

Naghti l-kunsens tiegħi.

(L.S.)

GEORGE ABELA  
President

29 ta' Dicembru, 2009

**ATT Nru. XXIII tal-2009**

*ATT biex jistabbilixxi disposizzjonijiet generali li jiffacilitaw it-thaddim tal-libertà ta' stabbiliment għal provdituri ta' servizzi u l-libertà ta' servizzi fis-suq intern u biex jimplimenta d-Direttiva 2006/123/KE.*

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

**TAQSIMA I - PRELIMINARI**

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern. Titolu fil-qosor u bidu fis-sehħ.

(2) It-Taqsimiet I sa VI (it-tnejn inklużi) u l-Iskedi ta' dan l-Att għandhom jiġu fis-sehħ mal-pubblikazzjoni ta' dan l-Att.

**TAQSIMA II - TIFSIRIET**

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

"awtorità kompetenti" tfisser kull korp jew awtorità stabbiliti u, jew mahturin bil-liġi u vestiti bi rwol superviżorju u, jew regolatorju dwar attivitajiet li jsiru b'servizz, inkluża r-regolamentazzjoni ta'

aċċess għal attivitajiet ta' servizz u, jew l-eżerċizzju relattiv;

"awtorizzazzjoni" tfisser permess, liċenza, *warrant*, hatra, konċessjoni jew kull deċiżjoni formali jew impliċita li tirrikwarda aċċess għal attività ta' servizz jew l-eżerċizzju relattiv;

"Bord tal-Appelli" tfisser il-bordijiet tal-appelli, tribunali jew qradi stabbiliti bil-liġi, fejn persuna aggravata tkun tista' tirrikorri wara deċiżjoni ta' xi awtorità kompetenti;

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

"htieġa" tfisser kull obbligu, projbizzjoni, kondizzjoni jew limitu previsti fil-liġijiet, regolamenti jew disposizzjonijiet amministrattivi, prattika amministrattiva, ir-regoli ta' korpi professjonali, jew ir-regoli kollettivi ta' assoċjazzjonijiet professjonali jew ta' organizzazzjonijiet professjonali oħra, adottati fl-eżerċizzju ta' l-awtonomija legali tagħhom;

"komunikazzjoni kummerċjali" tfisser kull forma ta' komunikazzjoni maħsuba biex iġġib 'il quddiem, direttament jew indirettament, l-oġġetti, is-servizzi jew xbiha ta' xi impriża, organizzazzjoni jew persuna li tipparteċipa f'attività kummerċjali, industrijali jew artiġjanali, jew li teżerċita professjoni regolata. Dawn li ġejjin ma jikkostitwux fihom infushom komunikazzjonijiet kummerċjali:

(a) informazzjoni li permezz tagħha jingħata aċċess dirett għall-attività ta' l-impriża, l-organizzazzjoni jew il-persuna, inkluż b'mod partikolari isem ta' dominju jew indirizz postali elettroniku;

(b) komunikazzjonijiet li għandhom x'jaqsmu ma' l-oġġetti, is-servizzi jew xbiha ta' l-impriża, l-organizzazzjoni jew il-persuna, kumpilati b'mod indipendenti, partikolarment meta dawn jiġu provduti mingħajr ebda korrispettiv finanzjarju;

"il-Kummissjoni Ewropea" tfisser il-Kummissjoni tal-Komunità Ewropea;

"il-Ministru" tfisser il-Ministru responsabbli għall-ekonomija;

"professjoni regolata" tfisser attività professjonali jew grupp ta' attivitajiet professjonali kif imsemmija fl-Artikolu 3(1)(a) tad-Direttiva 2005/36/KE dwar ir-rikonossiment ta' kwalifiki professjonali kif trasportata bir-Regolamenti ta' l-2007 dwar ir-Rikonossiment Reċiproku ta' Kwalifiki Professjonali;

A.L. 422 ta' l-2007.

"provveditor" tfisser persuna naturali li tkun ċittadin ta' Stat Membru, jew persuna ġuridika kif imsemmija fl-Artikolu 48 tat-Trattat u stabbilita fi Stat Membru, li toffri jew tipprova xi servizz;

"punt ta' kuntatt waħdieni" tfisser is-sistema elettronika li permezz tagħha l-awtoritajiet kompetenti jwettqu l-funzjonijiet tagħhom li għandhom x'jaqsmu mal-kompletar ta' kull proċedura u formalità meħtieġa għall-istabbiliment u l-aċċess u l-eżerċizzju ta' attività ta' servizz f'Malta u l-ghoti ta' informazzjoni rilevanti lill-applikant, provveditor u riċevituri kif hemm f'dan l-Att;

"raġunijiet li jipprevalu relatati ma' l-interess pubbliku", kemm il darba ma jiġix speċifikat xort'oħra f'dan l-Att, tfisser ir-raġunijiet rikonossuti bħala tali fil-każistika tal-Qorti Ewropea tal-Ġustizzja, u hekk kif jistgħu jibqgħu jevolvu, inklużi dawn il-motivi li ġejjin: politika pubblika, sigurezza pubblika, sigurtà pubblika, u saħħa pubblika; iż-żamma ta' l-ordni fis-soċjetà; għanijiet ta' politika soċjali, il-harsien tar-riċevituri ta' servizzi; il-harsien tal-konsumaturi; il-harsien tal-haddiema inkluż il-harsien soċjali tal-haddiema; it-trattament xieraq ta' l-annimali; il-preservazzjoni tal-bilanċ finanzjarju tas-sistema tas-sigurtà soċjali; il-prevenzjoni tal-frodi; il-prevenzjoni ta' kompetizzjoni ingusta; il-harsien ta' l-ambjent u ta' l-ambjent urban inkluż l-ippjanar ta' rħula u l-ibliet; il-harsien ta' kredituri; il-protezzjoni ta' amministrazzjoni soda tal-ġustizzja; sigurtà fit-toroq; il-protezzjoni ta' proprjetà intellettwali; għanijiet ta' politika kulturali inkluża l-protezzjoni tal-libertà ta' espressjoni ta' diversi elementi b'mod partikolari dawk il-valuri tas-soċjetà li huma ta' xorta soċjali, kulturali, reliġjuża u filosofika; il-ħtieġa li jiġi żgurat livell għoli ta' edukazzjoni, iż-żamma ta' diversità fl-istampa u l-promozzjoni ta' l-ilsien nazzjonali; il-preservazzjoni tal-wirt storiku u artistiku nazzjonali; u l-politika veterinarja;

"riċevitur" tfisser kull persuna naturali li tkun ċittadin ta' Stat Membru jew li tibbenefika minn drittijiet mogħtijin lilha minn atti Komunitarji, jew kull persuna ġuridika msemmija fl-Artikolu 48 tat-Trattat u li tkun stabbilita fi Stat Membru, li tuża, għal għanijiet professjonali jew mhux professjonali, jew tkun tixtieq tuża, xi servizz;

"servizz" tfisser kull attività ta' persuni li jimpjegaw lilhom infushom u li ssir għal korrispettiv ekonomiku kif imsemmi fl-

Artikolu 50 tat-Trattat;

Kap. 379.

"servizzi ta' interess ekonomiku ġenerali" tfisser dawk is-servizzi li jiġu dikjarati mill-Ministru bħala servizzi ta' interess ekonomiku ġenerali skond l-artikolu 30(3) ta' l-Att dwar il-Kompetizzjoni, konformement mad-dritt Komunitarju;

"Sistema ta' Informazzjoni fis-Suq Intern" tfisser is-sistema ta' informazzjoni, stabbilita b'konsegwenza ta' l-Artikolu 34 tad-Direttiva, li permezz tagħha l-awtoritajiet kompetenti jiskambjaw informazzjoni biex iwettqu l-obbligi tagħhom taht il-Kapitolu VI tad-Direttiva;

"skema ta' awtorizzazzjoni" tfisser kull awtorizzazzjoni u proċedura oħra ta' xorta amministrattiva, li tahtom provditur jew riċevitur ikun effettivament meħtieġ li jieħu passi biex jibda l-attività inkwistjoni u jikseb, minghand awtorità kompetenti, awtorizzazzjoni li tirrigwarda aċċess għal xi attività ta' servizz jew l-eżerċizzju tagħha;

"stabiliment" tfisser l-eżerċizzju li attwalment isir f'attività ekonomika kif imsemmi fl-Artikolu 43 tat-Trattat, minn provditur ta' servizz għal żmien indefinit u permezz ta' infrastruttura stabbli minn fejn jiġi attwalment ġestit in-negozju ta' provdiment ta' servizzi;

"Stat Membru" tfisser stat membru taż-Żona Ekonomika Ewropea;

"Stat Membru fejn jiġi provdut is-servizz" tfisser l-Istat Membru fejn jingħata servizz minn provditur stabbilit fi Stat Membru ieħor;

"Stat Membru ta' stabiliment" tfisser l-Istat Membru li fit-territorju tiegħu huwa stabbilit il-provditur tas-servizz inkwistjoni;

"it-Trattat" tfisser it-Trattat li jistabbilixxi l-Komunità Ewropea.

### **TAQSIMA III - SKOP TA' L-APPLIKAZZJONI TA' DAN L-ATT**

Skop.

**3. (1)** Dan l-Att għandu japplika għal servizzi fornuti minn provditur.

(2) Minghajr preġudizzju għas-subartikolu (1), dan l-Att m'għandux ikun japplika għall-attivitajiet li ġejjin:

(a) servizzi finanzjarji, bħalma huma dawk bankarji, ta' kreditu, assigurazzjoni u ri-assigurazzjoni, pensjonijiet tax-xogħol jew dawk personali, titoli, fondi ta' investiment, avvizi ta' hlas u investiment, inklużi s-servizzi elenkati fl-Anness I tad-Direttiva 2006/48/KE dwar il-bidu u l-ġestjoni tal-kummerè ta' istituzzjonijiet ta' kreditu, kif trasposta bir-Regolamenti dwar id-Drittijiet tal-Passaport Ewropew għal Istituzzjonijiet ta' Kreditu; L.S. 371.11

(b) servizzi u *networks* ta' komunikazzjonijiet elettronici, u faċilitajiet u servizzi assoċjati, dwar materji koperti bid-Direttivi 2002/19/KE (Direttiva dwar l-Aċċess), 2002/20/KE (Direttiva dwar l-Awtorizzazzjoni), 2002/21/KE (Kwadru Regulatorju Komuni), 2002/22/KE (Direttiva dwar Servizzi Universali) u 2002/58/KE (Direttiva fuq il-Piraterija u Komunikazzjonijiet Elettronici) kif trasposti fil-leġislazzjoni ta' Malta;

(ċ) servizzi fil-qasam tat-trasport, inklużi servizzi portwali, li jaqgħu fl-iskop tat-Titolu V tat-Trattat;

(d) servizzi mogħtijin minn aġenziji tax-xogħol temporanju;

(e) servizzi ta' kura fis-saħħa inklużi servizzi farmaċewtiċi provduti minn professjonisti tas-saħħa sabiex jiġi valutat, jinżamm u ripristinat l-istat ta' saħħa lill-pazjenti, kemm jekk dawn jiġu, kemm jekk ma jiġux, provduti permezz ta' faċilitajiet ta' kura tas-saħħa, u bla ma jittiehed kont tal-mod kif dawn jiġu organizzati u finanzjati fuq livell nazzjonali jew jekk ikunux pubbliċi jew privati;

(f) servizzi awdjoviżivi, inklużi servizzi ċinematografiċi, ikun x'ikun il-mod kif dawn jiġu prodotti, distribwiti u mxandra, u xandir bir-radju;

(g) attivitajiet ta' loġħob ta' l-azzard kif regolati bl-Att dwar il-Loġħob u l-Att dwar Lotteriji u Loġħob Ieħor; Kap. 400.  
Kap. 438.

(h) attivitajiet konnessi ma' l-eżerċizzju ta' xi awtorità uffiċjali kif stabbilita fl-Artikolu 45 tat-Trattat;

(i) servizzi soċjali li għandhom x'jaqsmu mad-djar soċjali, il-kura tat-tfal u sostenn li jingħata lil familji u persuni li jkunu permanentement jew temporanjament fil-bżonn provduti mill-Istat, minn provdituri li jkunu maħtura għaldaqshekk mill-Istat jew minn karitajiet rikonoxxuti bħala tali mill-Istat;

(j) servizzi privati ta' sigurezza;

(k) servizzi provduti minn nutara u marixxalli tal-qorti, li jinhatru b'att uffiċjali tal-gvern;

(l) servizzi fil-qasam tat-tassazzjoni.

(3) Jekk id-disposizzjonijiet ta' dan l-Att ikunu konfligġenti ma' xi disposizzjoni ta' xi att Komunitarju li jkun jirregola aspetti ta' aċċess għal, jew eżerċizzju ta' xi attività fi, xi setturi speċifiċi jew għal professjonijiet speċifiċi, tkun id-disposizzjoni ta' l-att Komunitarju li tipprevali u li tkun tapplika għal dawk is-setturi jew professjonijiet speċifiċi. Dawn jinkludu:

(a) id-Direttiva 96/71/KE fuq l-inkarigi li jinghataw lill-haddiema fil-kuntest tal-provdiment ta' servizzi;

(b) ir-Regolament (KEE) Nru 1408/71 dwar l-applikazzjoni ta' skemi tas-sigurtà soċjali għal persuni impjegati u għal persuni li jimpjegaw lilhom infushom, u lil membri tal-familji tagħhom li jkollhom moviment fi hdan il-Komunità;

(ċ) id-Direttiva tal-Kunsill 89/552/KEE tat-3 ta' Ottubru 1989 fuq il-kordinament ta' ċertu disposizzjonijiet stipulati b'xi liġi, regolament jew azzjoni amministrattiva fi Stati Membri dwar il-ġestjoni ta' attivitajiet ta' xandir bit-televiżjoni;

(d) id-Direttiva 2005/36/KE dwar ir-rikonossiment ta' kwalifiki professjonali.

(4) Aktar minn hekk, dan l-Att m'għandux ikun japplika għal:

(a) regoli li johorgu mid-dritt internazzjonali privat, b'mod partikolari dawk ir-regoli li jirregolaw il-liġi li tapplika għal obligazzjonijiet kuntrattwali u mhux kuntrattwali;

(b) regoli li jirrigwardaw regoli ta' ġurisdizzjoni tal-Qrati.

#### TAQSIMA IV - AWTORITAJIET KOMPETENTI

4. B'zjieda għat-twettiq tas-setgħat, funzjonijiet u responsabbiltajiet attribwiti lil xi awtorità kompetenti, fil-liġijiet tal-bidu u li jagħtu setgħat li jirrigwardaw l-area ta' kompetenza tagħhom, u mingħajr preġudizzju għall-allokazzjoni ta' funzjonijiet u setgħat vestiti fost awtoritajiet fis-sistema amministrattiva nazzjonali, awtorità kompetenti għandha:

Funzjonijiet ġenerali ta' awtoritajiet kompetenti dwar aċċess għal attivitajiet ta' servizz u li jaqgħu taħt dan l-Att u, jew it-twettiq tagħhom.

(a) tissimplifika l-proċeduri u l-formalitajiet applikabbli għall-aċċess għal attività ta' servizz u għall-eżerċizzju tagħha;

(b) taġixxi b'mod oġġettiv, trasparenti, effiċjenti u fil-pront;

(ċ) tjiiprovdi informazzjoni u assistenza lil provdituri u riċevituri bla ħsara għad-disposizzjonijiet ta' dan l-Att;

(d) tagħmilha possibbli li titwettaq kull proċedura u formalità li jkollha x'taqsam ma' aċċess għal attività ta' servizz u għall-eżerċizzju relattiv kif elettronikament disponibbli permezz tal-punt ta' kuntatt waħdieni li jkun ġie mahtur:

Izda l-htieġa li ssir haġa possibbli li jitwettqu l-proċeduri u l-formalitajiet kollha b'mod elettroniku permezz tal-punt ta' kuntatt waħdieni m'għandhiex tkun tapplika għal ispezzjoni ta' xi fond fejn ikun qiegħed jiġi provdut is-servizz jew ta' xi tagħmir użat mill-provditur jew għall-eżami fiżiku tal-kapaċità jew ta' l-integrità personali tal-provditur jew tal-persunal responsabbli tiegħu;

(e) tassisti lill-awtoritajiet kompetenti ta' Stat Membru ieħor u tfittex l-assistenza tagħhom fit-twettiq ta' l-obbligi ta' superviżjoni skond l-artikolu 8;

(f) twettaq dawk il-funzjonijiet l-oħra kollha li jistgħu jiġu assenjati lilha minn żmien għal żmien mill-Ministru, f'konsultazzjoni ma' Ministri oħra, skond ma jista' jkun japplika.

5. (1) Meta awtorità kompetenti tikkonċedi u tirregola aċċess għal attività ta' servizz, fit-twettiq tal-funzjonijiet ta' awtorizzazzjoni tagħha, abbażi ta' skema ta' awtorizzazzjoni, l-iskema għandha tkun:

Funzjoni u kondizzjonijiet ta' awtorizzazzjoni.

