftehim jew prattika mill-perspettiva tal-konsumatur, u, jew;

- il-limitu sa liema l-ftehim jew prattika ser tiġi applikata jew x'aktarx ser tiġi applikata fis-suq rilevanti jew fi swieq oħra, u, jew;

- l-importanza tal-investimenti marbuta mat-transazzjoni tenut kont tad-daqs tal-kumpanniji konċernati u l-limitu sa fejn it-transazzjoni tirrelata ma' operazzjoni strutturali bħal ma hu l-ħolqien ta' *joint venture* b'funzjoni mhux sħiħa; u

(d) ikun possibl li tinħareg ittra ta' gwida fuq il-baži tal-informazzjoni provduta u ma jkun hemm bżonn tal-ebda miżura oħra ta' tiftix dwar il-fatti mid-Direttur Ĝeneral.

(3) Id-Direttur Ĝenerali m'għandux jikkonsidra talba għal ittra ta' gwida meta:

(a) ikun jaf illi l-kwistjonijiet mqajma fit-talba huma identici għal jew simili ta' kwistjonijiet mqajma f'każ pendentii quddiem qorti ta' Malta jew il-Qorti tal-Ġustizzja tal-Unjoni Ewropea; jew

(b) il-ftehim jew il-prattika għal liema t-talba tirreferi tkun suġġetta għal proċedimenti pendenti quddiem id-Direttur Ĝenerali, it-Tribunal tal-Appell, il-Kummissjoni Ewropea, u sa fejn hu jista' jkun jaf bihom pendenti quddiem qorti ta' Malta, il-Qorti tal-Ġustizzja tal-Unjoni Ewropea jew qorti ta' Stat Membru iehor jew awtorità kompetenti nazzjonali.

(4) Id-Direttur Ĝenerali m'għandux jikkonsidra mistoqsijiet ipotetici jew joħrog ittri ta' gwida dwar ftehim jew prattiċi illi m'ghadhomx jiġu implementati mill-applikanti:

Iżda l-intrapriżi jistgħu jippreżentaw talba għal ittra ta' gwida lid-Direttur Ĝenerali dwar kwistjonijiet mqajma b'xi ftehim jew prattika qabel l-implementazzjoni tagħħom imma wara l-konkluzjoni tal-ftehim jew prattika jew meta l-intrapriżi jkunu jistgħu juru għas-sodisfazzjon tad-Direttur Ĝenerali illi n-negożjati waslu fi stadju avvanzat suffiċjenti biex talba tiġi kkunsidrata.

(5) Talba għal ittra ta' gwida m'għandux ikollha l-effett li tipprevjeni lid-Direttur Ĝenerali, meta hu iqis neċċesarju, milli jibda investigazzjoni taħt dan l-Att dwar il-fatti preżentati fit-talba.

(6) It-talba għandu jkun fiha b'mod ċar:

- l-identità tal-intrapriżi konċernati kollha jew tal-għaqda ta' intrapriżi, kif ukoll indirizz uniku fejn tiġi riċevuta ittra ta' gwida;
- il-kwistjonijiet specifiċi li dwarhom gwida qiegħda titfittex;
- l-informazzjoni kollha u eżawrjenti fuq il-punti kollha rilevanti għal evalwazzjoni informata tal-mistoqsijiet mqajma inkluż dokumentazzjoni pertinenti;
- raġunament dettaljat għala it-talba tippreżenta kwistjoni ġdida;

- kull informazzjoni oħra illi tippermetti evalwazzjoni tat-talba fid-dawl tal-kondizzjonijiet msemija fis-subartikoli (2) sa (4), inkluż b'mod partikolari, dikjarazzjoni li l-ftehim jew prattika għal liema tirreferi t-talba mhijiex suġġett għal proċeduri quddiem il-Qorti tal-Ġustizzja tal-Unjoni Ewropea, qorti ta' Malta jew ta' stat membru ieħor jew quddiem il-Kummissjoni Ewropea jew awtorità kompetenti nazzjonali;

- identifikazzjoni ċara ta' kull sigriet tan-negozju jew ta' xi informazzjoni kunfidenzjali oħra; u

- kull informazzjoni oħra jew dokumentazzjoni rilevanti għall-każ individwali.

(7) Id-Direttur Ĝenerali għandu jevalwa it-talba fuq il-baži tal-informazzjoni provduta u, fejn disponibbli, jista' juža informazzjoni addizzjonali għad-disposizzjoni tiegħu minn sorsi pubbliċi, investigazzjonijiet preċedenti jew kull sors ieħor u jista' jsaqs i lill-applikanti biex jipprovdu informazzjoni supplimentari:

Iżda meta juža informazzjoni provduta mill-applikanti jew dik l-informazzjoni oħra, id-Direttur Ĝenerali għandu jieħu kont tal-protezzjoni ta' sigreti tan-negozji jew ta' informazzjoni kunfidenzjali oħra.

(8) Meta d-Direttur Ĝenerali jikkonsidra illi mhux xieraq li johrog ittra ta' gwida jew li ittra ta' gwida ma tistax tinħareġ taħt dan l-artikolu, id-Direttur Ĝenerali għandu jinforma lill-applikant dwar dan filwaqt li jagħti r-ragunijiet għal dan.

(9) Meta d-Direttur Ĝenerali ma jkunx għadu hareġ ittra ta' gwida, l-applikant jista' jirtira t-talba tiegħu fi kwalunkwe stadju:

Iżda meta talba għal ittra ta' gwida tīgħi rtirata skont dan is-subartikolu, l-informazzjoni mogħtija fil-kuntest tat-talba għall-gwida għandha tibqa' għand id-Direttur Ĝenerali u tista' tīgħi użata fi proċeduri sussegwenti taħt dan l-Att.

(10) Ittra ta' gwida għandu jkun fiha:

- deskrizzjoni mqassra tal-fatti fuq liema hija bbażata; u

- ir-raġonament legali prinċipali wara l-apprezzament u evalwazzjoni tad-Direttur Ĝenerali tal-kwistjoni gdida relatata mal-artikoli 5 u, jew 9 ta' dan l-Att u, jew l-Artikoli 101 u, jew 102 tat-TFUE mqajma fit-talba:

Iżda ittra ta' gwida tista' tkun limitata għal parti mill-kwistjonijiet mqajma fit-talba u tista' wkoll tinkludi aspetti addizzjonali għal dawk mniżżla fit-talba.

(11) Ittri ta' gwida għandhom jittellaw fuq is-sit elettroniku tal-Awtorită ta' Malta għall-Kompetizzjoni u ghall-Affarijiet tal-Konsumatur kif mwaqqfa bl-Att tal-2011 dwar l-Awtorită ta' Malta għall-Kompetizzjoni u ghall-Affarijiet tal-Konsumatur, b'kont meħud għall-interess legittimu tal-intrapriżi dwar il-protezzjoni ta' sigrieti tan-negozju jew ta' informazzjoni kunfidenzjali oħra:

Iżda, qabel ma joħroġ ittra ta' gwida, id-Direttur Ĝenerali għandu jaqbel mal-applikanti dwar verżjoni pubblika.

(12) Meta ftehim jew prattika tkun iffurmat l-baži fattwali għal ittra ta' gwida, id-Direttur Ĝenerali m'għandux ikun imwaqqaf milli jeżamina sussegwentement dak l-istess ftehim jew prattika fi proċedura taħt dan l-Att, u meta jagħmel hekk, id-Direttur Ĝenerali għandu jieħu kont tal-ittra ta' gwida, suġġett b'mod partikolari għal tibdil fil-fatti mniżżla, għal xi aspetti ġoddha mqajma b'ilment, għal žviluppi f'deciżjonijiet jew sentenzi dwar l-applikazzjoni tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew l-Artikoli 101 u, jew 102 tat-TFUE u għal tibdil fil-politika tal-Awtorită ta' Malta għall-Kompetizzjoni u ghall-Affarijiet tal-Konsumatur.

(13) Ittri ta' gwida mhumiex vinkolanti fuq il-qrati jew fuq it-Tribunal tal-Appell, għalkemm jiġi jittieħed kont tagħhom jekk ikun hekk meqjus xieraq.

134. L-artikolu 15 tal-Att prinċipali għandu jiġi sostitwit b'dan li gej:

Sostituzzjoni
tal-artikolu 15
tal-Att
prinċipali.

"Miżuri
Interim.

15. (1) F'każijiet ta' urġenza min-habba riskju li ssir īxsara serja u irreparabbi lill-kompetizzjoni, id-Direttur Ĝeneralis jista', fuq linizjattiva tiegħu stess, permezz ta' deċiżjoni, bbażata fuq sejba ta' ksur *prima facie* tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew l-Artikoli 101 u, jew 102 tat-TFUE, jordna li jittieħdu miżuri *interim*.

(2) L-intrapriża jew l-għaqda ta' intrapriži li jkunu taħt investigazzjoni għandhom jiġu notifikati skont l-artikolu 19(1), b'kopja tad-deċiżjoni li tordna li għandha tittieħed miżura *interim* skont is-sabartikolu (1), u dik id-deċiżjoni għandha tapplika għal perjodu ta' żmien spċifikat li jista' jiġġedded jekk ikun neċċesarju u xieraq.

(3) L-intrapriża jew l-għaqda ta' intrapriži konċernati jistgħu jappellaw minn kull deċiżjoni li jkun ha d-Direttur Ĝeneralis skont is-sabartikolu (1) permezz ta' rikors preżentat quddiem it-Tribunal tal-Appell fiż-żmien għoxrin ġurnata mid-data tan-notifika tagħha skont l-artikolu 19(1), u dan l-appell ma jkollux l-effett li jissospendi l-miżura *interim* sakemm it-Tribunal tal-Appell, wara li jisma s-sottomissionijiet tal-intrapriża jew l-għaqda tal-intrapriži konċernati, ma jorndax xort'ohra.

(4) Kull deċiżjoni li jkun ha it-Tribunal tal-Appell skont dan l-artikolu għandha tkun finali.

Tahsir tal-artikolu 16 tal-Att prinċipali.

Sostituzzjoni tal-artikoli 17, 18 u 19 tal-Att prinċipali.

135. (1) L-artikolu 16 tal-Att prinċipali għandu jiġi mħassar.

(2) L-artikoli 17, 18 u 19 tal-Att prinċipali għandhom jiġu sostitwiti b'dawn l-artikoli li ġejjin:

Nuqqas ta'
konformità
ma' ordni ta'
waqfien u
ebda
tkomplija u
ma' ordni ta'
konformità.

17. Kull intrapriża jew għaqda ta' intrapriži li jaġixxu kontra ordni ta' waqfien u ebda tkomplija jew ordni ta' konformità maħruġa mid-Direttur Ĝeneralis skont l-artikolu 13, bla īxsara għal kull responsabbiltà taħt dan l-Att jew taħt kull ligi oħra, ikunu qed jikkommiettu ksur ta' dan l-Att.

Nuqqas ta'
konformità
ma' mizura
interim.

Notifika u
Pubblikazzjon
i.

18. Kull intrapriža jew għaqda ta' intrapriži li jaġixxu kontra miżura *interim* maħruġa mid-Direttur Ĝenerali skont l-artikolu 15, bla īxsara għal kull responsabbiltà taħt dan l-Att jew taħt kull ligi oħra, ikunu qed jikkommiettu ksur ta' dan l-Att.

19. (1) Id-deċiżjonijiet jew ordnijiet tad-Direttur Ĝenerali maħruġa skont id-disposizzjonijiet ta' dan l-Att għandhom jiġu notifikati lill-partijiet konċernati u lil min ressaq l-ilment skont id-disposizzjonijiet tal-artikolu 64 tal-Att tal-2011 dwar l-Awtorită ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur b'kont meħud għall-protezzjoni ta' sigreti tan-negozju jew informazzjoni kunfidenzjali oħra.

(2) It-Tribunal tal-Appell u d-Direttur Ĝenerali għandhom jippublikaw mingħajr dewmien žejjed id-deċiżjonijiet jew ordnijiet li jkunu ttieħdu skont dan l-Att u waqt li jkun qed isir dan, it-Tribunal tal-Appell u d-Direttur Ĝenerali għandhom jieħdu kont tal-interess leġittimu tal-intrapriži għall-protezzjoni tas-sigreti tan-negozju tagħhom jew informazzjoni kunfidenzjali oħra.

(3) Kull deċiżjoni mogħtija mit-Tribunal tal-Appell fi proċeduri quddiemu għandhom jitqiesu li jkunu gew notifikati lill-intrapriža jew l-għaqda ta' intrapriži konċernati fid-data li gew mogħtija.

(4) It-Tribunal tal-Appell għandu jipprovd:
jipprovdi:

(a) kemm verżjoni kompleta kif ukoll verżjoni mhux kunfidenzjali tad-deċiżjoni tiegħu fuq karta jew fuq mezz durabbi ieħor lid-Direttur Ĝenerali; u

(b) kopja tad-deċiżjoni tiegħu, fuq talba, lill-partijiet fil-każ, filwaqt li jiżgura meta jagħmel hekk il-protezzjoni ta' sigreti tan-negozju jew informazzjoni kunfidenzjali oħra.".

136. L-artikolu 21 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni
tal-artikolu
21 tal-Att
prinċipali.

"Multi
Amministrat-
tivi.

21. (1) Kull intrapriža jew għaqda ta' intrapriži li tikkommetti ksur skont l-artikoli 12A(6), 12C(3), 17 jew 18 tista', b'deċiżjoni tad-Direttur Ĝenerali, tehel multa amministrattiva ta' mhux aktar minn għaxra fil-mija tad-dħul totali tal-intrapriža jew għaqda ta' intrapriži konċernati fis-sena ta' negozju ta' qabel:

Iżda meta l-ksur magħmul minn għaqda jkun jirrigwarda l-attivitàjet tal-membri tagħha, il-multa ma tkunx aktar minn għaxra fil-mija tad-dħul annwali ta' kull membru attiv fis-suq affetwat mill-ksur magħmul mill-għaqda.

(2) (a) Meta multa amministrattiva hija imposta fuq għaqda ta' intrapriži, wara li jkun ittieħed kont tad-dħul annwali tal-membri tagħha, u l-għaqda ma tkunx kapaci thallas, l-għaqda għandha tagħmel sejħa għall-kontribuzzjonijiet mill-membri tagħha biex tkun tista' tkopri l-ammont tal-multa amministrattiva li jkun dovut.

(b) Meta dawk il-kontribuzzjonijiet msemmija fil-paragrafu (a) ma jkunux saru lill-ħaqda fit-terminu taż-żmien mogħti mid-Direttur Ĝenerali, id-Direttur Ĝenerali jista' jitlob illi l-multa amministrattiva tħallax direttament minn kwalunkwe intrapriža li kellha ir-rappreżentanti tagħha membri tal-korpi li jieħdu d-deċiżjonijiet tal-ħaqda.

(c) Meta l-applikazzjoni tal-paragrafu (b) ma tkunx bizżejjed biex jiġi żgurat il-ħlas shiħ tal-multa, id-Direttur Ĝenerali jista' jitlob il-ħlas tal-bilanc minn kull membru tal-ħaqda li kienu attivi fis-suq f'liema seħħi l-ksur.

(d) Id-Direttur Ĝenerali ma jistax jitlob ħlas taħt il-paragrafi (b) u (c) ta' dan is-subartikolu minn intrapriži li juru illi huma ma implementawx id-deċiżjoni illegali tal-ħaqda u li ma kienux jafu bl-eżistenza tagħha jew inkella naqsu attivament milli jkollhom x'jaqsmu ma' dik id-deċiżjoni minn qabel mad-Direttur beda jinvestiga l-każ.

(e) Ir-responsabbiltà finanzjarja ta' kull intrapriža fir-rigward tal-ħlas tal-multa m'għandux ikun iktar minn għaxra fil-mija tad-dħul shiħ tagħha fis-sena kummerċjali preċedenti.

(3) Meta jiffissa l-ammont tal-multa, id-Direttur Ĝeneralis għandu jieħu kont tal-gravità u d-dewmien tal-ksur u ta' kull ċirkostanza aggravanti jew attenwanti:

Iżda d-Direttur Ĝeneralis jista' minn żmien għal żmien joħrog linji ta' gwida li jispeċifikaw il-manjiera ta' kif għandhom jiġu stabbiliti l-multi.

(4) (a) Kull intraprija jew għaqda ta' intrapriji li tonqos milli thares xi ordni ta' waqfien u ebda tkomplija jew ordni ta' konformità maħruġa skont l-artikolu 13, jew tonqos milli thares miżura *interim* skont l-artikolu 15, jew tonqos milli thares rabta magħmulu vinkolanti skont l-artikolu 12C, jew li tonqos milli tipprovd informazzjoni korretta u kompleta wara talba għal informazzjoni taħt l-artikoli 11A u 12 jew tonqos milli tissottometti lilha nnifisha għal spezzjoni taħt l-artikolu 12 tista', fid-diskrezzjoni tad-Direttur Ĝeneralis, teħel il-piena ta' multa kwotidjana li ma tkunx aktar minn ħamsa fil-mija tal-medja tad-dħul ta' kuljum tas-sena kummerċjali preċedenti tal-intraprija jew l-ghaqda ta' intraprizi konċernati għal kull ġurnata li l-nuqqas ta' ħarsien tal-obbligazzjonijiet ikompli jseħħ.

(b) Il-piena ta' multa kwotidjana msemmi fil-paragrafu (a) għandu jkun kalkolat mid-data stabbilita fid-deċiżjoni tad-Direttur Ĝeneralis.

(c) Meta l-intraprija jew l-ghaqda ta' intraprizi konċernati iħarsu l-obbligazzjonijiet msemmjija taħt il-paragrafu (a), id-Direttur Ĝeneralis jista' jiffissa l-ammont definitiv tal-multa kwotidjana għal somma inqas minn dik li kieku kien jirriżulta mid-deċiżjoni originali tad-Direttur Ĝeneralis.

(d) Fl-applikazzjoni ta' dan is-subartikolu għal għaqda ta' intraprizi, is-subartikolu (2) għandu *mutatis mutandis* japplika.

(5) Kull persuna li waqt investigazzjoni jew inkjestha magħmul taħt dan l-Att, jew waqt proċeduri quddiem t-Tribunal tal-Appell bi ħsieb jew bi traskuraġni:

(a) tagħti informazzjoni falza, mhux preċiża jew qarrieqa; jew

(b) tipprovd informazzjoni mhux kompleta; jew

(c) ma tkallix li sseħħ jew ixxekkel investigazzjoni; jew

(d) tipproduci jew tagħti, jew tikkawża jew xjentement thalli li jiġi prodott jew mogħti xi dokument jew informazzjoni li hija tkun taf li tkun falza f'xi dettal sostanzjali, teħel il-ħlas ta' multa amministrattiva ta' mhux inqas minn elf euro (€1,000) u mhux aktar minn għaxart elef euro (€10,000), kif impost mid-Direttur Ĝenerali.

(6) Meta persuna, li tkun direttur, maniġer, segratarju jew uffiċjal ieħor bħal dawk ta' intraprija jew għaqda ta' intrapriżi tonqos, mingħajr raġuni valida, li tagħti l-informazzjoni mitluba fiż-żmien lilha mogħti, dik il-persuna tista' teħel multa amministrattiva ta' mhux iżjed minn elfejn u erba' mitt euro (€2,400) għal kull ġurnata ta' nuqqas".

Žieda tal-artikolu 21A tal-Att prinċipali.

137. Minnufih wara l-artikolu 21 tal-Att prinċipali, għandu jiżdied l-artikolu ġdid li ġej:

"Nuqqas ta'
ħlas ta' Multi.

21A. Mingħajr preġudizzju għad-disposizzjonijiet tal-artikolu 13A(1), meta ma titħallasx xi multa amministrattiva u, jew ħlas ta' penali għal kull ġurnata imposta mid-Direttur Ĝenerali, jew mit-Tribunal tal-Appell wara li jkun sar appell minn multa amministrattiva u, jew mill-ħlas ta' penali għal kull ġurnata imposta mid-Direttur Ĝenerali, fit-terminu stabbilit, dan ikun jikkostitwixxi reat kontra dan l-Att, u kull persuna li tkun direttur, segratarju, maniġer jew xi uffiċjal ieħor bħal dawk tal-intraprija jew tal-ġħaqda ta' intrapriżi involuti, għandha, mingħajr preġudizzju għar-responsabbiltà ta' l-imsemmija intraprija jew ġħaqda ta' intrapriżi li tkallix il-multa amministrattiva u, jew il-penali dovuta, teħel, meta tinsab ħatja, multa ta' mhux inqas minn elf euro (€1,000) u mhux iżjed minn għoxrin elf euro (€20,000)."

Tahsir tal-artikolu 22A tal-Att prinċipali.

138. L-artikolu 22A tal-Att prinċipali għandu jiġi mħassar.

Emenda tal-artikolu 23 tal-Att prinċipali.

139. L-artikolu 23 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"23. (1) Kull multa li għandha tithallas minħabba kummissjoni ta' reati kontra dan l-Att tingabar bħala dejn ċivili favur il-Gvern mid-Direttur Ĝenerali, u l-intrapriża li fl-interessi ekonomiċi tagħha il-persuna misjuba ġatja kienet qed taġixxi tkun responsabli *in solidum* mal-persuna misjuba ġatja għall-ħlas tal-imsemmija multa.

Kap. 446.

Kap. 9.

Kap. 12.

(2) Id-disposizzjonijiet tal-Att dwar il-*Probation* u tal-artikolu 21 tal-Kodiċi Kriminali m'għandomx japplikaw għar-rigward ta' reati li jsiru kontra dan l-Att.

(3) Kull multa amministrattiva pagabbli lid-Direttur Ĝenerali taħt dan l-Att tingabar bħala dejn ċivili mid-Direttur Ĝenerali u tkun tikkostitwixxi titolu eżekuttiv għall-finijiet u l-effetti ta' Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Procedura Ċivili".

140. L-artikolu 26A tal-Att prinċipali għandu jiġu sostitwit b'dan li ġej:

"Preskriz-
zjoni dwar l-
impożizzjoni
ta' multi
amministrat-
tivi.

26A.(1) Il-perjodu ta' preskrizzjoni għal impożizzjoni ta' multi amministrattivi taħt l-artikolu 21 għandu jkun:

(a) tlett snin fil-każ ta' ksur tal-Att fir-rigward tat-talbiet għal informazzjoni jew għat-tmexxija ta' spezzjonijiet; u

(b) ġumes snin fil-każ ta' kull ksur ieħor.

(2) Il-perjodu ta' preskrizzjoni jibda jiddekkorri mid-data li fiha sar l-ksur. Madankollu, fil-każ ta' ksur kontinwu jew ripetut, dan il-perjodu għandu jibda jiddekkorri mid-data li fiha jieqaf l-ksur.

(3) Il-perjodu ta' preskrizzjoni għall-impożizzjoni ta' multi ikun interrott minn kull għemil tad-Direttur Ĝenerali jew, fil-każ tal-applikazzjoni tal-Artikoli 101 u 102 tat-TFUE, tal-Kummissjoni Ewropea jew ta' awtorità tal-kompetizzjoni ta' Stat Membru, bil-ħsieb li jiġi investigat jew ikunu istitwiti proċeduri għal xi ksur. Il-perjodu ta' preskrizzjoni jkun interrott

Sostituzzjoni
tal-artikolu 26A
tal-Att
prinċipali.

b'effett minn dik id-data meta l-azzjoni tkun notifikata lil tal-anqas intrapriža waħda jew għaqda ta' intrapriži li tkun pparteċipat fil-ksur.

(4) Għemil li jinterrompi l-perjodu ta' preskrizzjoni għandu jinkludi b'mod partikolari dawn li ġejjin:

(i) talbiet bil-miktub għal informazzjoni mid-Direttur Ĝenerali, il-Kummissjoni Ewropea jew minn awtorità nazzjonali tal-kompetizzjoni;

(ii) il-ħruġ ta' awtorizzazzjoni bil-miktub ffirmat mid-Direttur Ĝenerali jew ta' mandat maħruġ minn Maġistrat taħt l-artikolu 12 sabiex titmexxa spezzjoni, jew awtorizzazzjoni bil-miktub mill-Kummissjoni Ewropea skont l-Artikolu 20 tar-Regolament tal-Kunsill (KE) Nru. 1/2003 jew dokument ekwivalenti maħruġ minn awtorità nazzjonali tal-kompetizzjoni;

(iii) il-bidu ta' proċeduri mibdija mid-Direttur Ĝenerali jew mill-Kummissjoni Ewropea jew minn awtorità nazzjonali tal-kompetizzjoni;

(iv) in-notifika ta' stqarrija ta' ogħżejjonijiet magħmulu skont l-artikolu 12A jew il-komunikat ta' stqarrija ta' ogħżejjonijiet minn awtorità nazzjonali tal-kompetizzjoni ta' Stat Membru;

(v) in-notifika ta' stedina mid-Direttur Ĝenerali biex isiru diskussionijiet riżoluttivi taħt l-artikolu 12B.

(5) L-interruzzjoni tal-perjodu ta' preskrizzjoni jaapplika għal dawk l-intrapriži u għaqdiet ta' intrapriži kollha li jkunu pparteċipaw fil-ksur.

(6) Il-perjodu ta' preskrizzjoni jerġa' jibda jiddekkorri mid-data ta' kull interruzzjoni.

(7) Il-perjodu ta' prekrizzjoni għall-impożizzjoni ta' multi jkun sospiż sakemm id-deċiżjoni tad-Direttur Ĝenerali tkun soggetta għal proċeduri ta' appell pendent quddiem it-Tribunal tal-Appell jew il-Qorti tal-Appell.".

141. L-artikolu 26B tal-Att prinċipali għandu jiġi mhassar.

Tahsir tal-artikolu 26B tal-Att prinċipali.

142. L-artikolu 27 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Proċeduri quddiem qorti civili.

27. (1) Meta quddiem xi qorti ta' gurisdizzjoni civili jiġi allegat li xi ftehim jew deċiżjoni huma nulli u mhux eżegwibbli skont l-artikolu 5 ta' dan l-Att u, jew l-Artikolu 101 tat-TFUE jew, meta jiġi allegat li jkun hemm abbuż minn pożizzjoni dominanti, skont l-artikolu 9 ta' dan l-Att u, jew l-Artikolu 102 tat-TFUE, dik il-qorti għandha tissospendi l-proċeduri u titlob lid-Direttur Ĝenerali sabiex jippreżenta rapport fuq il-kwistjonijiet ta' kompetizzjoni mqajjma quddiemha u l-qorti għandha tieħu konjizzjoni ta' dak ir-rapport fil-konsiderazzjonijiet tagħha, u kull sottomissjoni dwaru magħmulu mill-partijiet u mid-Direttur Ĝenerali qabel ma jiġi deciż il-każ:

Iżda meta l-kwistjoni ta' kompetizzjoni mqajjma quddiem il-qorti tkun digħi għiet deciża taħt id-disposizzjonijiet ta' dan l-Att u dik id-deċiżjoni tkun saret *res judicata*, il-Qorti għandha ssegwi dik id-deciżjoni.

(2) Meta d-Direttur Ĝenerali, fuq inizjattiva tiegħu stess, isir jaf b'allegazzjonijiet hekk kif msemmija fis-subartikolu (1), f'kawża civili, hu għandu, permezz ta' rikors, jitlob lill-qorti biex tapplika l-proċedura tas-subartikolu (1).

(3) Għall-finijiet ta' thejjija ta' rapporti taħt dan l-artikolu id-Direttur Ĝenerali jista' jirrikorri għas-saqha investigattivi mogħtija lilu taħt dan l-Att.".

143. Minnufih wara l-artikolu 27 tal-Att prinċipali, għandu jiżdied dan l-artikolu ġdid li ġej:

Żieda tal-artikolu ġdid 27A tal-Att prinċipali.

"Dritt għad-danni.

27A.(1) Kull persuna li ssofri danni bħala riżultat tal-ksur tal-artikoli 5 u, jew 9 u, jew l-Artikoli 101 u, jew 102 tat-TFUE tista' tibda azzjoni għad-danni quddiem qorti ta' ġurisdizzjoni civili.

(2) Għall-finijiet ta' dan l-artikolu, persuna għandha titqies li sofriet danni anke meta dik il-persuna ma tkunx l-klijent immedjat tal-konvenut.

(3) L-attur ikollu d-dritt għal kumpens għat-telf attwali u għat-telf ta' qligħ, flimkien mal-interessi minn dak iż-żmien li seħħew dd-danni sakemm is-somma kapitali mogħtija tiġi attwalment mħallsa.

(4) Meta tigi biex tistabbilixxi l-ammont ta' danni, il-Qorti għandha tieħu kont tal-kontrox-xenarju fattwali li kien jipprevali kieku l-ksur ma seħħix.