(a) mhux diskriminatorja;

(b) meħtieġa; u

(ċ) ġustifikata b'raġuni li tipprevali u li jkollha x'taqsam ma' l-interess pubbliku:

Iżda l-għan ta' interess pubbliku li jkun qiegħed jiġi mfittex ma jkunx jista' jinkiseb permezz ta' xi miżura li tkun ta' xorta inqas restrittiva, b'mod partikolari għaliex spezzjonijiet, verifiki u kontrolli li jsiru *a posteriori* jkunu saru tard wisq biex ikunu effettivi kif imiss.

Kondizzjonijiet  
għall-ghoti ta'  
awtorizzazzjonijiet.

(2) L-awtorità kompetenti għandha tivvaluta applikazzjonijiet u tikkonċedi awtorizzazzjonijiet b'bażati fuq kriterji li jkunu:

(a) mhux diskriminatorji;

(b) ġustifikati b'raġuni li tipprevali li jkollha x'taqsam ma' l-interess pubbliku u li tkun proporzjonata mal-kisba ta' dak l-għan ta' interess pubbliku;

(ċ) ċari u mhux ambigwi;

(d) oġġettivi;

(e) saru pubbliċi minn qabel; u

(f) trasparenti u aċċessibbli

(3) Awtorità kompetenti ma tistax timponi li l-aċċess għal jew it-twertiq ta' xi attività ta' servizz f'Malta jkun soġġett għal qbil ma' xi punt minn dawn li ġejjin, konformement mal-liġi ta' l-Unjoni Ewropea:

(a) htigiet diskriminatorji b'bażati direttament jew indirettament fuq iċ-ċittadinanza jew, fil-każ ta' kumpanniji, fuq fejn ikun jinsab uffieċċju reġistrat, inklużi partikolarment:

(i) htigiet ta' ċittadinanza għall-provditur, il-persunal tiegħu, persuni li jkunu detenturi ta' l-ishma ta' kumpannija jew membri fil-korpi ta' tmexxija jew superviżorji tal-provditur;

(ii) il-htieġa li l-provditur, il-persunal tiegħu, persuni li jkunu detenturi ta' l-ishma ta' kumpannija jew membri fil-korpi ta' tmexxija jew superviżorji tal-provditur ikunu residenti f'Malta;

(b) projbizzjoni fuq li jkollha stabbiliment f'aktar minn Stat Membru wieħed jew f'li tiddaħhal fir-reġistri jew li tkun iskritta ma' korpi jew assoċjazzjonijiet professjonali ta' iżjed

minn Stat Membru wiehed;

(ċ) restrizzjonijiet fuq il-libertà ta' provditur li jagħzel bejn stabbiliment prinċipali jew sekondarju, b'mod partikolari obbligu fuq il-provditur li jkollu l-istabbiliment prinċipali tiegħu f'Malta, jew restrizzjonijiet fuq il-libertà li ssir għażla bejn stabbiliment fl-għamla ta' aġenzija, fergħa jew sussidjarja;

(d) kondizzjonijiet ta' reċiproċità ma' l-Istat Membru fejn il-provditur diġà jkollu stabbiliment;

(e) l-applikazzjoni każ b'każ ta' test ekonomiku li jirrendi l-għoti ta' awtorizzazzjoni soġġett għal prova dwar l-eżistenza ta' htieġa ekonomika jew domanda fis-suq, valutazzjoni ta' l-effetti ekonomiċi potenzjali jew kurrenti ta' l-attività jew valutazzjoni ta' l-adeqwatezza ta' l-attività f'dak li għandu x'jaqsam ma' l-għanijiet ta' ppjanar ekonomiku stabbiliti mill-awtorità kompetenti; din il-projbizzjoni m'għandhiex tkun tirrigwarda htigiet ta' ppjanar li ma jkunux ifittxu miri ekonomiċi iżda jkunu għal raġunijiet li jipprevalu relatati ma' l-interess pubbliku;

(f) l-involviment dirett jew indirett ta' operaturi li jkunu qegħdin jikkompetu, inklużi dawk fi hdan korpi konsultattivi, fl-għoti ta' awtorizzazzjonijiet jew fl-adozzjoni ta' deċiżjonijiet oħra ta' l-awtoritajiet kompetenti, bl-eċċezzjoni ta' korpi u assoċjazzjonijiet professjonali jew ta' organizzazzjonijiet oħra li jkunu qegħdin jaġixxu bhala l-awtorità kompetenti; din il-projbizzjoni m'għandhiex tkun tirrigwarda l-konsultazzjoni ma' organizzazzjonijiet, bħalma huma kmamar tal-kummerċ jew shab soċjali, fuq affarijiet li ma jkunux applikazzjonijiet individwali għal xi awtorizzazzjoni, jew konsultazzjoni mal-pubbliku b'mod ġenerali;

(g) obbligu li tiġi provduta garanzija finanzjarja jew li jkun hemm parteċipazzjoni fiha jew li tinhareġ assigurazzjoni minghand provditur jew korp stabbilit f'Malta; dan il-paragrafu huwa mingħajr preġudizzju għas-subartikolu (5) jew għal htigiet li jkollhom x'jaqsmu mal-parteċipazzjoni f'fond ta' kumpens kollettiv għal membri ta' korpi jew organizzazzjonijiet professjonali;

(h) obbligu ta' reġistrazzjoni minn qabel, għal żmien stabbilit, fir-reġistri miżmumin f'Malta jew ta' twettiq ta' l-attività qabel f'Malta għal żmien stabbilit.

(4) Meta awtorità kompetenti timponi li l-aċċess għal attività

ta' servizz jew l-eżerċizzju ta' dik l-attività jkun soġġett għal xi htieġa mhux diskriminatorja minn dawn li ġejjin:

(a) restrizzjonijiet kwantitattivi jew territorjali;

(b) obbligu fuq il-provditur sabiex jieħu forma legali speċifika;

(ċ) htigiet li jkollhom x'jaqsmu mat-tiżmim ta' ishma f'kumpannija;

(d) htigiet, li m'humiex dawk li jirrigwardaw affarijiet koperti bid-Direttiva 2005/36/KE dwar ir-rikonossiment ta' kwalifiki professjonali kif trasposta bir-Regolamenti ta' l-2007 dwar ir-Rikonossiment Reċiproku ta' Kwalifiki Professjonali, jew kif hemm previst fi Strumenti Komunitarji oħra, li jirriservaw l-aċċess għall-attività ta' servizz inkwistjoni lill-provdituri partikolari bis-saħħa tax-xorta speċifika ta' l-attività,

A.L. 422 ta' l-2007.

l-awtorità għandha tiżgura li l-htigiet:

(i) ma jkunu la direttament u lanqas indirettament diskriminatorji abbażi taċ-ċittadinanza ta' l-individwu jew ta' l-uffiċċju reġistrat tal-kumpannija;

(ii) ikunu ġustifikati b'raġuni li tipprevali u li tkun relatata ma' l-interess pubbliku; u

(iii) ikunu proporzjonati u adatti biex jinkiseb l-għan intiż:

Iżda meta l-aċċess għall-attività ta' servizz inkwistjoni, jew l-eżerċizzju ta' dik l-attività, ikun servizz ta' interess ekonomiku ġenerali, dan is-subartikolu għandu jkun biss japplika daqstant daqs kemm dak l-aċċess ma jkunx ifixkel it-twettiq, bil-liġi jew bil-fatt, ta' hidma ta' obbligu ta' servizz pubbliku assenjat lil provditur jew provdituri:

Iżda wkoll b'effett mit-28 ta' Diċembru, 2009, l-introduzzjoni ta' l-imsemmija htigiet mhux diskriminatorji għandha tiġi notifikata lill-Kummissjoni Ewropea permezz ta' proċedura stabbilita.

(5) Mingħajr preġudizzju għal arrangamenti previsti fi Strumenti Komunitarji oħra li jirrigwardaw l-assigurazzjoni jew garanziji professjonali, awtorità kompetenti tista' titlob lil provditur stabbilit f'Malta li s-servizzi tiegħu jkunu jipprezentaw riskju dirett u partikolari għas-saħħa u s-sigurtà tar-riċevitur jew ta' terza persuna,

jew ghas-sigurezza finanzjarja tar-riċevitur, biex johroġ assigurazzjoni dwar responsabbiltà professjonali adatta skond ix-xorta u l-qjies tar-riskju, jew jipprovdi garanzija jew xi arrangament bħal dak li jkun ekwivalenti jew essenzjalment komparabbli f'dak li għandu x'jaqsam mal-fini tagħha.

Għall-fini ta' dan is-subartikolu:

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

"saħħa u sigurtà" tfisser, dwar riċevitur jew terza persuna, il-prevenzjoni ta' mewt jew feriment gravi fuq il-persuna;

"sigurezza finanzjarja" tfisser, fir-rigward ta' riċevitur, il-prevenzjoni ta' telf sostanzjali ta' flus jew ta' valur ta' proprjetà;

"assigurazzjoni dwar responsabbiltà professjonali" tfisser assigurazzjoni li tinħareġ minn provditur dwar kull responsabbiltà għal danni lejn ir-riċevituri u, meta dan ikun japplika, lejn terzi, u li toriġina mill-għoti tas-servizz.

Awtorità kompetenti għandha taċċetta bħala xieħda biżżejjed attestazjonijiet ta' kopertura ta' assigurazzjoni bħal dik maħruġa minn istituzzjonijiet ta' kreditu u assiguratari stabbiliti fi Stati Membri oħra.

(6) Awtorità kompetenti ma tistax timponi htigiet fuq provditur ta' servizz stabbilit f'Malta li jkunu jobbligawh jeżerċita xi attività ta' servizz speċifika b'mod esklużiv jew li tirrestringih milli jeżerċita l-attività ta' servizz tiegħu solidament jew bi sħab hliel fil-każ ta':

(a) professjonijiet regolati, sakemm din tkun ġustifikata għal raġunijiet ta' etika u ta' kondotta;

(b) provdituri ta' ċertifikazzjoni, akkreditar sorveljar tekniku, servizzi ta' test jew prova, sakemm din tkun ġustifikata għal raġunijiet ta' indipendenza u imparzjalità;

Iżda meta awtorità kompetenti tawtorizza jew tippermetti t-twettiq ta' attivitajiet multidixxiplinari bejn provdituri stabbiliti f'Malta, hija għandha tiżgura l-prevenzjoni ta' kull konflitt ta' interessi minn fost il-provdituri, is-sussistenza ta' indipendenza u imparzjalità, u konformità ma' l-etika professjonali u l-kodiċijiet ta' kondotta skond ma jkunu japplikaw.

(7) Awtorità kompetenti jew xi korp professjonali awtorizzat

bil-ligi biex jirregola t-twettiq ta' professjonijiet regolati, m'ghandhiex twaqqaf l'uzu ta' komunikazzjonijiet kummerċjali mill-professjonijiet regolati:

Iżda r-regolamenti professjonali dwar il-komunikazzjonijiet kummerċjali m'ghandhomx ikunu diskriminatorji, għandhom ikunu ġustifikati minn raġuni li tipprevali u li jkollha x'taqsam ma' l-interess pubbliku u jkunu proporzjonati:

Iżda wkoll il-komunikazzjonijiet kummerċjali minn professjonijiet regolati għandhom ikunu konformi ma' regoli professjonali, konformi mad-dritt Komunitarju b'mod partikolari fejn għandhu x'jaqsam ma l-indipendenza, id-dinjità u l-integrità tal-professjoni, kif wkoll mas-sigriet professjonali, b'mod konsistenti man-natura speċifika ta' kull professjoni.

Provditur ta'  
servizz stabbilit  
fi Stat Membru  
iehor.

(8) Meta provditur ta' servizz ikun diġà stabbilit fi Stat Membru ieħor, u jfittex stabbiliment f'Malta:

(a) meta l-attività ta' servizz tkun soġġetta għal skema ta' awtorizzazzjoni jew għat-twettiq ta' htigiet oħra li jirregolaw l-istabbiliment f'Malta, l-awtorità kompetenti m'ghandhiex tidduplika l-htigiet jew il-kontrolli li huma ekwivalenti jew li huma essenzjalment paragonabbli f'dak li hu l-oġġettiv tagħhom li dwaru provditur jista' diġà jkun soġġett fl-Istat Membru l-ieħor fejn huwa jkun stabbilit:

Iżda d-disposizzjonijiet ta' dan il-paragrafu m'ghandhomx japplikaw għad-dokumenti msemmija fl-Artikolu 7(2) u 50 tad-Direttiva 2005/36/KE, fl-Artikoli 45(3), 46, 49 u 50 tad-Direttiva 2004/18/KE tal-Parlament Ewropew u tal-Kunsill tal-31 ta' Marzu, 2004 dwar il-kordinament ta' proċeduri għall-ghoti ta' kuntratti ta' xogħlijiet pubbliċi, kuntratti ta' provvista pubblika u kuntratti ta' servizz pubbliku, fl-Artikolu 3(2) tad-Direttiva 98/5/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Frar 1998 sabiex tiġi faċilitata l-prattika tal-professjoni ta' avukat fuq bażi permanenti fi Stat Membru li ma jkunx dak li fih tkun inkisbet il-kwalifika, fl-Ewwel Direttiva tal-Kunsill 68/151/KEE tad-9 ta' Marzu 1968 dwar il-kordinament ta' salvagwardji li, minhabba fil-harsien ta' l-interessi ta' membri u oħrajn, ikunu meħtieġa minn Stati Membri ta' kumpanniji fi hdan it-tifsir tat-tieni paragrafu ta' l-Artikolu 58 tat-Trattat, bil-ghan li daww is-salvagwardji jsiru ekwivalenti mal-Komunità kollha u fil-Hdax-id Direttiva tal-Kunsill 89/666/KEE tal-21 ta' Diċembru, 1989 li tirrigwarda htigiet ta' żvelar dwar il-fergħat li jkunu nfethu fi Stat Membru minn ċertu tipi ta' kumpanniji regolati bil-ligi ta' Stat Membru

iehor;

(b) meta awtorità kompetenti tkun teħtieġ lil xi provditur jipprovdi ċertifikat, attestazzjoni jew dokument li jkun ta' prova li xi ħtieġa tkun ġiet sodisfatta skond dan l-Att:

(i) hija għandha taċċetta kull dokument li jiġi minn xi Stat Membru ieħor u li jkollu skop ekwivalenti jew li minnu jkun jidher ċar li l-ħtieġa inkwistjoni tkun ġiet sodisfatta;

(ii) ma tistax teħtieġ li dokument minn xi Stat Membru ieħor jingieb fil-forma originali tiegħu jew bhala kopja ċertifikata jew bhala traduzzjoni ċertifikata hlief f'dawk il-każijiet fejn hemm provdut dwarhom f'xi strument Komunitarju jew meta dik il-ħtieġa tkun ġustifikata b'raġuni li tipprevali li tkun relatata ma' l-interess pubbliku, inkluż l-ordni pubbliku u s-sigurezza pubblika:

Iżda dan il-paragrafu m'għandux jolqot id-dritt ta' awtorità kompetenti li titlob traduzzjoni mhux ċertifikata fl-ilsien Malti jew Inġliż ta' xi dokument:

Iżda wkoll l-awtorità kompetenti tista' tuża s-sistema elettronika msemmija fl-artikolu 8 biex twettaq kull verifika, sorveljanza u kontrol meħtieġa ma' l-awtorità kompetenti rilevanti fl-Istat Membru ta' stabbiliment;

(ċ) meta awtorità kompetenti tkun teħtieġ li provditur joħroġ assigurazzjoni dwar ir-responsabbiltà professjonali skond is-subartikolu (5), awtorità kompetenti ma tistax titlob lil provditur joħroġ assigurazzjoni dwar ir-responsabbiltà professjonali jew garanzija meta huwa jkun diġà kopert b'assigurazzjoni jew garanzija li tkun ekwivalenti jew essenzjalment komparabbli fl-għan tagħha u l-kopertura li din tkun tipprovdi skond ir-riskju assigurat, is-somma assigurata, jew l-oġġla limitu meħtieġ għal garanzija u esklużjonijiet possibbli mill-kopertura fi Stat Membru ieħor li fih il-provditur ikun diġà stabbilit. Meta l-ekwivalenza tkun biss waħda parzjali, awtorità kompetenti tista' teħtieġ assigurazzjoni supplimentari jew garanzija biex tkopri dawk l-aspetti li jkunu għadhom ma ġewx koperti.

(9) (a) Meta l-għadd ta' awtorizzazzjonijiet disponibbli għal xi attività ta' servizz partikolari tkun limitata minhabba fin-nuqqas ta' riżorsi naturali disponibbli, abbiltà teknika jew inkella

Għażla minn  
fost bosta  
kandidati.

jekk tkun ġustifikata b'raġuni li tkun tipprevali li jkollha x'taqsam ma' l-interess pubbliku, awtorità kompetenti għandha tapplika proċedura ta' selezzjoni għal kandidati potenzjali sabiex tiġi żgurata l-imparzjalità, it-trasparenza, kondizzjonijiet ta' kompetizzjoni miftuħa, inkluża b'mod partikolari pubbliċità biżżejjed dwar it-tniedija, it-tmexxija u l-ġheluq tal-proċedura.