(5) Azzjoni taħt dan l-artikolu tista' tingieb fin-nuqqas ta' investigazzjoni jew proċeduri taħt dan l-Att jew taħt ir-Regolament tal-Kunsill (KE) Nru 1/2003:

Iżda azzjoni taħt dan l-artikolu tista' wkoll tingħieb:

(a) meta jkun hemm deċiżjoni taħt dan l-Att li tistabbilixxi ksur tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew tal-Artikoli 101 u, jew 102 tat-TFUE li tkun saret *res judicata*;

(b) meta jkun hemm deċiżjoni tal-Kummissjoni Ewropea li tistabbilixxi ksur tal-Artikoli 101 u, jew 102 tat-TFUE li tkun saret *res judicata*;

(c) waqt investigazzjoni jew proċeduri pendenti taħt dan l-Att jew taħt ir-Regolament tal-Kunsill (KE) Nru 1/2003;

(d) waqt proċeduri separati li jkunu pendenti quddiem qorti ta' ġurisdizzjoni civili jew wara kull deċiżjoni ta' qorti bħal dik li tkun saret *res judicata*, li tinvolvi l-applikazzjoni tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew l-Artikoli 101 u, jew 102 tat-TFUE.

(6) Fiċ-ċirkostanzi msemmija fil-paragrafi (a) u (b) tal-*proviso* tas-subartikolu (5), il-qorti tkun marbuta bis-sejba ta' ksur fid-deċiżjoni.

(7) Il-konvenut ma jistax jalleġa nuqqas ta' ḥsieb, traskuragi jew nuqqas tat-tort tiegħu bħala difiża f'talba għal danni taħt is-subartikolu (1):

Iżda l-konvenut jista' juri illi l-ksur seħħi bħala riżultat ta' żball ġenwin skużabbli. Għall-finijiet ta' dan il-*proviso*, żball ikun skużabbli jekk persuna raġonevoli meta tuża livell għoli ta' kura, ma setgħatx tkun taf illi dik l-imġiba tirristringi l-kompetizzjoni.

(8) Il-konvenut jista' jqajjem bħala difiża l-fatt li l-attur ghaddha l-ħsara inizjalment mgarrba minnu lill-klijenti tiegħu.

(9) (a) L-azzjoni taħt dan l-artikolu tkun preskritta biż-żmien ta' sentejn li jibdew mid-data li fiha l-parti leż-a saret taf jew imissha raġonevolment saret taf bid-danni, il-ksur u l-identità tal-intraprija jew għaqda ta' intrapriżi responsabbli għall-ksur.

(b) Iż-żmien msemmi fil-paragrafu (a) jiġi sospiż jekk proceduri dwar ksur gew mibdija mid-Direttur Ĝenerali taħt dan l-Att jew mill-Kummissjoni Ewropea taħt ir-Regolament tal-Kunsill (KE) Nru 1/2003 jew meta proceduri separati nbdew quddiem qorti ta' ġurisdizzjoni civili kif msemmija fil-paragrafu (d) tal-*proviso* tas-subartikolu (5) sa meta dawk il-proceduri jintemmu b'deċiżjoni li tkun saret *res judicata*.

(10) (a) Id-disposizzjonijiet ta' dan l-artikolu għandhom jippreval fuq kull haġa kuntrarja li tinsab fil-Kodiċi Civili.

(b) Id-dritt li tibda azzjoni taħt is-subartikolu (1) m'għandux jaffettwa d-dritt li tingieb kull proċedura oħra dwar l-istess ksur taħt dan l-Att, jew xi regolamenti magħmul taħtu jew xi ligi oħra.

(c) Is-subartikolu (1) għandu jaapplika biss għal talbiet dwar ksur li jseħħi wara d-dħul fis-seħħi ta' dan l-artiklu."

144. Fl-artikolu 29 tal-Att principali, il-kliem "jiżvela informazzjoni fil-pussess tiegħu lil awtoritajiet barra minn Malta b'responsabbiltà f'materji ta' kompetizzjoni u ristretti fl-iż-żvelar ta' informazzjoni bhal dik b'mod u skop analogu għal dak tad-Direttur

Emenda tal-artikolu 29 tal-Att principali.

taht dan l-Att." għandhom jiġu sostitwiti bil-kliem "jiżvela informazzjoni fil-pussess tiegħu lil awtoritajiet b'responsabbiltà f'materji ta' kompetizzjoni f'pajjiżi li mhumiex Stati Membri sakemm dawn ikunu ristretti fl-iżvelar ta' informazzjoni bħal dik b'mod u skop analogu għal dak tad-Direttur taht dan l-Att".

Emenda tal-artikolu 28 tal-Att prinċipali.

Żieda tal-artikolu ġdid 29A mal-Att prinċipali.

Emenda tal-artikolu 31 tal-Att prinċipali.

Emenda tal-artikolu 32 tal-Att prinċipali.

Emenda tal-artikolu 33 tal-Att prinċipali.

145. Fl-artikolu 28 tal-Att prinċipali, minflok il-kliem "jew il-Kummissjoni fl-eżerċizzju tal-funzjonijiet tagħhom taht dan l-Att." għandhom jidħlu l-kliem "fl-eżerċizzju tal-funzjonijiet tiegħu taht dan l-Att".

146. Minnufih wara l-artikolu 29 tal-Att prinċipali, għandu jiżdied dan l-artikolu ġdid li ġej:

"Kooperazzjoni taħbi ir-Regolament 1/2003.	29A. Id-Direttur Generali għandu jikkopera mal-Kummissjoni Ewropea u l-Awtoritajiet Nazzjonali tal-Kompetizzjoni skont ir-Regolament (KE) Nru. 1/2003..
--	---

147. L-artikolu 31 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Ma tista' tittieħed l-ebda azzjoni kontra membru tat-Tribunal tal-Appell, id-Direttur Generali, jew xi uffiċjal tiegħu jew kull persuna awtorizzata li tagħixxi taħt id-direzzjoni u l-kontroll tiegħu, għal kull att jew ommissjoni marbuta ma' dan l-Att, jew xi regolamenti magħmula taħt dan l-Att, magħmula jew li naqsu li jsiru minnhom sakemm dak l-att jew ommissjoni ma kienux magħmula b'*mala fede*".

148. Il-kliem "*joint ventures* konċentrattivi" fl-artikolu 32 tal-Att prinċipali, għandhom jiġu sostitwiti bil-kliem "*joint ventures* b'funzjoni shiħa".

149. (1) Is-subartikolu (2) tal-artikolu 33 tal-Att prinċipali għandu jiġi emendat kif ġej:

"(2) Il-Ministru, wara konsultazzjoni mal-Bord, jista' jagħmel regolamenti:

(a) li jippreskru il-proċedura li għandha tiġi segwita mill-uffiċċju f'investigazzjoni kongunti, koperazzjoni u skambju ta' informazzjoni ma' awtoritajiet nazzjonali tal-kompetizzjoni oħra;

(b) li jippreskru il-proċedura għal koperazzjoni bejn it-Tribunal tal-Appell, il-Kummissjoni Ewropea, il-qrat nazzjonali u l-awtoritajiet nazzjonali tal-kompetizzjoni; u

(c) li jipprovdu għas-setgħa li tinhäfer jew titnaqqas il-multa applikabbli f'investigazzjonijiet dwar kartelli.".

150. L-Iskeda tal-Att principali għandha tīgħi mħassra.

Taħsirtal-Iskeda
tal-Att
principali.

TAQSIMA XVI
EMENDA TAL-ATT DWAR
L-AMMINISTRAZZJONI PUBBLIKA
(KAP. 497.)

151. Din it-TaqSIMA temenda l-Att dwar l-Amministrazzjoni Pubblika, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar l-Amministrazzjoni Pubblika, hawn iżjed 'il quddiem f'din it-TaqSIMA msejjah "l-Att principali".

Emenda tal-Att
dwar l-
Amministrazzjo
ni Pubblika.
Kap. 497.

152. Ir-referenza li hemm għad-Diviżjoni tal-Konsumatur u l-Kompetizzjoni" fit-TaqSIMA I tat-Tieni Skeda tal-Att principali għandha tīgħi mħassra.

Emenda tat-
TaqSIMA I tat-
Tieni Skeda tal-
Att principali.

TAQSIMA XVII
TAHSIR TAL-ATT DWAR L-AWTORITÀ MALTIJA
DWAR L-ISTANDARDS
(KAP. 419.)

153. (1) Din it-TaqSIMA tkhassar l-Att dwar l-Awtorità Maltija dwar l-iStandards, minn hawn iżjed 'il quddiem f'din it-TaqSIMA msejjah "l-Att principali".

Taħsir tal-Att
dwar l-Awtorità
Maltija dwar l-
iStandards.
Kap. 419.

(2) L-Att principali b'dan qed jiġi mħassar, bla īxsara għal kull haġa li saret jew li naqset milli ssir taħtu.

154. L-avviżi legali 419.01, 419.02, 419.05, 419.06, 419.07 u 419.08 magħmul taħt l-Att dwar l-Awtorità Maltija dwar l-iStandards għandhom jibqgħu fis-seħħi daqs li kieku ġew magħmul taħt l-Att tal-2011 dwar l-Awtorità ta' Malta ghall-Kompetizzjoni u ghall-Affarijiet tal-Konsumatur.

Kontinwazzjoni
fis-seħħi tal-
legislazzjoni
sussidjarja tal-
Att dwar l-
Awtorità Maltija
dwar l-
iStandards.

155. Kull fejn f'xi ligi hemm referenza ghall-Awtorità Maltija dwar l-iStandards, din għandha tiftiehem skont il-każ bħala referenza għad-Diviżjoni dwar Regolamenti Tekniċi u, jew l-Istitut dwar l-iStandards u Metroloġija, kif imwaqqfa bid-disposizzjonijiet ta' dan l-Att.

Referenzi ghall-
Awtorità Maltija
dwar l-
iStandards.

TAQSIMA XVIII
EMENDI TAL-ATT DWAR IS-SIGUREZZA TAL-PRODOTTI
(KAP. 427.)

Emenda tal-Att
dwar is-
Sigurezza tal-
Prodotti.
Kap. 427.

Emenda tal-
artikolu 2 tal-
Att principali.

156. Din it-Taqsima temenda l-Att dwar is-Sigurezza tal-Prodotti, u għandha tinqara u tiftiehem ħażja waħda mal-Att dwar is-Sigurezza tal-Prodotti, minn hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att principali".

157. L-artikolu 2 tal-Att principali għandu jiġi emendat kif gej:

(a) it-tifsira "id-Direttur" għandha tiġi sostitwita b'dan li gej:

" "id-Direttur Ĝenerali" tfisser id-Direttur Ĝenerali (Regolamenti Tekniċi) kif maħtur bl-artikolu 19 tal-Att tal-2011 dwar l-Awtoritā ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;" u kull fejn tidher il-kelma "Direttur" fl-Att principali din għandha tiġi sostitwita bil-kliem "Direttur Ĝenerali";

(b) minnufih wara t-tifsira "distributur" għandha tiżdied din it-tifsira ġidida li ġejja:

" "Diviżjoni dwar Regolamenti Tekniċi" tfisser id-Diviżjoni dwar Regolamenti Tekniċi, kif imwaqqfa bl-artikolu 19 tal-Att tal-2011 dwar l-Awtoritā ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur."; u

(c) it-tifsira "standard" għandha tiġi sostitwita b'dan li ġej:

" "standard" għandu jkollha l-istess tifsira mogħtija lilha bl-Att tal-2011 dwar l-Awtoritā ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur";.

Emenda tal-
artikolu 9 tal-
Att principali.

Emenda tal-
artikolu 27 tal-
Att principali.

158. Il-kliem "Att dwar l-Awtoritā Maltija dwar Standards" fl-artikolu 9(2) tal-Att principali għandhom jiġu sostitwiti bil-kliem "Att tal-2011 dwar l-Awtoritā ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur".

159. L-artikolu 27 tal-Att principali għandu jiġi emendat kif ġej:

(a) il-kliem "Funzjonijiet ta' l-Awtoritā Maltija dwar l-iStandards" fin-nota marginali tiegħu għandhom jiġu sostitwiti bil-kliem "Responsabbiltajiet tad-Diviżjoni dwar Regolamenti Tekniċi"; u

(b) il-kliem "l-Awtorità Maltija dwar l-iStandards" fl-artikolu 27 għandu jiġi sostitwit bil-kliem "id-Diviżjoni dwar Regolamenti Tekniċi".

160. L-artikolu 28 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 28 tal-Att prinċipali.

(a) il-kliem "bi ftehim mal-kap tad-Direttorat għall-Affarijiet Regolatorji stabbilit taht l-Att dwar l-Awtorità Maltija dwar l-iStandards jew kull kap ieħor ta' xi Direttorat ieħor skont ma jista' l-Ministru jaħtar minfloku b'Ordni" fis-subartikolu (1) tal-artikolu 28 tiegħu għandhom jiġu mħassra; u

(b) il-kliem "u l-eżenzjoni minn kull responsabbiltà legali skond l-imsemmi subartikolu (3) għandha tkun estiżha għad-Direttur ta' Sorveljanza fuq is-Suq" fis-subartikolu (3) tal-artikolu 28 tiegħu għandhom jiġu mħassra.

161. Il-kliem "ta' l-Awtorità Maltija dwar l-iStandards" fl-artikolu 38 tal-Att prinċipali għandhom jiġu sostitwiti bil-kliem "tad-Direttur Ģenerali (Regolamenti Tekniċi)".

Emenda tal-artikolu 38 tal-Att prinċipali.

TAQSIMA XIX EMENDI TAL-ATT DWAR IL-METROLOGIJA (KAP. 454.)

162. Din it-TaqSIMa temenda l-Att dwar il-Metrologija, u għandha tinqara u tiftiehem ħażja waħda mal-Att dwar il-Metrologija, minn hawn iż-żejjed 'il quddiem f'din it-TaqSIMa msejjah "l-Att prinċipali".

Emenda tal-Att dwar il-Metrologija.
Kap. 454.

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

(a) it-tifsira "Awtorità" għandha tiġi sostitwita b'dan li ġej:

" "Awtorità" tfisser l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur kif mwaqqfa bl-Att tal-2011 dwar l-Awtorità għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;";

(b) it-tifsira "Direttorat" għandha tiġi mħassra u kull fejn tidher il-kelma "Direttorat" fl-Att prinċipali din għandha tiġi sostitwita bil-kelma "Istitut";

(c) minnufih wara t-tifsira "ippakkettjar lest" għandha tidħol din it-tifsira ġdidha li ġejja:

" "Istitut" tfisser l-Istitut dwar l-i*Standards* u Metroloġija kif mwaqqaf bl-artikolu 21 tal-Att tal-2011 dwar l-Awtoritā ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;" ;

(d) it-tifsira "Kap" għandha tīgħi sostitwita b'dan li ġej:

" "Direttur Ġenerali" tfisser il-persuna maħtura bħala Direttur Ġenerali (*Standards* u Metroloġija) bl-artikolu 21 tal-Att tal-2011 dwar l-Awtoritā ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;"

u kull fejn tidher il-kelma "Kap" fl-Att prinċipali din għandha tīgħi sostitwita bil-kelma "Direttur Ġenerali"; u

(e) it-tifsira "Ministru" għandha tīgħi sostitwita b'dan li ġej:

" "Ministru" tfisser il-Ministru responsabbi għall-*Standards* u l-metroloġija u tinkludi, sal-limitu tal-awtoritā mogħtija, kull min ikun awtorizzat mill-Ministru għal daqshekk għal kull għan ta' dan l-Att;" .

Sostituzzjoni
tal-artikolu 3
tal-Att
prinċipali.

164. (1) In-nota marginali tas-subartikolu (1) tal-artikolu 3 tal-Att prinċipali, "Id-Direttorat dwar il-Metroloġija. Kap. 419." għandha tīgħi mhassra.

(2) Is-subartikolu (1) tal-artikolu 3 tal-Att prinċipali għandu jīgi sostitwit b'dan li ġej:

"Id-Direttur Ġenerali (*Standards* u Metroloġija) kif maħtur bl-Att tal-2011 dwar l-Awtoritā ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, għandu jkollu ir-responsabbiltajiet kif jistgħu jiġu mogħtija lilu b'dan l-Att, bl-Att tal-2011 dwar l-Awtoritā ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur jew b'kull ligi oħra." .

Emenda tal-
artikolu 20 tal-
Att prinċipali.

165. L-artikolu 20 tal-Att prinċipali għandu jiġi emendat kif
ġej:

(a) il-kliem "bl-artikolu 5 tal-Att dwar l-Awtoritā Maltija dwar l-*Standards*" għandhom jiġu sostitwiti bil-kliem "bl-artikolu 48 tal-Att tal-2011 dwar l-Awtoritā ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur"; u

(b) il-kliem "Kap. 419." fin-nota marginali tiegħu għandhom jiġi mhassra.

TAQSIMA XX
EMENDA TAL-ATT DWAR IL-ĞUSTIZZJA
AMMINISTRATTIVA
(KAP. 490.)

166. Din it-TaqSIMA temenda l-Att dwar il-Ğustizzja Amministrattiva, u għandha tinqara u tiftiehem ħaġa waħda mal-Att dwar il-Ğustizzja Amministrattiva, minn hawn iżjed 'il quddiem f'din it-TaqSIMA msejjah "l-Att prinċipali".

Emenda tal-Att
dwar il-Ğustizzja
Amministrattiva.
Kap. 490.

167. Il-kliem "379 Att dwar il-Kompetizzjoni 4 Kummissjoni għall-Kummerċi ġust" fit-TaqSIMA A tal-Ewwel Skeda tal-Att prinċipali għandhom jiġu mħassra.

Thassir tal-punti
fl-Ewwel Skeda
tal-Att
prinċipali.

TAQSIMA XXI
EMENDI TAL-ATT DWAR KUNTRATTI
FUQ L-GHATBA TAL-BIEB
(KAP. 317.)

168. Din it-TaqSIMA temenda l-Att dwar Kuntratti Fuq l-Għatba tal-Bieb, u għandha tinqara u tiftiehem ħaġa waħda mal-Att dwar Kuntratti Fuq l-Għatba tal-Bieb, minn hawn iżjed 'il quddiem f'din it-TaqSIMA msejjah "l-Att prinċipali".

Emenda tal-Att
dwar Kuntratti
Fuq l-Għatba tal-
Bieb.
Kap. 317.

169. Fl-artikolu 2 tal-Att prinċipali it-tifsira "Direttur" għandha tiġi sostitwita b'dan li ġej:

Emenda tal-
artikolu 2 tal-
Att prinċipali.

""Direttur Ĝeneral (Affarijiet tal-Konsumatur)" tfisser id-Direttur Ĝeneral kif maħtur bl-artikolu 16 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;" u kull fejn tidher il-kelma "Direttur" din għandha tiġi sostitwita bil-kelma "Direttur Ĝeneral (Affarijiet tal-Konsumatur)".

TAQSIMA XXII
EMENDI TAL-ATT DWAR DESKRIZZJONIJET
KUMMERċJALI
(KAP. 313.)

170. Din it-TaqSIMA temenda l-Att dwar Deskrizzjonijiet Kummerċjali, u għandha tinqara u tiftiehem ħaġa waħda mal-Att dwar Deskrizzjonijiet Kummerċjali, minn hawn iżjed 'il quddiem f'din it-TaqSIMA msejjah "l-Att prinċipali".

Emenda tal-Att
dwar
Deskrizzjonijiet
Kummerċjali.
Kap. 313.

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

Emenda tal-
artikolu 2 tal-
Att prinċipali.

(a) it-tifsira "marka ta' konformità" għandha tiġi sostitwita b'dan li ġej:

" "marka ta' konformità" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 2 tal-Att tal-2011 dwar l-Awtoritā ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;"; u

(b) minnufih wara t-tifsira "servizzi" għandha tiżdied din it-tifsira ġidha li ġejja:

" "Uffiċċju" tfisser l-Uffiċċju għall-Affarijiet tal-Konsumatur kif imwaqqaf bl-artikolu 16 tal-Att tal-2011 dwar l-Awtoritā ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;".

Emenda tal-artikolu 22 tal-Att prinċipali.

172. Il-kliem "Dipartiment tal-Affarijiet tal-Konsumatur" fis-subartikolu (1) tal-artikolu 22 tal-Att prinċipali għandu jiġi sostitwit bil-kelma "Uffiċċju".

TAQSIMA XXIII EMENDI TAL-ATT DWAR IS-SIGURTA' FL-IKEL (KAP. 449.)

Emenda tal-Att dwar is-Sigurtà fl-Ikel.
Kap. 449.

173. Din it-Taqsima temenda l-Att dwar is-Sigurtà fl-Ikel, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar is-Sigurtà fl-Ikel, minn hawn iż-żejjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

Emenda tal-artikolu 5 tal-Att prinċipali.

174. L-artikolu 5(1) tal-Att prinċipali għandu jiġi emendat kif ġej:

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

"(d) l-uffiċċjal anzjan responsabbli għall-operazzjonijiet rigward l-ikel fi ħdan l-Awtoritā ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, nominat mid-Direttur Ġenerali (Regolamenti Tekniċi);" u

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

"(e) l-uffiċċjal pubbliku anzjan responsabbli għall-operazzjonijiet rigward l-affarijiet tal-konsumatur fi ħdan l-Awtoritā ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, nominat mid-Direttur Ġenerali (Affarijiet tal-Konsumatur);".

Emenda tal-artikolu 7A tal-Att prinċipali.

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

(a) il-kliem "ta' l-Awtorità" fin-nota marginali tiegħu għandhom jiġu sostitwiti bil-kliem "tad-Direttur Ĝenerali (Regolamenti Tekniċi)";

(b) il-kliem "ta' l-Awtorità Maltija dwar l-iStandards kif stabbilita bl-artikolu 3 ta' l-Att dwar l-Awtorità Maltija dwar l-iStandards" fis-subartikolu (1) tiegħu għandhom jiġu sostitwiti bil-kliem "tad-Direttur Ĝenerali (Regolamenti Tekniċi)"; u

(c) il-kliem "ta' l-Awtorità Maltija dwar l-iStandards" fis-subartikoli (2), (3) u (4) tiegħu għandhom jiġu sostitwiti bil-kliem "tad-Direttur Ĝenerali (Regolamenti Tekniċi)".

176. Fis-subartikolu (1) tal-artikolu 9 tal-Att prinċipali, il-kliem "il-Kap tad-Direttorat tas-Sorveljanza fuq is-Suq ta' l-Awtorità Maltija dwar l-iStandards stabilit taht l-Att dwar l-Awtorità Maltija dwar l-iStandards jew kull kap ta' kull Direttorat ieħor skond ma l-Ministru jista' jaħtar minfloku b'Ordni" għandhom jiġu sostitwiti bil-kliem "id-Direttur Ĝenerali (Regolamenti Tekniċi) kif maħtut bl-artikolu 19 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u ghall-Affarijiet tal-Konsumatur".

Emenda tal-artikolu 9 tal-Att prinċipali.

TAQSIMA XXIV

EMENDI TAL-ATT DWAR IL-KONTROLL TAL-PESTIĆIDI

(KAP. 430.)

177. Din it-Taqsima temenda l-Att dwar il-Kontroll tal-Pestiċidi, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar il-Kontroll tal-Pestiċidi, minn hawn iżżejjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

Emenda tal-Att dwar il-Kontroll tal-Pestiċidi. Kap. 430.

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

(a) it-tifsira "l-Awtorità" għandha tiġi sostitwita b'dan li ġej:

" "l-Awtorità" tfisser l-Awtorità ta' Malta għall-Kompetizzjoni u ghall-Affarijiet tal-Konsumatur kif mwaqqfa bl-artikolu 3 tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u ghall-Affarijiet tal-Konsumatur;" u

Emenda tal-artikolu 2 tal-Att prinċipali.

(b) fit-tifsira "id-Direttur" il-kliem "il-kap tad-Direttorat għall-Affarijiet Regolatorji stabilit taht l-Att dwar l-Awtorità Maltija dwar l-iStandards jew kap ta' kull Direttorat ieħor skond ma jista' l-Ministru jaħtar minfloku b'Ordni" għandhom jiġu sostitwiti bil-kliem "id-Direttur Ĝenerali (Regolamenti Tekniċi) kif maħtut bl-artikolu 19 tal-Att tal-2011

dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur".

TAQSIMA XXV
EMENDA TAL-KODIČI TAL-ORGANIZZAZZJONI
U PROċEDURA ČIVILI
(KAP. 12.)

Emenda tal-Kodiċi tal-Organizzazzjoni u Proċedura Čivili.
Kap. 12.

Emenda tal-artikolu 253 tal-Kodiċi.

179. Din it-Taqsima temenda l-Kodiċi tal-Organizzazzjoni u Proċedura Čivili, u għandha tinqara u tiftiehem haġa waħda mal-Kodiċi tal-Organizzazzjoni u Proċedura Čivili, minn hawn iżjed 'il-quddiem f'din it-Taqsima msejjah "il-Kodiċi".

180. Fl-artikolu 253 tal-Kodiċi, għandu jidħol dan il-paragrafu li ġej:

"(f) deċiżjonijiet tat-Tribunal għal Talbiet ta' Konsumaturi".

**L-EWWEL SKEDA
(ARTIKOLU 44)**

FORMA TAL-ĠURAMENT

Jiena, naħlef/solemnement niddikjara illi bil-fedeltà u onestà kollha naqdi d-dmir tiegħi bhala uffiċjal tal-Awtorità skont il-htiġiet tal-Att tal-2011 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, u kull ligi oħra li l-Awtorità tamministra u kull ordni maħruġa taħtu, u li, ħlief fil-qadi tad-dmirijiet tiegħi taħt dak l-Att u dawk l-ordnijiet, ma niżvelax u ma nxandarx, waqt l-impieg tiegħi bhala uffiċjal f'dik l-Awtorità jew f'xi żmien wara, xi haġa li nsir naf biha li għandha x'taqsam ma' xi persuna, familja jew intraprija minħabba fl-impieg tiegħi bhala uffiċjal f'dik l-Awtorità.

Hekk Alla jghini.

**IT-TIENI SKEDA
(ARTIKOLU 37)**

REGOLI TA' PROCEDURA TAT-TRIBUNAL TAL-APPELL TAL-KOMPETIZZJONI U TAL-KONSUMATUR

1. It-Tribunal tal-Appell għandu jiddeċiedi kull kwistjoni quddiemu b'ġustizzja u imparzjalità u skont id-disposizzjonijiet ta' dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull regolament magħmul taħthom.

2. Qabel jassumu l-funzjonijiet tagħhom, il-membri ordinarji tat-Tribunal tal-Appell għandhom jieħdu ġurament quddiem il-President li jaqdu l-funzjonijiet tagħhom b'ġustizzja u imparzjalità u skont id-disposizzjonijiet ta' dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull regolament magħmul taħthom.

3. Membru ordinarju tat-Tribunal tal-Appell għandu jastjeni u jista' jiġi rikużat fl-istess ċirkostanzi, *mutatis mutandis*, bħalma imħallef tal-qrati superjuri għandu jastjeni jew jista' jiġi rikużat skont il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Kull rikuża għandha tiġi determinata mill-President.

4. Id-deċiżjonijiet tat-Tribunal tal-Appell għandhom jagħtu r-raġunijiet u jindikaw b'mod ċar l-intrapriżi jew għaqdiet ta' intrapriżi li għalihom jkunu indirizzati.

5. Proċeduri quddiem it-Tribunal tal-Appell għandhom isiru b'mod pubbliku b'kont meħud għal protezzjoni ta' informazzjoni kufidenzjali jew sigriet tan-negożju:

Iżda l-intrapriża jew l-għaqda ta' intrapriżi konċernati, jew id-Direttur Generali (Kompetizzjoni) u d-Direttur Generali (Affarijiet tal-Konsumatur), jew min ressaq l-ilment jista' jitlob lill-President biex jinstema' *in camera* fejn ssottomissjonijiet li jsiru jew l-provi li jingħabu ikunu ta' natura kufidenzjali jew ikun fihom sigrieti tan-negożju.

Iżda wkoll id-Direttur Generali (Kompetizzjoni) u d-Direttur Generali (Affarijiet tal-Konsumatur) jew kull uffiċjal ieħor mill-Uffiċċju ghall-Kompetizzjoni u l-Uffiċċju ghall-Affarijiet tal-Konsumatur debitament awtorizzati mill-imsemmija Diretturi Generali, għandu jkollhom id-dritt li jkunu preżenti fil-proċeduri kollha.

6. Fil-każijiet kollha li jinvolvu l-applikazzjoni tal-Artikolu 101 u, jew 102 tat-TFUE, il-Kummissjoni Ewropea għandu jkollha d-dritt li tagħmel sottomissjonijiet dwar kull kwistjoni li tkun quddiem ii-Tribunal tal-Appell.

7. (a) Verżjoni kunfidenzjali u waħda mhux kunfidenzjali għandhom jingiebu ta' kull osservazzjoni bil-miktub u ta' kull prova dokumentarja li titressaq quddiem it-Tribunal tal-Appell; u

(b) It-Tribunal tal-Appell għandu jivverifika l-kunfidenzjalità jew n-nuqqas tagħha tal-informazzjoni prodotta.

8. It-Tribunal tal-Appell għandu jkollu, eżerċitabbi permezz tal-President tiegħi, is-setgħat vestiti fil-Prim' Awla tal-Qorti Ċivili, u b'mod partikolari s-setgħa li jistabbilixxi l-ispejjeż li xi parti jkollha thallas, is-setgħa li jħarrek xhieda, is-setgħa li jahtar periti tekniċi u s-setgħa li jamministra l-ġurament.

Meta xhud, debitament imħarrek ma jidhirx fil-ġurnata li fih jiġi msejjah, il-President jista' jordna lill-Pulizija biex tarresta lil dak ix-xhud u tressqu quddiem it-Tribunal tal-Appell biex jixhed.

9. Fl-interpretazzjoni ta' dan l-Att, it-Tribunal tal-Appell jista' jirrikorri għas-sentenzi tal-Qorti tal-Ġustizzja tal-Unjoni Ewropea, u għad-deċiżjonijiet u l-istqarrrijiet rilevanti tal-Kummissjoni Ewropea inkluži avviżi interpretattivi fuq id-disposizzjonijiet rilevanti tat-TFUE u ghall-leġislazzjoni sussidjarja relativa għall-kompetizzjoni u jista' jirrikorri wkoll għad-deċiżjonijiet precedenti tiegħi.

IT-TIELET SKEDA**(ARTIKOLU 18)**

LISTA TA' ATTI LEGISLATTIVI TAL-UE GHAL-LIEMA FINIJIET L-UFFIČĊJU GHALL-AFFARIJET TAL-KONSUMATUR HUWA L-AWTORITA' KOMPETENTI NAZZJONALI

- 1.** Direttiva tal-Kunsill 84/450/KEE tal-10 ta' Settembru 1984 li għandha x'taqsam mat-tqarrib lejn xulxin tal-ligijiet, ir-regolamenti u d-disposizzjonijiet amministrattivi tal-Istati Membri li jirrigwardaw ir-reklamar qarrieqi.
- 2.** Direttiva tal-Kunsill 85/577/KEE tal-20 ta' Dicembru 1985 biex thares lill-konsumatur rigward kuntratti nnegozjati barra mill-lok tan-negozju.
- 3.** Direttiva tal-Kunsill 93/13/KEE tal-5 ta' April 1993 dwar klawżoli ingusti f'kuntratti mal-konsumatur.
- 4.** Direttiva 97/7/KE tal-Parlament Ewropew u tal-Kunsill tal-20 ta' Mejju, 1997 dwar il-protezzjoni tal-konsumatur fir-rigward tal-kuntratti mid-distanza.
- 5.** Direttiva 97/55/KE tal-Parlament Ewropew u tal-Kunsill tas-6 t'Ottubru 1997 li temenda d-Direttiva 84/450/KEE dwar reklamar qarrieqi sabiex jinkludi reklamar komparattiv.
- 6.** Direttiva 98/6/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Frar 1998 dwar protezzjoni tal-konsumatur fl-indikazzjoni ta' prezziċċiet ta' prodotti offruti lill-konsumatur.
- 7.** Direttiva 1999/44/KE tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Mejju 1999 dwar certi aspetti tal-bejgħ ta' oggett i l-konsumatur u garanziji assoċċjati.
- 8.** Regolament (KE) Nru 261/2004 tal-Parlament Ewropew u tal-Kunsill tal-11 ta' Frar 2004 li jistabbilixxi regoli komuni dwar il-kumpens u l-assistenza għal passiġġieri fil-każ li ma jithallewx jitilgħu u ta' kanċellazzjoni jew dewmien twil ta' titjiriet, u li jhassar ir-Regolament (KE) Nru 295/91.
- 9.** Direttiva 2005/29/KE tal-Parlament Ewropew u tal-Kunsill tal-11 ta' Mejju 2005 dwar prattiċi kummerċjali żleali fin-negozju mal-konsumatur fis-suq intern li temenda d-Direttiva tal-Kunsill 84/450/KEE, id-Direttivi 97/7/KE, 98/27/KE u 2002/65/KE tal-Parlament Ewropew u tal-Kunsill, u r-Regolament (KE) Nru 2006/2004 tal-Parlament Ewropew u tal-Kunsill.
- 10.** Direttiva 2008/48/KE tal-Parlament Ewropew u tal-Kunsill tat- 23 ta' April 2008 dwar ftehim ta' kreditu ghall-konsumatur u li tkompli id-Direttiva tal-Kunsill 87/102/KEE.

**IR-RABA' SKEDA
(ARTIKOLU 66)
DIRETTORATI**

Mingħajr īxsara għas-setgħat mogħtija lill-Ministru taħt l-artikolu 66, l-Uffiċċju għall-Kompetizzjoni, l-Uffiċċju ghall-Affarijiet tal-Konsumatur, id-Diviżjoni dwar Regolamenti Tekniċi u l-Istitut dwar l-iStandards u Metroloġija, ikollhom id-Direttorati li ġejjin:

Uffiċċju għall-Kompetizzjoni

1. Direttorat għall-Ispettorat u għall-Investigazzjoni ta' Kartelli bir-responsabbiltà li jagħmel spezzjonijiet skont l-Att dwar il-Kompetizzjoni u li jikxef u jrażżan il-kartelli.
2. Direttorat dwar is-Swieq tal-Komunikazzjoni, Energija, Trasport u Servizzi Finanzjarji li jiffoka fuq tkhassib dwar il-kompetizzjoni, ksur ta' ligi, u konċentrazzjonijiet fi swieq regolati.
3. Direttorat dwar is-Swieq Primarji, Industrijali u bl-Imnut li jiffoka fuq prattiċi ristrettivi u konċentrazzjonijiet f'setturi oħra tal-ekonomija.

Uffiċċju għall-Affarijiet tal-Konsumatur

1. Direttorat għall-Informationi, Edukazzjoni u Riċerka bir-responsabbiltà li joħloq għarfiend tad-drittijiet tal-konsumatur, jistimula prattiċi tajba ta' negozju, jeduka lill-konsumatur biex jagħmel għażiex informati fis-suq u jistudja s-swieq bil-ħsieb li jidentifika u jirretifika nuqqasijiet fis-suq.
2. Direttorat għall-Ilmenti u Medjazzjoni bir-responsabbiltà li joffri għajjnuna lill-konsumatur u jipprovdi medjazzjoni bejn il-konsumatur u l-kummerċjant.
3. Direttorat għall-Infurzar li jiffoka fuq infurzar pubbliku billi jinvestiga prattiċi kummerċjali żlejali fin-negożju u klawżoli ingħusti f'kuntratti mal-konsumatur, jiżgura trasparenza fil-prezzijiet u ħarsien ta' obbligi oħra relatati mal-informazzjoni u li jiġi żgurat il-ħarsien ta' ligi marbuta mal-konsumatur u li taqa' fi ħdan il-ġurisdizzjoni tal-Uffiċċju għall-Affarijiet tal-Konsumatur.

Diviżjoni dwar Regolamenti Tekniċi

1. Direttorat għall-Affarijiet Regolatorji bir-responsabbiltà tat-trasposizzjoni u l-implimentazzjoni ta' ligijiet fil-qasam tal-moviment ħieles tal-prodotti.
2. Direttorat għas-Sorveljanza tas-Suq bir-responsabbiltà li jiżgura illi prodotti li jħarsu r-regolamenti biss ikunu disponibbli fuq is-suq.

Istitut dwar l-iStandards u Metroloġija

- 1.** Direttorat dwar Standardizzazzjoni bir-responsabbiltà ta' programmi annwali għal għemil ta' *standards*, il-kordinazzjoni ta' għemil ta' *standards* u attivitajiet relatati.
 - 2.** Direttorat dwar il-Metroloġija bir-responsabbiltà tal-metroloġija legali, industrijali u xjentifika.
 - 3.** Direttorat dwar Servizzi Laboratorji bir-responsabbiltà li jipprovdi pariri u servizzi ta' t-testjar.
-

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 339 tat-13 ta' April, 2011.

MICHAEL FREND
Speaker

PAULINE ABELA
Skrivan tal-Kamra tad-Deputati

Malta Competition and Consumer Affairs Authority Act, 2011

ARRANGEMENT OF ACT

	Articles
Part I	Preliminary
Part II	Establishment, Functions and Conduct of Affairs of the Authority
Part III	Establishment, Duties and Conduct of Affairs of the Board of Governors
Part IV	Establishment of the Office for Competition
Part V	Establishment of the Office for Consumer Affairs
Part VI	Establishment of the Technical Regulations Division
Part VII	Establishment of the Standards and Metrology Institute
Part VIII	Acquisition and Provision of Information
Part IX	Establishment of the Competition and Consumer Appeals Tribunal
Part X	Officers and Employees of the Authority
Part XI	Financial Provisions
Part XII	Transfer of Certain Assets to the Authority
Part XIII	Miscellaneous
Part XIV	Amendments to the Consumer Affairs Act
Part XV	Amendments to the Competition Act
Part XVI	Amendment to the Public Administration Act
Part XVII	Repeal of the Malta Standards Authority Act
Part XVIII	Amendments to the Product Safety Act
Part XVIX	Amendments to the Metrology Act
Part XX	Amendment to the Administrative Justice Act
Part XXI	Amendments to the Doorstep Contracts Act
Part XXII	Amendments to the Trade Descriptions Act
Part XXIII	Amendments to the Food Safety Act
Part XXIV	Amendments to the Pesticides Control Act
Part XXV	Amendment to the Code of Organization and Civil Procedure

First Schedule	Form of Oath
Second Schedule	Rules of Procedure relative to the Competition and Consumer Appeals Tribunal
Third Schedule	List of EU legislative acts for the Purposes of which the Office for Consumer Affairs is the National Competent Authority
Fourth Schedule	Directorates

I assent.

(L.S.)

GEORGE ABELA
President

29th April, 2011

ACT No. VI of 2011

An Act to provide for the establishment of an Authority to promote, maintain and encourage competition, to safeguard the interests of consumers and enhance their welfare, to promote sound business practices, to adopt and co-ordinate standards in relation to products or services, to regulate such activities and to provide for such matters ancillary or incidental thereto or connected therewith, to provide for the establishment, jurisdiction and procedure of an appeals tribunal and to make amendments to other laws.

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

**PART I
PRELIMINARY**

Short title and commencement.

1. (1) The short title of this Act is the Malta Competition and Consumer Affairs Authority Act 2011.

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

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

"Appeals Tribunal" means the Competition and Consumer Appeals Tribunal established by article 31;

"approved university" shall have the same meaning as the term "competent authority" in terms of article 2 of the Mutual Recognition Cap. 451. of Qualifications Act;

"association of undertakings" shall have the same meaning assigned to it in article 2 of the Competition Act;

"Authority" means the Malta Competition and Consumer Affairs Authority established by article 3;

"Board" means the Board of Governors established by article 8;

"Chairman" means the Chairman of the Board who shall be the Chairman of the Authority appointed in terms of Article 9(1);

"concentration" shall have the same meaning assigned to it in regulation 2(d) of the Control of Concentrations Regulations; S.L. 379.08.

"conflict of interest" means that situation in which members of the Board, officers and employees of the Authority and advisors, consultants and other persons engaged with the Authority have private or personal interests sufficient to influence or appear to influence the objective exercise of their official duties;

"conformity mark" means a mark, issued in accordance with regulations made under article 24, showing compliance with an applicable standard;

"consumer association" or "registered consumer association" means an association registered in terms of Part IV of the Consumer Cap. 378. Affairs Act;

"Consumer Protection Co-operation Regulation" means Regulation (EC) No. 2006/2004 of the European Parliament and of the Council of 27 October 2004 on co-operation between national authorities responsible for the enforcement of consumer protection laws (text with EEA relevance);

"Co-ordination Committee" means the committee established by article 5;

"Council" means the Consumer Affairs Council as established under article 4 of the Consumer Affairs Act; Cap. 378.

"Director General (Competition)" means the person so appointed by virtue of article 13(2);

"Director General (Consumer Affairs)" means the person so appointed by virtue of article 16(2);

"Director General (Standards and Metrology)" means the person so appointed by virtue of article 21(2);

"Director General (Technical Regulations)" means the person so appointed by virtue of article 19(2);

"draft standard" means a document containing the text of the technical specifications concerning a given subject, which is being considered for adoption and as circulated for public comment or scrutiny;

"entities" means the Office for Competition, Office for Consumer Affairs, Technical Regulations Division and the Standards and Metrology Institute, and "entity" shall be construed accordingly as the context requires;

"European standardization body" means the following bodies:

- CEN - European Committee for Standardization;
- CENELEC - European Committee for Electrotechnical Standardization;
- ETSI - European Telecommunications Standards Institute;

"financial year" means any period of twelve months ending on the 31st December; provided that the first financial year shall start on the coming into force of this Act and shall end on the 31st December of the following year;

"Gazette" means the Government Gazette;

"Minister" means the Minister responsible for competition, consumer affairs, standardization, metrology and technical regulations;

"Ministry" means the Ministry responsible for competition, consumer affairs, standardization, metrology and technical regulations;

"national competent authority" for the purposes of article

17(1)(o) shall have the same meaning assigned to "competent authority" in article 3(c) of the Consumer Protection Co-operation Regulation;

"officer" and "employee" includes a public officer detailed for duty in any of the entities established under this Act;

"permanent secretary" means the person appointed to supervise the Authority in terms of the Public Administration Act; Cap. 497.

"permit" means an authorisation granted by the Standards and Metrology Institute under article 24 for the use of a conformity mark;

"person" includes individuals, any body corporate and any body of persons whether it has a distinct legal personality or not;

"prescribed" means prescribed under this Act unless otherwise stated;

"President" means the President of the Appeals Tribunal as established under article 31;

"principal permanent secretary" means the person appointed in terms of article 14 of the Public Administration Act; Cap. 497.

"product" means any industrially manufactured product and any agricultural product, including fish products;

"public authority" means:

(i) the Government, including any Ministry or Department thereof;

(ii) a government agency established in terms of the Public Administration Act; and

(iii) a government entity as defined in the Public Administration Act;

"public officer" shall have the same meaning as assigned to it in article 124 of the Constitution of Malta but does not include a judge of the superior courts or a magistrate of the inferior courts;

"restrictive practice" shall have the same meaning as assigned to it in article 2 of the Competition Act; Cap. 379.

"single liaison office" shall have the same meaning as assigned to "single liaison office" in article 3(d) of the Consumer Protection Co-operation Regulation;

"standard" means a technical specification approved by a recognised standardization body for repeated or continuous application, with which compliance is not compulsory, whether or not including other requirements, and which is one of the following:

- International Standard: a standard adopted by an international standardization organisation, other than a European standardization body, and made available to the public;
- European Standard: a standard adopted by a European standardization body and made available to the public;
- National Standard: a standard adopted by the Authority and made available to the public;

"standards programme" means a work programme listing the subjects on which standardization work is being carried out;

"technical specification" means a specification contained in a document which lays down the characteristics required of a product and, or, service such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product and, or, service as regards the name under which the product and, or, service is sold, terminology, symbols, testing and test methods, packaging, marking or labelling used and the conformity assessment procedures. This term also covers production methods and processes used in respect of agricultural products, products intended for human and animal consumption, and medicinal products, as well as production methods and processes relating to other products, where these have an effect on their characteristics.

For the purposes of this definition, "conformity assessment procedures" means any procedure used, directly and indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled, including, *inter alia*, procedures for sampling, testing and inspection; evaluation, verification and assurance of conformity, registration, accreditation and approval as well as their combinations;

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

Cap. 378.

"trader" shall have the same meaning as assigned to it in article 2 of the Consumer Affairs Act; and

Cap. 379.

"undertaking" shall have the same meaning as assigned to it in

article 2 of the Competition Act.

PART II
ESTABLISHMENT, FUNCTIONS AND CONDUCT
OF AFFAIRS OF THE AUTHORITY

3. (1) There shall be a body to be known as the Malta Competition and Consumer Affairs Authority. Establishment of the Authority.

(2) The Authority shall be a body corporate having a separate and distinct legal personality and may, in pursuance of its functions enter into contracts, acquire, hold or dispose of real and personal property, sue and be sued and do all such things as are incidental or conducive to the fulfilment of its functions, including the lending and borrowing of money.

(3) (a) The legal and judicial representation of the Authority shall be vested in the Chairman:

Provided that the Board may appoint any one or more of the Authority's officers or employees to appear in the name and on behalf of the Authority in any proceedings and in any act, contract, instrument or other document whatsoever, or in the case of a vacancy in the post of Chairman:

Provided further that in matters relating exclusively to the responsibilities of an entity forming part of the Authority as established in Parts IV to VII of this Act, the legal and judicial representation of the Authority in those matters shall vest in the Director General heading the entity.

(b) Any document purporting to be an instrument made or issued by the Authority and signed by the Chairman or by the Directors General in relation to any matter delegated to them on behalf of the Authority shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Authority.

(4) The main organs of the Authority are the Board of Governors, the Co-ordination Committee and the four respective entities. Organs of the Authority.

(5) Where in this Act anything is to be done by or against or with respect to the Authority, or any notice is to be or may be given to or by the Authority, any such thing or notice may also be done by or against or with respect to or be given to or by the entity under whose jurisdiction the matter falls; and for the purposes aforesaid any reference in this Act to the Authority includes a reference to the

appropriate entity.

(6) The Authority shall assume the persona previously vested in the Office for Fair Competition, Department of Consumer Affairs, the Malta Standards Authority and the Malta National Laboratory Company Limited and, from the entry into force of this Act, shall assume responsibility for all assets, liabilities and obligations previously entered into by the said Office, Department, Authority and Company or by other bodies on their behalf.

Functions of the Authority.

4. (1) The Authority shall have as its purpose the attainment and maintenance of well-functioning markets for the benefit of consumers and economic operators.

(2) The functions of the Authority shall be the following:

- (a) to promote and enhance competition;
- (b) to safeguard consumers' interests and enhance their welfare;
- (c) to promote voluntary standards and provide standardization related services;
- (d) to promote the national metrology strategy;
- (e) to promote the smooth transposition and adoption of technical regulations; and
- (f) to perform such other function that may be assigned to it under this or any other law or regulations.

Establishment of the Co-ordination Committee.

5. (1) There shall be established a Co-ordination Committee, composed of the Chairman and the Directors General of the four respective entities.

(2) The Co-ordination Committee shall be responsible for co-ordinating the implementation of the policies of the Authority established by the Board and shall act as the point of contact and the principal channel of communication and co-ordination between the Board of Governors and the entities. The Co-ordination Committee shall also have such other duties as may from time to time be delegated to it by the Board.

(3) The Chairman shall preside over the Co-ordination Committee.

(4) The Chairman shall be responsible for the corporate

services of the Authority, its administration and organization and the administrative control of its officers and employees.

6. (1) The Board shall appoint one of the Authority's officers as the Internal Auditor, who shall:

Establishment
of the Internal
Audit function.

(a) provide oversight of the systems of internal control and risk management of the Authority and to assist and support the Authority in discharging its responsibilities in relation thereto;

(b) provide the communication link with external auditors and evaluate and coordinate the audit and financial reporting progress of the Authority;

(c) scrutinize and evaluate any transaction to be entered into by the Authority with a value exceeding one thousand euro (€1,000); and

(d) review and assess the effectiveness of the financial management of the Authority in its compliance with policies and in the discharge of its regulatory and compliance functions in relation thereto.

(2) The Internal Auditor shall report directly and exclusively to the Board in accordance with the procedures established by the Authority.

7. (1) The four entities established in Parts IV to VII, shall have the responsibilities provided for under this Act, the Competition Act, the Consumer Affairs Act, the Product Safety Act, the Metrology Act respectively and any other law or regulations.

Responsibilities
of the entities.
Cap. 379.
Cap. 378.
Cap. 427.
Cap. 454.

(2) The Authority shall achieve the functions set out in article 4 through the responsibilities vested in the respective entities, as provided under subarticle (1).

(3) The responsibilities vested in each entity shall be exercised by the Director General heading the respective entity and in doing so each Director General shall act independently and autonomously, free from the direction or control of any person or authority without prejudice to article 12:

Provided that in the exercise of the responsibilities vested in the entities, the Directors General shall ensure that they implement the policies set by the Board and give effect to government policy and for this purpose, they shall be subject to the overall supervision and control of the Board.

PART III

ESTABLISHMENT, DUTIES AND CONDUCT OF AFFAIRS OF THE BOARD OF GOVERNORS

Establishment
of the Board of
Governors.

Composition of
the Board.

Cap. 321.

8. There shall be established a Board of Governors within the Authority.

9. (1) The Board shall be composed as follows:

(a) the Chairman, who shall be appointed by the Minister, on being satisfied that the person has the requisite qualifications and experience and who may also occupy any other post within the Authority;

(b) not less than seven and not more than ten other members, to be appointed by the Minister, at least seven of them being the following:-

(i) one member holding the warrant to practise as advocate with seven years experience and preferably with specialisation in competition law and, or in consumer law;

(ii) one member holding an economics degree from an approved university with seven years experience and qualifications, preferably in industrial organisation and, or behavioural economics;

(iii) one member holding a warrant, issued in accordance with the Engineering Profession Act, to practise the profession of engineer, with seven years experience;

(iv) one member holding a warrant to practise as pharmacist with seven years experience preferably in the regulation of medicinal products and pharmaceutical activities;

(v) one member, holding the warrant to practise as a certified public accountant with seven years experience;

(vi) one member, after consultation with the constituted bodies representing national employers' organisations sitting in the Malta Council for Economic and Social Development; and

(vii) one member, after consultation with

recognised national consumer associations:

Provided that in the eventuality that there should be no such association the Minister may appoint a temporary member from the workers' organisations until such time wherein a member representing a national consumer association is nominated; and

(c) one of the members as appointed in sub-paragraphs (b)(i) to (v) shall be appointed as Deputy Chairman by the Minister.

(2) The Deputy Chairman shall have all the powers and perform all the functions of the Chairman during the latter's absence or inability to act as Chairman or while the Chairman is on vacation or during any vacancy in the office of Chairman, or alternatively the Minister may also, in any circumstances aforesaid, appoint another person to act as Chairman.

(3) The members of the Board shall be appointed by the Minister for a term of one year or for such longer period as may be specified in the instrument of appointment, subject to a maximum of three years and shall be eligible for reappointment.

(4) (a) The Board shall designate one of the officers of the Authority to act as secretary for such period as it shall deem appropriate. Duties of the Secretary.

(b) It shall be the duty of the secretary to make the necessary preparations for the meetings of the Board and to keep minutes of those meetings.

(5) (a) A person shall not be eligible to be appointed or to continue to hold office as a member of the Board if that person:- Persons not eligible to hold office.

(i) is a Minister, Parliamentary Secretary, a member of the House of Representatives, a member of any Local Council or a member of the European Parliament; or

(ii) is a Judge or a Magistrate; or

(iii) is legally incapacitated or interdicted; or

(iv) has been declared bankrupt or has made a composition or arrangement with his creditors, so long as he has not been rehabilitated to trade in terms of the Commercial Code; or

(v) has been found guilty by any competent court of any offence involving fraud or other dishonesty, or has contravened any provision of law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons involved in business activities or in carrying on a profession, or has engaged in any business practice appearing to the Minister to be deceitful or oppressive or otherwise improper (whether unlawful or not) or which otherwise reflects discredit on his method of conducting business or his profession, or has been found guilty of any offence against this Act or any other Act that the Authority administers or any regulations made thereunder; or

(vi) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of his functions:

Provided that the Minister may determine that the person's interest is not likely to affect the discharge of his functions and upon such determination that person shall be qualified to hold the office of member of the Authority provided that the declared interest and the Minister's determination are published in the Gazette; or

(vii) is otherwise not a fit and proper person to hold that office in accordance with paragraph (b).

(b) In determining whether a person is a fit and proper person, the Minister shall have regard to that person's probity, competence and soundness of judgment for fulfilling the responsibilities of that office, to the diligence with which he is fulfilling or is likely to fulfil those responsibilities and to whether the interests of any person are, or are likely to be in any way threatened, by his holding that office.

(c) Any person whom the Minister has appointed or proposes to appoint as a member of the Board shall, whenever requested by the Minister to do so, furnish to him such information as the Minister considers necessary for the performance of the Minister's duties under paragraphs (a) and (b).

(d) A member of the Board may be relieved from office by the Minister on the ground of inability to perform the functions of his office, whether due to infirmity of mind or of body or to any other cause, or of misbehaviour; and for the purposes of this paragraph, repeated and unjustified non-attendance at meetings may

be deemed to amount to misbehaviour.

(e) The names of all the members of the Board and any change in such membership shall be published in the Gazette.

(f) Any member of the Board may resign from office by a letter addressed to the Minister.

(6) The Chairman and the other members of the Board may be paid such *honoraria* as the Minister may determine.

(7) Any member of the Board who has any direct or indirect interest in any matter made or proposed to be made by the Board, not being an interest which disqualifies such member from remaining a member, shall, not later than the first meeting held after the relevant circumstances have come to his knowledge, disclose the nature of his interest to the Board, and the member having an interest as aforesaid shall withdraw from any meetings at which such matter is discussed. Any such disclosure shall be communicated to the Minister without delay. Where the interest of the member is such as to disqualify him from remaining a member, he shall report the fact immediately to the Minister and tender his resignation.

(8) If a member resigns or if the office of a member of the Board is otherwise vacant or if a member is for any reason unable to perform the functions of his office, the Minister may appoint a person who is qualified to be appointed to be a member, to be a temporary member of the Board; and any person so appointed shall, subject to the provisions of subarticle (3), cease to be such a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

10. (1) Subject to any other provisions of this Act, the Board may regulate its own procedure.

Conduct of the affairs of the Board.

(2) The Board shall meet as often as may be necessary but in no case less frequently than once every calendar month.

(3) The Board may exercise its functions notwithstanding any vacancy in its membership, as long as such vacancies do not exceed two in number and provided there is a quorum present at the meeting consisting of the Chairman or Deputy Chairman and not less than half the number of the other members constituting the Board at the time of the meeting.

(4) Meetings of the Board shall be convened by the Chairman, or by the Deputy Chairman, in the absence of the Chairman, either on

his own initiative or at the written request of any three of the other members of the Board.

(5) (a) Decisions shall be taken by a simple majority of votes of the members present and voting.

(b) The Chairman or, in his absence, the Deputy Chairman, or other person appointed to act as Chairman, shall have an initial vote and, in the event of an equality of votes, a casting vote.

(c) Without prejudice to the other requirements of this Act, no decision shall be valid unless it is supported by at least three members of the Board.

(6) All acts done by any person acting in good faith, as a member of the Board, shall be valid as if he were a member notwithstanding that some defect in his appointment or qualification be afterwards discovered.

(7) No act or proceeding of the Board shall be questioned on the ground of the contravention by a member of the provisions of article 10.

Duties of the Board.

11. (1) Without prejudice to any other duty assigned to it by this Act or any other law or regulations, the Board shall have the following duties:

(a) to determine the policies to be pursued by the Authority within the context of the policies established by Government and in line with the functions set out in article 4 and to ensure their proper and effective implementation by the entities;

(b) to ensure that the entities execute their responsibilities under this Act in line with related government policies;

(c) to ensure that the entities have the necessary resources to effectively carry out their responsibilities;

(d) to guarantee the functional independence of the entities;

(e) to publish the business plan after its approval by the Minister following consultation with the Minister responsible for Finance;

(f) to publish the annual report;

(g) to approve any Memorandum of Understanding, bilateral or multilateral agreements proposed;

(h) to advise, make proposals and recommendations to the Minister on any matter connected with its functions; and

(i) to monitor the National Accreditation body in order to ensure that it fulfils the requirements laid down in article 8 of Council Regulation (EC) No 765/2008 of the European Parliament and of the Council.

(2) The entities shall provide the Board with all such information as may be required for the proper performance of its duties:

Provided that the members of the Board shall not have access to confidential information pertaining to any individual person, household or undertaking obtained by the entities in the performance of their responsibilities.

(3) The Board may with the approval of the Minister appoint *ad hoc* advisory boards and committees to assist it in the performance of its functions.

12. (1) It shall be the Minister's function to ensure that the Authority is fully informed of Government policies relative to consumer and competition matters, standards, metrology and technical regulations and to monitor the proper execution of such policies.

Relations
between the
Minister and the
Authority and
supervision by
Permanent
Secretary.

(2) Save as otherwise provided in this Act, the Consumer Affairs Act, the Competition Act, the Product Safety Act, the Metrology Act, the Food Safety Act, the Pesticides Control Act and any other Act or regulations administered by the Authority, the Authority shall be under the general direction and control of the Minister and, subject to such direction and control, under the supervision of the Permanent Secretary responsible for the Ministry.

Cap. 378.
Cap. 379.

Cap. 427.
Cap. 454.
Cap. 449.
Cap. 430.

(3) The Minister may, in relation to matters that appear to him to affect the public interest, from time to time give to the Authority directions in writing of a general character not inconsistent with the provisions of this Act, the Consumer Affairs Act, the Competition Act, the Product Safety Act, the Metrology Act, the Food Safety Act, the Pesticides Control Act and any other Act or regulations administered by the Authority, on the policy to be followed by the Authority in the carrying out of its functions, by or under this Act, and the Authority shall, as soon as possible, give effect to all such directions.