(b) Bla ħsara għad-disposizzjonijiet tal-paragrafu (a) u tas-subartikoli (1) u (2), meta jkunu qegħdin jiġu stabbiliti r-regoli għall-proċedura ta' selezzjoni, l-awtorità kompetenti tista' tqis dawk il-punti li jkollhom x'jaqsmu mas-sahha pubblika, għanijiet ta' politika soċjali, is-sahha u s-sigurtà ta' impjegati jew ta' persuni li jimpjegaw lilhom infushom, il-ħarsien ta' l-ambjent, u l-preservazzjoni tal-patrimonju kulturali u raġunijiet oħra li jipprevalu relatati ma' l-interess pubbliku, konformement mad-dritt Komunitarju.

Għal kemm  
żmien iddum l-  
awtorizzazzjoni.

(10) (a) Awtorizzazzjoni li tingħata lil provditur għandha tkun għal żmien indefinit, hliet meta:

(i) l-awtorizzazzjoni tkun qegħda tiġi awtomatikament imġedda jew tkun soġġetta biss għat-twettiq kontinwu tal-htigiet;

(ii) l-għadd ta' awtorizzazzjonijiet disponibbli jkun wieħed limitat skond is-subartikolu (9);

(iii) żmien limitat ta' awtorizzazzjoni jista' jkun ġustifikat b'xi raġuni li tipprevali li jkollha x'taqsam ma' l-interess pubbliku.

(b) Fil-każijiet imsemmija fil-paragrafu (a)(ii), għandha tingħata awtorizzazzjoni għal żmien limitat adatt li fih il-provditur ikun jista' jerga' jiġbor l-ispiza ta' l-investment u jirċievi ammont tajjeb fuq il-kapital investit, u dik l-awtorizzazzjoni la tista' tkun miftuħa għal xi tiġdid awtomatiku u lanqas tagħti xi vantaġġ ieħor lill-provditur li l-awtorizzazzjoni tiegħu tkun għadha kemm skadiet jew lil xi persuna li jkollha xi rabtiet partikolari mal-provditur.

Territorjalità.

(11) (a) Awtorizzazzjoni li tingħata minn awtorità kompetenti għandha tirrendi lill-provditur kapaċi li jkollu aċċess għall-attività ta' servizz jew l-eżerċizzju tagħha mat-territorju nazzjonali kollu inkluż bit-twaqqif ta' aġenziji, kumpanniji sussidjarji, fergħat jew ufficċji, hliet meta l-awtorizzazzjoni għal kull stabbiliment individwali jew limitazzjoni ta' awtorizzazzjoni għal xi parti partikolari mit-territorju tkun ġustifikata minn xi raġuni li tipprevali li jkollha x'taqsam ma' interess pubbliku.

(b) Il-provditur ta' servizz ikun meħtieġ jgħarraf lill-awtorità kompetenti bit-twaqqif ta' kumpanniji sussidjarji, fergħat, ufficċji jew aġenziji li l-attivitajiet tagħhom jinkwadraw fl-iskop ta' l-iskema ta' awtorizzazzjoni.

(12) Fit-twettiq tal-funzjoni ta' awtorizzazzjoni tagħha, awtorità kompetenti għandha:

Proċeduri u formalitajiet.

(a) tiżgura li l-proċeduri u l-formalitajiet jinżammu kemm jista' jkun sempliċi, ċari, oġġettivi u li jiġu mgħarrfin bil-quddiem, u dawn m'għandhom b'ebda mod mhux dovut jikkumplikaw jew idewwmu l-bidu ta' l-attività ta' servizz mill-provditur;

(b) tirrikonoxxi kull applikazzjoni li ssir għal awtorizzazzjoni; tispeċifika iż-żmien stipulat li fih l-applikazzjoni għandha tiġi pproċessata skond il-paragrafu (d), il-mezzi ta' rimedji disponibbli u fejn applikabbli stqarrija li fin-nuqqas ta' twegiba fiż-żmien speċifikat, jitqies li l-awtorizzazzjoni tkun ingħatat;

(ċ) fil-każ ta' applikazzjoni inkompleta, tgħarraf lill-applikant kemm jista' jkun malajr bil-ħtieġa li tingħata informazzjoni ulterjuri, flimkien mal-konsegwenzi li joħorġu jekk l-applikant idum ma jipprovdi dik l-informazzjoni jew dawk il-ħtiġiet;

(d) tipproċessa applikazzjoni għal awtorizzazzjoni kemm jista' jkun malajr u f'kull każ fi żmien stipulat li jiġi stabbilit u mgħarraf bil-quddiem u fin-nuqqas li jsir dan jitqies li l-awtorizzazzjoni tkun ingħatat, iż-żmien jibda għaddej mill-gurnata meta kull informazzjoni u ħtieġa dovuta jkunu ġew ippreżentati u kull formalità oħra tkun ġiet kompletata biex l-awtorità kompetenti tgħaddi għall-ipproċessar ta' l-applikazzjoni:

Iżda ż-żmien jista' jiġi estiż għal darba u għal żmien limitat meta dan ikun ġustifikat mill-komplessità tal-kwistjoni, u għandha tingħata kull ġustifikazzjoni dovuta lill-applikant qabel ma jkun skada l-perjodu oriġinali:

Iżda wkoll awtorità kompetenti tista' tagħmel arrangamenti differenti meta dan ikun oġġettivament ġustifikat b'raġunijiet li jipprevalu relatati ma' l-interess pubbliku;

(e) tipprovdi informazzjoni dwar il-mezzi ta' rimedju disponibbli fil-każ li xi applikazzjoni ma tiġix aċċettata;

(f) tagħti awtorizzazzjoni malli l-applikant iwettaq il-htigiet kollha, mingħajr preġudizzju għad-dritt li l-awtorità kompetenti jkollha li tirrevoka jew tibdel xi awtorizzazzjoni meta l-provditur ma jibqax jikkonforma ruħu mal-kondizzjonijiet għall-awtorizzazzjoni;

(g) fil-każ ta' applikazzjonijiet miċhuda minhabba f'nuqqas ta' konformità mal-proċeduri jew formalitajiet meħtieġa, tgharraf lill-applikant biċ-ċhid kemm jista' jkun malajr;

(h) hlief fil-każ ta' l-għoti ta' awtorizzazzjoni, deċiżjoni minn awtorità kompetenti, inklużi ċ-ċhid jew l-irtirar, għandha tkun għal kollox motivata u tista' tiġi kontestata quddiem il-Bord ta' l-Appelli.

Libertà li jiġu  
provdu  
servizzi minn  
provdituri li  
jkunu diġà  
stabbiliti fi Stati  
Membri.

6. (1) Bl-esklużjoni ta' attivitajiet ta' servizz u ta' affarijiet inklużi fl-Ewwel Skeda, awtorità kompetenti għandha tirrispetta d-dritt li jkollu provditur li jkun leġittimament stabbilit u li jipprovdi servizzi fi Stat Membru ieħor, li jipprovdi servizzi f'Malta, u ma tistax iċċaħħdu milli jipprovdi xi attività ta' servizz bħal dik billi timponi htigiet li jkunu diskriminatorji, mhux meħtieġa jew sproporzjonati.

Għall-finijiet ta' dan is-subartikolu:

(a) htieġa tkun waħda diskriminatorja jekk din tagħti lok għall-htieġa ta' twettiq ta' obbligi li jkollhom x'jaqsmu maċ-ċittadinanza ta' l-applikant, inkluż il-post ta' stabbiliment ta' persuna ġuridika;

(b) htieġa ma tkunx meħtieġa sakemm din ma tkunx ġustifikata minn raġunijiet ta' politika pubblika, sigurezza pubblika, saħħa pubblika jew il-ħarsien ta' l-ambjent;

(ċ) htieġa jkun jonqosha l-proporzjonalità jekk din tmur lil hinn minn dak li jkun meħtieġ biex jintlaħaq l-għan.

(2) Mingħajr preġudizzju għas-subartikolu (1), awtorità kompetenti ma tistax tassoġġetta provditur stabbilit fi Stat Membru ieħor li jkun irid jipprovdi servizzi f'Malta, għal xi htieġa minn dawn li ġejjin:

(a) obbligu fuq il-provditur li jkollu stabbiliment f'Malta;

(b) obbligu fuq il-provditur li jikseb awtorizzazzjoni mingħand l-awtorità kompetenti inkluż l-elenkar f'reġistru jew

reġistrazzjoni ma' xi korp professjonali jew assoċjazzjoni f'Malta hliet meta jiġi provdut dwar dan f'dan l-Att u fi strumenti oħra ta' liġi Komunitarja;

(ċ) divjet fuq il-provditur li jwaqqaf xi forma jew tip ta' infrastruttura speċifika f'Malta, inklużi ufficcju jew xi studju, li l-provditur ikollu b'zonn sabiex ikun jista' jipprovdi s-servizzi inkwistjoni;

(d) l-applikazzjoni ta' arrangamenti kuntrattwali speċifiċi bejn il-provditur u r-riċevitur li jipprevjenu jew jirrestringu l-ghoti ta' servizz minn persuna li timpjegaw lilha nfisha;

(e) obbligu fuq il-provditur li jkollu dokument ta' identità maħruġ mill-awtoritajiet rilevanti ta' Malta għall-eżerċizzju ta' attività ta' servizz;

(f) htigiet li jolqtu l-użu ta' tagħmir u materjal li jiffurmaw parti integrali mis-servizz provdut, kemm-il darba dawn ma jkunux meħtieġa għall-fini ta' saħħa u sigurtà fuq il-post tax-xogħol;

(g) restrizzjoni fuq il-libertà li jiġu provduti servizzi kif hemm kontemplat taħt l-artikolu 9(b) f'dak li għandu x'jaqsam mad-dritt ta' riċevituri:

Izda awtorità kompetenti tista' teħtieġ li l-provditur josserva l-liġijiet rilevanti li jirregolaw il-kondizzjonijiet ta' impjieg inklużi dawk li għandhom x'jaqsmu ma' kull ftehim kollettiv f'konformità mal-liġi Komunitarju:

Izda wkoll meta tkun qegħda tistabbilixxi jekk provditur ikunx qieghed jeżerċita l-libertà tiegħu li jipprovdi servizzi fi hdan it-tifsir ta' dan l-artikolu u ta' l-Artikolu 49 tat-Trattat, jew jekk ikunx każ ta' stabbiliment, l-awtorità kompetenti għandha tivvaluta u tiddeċiedi kull każ fuq il-mertu individwali tiegħu u f'konformità mal-liġi Komunitarja u mad-deċiżjonijiet tal-Qorti Ewropea tal-Ġustizzja.

(3) F'każijiet eċċezzjonali biss u abbażi ta' kull każ għalih, mingħajr preġudizzju għas-subartikoli (1) u (2), awtorità kompetenti tista', dwar provditur stabbilit fi Stat Membru ieħor, tieħu miżuri sabiex tiżgura s-sigurtà ta' servizzi provduti f'Malta. Meta tkun qegħda tieħu dawk il-miżuri, awtorità kompetenti għandha ssegwi l-proċedura stabbilita taħt ir-Raba' Skeda, u tiżgura t-twettiq tal-kondizzjonijiet li ġejjin:

(a) id-disposizzjonijiet nazzjonali li skondhom jittiehdu l-miżuri ma kienux soġġetti għal armonizzazzjoni Komunitarja fil-qasam tas-sigurtà ta' servizzi;

(b) il-miżuri mehuda jipprovdu għal livell oġhla ta' ħarsien tar-riċevitur milli kieku jiġri fil-każ ta' miżura mehuda mill-Istat Membru ta' stabbiliment skond id-disposizzjonijiet nazzjonali tiegħu;

(ċ) l-Istat Membru ta' stabbiliment ma jkun ha ebda miżura jew inkella jkun ha miżuri li huma insuffiċjenti meta jiġu paragonati ma' dawk mitluba mill-awtorità kompetenti kif imsemmi fil-paragrafi 2 u 3 tar-Raba' Skeda;

(d) il-miżuri huma proporzjonati:

Izda meta l-awtorità kompetenti tagħraf li jkun hemm xi att gravi speċifiku jew ċirkostanzi li jkollhom x'jaqsmu mal-attività ta' servizz li kieku tista' tikkaguna danni serji għas-saħħa u s-sigurtà ta' persuni, jew ta' l-ambjent, f'Malta jew f'xi Stat Membru ieħor, hija għandha tgharraf lill-Istat Membru ta' stabbiliment, lil Stati Membri oħra li jistgħu jkunu involuti jew milquta, u lill-Kummissjoni Ewropea fl-iqsar żmien possibbli permezz tas-Sistema ta' Informazzjoni fis-Suq Intern.

7. Fil-funzjoni li għandha li tipprovdi informazzjoni u assistenza skond l-artikolu 4(ċ):

Għoti ta' informazzjoni u assistenza lil applikanti, provdituri u riċevituri.

(a) awtorità kompetenti għandha tikkopera mal-korp mahtur skond l-artikolu 10(3) biex tiżgura li dawn li ġejjin huma faċilment aċċessibbli għal provdituri u riċevituri:

(i) il-htigiet li japplikaw fi Stat Membru ieħor li għandhom x'jaqsmu ma' l-aċċess għal, u l-eżerċizzju ta', l-attivitajiet rilevanti li jsiru b'servizz, b'mod partikolari dawk li għandhom x'jaqsmu mal-ħarsien tal-konsumaturi;

(ii) il-partikolaritajiet fejn l-awtoritajiet kompetenti jkunu jistgħu jiġu kkuntattjati hekk li dawn ikunu jistgħu jiġu kkuntattjati direttament, inklużi d-dettalji ta' dawk l-awtoritajiet responsabbli għal affarjiet li jirrigwardaw l-eżerċizzju ta' l-attivitajiet rilevanti li jsiru b'servizz;

(iii) il-mezzi ta', u l-kondizzjonijiet għal, aċċess għal registri u *databases* pubbliċi lil provdituri u servizzi rilevanti;

(iv) il-mezzi ta' rimedju li jkunu ġeneralment disponibbli fil-każ ta' tilwima bejn l-awtoritajiet kompetenti u l-provditur jew ir-riċevitur, jew bejn provditur u riċevitur jew bejn provdituri;

(v) il-partikolaritajiet dwar kuntatt ma' l-assoċjazzjonijiet jew organizzazzjonijiet li ma jkunux l-awtoritajiet kompetenti, minn fejn il-provdituri jkunu jistgħu jiksbu assistenza Prattika;

(vi) lista, aġġornata ta' l-inqas darba fis-sena, ta' l-ismijiet u dettalji kummerċjali ta' kuntatt ta' dawk il-provdituri li huma fil-pussess ta' liċenza valida maħruġa mill-awtorità kompetenti;

(b) fuq talba tal-provditur u tar-riċevitur, l-awtorità kompetenti għandha tipprova assistenza li tkun tikkonsisti f'informazzjoni sempliċi, ġenerika ta' xorta mhux legali, fuq l-interpretazzjoni u l-applikazzjoni tal-htigiet, proċeduri u formalitajiet meħtieġa biex provditur jew riċevitur ikollu aċċess għall-attività rilevanti ta' servizz f'Malta;

(ċ) f'koperazzjoni mal-Kummissjoni Ewropea u Stati Membri oħra, l-awtorità kompetenti għandha tara li tagħti għajnuna lil riċevituri f'Malta sabiex dawn jiksbu informazzjoni fuq il-ħarsien mogħti lil riċevituri, kif ukoll il-mezzi ta' rimedju disponibbli, u l-partikolaritajiet dwar kuntatt ma' assoċjazzjonijiet li jipprovdu assistenza lill-konsumatur fi Stati Membri oħra.

**8.** (1) Awtorità kompetenti għandha teħtieġ li provdituri stabbiliti f'Malta u li jaqgħu taħt il-kompetenza tagħha jzommuha aġġornata f'kull waqt bl-informazzjoni li hija tidentifika bħala li tkun meħtieġa u oġġettivament ġustifikata sabiex tkun tista' twettaq il-funzjoni superviżorja tagħha ta' servizzi skond l-Att li jwaqqafha u dan l-Att.

Funzjonijiet  
superviżorji.

(2) L-awtorità kompetenti għandha teżerċita il-funzjonijiet ta' superviżjoni tagħha fuq provdituri stabbiliti f'Malta, u li jinkwadraw taħt il-kompetenza tagħha, kemm jekk is-servizz ikun provdut f'Malta jew fi Stat Membru ieħor.

(3) Filwaqt li tkun qegħda twettaq il-funzjonijiet superviżorji tagħha, meta servizz ikun qiegħed jiġi provdut fi Stat Membru ieħor minn provditur stabbilit f'Malta, awtorità kompetenti għandha tassisti lill-awtorità kompetenti rilevanti ta' dak l-Istat Membru l-ieħor skond il-proċedura stabbilita fit-Tieni Skeda. Meta tkun qegħda tagħmel

dan, l-awtorità kompetenti m'għandhiex iżżomm lura milli tenforza l-miżuri b'mod superviżorju f'Malta abbażi li servizz ikun ġie provdut jew li kkaġuna danni f'xi Stat Membru ieħor:

Iżda awtorità kompetenti ma tkunx obbligata li twettaq verifiki u kontrolli fl-Istat Membru fejn ikun qiegħed jiġi provdut is-servizz.

(4) Meta servizz ikun qiegħed jiġi provdut f'Malta, fil-każ ta' xi moviment temporanju minn provditur stabbilit fi Stat Membru ieħor skond l-artikolu 6:

(a) l-awtorità kompetenti għandha tipparteċipa fis-superviżjoni tal-provditur skond il-proċedura stabbilita fit-Tieni Skeda;

(b) meta tkun imponiet htigiet skond il-*provisos* ma' l-artikolu 6(2), hija għandha tassumi r-responsabbiltà għas-superviżjoni tal-provditur f'Malta sabiex tiżgura konformità ma' dawk il-htigiet.

(5) Awtorità kompetenti għandha tiskambja kull talba u informazzjoni ma' l-awtoritajiet kompetenti rilevanti ta' Stat Membru ieħor u mal-Kummissjoni permezz tas-Sistema ta' Informazzjoni fis-Suq Intern.

(6) Mingħajr preġudizzju għal-limitazzjonijiet imposti b'xi liġi oħra, awtorità kompetenti għandha ttipprovdi informazzjoni lill-awtorità kompetenti rilevanti ta' Stat Membru ieħor dwar azzjonijiet dixxiplinari jew amministrattivi, jew sanzjonijiet kriminali u deċiżjonijiet li jirrigwardaw l-insolvenza jew il-falliment li jkun jinvolvi l-frodi, li jkunu direttament jolqtu lil provditur, skond il-proċedura kontemplata taħt it-Tielet Skeda.

## TAQSIMA V - ID-DRITTIJET TA' RIĊEVITURI

Projbizzjonijiet.

**9.** Ir-riċevituri u riċevituri potenzjali ta' xi servizz m'għandhomx ikunu soġġetti għal htigiet diskriminatorji, inklużi:

(a) limitazzjonijiet dwar aċċess għal servizzi f'Malta permezz tal-kondizzjonijiet ġenerali tal-provditur li jkun fihom disposizzjonijiet diskriminatorji li għandhom x'jaqsmu maċ-ċittadinanza jew mal-post ta' residenza tar-riċevitur, sakemm dan ma jkunx jipprekludi l-possibilità li provditur jipprovdi dwar id-differenzi fil-kondizzjonijiet ta' aċċess meta dawk id-differenzi jkunu direttament ġustifikati bi kriterji oġġettivi; jew

(b) l-ġħoti ta' assistenza finanzjarja minhabba fil-fatt li

l-provditur ikun stabbilit fi Stat Membru ieħor jew minhabba fil-lok tal-post fejn jiġi provdut is-servizz; jew

(ċ) obbligu li tinkiseb awtorizzazzjoni mingħand, jew li ssir dikjarazzjoni lil, awtorità kompetenti.

**10.** (1) B'żjieda mad-dritt għal informazzjoni u assistenza msemmi fl-artikoli 4 u 7, provditur stabbilit f'Malta huwa obligat jipprovdi l-informazzjoni elenkata fil-Hames Skeda.

Dritt ta' informazzjoni u assistenza.

(2) Għall-fini tas-subartikolu (1), il-korp responsabbli għall-harsien tal-konsumatur ikollu r-responsabbiltà jissorvelja u jenforza konformità mill-provditur mal-htigiet elenkati taħt il-Hames Skeda.

(3) Għall-fini tas-subartikolu (1), il-korp responsabbli biex jipprovdi, meta jkun mitlub, l-informazzjoni skond l-artikolu 7(a)(i) sa (vi) għandu jkun dak li qed jaqdi r-rwol taċ-Ċentru Ewropew tal-Konsumatur f'Malta jew xi korp ieħor kif jista' jiġi maħtur mill-Ministru.

## TAQSIMA VI - MIXXELLANJI

**11.** Tkun il-funzjoni tal-Ministru, f'konsultazzjoni ma' Ministri oħra, li jieħu kull miżura oħra addizzjonali meħtieġa b'dan l-Att, sabiex jiġi żgurat it-twettiq ta' l-obbligi li Malta għandha taħt id-Direttiva 2006/123/KE, u biex tiġi żgurata konformità minn kull min hu involut fid-disposizzjonijiet ta' dan l-Att.

Setgħa li jittieħdu l-miżuri meħtieġa.

**12.** (1) Il-Ministru jista', f'konsultazzjoni ma' Ministri oħra, skond kif ikun meħtieġ, jagħmel regolamenti għat-twettiq aħjar ta' kull disposizzjoni ta' dan l-Att.

Setgħa għall-għemil ta' regolamenti.

(2) Mingħajr preġudizzju għall-ġeneralità tas-setgħa hawn qabel imsemmija, dawk ir-regolamenti jistgħu b'mod partikolari ikunu jipprovdu għal:

(a) id-definizzjoni ta' funzjonijiet ta' punt ta' kuntatt waħdieni, il-format amministrattiv u operattiv tiegħu u l-funzjoni inkluż il-kordinament ma' l-awtoritajiet kompetenti rilevanti u korpi oħra stabbiliti taħt liġijiet oħra fit-twettiq tal-funzjonijiet lil assenjati;

(b) li jiġu stabbiliti s-sanzjonijiet jew penalitajiet li min jagħmel reat taħt dan l-Att jista', meta jinsab ħati, ikun soġġett għalihom;

(ċ) konformità mill-awtoritajiet kompetenti mad-disposizzjonijiet ta' dan l-Att;

(d) il-ħatra ta' korp responsabbli biex jikkomunika mal-Kummissjoni Ewropea dwar l-introduzzjoni ta' liġijiet, regolamenti jew disposizzjonijiet amministrattivi kif imsemmija fit-tieni proviso ta' l-artikolu 5(4), u l-proċedura li għandha tiġi segwita sabiex tkun tista' tiġi inkanalata l-informazzjoni lill-Kummissjoni Ewropea;

(e) il-ħatra ta' kordinatur nazzjonali għas-Sistema ta' Informazzjoni fis-Suq Intern;

(f) il-ħatra ta' Bord tal-Appelli fejn jiġu trattati lmenti li jsiru minn provditur kontra awtorità kompetenti sakemm ma jkunx hemm proċedura identifikata taħt il-liġi li tkun stabbilixxiet u tagħat is-setgħat lill-awtorità kompetenti;

(g) l-għemil ta' kull ma jista' jkun meħtieġ li jiġi preskritt b'dan l-Att.

Stampar mill-  
għdid.

**13.** Bla ħsara għal kull liġi oħra, f'xi stampar mill-għdid ta' dan l-Att, mit-Taqsima VII sa l-aħħar Taqsima ma hemmx għalfejn ikunu riprodotti u jkun biżżejjed li jiġu riprodotti mit-Taqsima I sat-Taqsima VI ta' dan l-Att:

Iżda ebda haġa f'dan l-artikolu ma għandha tiftiehem li tnaqqas il-validità ta' xi haġa li tinsab fit-taqsimiet hekk mhux riprodotti.

## TAQSIMA VII

### EMENDI GĦALL-KODIĊI TA' ORGANIZZAZZJONI U PROĊEDURA ĊIVILI

Emendi għall-  
Kodiċi ta'  
Organizzazzjoni  
u Proċedura  
Ċivili.  
Kap. 12.

**14.** (1) Din it-Taqsima temenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili u għandha tinqara u tiftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "il-liġi prinċipali".

(2) Din it-Taqsima għandha tidhol fis-seħħ mal-pubblikazzjoni ta' dan l-Att.

Emenda tat-  
Tariffa E fl-  
Iskeda A tal-liġi  
prinċipali.

**15.** Is-subparagrafu (a) tal-paragrafu 47 tat-Tariffa E fl-Iskeda A tal-liġi prinċipali għandu jiġi sostitwit bis-subparagrafu għdid li ġej:

(a) Id-disposizzjonijiet ta' qabel ta' din it-Tariffa m'għandhomx iżommu lil Avukat jew Prokuratur Legali u l-klijent, milli jilhqu ftehim fuq dritt, jew il-baži ta' kif għandu jiġi stabbilit id-dritt li jkun differenti minn dak hekk stabbilit b'din it-Tariffa, u f'kull każ bħal dak għandu japplika d-dritt

miftiehem jew il-baži li fuqu dan ikollu jiđi stabbilit, li ma tkunx baži projbita bil-liđi, bla ħsara għad-disposizzjonijiet ta' dawn is-subparagrafi li ġejjin:

Iżda, f'kull każ, l-Avukat jew Prokuratur Legali għandu jinforma lill-klijent dwar id-dritt, jew il-baži kif għandu jiđi stabbilit id-dritt qabel ma jiđi provdut is-servizz."

**16.** Minnufih wara l-paragrafu 19 tat-Tariffa K fl-Iskeda A tal-liđi prinċipali, għandu jiżdied il-paragrafu ġdid li ġej:

Emenda tat-Tariffa K fl-Iskeda A tal-liđi prinċipali.

"20. (a) Id-disposizzjonijiet ta' qabel ta' din it-Tariffa m'għandhomx iżommu lil Perit u l-klijent, milli jilhq u ftehim fuq dritt, jew il-baži ta' kif għandu jiđi stabbilit id-dritt li jkun differenti minn dak hekk stabbilit b'din it-Tariffa, u f'kull każ bhal dak għandu japplika d-dritt miftiehem jew il-baži li fuqu dan ikollu jiđi stabbilit, li ma tkunx baži projbita bil-liđi, bla ħsara għad-disposizzjonijiet ta' dawn is-subparagrafi li ġejjin:

Iżda, f'kull każ, il-Perit għandu jinforma lill-klijent dwar id-dritt, jew il-baži ta' kif għandu jiđi stabbilit id-dritt qabel ma jiđi provdut is-servizz.

(b) Għall-għanijiet ta' dan il-paragrafu, ftehim li jkollu x'jaqsam mad-drittijiet għandu jsir bil-miktub."

## TAQSIMA VIII

### EMENDI GĦALL-KODIĊI TAL-KUMMERĊ

**17.** (1) Din it-Taqsima temenda l-Kodiċi tal-Kummerċ u għandha tinqara u tiftiehem ħađa waħda mal-Kodiċi tal-Kummerċ, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-liđi prinċipali."

Emendi għall-Kodiċi tal-Kummerċ. Kap. 13.

(2) Din it-Taqsima għandha tidhol fis-seħħ mal-pubblikazzjoni ta' dan l-Att.

**18.** L-artikoli 71, 72, 73 u 73A tal-liđi prinċipali għandhom jiđu sostitwiti bl-artikoli ġodda li ġejjin:

Sostituzzjoni ta' l-artikoli 71, 72, 73 u 73A tal-liđi prinċipali.

"Ađenti tal-kummerċ.

71. (1) Kull persuna li tixtieq tagħmilha ta' ađent tal-kummerċ, kemm waħedha kemm f'soċjetà ma' oħrajn, għandha tinnotifika lill-awtorità regolatorja billi titlob li tiđi ređistrata fi żmien tletin ġurnata minn meta tibda din l-attività.

Kap. 386.

(2) Sabiex jiġi reġistrat mill-Awtorità regolatorja hawn fuq imsemmija bhala aġent kummerċjali, applikant għandhu jissottometti bil-miktub applikazzjoni f'dik il-forma li l-awtorità regolatorja tistabbilixxi, illi jkun fiha l-isem shih u l-kunjom, l-età, l-indirizz privat u kummerċjali ta' min japplika u dawk il-partikolaritajiet l-oħra dwar il-kummerċ jew okkupazzjoni tiegħu, li l-awtorità regolatorja tista' titlob. Fil-każ ta' persuna li titlob li tiġi reġistrata bhala aġent tal-kummerċ f'soċjetà ma' oħrajn, fit-talba għandha ssir riferenza għad-dikjarazzjoni pubblikata fil-Gazzetta skond l-Att dwar il-Kumpanniji, li turi d-data tar-reġistrazzjoni tas-soċjetà u d-data li fiha jkun inhareġ iċ-ċertifikat tar-reġistrazzjoni relattiv.

(3) L-Awtorità regolatorja m'għandhiex taċċetta talba għal reġistrazzjoni bhala aġent kummerċjali minn persuna li hija fl-impieg tal-Gvern ta' Malta jew ta' xi istituzzjoni finanzjarja, jew minn xi persuna li għandha *warrant* biex teżerċita professjoni f'Malta u li attwalment tkun qegħda teżerċitaha, jew minn *stockbrokers* jew minn xi persuna li jew f'Malta jew barra mill-pajjiż tkun instabet hatja ta' falliment frawdolenti.

(4) Ir-reġistrazzjonijiet kollha mogħtijin taħt dan l-artikolu għandhom jiġu avżati fil-Gazzetta. Fix-xahar ta' Jannar ta' kull sena, lista shiha ta' reġistrazzjonijiet li jkunu fis-seħh għandha wkoll tiġi mahruġa fil-Gazzetta.

(5) Kull reġistrazzjoni magħmula taħt dan l-artikolu tista' tiġi mhassra jew sospiza mill-awtorità kompetenti jekk il-pussessur tal-liċenza -

(a) jiġi misjub hati ta' delitt kontra l-proprjetà;

(b) jiġi dikjarat fallut;

(c) jaċċetta impieg taht il-Gvern ta' Malta, jew f'xi istituzzjoni finanzjarja, jew jiġi mogħti *warrant* biex jeżerċita professjoni, u fil-fatt jeżerċita dik il-professjoni jew isir *stockbroker*;

(d) jiġi ppruvat, b'sodisfazzjon tal-qorti, li mhux persuna kapaċi u tajba biex tkun aġent tal-kummerċ.

(6) Dak it-thassir jew sospensjoni ta' liċenza għandhom jiġu avżati fil-Gazzetta.

Setgħa tal-Ministru li jistabbilixxi d-dritt għar-registrazzjoni.

72. Il-Ministru wara li jikkonsulta lill-awtorità regolatorja jista', b'regolamenti, jistabbilixxi d-dritt li għandu jithallas lill-awtorità regolatorja għar-registrazzjoni ta' aġent tal-kummerċ taht id-disposizzjonijiet ta' l-aħħar artikolu qabel dan. B'dawk ir-regolamenti jista' jiġi stabbilit li barra d-dritt għar-registrazzjoni għandu jithallas dritt iehor ta' kull sena u jista' jiġi provdut li fin-nuqqas tal-ħlas ta' dak id-dritt l-iehor ta' kull sena, ir-registrazzjoni ma tibqax fis-seħh.

Pieni.

73. Mingħajr preġudizzju għad-disposizzjonijiet ta' l-artikolu 71(1), kull min, mingħajr registrazzjoni li tkun fis-seħh f'dak iż-żmien, juri ruħu li hu, jew jagħmilha jew jintrabat li jagħmilha ta' aġent tal-kummerċ, jista' jehel -

(a) meta jinsab ħati għall-ewwel darba multa ta' mhux iżjed minn elfejn u ħames mitt euro (€2,500); u

(b) fil-każ ta' reċidiva, il-piena ta' priġunerija ta' mhux iżjed minn tliet xhur jew multa ta' mhux iżjed minn ħamest elef euro (€5000), jew il-priġunerija u l-multa flimkien.

Ma tingħatax jew ma tiġġeddidx registrazzjoni qabel ma tithallas il-multa.

73A. Meta qorti tkun wahhlet multa taht dan is-subtitolu, u dik il-multa ma tkunx thallset, l-awtorità regolatorja ma għandhiex toħroġ jew iġġedded ebda registrazzjoni meta din tiskadi sakemm tithallas dik il-multa."

Sostituzzjoni ta' l-artikoli 79 u 80 tal-liġi prinċipali.

**19.** L-artikoli 79 u 80 tal-liġi prinċipali għandhom jiġu sostitwiti bl-artikoli ġodda li ġejjin:

"Kwalifiki għal sensal pubbliku.

79. (1) Kull min irid isir sensal pubbliku għandu, fi żmien tletin ġurnata minn meta jibda jeżerċita din l-attività, jinnotifika lill-Kunsill tal-Kamra tal-Kummerċ, Intrapriża u Industrija, bħala l-awtorità regolatorja ta' din l-attività, u jitlob li jiġi reġistrat.

(2) Sabiex jiġi reġistrat mill-awtorità regolatorja hawn fuq imsemmija bħala sensal pubbliku, applikant għandhu jissottometti bil-miktub applikazzjoni f'dik il-forma li l-awtorità regolatorja tistabbilixxi, illi jkun fiha l-isem sħiħ u l-kunjom, l-età, l-indirizz privat u kummerċjali ta' min japplika u dawk il-partikolaritajiet l-oħra dwar il-kummerċ jew okkupazzjoni tiegħu, li l-awtorità regolatorja tista' titlob.

(3) Is-sensala li jharsu l-formalitajiet kollha hawn fuq imsemmija jiġu rreġistrati fir-reġistru li tamministra l-awtorità regolatorja. Ir-reġistrazzjonijiet kollha mogħtijin taħt dan l-artikolu għandhom jiġu avżati fil-Gazzetta. Fix-xahar ta' Jannar ta' kull sena, lista sħiħa tar-reġistrazzjonijiet li jkunu fis-seħħ għandha wkoll tiġi mahruġa fil-Gazzetta.

Telf ta' kariga ta' sensal.  
Kap. 9.

80. Is-sensal pubbliku li jiġi misjub ħati ta' wieħed mid-delitti msemmijin fis-Sub-titoli I, II u III tat-Titolu IX tat-Taqsima II ta' l-Ewwel Ktieb tal-Kodiċi Kriminali jitlef, *ipso facto*, il-kariga tiegħu, u ismu jiġi mhassar mir-reġistru."

Sostituzzjoni ta' l-artikolu 91 tal-liġi prinċipali.