(4) Subarticles (2) and (3) shall not apply in respect of the powers exercised by the Directors General of the Office for Competition and Office for Consumer Affairs under this Act, the Competition Act and the Consumer Affairs Act respectively or any other law or regulations with respect to the prioritisation, investigation and determination of cases and enforcement.

(5) The Authority shall afford to the Minister facilities for obtaining information with respect to its property and financial activities and furnish him with returns, accounts and other information with respect thereto, and shall afford to him facilities for the verification of information furnished, in such manner and at such times as he may reasonably require.

(6) If the Authority fails to comply with any directions issued under this article, the Prime Minister may make an order transferring to the Minister in whole or in part any its functions.

(7) The operations of the Authority shall follow an Authority performance agreement which is to be agreed to between the Permanent Secretary and the Authority and for this purpose Article 40 of the Public Administration Act shall *mutatis mutandis* apply.

(8) Article 38 of the Public Administration Act shall *mutatis mutandis* apply to the extent that its application does not conflict with the provisions of this Act, the Consumer Affairs Act, the Competition Act, the Product Safety Act, the Metrology Act, the Food Safety Act, the Pesticides Control Act and any other Act or regulations administered by the Authority.

Cap. 497.

Establishment of
the Office for
Competition.

PART IV **ESTABLISHMENT OF THE OFFICE FOR** **COMPETITION**

13. (1) There shall be established an office to be designated as the Office for Competition which shall be headed by the Director General (Competition).

(2) The Director General (Competition) shall be a person with professional qualifications, recognised competence, experience and specialisation in the domain of competition law and, or industrial organisation economics and, preferably, with knowledge of consumer matters, and shall be appointed by the Board, following consultation with the Minister, for a period of three years and such period may be extended for further periods of three years each:

Provided that the first Director General (Competition) shall be appointed by the Minister.

14. (1) The responsibilities of the Office for Competition shall be the following:- Responsibilities of the Office.

- (a) to investigate, determine and suppress restrictive practices;
- (b) to examine and control concentrations between undertakings in terms of their effect on the structure of competition on the market;
- (c) to act as the national competition authority in Malta as designated by virtue of article 35(1) of Council Regulation (EC) No 1/2003;
- (d) to keep under review markets and commercial activities relating to the supply of goods and services and to collect information and evidence for the purpose of ascertaining whether such markets and activities may adversely affect the interests of consumers;
- (e) to study markets and recommend action where required;
- (f) to encourage undertakings and associations of undertakings to comply with competition law and promote sound trading practices;
- (g) to provide advice to public authorities about the competition implications of proposals for legislation;
- (h) to provide advice to public authorities on the competition issues which may arise in the performance of their functions;
- (i) to provide advice on the competition constraints imposed either by legislation, policy or administrative practices;
- (j) to assist in the drawing up of the Authority's business plan;
- (k) to participate in meetings organised by international agencies and organisations;
- (l) to provide advice to the Board on competition matters;
- (m) to submit an annual report on its work to the Board;
and

Cap.379.

(n) generally to exercise the powers conferred upon it under this Act and under the Competition Act and any regulations made thereunder.

(2) In the exercise of the responsibilities mentioned in subarticles (1)(d) and (e), the Director General (Competition) shall co-operate with the Director General (Consumer Affairs) if the latter is carrying out a review or study in respect of the same market.

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

Different degrees of priority.

15. (1) The Office for Competition may allocate different degrees of priority to the cases brought or pending before it and in doing so it shall take into consideration, *inter alia*, the following factors:

(a) the degree of consumer harm resulting from the alleged or suspected infringement;

(b) the extent of consumer benefit resulting from the intervention of the Office for Competition;

(c) the nature and gravity of the alleged or suspected infringement;

(d) the stage of investigation;

(e) whether the alleged practices are still ongoing or whether harmful effects persist; and

(f) whether the alleged unlawful conduct is being examined or can be better examined by another public authority under its regulatory regime.

(2) The Office for Competition shall from time to time issue guidelines under this article. These guidelines shall provide for the right to ask for information on the degree of priority allocated to a case or to a complaint by the undertaking or association of undertakings concerned or the complainant respectively and for the obligation of the Office to provide a reasoned reply within a specific time frame.

PART V

**ESTABLISHMENT OF THE OFFICE FOR
CONSUMER AFFAIRS**

16. (1) There shall be established an office to be designated as the Office for Consumer Affairs within the Authority which shall be headed by the Director General (Consumer Affairs).

Establishment
of the Office for
Consumer
Affairs.

(2) The Director General (Consumer Affairs) shall be a person with professional qualifications, recognised competence, experience and specialisation in the domain of consumer law, and, or behavioural economics and shall be appointed by the Board, following consultation with the Minister, for a period of three years and such period may be extended for further periods of three years each:

Provided that the first Director General (Consumer Affairs) shall be appointed by the Minister.

17. (1) The responsibilities of the Office for Consumer Affairs shall be the following:

Responsibilities
of the Office for
Consumer
Affairs.

- (a) to provide information, advice and guidelines to the public relating to consumer issues;
- (b) to monitor trading practices relating to the provision of goods and services to consumers, and to take measures for the suppression and prevention of any practices which may be detrimental to the interests of consumers;
- (c) to receive and investigate complaints from consumers relative to the supply of goods and services and to take such action as in its power to redress any justified grievance that may come to its notice;
- (d) to provide consumers with ongoing advice concerning their rights;
- (e) to direct consumers to the appropriate organisation which is best placed to assist them with specific complaints;
- (f) to encourage traders to comply with consumer law and to promote good trading practices in the carrying out of activities which may affect the economic interests of consumers in Malta;
- (g) to provide traders with advice on matters relating to consumer affairs;

- (h) to provide mediation between consumers and traders;
- (i) to keep under review markets and commercial activities relating to the supply of goods and services and to collect information and evidence for the purpose of ascertaining whether such markets and activities may adversely affect the interests of consumers;
- (j) to study markets and recommend remedial action where required;
- (k) to assist the Council in the performance of its functions and duties and to furnish such information as may be required by the Council in relation to the exercise of its duties;
- (l) to advise public authorities about the implications for consumers arising from proposals for legislation;
- (m) to provide advice to public authorities on the consumer issues which may arise in the performance of their functions;
- (n) to advise on the impact on consumer interests that legislation, policy or administrative practices may have;
- (o) to serve as and perform the functions of the national competent authority in terms of the Consumer Protection Co-operation Regulation;
- (p) to serve as and perform the functions of the single liaison office in Malta responsible for co-ordinating the application of the Consumer Protection Co-operation Regulation;
- (q) to develop the necessary strategies for the performance of its responsibilities;
- (r) to assist in the drawing up of the Authority's business plan;
- (s) to advise the Board on matters of consumer interest;
- (t) to submit an annual report on its work to the Board; and
- (u) generally to exercise the powers conferred upon it

under this Act, the Consumer Affairs Act or any other law or regulations in relation to consumer affairs.

(2) In exercise of the responsibilities mentioned in articles 17(1)(i) and (j), article 14(2) shall *mutatis mutandis* apply to the Director General (Consumer Affairs).

(3) Nothing in this Act or in any other law shall be construed to give any consumer a right to require the Director General (Consumer Affairs) to act on his behalf and in his interest in any particular matter or dispute with any trader or supplier of services before any court, tribunal or arbiter.

18. (1) For the purposes of article 17(1)(o), the Office for Consumer Affairs shall be the national competent authority in respect of the EU legislative acts listed in the Third Schedule. Obtaining information.

(2) The Minister may by order amend the Third Schedule.

PART VI

ESTABLISHMENT OF THE TECHNICAL REGULATIONS DIVISION

19. (1) There shall be established a division within the Authority to be designated as Technical Regulations Division which shall be headed by the Director General (Technical Regulations). Establishment of Technical Regulations Division.

(2) The Director General (Technical Regulations) shall be a person with professional qualifications, recognised competence, experience and specialisation in technical harmonization and matters relating to conformity assessment, and shall be appointed by the Board, following consultation with the Minister, for a period of three years and such period may be extended for further periods of three years each:

Provided that the first Director General (Technical Regulations) shall be appointed by the Minister.

20. (1) The responsibilities of the Technical Regulations Division shall be the following: Responsibilities of the Technical Regulations Division.

(a) to draft legislation in relation to its areas of competence and issued by virtue of article 38 of the Product Safety Act, article 10 of the Food Safety Act and article 5 of the Pesticides Control Act and by any other law; Cap. 427.
Cap. 449.
Cap. 430.

(b) to advise the Board and other Government agencies and the private sector;

- (c) to assist all sectors of industry to understand and meet the essential requirements imposed by technical regulations, issued by virtue of the Product Safety Act, the Food Safety Act and the Pesticides Control Act and by any other law, and the technical, quality and safety requirements of harmonised European and international standards;
- (d) to co-ordinate and implement its regulatory programme in the areas falling under its remit and, in particular, to exercise the advisory functions assigned to it by article 38 of the Product Safety Act, article 9(1) of the Food Safety Act and by any other law;
- (e) to establish, with the consent of the Minister and of the Chairman of the Authority, technical committees for the areas falling under its competence and to chair and co-ordinate the work of such committees;
- (f) to act as the Product Contact Point and provide support to the focal point for any Notification requirements for ensuring the free movement of goods as laid down in article 9 of Council Regulation (EC) No 764/2008;
- (g) to formulate and give effect to programmes of technical assistance aimed at business operators for the purpose of facilitating their compliance with relevant technical regulations and standards;
- (h) to communicate to the general public and to interested parties any information regarding the regulatory programmes in its areas of competence;
- (i) to provide training and information on technical regulations in its areas of competence;
- (j) to participate in relevant national and international activities;
- (k) to perform risk assessment and to co-ordinate market surveillance activities as prescribed in article 27 of the Product Safety Act;
- (l) to assist in the drawing up of the Authority's business plan;
- (m) to submit an annual report on its work to the Board;
- (n) to develop the necessary strategies for the

implementation of its responsibilities;

(o) to generally exercise the responsibilities conferred upon it under this Act, the Product Safety Act, the Food Safety Act, the Pesticides Control Act and any other Act and regulations made thereunder; and

(p) to monitor the implementation of legislation under Cap. 500. the Services (Internal Market) Act and its subsequent application.

(2) The Technical Regulations Division shall be the authority in Malta entrusted with the implementation of:

(a) Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down the procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State;

(b) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products; and

(c) related activities.

PART VII

ESTABLISHMENT OF THE STANDARDS AND METROLOGY INSTITUTE

21. (1) There shall be established an institute within the Authority to be designated as the Standards and Metrology Institute, which shall be headed by the Director General (Standards and Metrology).

Establishment
of the Standards
and Metrology
Institute.

(2) The Director General (Standards and Metrology) shall be a person with professional qualifications, recognised competence, experience and specialisation in the domain of standards and in matters relating to metrology, calibration and testing, and shall be appointed by the Board, following consultation with the Minister, for a period of three years and such period may be extended for further periods of three years each:

Provided that the first Director General (Standards and Metrology) shall be appointed by the Minister.

Responsibilities
of the Standards
and Metrology
and Metrology
Institute.

22. (1) The responsibilities of the Standards and Metrology Institute shall be the following:-

(a) to make, adopt and publish standards, in relation to any class, category or type of products and, or services;

(b) to co-ordinate, monitor and promote standardization and related activities at the various corporate, national, regional and international levels, and to supply and, or ensure the existence of adequate supporting related services:

For the purpose of this paragraph, "supporting related services" include:

(i) the promotion of adoption and application of all aspects of metrology as a necessary adjunct to standardization;

(ii) the availability or assurance of availability of testing services;

(iii) the offer of certification services;

(c) to act as the competent body for the purposes of Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel (Text with EEA relevance) and Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC;

(d) to consider all applications for a permit to use a conformity mark and to grant permits for such purpose;

(e) to inform the public of new subjects included in its standards programme and of preparation or amendment of a standard, unless such standard is an identical or equivalent transposition of an International or European Standard. This information shall indicate, in particular, whether the standard concerned:

- will transpose an international standard without being the equivalent;

- will be a new national standard; or

- will amend a national standard;

(f) to co-operate with National, European, Regional or other international bodies in the field of standardization and to exchange information therewith generally, and in particular to such extent as may be provided for in any international obligation entered into by Malta or as may be prescribed;

(g) to be responsible for the execution, upkeep and conservation of National Measurement Standards and to maintain their accuracy by comparison with international measurement standards;

(h) to provide Working Measurement Standards of suitable accuracy for use in Malta, by comparison with the National Measurement Standards;

(i) to be responsible for the National Measurement Standards and their traceability;

(j) to provide calibration services;

(k) to carry out scientific and technical work in all fields of metrology and measuring methods;

(l) to take part in the work of other national organisations interested in metrology;

(m) to disseminate information relevant to metrology;

(n) to be responsible for the enforcement of all metrology regulations drawn up by virtue of the Metrology Act Cap. 454. and other regulations;

(o) to be responsible for the execution and calibration of Measurement Standards and verification equipment;

(p) to oversee, monitor and supervise the manufacture and repair of measuring instruments;

(q) to bring to the attention of the authorities any fraud in relation to measurements in the provision of goods and services;

(r) to provide for the holding of examinations for the purpose of ascertaining whether persons possess sufficient skill, knowledge and professional integrity for the proper performance of their functions to be performed by virtue of the

Metrology Act;

(s) to collaborate with the relevant inspection bodies in the fields of measuring instruments and pre-packaged products;

(t) to liaise with other foreign national institutions having similar aims and to represent Malta in international metrological institutions;

(u) to submit an annual report on its work to the Board;

(v) to develop the necessary strategies for the implementation of its responsibilities;

(w) to assist in the drawing up of the Authority's business plan; and

(x) to generally exercise the responsibilities conferred upon it under this Act, and under the Metrology Act and any other Act and regulations made thereunder.

(2) The Standards and Metrology Institute shall be the national body entrusted with the co-ordination of standardization and related activities and shall be responsible for matters related to metrology and legal metrology.

(3) The Standards and Metrology Institute shall also facilitate testing requirements.

Variation,
Substitution or
Revocation of
Standards.

(4) The power conferred on the Standards and Metrology Institute to make, adopt and publish standards shall be construed as including the power, exercisable in like manner, to vary, substitute or revoke any such standard.

List of
Standards to be
published.

23. (1) The Standards and Metrology Institute shall publish in the Gazette a list of standards made, adopted or transposed by it together with their international equivalence, if applicable, and shall in such notices also indicate where a copy of such standards may be obtained.

(2) Notwithstanding the other provisions of this Act or of any other law, the list of standards afore-mentioned and any standard made, adopted or transposed by the Standards and Metrology Institute may be made, published, prescribed or made available to the public either in the Maltese or English language.

Conformity
Mark.

24. (1) The Standards and Metrology Institute shall grant a

permit for the use of a conformity mark in relation to any product and, or, services which satisfy the standards, technical regulations and code of practices and fulfil the conditions prescribed therein, conformity to which is being declared.

(2) The Standards and Metrology Institute shall not grant a permit unless it is furnished with such proof and it is given such opportunities and facilities as may be reasonably necessary in order that it may satisfy itself that the product and, or, services in relation to which the application has been made qualify for such permit.

(3) In any permit granted in relation to any product and, or service, the Standards and Metrology Institute besides describing such product and, or service shall also:-

(a) name the person to whom the permit is granted;
and

(b) specify the standards applicable to the said product and, or, services;

Provided that when there have been no changes in the other circumstances which justified the grant of a permit, the Standards and Metrology Institute shall in regard to any such permit authorize, on application, the substitution of the person named therein as will be proved to be necessary.

(4) For the purpose of this Part, the name of the person to whom the permit is granted as referred to in paragraph (a) of subarticle (3) shall be deemed to form part of the description of the product and, or, service to which it refers.

25. Officers authorized in writing to that effect by the Standards and Metrology Institute shall at all reasonable times have access for the purposes of this Act to any place where goods and, or services in respect of which there is in force a permit are produced, manufactured or processed, and they shall be entitled to inspect such place, to examine such goods and to take samples thereof in the manner prescribed by the Minister.

Powers of the Standards and Metrology Institute to inspect premises and obtain information.

PART VIII

ACQUISITION AND PROVISION OF INFORMATION

26. In this Part, unless otherwise specified, any reference to the "Offices" shall be construed as referring to both the "Office for Competition" and the "Office for Consumer Affairs" and the words "Director General" and "Directors General" shall refer to both the "Director General (Competition)" and "Director General (Consumer

Provision of Information.

Affairs)".

27. (1) The Offices may consult with public authorities in the application of this Act, the Competition Act, the Consumer Affairs Act and any other Act, or regulations made thereunder which they are empowered to enforce.

(2) The Offices may request information from public authorities as they consider necessary for the application of this Act, the Competition Act, the Consumer Affairs Act and any other Act, or regulations made thereunder which they are empowered to enforce.

(3) The Offices on the one hand and public authorities on the other hand shall provide each other with the information necessary for the application of the provisions of this Act, the Competition Act, the Consumer Affairs Act and any other Act, or regulations made under the said Acts and such information shall be provided within a reasonable time as dictated by the particular circumstances of the issues involved.

(4) The Offices may enter into agreements for the exchange of information and other forms of collaboration with public authorities.

(5) Any agreement entered into by the Office for Competition in terms of subarticle (4) shall not apply to investigations initiated by it concerning alleged breaches of Articles 101 and, or 102 of the TFEU.

(6) In submitting information under the provisions of this article, the Offices and the public authorities shall clearly identify the information, including documents, which they deem to be internal or which contains business secrets or other confidential information and a separate non-confidential version shall be supplied.

(7) Where information has been exchanged as provided in this article, the Offices or the public authority receiving the information shall ensure the same level of confidentiality as the provider of the information.

Disclosure of
confidential
information.

28. (1) Except where otherwise provided by law, the members of the Board, Directors General and other officers or employees of the Authority and advisors, consultants or other persons engaged with the Authority shall not communicate or make accessible any information, including documents, which they deem to be internal or which contains business secrets or other confidential information.

(2) Without prejudice to any disciplinary proceedings that may

be taken against public employees under applicable rules and procedures, any person who contravenes the provisions of subarticle (1) shall be guilty of an offence against this Act and shall, on conviction, be liable to a fine (*multa*) of not less than two thousand euro (€2,000) and not exceeding ten thousand euro (€10,000).

29. (1) Any person, undertaking or association of undertakings or any other body which submits information or comments in one of the situations listed hereunder or subsequently submits further information to the Director General in the course of an investigation, shall clearly identify any material which it considers to be confidential, giving reasons therefor, and provide a separate non-confidential version, where applicable by the date set by the Director General for making its submissions known:

- a complainant lodging a complaint under the Competition Act or under the Consumer Affairs Act; Cap. 379.
Cap. 378.
- a person, undertaking or association of undertakings or any other body complying with a request for the provision of information under the provisions of this Act, the Competition Act, the Consumer Affairs Act and any other Act, or regulations made thereunder;
- an addressee of the statement of objections made under article 12A(1) of the Competition Act making known his views on the objection;
- a complainant making known his views on the statement of objections under article 12A(2) of the Competition Act;
- the addressee of an invitation by the Director General to submit his views under article 12A(3)(b) of the Competition Act;
- a complainant making known his views on the letter of the Director General (Competition) informing him of the Office's intention to reject the complaint made under article 14(2) of the Competition Act;
- the addressee of an invitation by the Director General to engage in settlement discussions under article 12B of the Competition Act.

(2) Without prejudice to subarticle (1), the Directors General may require persons, undertakings and an association of undertakings or any other body that submit documents or statements pursuant to

Identification
and protection
of confidential
information.

this Act, the Competition Act, the Consumer Affairs Act and any other Act, or regulations made thereunder to identify the documents or parts of documents which they consider to contain business secrets or other confidential information belonging to them and to identify the undertakings with regard to which such documents are to be considered confidential.

(3) In the case of a statement of objections sent by the Director General (Competition) under the Competition Act, in the case of a case summary drawn up pursuant to article 12C(2)(a) and article 12D(2) of the Competition Act and in the case of a decision or an order adopted by the Directors General under the Competition Act or the Consumer Affairs Act or any other Act, or regulations made thereunder, persons, undertakings or association of undertakings may be required to identify any part of a statement of objections, a case summary, a decision or order which in their view contains business secrets or other confidential information.

(4) The Directors General may set a time-limit within which persons, undertakings or association of undertakings or any other body are to:

(a) substantiate their claim for confidentiality with regard to each individual document or part of such document, statement or part of such statement;

(b) provide the Director General with a non-confidential version of the documents or statements, in which the confidential passages are deleted; and

(c) provide a concise description of each part of the deleted information.

(5) In the event that persons, undertakings or an association of undertakings or any other body fail to comply with subarticles (1) to (3), the Director General may deem that the documents or statements concerned do not contain confidential information and may consequently assume that the persons, undertakings or association of undertakings or other body have no objections to the disclosure of the documents or statements concerned in their entirety.

(6) Where persons, undertakings or an association of undertakings or any other body meet the conditions set out in subarticles (1) to (3), the Director General shall:

(a) either provisionally accept the claims which appear justified; or

(b) inform the person or undertaking or association of undertakings or any other body that he does not agree with the confidentiality claim in whole or in part, where it is apparent that the claim is unjustified.

(7) The Director General may reverse his provisional acceptance of the confidentiality claim in whole or in part at a later stage.

(8) Where the Director General does not agree with the confidentiality claim from the outset or where he takes the view that the provisional acceptance of the confidentiality claim should be reversed, and thus intends to disclose information, the Director General will inform the person or undertaking or association of undertakings or any other body in writing of his intention to disclose information, give his reasons and set a time-limit within which such person or undertaking or association of undertakings or any other body may inform him in writing of its views. If, following submission of those views, a disagreement on the confidentiality claim persists, the Director General shall take a decision thereon.

(9) In those cases where the person or undertaking or association of undertakings or any other body does not agree with the decision of the Director General in subarticle (8) the person or undertaking or association of undertakings or any other body may appeal to the Appeals Tribunal within ten days from when the decision of the Director General is notified and the decision of the Appeals Tribunal shall be final.

(10) Complainants or undertakings or an association of undertakings or any other body or any person collaborating in an investigation carried out by the Offices shall, should they wish to remain anonymous, make a request to that effect to the Director General. The Director General shall accede to such request for anonymity if he considers the request to be justified. The Director General shall protect anonymity by providing access to a non-confidential version or summary of the documents submitted. Subarticles (6) and (7) shall apply to requests for anonymity. Where the Director General does not consider the request for anonymity to be justified, subarticles (8) and (9) shall apply.

30. (1) The Authority shall, subject to the protection of business secrets and other confidential information, publish from time to time such information as would contribute to an open and competitive market or be for the benefit of consumers.

Publication of
Information.

(2) When publishing information as is referred to in subarticle

(1), the Authority shall adhere to the principles of fairness and objectivity.

(3) The members of the Board, the Directors General of all the entities and any officer acting on the instructions or authority of the said Directors General, shall be exempt from any liability for acts done in good faith in pursuance of this article. Such exemption shall extend to all persons publishing, printing, recording, broadcasting or communicating such information by any means whatsoever.

PART IX

ESTABLISHMENT OF THE COMPETITION AND CONSUMER APPEALS TRIBUNAL

Establishment of the Competition and Consumer Appeals Tribunal.

Composition.

31. There shall be established a tribunal to be known as the Competition and Consumer Appeals Tribunal, to exercise and perform the functions assigned to it by this Act, the Competition Act and the Consumer Affairs Act and any regulations made thereunder.

32. (1) The Appeals Tribunal shall be composed of the President who shall be a Judge, and two other members from a panel of ordinary members selected by the President.

(2) There shall be a panel of six ordinary members, all with at least ten years relevant experience, appointed by the President on the advice of the Prime Minister, consisting of two economists, preferably one specialised in industrial organisation economics and the other in behavioural economics, a certified public accountant and three other persons with recognised competence and knowledge in competition law matters, consumer protection, industry and commerce.

(3) In selecting the two ordinary members to sit on the Appeals Tribunal under subarticle (1), the President shall take due account of the nature of the case and the market concerned.

(4) The ordinary members of the Appeals Tribunal shall be appointed for a period of three years and shall be eligible for reappointment.

(5) The ordinary members of the Appeals Tribunal may resign their office by a letter addressed to the President of Malta. The resignation shall take effect when the writing signifying the resignation is received by the President of Malta or by any person authorised by him.

(6) An ordinary member of the Appeals Tribunal may not be removed from office except by the President of Malta acting on the

recommendation of the Prime Minister on the ground of proved inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or proved misbehaviour.

(7) Notice of all appointments to the Appeals Tribunal and of all other changes in its membership shall be published in the Gazette.

(8) (a) The Appeals Tribunal shall be independent in the performance of its functions.

(b) The members thereof in the exercise of their functions shall act on their own individual judgement and shall not be subject to the direction or control of any person or authority.

(9) (a) The ordinary members of the Appeals Tribunal, shall not be precluded from the exercise of their respective profession, so however during the term of their appointment they shall be precluded from the exercise of their profession in cases before the Tribunal.

(b) The ordinary members of the Appeals Tribunal shall receive such remuneration as the Prime Minister may by notice in the Gazette determine:

Provided that such remuneration may not be altered during the tenure of their appointment to their disadvantage.

(c) The remuneration due to the ordinary members of the Appeals Tribunal shall be paid out of the Consolidated Fund without the necessity of any further appropriation.

(10) A person shall not be qualified to be appointed or remain an ordinary member of the Appeals Tribunal if:

(a) he is an undischarged bankrupt; or

(b) he has been sentenced to imprisonment for six months or more by any court; or

(c) he has been found guilty of any offence against this Act, the Consumer Affairs Act or the Competition Act or any regulations made thereunder; or

(d) he is a Member of the House of Representatives or of the European Parliament or a Local Council.

(11) Any ordinary member of the Appeals Tribunal shall,

before the commencement of any case, declare any interest he may have in the proceedings and the President shall, where he considers that such interest may prejudice the independence of the member concerned or of the Appeals Tribunal, appoint another member from the panel.

(12) Where proceedings have commenced and no final decision has yet been delivered and one of the ordinary members has ceased to be a member or for any other reason is unable to perform the functions of his office, the President may elect to appoint another member from the panel in his stead and should it be strictly necessary for the proper determination of the case recommence proceedings, or continue to hear the case with only one ordinary member:

Provided that where the term of appointment has expired and the ordinary member has not been reappointed, the ordinary member shall continue to hear the case until its determination.

(13) The ordinary members of the Appeals Tribunal, shall, during and after the term of office, act with integrity and not engage in any activity which would harm the proper administration of justice or which, due to knowledge gained from business secrets or other confidential information during the tenure of their office, would give rise to conflict of interest and harm the interests of the undertakings concerned. Any person who acts in contravention of this subarticle shall be guilty of an offence against this Act and shall on conviction be liable to a fine (*multa*) of not less than two thousand euro (€2,000) and the court may, in addition, award the punishment of temporary or perpetual general interdiction.

Registry of the Appeals Tribunal.

33. (1) The Registrar of Courts or any other person acting in his stead or on his behalf in accordance with the Code of Organization and Civil Procedure shall be the Registrar of the Appeals Tribunal.

(2) All acts of or brought before the Appeals Tribunal shall be kept in the Registry of the Superior Courts which shall be the registry of the Appeals Tribunal.

(3) The Minister responsible for justice may by regulations under this Act establish:

(a) the fees that may be due to the Registry of the Appeals Tribunal;

(b) the fees that may be due to advocates, legal procurators and other persons representing the parties appearing before the Appeals Tribunal; and

(c) the fees that may be due to experts appearing before the Appeals Tribunal:

Provided that until fees are prescribed by the Minister under paragraphs (a) to (c), the fees established in the Code of Organization and Civil Procedure shall apply.

(4) The Registry of the Appeals Tribunal shall keep both a confidential version and a non-confidential version of the records of the Appeals Tribunal as may be so authorised by the Appeals Tribunal.

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

Provided that due regard shall be had to the protection of any confidential information and business secrets.

(6) All acts shall be filed, issued and served in accordance with the provisions of the Code of Organization and Civil Procedure, subject to any rules made under this Act, the Competition Act, the Consumer Affairs Act and any other Act, or regulations made thereunder or unless the Minister shall by regulations otherwise prescribe.

34. (1) The Registrar shall provide the necessary personnel for the holding of sittings of the Appeals Tribunal. The officials so designated shall, in execution of their duties, enjoy and exercise all such powers as are vested by the Code of Organization and Civil Procedure in officials performing similar duties.

Personnel and
sittings of the
Appeals
Tribunal.
Cap. 12.

(2) The sittings of the Appeals Tribunal shall be held on such days and at such times as shall be fixed by the President in the building of the Superior Courts.