**20.** L-artikolu 91 tal-liġi prinċipali għandu jiġi sostitwit bl-

artikolu ġdid li ġej:

"Pieni għal  
kontravvenzjoni-  
jiet magħmulin  
minn sensala  
pubbliċi.

91. (1) Is-sensal pubbliku li jikser xi wieheh mill-obbligi msemmin fl-artikoli ta' qabel dan jehel, fuq talba ta' kull min ikollu interess jew ta' l-Avukat Ġenerali, penali ta' mhux anqas minn hamsin euro (€50) u mhux iżjed minn hames mitt euro (€500), bi proċeduri meħuda quddiem il-Prim' Awla tal-Qorti Ċivili, jew il-Qorti tal-Maġistrati (Għawdex) fil-ġurisdizzjoni superjuri kummerċjali tagħha, skond ma jkun il-każ, bla hsara għal kull azzjoni oħra li titnissel minn dan il-Kodiċi jew minn kull liġi oħra.

(2) Il-qorti tista' wkoll tordna l-interdizzjoni tas-sensal pubbliku għal żmien ta' mhux aktar minn sentejn, u, f'dan il-każ, iġhoddu d-disposizzjonijiet ta' l-artikolu 81 matul iż-żmien ta' l-interdizzjoni."

21. L-artikolu 550 tal-liġi prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni ta'  
l-artikolu 550  
tal-liġi  
prinċipali.

"Drittijiet  
kummerċjali.

550. Drittijiet kummerċjali differenti minn dawk stabbiliti skond l-Iskeda li hawn ma' din l-Ordinanza jistgħu jiġu miftiehma bejn il-partijiet. Provditur ta' servizz għandu jinforma lill-klijent tiegħu dwar id-dritt, jew il-baži ta' kif għandu jiġi stabbilit id-dritt, qabel ma jiġi provdut is-servizz."

## TAQSIMA IX

### EMENDI GHALL-ORDINANZA DWAR IR-REGOLAMENT TAT-TRAFFIKU

22. (1) Din it-Taqsima temenda l-Ordinanza dwar ir-Regolament tat-Traffiku u għandha tinqara u tiftiehem haġa waħda ma' l-Ordinanza dwar ir-Regolament tat-Traffiku, hawn iżjed 'il quddiem f'din it-Taqsima msejha "il-liġi prinċipali".

Emendi għall-  
Ordinanza dwar  
ir-Regolament  
tat-Traffiku.  
Kap. 65.

(2) Din it-Taqsima għandha tidhol fis-seħħ mal-pubblikazzjoni ta' dan l-Att.

23. L-artikolu 2 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-  
artikolu 2 tal-  
liġi prinċipali.

(a) minnufih wara t-tifsira "sid" għandha tiżdied it-

tifsira ġdida li ġejja:

" "Stat Membru" t'fisser Stat Membru taż-Żona Ekonomika Ewropea";

(b) minnufih wara t-tifsira "trasport pubbliku" għandha tiżdied it-tifsira ġdida li ġejja:

" "Trattat" t'fisser t-Trattat li jistabbilixxi l-Komunità Ewropea"; u

(ċ) minnufih wara l-proviso tiegħu, għandu jiżdied il-proviso ġdid li ġej:

"Iżda wkoll kemm-il darba ma jingħadx xort'ohra, għandhom ikunu japplikaw it-tifsiriet li hemm fl-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern."

Żjieda ta' artikolu 16B ġdid mal-liġi prinċipali.

**24.** Minnufih wara l-artikolu 16A tal-liġi prinċipali għandu jiżdied l-artikolu 16B ġdid li ġej:

"Applikabilità ta' l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern.

16B. Xejn f'din l-Ordinanza ma għandu jinftehem li jillimita, jirrestringi jew b'mod iehor jolqot l-applikazzjoni ta' xi liġi, regolament jew regola ohra magħmula skond l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern."

Emenda ta' l-artikolu 18 tal-liġi prinċipali.

**25.** Fl-artikolu 18 tal-liġi prinċipali, wara il-kliem "fil-fehma ta' l-Awtorità dwar it-Trasport ta' Malta" għandhom jiżdiedu l-kliem "jew, fil-każ ta' kiri ta' karrozzi *self-drive*, kif previst f'din l-Ordinanza jew f'xi liġi, regolament jew regola ohra".

## TAQSIMA X

### EMENDI GHALL-ATT DWAR IS-SERVIZZI POSTALI

Emendi għall-Att dwar is-Servizzi Postali. Kap. 254.

**26.** (1) Din it-Taqsima temenda l-Att dwar is-Servizzi Postali, u għandha tinqara u tinftiehem haġa waħda ma' l-Att dwar is-Servizzi Postali, hawn iżjed 'il quddiem msejjaħ f'din it-Taqsima "l-Att prinċipali".

(2) Din it-Taqsima għandha tidhol fis-seħh mal-pubblikazzjoni ta' dan l-Att.

Żjieda ta' l-artikolu 9A ġdid ma' l-Att prinċipali.

**27.** Minnufih wara l-artikolu 9 ta' l-Att prinċipali, għandu

jizzied l-artikolu 9A ġdid li ġej:

"Nuqqas ta' risposta ma titqiesx bhala li tkun harġet il-liċenza.

Kap. 418.

9A. Minhabba f'raġunijiet prevalenti ta' interess pubbliku, jekk ma tinghata ebda risposta fiż-żmien stipulat fl-artikolu 9, dan m'għandux jitqies li jkun ifisser il-ħruġ awtomatiku tal-liċenza li dwarha tkun saret l-applikazzjoni, imma l-applikant ikollu, jekk huwa jqis li d-dewmien ma jkunx wiehed ġustifikat jew li jkun soffra xi preġudizzju bhala konsegwenza ta' dak id-dewmien, id-dritt ta' appell skond id-disposizzjonijiet tat-Taqsima VIII ta' l-Att għat-Twaqqif ta' Awtoritá ta' Malta dwar il-Komunikazzjoni."

## TAQSIMA XI

### EMENDI GHALL-ATT DWAR IL-PROFESSJONI TA' L-ACCOUNTANCY

**28.** (1) Din it-Taqsima temenda l-Att dwar il-Professjoni ta' l-*Accountancy*, u għandha tinqara' u tinftiehem haġa waħda ma' l-Att dwar il-Professjoni ta' l-*Accountancy*, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emendi għall-Att dwar il-Professjoni ta' l-*Accountancy*.  
Kap. 281.

(2) Din it-Taqsima għandha tidhol fis-seħh mal-pubblikazzjoni ta' dan l-Att.

**29.** Is-subartikolu (1) ta' l-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

(a) fit-tifsira "ditta ta' *accountancy*" minflok il-kliem "soċjetá li tista' tkun kemm soċjetá ċivili kemm soċjetá kummerċjali u tinkludi kumpannija," għandhom jidhlu l-kliem "entitá, tkun xi tkun il-forma legali tagħha,"; u

(b) fit-tifsira "ditta ta' awditjar" minflok il-kliem "soċjetá ċivili jew soċjetá kummerċjali, inkluża kumpannija" għandhom jidhlu l-kliem "entitá, tkun xi tkun il-forma legali tagħha,"; u

(ċ) minnufih wara t-tifsira "Stat Membru" għandha tiżdied din it-tifsira ġdida li ġejja:

" "Tribunal ta' l-Appelli" tfisser it-Tribunal ta' Reviżjoni Amministrattiva mwaqqaf bl-artikolu 5(1) ta' l-Att dwar il-Ġustizzja Amministrattiva;"

Emenda ta' l-  
artikolu 3 ta' l-  
Att prinċipali.

**30.** L-artikolu 3 ta' l-Att prinċipali għandu jiġi emendat kif  
gej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "Hadd ma jista'" għandhom jidhlu l-kliem "Hlief meta jiġi ordnat xort' oħra, hadd ma jista'";

(b) fis-subartikolu (2) tiegħu -

(i) fil-paragrafu (b) tiegħu, il-kelma "u" għandha tithassar; u

(ii) fit-tieni proviso mal-paragrafu (d), minnufih wara l-kliem "jistabbilixxi skond iċ-ċirkostanzi partikolari;" għandha tiżdied il-kelma "u";

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem "barra minn Malta," għandhom jidhlu l-kliem "f'xi pajjiż terz,";

(d) fis-subartikolu (4) tiegħu, minflok il-kliem "ta' mhux iżjed minn elf, mija u erbgħa u sittin euro u disgħa u sittin ċenteżmu (€1,164.69)" għandhom jidhlu l-kliem "ta' mhux iżjed minn elf u mitejn euro (€1,200.00)", minflok il-kliem "ta' mhux iżjed minn hamest elef, tmien mija u tlieta u għoxrin euro u tlieta u erbgħin ċenteżmu (€5,823.43)" għandhom jidhlu l-kliem "ta' mhux iżjed minn sitt elef euro (€6,000.00)" u minflok il-kliem "ta' mhux iżjed minn mija u sittax-il euro u sebgħa u erbgħin ċenteżmu (€116.47)" għandhom jidhlu l-kliem "ta' mhux iżjed minn mija u għoxrin euro (€120.00)"; u

(e) fis-subartikolu (5) tiegħu, minflok il-kliem "ta' mhux iżjed minn hdax-il elf, sitt mija u sitta u erbgħin euro u sebgħa u tmenin ċenteżmu (€1,646.87)" għandhom jidhlu l-kliem "ta' mhux iżjed minn tnax-il elf euro (€12,000.00)".

Emenda ta' l-  
artikolu 7 ta' l-  
Att prinċipali.

**31.** L-artikolu 7 ta' l-Att prinċipali għandu jiġi emendat kif  
gej:

(a) fis-subartikolu (1) tiegħu -

(i) fil-paragrafu (a) tiegħu, minflok il-kliem "u li jagħti parir lill-Ministru;" għandhom jidhlu l-kliem "u, fil-każ ta' warrants, jekk għandux jagħti parir lill-Ministru li johroġ dawk il-warrants u, fil-każ ta' ċertifikati ta' Prattika, jiddeċiedi jekk għandux johroġ dawk iċ-ċertifikati ta' Prattika;"

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem "li

jitratta każijiet" għandhom jidhlu l-kliem "li jitratta, permezz ta' kumitati dixxiplinari mahtura taht l-artikolu 7(16), każijiet";

(iii) fil-paragrafu (ċ) tiegħu, minflok il-kliem "għal kull detentur ta' *warrant* jew ditta;" għandhom jidhlu l-kliem "għal kull detentur ta' *warrant*, detentur ta' ċertifikat ta' Prattika jew ditta;";

(iv) fil-paragrafu (e) tiegħu, minflok il-kliem "Direttiva 2006/34/KE;" għandhom jidhlu l-kliem "Direttiva 2006/43/KE;";

(v) il-paragrafi (h) u (i) tiegħu għandhom jiġu enumerati mill-ġdid bhala l-paragrafi (j) u (k) rispettivament;

(vi) minnufih wara l-paragrafu (g) tiegħu, għandhom jiżdedu dawn il-paragrafi ġodda (h) u (i) li ġejjin:

"(h) li jagħmel dak kollu li jista' jkun mehtieg biex jikkonforma ruħu ma' l-obbligazzjonijiet li jitnisslu mill-Att ta' l-2009 dwar Servizzi li jinghataw fis-Suq Intern, u li jwettaq is-setgħat, funzjonijiet u responsabbiltajiet attribwiti lil xi awtorità kompetenti skond l-istess Att, inkluż l-ġhoti ta' għajjnuna lil awtoritajiet kompetenti ta' Stati Membri oħra skond id-disposizzjonijiet ta' l-istess Att;

Kap. 451. (i) li jagħmel dak kollu li jista' jkun mehtieg biex jikkonforma ruħu ma' l-obbligazzjonijiet li jitnisslu mill-Att dwar ir-Rikonoxximent Reċiproku ta' Kwalifiki;";

(b) fis-subartikolu (13) tiegħu, minnufih wara l-kliem "li jappartjeni għalihom" għandhom jiżdedu l-kliem "fi żmien hmistax-il gurnata wara d-data meta sseħħ il-bidla";

(ċ) fil-proviso mas-subartikolu (13) tiegħu, minflok il-kelma "jista'" għandha tidhol il-kelma "għandu"; u

(d) fis-subartikolu (16) tiegħu, minnufih wara l-kliem "taht is-subartikolu (1)(b)" għandhom jiżdedu l-kliem "jew taht regolamenti magħmulin mill-Ministru skond l-artikolu 8A,".

32. L-artikolu 8 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu -

(i) il-paragrafi (g), (h), (i) u (j) tiegħu għandhom jiġu enumerati mill-ġdid bhala l-paragrafi (h), (i), (j) u (l) rispettivament;

(ii) minnufih wara l-paragrafu (f) tiegħu, għandu jżdied dan il-paragrafu (g) ġdid li ġej:

"(g) il-proċedura li għandha tiġi segwita mill-Bord dwar applikazzjonijiet għall-hruġ ta' *warrants* jew ċertifikati ta' Prattika taht l-artikolu 4;"

(iii) minnufih wara l-paragrafu (j) tiegħu, kif enumerat mill-ġdid, għandu jżdied il-paragrafu (k) ġdid li ġej:

"(k) l-implimentazzjoni tas-setgħat, funzjonijiet u responsabbiltajiet attribwiti lill-Bord bhala l-awtorità kompetenti skond l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern;"

(iv) fil-paragrafu (l) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "multa ta' tlieta u għoxrin elf, mitejn u tlieta u disgħin euro u tlieta u sebghin ċenteżmu (€3,293.73)," għandhom jidhlu l-kliem "multa ta' hamsa u għoxrin elf euro (€25,000.00)," u minflok il-kliem "multa ta' mija u sittax-il euro u sebgha u erbgħin ċenteżmu (€16.47)" għandhom jidhlu l-kliem "multa ta' mija u għoxrin euro (€20.00)";

(b) fis-subartikolu (2) tiegħu -

(i) minflok il-kliem "ta' detentur ta' *warrants* u ta' detenturi ta' ċertifikati ta' Prattika dwar" għandhom jidhlu l-kliem "ta' detenturi ta' *warrants*, detenturi ta' ċertifikati ta' Prattika jew ditti dwar";

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem "*warrant* u ta' detenturi ta' ċertifikat ta' Prattika" għandhom jidhlu l-kliem "*warrant*, detenturi ta' certifikat ta' Prattika jew ditti";

(iii) fil-paragrafu (b) tiegħu, minflok il-kliem "detentur ta' *warrant* jew minn detentur ta' ċertifikat ta'

prattika, jew mill-impjegati tiegħu" għandhom jidhlu l-kliem "detentur ta' *warrant*, minn detentur ta' ċertifikat ta' prattika, minn ditta jew mill-impjegati tagħhom";

(iv) fil-paragrafu (ċ) tiegħu, minflok il-kliem "detenturi ta' *warrants* u detenturi ta' ċertifikat ta' prattika;" għandhom jidhlu l-kliem "detenturi ta' *warrants*, detenturi ta' ċertifikat ta' prattika u ditti";

(v) fil-paragrafu (i) tiegħu, minflok il-kliem "ta' regolamenti maħruġin" għandhom jidhlu l-kliem "ta' kull disposizzjoni ta' dan l-Att u ta' kull regolament maħruġ";

(vi) il-paragrafi (l), (m) u (n) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (m), (n) u (o) rispettivament;

(vii) minnufih wara l-paragrafu (k) tiegħu, għandu jiżdied il-paragrafu (l) ġdid li ġej:

"(l) l-implimentazzjoni tas-setgħat, funzjonijiet u responsabbiltajiet attribwiti lill-Bord bħala l-awtoritá kompetenti skond l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern;"

(viii) fil-paragrafu (m) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "id-detenturi ta' *warrant* u d-detenturi ta' ċertifikat ta' prattika" għandhom jidhlu l-kliem "id-detenturi ta' *warrant*, id-detenturi ta' ċertifikat ta' prattika u ditti".

33. Fl-artikolu 8A ta' l-Att prinċipali, minflok il-kliem "taħtu, dwar ir-rikonoxximent reċiproku ta' kwalifiki ta' *accountant* u awditur." għandha tidhol il-kelma "taħtu." Emenda ta' l-artikolu 8A ta' l-Att prinċipali.

34. L-artikolu 10 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 10 ta' l-Att prinċipali.

(a) fit-tieni proviso mas-subartikolu (1) tiegħu, minflok il-kliem "ebda servizz ieħor provdut minn dawk id-ditti ma għandu jkun inkompatibbli ma' l-għan ewlieni tagħhom, kif hawn qabel imsemmi." għandhom jidhlu l-kliem "ditta tista' tipprovdi servizzi oħra bla ħsara għall-konformità f'kull waqt mar-regoli dwar l-indipendenza u l-etika professjonali stabbiliti fil-Kodiċi ta' Etika u f'kull regolament, direttiva jew linja gwida oħra maħruġin skond l-artikolu 8.";

(b) fis-subartikolu (11) tiegħu, minflok il-kliem "ta' mhux iżjed minn elfejn u tliet mija u disgħa u għoxrin euro u sebgha u tletin ċenteżmu (€2,329.37)," għandhom jidhlu l-kliem "ta' mhux iżjed minn elfejn u ħames mitt euro (€2,500.00)," u minflok il-kliem "ta' mhux iżjed minn ħdax-il elf u sitt mija u sitta u erbgħin euro u sebgha u tmenin ċenteżmu (€1,646.87)" għandhom jidhlu l-kliem "ta' mhux iżjed minn tnax-il elf euro (€2,000.00)" u minflok il-kliem "ta' mhux iżjed minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (€32.94)" għandhom jidhlu l-kliem "ta' mhux iżjed minn mitejn u ħamsin euro (€50.00)".

Emenda ta' l-artikolu 11 ta' l-Att prinċipali.

**35.** Fis-subartikolu (5) ta' l-artikolu 11 ta' l-Att prinċipali, minflok il-kliem "ta' mhux iżjed minn ħamest elef, tmien mija u tlieta u għoxrin euro u tlieta u erbgħin ċenteżmu (€823.43)," għandhom jidhlu l-kliem "ta' mhux iżjed minn sitt elef euro (€6,000.00)," u minflok il-kliem "ta' mhux iżjed minn ħames mija u tnejn u tmenin euro u erbgħa u tletin ċenteżmu (€82.34)" għandhom jidhlu l-kliem "ta' mhux iżjed minn sitt mitt euro (€600.00)".

Emenda ta' l-artikolu 12 ta' l-Att prinċipali.

**36.** Fl-artikolu 12 ta' l-Att prinċipali, minflok il-kliem "ta' mhux iżjed minn tmienja u ħamsin elf u mitejn u erbgħa u tletin euro u tlieta u tletin ċenteżmu (€8,234.33)" għandhom jidhlu l-kliem "ta' mhux iżjed minn sittin elf euro (€60,000.00)".

Emenda ta' l-artikolu 15 ta' l-Att prinċipali.

**37.** Fis-subartikolu (3) ta' l-artikolu 15 ta' l-Att prinċipali, il-kliem "preskritti; u r-riżultanzi ta' dak il-kumitat dixxiplinari għandhom ikunu soġġetti għal kull referenza ulterjuri, reviżjoni jew appell li jistgħu jiġu" għandhom jithassru.

Żjieda ta' l-artikoli 15A sa 15Ċ godda ma' l-Att prinċipali.

**38.** Minnufih wara l-artikolu 15 ta' l-Att prinċipali, għandhom jiżdiedu l-artikoli godda li ġejjin 15A, 15B u 15Ċ:

"Appelli.

15A. (1) Id-dritt ta' appell lit-Tribunal ta' l-Appelli, minn deċiżjonijiet skond l-artikolu 15B, jista' jiġi użat minn kull min iħoss ruħu aggravat bid-deċiżjoni:

Izda f'kull każ, persuna li tkun qegħda tappella quddiem it-Tribunal ta' l-Appelli għandha wkoll tispjega l-interess ġuridiku li jkollha li tattakka d-deċiżjoni li tkun qegħda tappella minnha.

Kap. 490.

(2) Kemm-il darba ma jiġix provdut xort'oħra fl-Att dwar il-Ġustizzja Amministrattiva jew regolamenti magħmulin taħtu, appell minn deċiżjonijiet skond l-artikolu 15B għandhom isiru b'rikors u jiġu preżentati quddiem it-Tribunal ta' l-Appell fi żmien tletin ġurnata mid-data meta d-deċiżjoni tkun ġiet notifikata lill-parti li tkun qegħda tappella.

Deċiżjonijiet tal-Bord li jista' jsir appell minnhom.

15B. Kemm-il darba ma jiġix provdut xort'oħra b'xi liġi, ikun jista' jsir appell quddiem it-Tribunal ta' l-Appelli mid-deċiżjonijiet li ġejjin magħmulin taħt dan l-Att:

(a) xi deċiżjoni tal-Bord li ma jingħatax parir lill-Ministru biex johroġ *warrant*, li ssir konformement ma' l-artikolu 7(1)(a), u xi deċiżjoni tal-Bord li ma jinħariġx ċertifikat ta' Prattika, li ssir konformement ma' l-artikolu 7(1)(a);

(b) xi deċiżjoni tal-Bord konformement ma' l-artikolu 7(1)(b) li tittieħed wara inkjesta li ssir mill-kumitat dixxipinari maħtur taħt l-artikolu 7(16);

(ċ) xi deċiżjoni tal-Bord li tittieħed xi miżura skond l-artikolu 7(1)(ċ);

(d) xi deċiżjoni tal-kumitat dixxiplinari li jimponi multa amministrattiva konformement ma' l-artikolu 7(17);

(e) xi deċiżjoni tal-Bord li jirrifjuta r-registrazzjoni ta' ditta konformement ma' l-artikolu 10(7) jew xi deċiżjoni tal-Bord konformement ma' l-artikolu 15(1) li jissospendi, iħassar jew jassoġġetta għal kondizzjonijiet oħra r-registrazzjoni ta' xi ditta jew li jirrevoka jew iħassar ir-registrazzjoni ta' ditta konformement ma' l-artikolu 15(2)(e);

(f) xi deċiżjoni tal-Bord, konformement ma' l-artikolu 14, li jinħarġu multi amministrattivi jew ċanfriet jew li jiġu imposti xi miżuri oħra;

(g) xi deċiżjoni li tittiehed mill-Bord, konformement ma' l-artikolu 15(1), li jiġi revokat, irtirat jew sospiż ċertifikat ta' prattika, jew li ċertifikat ta' prattika bħal dak jiġi assoġġettat għal kondizzjonijiet oħra, jew li jiġi revokat jew imhassar ċertifikat ta' prattika konformement ma' l-artikolu 15(2)(e);

(h) xi deċiżjoni li tittiehed mill-Bord, konformement ma' l-artikolu 15(1), li jiġi sospiż *warrant* jew li *warrant* bħal dak jiġi assoġġettat għal kondizzjonijiet oħra;

(i) xi deċiżjoni li tittiehed mill-Ministru, bil-parir tal-Bord, konformement ma' l-artikolu 15(1) jew ma' l-artikolu 15(2)(d), li jiġi revokat jew irtirat xi *warrant*; u

(j) xi deċiżjoni li tittiehed skond regolamenti jew direttivi mahruġin taht dan l-Att, meta r-regolament jew id-direttiva tkun espliċitament tikkonċedi d-dritt ta' appell skond dan l-artikolu.

Stat ta' deċiżjoni sakemm isir appell quddiem it-Tribunal ta' l-Appelli jew il-Qorti ta' l-Appell

15Ċ. (1) Id-deċiżjoni tal-Bord jew tal-Ministru, skond il-każ, għandha tibqa' tghodd sakemm isir l-appell, sew quddiem it-Tribunal ta' l-Appelli jew il-Qorti ta' l-Appell, u għandha tithares mill-partijiet kollha li d-deċiżjoni tkun tapplika għalihom.

(2) It-Tribunal ta' l-Appelli jew il-Qorti ta' l-Appell, skond il-każ, jistgħu, meta jqisu li jkun hekk adatt, wara li jsir rikors minn parti fl-appell, jissospendu d-deċiżjoni tal-Bord jew tal-Ministru, skond il-każ, sakemm l-appell jiġi finalment deċiż. It-Tribunal ta' l-Appelli jew il-Qorti ta' l-Appell għandhom, meta jiddeċiedu li jissospendu d-deċiżjoni, jiddikjaraw għala jkunu qegħdin jagħmlu dan."

Emenda ta' l-artikolu 16 ta' l-Att prinċipali.

**39.** Fis-subartikolu (2) ta' l-artikolu 16 ta' l-Att prinċipali, minflok il-kliem "ta' l-artikolu 3(5)" għandhom jidhlu l-kliem "ta' l-artikolu 3(6)".

**40.** Is-subartikolu (1) ta' l-artikolu 17 ta' l-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Emenda ta' l-artikolu 17 ta' l-Att prinċipali.

"(1) Awditur għandu, fil-każ tat-tkeċċija jew ir-riżenja tiegħu bħala awditur ta' klijent ta' awditjar matul iż-żmien tal-hatra tiegħu, jinforma lill-Bord bil-miktub dwar dik it-tkeċċija jew riżenja minn verifika u għandu jagħti spjegazzjonijiet adegwati għal dan kollu."

**41.** Fis-subartikolu (1) ta' l-artikolu 18 ta' l-Att prinċipali, minflok il-kliem "għandhom jipubblikaw fuq il-*websites* tagħhom, matul tliet xhur ta' kull sena kalendarja, rapporti annwali ta' trasparenza li jkunu jinkludu" għandhom jidhru l-kliem "għandhom, fi żmien tliet xhur wara kull sena kalendarja, jipubblikaw rapport annwali ta' trasparenza fuq il-*websites* tagħhom, u jhallu dak ir-rapport fuq il-*website* tagħhom sal-pubblikazzjoni tar-rapport ta' trasparenza tas-sena kalendarja sussegwenti, li jkun jinkludi".

Emenda ta' l-artikolu 18 ta' l-Att prinċipali.

**42.** L-artikolu 20 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 20 ta' l-Att prinċipali.

(a) fin-nota marginali tiegħu, minnufih wara l-kliem "Żvelar ta' miżuri" għandhom jiżdiedu l-kliem "u deċiżjonijiet";

(b) l-artikolu preżenti għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu; u

(ċ) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Mingħajr preġudizzju għall-ġeneralita tas-subartikolu (1), il-Bord jew il-Ministru, kif ikun il-każ, għandhom jinnotifikaw permezz ta' posta registrata d-deċiżjonijiet meħuda skond l-artikoli 7(1)(a), 7(1)(b), 7(1)(ċ), 7(17), 10(7), 14, 15(1), 15(2)(d) u 15(2)(e) lil kull persuna li għaliha dik id-deċiżjoni tapplika."

**43.** Minnufih wara l-artikolu 20 ta' l-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

Żjieda ta' artikolu 21 ġdid ma' l-Att prinċipali.

"Turija li l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern qed jiġi osservat.

21. Detentur ta' *warrant*, detentur ta' ċertifikat ta' prattika jew ditta għandhom, jekk jiġu hekk mitluba mill-Bord u bil-mod stabbilit mill-Bord, juru osservanza ta' l-obbligi imposti fuq dak id-detentur ta' *warrant*, detentur ta' ċertifikat ta' prattika jew ditta skond l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq."

## TAQSIMA XII

### EMENDI GHALL-ATT DWAR KUNTRATTI FUQ L-GHATBA TAL-BIEB

Emendi ghall-  
Att dwar  
Kuntratti fuq l-  
Ghatba tal-Bieb.  
Kap. 317.

**44.** (1) Din it-taqsima temenda l-Att dwar Kuntratti fuq l-Ghatba tal-Bieb u ghandha tinqara u tinftiehem haġa wahda ma' l-Att dwar il-Kuntratti fuq l-Ghatba tal-Bieb, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

(2) Din it-Taqsima ghandha tidhol fis-sehh mal-pubblikazzjoni ta' dan l-Att.

Emenda ta' l-  
artikolu 2 ta' l-  
Att prinċipali.

**45.** Fl-artikolu 2 ta' l-Att prinċipali, minnufih wara t-tifsira "servizzi" ghandha tiżdied it-tifsira ġdida li ġejja:

" "Stat Membru" tfisser Stat li huwa firmatarju ghall-Ftehim dwar iż-Żona Ekonomika Ewropea ffirmat f'Oporto fit-2 ta' Mejju 1992 kif emendat permezz tal-Protokoll iffirmat fi Brussell fis-17 ta' Marzu 1993 u emendat b'atti sussegwenti;"

Thassir ta' l-  
artikoli 4 u 5 ta'  
l-Att prinċipali.

**46.** L-artikoli 4 u 5 ta' l-Att prinċipali ghandhom jigu mhassra.

Enumerazzjoni  
mill-ġdid ta' l-  
artikolu 5A.

**47.** L-artikolu 5A ta' l-Att prinċipali ghandu jigi enumerat mill-ġdid bħala l-artikolu 4 tiegħu.

Zjieda ta'  
artikoli 6A u 6B  
ġodda ma' l-Att  
prinċipali.

**48.** Minnufih wara l-artikolu 6 ta' l-Att prinċipali, ghandhom jiżdiedu l-artikoli ġodda 6A u 6B li ġejjin:

"Obbligu tal-  
bejjiegh itineranti  
li jipprovdi t-  
tagħrif kollu  
mehtieg minghajr  
ma ikun mitlub.

**6A.** (1) Kull bejjiegh itineranti liċenzjat ghandu jipprovdi, minghajr hlas u minghajr ma jigi mitlub, lill-konsumatur l-informazzjoni li ġejja:

(a) ismu, l-istat tiegħu, jekk qiegħed jaġixxi bħala soċjetà kummerċjali, u liema tip ta' soċjetà kummerċjali, l-indirizz tal-fond kummerċjali fl-Istat Membru fejn hu stabbilit u d-dettalji kollha mehtieġa biex isir miegħu kuntatt minghajr dewmien żejjed u b.mod dirett u, jekk ikun hemm il-htieġa, b'mezzi elettronici;

Kap. 386.

Kap. 168.

(b) jekk hu reġistrat bhala soċjetà kummerċjali taht l-Att dwar il-Kumpanniji jew taht l-Ordinanza dwar Soċjetajiet Kummerċjali skond l-artikolu 5 ta' l-Att dwar il-Kumpanniji, in-numru ta' reġistrazzjoni u t-taghrif kollu relatat ma' l-artikolu 6 ta' l-Att dwar il-Kumpanniji.

(ċ) id-dettalji ta' l-awtorità kompetenti li harghet il-liċenza tal-bejjiegh itineranti jew dak tal-punt ewlieni ta' kuntatt;

(d) jekk qiegħed jeżerċita attività suġġetta għat-taxxa fuq il-valur miżjud, in-numru ta' identifikazzjoni msemmi fl-Artikolu 22(1) tas-Sitt Direttiva tal-Kunsill 77/388/KEE tas-17 ta' Mejju 1977 fuq l-armonizzazzjoni tal-liġijiet tal-Istati Membri relatati mat-taxxa fuq it-*turnover* - Sistema komuni ta' taxxa fuq il-valur miżjud;

(e) fil-każ ta' professjonijiet regolati, l-isem tal-korp professjonali jew istituzzjoni simili illi miegħu huwa reġistrat il-bejjiegh itineranti, it-titolu tal-professjoni tiegħu u l-Istat Membru li fih ingħata dak l-imsemmi titolu;

(f) il-kondizzjonijiet u klawżoli ġenerali illi jintużaw mill-provditur.

(2) B'żjieda ma' dan, kull bejjiegh itineranti debitament liċenzjat għandu jipprovdi, mingħajr h̄las u mingħajr ma jiġi mitlub, lill-konsumatur l-informazzjoni li ġejja:

(a) l-eżistenza ta' klawżoli kuntrattwali, jekk ikun il-każ, illi jintużaw mill-provditur li jirrigwardaw il-liġi applikabbli għall-kuntratt u/jew il-qrati kompetenti;

(b) l-eżistenza ta' garanzija operabbli wara l-bejgħ ta' prodott, jekk ikun il-każ, illi mhijiex imposta bil-liġi;

(ċ) il-prezz tas-servizz, meta l-prezz huwa predeterminat mill-provditur għal tip partikolari ta' servizz;

(d) l-elementi prinċipali tas-servizz, sakemm dawn l-elementi mhumiex diġà apparenti mill-kuntest illi fihom jingħataw.

(3) It-tagħrif meħtieġ skond is-subartikolu (1) għandu, skond il-preferenza tal-bejjiegh itineranti -

(a) ikun faċilment aċċessibbli għall-konsumatur jew fil-post fejn ikun qiegħed jingħata s-servizz jew fejn ikun eżegwit il-kuntratt ta' bejgħ;

(b) ikollu aċċess għalih mir-riċevitur permezz ta' indirizz mogħti mill-provditur, u

(ċ) għandu jidher f'kull dokument ta' informazzjoni, li jingħata lill-konsumatur mill-bejjiegh itineranti, liema dokumenti jagħtu deskrizzjoni dettaljata tas-servizz mogħti minn dak il-bejjiegh itineranti.

Tagħrif li għandu jagħti l-bejjiegh itineranti meta mitlub mill-konsumatur.

6B. (1) Kull bejjiegh itineranti, meta mitlub mill-konsumatur, huwa obligat illi jagħti t-tagħrif addizzjonali li ġej:

(a) meta l-prezz ma jkunx predeterminat mill-provditur għal servizz partikolari, il-prezz tas-servizz jew, jekk ma jistax jingħata prezz eżatt, il-metodu biex jiġi kkalkulat il-prezz u dan biex ikun jista' jiġi verifikat mir-riċevitur tas-servizz, jew stima suffiċjentement dettaljata tal-prezz;

(b) fil-każ tal-professjonijiet regolati, referenza għar-regoli tal-professjoni applikabbli fl-Istat Membru fejn il-provditur hu stabbilit u kif jista' jinkiseb l-imsemmi tagħrif;

(c) tagħrif dwar l-attivitajiet u rabtiet multidixxiplinarji li huma marbuta direttament ma' l-imsemmi servizz u dwar il-mizuri li jittiehdu biex jiġu evitati konflitti ta' interess. Dik l-informazzjoni għandha tiġi inkluża f'kull dokument ta' informazzjoni li fih bejjiegħa itineranti jagħtu deskrizzjoni dettaljata tas-servizzi tagħhom;

(d) kull kodiċi ta' etika li għalih huwa soġġett il-provditur u l-indirizz li fih dawn il-kodiċijiet jistgħu jiġu kkonsultati permezz ta' mezzi elettronici, waqt li tiġi speċifikata b'liema lingwa huma aċċessibbli; u

(e) f'każ illi l-provditur tas-servizz huwa membru ta' assoċjazzjoni ta' kummerè jew ta' xi korp professjonali li jippermetti rimedju għat-temm ta' kwistjonijiet permezz ta' mezzi mhux ġudizzjarji, tagħrif dwar dan kollu. Il-provditur tas-servizz għandu jispeċifika kif wiehed jista' jkollu aċċess għal tagħrif dettaljat dwar il-karatteristiċi ta', u l-kondizzjonijiet għal, l-użu ta' mezzi mhux ġudizzjarji għat-temm ta' kwistjonijiet.