35. The President of Malta, on the advice of the Prime Minister, shall, under those terms and conditions that the Minister responsible for justice deems fit, appoint a lawyer, having a postgraduate degree covering competition and, or consumer law, on a full-time basis to assist the Appeals Tribunal as referendaire in the drafting of decisions, in undertaking research and in the performance of any other task related to the competence of the Appeals Tribunal as assigned to him by the President.

Appointment of
lawyer.

36. (1) Without prejudice to article 70(3) the Appeals Tribunal, presided by its President, shall have jurisdiction to hear and determine appeals from decisions, orders or measures of the Director

Competence of
the Appeals
Tribunal.
Cap. 379.
Cap. 378.

General (Competition) and the Director General (Consumer Affairs) as provided in the Competition Act, the Consumer Affairs Act and any regulations made under the said Acts.

(2) The determination of any case before the Appeals Tribunal shall be according to the unanimous opinion of the members deciding the case or by majority decision which majority must include the President.

Procedures of
the Appeals
Tribunal.

37. (1) The Appeals Tribunal shall have the powers and shall follow the procedures laid out in the provisions of this Act and in the Second Schedule, the Competition Act and the Consumer Affairs Act and regulations made thereunder.

(2) The Minister may make rules not inconsistent with this Act, the Competition Act and the Consumer Affairs Act and any regulations made thereunder, prescribing the procedures and the forms to be followed and used before the Appeals Tribunal.

(3) In the absence of provisions or rules as aforesaid, the Appeals Tribunal shall regulate its own procedures.

PART X

OFFICERS AND EMPLOYEES OF THE AUTHORITY

Staff
appointments.

38. Subject to the provisions of the Constitution, any other enactment applicable thereto, and without prejudice to the other provisions of this Act, the employment and appointment of officials and other employees of the Authority shall be made by the Board and the terms and conditions of their employment and appointment shall be established by the Board with the concurrence of the Minister:

Provided that, notwithstanding article 12(8), for the purposes of subarticle (1), the Board shall follow any directives and guidelines issued under paragraphs (c), (d) and (e) of subarticle (1) of article 38 of the Public Administration Act.

Appointment of
officers and
employees of
the Authority.

39. The Board shall appoint and employ, at such remuneration and upon such terms and conditions as it may, in accordance with article 38, determine, such officers and employees of the Authority as may from time to time be necessary for the due and efficient discharge of the functions of the Authority.

Detailed of
public officers
for duty. with
the entities.

40. (1) The Principal Permanent Secretary, following the direction of the Prime Minister, may from time to time, direct that any public officer shall be detailed for duty with the Authority in such capacity and under such conditions and with effect from such date as he may prescribe.

(2) The period during which a direction as aforesaid shall apply to any officer specified therein, shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier date, or unless a different period is specified in such direction, end on the happening of any of the following events:

(a) the acceptance by such officer of an offer of transfer to the service of, and permanent employment with, the Authority made in accordance with the provisions of article 42; or

(b) the revocation of such direction by the Principal Permanent Secretary following the direction of the Prime Minister.

(3) Where a direction as aforesaid is revoked by the Principal Permanent Secretary in relation to any officer, the Principal Permanent Secretary may, by further direction and following the direction of the Prime Minister, detail such officer for duty with the Authority in such capacity and with effect from such date as may be specified in the direction of the Principal Permanent Secretary, and the provisions of subarticle (2) shall thereupon apply to the period of duration of such detailing by any such further direction in relation to such officer.

41. (1) Where any officer is detailed for duty with the Authority under any of the provisions of article 40, such officer shall, during the time in which such direction has effect in relation to him, be under the administrative authority and control of the Authority but he shall for all other intents and purposes remain and be considered and treated as a public officer.

Status of public officers detailed for duty with the entities.

(2) Without prejudice to the generality of the foregoing, an officer detailed for duty as aforesaid:-

(a) shall not, during the time in respect of which he is so detailed:-

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the Government appointment held by him at a date on which he is so detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the Government appointment held by him at the date aforesaid or which would have become attached to

such appointment, during the said period, had such officer not been detailed for duty with the Authority:

Provided that such terms and conditions shall not be deemed to be less favourable because they are not in all respects identical or superior to those enjoyed by the officer concerned at the date of such detailing, if in the opinion of the Prime Minister, such terms and conditions, taken as a whole, offer substantially equivalent or greater benefits; and

(b) shall be entitled to have his service with the Authority considered as service with the Government for the purposes of any pension, gratuity or benefit under the Pensions Ordinance and the Widows' and Orphans' Pensions Act and for the purpose of any other right or privilege to which he would be entitled, and shall be liable to any liability to which he would be liable, but for the fact of his being detailed for duty with the Authority:

Provided that in assessing the pensionable emoluments of such officer for the purposes of any law relating to government service pensions, no account shall be taken of any allowances, bonuses or gratuities paid to such officer by the Authority in excess of what he is entitled to as a public officer.

(3) Where an application is made as provided in subarticle (2)(a)(i), the same consideration shall be given thereto as if the applicant had not been detailed for service with the Authority.

(4) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for Finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Authority as aforesaid during the period in which he is so detailed.

Offer of permanent employment with the Authority to public officers detailed for duty with the Authority.

42. (1) The Authority may, with the approval of the Prime Minister, offer to any officer detailed for duty with the Authority under any of the provisions of article 40, permanent employment with it at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

(2) The terms and conditions comprised in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister,

offer substantially equivalent or greater benefits.

(3) Every officer who accepts permanent employment with the Authority offered to him under the provisions of subarticle (1) shall, for all purposes other than those of the Pensions Ordinance and of the Widows' and Orphans' Pensions Act, and, saving the provisions of article 63, be deemed to have ceased to be in the service of the Government and to have entered into service with the Authority on the date of his acceptance, and for the purposes of the said Ordinance and of the said Act, so far as applicable to him, service with the Authority shall be deemed to be service with the Government within the meaning thereof respectively.

Cap. 93.

Cap. 58.

(4) Every such officer as aforesaid who, immediately before accepting permanent employment with the Authority, was entitled to benefit under the Widows' and Orphans' Pensions Act, shall continue to be so entitled to benefit thereunder to all intents as if his service with the Authority was service with the Government.

Cap. 58.

(5) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for Finance in respect of the cost of pensions and gratuities earned by an officer who has accepted permanent employment with the Authority as aforesaid during the period commencing on the date of such officer's acceptance.

(6) For the purposes of the Pensions Ordinance, the pensionable emoluments of such public officer on retirement shall be deemed to be the pensionable emoluments payable to an officer in Government service in a grade and at an incremental level corresponding to the post occupied and incremental level on the date on which the officer retires from the Authority.

Cap. 93.

(7) (a) For the purposes of this article, posts and salary grades with the Authority shall be classified in the most nearly corresponding grades and incremental levels in the service under the Government by reference to job description, skills, responsibilities and other analogous factors.

(b) The classification referred to in paragraph (a) shall be carried out by a board composed of a Chairman appointed by the Minister responsible for Finance and two other members, one appointed by the Minister responsible in general for personnel policies in the public service and one appointed by the Authority. The classification shall be subject to the final approval of the Minister responsible for Finance.

(c) Such classification shall take place within three months of any adjustment of salaries of employees in Government service and, or of employees of the Authority.

(d) No post shall be classified in a grade higher than that of a Grade 3 in the service of the Government or such other grade that the Minister responsible for Finance may from time to time by notice in the Gazette determine.

Cap. 93.

(e) Without prejudice to article 113 of the Constitution, no person may, following a classification as aforesaid, be entitled to rights under the Pensions Ordinance less favourable than those to which he would have been entitled prior to such classification.

Engagement of consultants and advisers.

Oath of secrecy.

Disclosure of interest.

43. The Authority may engage such consultants or advisers as it may consider necessary to assist it in the fulfilment of its functions.

44. Every person appointed as an officer of the Authority shall, before assuming such duties, take oath that he will faithfully and impartially perform the duties of his office or employment. The form of oath shall be that contained in the First Schedule and shall be administered by the President of the Appeals Tribunal.

45. (1) Where a public officer or an employee of the Authority, or a consultant, an advisor or any other person engaged by the Authority, has any interest in, or material to, any matter which falls to be considered by the Authority, he shall-

(a) disclose to the Board the nature of his interest at the first meeting of the Board after such interest is acquired or in advance of any consideration of the matter, whichever is the earlier;

(b) neither influence nor seek to influence a decision in relation to such matter; and

(c) take no part in any consideration of such matter.

(2) Where a question arises as to whether or not a course of conduct, if pursued by a person, would constitute failure by him to comply with the requirements of subarticle (1), the question shall be determined by the Board and the decision and its motivation shall be recorded in the minutes of the meeting during which the decision was taken.

(3) Where a disclosure is made to the Board pursuant to subarticle (1), particulars of the disclosure shall be recorded in the

minutes of the relative meeting.

(4) Where a person to whom subarticle (1) applies fails to make the required disclosure, the Board shall decide the appropriate action to be taken which may include the removal from office or termination of the contract of the person concerned.

46. (1) Officers and employees of the Authority shall abide by any Code of Ethics applicable to public employees and shall, subject to any law to the contrary, have the same obligations thereunder:

Provided that the Directors General shall, with the approval of the Co-ordination Committee, draw up service values and Codes of Ethics in respect of their respective entities to supplement any public service Code of Ethics.

(2) (a) The members of the Board, officers and employees of the Authority and advisors, consultants and other persons engaged with the Authority shall, following the termination of their office, act with integrity and not engage in any activity which, due to knowledge gained from business secrets or other confidential information during the tenure of their office would give rise to conflict of interest and harm the interests of any person; and

Obligation to act with integrity following termination of office.

(b) any person who acts in contravention of this article shall be guilty of an offence against this Act and shall on conviction be liable to a fine (*multa*) of not less than two thousand euro (€2,000) and the court may, in addition, award the punishment of temporary or perpetual general interdiction.

(3) No action shall lie against the Authority, the organs of the Authority, the members of the Board, officers and employees of the Authority and advisors, consultants and other persons engaged with the Authority for any act or omission in connection with this Act or any regulations made thereunder unless the act or omission is shown to have been done or omitted to be done, as the case may be, in bad faith.

Exemption from liability.

PART XI FINANCIAL PROVISIONS

47. The Authority shall be governed by the provisions of the Financial Administration and Audit Act, unless otherwise stated in the Authority performance agreement entered into by the Permanent Secretary and the Authority in terms of article 12(7) in which case the provisions of the latter will prevail.

Provisions of the Financial Administration and Audit Act. Cap. 174.

Authority to meet expenditure out of revenue.

48. (1) Without prejudice to the following provisions of this article, the Authority shall so conduct its affairs that so much of the expenditure required for the proper performance of its functions shall, as far as practicable, be met out of its revenue.

(2) For the purposes of subarticle (1), the Authority, shall levy all fees, charges and other payments prescribed or deemed to be prescribed by or under this Act or any other law providing for matters falling under its respective powers and functions:

Provided that where the entities are specifically entrusted by law to charge fees or impose administrative fines, those fees and fines shall be levied by the entities concerned.

(3) The Authority shall also be paid by the Government out of the Consolidated Fund such sums as the House of Representatives, hereinafter referred to as the "House", may from time to time authorise to be appropriated to meet any of its expenditure that cannot be met out of its revenue and the costs of specified works to be continued or otherwise carried out by it, being works of infrastructure or of a similar capital nature.

(4) Any excess of revenue over expenditure shall, subject to such directives as the Minister, after consultation with the Minister responsible for Finance, may from time to time give, be applied by the Authority to the formation of reserve funds to be used for its purposes and without prejudice to the generality of the powers given to the Minister by this subarticle, any directive given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the direction, of any part of the fees, charges and other payments levied in accordance with subarticle (2).

(5) Any funds of the Authority not immediately required to meet expenditure may be invested in such manner as may from time to time be approved by the Minister.

Power to borrow or raise capital.

49. (1) For the purpose of carrying out any of its functions under this Act, the Authority may, with the approval in writing of the Minister, given after consultation with the Minister responsible for Finance, borrow or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister, after consultation as aforesaid, may in writing approve.

(2) The Authority may also, from time to time, borrow, by way of overdraft or otherwise, such sums as it may require for carrying out its functions under this Act:

Provided that for any amount in excess of one hundred and twenty thousand euro (€120,000), there shall be required the written approval of the Minister.

50. The Minister responsible for Finance may, after consultation with the Minister, make advances to the Authority of such sums as he may agree to be required by the Authority for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as he may, after consultation as aforesaid, deem appropriate. Any such advance may be made by the Minister responsible for Finance out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorising the Accountant General to make such advance.

Advances from Government.

51. (1) The Minister responsible for Finance may, for any requirements of the Authority of a capital nature, contract or raise loans, or incur liabilities, for such periods and on such terms and conditions as he may deem appropriate and any sums due in respect of or in connection with any such loan or liability shall be a charge on the Consolidated Fund.

Borrowing from Government.

(2) Notice in writing of any loans, liabilities or advances made or incurred under the foregoing provisions of this article shall be laid on the Table of the House as soon as practicable.

(3) Pending the raising of any such loan as is mentioned in subarticle (1), or for the purpose of providing the Authority with working capital, the Minister responsible for Finance may, by warrant under his hand, and without further appropriation other than this Act, authorise the Accountant General to make advances to it out of the Treasury Clearance Fund under such terms as may be specified by the Minister upon the making thereof.

(4) The proceeds of any loan raised for the purposes of making advances to the Authority and any other monies to be advanced to the Authority under this article, shall be paid into a fund specially established for the purpose and which shall be known as the "Malta Competition and Consumer Affairs Authority Loan Fund".

(5) Sums received by the Accountant General from the Authority by way of repayment of advances made to the Authority under subarticle (3) shall be paid into the Treasury Clearance Fund and sums received by the Accountant General by way of interest on such advances shall be paid into the Consolidated Fund.

52. (1) The Authority shall cause to be prepared in every financial year, and shall not later than four weeks before the end of

Estimates of the Authority.

such year adopt, estimates of the income and expenditure of the Authority for the following financial year distinguishing, in particular, between each of such entities as may be established under the provisions of this Act:

Provided that the estimates for the first financial year of the Authority shall be prepared and adopted within such time as the Minister may by notice in writing to the Authority specify.

(2) In the preparation of such estimates, the Authority shall take account of any funds and other monies that may be due to be paid to it out of the Consolidated Fund during the relevant financial year, whether by virtue of this Act or of an appropriation Act or of any other law and it shall so prepare the said estimates as to ensure that its total revenues are at least sufficient to meet all sums properly chargeable to its revenue account including, but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form and shall contain such information and such comparison with previous estimates as the Minister responsible for Finance may direct.

(4) A copy of the estimates shall, upon their adoption by the Authority, be sent forthwith to the Minister and to the Minister responsible for Finance.

(5) The Minister shall, at the earliest opportunity and not later than six weeks after he has received a copy of the estimates from the Authority, approve the same with or without amendment after consultation with the Minister responsible for Finance.

Expenditure to
be according to
approved
estimates.

53. (1) No expenditure shall be made or incurred by the Authority unless provision therefor has been made in the estimates approved as provided in article 52.

(2) Notwithstanding the provisions of subarticle (1):-

(a) until the expiration of six months from the beginning of a financial year, or until the approval of the estimates for that year, whichever is the earlier date, the Authority may make or incur expenditure for carrying on its functions under this Act not exceeding in the aggregate one half of the amount approved for the preceding financial year;

(b) expenditure approved in respect of a head or sub-head of the estimates may, with the approval of the Minister, given after consultation with the Minister responsible for Finance, be made or incurred in respect of another head or sub-

head of the estimates;

(c) in respect of the first financial year, the Authority may make or incur expenditure until the approval of the estimates for that year not exceeding in the aggregate such amounts as the Minister responsible for Finance may, after consultation with the Minister allow; and

(d) if in respect of any financial year it is found that the amount approved in the estimates is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Authority may adopt supplementary estimates for approval by the Minister, and in any such case the provisions of this Act applicable to the estimates shall as near as practicable apply to the supplementary estimates.

54. The Minister shall, at the earliest opportunity and not later than eight weeks after he has received a copy of the estimates and supplementary estimates of the Authority, or if at any time during that period the House is not in session, within eight weeks from the beginning of the next following session, cause such estimates to be laid on the Table of the House.

Publication of
approved
estimates.

55. (1) The Authority shall cause to be kept proper accounts and other records in respect of its operations, and shall cause to be prepared a statement of accounts in respect of each financial year.

Accounts and
audit.

(2) The accounts of the Authority shall be audited by an auditor or auditors to be appointed by the Authority with the concurrence of the Minister responsible for finance and shall moreover be subject to scrutiny by the Financial Management Monitoring Unit, and audit by the Internal Audit and Investigations Directorate and the Auditor General as the case may be.

(3) The Authority shall not later than six weeks after the end of each financial year present to the Minister through the Permanent Secretary an audited statement of accounts together with a copy of any report made by the auditors on that statement or on the accounts of the Authority.

(4) The Minister shall cause a copy of such statement and report to be laid before the House not later than six weeks after its receipt or, where the House is not in session, not later than the second week after the House resumes its sittings.

Deposit of revenues and payments by the Authority.

56. (1) All monies accruing to the Authority shall be paid into a bank or banks appointed as bankers of the Authority by resolution of the Authority. Such monies shall, as far as practicable, be paid into any such bank from day to day, except such sum as the Authority may authorise to be retained to meet petty disbursements and immediate cash payments.

(2) All payments out of the funds of the Authority, other than petty disbursements not exceeding a sum fixed by the Authority, shall be made by such officer or officers of the Authority as shall be appointed or designated for that purpose.

(3) Cheques against and withdrawals from any bank account of the Authority shall be signed by such officer of the Authority as may be appointed or designated by the Authority for that purpose and shall be countersigned by the Chairman or such other member or officer as may be authorised by the Authority for that purpose.

(4) The Authority shall also make provision with respect to:-

(a) the manner in which and the officer or officers by whom payments are to be authorised or approved;

(b) the title of any account held with the bank or banks into which its monies are to be paid, and the transfer of funds from one account to the other; and

(c) the method to be adopted in making payments out of its funds, and generally with respect to any matter which is relevant to the proper keeping and control of the accounts and books and the control of its finances.

Contracts of supply or works.

57. The Authority shall not award or enter into any contract for the supply of goods or materials or for the execution of works, or for the rendering of services, to or for the benefit of the Authority, except in accordance with regulations in force regulating the procurement of all goods and services in the public sector.

Annual Report.

58. The Authority shall, not later than six weeks after the end of each financial year, present to the Minister through the Permanent Secretary a report dealing generally with the activities of the Authority during that financial year, distinguishing, in particular, between each of such entities as may be established under the provisions of this Act and containing such information relating to the proceedings and policy of the Authority as the Minister may from time to time require.

59. The Minister shall cause a copy of the report presented to him in terms of article 58 to be laid before the House not later than six weeks after its receipt or, where the House is not in session, not later than the second week after the House resumes its sittings.

Laying of
Annual Report
before the
House.

PART XII

TRANSFER OF CERTAIN ASSETS TO THE AUTHORITY

60. (1) (a) The property and undertakings owned by the Consumer and Competition Department, Malta Standards Authority and Malta National Laboratory Company Limited and used by any one of them, immediately before the date of the coming into force of this Part of this Act, or owned by the Government, and used by any of the said Department, Authority or Company for the operation of any of the functions which by this Act are being transferred to or vested in the Authority shall, on the date aforesaid, by virtue of this Act and without further assurance, be transferred to and be vested in the Authority under the same title by which they were used or held by the said Department, Authority or Company immediately before the said date.

Transfer of
assets to the
Authority.

(b) The immovable assets from time to time specified in an order made by the President of Malta and published in the Gazette, hereinafter referred to as "the immovable assets", being immovable assets which, immediately before the coming into force of this Part, were owned by the Government and used by it for the exercise of any of the functions which by this Act are being transferred to or vested in the Authority shall, with effect from such day as may be specified in any such order, and by virtue of this Act and without any further assurance, be transferred to and vested in the Authority under the same title by which they were held by the Government before such day.

(2) The transfer and vesting aforesaid shall extend to the whole of such property and undertakings and, without prejudice to the generality of the aforesaid, shall include all plant, equipment, apparatus, instruments, vehicles, crafts, buildings, structures, installations, land, works, stocks and other property, movable or immovable, assets, powers, rights and privileges and all things necessary or ancillary thereto which are held or enjoyed in connection therewith or appertaining thereto, as well as all obligations affecting or relating to any of the aforesaid property or undertakings or other thing included therein as aforesaid.

61. (1) Subject to the provisions of this Act, all laws, rules, regulations, orders, judgments, decrees, awards, deeds, bonds, contracts, agreements, instruments, documents, warrants and other

Construction of
laws and related
matters.

arrangements, subsisting immediately before the date of the coming into force of this Part, affecting or relating to any of the properties or undertakings transferred to the Authority by or under this Act, and in which the Government or a Government authority is a party thereto or is named therein, shall have full force and effect against or in favour of the Authority, and shall be enforceable freely and effectually, as if instead of the Government or governmental authority the Authority had been named therein or had been a party thereto, and otherwise in substitution of the Government or governmental authority.

(2) Any reference in any law to the Office for Fair Competition, Department of Consumer Affairs, Consumer and Competition Department, Malta Standards Authority and the Malta National Laboratory Company Limited shall be read and construed as a reference to the Authority and, or to any of the entities as may be established under this Act, as the case may require.

Transitory provisions.

62. (1) When anything has been commenced by or under the authority of the Government, the Consumer and Competition Department, the Malta Standards Authority and the Malta National Laboratory Company Limited prior to the date of the coming into force of this Part, and such thing relates to any of the properties or undertakings or any right or liability transferred to the Authority by or under this Act, such thing may be carried on and completed by or as authorised by the Authority.

(2) Where, immediately before the coming into force of this Part of the Act, any legal proceedings are pending to which the Government, the Consumer and Competition Department, the Malta Standards Authority and the Malta National Laboratory Company Limited is or is entitled to be a party, and such proceedings are related to any of the properties or undertakings, or any right or liability transferred by or under this Act, the Authority shall, as from the date aforesaid, be substituted in such proceedings for the Government or for the aforesaid Department, Authority or Company, as the case may be, or shall be made a part thereto in like manner as the Government, any such Department, Authority or Company could have become a party as aforesaid, and such proceedings shall not abate by reason of the substitution.

(3) The Minister may, by order, make such incidental, consequential and supplemental provisions as he may deem necessary or expedient for the purpose of determining, as appropriate, the assets transferred to the Authority by this Act and securing and giving full effect to the transfer of any property or undertaking or any right or liability to the Authority by this Act and make such orders as may be necessary to make any powers and duties exercisable by the

Government, the Consumer and Competition Department, the Malta Standards Authority and the Malta National Laboratory Company Limited in relation to any of the transferred property or undertakings exercisable by or on behalf of the Authority.

PART XIII MISCELLANEOUS

63. For the purposes of the Criminal Code and of any provision of a penal nature in any other law, the members of the Board, officers and employees of the Authority, shall be deemed to be public officers. Persons deemed public officers.
Cap. 9.

64. (1) For the purposes of this article "acts" means any request for information, measure, order, direction, statement, decision or other forms of communication issued by the Authority. Service of acts of the Authority.

(2) Where the Authority is required to, or decides to, notify its acts under this Act, the Competition Act, the Consumer Affairs Act or under any other Act, or regulations made thereunder, it shall do so in any of the following ways:

(a) by delivering it to the person or by leaving it at the address at which the person ordinarily resides or carries on business or place of work or postal address of such person with a member of his family or household or with a person in his service or his attorney or person authorised to receive his mail:

Provided that it shall not be lawful to leave such copy with any person under the age of fourteen years, or with any person who, on account of infirmity of mind, is unable to give evidence of such service. A person shall be presumed to be able to give such evidence unless the contrary is proved; and no objection may be raised on the ground of irregularity of the service for any of those reasons, if it is shown that the copy has actually reached the person to be served therewith:

Provided further that where a person to whom a notice is addressed refuses to receive it personally from an officer of the Authority, the Appeals Tribunal may upon an application by the Authority and after hearing the officer of the Authority and considering all the circumstances of the incident, declare that such service shall have been effected on the day and time of the refusal and such declaration shall be considered as a proof of service for all purposes of law;

(b) by sending it by registered post to the person at the address at which the person ordinarily resides or carries on

business; or

(c) if an address for the service of notices has been provided by the person, by leaving it at, or sending it by registered post addressed to the person to that address; or

(d) in any case where the Authority considers that the immediate delivery of the act is required, by sending it, by means of a facsimile machine or by electronic mail, to a device or facility for the reception of facsimiles or electronic mail located at the address at which the person ordinarily resides or carries on business or, if an address for the service of acts has been furnished by the person, that address, provided that the facsimile machine of the Authority generates a message confirming successful transmission of the total number of pages of the notice or the facility of the Authority for the reception of electronic mail generates a message confirming receipt of the electronic mail:

Provided that the provisions of paragraph (d) shall not apply to the notification of documents filed before the Appeals Tribunal or any court.

(3) If it appears from the employee charged with the service of an act that, although it does not result that the person upon whom such an act is to be served is abroad and access to his place of residence cannot be obtained, or his place of residence is not known, the Appeals Tribunal, upon an application by the Authority, may direct service to be effected by the posting of a copy of the act at the place, in the town or district in which official acts are usually posted up, and by publishing a summary of such act in the Gazette and in one or more daily newspapers as the Appeals Tribunal may direct, and where possible, when the residence is known, by posting up a copy of the act on the door leading to such residence. The Appeals Tribunal may also adopt such other measures as it may deem fit to bring the act to the attention of the person upon whom the same is to be served. In such cases, service shall be deemed to have been made on the third working day after the date of last publication or after the date of such posting, whichever is the later. In cases where service has been ordered with urgency, service shall be deemed to have been made at such time, after posting or publication as the Appeals Tribunal may determine, which time is to be stated in the publication or posting.

(4) In the case of a body having distinct legal personality, service on such body shall be effected by leaving a copy of the act:

(a) at its registered office, principal office, or place of

business or postal address of the person or persons vested with the legal or judicial representation thereof or by any company secretary or with an employee of such body; or

(b) with the person or persons vested with the legal or judicial representation thereof or by any company secretary in the manner provided for in subarticle (2).

(5) The provisions of this article shall also apply with respect to the notification of acts issued by the entities of the Authority under this Act or any other law enforced by them.

65. (1) The Minister, after consultation with the Board, as the case may be, may from time to time make regulations:

Power of
Minister to
make
regulations.

(a) prescribing fees or charges that may be charged by the Authority under this Act or any other Act, or regulations made thereunder which it administers;

(b) providing for additional methods of effecting service of acts of the Authority or altering or removing any of the methods prescribed under article 64;

(c) generally for the better carrying out of the objects and purposes of this Act, or any other Act , or regulations made thereunder administered by the Authority;

(d) prescribing the mark or symbol that is to be used to indicate conformity with any standard, technical regulations and code of practice as indicated in article 24;

(e) prescribing the manner and form in which any application for a conformity mark shall be made, the information which such application is to contain, and the fees payable in respect thereof;

(f) prescribing the manner and form in which permits shall be issued by the Authority and the fees payable in respect thereof;

(g) providing for the publication of draft standards and the manner in which the public can make representations thereon to the Authority; and

(h) prescribing for other matters that are or may be prescribed under this Act or any other Act, or regulations made thereunder applied by the Authority.

(2) Notwithstanding any provision in any other Act or regulations, where the Minister under such Act or regulations is empowered to make regulations on matters falling within the competence of the Authority, the Minister shall, without prejudice to any other consultation required under such Act or regulations, consult the Board.

Establishment
of Directorates.

66. (1) There shall be established the Directorates as listed in the Fourth Schedule, which shall have the responsibilities as described therein. The Minister may, after consulting the Board, by Order in the Gazette, abolish any one or more of the said Directorates, vary their responsibilities and establish such other Directorate as he may from time to time deem appropriate:

Provided that the Board may, temporarily or for a specific purpose, authorise the Director General heading the entity concerned, to allow that a particular function of one Directorate be performed by another Directorate within the same entity, should this be expedient for the proper exercise of that function or for that specific purpose.

(2) Each Directorate, so established, shall be headed by a person who shall be in possession of recognised professional qualifications and experience in relation to the area of operation of such Directorate and who shall be appointed by the Board, following consultation with the Minister, for a period of three years and such period may be extended for further periods of three years each:

Provided that the first head of each Directorate shall be appointed by the Minister.

(3) The Director General of each respective entity shall-

(a) without prejudice to article 5(4), assume full responsibility for the overall supervision and control of the Directorates within that entity;

(b) assign to each Directorate within that entity such duties which are by, or in accordance with, the provisions of this Act vested in each Directorate; and

(c) co-ordinate the workings of the Directorates within that entity.

Responsibilities
of Directorates.

67. In carrying out their responsibilities, the Directorates shall assist the Director General of the entity concerned to discharge effectively and efficiently the responsibilities of that entity in their respective area of operation.

68. (1) Regulations which are required to be made under the provisions of this Act, may be made in the English language only where the use of the Maltese language would be difficult due to the technical terminology adopted. Language of regulations.