(2) It-tagħrif meħtieġ skond is-subartikolu (1) għandu jingħata jew jiġi komunikat bl-iktar mod ċar u li jinftiehem, u f'hin raġonevoli qabel ma jiġi eżegwit l-kuntratt fuq l-ghatba tal-bieb."

**49.** Fl-artikolu 14A ta' l-Att prinċipali, minflok il-kliem "minbarra l-artikoli 5 u 5A" għandhom jidhlu l-kliem "minbarra l-artikolu 4".

Emenda ta' l-artikolu 14A ta' l-Att prinċipali.

**50.** L-artikolu 15 ta' l-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni ta' l-artikolu 15 ta' l-Att prinċipali.

"15. Il-Ministru jista' jagħmel regolamenti sabiex jingħata effett aħjar lil xi disposizzjoni ta' dan l-Att, u bla hsara għall-ġeneralità ta' dak li ntqal qabel, jista' b'regolamenti jippreskrivi:

(a) il-forma li biha xi kuntratt jew kancellament jew xi klawsola tagħhom għandhom isiru, sew b'mod generiku kif ukoll rigward xi kategorija ta' oġġetti;

(b) il-mezz kif jiġi identifikat bejjiegh itineranti li jkun liċenzjat taht dan l-Att;

(ċ) dawk l-oġġetti jew servizzi li ma jistgħux jinbieghu permezz ta' kuntratt magħmul fuq l-għatba tal-bieb;

(d) kull haġ'ohra li tista' tiġi preskritta taht dan l-Att."

### TAQSIMA XIII

#### EMENDI GĦALL-ATT DWAR IL-PROFESSJONI TA' L-INGINERIJA

Emendi għall-Att dwar il-Professjoni ta' l-Inginerija. Kap. 321.

**51.** (1) Din it-Taqsima temenda l-Att dwar il-Professjoni ta' l-Inginerija, u għandha tinqara' u tinftiehem haġa wahda ma' l-Att dwar il-Professjoni ta' l-Inginerija, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

(2) Din it-Taqsima għandha tidhol fis-sehh mal-pubblikazzjoni ta' dan l-Att.

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

**52.** L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fit-tifsira "Bord", minflok il-kliem "Bord ta' l-Inginerija" għandhom jidhlu l-kliem "Bord tal-Professjoni ta' l-Inginerija";

(b) fit-tifsira "Ministru" minflok il-kelma "infrastruttura" għandha tidhol il-kelma "xogħlijiet";

(ċ) minnufih wara t-tifsira "professjoni ta' inginier" għandha tidhol it-tifsira ġdida li ġejja:

" "provditur ta' servizz" tfisser kull persuna minn Stat Membru jew pajjiż miż-Żona Ekonomika Ewropea li teżerċita l-professjoni ta' inginier fuq bażi temporanja f'Malta;"; u

(d) minnufih wara t-tifsira ġdida "provditur ta' servizz" għandha tidhol it-tifsira ġdida li ġejja:

" "Stat Membru" tfisser Stat Membru taż-Żona

Ekonomika Ewropea;".

53. L-artikolu 3 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 3 ta' l-Att prinċipali.

(a) fis-subartikolu (2) tiegħu -

(i) fil-paragrafu (a) tiegħu, minnufuh wara l-kliem "ċittadin ta' Malta" għandhom jidhlu l-kliem "jew ta' Stat Membru jew li tkun xort'oħra legalment intitolata li taħdem f'Malta"; u

(ii) minflok is-subparagrafu (i) tal-paragrafu (d) tiegħu, għandu jidhol dan li ġej:

"(i) ikollha dak il-grad ta' l-Università ta' Malta jew kwalifika akkademika ekwivalenti dwar il-professjoni ta' l-ingerija li t-tnejn li huma, fiż-żmien rilevanti, jkunu rikonoxxuti mill-Bord bħala suffiċjenti għall-għanijiet ta' dan l-artikolu;"; u

(b) minnufih wara s-subartikolu (4) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(5) Is-subartikolu (2) għandu jiġi interpretat skond ir-Regolamenti ta' l-2007 dwar ir-Rikonoxximent Reċiproku ta' Kwalifiki Professjonali." A.L. 422 ta' l-2007.

54. Minnufih wara l-artikolu 3 ta' l-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej: Żjieda ta' artikolu 3A ġdid ma' l-Att prinċipali.

"Riċevuta meta tasal applikazzjoni. 3A. (1) Il-Bord għandu jagħti riċevuta għal applikazzjoni biex persuna tikseb il-warrant mill-aktar fis possibbli u f'kull każ mhux aktar tard minn xahar minn meta tasal l-applikazzjoni. Jekk l-applikant ma jipprezentax id-dokumentazzjoni kollha, il-Bord għandu jinforma lill-applikant b'dan.

(2) Il-Bord għandu jtemm il-proċedura għall-eżami tal-applikazzjonijiet mill-aktar fis possibbli. Il-Bord għandu jagħti d-deċiżjoni motivata tiegħu fi żmien tliet xhur mid-data meta tkun giet riċevuta l-applikazzjoni kompluta. Il-Bord jista' jestendi dan il-perjodu b'xahar sakemm l-applikant ikun infurmat qabel it-tmiem taż-żmien oriġinali kif stabbilit taht dan is-subartikolu.

(3) F'każ li l-Bord ma jagħtix id-deċiżjoni tiegħu fiż-żmien kif stipulat fis-subartikolu (2), dan m'għandux jimplika l-approvazzjoni taċita tal-applikazzjoni.

(4) Ir-riċevuta msemmija fis-subartikolu (1) għandha tispeċifika:

(a) il-perjodu ta' żmien li matulu ser tiġi proċessata l-applikazzjoni;

(b) il-mezzi li jkunu disponibbli għar-rimedju; u

(ċ) dikjarazzjoni li tkun tghid li jekk ma tingħatax risposta fiż-żmien speċifikat, dan m'għandux ifisser li l-awtorizzazzjoni tkun ingħatat."

Emenda ta' l-artikolu 5 ta' l-Att prinċipali.

**55.** Fis-subartikolu (1) ta' l-artikolu 5 ta' l-Att prinċipali, minnufih wara l-kliem "jagħti liċenza speċjali lil xi persuna li jkollha" għandhom jidhlu l-kliem "kwalifiki akkademiċi li jkunu għall-anqas ekwivalenti għal dawk mnizzla fl-artikolu 3(2)(d) u li tkun ċittadin ta' pajjiż li mhuwiex fl-Unjoni Ewropea jew fiż-Żona Ekonomika Ewropea u li b'hekk ma taqax fl-ambitu tal-artikoli 3 u 5B u li jkollha".

Żieda ta' artikolu 5B ġdid ma' l-Att prinċipali.

**56.** Minnufih wara l-artikolu 5A ta' l-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

"Provvista temporanja ta' servizzi. Kap. 451.

5B. (1) Mingħajr preġudizzju għall-Att dwar ir-Rikonoxximent Reċiproku ta' Kwalifiki, u minkejja d-disposizzjonijiet ta' l-artikolu 3 ta' dan l-Att, kull persuna li tkun stabbilita fi Stat Membru ieħor tkun tista' tipprattika l-professjoni ta' inginier f'Malta fuq bażi temporanja u okkażjonali sakemm hija:

(a) tkun legalment stabbilita fi Stat Membru iehor bil-għan li tipprattika l-professjoni ta' inġinier f'dak l-Istat Membru; u

(b) tkun ipprattikat il-professjoni ta' inġinier għal minn ta' l-anqas sentejn matul l-għaxar snin li jiġu minnufih qabel l-ghoti tas-servizzi meta l-professjoni ta' l-inġinerija ma tkunx regolata f'dak l-Istat Membru.

(2) Persuni li jaqgħu taht is-subartikolu (1) għandhom jinfurmaw lill-Bord minn qabel permezz ta' dikjarazzjoni bil-miktub li tkun tinkludi dan li ġej:

(a) id-dettalji ta' polza ta' assigurazzjoni jew mezzi oħra ta' protezzjoni personali jew kollettiva għar-rigward ta' indennizz professjonali. Din id-dikjarazzjoni għandha ssir darba fis-sena fil-każ li l-applikant ikollu f'moħħu jipprovdri servizzi temporanji jew okkażjonali tul is-sena;

(b) prova taç-çittadinanza ta' l-applikant;

(c) affermazzjoni li tiçcertifika li d-detentur tal-*warrant* ikun legalment stabbilit fi Stat Membru bil-għan li jsegwi l-attivitajiet konċernati u li ma jkunx projbit milli jippratika l-professjoni ta' inġinier ukoll temporanjament, fil-mument li jippreżenta l-affermazzjonijiet;

(d) evidenza ta' kwalifiki professjonali; u

(e) fejn japplika, kull mezz ta' prova li l-applikant ikun ipprattika l-professjoni ta' l-inġinerija għal mill-anqas sentejn matul l-għaxar snin li jiġu minnufih qabel l-ghoti tas-servizzi.

(3) Meta l-Bord, waqt l-eżerċizzju ta' l-awtorità tiegħu taht dan l-artikolu, iqis illi hemm differenza sostanzjali bejn il-kwalifiki professjonali ta' l-applikant u l-kwalifiki akkademiċi mehtieġa taht l-artikolu 3(2)(d)(i), sal-punt li d-differenza tkun tali li tikkawża danni lis-saħħa pubblika, is-sigurtà pubblika u s-sikurezza pubblika, l-Bord għandu jagħti lill-applikant l-opportunità li juri, b'mod partikolari permezz ta' test attitudinali, illi jkun kiseb il-konoxxenza jew il-kompetenza li ma kellux.

(4) Il-Bord għandu jeżamina n-natura temporanja u okkażjonali tal-provvista tas-servizzi każ b'każ.

(5) (a) Il-Bord għandu jagħti d-deċiżjoni tiegħu fi żmien xahar minn meta jkun irċieva d-dikjarazzjoni msemmija fis-subartikolu (2).

(b) Kull meta d-deċiżjoni ma tkunx tista' tingħata fiż-żmien stabbilit, il-Bord għandu jinnnotifika din l-informazzjoni lill-applikant fiż-żmien stipulat fil-paragrafu (a). Il-Bord għandu jestendi b'xahar dan il-perjodu għal darba biss.

(ċ) Fl-eventwalità li l-Bord ma jagħtix id-deċiżjoni tiegħu fiż-żmien imsemmi fil-paragrafu (b), jistgħu jiġu provduti s-servizzi fl-inginerija li jaqgħu taht dan l-artikolu.

(6) Persuna li teżerċita l-professjoni taht dan l-artikolu għandha tkun meqjusa li hija detentur ta' *warrant* u d-disposizzjonijiet ta' dan l-Att u ta' kull liġi oħra jkunu japplikaw għaliha bl-istess mod u sa dak il-limitu kif japplikaw għal detenturi oħra ta' *warrant*."

Emenda ta' l-artikolu 6 ta' l-Att prinċipali.

**57.** L-artikolu 6 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "l-Bord ta' l-Inginerija" għandhom jidhlu l-kliem "l-Bord tal-Professjoni ta' l-Inginerija"; u

(b) minnufih wara s-subartikolu (8) tiegħu, għandu jidhol is-subartikolu ġdid li ġej:

"(9) Il-Bord għandu, fil-qadi tal-funzjonijiet tiegħu, jaġixxi b'mod indipendenti u imparzjali."

**58.** Minnufih wara l-artikolu 7 ta' l-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

Żjieda ta' artikolu 7A ġdid ma' l-Att prinċipali.

"Appelli. 7A. Deċiżjonijiet tal-Bord ikunu soġġetti għal appell quddiem it-Tribunal ta' Reviżjoni Amministrattiva mwaqqaf skond l-artikolu 5(1) ta' l-Att dwar il-Ġustizzja Amministrattiva."

Kap. 490.

**59.** L-artikolu 10 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 10 ta' l-Att prinċipali.

(a) fis-subartikolu (1) minflok il-kliem minn "Kull detentur ta' *warrant*" sal-kliem "li jkun sar mid-detentur tal-*warrant*" għandhom jidhlu l-kliem "Kull detentur ta' *warrant* jew kull persuna li tingħatalha liċenza speċjali taht dan l-Att jew kull persuna li tkun tipprattika l-professjoni ta' inginier fuq bażi temporanja u okkażjonali jew soċjetà reġistrata taht dan l-Att għandhom ikunu koperti minn assigurazzjoni għal indennizz kontra kull responsabbiltà li d-detentur tal-*warrant* jew kull persuna li tkun mogħtija liċenza speċjali taht dan l-Att jew persuna li tipprattika l-professjoni fuq bażi temporanja u okkażjonali jew dik is-soċjetà jista' jkollhom għal kumpens dwar xi telf jew hsara lil xi persuna minhabba f'xi għemil, żball jew nuqqas negligenti li jkun sar mid-detentur tal-*warrant*, jew minn kull persuna li tingħatalha liċenza speċjali taht dan l-Att jew minn kull persuna li tkun tipprattika l-professjoni ta' inginier fuq bażi temporanja u okkażjonali,";

(b) fil-proviso mas-subartikolu (1) tiegħu, minnufih wara l-kliem "Izda d-disposizzjonijiet ta' dan is-subartikolu ma għandhomx ikunu japplikaw għal detenturi ta' *warrant*" għandhom jiżdiedu l-kliem "jew għal persuni li jeżerċitaw il-professjoni ta' inginier fuq bażi temporanja u okkażjonali";

(ċ) is-subartikolu (2) għandu jiġi enumerat mill-ġdid bhala s-subartikolu (3) tiegħu u minflok il-kliem "Kull detentur ta' *warrant*" għandhom jidhlu l-kliem "Kull persuna"; u

(d) minnufih wara s-subartikolu (1) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Il-Bord għandu jirrikonoxxi biss assigurazzjoni għal responsabbiltà professjonali ta' persuna li tkun tipprovdi servizzi fl-inginerija skond l-

artikolu 5B(1) jekk il-Bord iqis li dik l-assigurazzjoni għal responsabbiltà professjonali tkun ekwivalenti jew essenzjalment tixbaħ fl-għan u l-materja li tkopri f'dak li hu r-riskju assigurat. Il-Bord għandu jitlob assigurarazzjoni jew garanzija supplimentari f'dawk il-każijiet meta l-assigurarazzjoni għal responsabbiltà professjonali ma tkunx biżżejjed biex tkopri r-riskji kollha."

Emenda ta' l-artikolu 11 ta' l-Att prinċipali.

**60.** L-artikolu 11 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minnufih wara l-kliem "Kull ftehim jew arrangament ieħor li jkollu l-ħsieb li jeżenta d-detentur ta' *warrant*" għandhom jidhlu l-kliem "jew lil persuna li tkun ingħatat liċenza speċjali taħt dan l-Att, jew lil persuna li teżerċita l-professjoni ta' inġinier fuq bażi temporanja u okkażjonali"; u

(b) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "Kull ftehim jew arrangament ieħor li bih detentur ta' *warrant*" għandhom jidhlu l-kliem "jew persuna li tkun ingħatat liċenza speċjali taħt dan l-Att, jew persuna li teżerċita l-professjoni ta' inġinier fuq bażi temporanja u okkażjonali,".

Emenda ta' l-artikolu 19 ta' l-Att prinċipali.

**61.** Fis-subartikolu (4) ta' l-artikolu 19 ta' l-Att prinċipali, minnufih wara l-kliem "Kull persuna li, meta ma tkunx detentur ta' *warrant* jew ta' liċenzja speċjali" għandhom jiżdiedu l-kliem "jew li ma jkollhiex il-jedd teżerċita temporanjament".

## TAQSIMA XIV

### EMENDI GĦALL-ATT DWAR L-EDUKAZZJONI

Emendi għall-Att dwar l-Edukazzjoni. Kap. 327.

**62.** (1) Din it-Taqsima temenda l-Att dwar l-Edukazzjoni, u għandha tinqara u tinftiehem haġa wahda ma' l-Att dwar l-Edukazzjoni, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

(2) Din it-Taqsima għandha tidhol fis-seħh mal-pubblikazzjoni ta' dan l-Att.

Emenda ta' l-artikolu 20 ta' l-Att prinċipali.