(2) In the event of conflict or incompatibility between the Maltese and English texts of any regulations made under this Act, the English language version shall prevail.

69. Any administrative fine payable to the Authority shall be recoverable as a civil debt by it and shall constitute an executive title for all effects and purposes of Title VII of Part I of Book II of the Code of Organization and Civil Procedure. Administrative fines.

Cap. 12.

70. (1) The provisions of the Competition Act and of the Consumer Affairs Act existing prior to the coming into force of this Act shall continue to apply, as the case may be, to all:

Transitory
Provisions in
relation to the
Competition Act
and the
Consumer
Affairs Act.
Cap. 379.
Cap. 378.

(a) investigations pending at the time of coming into force of this Act before the Director of the Office for Fair Competition and the Director of Consumer Affairs, both as substituted by the Director General (Competition) and Director General (Consumer Affairs) by this Act;

(b) proceedings pending at the time of coming into force of this Act before the Commission for Fair Trading and the Consumer Affairs Appeals Board, both as substituted by the Appeals Tribunal, the Consumer Claims Tribunal and the courts; and

(c) decisions and judgments which are not yet *res judicata*, at the time of coming into force of this Act.

(2) Without prejudice to article 27A(10)(c) of the Competition Act, in the case of an infringement of the Competition Act, of Articles 101 and, or 102 of the TFEU or of the Consumer Affairs Act, which took place before the coming into force of this Act but in respect of which no investigation by the Director of the Office for Fair Competition, the European Commission, national competition authority and the Director for Consumer Affairs was initiated and no proceedings were instituted before the ordinary courts or the Consumer Claims Tribunal, the provisions of this Act and the provisions of the Competition Act and the Consumer Affairs Act as amended by this Act, shall apply:

Provided that in respect of the application of measures of a punitive nature under the Competition Act, the undertaking concerned shall have the option of choosing whether the measures in

force prior to the coming into force of this Act or the measures provided for in this Act shall apply.

Provided further that once the undertaking concerned has communicated its choice, its decision shall be final.

(3) For the purposes of subarticle (1)(b) the Appeals Tribunal shall be vested with the powers of:

(a) the Commission for Fair Trading as provided in the Competition Act prior to the coming into force of this Act; and

(b) the Consumer Affairs Appeals Board as provided under the Consumer Affairs Act prior to the coming into force of this Act.

(4) For the purposes of subarticle (1)(a) the Director General (Competition) shall be vested with the powers of the Director of the Office for Fair Competition as provided in the Competition Act prior to the coming into force of this Act.

(5) For the purposes of subarticle (1)(a) the Director General (Consumer Affairs) shall be vested with the powers of the Director of Consumer Affairs as provided in the Consumer Affairs Act prior to the coming into force of this Act.

Regulations.
Cap. 419.

71. Regulations made under the Malta Standards Authority Act shall continue to be in force as if made under the provisions of this Act and may be amended and revoked accordingly.

National
standards.

72. National standards shall be designated as SM XXX:YYYY, where XXX is an integer number and YYYY the year of adoption.

PART XIV

AMENDMENTS TO THE CONSUMER AFFAIRS ACT

(CAP. 378)

Amendment to
the Consumer
Affairs Act.
Cap. 378.

73. (1) This Part amends the Consumer Affairs Act, and it shall be read and construed as one with the Consumer Affairs Act, hereinafter in this Part referred to as "the principal Act".

Amendment of
the long title of
the principal
Act.

(2) The long title of the principal Act shall be substituted by the following:-

"To provide for the powers of the Director General (Consumer Affairs), for the establishment and functions of a Consumer Affairs Council and for the establishment and jurisdiction of the Consumer Claims Tribunal and for other

matters ancillary or consequent thereto.".

74. The arrangement of the principal Act shall be amended as follows:

(a) for the words "PART II. Director of Consumer Affairs and the Consumer Affairs Council 3-15" there shall be substituted the words "PART II. Director General (Consumer Affairs) and the Consumer Affairs Council 3-15";

(b) the words "PART XII. Consumer Affairs Appeals Board 110A-110G" shall be deleted; and

(c) for the words "PART XI. Miscellaneous 111" there shall be substituted the words "PART XII. Miscellaneous 111".

Amendment of
Parts II and XII
of the
Arrangement of
the principal
Act.

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

(a) the definition "Appeals Board" shall be deleted;

Amendment of
article 2 of the
principal Act.

(b) immediately after the definition "advertisement" there shall be inserted the following new definition:

" "Appeals Tribunal" means the Competition and Consumer Appeals Tribunal as established by article 31 of the Malta Competition and Consumer Affairs Authority Act, 2011;";

(c) immediately after the new definition "Appeals Tribunal" there shall be inserted the following new definition:

" "the Authority" means the Malta Competition and Consumer Affairs Authority as established by article 3 of the Malta Competition and Consumer Affairs Authority Act 2011;";

(d) immediately after the new definition "the Authority" there shall be inserted the following new definition:

" "the Board" means the Board of Governors as established by article 8 of the Malta Competition and Consumer Affairs Authority Act, 2011;";

(e) the definition "Department" shall be deleted;

(f) the definition "Director" shall be substituted by the following:

" "the Director General" means the Director

General (Consumer Affairs) as appointed by article 16 of the Malta Competition and Consumer Affairs Authority Act, 2011;";

and wherever the word "Director" occurs in the principal Act it shall be substituted by the word "Director General";

(g) immediately after the definition "Minister" there shall be inserted the following new definition:

" "the Office" means the Office for Consumer Affairs as established under article 16(1) of the Malta Competition and Consumer Affairs Authority Act, 2011;"; and

(h) immediately after the definition "premises" there shall be inserted the following new definition:

" "public authority" shall have the same meaning assigned to it in article 2 of the Malta Competition and Consumer Affairs Authority Act 2011;".

Amendment of
the Title of Part
II of the
principal Act.

76. The title to Part II of the principal Act shall be substituted by the following:-

"Director General (Consumer Affairs) and the Consumer Affairs Council"

Substitution of
article 3 of the
principal Act.

77. For article 3 of the principal Act there shall be substituted the following:

"Responsibility of
the Director
General."

3. The Director General shall be responsible for the administration and enforcement of this Act and for this purpose he shall exercise the responsibilities vested in the Office for Consumer Affairs by article 17 of the Malta Competition and Consumer Affairs Authority Act, 2011 and of this Act:

Provided that the Director General may delegate any of his powers to any officer or employee of the Authority.".

Amendment of
article 4 of the
principal Act.

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

(a) in subarticle (1) thereof, the words "The Council shall consist of a chairman, deputy chairman and five other members." shall be substituted by the words "The Council shall consist of a chairman and five other members, one of whom

shall be appointed as deputy chairman.";

(b) in subarticle (2) thereof, paragraph (b) shall be deleted and paragraph (c) shall be renumbered as paragraph (b); and

(c) in subarticle (3) thereof, the words "paragraph (c)" shall be substituted by the words "paragraph (b)".

79. Article 5 of the principal Act shall be substituted by the following:

Substitution of article 5 of the principal Act.

"5. It shall be the function of the Council:

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

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

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

(d) to act as a forum for bringing together those public authorities which in the exercise of their functions deal with situations of conflict between traders' and consumers' interests or have the responsibility to safeguard the interests of consumers, with a view to establishing a closer relationship of co-operation among the said public authorities in furthering the welfare of consumers;

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

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

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

Amendment of
article 7 of the
principal Act.

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

(a) in subarticle (2) thereof, the words "and to the Council, or to any of them," shall be deleted; and

(b) in subarticle (3) thereof, the words "forty-six thousand and five hundred and eighty-seven euro and forty-seven cents (€46,587.47)" wherever they appear shall be substituted by the words "forty-seven thousand euro (€47,000)".

Amendment of
article 8 of the
principal Act.

81. In subarticle (1) of article 8 of the principal Act, the words "with the concurrence of the Chairman in case of urgency, or of the Council," shall be deleted.

Amendment of
article 9 of the
principal Act.

82. Article 9 of the principal Act shall be amended as follows:

(a) the word "Department" in the marginal note thereof shall be substituted by the word "Office.;"

(b) subarticle (1) thereof shall be substituted by the following:

"(1) Without prejudice to any arrangements made in terms of article 9A, a trader shall not, without the written consent of the Director General, make or cause to be made any representation in any visual or aural form, either specifically or by implication, to the effect that:

(a) any goods or services supplied by any trader have the approval of the Authority, Office or Council; or

(b) any activity carried out by any trader has the approval, or is conducted with the co-operation or assistance of the Authority, Office or Council.;" and

(c) subarticle (3) thereof shall be amended as follows:

"(3) A trader convicted under this article shall be liable to a fine (*multa*) of not less than one hundred and twenty euro (€120) and not more than two thousand three hundred and fifty euro (€2,350)."

Addition of
article 9A of the
principal Act.

83. Immediately after article 9 of the principal Act, there shall

be inserted the following new article:

"Approval of codes of conduct by the Director General and use of official symbol.

9A. (1) In promoting good trading practices, the Director General shall, with the approval of the Board, make arrangements for approving codes of conduct and may, in accordance with these arrangements, give his approval to or withdraw his approval from any code of conduct.

(2) Any such arrangements must specify the criteria to be applied by the Director General in determining whether to give approval to or withdraw approval from a code of conduct.

(3) Any such arrangements may in particular:-

(a) specify the type of code of conduct that may be the subject of an application to the Director General for approval indicating the requisite features of the code of conduct, including the persons who are, or are to be subject to the code of conduct, the manner in which it is, or is to be operated and the persons responsible for its operation; and

(b) provide for the use in accordance with the arrangements of an official symbol intended to signify that a code of conduct is approved by the Director General.

(4) The Director General shall publish any arrangements under subarticle (1) in such manner as he considers appropriate.

(5) For the purposes of this article "code of conduct" shall have the same meaning assigned to it in article 51A.".

84. Article 11 of the principal Act shall be amended as follows: Amendment of article 11 of the principal Act.

(a) in subarticle (1) thereof, the words "or of any advisory commission established under this Act, the Director, or a public officer with the Department" shall be deleted;

(b) subarticle (2) thereof shall be deleted;

(c) in subarticle (3) thereof, the words "a fine (*multa*)

of not less than one hundred and sixteen euro and forty-seven cents (€116.47) and not more than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37)" shall be substituted by the words "a fine (*multa*) of not less than one hundred and twenty euro (€120) and not more than two thousand and three hundred fifty euro (€2,350)."; and

(d) subarticle (3) thereof shall be renumbered as subarticle (2).

Amendment of
article 12 of the
principal Act.

85. In subarticle (3) of article 12 of the principal Act, the word "Department" shall be substituted by the word "Office".

Addition of
article 12B of
the principal
Act.

86. Immediately after article 12A of the principal Act, there shall be inserted the following new article:

"Complaints
of general
interest.

12B. (1) Without prejudice to article 12A, a qualified entity may also make a complaint to the Director General that with respect to goods and services:

(a) the structure of the market concerned or any aspect of that structure;

(b) any conduct, whether or not in the market concerned, of one or more than one person who supplies or acquires goods or services in the market concerned; or

(c) any conduct relating to the market concerned of customers of any person who supplies or acquires goods or services,

is or appears to be significantly harming the interests of consumers.

(2) The Director General must, within forty-five days after the day on which he receives the complaint, publish a response stating how he proposes to deal with the complaint, and in particular:

(a) whether he has decided to take any action, or to take no action, in response to the complaint; and

(b) if he has decided to take action, what action he proposes to take.

(3) The response must state the reasons of the Director General for his proposals.

(4) The Director General-

(a) shall issue guidance as to the presentation by the qualified entity of a reasoned case for the complaint; and

(b) may issue such other guidance as appears appropriate for the purposes of this article.

87. In subarticle (2) of article 13 of the principal Act, the word "Department" shall be substituted by the word "Office".

Amendment of article 13 of the principal Act.

88. Subarticle (1) of article 14 of the principal Act shall be amended as follows:

Amendment of article 14 of the principal Act.

(a) paragraph (a) thereof shall be substituted by the words "a sum not in excess of six hundred euro (€600) for any pecuniary loss, and"; and

(b) paragraph (b) thereof shall be substituted by the words "a sum of not less than thirty five euro (€35) and not more than seven hundred and fifty euro (€750) as moral damages for any pain, distress, anxiety and inconvenience.".

89. In article 14B of the principal Act, the words "Appeals Board" wherever they appear and the word "Board" in subarticle (7) thereof shall be substituted by the words "Appeals Tribunal".

Amendment of article 14B of the principal Act.

90. In article 20 of the principal Act, the words "three thousand and four hundred and ninety-four euro and six cents (3,494.06)", wherever they appear, shall be substituted by the words "three thousand five hundred euro (€3,500)".

Amendment of article 20 of the principal Act.

91. In article 21 of the principal Act, the words "a sum of not less than thirty-four euro and ninety-four cents (34.94) and not more than two hundred and thirty-two euro and ninety-four cents (232.94)" shall be substituted by the words "a sum of not less than thirty-five euro (€35) and not more than five hundred euro (€500)".

Amendment of article 21 of the principal Act.

92. Article 22 of the principal Act shall be amended as follows:

Amendment of article 22 of the principal Act.

(a) in subarticle (1) thereof, immediately before the words "shall lie from a decision of a Tribunal" there shall be inserted the words "made under subarticles (2) and (3)"; and

(b) in subarticle (2) thereof, the words "Independently of the amount of the claim, an appeal shall always lie in the following cases" shall be substituted by the words "An appeal shall lie in the following cases".

Amendment of
article 25 of the
principal Act.

93. (1) In the proviso to subarticle (1) of article 25 of the principal Act, the words "one hundred and sixteen euro and forty-seven cents (€116.47)" shall be substituted by the words "one hundred and twenty euro (€120)".

(2) Subarticle (3) of article 25 of the principal Act, shall be substituted by the following:

"(3) 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 an executive title under the Code of Organization and Civil Procedure:

Provided that the Court fees payable in respect of any warrant issued for the purpose of enforcing a decision of the Tribunal shall amount to one-half of the court fees applicable in respect of warrants issued for the purpose of enforcement of judgments of the Court of Magistrates referred to herein.".

Amendment of
article 25A of
the principal
Act.

94. Article 25A of the principal Act shall be substituted by the following:

"25A. The Director General shall monitor closely the decisions of the Tribunal to identify traders whose conduct on the market may be in breach of the Act or regulations made thereunder or who may not be honouring the decisions of the Tribunal or of the Court of Appeal to the detriment of consumers and may take any action under this Act or regulations made thereunder against such traders to address any consumer harm that could be ensuing from the traders' behaviour:

Provided that any action by the Director General under this article shall be without prejudice to the obligation of the trader to comply with the decision of the Tribunal or of the Court of Appeal.".

Amendment of
article 26 of the
principal Act.

95. In subarticles (4) and (6) of article 26 of the principal Act, the words "from among public officers serving with the Department", shall be deleted.

Amendment of
article 34 of the
principal Act.

96. In article 34 of the principal Act, the words "two thousand and three hundred and twenty-nine euro and thirty seven cents (€2,329.37)" shall be substituted by the words "two thousand three hundred and fifty euro (€2,350)".

97. In article 61 of the principal Act, the words "four hundred and sixty-five euro and eighty-seven cents (€465.87)" shall be substituted by the words "five hundred euro (€500)".

98. In article 67 of the principal Act, the words "Limitation of action" in the marginal note shall be substituted by the words "Prescription".

99. Article 78 of the principal Act shall be amended as follows:

(a) the word "prescription" in the marginal note thereof shall be substituted by the words "limitation of action"; and

(b) the words "of prescription" shall be deleted.

100. In article 91 of the principal Act, the words "one hundred and sixteen euro and forty-seven cents (€116.47)" shall be substituted by the words "one hundred and twenty euro (€120)".

101. In paragraph (b) of subarticle (5) of article 94 of the principal Act, the words "Appeals Board" shall be substituted by the words "Appeals Tribunal".

102. In subarticle (3) of article 95 of the principal Act, the words "Appeals Board" shall be substituted by the words "Appeals Tribunal".

103. Article 97 of the principal Act shall be amended as follows:

(a) the words "the Appeals Board" and "the Board", wherever they appear, shall be substituted by the words "the Appeals Tribunal";

(b) subarticle (3) thereof shall be repealed; and

(c) subarticle (4) thereof shall be renumbered as subarticle (3).

104. In article 98 of the principal Act, the words "the Appeals Board" shall be substituted by the words "the Appeals Tribunal".

105. In article 106 of the principal Act, the words "not less than four hundred and sixty-five euro and eighty-seven cents (€465.87) and not more than forty-six thousand five hundred and eighty-seven euro and forty-seven cents (€46,587.47)" shall be substituted by the words "not less than four hundred and seventy euro (€470) and not more than forty-seven thousand euro (€47,000)".

Amendment of
article 106A of
the principal
Act.

106. Article 106A of the principal Act shall be amended as follows:

(a) subarticle (2) thereof shall be substituted by the following:

"(2) An administrative fine imposed for an infringement under subarticle (1) shall not be less than four hundred and seventy euro (€470) and not more than forty-seven thousand euro (€47,000)."; and

(b) in the proviso to subarticle (2) thereof the words "not more than two hundred and thirty-two euro and ninety-four cents (€232.94)" shall be substituted by the words "not more than two hundred and thirty euro (€230).".

Substitution of
article 109 of
the principal
Act.

107. Article 109 of the principal Act shall be substituted by the following:

"109. No action shall lie against the Director General, or any of his officers or any authorised person acting under his direction or control, or against any member of the Council, for any act or omission in connection with this Act, or any regulations made thereunder, unless such act or omission was done in bad faith.".

Deletion of
article 110 of
the principal
Act.

108. Article 110 of the principal Act shall be deleted.

Deletion of
heading and title
of the principal
Act.

109. The heading "Part XII" and title thereto of the principal Act, immediately after the deleted article 110 of the principal Act, shall be deleted.

Deletion of
article 110A of
the principal
Act.

110. Article 110A of the principal Act shall be deleted.

Amendment of
article 110B of
the principal
Act.

111. Article 110B of the principal Act shall be amended as follows:

(a) the words "Appeals Board", wherever they appear, shall be substituted by the words "Appeals Tribunal"; and

(b) in subarticle (3) thereof, the word "secretary" wherever it appears shall be substituted by the word "Registrar".

Amendment of
article 110C of
the principal
Act.

112. In article 110C of the principal Act, the words "Appeals Board", wherever they appear, shall be substituted by the words "Appeals Tribunal".

113. In article 110D of the principal Act, the words "Appeals Board" in the marginal note thereof and wherever they appear shall be substituted by the words "Appeals Tribunal".

Amendment of
article 110D of
the principal
Act.

114. Article 110E of the principal Act shall be amended as follows:

Amendment of
article 110E of
the principal
Act.

(a) subarticles (1), (3), (4), (5) and (6) thereof shall be deleted;

(b) subarticles (2) and (7) thereof shall be renumbered as subarticles (1) and (2) respectively;

(c) the words "Appeals Board" in the marginal note thereof and in subarticle (1) as renumbered shall be substituted by the words "Appeals Tribunal"; and

(d) in subarticle (2) as renumbered, for the words "in subarticle (2)" there shall be substituted the words "in subarticle (1)".

115. Subarticle (1) of article 110F of the principal Act shall be substituted by the following:

Amendment of
article 110F of
the principal
Act.

"(1) Any party to an appeal to the Appeals Tribunal including the Director General, who feels aggrieved by a decision of the Appeals Tribunal may, on points of law or on grounds of natural justice, appeal to the Court of Appeal by means of an application filed in the registry of that court within fifteen days from the date of the decision of the Appeals Tribunal.".

116. Article 110G of the principal Act shall be amended as follows:

Amendment of
article 110G of
the principal
Act.

(a) the words "Appeals Board" in the marginal note thereof and wherever they appear shall be substituted by the words "Appeals Tribunal"; and

(b) in subarticle (1) thereof, the words "without prejudice to article 97(3)" shall be deleted; and

(c) immediately after subarticle (2) thereof, the following proviso shall be inserted:

"Provided that in the case of a compliance order, the Appeals Tribunal or the Court of Appeal may, pending the outcome of the case, modify the compliance order as it deems necessary instead of suspending it.".

Addition of new article 110H to the principal Act.

117. Immediately after article 110G of the principal Act, there shall be inserted the following new article:

"Notification and publication of decisions."

"110H.(1) Any decision or order of the Director General delivered in accordance with the provisions of this Act shall be notified to the parties concerned and to the complainant in accordance with article 64 of the Malta Competition and Consumer Affairs Authority Act, 2011 due regard being had to business secrets or other confidential information.

(2) The Appeals Tribunal and the Director General shall publish without undue delay the decisions or orders taken under this Act and in doing so the Appeals Tribunal and the Director General shall have regard to the legitimate interest of the parties concerned in the protection of their business secrets or other confidential information.

(3) Any decision delivered by the Appeals Tribunal in proceedings held before it shall be deemed to be notified to the parties on the date on which it is pronounced.

(4) The Appeals Tribunal shall provide:

(a) both a complete version and a non-confidential version of its decision on paper or on any other durable medium to the Director General; and

(b) a copy of its decision, upon request, to the parties to the case, ensuring in so doing the protection of business secrets or other confidential information.".

Renumbering of Part.

118. The heading "PART XIII", immediately following the new article 110H, shall be renumbered as "PART XII".

Amendment of the Second Schedule to the principal Act.

119. The Second Schedule to the principal Act shall be amended as follows:

(a) in paragraph (2) thereof, the words "the fine shall be two thousand, three hundred and twenty-nine euro and thirty-seven cents (€2,329.37)" shall be substituted by the words "the fine shall be two thousand three hundred and fifty euro (€2,350)";

(b) paragraph (4) thereof shall be substituted by the following:

"4. Without prejudice to the generality of rule 3, the following shall in all cases be deemed as aggravating circumstances:

- where the infringement is an unfair commercial practice listed in the First Schedule, the basic amount shall be increased by a sum not less than one thousand, seven hundred and fifty euro (€1,750) and not more than four thousand, six hundred and fifty euro (€4,650);

- in the case of a second or subsequent infringement, the basic amount shall be increased by two thousand, three hundred and fifty euro (€2,350) for each and every subsequent infringement;

- where the practice or scheme constituting the infringement is the principal means by which the trader runs or operates his business, the basic amount shall be increased by a sum not less than one thousand, seven hundred and fifty euro (€1,750) and not more than four thousand, six hundred and fifty euro (€4,650);

- where the practice or scheme constituting the infringement is specifically targeting vulnerable consumers, the basic amount shall be increased by two thousand, three hundred and fifty euro (€2,350);

- where the unfair commercial practice is accompanied by any of the factors listed in article 51E(2) of the Act, the basic amount shall be increased by a sum not less than one thousand, seven hundred and fifty euro (€1,750) and not more than four thousand, six hundred and fifty euro (€4,650).";

(c) paragraph (6) thereof shall be substituted by the following:

"6. The final amount of the administrative fine shall not, in any event, exceed forty-seven thousand euro (€47,000) or be lower than four hundred and seventy euro (€470).";

(d) paragraph (8) thereof shall be substituted by the following:

"8. For the infringement referred to in article 12, the amount of the fine shall not be less than four thousand six hundred and fifty euro (€4,650) and not more than eleven thousand six hundred and fifty euro (€11,650).";

(e) paragraph (9) thereof shall be substituted by the following:

"9. For the infringement referred to in article 14B, the amount of the fine shall not be less than four thousand six hundred and fifty euro (€4,650) and not more than eleven thousand six hundred and fifty euro (€11,650).";

(f) paragraph (10) thereof shall be substituted by the following:

"10. For the infringement referred to in article 94, the amount of the fine shall not be less than four thousand six hundred and fifty euro (€4,650) and not more than twenty-three thousand three hundred euro (€23,300):

Provided that in the case of non-compliance, the Director General may also impose a daily fine of not less than one hundred and twenty euro (€120) and not more than two hundred and thirty euro (€230) for each day of non-compliance.".

PART XV AMENDMENTS TO THE COMPETITION ACT (CAP. 379.)

Amendment to
the Competition
Act.
Cap. 379.

Amendment of
article 2 of the
principal Act.

120. This Part amends the Competition Act, and it shall be read and construed as one with the Competition Act, hereinafter in this Part referred to as "the principal Act".

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

(a) immediately before the definition "association of undertakings" there shall be inserted the following new definition:

" "Appeals Tribunal" means the Competition and Consumer Appeals Tribunal as established by article 31 of the Malta Competition and Consumer Affairs Authority

Act, 2011;";

(b) immediately after the definition "association of undertakings", there shall be added the following new definition:

" "the Board" means the Board of Governors as established by article 8 of the Malta Competition and Consumer Affairs Authority Act, 2011;";

(c) the definition "chairman" shall be deleted;

(d) the definition "Commission" shall be deleted;

(e) the definition "Director" shall be substituted by the following:

" "Director General" means the Director General (Competition) as appointed by article 13 of the Malta Competition and Consumer Affairs Authority Act, 2011;";

and wherever the word "Director" appears in the principal Act, it shall be substituted by the word "Director General";

(f) the definition "European Commission" shall be substituted by the following:

" "European Commission" means the European Commission as established by article 13 of the Treaty on European Union,";

(g) the definition "Minister" shall be substituted by the following:

" "Minister" means the Minister responsible for competition matters;";

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

" "Office" means the Office for Competition as established by article 13 of the Malta Competition and Consumer Affairs Authority Act, 2011;";

(i) immediately after the definition "office" there shall be inserted the following new definition:

" "President" means the President of the Appeals

Tribunal;" ;

(j) immediately after the definition "product" there shall be inserted the following new definition:

" "qualified entity" shall have the same meaning assigned to it under article 2 of the Consumer Affairs Act;" ;

(k) in the definition "restrictive practice" the words "Article 81 of the EC Treaty" and "Article 82 of the EC Treaty" shall be substituted by the words "Article 101 of the TFEU" and "Article 102 of the TFEU" respectively; and

(l) the definition "EC Treaty" shall be deleted and, immediately after the definition "restrictive practice", there shall be added the following new definition:

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

Amendment of
article 3 of the
principal Act.

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

(a) the marginal note thereof shall be substituted by the words "Responsibility of the Director General"; and

(b) article 3 thereof shall be substituted by the following:

"3. The Director General shall have the exclusive competence to apply the provisions of this Act and for this purpose he shall exercise the responsibilities vested in the Office for Competition under article 14 of the Malta Competition and Consumer Affairs Authority Act, 2011 and under this Act:

Provided that the Director General may delegate any of his powers to any officer or employee of the Authority."

Deletion of
article 4 of the
principal Act.

123. Article 4 of the principal Act shall be deleted.

Amendment of
article 5 of the
principal Act.

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

(a) in subarticle (1) thereof in the Maltese text only, for the words "li jsiru bil-hsieb jew li jkollhom l-effett li jimpedixxu, irażżnu jew ixekklu l-kompetizzjoni" there shall be

substituted the words "li jkollhom bħala għan jew riżultat tagħhom il-prevenzjoni, ir-restrizzjoni jew id-distorsjoni tal-kompetizzjoni";

(b) in subarticle (5) thereof, the words "Article 81 of the EC Treaty" shall be substituted by the words "Article 101 of the TFEU"; and

(c) in subarticle (6) thereof, the words "Article 81(1) of the EC Treaty" and "Article 81(3) of the EC Treaty" shall be substituted by the words "Article 101(1) of the TFEU" and "Article 101(3) of the TFEU" respectively.

125. In subarticle (1) of article 8 of the principal Act, for the words "consultation with the Director", there shall be substituted the words "consultation with the Board". Amendment of article 8 of the principal Act.

126. Article 9 of the principal Act shall be amended as follows: Amendment of article 9 of the principal Act.

(a) in subarticle (2) thereof, paragraphs (b) and (d) shall be deleted and paragraphs (c), (e) and (f) shall be renumbered as (b), (c) and (d) respectively;

(b) subarticle (3) thereof shall be deleted; and subarticles (4) and (5) shall be renumbered as subarticles (3) and (4) respectively; and

(c) in subarticle (4) thereof as renumbered, the words "Article 82 of the EC Treaty" shall be substituted by the words "Article 102 of the TFEU".

127. Immediately after article 11 of the principal Act, there Substitution of article 11 of the principal Act.

shall be inserted the following new article:

"Inquiries into sectors of the economy and into types of agreements.

11A.(1) Where the trend of trade, the rigidity of prices or other circumstances suggest that competition may be restricted or distorted within the Maltese market, the Director General may conduct an inquiry into a particular sector of the economy or into a particular type of agreements across various sectors. In the course of that inquiry, the Director General may request the undertakings or association of undertakings concerned to supply the information necessary for the application of articles 5 and 9 of the Act and Articles 101 and 102 of the TFEU and may carry out any inspections necessary for that purpose.

(2) For the purposes of subarticle (1) hereof, article 12 shall *mutatis mutandis* apply.

(3) The Director General may in particular request the undertakings or association of undertakings concerned to communicate to him all agreements, decisions and concerted practices.

(4) The Director General may publish a preliminary report on the results of the inquiry into particular sectors of the economy or particular types of agreements across various sectors and invite comments from interested parties before publishing the final report.

(5) Any person, undertaking or association of undertakings that does not comply with the request of the Director General in terms of subarticles (1) and (3), within the time-limits imposed by the Director General shall, without prejudice to any other liability under this Act or any other law, commit an infringement of this Act."

Amendment of
article 12 of the
principal Act.

128. Article 12 of the principal Act shall be amended as follows:

(a) the words "or the Commission to carry out their functions" in subarticle (1) thereof shall be substituted by the words "to carry out his functions"; and

(b) subarticles (2) to (10) thereof shall be substituted

by the following subarticles (2) to (14):-

"(2) During the course of any investigation carried out by the Office in accordance with subarticle (1), the Director General may request any undertaking or association of undertakings to furnish him with any information or document in its possession which the Director General has reason to believe is relevant to the matter under investigation, within such time as in the circumstances of the investigation the Director General may consider reasonable:

Provided that nothing in this subarticle may be construed as authorising the Director General to order the production of any document or the disclosure of any information which may be subject to the duty of professional secrecy.

(3) When sending a request for information to an undertaking or association of undertakings, the Director General shall state the legal basis and the purpose of the request, specify what information is required and fix a time-limit within which the information is to be provided and indicate the administrative fines provided for in articles 21(4), (5) and (6).

(4) Where undertakings and associations of undertakings submit information which contains business secrets or other confidential information, article 29 of the Malta Competition and Consumer Affairs Authority Act, 2011 shall apply.

(5) Any undertaking that shows that its operations are directly affected by the investigation being carried out by the Director General, any association of undertakings, any person or any registered consumers' association claiming that it or its members are being adversely affected by, any breach of the provisions of this Act constituting the subject-matter of those investigations, may request in writing to make submissions before the Director General at any stage thereof and the Director General shall accede to the request if he considers it justified and determine the manner in which such submissions shall be made.

(6) In the course of any investigation the Director General may receive written or verbal statements from any person, as well as make copies of any document produced to him, and the record of such statements and such copies duly attested by the Director General shall be producible as evidence before the Appeals Tribunal and before any court of law:

Provided that, and without prejudice to subarticle (7) (a), in the case of a natural person, not being an undertaking or a director, manager, secretary or other similar officer of an undertaking or association of undertakings, statements may be taken only with his prior consent.

(7) (a) The Director General may, for the purpose of any investigation under this article, enter into and search any premises, land and means of transport of undertakings and associations of undertakings, where he has reason to believe that information relevant to the investigation may be found, and in the course of any such search may seize any object or document, or take extracts or copies of documents, or order the non-removal of any object from any such premises, land and means of transport, and in connection with any such order may close and seal any or all parts of such premises, land or means of transport, or put any object under seal and, or ask any representative or member of staff of the undertaking or association of undertakings concerned for an explanation of facts or documents relating to the subject matter and purpose of the inspection and record the answers.

(b) The officials carrying out an inspection under paragraph (a) shall exercise their powers upon production of a written authorisation signed by the Director General specifying the subject-matter and purpose of the inspection and the penalties provided in article 21(4) and (5).

(8) (a) If a reasonable suspicion exists that books or other records related to the business and to the subject-matter of the inspection, which may be relevant to prove a breach of articles 5 and, or 9, and, or Articles 101 and, or 102 of the TFEU, are being kept in any other premises, land or means of transport, including the homes of directors, managers and other members of staff of the undertakings and associations of undertakings concerned, the Director General may, duly authorised by a warrant issued by a Magistrate, order an inspection to be conducted in any such other premises, land and means of transport.

(b) The Magistrate, in deciding whether to issue a warrant under paragraph (a) shall ensure that the coercive measures envisaged are neither arbitrary nor excessive, having regard, in particular, to the gravity of the suspected infringement, to the importance of the evidence sought, to the involvement of the undertaking or association of undertakings concerned and to the reasonable likelihood that business books and records relating to the subject-matter of the inspection are kept in the premises for which the warrant is requested.

(c) The warrant mentioned in paragraph (a) shall specify the subject-matter, purpose of the inspection, the date on which the inspection is to begin and the penalties provided in article 21(4) and (5).

(d) The officials carrying out an inspection under this subarticle shall exercise their powers upon production of the warrant mentioned in paragraph (a) and shall for the purposes of this subarticle be empowered to enter into and search any such premises, land and means of transport and in the course of any such search, may seize any object or document, or take extracts or copies of documents, or order the non-removal of any object from any such premises, land and means of transport.

(9) (a) In the course of any search as is referred to in subarticles (7) and (8), the Director General may request the assistance of the Police and in such case the Police shall require a warrant from a Magistrate to assist the Director General in the search.

(b) Where police assistance is sought by the European Commission in terms of Article 20(6) of Council Regulation (EC) No 1/2003, a warrant from a Magistrate shall be required.

(10) In issuing a warrant enabling the European Commission to carry out an inspection in terms of Article 21 of Council Regulation (EC) No 1/2003 the Magistrate shall follow the provisions of paragraph (3) thereof.

(11) In the course of an inspection under this article, the undertakings or association of undertakings or persons subject to the inspection may be assisted by legal counsel or other advisers of their choice:

Provided that the right to such assistance shall not have the effect of suspending or delaying the inspection.

(12) The Director General shall always issue a receipt to the person on the premises or in control of any object that has been seized. Anything which has been lawfully seized by the Director General and any order given by the Director General in accordance with subarticle (7) may be retained or shall remain in force as long as it is considered necessary by the Director General.

(13) No search may be commenced on any premises after seven o'clock in the evening and before seven o'clock on the next following morning, unless there is reason to believe that delay could cause the loss of information and the search is expressly authorized by the Director General or the Magistrate, as the case may be, to take place between the said times.

(14) Nothing in this article shall be deemed to detract from the powers of the Police under the Criminal Code or under any other law.".

129. Article 12A of the principal Act shall be substituted by the following:

Substitution of
article 12A of
the principal
Act.

"Finding of an infringement by the Director General.

12A.(1) Where the Director General considers that an infringement of articles 5 and, or 9 of this Act and, or an infringement of Articles 101 and, or 102 of the TFEU may have occurred, he shall notify each of the parties concerned in writing of the objections raised against them in accordance with the provisions of article 64 of the Malta Competition and Consumer Affairs Authority Act, 2011 and shall set a time-limit within which they may inform him in writing of their submissions, and the parties concerned may in their written submissions set out all facts known to them which are relevant to their defence against the objections raised by the Director General and shall attach any relevant documents as evidence thereof.

(2) (a) Where the Director General issues a statement of objections relating to a matter in respect of which he has received a complaint, he shall provide the complainant with a copy of the non-confidential version of the statement of objections.

(b) Paragraph (a) shall not apply where the settlement procedure under article 12B is underway, so however that the Director General shall inform the complainant in writing of the nature and subject-matter of the procedure.

(c) Under paragraphs (a) and (b), the Director General shall set a time-limit within which the complainant may make known his views in writing.

(3) (a) The Director General shall give the parties to which he has issued a statement of objections as referred to in subarticle (1) and the complainant the opportunity to develop their arguments verbally, if they so request in their written submissions.

(b) The Director General may, where appropriate, invite any other person to express his views in writing within the time-limit set by the Director General, and may give any such other person the opportunity to submit his views verbally if he so requests in his written submissions.

(4) Without prejudice to the right of the persons mentioned in subarticle (3) to request a separate and individual meeting, the Director General may also, on his own initiative, and, as he considers appropriate, invite some or all of the parties who have submitted written observations in terms of subarticle (3), to a meeting whereby they may develop their arguments and make counter-submissions in each other's presence and reply to questions posed by the Director General:

Provided that during such meeting, the Director General shall ensure that due regard is given to the protection of business secrets and other confidential information.

(5) The parties notified with a statement of objections as referred to in subarticle (1) shall be entitled to have access to the file concerning their case following such notification, without prejudice to the non-disclosure of information or documents identified by the Director General as containing business secrets or other confidential information, or of internal documents of the Director General or of the Competition Authorities of other Member States.

(6) Where, upon the conclusion of an investigation, it results to the Director General that the agreement, decision, concerted practice or conduct investigated is in breach of the provisions of articles 5 and, or 9 of this Act and, or in breach of Articles 101 and, or 102 of the TFEU, he shall issue a decision finding an infringement, giving his reasons therefor:

Provided that the Director General shall base his decisions under this subarticle only on objections contained in the statement of objections referred to in subarticle (1).

(7) In the interpretation of this Act and in the exercise of his responsibilities, in particular in the formulation of his decisions, orders and reports, the Director General shall have recourse to the judgements of the Court of Justice of the European Union, and to relevant decisions and statements of the European Commission including interpretative notices on the relevant provisions of the TFEU and secondary legislation relative to competition and may refer to his decisions and those of the Appeals Tribunal.

Cap. 12.

(8) Upon notification of a decision of the Director General as referred to in subarticle (6) such decision shall, without prejudice to the right of appeal under article 13A, constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure:

Provided so however that, notwithstanding the provisions of article 256(2) of the Code of Organization and Civil Procedure, the executive title referred to in this subarticle shall not be enforceable before the lapse of twenty days from notification of the decision to the undertaking or association of undertakings concerned in accordance with article 19(1).

(9) Any decision of the Director General may be revised or altered by the Director General where it results that:

- (a) the information upon which it was based had been false, misleading or incomplete; or
- (b) market conditions have changed significantly.".

Addition of new articles 12B, 12C and 12D to the principal Act.

130. Immediately after article 12A of the principal Act there shall be inserted the following new articles:-

"Settlement procedure in cartel cases.

12B.(1) In the course of an investigation concerning an agreement or a concerted practice between undertakings operating on the same level of the market and within the same relevant market or a decision of an association of undertakings having the object of preventing, restricting or distorting competition in terms of article 5 and, or Article 101 of the TFEU, the Director General may, prior to issuing a statement of objections, invite all or some of the undertakings concerned or the association of undertakings concerned to indicate in writing, within the time-limit set by him, whether they are prepared to engage in settlement discussions with a view to possibly introducing settlement submissions:

Provided that the Director General shall not be obliged to take into account replies received after the expiry of that time-limit.

(2) Where two or more undertakings within the same economic entity indicate their willingness to engage in settlement discussions pursuant to subarticle (1), they shall, by the end of the time-limit set by the Director General appoint a joint representative to engage in discussions with the Director General on their behalf:

Provided that when setting the time-limit pursuant to subarticle (1), the Director General shall indicate to the relevant undertakings forming part of the same economic entity that the appointment of a joint representative shall be made for the sole purpose of fulfilling the requirement prescribed by this subarticle and that it shall have no bearing on the allocation of liability for the infringement amongst the different undertakings within the said economic entity.

(3) Undertakings or association of undertakings taking part in settlement discussions may be informed by the Director General of:

(a) the objections he envisages to raise against them;

(b) the evidence used to determine the envisaged objections;

(c) non-confidential versions of any specified accessible document listed in the case file at that point in time; and

(d) the range of potential fines:

Provided that in the case of paragraph (c) access may only be granted upon request by the undertaking or association of undertakings concerned and where such request is necessary to enable the party to ascertain its position regarding a time period or any other particular aspect of the cartel.

(4) When introducing their settlement submissions the undertakings or associations of undertakings taking part in settlement discussions shall confirm to the Director General that they will only request access to the file and leave to submit their views verbally after the receipt of the statement of objections, if the statement of objections does not reflect the contents of their settlement submissions.

(5) The information given pursuant to subarticle (3) shall be confidential vis-à-vis third parties, save where the Director General has given a prior explicit authorization for disclosure.

(6) Should settlement discussions progress, the Director General may set a time-limit within which the parties may commit to follow the settlement procedure by introducing settlement submissions reflecting the results of the settlement discussions and acknowledging their participation in an infringement of article 5, and, or Article 101 of the TFEU as well as their liability:

Provided that, before the Director General sets a time-limit to introduce their settlement submissions, the parties concerned shall be entitled to have the information specified in subarticle (3) disclosed to them, upon request, in a timely manner:

Provided further that the Director General shall not be obliged to take into account settlement submissions received after the expiry of that time-limit.

(7) When the statement of objections notified to the parties reflects the contents of their settlement submissions, the written reply to the statement of objections by the undertakings or association of undertakings concerned shall, within a time-limit set by the Director General, confirm that the statement of objections addressed to them reflects the contents of their settlement submissions.

(8) Subject to the provisions of subarticle (7), the Director General may then proceed to the adoption of a decision pursuant to article 12A:

Provided that the Director General may reward the undertakings or association of undertakings concerned for the settlement by reducing by ten *per centum* the amount of the fine to be imposed.

(9) The fact that an undertaking co-operated with the Director General under this settlement procedure shall be indicated in the final decision, so as to explain the reason for the level of the fine.

(10) The Director General may decide at any time during the procedure to discontinue settlement discussions altogether in a specific case or with respect to one or more of the parties involved, if he considers that procedural efficiencies are not likely to be achieved.

Commitments.

12C.(1) Where the Director General intends to adopt a decision requiring that an infringement be brought to an end and the undertaking or association of undertakings concerned offers commitments to meet the concerns expressed to it by the Director General in a preliminary assessment of the case, the Director General may by decision make those commitments binding on the undertaking or association of undertakings. Such decision may be for a specified period and shall conclude that there are no longer grounds for action by the Director General:

Provided that the Director General may re-open the proceedings where it results to him that:

(a) there has been a material change in any of the facts on which the decision was based; or

(b) the undertaking or association of undertakings concerned acted contrary to its commitments; or

(c) the decision was based on incomplete, incorrect or misleading information provided by the parties.

(2) (a) Where the Director General intends to adopt a decision under subarticle (1), he shall publish a concise summary of the case and the main contents of the commitments or of the proposed course of action.

(b) Interested third parties may submit their observations within the time-limit fixed by the Director General in the publication.

(c) The time-limit mentioned in paragraph (b) may not be less than one month.

(d) In the publication mentioned in paragraph (a) the Director General shall have regard to the legitimate interest of undertakings in the protection of business secrets or other confidential information.

(3) Where any undertaking or association of undertakings fails to comply with or acts contrary to a commitment made binding by a decision pursuant to subarticle (1), it shall without prejudice to any other liability under this Act or any other law, commit an infringement of this Act and the provisions of article 12A *shall mutatis mutandis* apply.

Finding of a non-infringement by the Director General.

12D.(1) Where it results to the Director General following an investigation that the examined conduct does not constitute a breach of the provisions of articles 5 and, or 9 of this Act, and, or Articles 101 and, or 102 of the TFEU, he may issue a decision to that effect.

(2) Where the Director General intends to adopt a decision under subarticle (1), the provisions of article 12C(2) shall apply *mutatis mutandis*".

131. Article 13 of the principal Act shall be amended as follows:

Amendment of article 13 of the principal Act.

(a) subarticle (1) thereof shall be substituted by the following:

"On issuing a decision finding an infringement under article 12A, the Director General may together with such decision issue a cease and desist order whereby he orders the undertaking or association of undertakings concerned, as the case may be, to cease and desist from participating in such agreement, decision, practice, or conduct, and, or a compliance order setting behavioural or structural remedies addressed to the undertaking or association of undertakings concerned for the purpose of bringing the infringement to an immediate and effective end."; and

(b) subarticle (2) thereof shall be deleted and subarticles (3) and (4) thereof shall be renumbered as subarticles (2) and (3) respectively.

132. Articles 13A and 14 of the principal Act shall be substituted by the following articles:

Substitution of articles 13A and 14 of the principal Act.

"Appeals
before the
Appeals
Tribunal.

13A.(1) The undertaking or association of undertakings concerned may appeal by application filed before the Appeals Tribunal from any infringement decision, cease and desist or compliance order, administrative fine and, or daily penalty payment adopted or imposed by the Director General in accordance with the provisions of this Act within twenty days of notification thereof in accordance with article 19(1).

(2) The appeal shall be notified to the Director General and the Director General shall file his reply thereto within twenty days from the date of notification of the appeal.

(3) An appeal filed in accordance with subarticle (1) shall not have the effect of suspending the order, administrative fine and, or daily penalty payment appealed from unless the Appeals Tribunal, upon a reasoned request by a party to the appeal, and after considering the submissions of the Director General, suspends the order, administrative fine and, or daily penalty payment under such conditions as it may deem fit, stating its reasons therefor, pending the final determination of the appeal.

(4) The Appeals Tribunal may either confirm in whole or in part or quash the decision and, or order of the Director General and may confirm, revoke or vary the administrative fine and, or daily penalty payment imposed by the Director General within the limits set in article 21, taking into account the gravity and duration of the infringement as well as any aggravating or attenuating circumstances.

(5) The Director General and any party to an appeal before the Appeals Tribunal who feels aggrieved by a decision of the Appeals Tribunal may appeal on a question of law to the Court of Appeal by means of an application filed in the registry of that court within twenty days from the date of the decision of the Appeals Tribunal.

Handling of
complaints
and the right
of appeal.

14. (1) Complaints are to be received by the Director General in writing, who shall set out the general requirements for information to be provided by the complainant.

Provided that the complainant shall request in his complaint that an investigation be carried out on the alleged restricted practices.

(2) Where the Director General considers that on the basis of the information in his possession there are insufficient grounds for acting on a complaint, he shall inform the complainant of his reasons and set a time-limit within which the complainant may make known his views in writing. The Director General shall not be obliged to take into account any further written submission received after the expiry of that time-limit.

(3) If the complainant makes known his views within the time-limit set by the Director General and the written submissions made by the complainant do not lead to a different assessment of the complaint, the Director General shall reject the complaint by decision.

(4) If the complainant fails to make known his views within the time-limit set by the Director General, the complaint shall be deemed to have been withdrawn.

(5) Where the complainant does not agree with the decision of the Director General according to subarticle (3) or with the Director General's finding of a non-infringement according to article 12D, he may appeal by application filed before the Appeals Tribunal within twenty days of notification thereof in accordance with article 19(1).

(6) Where, upon appeal by the complainant, the Appeals Tribunal does not uphold the decision of the Director General rejecting a complaint according to subarticle (3), it shall inform the Director General accordingly who shall thereupon commence the investigation.

(7) Where, upon an appeal by the complainant, the Appeals Tribunal does not agree with the finding of the Director General of a non-infringement according to article 12D, and finds that there is an infringement, it shall issue a decision accordingly and remit the decision to the Director General who shall take any measure he may deem fit in accordance with the provisions of this Act in respect of the said infringement.

(8) Any party to an appeal before the Appeals Tribunal, including the Director General, who feels aggrieved by a decision of the Appeals Tribunal issued in terms of subarticle (7) may appeal on a question of law to the Court of Appeal, by means of an application filed in the registry of that court within twenty days from the date of the decision of the Appeals Tribunal, and the provisions of subarticle (7) shall *mutatis mutandis* apply to the Court of Appeal.

(9) Any decision of the Appeals Tribunal concerning an appeal from a decision of the Director General under subarticle (3) shall be final.

(10) An appeal made under this article shall not have the effect of suspending any decision on which an appeal is sought.".

Addition of new articles
14A,14B and
14C of the
principal Act.

133. Immediately after article 14 of the principal Act there shall be inserted the following new articles:-

"Complaints
of general
interest.

14A.(1) Without prejudice to article 12, a qualified entity may also make a complaint to the Director General that with respect to particular goods or services:

(a) the structure of the market concerned or any aspect of that structure;

(b) any conduct, whether or not in the market concerned, of one or more than one person who supplies or acquires goods or services in the market concerned; or

(c) any conduct relating to the market concerned of customers of any person who supplies or acquires goods or services,

is or appears to be significantly harming the interests of consumers.

(2) The Director General must, within ninety days after the day on which he receives the complaint, publish a response stating how he proposes to deal with the complaint, and in particular:

(a) whether he has decided to take any action, or to take no action, in response to the complaint; and

(b) if he has decided to take action, what action he proposes to take.

(3) The response must state the reasons of the Director General for his proposals.

(4) The Director General:

(a) shall issue guidance as to the presentation by the qualified entity of a reasoned case for the complaint; and

(b) may issue such other guidance as appears appropriate for the purposes of this article.

Suspension or
termination of
proceedings.

14B.(1) The Director General may suspend proceedings or reject a complaint in terms of Article 13 of Council Regulation (EC) No 1/2003.

(2) Where the Director General rejects or suspends a complaint pursuant to subarticle (1), he shall inform the complainant without delay of the competition authority which is dealing or has already dealt with the case.

Guidance
Letters.

14C.(1) Where the Director General considers it appropriate, he may, following a request by an undertaking, provide guidance on novel questions concerning the interpretation of articles 5 and, or 9 and Articles 101 and, or 102 of the TFEU in a written statement known as a "guidance letter".

(2) The Director General shall consider it appropriate to issue a guidance letter under subarticle (1) only if the following cumulative conditions are fulfilled:

(a) the informal guidance requested is compatible with the enforcement priorities of the Office;

(b) the substantive assessment of an agreement or practice with regard to articles 5 and, or 9 of this Act and, or Articles 101 and, or 102 of the TFEU, poses a question of application of the law for which there is no clarification in the existing Maltese and EU legal framework, in publicly available general guidance, in judgments or decisions or in previous guidance letters;

(c) a prima-facie evaluation of the facts of the case suggests that clarification of the novel question through a guidance letter will be useful, taking into account the following elements:

- the economic importance of the goods and services concerned by the agreement or practice from the point of view of the consumer, and/or;

- the extent to which the agreement or practice shall be or is likely to be resorted to in the relevant market or in other markets, and/or;

- the importance of the investments linked to the transaction in relation to the size of the companies concerned and the extent to which the transaction relates to a structural operation such as the creation of a non-full function joint venture; and

(d) it is possible to issue a guidance letter on the basis of the information provided and no further fact-finding measures by the Director General need be undertaken.

(3) The Director General shall not consider a request for a guidance letter where:

(a) he is aware that the questions raised in the request are identical to or similar to issues raised in a case pending before a Maltese Court or the Court of Justice of the European Union; or

(b) the agreement or practice to which the request refers is subject to proceedings pending before the Director General, the Appeals Tribunal, the European Commission, and to the extent that he may be aware, pending before a Maltese Court, the Court of Justice of the European Union or another Member State court or a national competition authority.

(4) The Director General shall not consider hypothetical questions or issue guidance letters on agreements or practices that are no longer being implemented by the applicants:

Provided that undertakings may present a request for a guidance letter to the Director General in relation to questions raised by an agreement or practice before its implementation but following the conclusion of the agreement or practice or where the undertakings are able to show to the satisfaction of the Director General that negotiations have reached a sufficiently advanced stage for a request to be considered.

(5) A request for a guidance letter shall not have the effect of preventing the Director General, where he deems necessary, from initiating an investigation under this Act with regard to the facts presented in the request.

(6) The request shall clearly state:

- the identity of all undertakings concerned or of the association of undertakings, as well as a single address for receipt of the guidance letter;

- the specific questions on which the guidance is sought;

- full and exhaustive information on all points relevant for an informed evaluation of the questions raised, including pertinent documentation;

- detailed reasoning why the request presents a novel question;

- all other information that permits an evaluation of the request in the light of the conditions mentioned in subarticles (2) to (4), including in particular, a declaration that the agreement or practice to which the request refers is not subject to proceedings pending before the Court of Justice of the European Union, a Maltese or other member state court or before the European Commission or a national competition authority;

- a clear identification of any business secret or other confidential information; and

- any other information or documentation relevant to the individual case.

(7) The Director General shall evaluate the request on the basis of the information provided and, where available, may use additional information at his disposal from public sources, former investigations or any other source and may ask the applicants to provide supplementary information:

Provided that in using the information provided by the applicants or such other additional information, the Director General shall pay due regard to the protection of business secrets or other confidential information.

(8) Where the Director General considers that it is not appropriate to issue a guidance letter or that a guidance letter cannot be issued under this article, the Director General shall inform the applicant accordingly stating the reasons therefor.

(9) Where the Director General has not yet issued a guidance letter, the applicant may withdraw its request at any stage:

Provided that where the request for a guidance letter is withdrawn in terms of this subarticle, the information supplied in the context of the request for guidance shall remain with the Director General and may be used in subsequent proceedings under this Act.

(10) A guidance letter shall set out:

- a summary description of the facts on which it is based; and

- the principal legal reasoning underlying the understanding and assessment of the Director General on the novel question relating to articles 5 and, or 9 of this Act, and, or Articles 101 and, or 102 of the TFEU raised in the request:

Provided that a guidance letter may be limited to part of the questions raised in the request and may also include aspects additional to those set out in the request.

(11) Guidance letters shall be posted on the website of the Malta Competition and Consumer Affairs Authority as established by the Malta Competition and Consumer Affairs Authority Act, 2011, having regard to the legitimate interest of undertakings in the protection of business secrets or other confidential information:

Provided that, before issuing a guidance letter, the Director General shall agree with the applicants on a public version.

(12) Where an agreement or practice has formed the factual basis for a guidance letter, the Director General shall not be precluded from subsequently examining that same agreement or practice in a procedure under this Act, and in so doing, the Director General shall take the guidance letter into account, subject in particular to changes in the underlying facts, to any new aspects raised by a complaint, to developments in decisions and judgments on the application of articles 5 and, or 9 of this Act and, or Articles 101 and, or 102 of the TFEU and to changes in the policies of the Malta Competition and Consumer Affairs Authority.

(13) Guidance letters are not binding on the courts or on the Appeals Tribunal, although they may take them into account should they deem fit.

134. Article 15 of the principal Act shall be substituted by the following:

Substitution of
article 15 of the
principal Act.

"Interim
measures.

15. (1) In cases of urgency due to the risk of serious and irreparable damage to competition, the Director General, acting on his own initiative, may by decision, on the basis of a *prima facie* finding of an infringement of articles 5 and, or 9 of this Act and, or Articles 101 and, or 102 of the TFEU, order interim measures.

(2) A copy of the decision ordering interim measures in accordance with subarticle (1) shall be notified to the undertaking or association of undertakings under investigation in accordance with article 19(1), and such decision shall apply for a specified period of time and may be renewed in so far as this is necessary and appropriate.

(3) The undertaking or association of undertakings concerned may appeal from a decision of the Director General as described in subarticle (1) by application filed before the Appeals Tribunal within twenty days from the date upon which the decision was notified in accordance with article 19(1), and such appeal shall not have the effect of suspending the interim measure unless the Appeals Tribunal, after hearing the submissions of the undertaking or association of undertakings concerned and the Director General, otherwise directs.

(4) Any decision of the Appeals Tribunal under this article shall be final.

Deletion of
article 16 of the
principal Act.

135. (1) Article 16 of the principal Act shall be deleted.

Substitution of
articles 17, 18
and 19 of the
principal Act.

(2) Articles 17, 18 and 19 of the principal Act shall be substituted by the following articles:

Non-compliance
with a cease and
desist order and a
compliance
order.

17. Any undertaking or association of undertakings which acts contrary to a cease and desist order or a compliance order issued by the Director General in accordance with article 13 shall, without prejudice to any other liability under this Act or any other law, commit an infringement of this Act.

Non-compliance
with an interim
measure.

Notification and
Publication.

18. Any undertaking or association of undertakings which acts contrary to an interim measure issued by the Director General in accordance with article 15 shall, without prejudice to any other liability under this Act or any other law, commit an infringement of this Act.

19. (1) Any decision or order of the Director General delivered in accordance with the provisions of this Act shall be notified to the parties concerned and to the complainant in accordance with article 64 of the Malta Competition and Consumer Affairs Authority Act, 2011 due regard being had to the protection of business secrets or other confidential information.

(2) The Appeals Tribunal and the Director General shall publish without undue delay the decisions or orders taken under this Act and in doing so the Appeals Tribunal and the Director General shall have regard to the legitimate interest of the undertakings in the protection of their business secrets or other confidential information.

(3) Any decision delivered by the Appeals Tribunal in proceedings held before it shall be deemed to be notified to the undertaking or association of undertakings concerned on the date on which it is pronounced.

(4) The Appeals Tribunal shall provide:

(a) both a complete version and a non-confidential version of its decision on paper or on any other durable medium to the Director General; and

(b) a copy of its decision, upon request, to the parties to the case, ensuring in doing so the protection of business secrets or other confidential information.".

136. Article 21 of the principal Act shall be substituted by the following:

Substitution of
article 21 of the
principal Act.

"Administrative Fines.

21. (1) Any undertaking or association of undertakings which commits an infringement in terms of articles 12A(6), 12C(3), 17 or 18 may, by decision of the Director General, be held liable to pay an administrative fine of up to ten *per centum* of the total turnover of the undertaking or association of undertakings concerned in the preceding business year:

Provided that where the infringement of an association relates to the activities of its members, the fine shall not exceed ten *per centum* of the sum of the total turnover of each member active on the market affected by the infringement of the association.

(2) (a) Where an administrative fine is imposed upon an association of undertakings, taking account of the annual turnover of its members, and the association is not solvent, the association shall be obliged to call for contributions from its members to cover the amount of the administrative fine due.

(b) Where the contributions referred to in paragraph (a) have not been made to the association within a time-limit fixed by the Director General, the Director General may require payment of the administrative fine directly by any of the undertakings whose representatives were members of the decision-making bodies of the association.

(c) Where the application of paragraph (b) is not sufficient to ensure the full payment of the fine, the Director General may require payment of the balance by any of the members of the association which were active on the market on which the infringement occurred.

(d) The Director General shall not require payment under paragraphs (b) and (c) of this subarticle from undertakings which show that they have not implemented the unlawful decision of the association and they were not aware of its existence or had actively distanced themselves from it before the Director General started investigating the case.

(e) The financial liability of each undertaking in respect to the payment of the fine shall not exceed ten *per centum* of its total turnover in the preceding business year.

(3) In fixing the amount of the fine, the Director General shall have regard to the gravity and duration of the infringement and to any aggravating or attenuating circumstances:

Provided that the Director General may from time to time issue guidelines detailing the manner in which such fines are set.

(4) (a) Any undertaking or association of undertakings which fails to comply with a cease and desist order or a compliance order pursuant to article 13, or fails to comply with an interim measure pursuant to article 15, or fails to comply with a commitment made binding pursuant to article 12C, or which fails to supply complete and correct information pursuant to a request for information under articles 11A and 12 or fails to submit to an inspection under article 12 may, at the discretion of the Director General, be liable to a daily penalty payment not exceeding five *per centum* of the average daily turnover of the undertaking or association of undertakings concerned in the preceding business year for each day during which the undertaking fails to comply with its obligations.

(b) The daily penalty payment referred to in paragraph (a) shall be calculated from the day determined in the decision of the Director General.

(c) Where the undertaking or association of undertakings concerned complies with the obligations mentioned in paragraph (a), the Director General may fix the definitive amount of the daily penalty payment at a figure lower than that which would have arisen in terms of the original decision of the Director General.

(d) In the application of this subarticle to an association of undertakings, subarticle (2) shall apply *mutatis mutandis*.

(5) Any person who in the course of any investigation or inquiry conducted under this Act, or in the course of any proceedings before the Appeals Tribunal knowingly or recklessly:

(a) gives any false, inaccurate or misleading information; or

(b) supplies incomplete information; or

(c) prevents or hinders any investigation; or

(d) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in any particular material, shall be liable to the payment of an administrative fine of not less than one thousand euro (€1,000) and not more than ten thousand euro (€10,000), as imposed by the Director General.

(6) Where a person, being a director, manager, secretary or other similar officer of an undertaking or association of undertakings fails, without reasonable cause, to supply information requested within the time given, such person shall be liable to the payment of an administrative fine of up to two thousand and four hundred euro (€2,400) for each day in default".

Addition of new
article 21A of
the principal
Act.

137. Immediately after article 21 of the principal Act, there shall be inserted the following new article:

"Failure to
pay fines.

21A. Without prejudice to article 13A(1), failure to pay any administrative fine and, or daily penalty payment imposed by the Director General, or by the Appeals Tribunal upon appeal from an administrative fine and, or daily penalty payment imposed by the Director General, within the time limit set shall constitute an offence against this Act, and any person being a director, secretary, manager or other similar officer of the undertaking or association of undertakings concerned shall, without prejudice to the liability of the said undertaking or association of undertakings to pay the administrative fine and, or penalty payment due, be liable on conviction to a fine (*multa*) of not less than one thousand euro (€1,000) and not more than twenty thousand euro (€20,000).".

138. Article 22A of the principal Act shall be deleted.

Deletion of
article 22A of
the principal
Act.

139. Article 23 of the principal Act shall be substituted by the following:

Amendment of
article 23 of the
principal Act.

"23. (1) Any fine (*multa*) payable in respect of the commission of a criminal offence under this Act shall be recoverable as a civil debt in favour of the Government by the Director General, and the undertaking in the economic interests of which the person so found guilty was acting shall be liable *in solidum* with the person found guilty for the payment of the said fine.

Cap. 446.
Cap. 9.

(2) The provisions of the Probation Act and of article 21 of the Criminal Code shall not apply with respect to criminal offences committed under this Act.

Cap. 12.

(3) Any administrative fine payable to the Director General under this Act shall be recoverable as a civil debt by the Director General and shall constitute an executive title for all effects and purposes of Title VII of Part I of Book II of the Code of Organization and Civil Procedure.".

Substitution of
article 26A of
the principal
Act.

140. Article 26A of the principal Act shall be substituted by the following:

"Prescription
concerning the
imposition of
administrative
fines.

26A. (1) The prescription period for the imposition of administrative fines under article 21 shall be:

(a) three years in the case of infringements of the Act concerning requests for information or the conduct of inspections; and

(b) five years in the case of all other infringements.

(2) The prescription period begins to run on the day on which the infringement is committed. However, in the case of continuing or repeated infringements, this period shall begin to run from the day on which the infringement ceases.

(3) The prescription period for the imposition of fines shall be interrupted by any action of the Director General or, in the case of the application of Articles 101 and 102 of the TFEU, of the European Commission or of a competition authority of a Member State with a view to investigating or instituting proceedings for the infringement. The prescription period shall be interrupted with effect from the date on which the action is notified to at least one undertaking or association of undertakings which has participated in the infringement.

(4) Actions which interrupt the running of the prescription period shall include in particular the following:

(i) written requests for information by the Director General, the European Commission or by a national competition authority;

(ii) the issue of a written authorisation signed by the Director General or a warrant issued by a Magistrate under article 12 to conduct an inspection, or a written authorisation by the European Commission in terms of Article 20 of Council Regulation (EC) No 1/2003, or an equivalent document issued by a national competition authority;

(iii) the commencement of proceedings by the Director General, the European Commission or by a national competition authority;

(iv) the notification of a statement of objections in accordance with article 12A or the communication of a statement of objections by a competition authority of a Member State;

(v) the notification of the invitation by the Director General to engage in settlement discussions under article 12B.

(5) The interruption of the prescription period shall apply to all undertakings and associations of undertakings which have participated in the infringement.

(6) The prescription period shall start to run again from each interruption.

(7) The prescription period for the imposition of fines shall be suspended for as long as the decision of the Director General is the subject of proceedings pending before the Appeals Tribunal or the Court of Appeal.".

141. Article 26B of the principal Act shall be deleted.

Deletion of
article 26B of
the principal
Act.

142. Article 27 of the principal Act shall be substituted by the following:

Substitution of
article 27 of the
principal Act.

"Proceedings
in front of a
civil court.

27. (1) Where before any court of civil jurisdiction it is alleged that any agreement or decision is null and unenforceable in accordance with article 5 of this Act and, or Article 101 of the TFEU, or where it is alleged that there is an abuse of a dominant position in accordance with article 9 of this Act and, or Article 102 of the TFEU, that court shall stay the proceedings and request the Director General to submit a report on the competition questions raised before it and the court shall take into consideration such report, and any submissions thereon made by the parties and the Director General, before deciding the case:

Provided that where the competition question raised before the court has already been decided upon under the provisions of this Act and the decision thereon has become *res judicata*, the court shall abide by such decision.

(2) Where the Director General, on his own initiative, becomes cognizant of allegations as mentioned in subarticle (1), in a civil lawsuit, he shall, by means of an application, request the court to apply the procedure referred to in subarticle (1).

(3) For the purposes of drawing up reports under this article the Director General may have resort to the investigatory powers conferred upon him under this Act.".

Addition of new
article 27A to
the principal act.

143. Immediately after article 27 of the principal Act, there shall be inserted the following new article:

"Right to
damages.

27A. (1) 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 may institute an action for damages before a court of civil jurisdiction.

(2) For the purposes of this article, a person shall be deemed to have suffered damage even where that person is not the immediate customer of the defendant.

(3) The plaintiff shall be entitled to compensation for actual loss and for loss of profit, together with interest from the time the damage occurred until the capital sum awarded is actually paid.

(4) In establishing the quantum of damages, the Court shall take into account the counter factual scenario that would have prevailed had the infringement not taken place.

(5) An action under this article may be instituted in the absence of any investigation or proceedings under this Act or under Council Regulation (EC) No 1/2003.

Provided that an action under this article may also be instituted:

(a) where there is a decision under this Act establishing an infringement of articles 5 and, or 9 of this Act and, or of Articles 101 and, or 102 of the TFEU which has become *res judicata*;

(b) where there is a decision of the European Commission establishing an infringement of Articles 101 and, or 102 of the TFEU which has become *res judicata*;

(c) pending an investigation or proceedings under this Act or under Council Regulation (EC) No 1/2003;

(d) pending separate proceedings before a court of civil jurisdiction or following a decision of such court which has become *res judicata* involving the application of articles 5 and, or 9 of this Act and, or Articles 101 and, or 102 of the TFEU.

(6) In the circumstances mentioned in paragraphs (a) and (b) of the proviso to subarticle (5), the court shall be bound by the finding of an infringement in the decision.

(7) The defendant may not plead lack of intention, negligence or lack of fault on his part as a defence in a claim for damages under subarticle (1):

Provided that the defendant may demonstrate that the infringement was the result of a genuinely excusable error. For the purposes of this proviso, an error would be excusable if a reasonable person applying a high standard of care could not have been aware that the conduct restricted competition.

(8) The defendant may raise as a defence the fact that the plaintiff passed on the damage initially suffered by him on to his customers.

(9) (a) The action under this article shall be barred by the lapse of two years commencing from the day the injured party became aware or should reasonably have become aware of the damage, the infringement and the identity of the undertaking or association of undertakings responsible for the infringement.

(b) The period mentioned in paragraph (a) shall be suspended if infringement proceedings are initiated by the Director General under this Act or by the European Commission under Council Regulation (EC) No 1/2003 or where separate proceedings have been instituted before a court of civil jurisdiction as referred to in paragraph (d) of the proviso to subarticle (5) until any such proceedings are terminated by a decision which has become *res judicata*.

(10) (a) The provisions of this article shall prevail over anything to the contrary contained in the Civil Code.

(b) The right to file an action under subarticle (1) shall not affect the right to bring any other proceedings in respect of the same infringement under this Act, or any regulations made thereunder or any other law.

(c) Subarticle (1) shall only apply to claims relating to infringements occurring after the coming into force of this article.".

Cap. 16.

Amendment of
article 29 of the
principal Act.

144. In article 29 of the principal Act, for the words "disclose information in his possession to authorities outside Malta having responsibility in competition matters and who are restricted in divulging such information in an analogous manner and purpose to that of the Director under this Act." there shall be substituted the words "disclose information in his possession to authorities having responsibility in competition matters in countries which are not Member States provided that they are restricted in divulging such

information in an analogous manner and purpose to that of the Director under this Act.".

145. In article 28 of the principal Act, for the words "or the Commission in respect of the exercise of their functions under this Act" shall be substituted by the words "in respect of the exercise of his functions under this Act".

146. Immediately after article 29 of the principal Act, there shall be inserted the following new article:

"Co-operation
under Regulation
1/2003."

29A. The Director General shall cooperate with the European Commission and National Competition Authorities in terms of Council Regulation (EC) No. 1/2003.".

147. Article 31 of the principal Act shall be substituted by the following:

"No action shall lie against any member of the Appeals Tribunal, the Director General, or any of his officers or any authorised person acting under his direction or control for any act or omission in connection with this Act, or any regulations made thereunder, done or omitted by him unless such act or omission were done in bad faith.".

148. The words "concentrative joint ventures" in article 32 of the principal Act, shall be substituted by the words "full function joint ventures".

149. (1) Subarticle (2) of article 33 of the principal Act shall be amended as follows:

"(2) The Minister, after consultation with the Board, may make regulations:

(a) prescribing the procedure to be followed by the office in joint investigations, co-operation and exchange of information with other national competition authorities;

(b) prescribing the procedure for co-operation between the Appeals Tribunal, the European Commission, the national courts and national competition authorities; and

(c) providing for the power to waive or reduce the applicable fine in cartel investigations.".

150. The Schedule of the principal Act shall be deleted.

Amendment of
article 28 of the
principal Act.

Addition of new
article 29A to
the principal
Act.

Amendment of
article 31 of the
principal Act.

Amendment of
article 32 of the
principal Act.

Amendment of
article 33 of the
principal Act.

Deletion of the
Schedule of the
principal Act.

PART XVI
AMENDMENT TO THE PUBLIC ADMINISTRATION ACT
(CAP. 497.)

Amendment to
the Public
Administration
Act.
Cap. 497

Amendment of
Part 1 of the
Second
Schedule of the
principal Act.

Repeal of Malta
Standards
Authority Act.
Cap. 419.

Saving
subsidiary
legislation under
the Malta
Standards
Authority Act.

References to
the Malta
Standards
Authority.

Amendment to
the Product
Safety Act.
Cap. 427.

Amendment of
article 2 of the
principal Act.

151. This Part amends the Public Administration Act, and it shall be read and construed as one with the Public Administration Act, hereinafter in this Part referred to as the "principal Act".

152. The reference to "Consumer and Competition Division" in Part 1 of the Second Schedule of the principal Act shall be deleted.

PART XVII
REPEAL OF THE MALTA STANDARDS AUTHORITY ACT
(CAP. 419.)

153. (1) This Part repeals the Malta Standards Authority Act, hereinafter in this Part referred to as "the principal Act".

(2) The principal Act is hereby repealed, without prejudice to anything lawfully done or omitted to be done thereunder.

154. Subsidiary legislation 419.01, 419.02, 419.05, 419.06, 419.07, and 419.08 made under the Malta Standards Authority Act are to remain in force as if made under the Malta Competition and Consumer Affairs Authority Act, 2011.

155. Wherever in any law there is a reference to the Malta Standards Authority, it shall be construed as a reference, as the case may be, to the Technical Regulations Division and, or the Standards and Metrology Institute, as established under the provisions of this Act.

PART XVIII
AMENDMENTS TO THE PRODUCT SAFETY ACT
(CAP. 427.)

156. This Part amends the Product Safety Act, and it shall be read and construed as one with the Product Safety Act, hereinafter in this Part referred to as "the principal Act".

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

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

" "Director General" means Director General (Technical Regulations) as appointed by article 19 of the Malta Competition and Consumer Affairs Authority Act, 2011;"

and wherever the word "Director" occurs in the principal Act it shall be substituted by the word "Director General";

(b) the definition "standard" shall be substituted by the following:

" "standard" shall have the same meaning as assigned to it in the Malta Competition and Consumer Affairs Authority Act, 2011;"; and

(c) immediately after the definition "standard" there shall be inserted the following new definition:

" "Technical Regulations Division" means the Technical Regulations Division, as established by article 19 of the Malta Competition and Consumer Affairs Authority, 2011;".

158. The words "Malta Standards Authority Act" in article 9(2) of the principal Act shall be substituted by the words "Malta Competition and Consumer Affairs Authority Act, 2011".

Amendment of article 9 of the principal Act.

159. Article 27 of the principal Act shall be amended as follows:

Amendment of article 27 of the principal Act.

(a) the words "Functions of the Malta Standards Authority" in the marginal note thereof shall be substituted by the words "Responsibilities of the Technical Regulations Division"; and

(b) the words "Malta Standards Authority" in article 27 thereof shall be substituted by the word "Technical Regulations Division".

160. Article 28 of the principal Act shall be amended as follows:

Amendment of article 28 of the principal Act.

(a) the words "with the concurrence of the head of the Regulatory Affairs Directorate established under the Malta Standards Authority Act or such other head of any Directorate as the Minister may by Order designate in his stead" in subarticle (1) of article 28 thereof shall be deleted; and

(b) the words "and the exemption from liability under the said subsection (3) shall extend to the Director of Market Surveillance" in subarticle (3) of article 28 thereof shall be deleted.

Amendment of
article 38 of the
principal Act.

161. The words "Malta Standards Authority" in article 38 of the principal Act shall be substituted by the words "Director General (Technical Regulations)".

Amendment to
the Metrology
Act.
Cap. 454.

PART XIX
AMENDMENTS TO THE METROLOGY ACT
(CAP. 454.)

Amendment of
article 2 of the
principal Act.

162. This Part amends the Metrology Act, and it shall be read and construed as one with the Metrology Act, hereinafter in this Part referred to as "the principal Act".

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

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

" "Authority" means the Malta Competition and Consumer Affairs Authority as established by the Malta Competition and Consumer Affairs Authority Act, 2011;";

(b) the definition "Directorate" shall be deleted and wherever the word "Directorate" occurs in the principal Act it shall be substituted by the word "Institute";

(c) the definition "Head" shall be substituted by the following:

" "Director General" means the person appointed as Director General (Standards and Metrology) by article 21 of the Malta Competition and Consumer Affairs Authority Act, 2011;" and wherever the word "Head" occurs in the principal Act it shall be substituted by the word "Director General";

(d) immediately after the definition "inspector" there shall be inserted the following new definition:

" "Institute" means the Standards and Metrology Institute as established by article 21 of the Malta Competition and Consumer Affairs Authority Act, 2011;" and

(e) the definition "Minister" shall be substituted as follows:

" "Minister" means the Minister responsible for standards and metrology and includes, to the extent of the

authority given, any person authorised by the Minister to act in that behalf for any purpose of this Act;".

164. (1) The marginal note to subarticle (1) of article 3 of the principal Act, "The Metrology Directorate. Cap. 419." shall be deleted. Substitution of article 3 of the principal Act.

(2) Subarticle (1) of article 3 of the principal Act shall be substituted as follows:

"The Director General (Standards and Metrology), as appointed by the Malta Competition and Consumer Affairs Authority Act, 2011, shall have the responsibilities as may be assigned to him by this Act, by the Malta Competition and Consumer Affairs Authority Act, 2011 and by any other law.".

165. Article 20 of the principal Act shall be amended as follows: Amendment of article 20 of the principal Act.

(a) the words "article 5 of the Malta Standards Authority Act" shall be substituted by the words "article 48 of the Malta Competition and Consumer Affairs Authority Act, 2011"; and

(b) the words "Cap. 419." in the marginal note thereof shall be deleted.

PART XX

AMENDMENT TO THE ADMINISTRATIVE JUSTICE ACT (CAP. 490.)

166. This Part amends the Administrative Justice Act, and it shall be read and construed as one with the Administrative Justice Act, hereinafter in this Part referred to as "the principal Act". Amendment to the Administrative Justice Act. Cap. 490.

167. The words "379 Competition Act 4 Commission for Fair Trading" in Part A of the First Schedule of the principal Act shall be deleted. Deletion of items in the First Schedule of the principal Act.

PART XXI

AMENDMENTS TO THE DOORSTEP CONTRACTS ACT (CAP. 317.)

168. This Part amends the Doorstep Contracts Act and it shall be read and construed as one with the Doorstep Contracts Act, hereinafter in this Part referred to as "the principal Act". Amendment to the Doorstep Contracts Act. Cap. 317.

Amendment of
article 2 of the
principal Act.

169. In article 2 of the principal Act the definition "Director" shall be substituted by the following:

" "Director General (Consumer Affairs)" means the Director General as appointed by article 16 of the Malta Competition and Consumer Affairs Authority Act, 2011;" and wherever the word "Director" appears it shall be substituted by the word "Director General (Consumer Affairs)".

PART XXII

AMENDMENTS TO THE TRADE DESCRIPTIONS ACT

(CAP. 313.)

Amendment to
the Trade
Descriptions
Act.
Cap. 313.

170. This Part amends the Trade Descriptions Act and it shall be read and construed as one with the Trade Descriptions Act, hereinafter in this Part referred to as "the principal Act".

Amendment of
article 2 of the
principal Act.

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

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

" "conformity mark" shall have the same meaning assigned to it in article 2 of the Malta Competition and Consumer Affairs Authority Act, 2011;"; and

(b) immediately after the definition "Minister" there shall be inserted the following new definition;

"Office" means the Office for Consumer Affairs as established by article 16 of the Malta Competition and Consumer Affairs Authority Act, 2011;".

Amendment of
article 22 of the
principal Act.

172. The words "Department of Consumer Affairs" in subarticle (1) of article 22 of the principal Act shall be substituted by the word "Office".

PART XXIII

AMENDMENTS TO THE FOOD SAFETY ACT

(CAP. 449.)

Amendment to
the Food Safety
Act.
Cap. 449.

173. This Part amends the Food Safety Act, and it shall be read and construed as one with the Food Safety Act, hereinafter in this Part referred to as "the principal Act".

Amendment of
article 5 of the
principal Act.

174. Article 5(1) of the principal Act shall be amended as follows:

(a) paragraph (d) thereof shall be substituted by the

following:

"(d) the senior officer operationally responsible for foodstuffs within the Malta Competition and Consumer Affairs Authority, designated by the Director General (Technical Regulations);"

(b) paragraph (e) thereof shall be substituted by the following:

"(e) the senior officer operationally responsible for consumer affairs within the Malta Competition and Consumer Affairs Authority, designated by the Director General (Consumer Affairs);".

175. Article 7A of the principal Act shall be amended as follows:

Amendment of article 7A of the principal Act.

(a) the words "Authority" in the marginal note thereof shall be substituted by the words "Director General (Technical Regulations);";

(b) the words "Malta Standards Authority as established by article 3 of the Malta Standards Authority Act" in subarticle (1) thereof shall be substituted by the words "Director General (Technical Regulations); and

(c) the words "Malta Standards Authority" in subarticles (2), (3) and (4) thereof shall be substituted by the words "Director General (Technical Regulations)".

176. In subarticle (1) of article 9 of the principal Act, for the words "the head of the Market Surveillance Directorate of the Malta Standards Authority established under the Malta Standards Authority Act or such other head of any Directorate as the Minister may by Order designate in his stead" there shall be substituted the words "Director General (Technical Regulations) as appointed by article 19 of the Malta Competition and Consumer Affairs Authority Act, 2011".

Amendment of article 9 of the principal Act.

PART XXIV

AMENDMENTS TO THE PESTICIDES CONTROL ACT (CAP. 430.)

177. This Part amends the Pesticides Control Act, and it shall be read and construed as one with the Pesticides Control Act, hereinafter in this Part referred to as "the principal Act".

Amendment to the Pesticides Control Act. Cap. 430.

Amendment of
article 2 of the
principal Act.

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

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

" "the Authority" means the Malta Competition and Consumer Affairs Authority as established by article 3 of the Malta Competition and Consumer Affairs Authority Act, 2011;" and

(b) in the definition "Director" the words "head of the Regulatory Affairs Directorate established under the Malta Standards Authority Act or such other head of any Directorate as the Minister may by Order designate in his stead" shall be substituted by the words "Director General (Technical Regulations) as appointed by article 19 of the Malta Competition and Consumer Affairs Authority Act, 2011".

PART XXV
AMENDMENT TO THE CODE OF
ORGANIZATION AND CIVIL PROCEDURE
(CAP. 12.)

Amendment to
the Code of
Organization
and Civil
Procedure.
Cap. 12.

Amendment of
article 253 of
the Code.

179. This Part amends the Code of Organization and Civil Procedure, and it shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter in this Part referred to as "the Code".

180. In article 253 of the Code, there shall be inserted the following new paragraph:

"(f) decisions of the Consumer Claims Tribunal.".

**FIRST SCHEDULE
(ARTICLE 44)
FORM OF OATH**

I, swear/solemnly affirm that I will fully and honestly fulfil my duties as an officer of the Authority in conformity with the requirements of the Malta Competition and Consumer Affairs Authority Act 2011, and any other laws that the Authority administers and of all orders made thereunder, and that I will not, except in the performance of my duties under that Act and such other laws and orders, disclose or make known during my service as an officer within such Authority or at any time thereafter, any matter which comes to my knowledge relating to any person, household or undertaking by reason of my service as an officer within such Authority.

So help me God.

SECOND SCHEDULE
(ARTICLE 37)
RULES OF PROCEDURE RELATIVE TO THE COMPETITION AND
CONSUMER APPEALS TRIBUNAL

1. The Appeals Tribunal shall determine any matter before it with fairness and impartiality and in accordance with the provisions of this Act, the Competition Act, the Consumer Affairs Act and any regulations made thereunder.

2. Before entering upon their functions, the ordinary members of the Appeals Tribunal shall take before the President an oath to perform their functions with fairness and impartiality and in accordance with the provisions of this Act, the Competition Act, the Consumer Affairs Act and any regulations made thereunder.

3. An ordinary member of the Appeals Tribunal shall abstain and may be challenged in the same circumstances, *mutatis mutandis*, as a judge of the superior courts shall abstain or may be challenged in accordance with the Code of Organization and Civil Procedure. Any challenge shall be determined by the President.

4. Decisions of the Appeals Tribunal shall state the reasons therefor and clearly indicate the undertakings or associations of undertakings to which they are addressed.

5. Proceedings before the Appeals Tribunal shall be held in public with due regard being paid to the protection of confidential information or business secrets:

Provided that the undertaking or association of undertakings concerned, or the Director General (Competition) and the Director General (Consumer Affairs), or the complainant may request the President to be heard *in camera* where the submissions to be made or evidence to be produced is of a confidential nature or contains business secrets.

Provided further that the Director General (Competition) and the Director General (Consumer Affairs) and any other officer from the Office for Competition and the Office for Consumer Affairs duly authorised by the said Directors General, shall have the right to be present in all proceedings.

6. In all cases involving the application of Article 101 and, or 102 of the TFEU, the European Commission shall have a right to make submissions on any matter before the Appeals Tribunal;

7. (a) A confidential and a non-confidential version shall be produced of any written observations and documentary evidence submitted before the Appeals Tribunal; and

(b)The Appeals Tribunal shall verify the confidentiality or otherwise of the information submitted.

8. The Appeals Tribunal shall have, exercisable through its President, the powers vested in the Civil Court, First Hall, and in particular the power to determine the costs that any of the parties is to bear, the power to summon witnesses, the power to appoint experts and the power to administer the oath.

Where a witness duly summoned fails to appear on the day on which he is summoned, the President may order the Police to arrest such witness and produce him before the Appeals Tribunal to give evidence.

9. In the interpretation of this Act, the Appeals Tribunal shall have recourse to the judgements of the Court of Justice of the European Union, and to relevant decisions and statements of the European Commission, including interpretative notices on the relevant provisions of the TFEU and secondary legislation relative to competition and may also refer to its previous decisions.

THIRD SCHEDULE

(ARTICLE 18)

LIST OF EU LEGISLATIVE ACTS FOR THE PURPOSES OF WHICH THE OFFICE FOR CONSUMER AFFAIRS IS THE NATIONAL COMPETENT AUTHORITY

- 1.** Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising.
- 2.** Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises.
- 3.** Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts.
- 4.** Directive 97/7/EC of the European Parliament and the Council of 20 May 1997 on the Protection of Consumers in respect of Distance Contracts.
- 5.** Directive 97/55/EC of the European Parliament and of the Council of 6 October 1997 amending Directive 84/450/EEC concerning misleading advertising so as to include comparative advertising.
- 6.** Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers.
- 7.** Council Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees.
- 8.** Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91.
- 9.** Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council.
- 10.** Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC.

FOURTH SCHEDULE
(ARTICLE 66)
DIRECTORATES

Subject to the powers of the Minister under article 66, the Office for Competition, the Office for Consumer Affairs, the Technical Regulations Division and the Standards and Metrology Institute, shall have the following Directorates:

Office for Competition

1. Inspectorate and Cartel Investigations Directorate with the responsibility to carry out inspections in terms of the Competition Act and to detect and curtail cartels.
2. Communications, Energy, Transport and Financial Services Markets Directorate focusing on competition concerns, infringements, and concentrations in regulated markets.
3. Primary, Manufacturing and Retail Markets Directorate focusing on restrictive practices and concentrations in other sectors of the economy.

Office for Consumer Affairs

1. Information, Education and Research Directorate with the responsibility to create awareness of consumer rights, stimulate good trading practices, educate consumers on making well-informed choices in the market and to undertake market studies with a view to identifying and rectifying market failures.
2. Complaints and Conciliation Directorate with the responsibility to offer assistance to consumers and provide mediation between consumers and traders.
3. Enforcement Directorate focusing on public enforcement by investigating unfair trading practices and unfair contract terms, ensuring price transparency and compliance with other information requirements and ensuring observance of consumer related legislation falling within the jurisdiction of the Office for Consumer Affairs.

Technical Regulations Division

1. Regulatory Affairs Directorate with the responsibility of the transposition and implementation of legislation in the field of free movement of goods.
2. Market Surveillance Directorate with the responsibility to ensure that only goods conforming to regulations are available on the market.

Standards and Metrology Institute

1. Standardization Directorate with the responsibility of the preparation of an annual standards programme, the co-ordination of standardization and related activities.
 2. Metrology Directorate with the responsibilities of legal, industrial and scientific metrology.
 3. Laboratory Services Directorate with the responsibility of providing advice and testing services.
-

Passed by the House of Representatives at Sitting No. 339 of the 13th April, 2011.

MICHAEL FREND
MICHAEL FREND

Speaker

PAULINE ABELA
Clerk to the House of Representatives