**63.** L-artikolu 20 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "mal-kundizzjonijiet minimi nazzjonali:" għandhom jidhlu l-kliem "mal-kundizzjonijiet minimi nazzjonali." u l-proviso li hemm miegħu għandu jiġi mħassar;

(b) fis-subartikolu (6) tiegħu, minnufih wara l-kliem "l-Ministru jirċievi l-applikazzjoni." għandhom jidhlu l-kliem "Deċiżjoni ta' ċhid ta' applikazzjoni għal liċenza għandha tkun akkumpanjata bir-raġunijiet għal dak iċ-ċhid. Jekk l-applikant ma jkunx ġie notifikat bid-deċiżjoni dwar l-applikazzjoni għal liċenza fiż-żmien stabbilit b'dan is-subartikolu, dan għandu jitqies li, għal raġunijiet ta' interess pubbliku, ifisser li l-applikazzjoni tkun ġiet miċhuda:" u minnufih wara għandu jidhol il-proviso ġdid li ġej:

"Izda ma titqiesx li tkun ġiet ipprezentata applikazzjoni għal liċenza sabiex tiġi stabbilita skola minn xi applikant kemm-il darba din ma tkunx mimlija kollha u jkollha magħha l-informazzjoni u d-dokumentazzjoni kollha meħtieġa:

Izda wkoll fil-każ ta' applikazzjoni magħmula skond is-subartikolu (2), applikazzjoni għal liċenza biex tiftaħ skola ma titqiesx li tkun ġiet ipprezentata mill-Knisja Kattolika jekk din ma tkunx iffirmata mill-Isqfijiet Ordinarji ta' Malta jew awtorizzata minnhom bil-miktub.";

(ċ) fis-subartikolu (9) tiegħu, minflok il-kliem "fil-livell ta' edukazzjoni avvanzata jew oghla." għandhom jidhlu l-kliem "fil-livell ta' edukazzjoni avvanzata jew oghla:" u minnufih wara għandu jidhol il-proviso ġdid li ġej:

"Izda meta applikant għal liċenza diġà jkollu liċenza jew ikun legalment stabbilit f'xi Stat Membru, il-Ministru, b'mod konformi mad-Direttiva 2006/123 tal-Parlament Ewropew u tal-Kunsill tat-12 ta' Diċembru, 2006 dwar servizzi fis-suq intern, m'għandux jiddupplika l-htigiet u l-kontrolli li huma ekwivalenti jew essenzjalment komparabbli fir-rigward tal-iskop tagħhom u li għalihom l-applikant jista' diġà jkun ġie soġġett fi Stat Membru ieħor."; u

(d) minflok is-subartikolu (10) tiegħu, għandu jidhol dan li ġej:

"(10) Meta applikazzjoni tiġi miċhuda, sospiża jew imħassra, l-applikant għal liċenza jista' jappella quddiem il-Qorti tal-Appell (Ġurisdizzjoni Inferjuri) skond id-disposizzjonijiet tal-artikolu 127.".

Emenda ta' l-artikolu 28 ta' l-Att prinċipali.

**64.** Fis-subartikolu (1) tal-artikolu 28 ta' l-Att prinċipali, minflok il-kliem "skond kif il-Kunsill jista' jiġi bżonn." għandhom jidhlu l-kliem "skond kif il-Kunsill jista' jiġi bżonn." u minnufih wara għandu jidhol il-proviso ġdid li ġej:

"Iżda applikazzjoni li ssir taht dan l-artikolu ma titqiesx li tkun ġiet ipprezentata minn applikant kemm-il darba din ma tkunx mimlija kollha u jkollha magħha l-informazzjoni u d-dokumentazzjoni kollha meħtieġa."

Emenda ta' l-artikolu 32 ta' l-Att prinċipali.

**65.** Fl-artikolu 32 ta' l-Att prinċipali, minnufih wara l-kliem "li biha jiċhad talba għal *warrant*," għandhom jidhlu l-kliem "jew meta ma tkunx ġiet notifikata lill-applikant id-deċiżjoni fiż-żmien stabbilit fl-artikolu 29,".

Żjieda ta' artikolu 33A ġdid ma' l-Att prinċipali.

**66.** Minnufih wara l-artikolu 33 ta' l-Att prinċipali, għandu jiżdied l-artikolu ġdid li ġej:

"Servizzi fuq bażi temporanja.

A.L. 422 ta' l-2007.

33A. Kull persuna stabbilita fi Stat Membru tista' teżerċita l-professjoni ta' għalliem f'Malta fuq bażi temporanja u ta' kultant jekk ikun hemm konformità mad-disposizzjonijiet tat-Taqsima II tar-Regolamenti tal-2007 dwar ir-Rikonoxximent Reċiproku ta' Kwalifiki Professjonali."

## TAQSIMA XV

### EMENDI GHALL-ATT DWAR AWTORITÀ DWAR IT-TRASPORT TA' MALTA

Emendi għall-Att dwar Awtorità dwar it-Transport ta' Malta. Kap. 332.

**67.** (1) Din it-Taqsima temenda l-Att dwar Awtorità dwar it-Transport ta' Malta u għandha tinqara u tinftiehem haġa waħda ma' l-Att dwar Awtorità dwar it-Transport ta' Malta, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

(2) Din it-Taqsima għandha tidhol fis-seħh mal-pubblikazzjoni ta' dan l-Att.

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

**68.** L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minnufih wara t-tifsira "settur tat-transport pubbliku" għandha tiżdied it-tifsira ġdida li ġejja:

" "Stat Membru" tfisser Stat Membru taż-Żona Ekonomika Ewropea;"

(b) minnufih wara t-tifsira "transport ta' oġġetti"

għandha tizdied it-tifsira ġdida li ġejja:

" "trattat" tfisser t-Trattat li jistabbilixxi l-Komunità Ewropea;".

**69.** L-artikolu 2A ta' l-Att prinċipali għandu jiġi enumerat mill-ġdid bħala l-artikolu 2B tiegħu.

Enumerazzjoni mill-ġdid ta' l-artikolu 2A ta' l-Att prinċipali.

**70.** Minnufih wara l-artikolu 2 ta' l-Att prinċipali għandu jiżdied l-artikolu 2A ġdid li ġej:

Żjieda ta' l-artikolu 2A ġdid ma' l-Att prinċipali.

"Tifsiriet fl-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern. 2A. Kemm-il darba ma jingħadx xort'oħra f'dan l-Att, għandhom japplikaw it-tifsiriet li hemm fl-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern."

**71.** Minnufih wara l-paragrafu (r) ta' l-artikolu 4(1) ta' l-Att prinċipali għandu jiżdied il-paragrafu ġdid li ġej:

Emenda ta' l-artikolu 4 ta' l-Att prinċipali.

"(s) li tagħmel dak kollu li huwa meħtieġ biex tiffaċilita t-tħaddim tal-libertà ta' stabbiliment għal provdituri ta' servizzi u l-libertà ta' servizzi fis-suq intern skond l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern, inkluż l-għoti lill-applikanti, provdituri jew riċevituri ta' kull informazzjoni u assistenza meħtieġa għall-aċċess u l-eżerċizzju ta' l-attivitajiet rilevanti li jsiru b'servizz u d-drittijiet kollha hekk relatati, u, meta meħtieġ, l-għoti ta' koperazzjoni, assistenza, u informazzjoni lill-awtoritajiet kompetenti fi Stati Membri oħra:

Iżda fit-twettiq tal-funzjonijiet u l-obbligi hawn fuq imsemmija, l-Awtorità għandha tiffaċilita u thegġeg il-komunikazzjoni b'mezzi elettronici."

**72.** Minnufih wara s-subartikolu (6) ta' l-artikolu 34 ta' l-Att prinċipali għandu jiżdied is-subartikolu (7) ġdid li ġej:

Emenda ta' l-artikolu 34 ta' l-Att prinċipali.

"(7) Xejn f'dan l-artikolu ma għandu jiftiehem li jillimita, jirrestringi jew b'mod ieħor jolqot xi liġi, regolament jew regola oħra dwar il-kondizzjonijiet u kriterji li bihom l-Awtorità tista' tagħti, iġġedded, tiċhad li tagħti, tiċhad li ġġedded, tissospendi jew tirrevoka liċenza għal servizzi li jaqgħu fl-iskop ta' l-applikazzjoni ta' l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern:

Iżda s-servizzi fil-qasam tat-trasport kif imfissra fl-Artikolu 45 tat-Trattat m'għandhomx jiġu meqjusin bħala inklużi fl-iskop ta' l-applikazzjoni ta' l-Att ta' l-2009 dwar

Servizzi li jinghataw fis-Suq Intern:

Iżda ukoll, minghajr preġudizzju għat-tifsira ta' "liċenza" fl-artikolu 2, meta l-Awtorità teħtieġ lil xi provditur jipprovdi ċertifikat, attestazzjoni jew dokument li jkun ta' prova li xi hteġa tkun giet sodisfatta skond l-Att ta' l-2009 dwar Servizzi li jinghataw fis-Suq Intern, l-Awtorità għandha taċċetta kull ċertifikat, attestazzjoni jew dokument li jiġi minn xi Stat Membru ieħor u li jkollu skop ekwivalenti jew li minnu jkun jidher ċar li l-hteġa inkwistjoni tkun giet sodisfatta u ma tistax teħtieġ li ċertifikat, attestazzjoni jew dokument minn xi Stat Membru ieħor jingieb fil-forma oriġinali tiegħu jew bħala kopja ċertifikata jew bħala traduzzjoni ċertifikata hlief f'dawk il-każijiet fejn hemm provdut dwarhom f'xi strument Komunitarju jew meta dik il-hteġa tkun ġustifikata b'raġuni li tipprevali li tkun relatata ma' l-interess pubbliku, inkluż l-ordni pubbliku u s-sigurezza pubblika."

Żjieda ta' artikolu 35 ġdid ma' l-Att prinċipali.

**73.** Minnufih wara l-artikolu 34 ta' l-Att prinċipali għandu jiżdied l-artikolu 35 ġdid li ġej:

"Servizzi li jaqgħu fl-ambitu ta' l-Att ta' l-2009 dwar Servizzi li jinghataw fis-Suq Intern.

35. Meta attivitajiet li jsiru b'servizz jaqgħu fl-iskop ta' l-applikazzjoni ta' l-Att ta' l-2009 dwar Servizzi li jinghataw fis-Suq Intern, l-Awtorità għandha tirrispetta d-dritt ta' provditur, li jkun legalment stabbilit u li jipprovdi servizzi fi Stat Membru ieħor, li jipprovdi servizzi f'Malta:

Iżda l-Awtorità tista' timponi hteġiet fir-rigward tal-provdiment ta' attivitajiet li jsiru b'servizz meta dawn ikunu ġustifikati b'raġunijiet relatati mal-politika pubblika, s-sigurezza pubblika, s-saħħa pubblika jew il-harsien ta' l-ambjent:

Iżda wkoll meta tkun qegħda tistabilixxi jekk provditur ikunx qieghed jeżerċita l-libertà tiegħu li jipprovdi servizzi fi hdan it-tifsira ta' l-artikolu 6 ta' l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern u ta' l-Artikolu 49 tat-Trattat, jew jekk ikunx każ ta' stabbiliment, jew jekk provditur ta' servizzi jkunx qieghed assolutament jiehu vantaġġ mil-libertà li jforni servizzi, l-Awtorità għandha tivvaluta u tiddeċiedi kull każ fuq il-mertu individwali tiegħu u f'konformità mad-dritt Komunitarju u mad-deċiżjonijiet tal-Qorti Ewropea tal-Ġustizzja."

## TAQSIMA XVI

### EMENDI GHALL-ATT DWAR IS-SERVIZZI TA' IMPJIEG U TAHRIĠ

74. (1) Din it-Taqsima temenda l-Att dwar is-Servizzi ta' Impieg u Tahriġ, u għandha tinqara u tintfiehem haġa waħda ma' l-Att dwar is-Servizzi ta' Impieg u Tahriġ, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emendi għall-Att dwar is-Servizzi ta' Impieg u Tahriġ. Kap. 343.

(2) Din it-Taqsima għandha tidhol fis-sehh mal-pubblikazzjoni ta' dan l-Att.

75. L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

(a) it-tifsira "Direttur" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "Direttur" tfisser id-Direttur tar-Relazzjonijiet Industrijali u Impieg u tinkludi kull uffiċjal tad-Dipartiment tar-Relazzjonijiet Industrijali u Impieg li jkun awtorizzat mid-Direttur li jaġixxi f'ismu"; u

(b) minnufih wara t-tisira "sena finanzjarja", għandha tidhol it-tifsira ġdida li ġejja:

" "Stat Membru" tfisser stat membru ta' l-Unjoni Ewropea jew taż-Żona Ekonomika Ewropea";

76. L-artikolu 23 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 23 ta' l-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-

subartikolu ġdid li ġej:

"(1) Minghajr preġudizzju għad-disposizzjonijiet tat-Taqsima III ta' dan l-Att, hadd ma jista' jiġġestixxi aġenzija ta' l-impieg jew negozju ta' l-impieg hlief jekk:

(a) ikollu liċenza valida maħruġa lilu mid-Direttur li tkun tawtorizzah li jmessi dik l-aġenzija jew dak in-negozju f'dak il-fond li jiġi hekk speċifikat fil-liċenza, jew

(b) ikun detentur ta' awtorizzazzjoni relevanti stabbilit skond il-ligi fi Stat Membru biex jiġġestixxi negozju bħala aġenzija ta' l-impieg, minn awtorità kompetenti fi Stat Membru u jkun innotifika lid-Direttur bl-intenzjoni tiegħu li jipprovdi jew li jkun qed jipprovdi servizzi ta' aġenzija ta' l-impieg fi żmien hamest ijiem ta' xogħol mid-data tat-tnedija ta' din l-attività:

Izda għall-finijiet ta' dan l-artikolu, it-terminu 'awtorizzazzjoni relevanti' jfisser l-awtorizzazzjoni biex jiġu pprovduti servizzi ta' aġenzija ta' l-impieg maħruġa minn awtorità kompetenti ta' Stat Membru u għandu jinqara u jinftiehem skond l-Att ta' 2009 dwar is-Servizzi li jingħataw fis-Suq Intern:

Izda wkoll id-Direttur jista' jimponi kull hteġa neċessarja fuq id-detenturi ta' awtorizzazzjoni relevanti msemmija fil-paragrafu (b) skond l-Att ta' 2009 dwar is-Servizzi li jingħataw fis-Suq Intern.";

(b) is-subartikoli (2) sa (13) tiegħu għandhom jiġu mhassra; u

(ċ) is-subartikolu (14) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (2).

Emenda ta' l-artikolu 24 ta' l-Att prinċipali.

**77.** Is-subartikolu (1) ta' l-artikolu 24 ta' l-Att prinċipali għabdu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Meta d-Direttur ikollu intenzjoni li jirrifjuta li johroġ, jew li jittrasferixxi liċenza jew li jirrevoka l-istess, huwa għandu jinnotifika lill-applikant għal, jew detentur ta', il-liċenza, jew il-persuna li lilha jintalab li jsir it-trasferiment, bl-intenzjoni tiegħu u r-raġuni għaliha."

## TAQSIMA XVII

### EMENDI GHALL-ATT DWAR IL-PERITI

**78.** (1) Din it-Taqsima temenda l-Att dwar il-Periti, u għandha tinqara' u tinftiehem haħa waħda ma' l-Att dwar il-Periti, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

Emenda għall-Att dwar il-Periti.  
Kap. 390.

(2) Din it-Taqsima għandha tidhol fis-seħh mal-pubblikazzjoni ta' dan l-Att.

**79.** L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

(a) minnufih wara t-tifsira "professjoni" għandha tiżdied it-tifsira ġdida li ġejja:

" "provvidur ta' servizz" tfisser kull persuna minn Stat Membru jew xi pajjiż miż-Żona Ekonomika Ewropea li teżerċita l-professjoni fuq bażi temporanja f'Malta;" u

(b) minnufih wara t-tifsira "Stat Membru" għandha tiżdied it-tifsira ġdida li ġejja:

" "Trattat" tfisser it-Trattat li jistabbilixxi l-Komunità Ewropea;".

**80.** Minnufih wara s-subartikolu (2) ta' l-artikolu 3 ta' l-Att prinċipali, għandu jiżdied is-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 3 ta' l-Att prinċipali.

"(3) Is-subartikolu (2) għandu jiġi interpretat skond ir-Regolamenti ta' l-2007 dwar ir-Rikonoxximent Reċiproku ta' Kwalifiki Professjonali".

A.L. 422 ta' l-2007.

**81.** Minnufih wara l-artikolu 5 ta' l-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

Żjieda ta' artikolu 5A ġdid ma' l-Att prinċipali.

"Provviista temporanja ta' servizzi.  
Kap. 451.

5A. Mingħajr preġudizzju għall-Att dwar ir-Rikonoxximent Reċiproku ta' Kwalifiki, u minkejja d-disposizzjonijiet ta' l-artikoli 3 u 4 ta' dan l-Att, kull persuna li tkun stabbilita fi Stat Membru iehor tkun tista' tipprattika l-professjoni f'Malta fuq bażi temporanja u okkażjonali soġġetta għal rekwiżiti oħra li jistgħu jiġu provduti taħt dan l-Att."

Emenda ta' l-artikolu 7 ta' l-Att prinċipali.

**82.** Minflok is-subartikolu (2) ta' l-artikolu 7 ta' l-Att prinċipali, għandu jidhol is-subartikolu ġdid li ġej:

"(2) Il-Bord għandu jeżerċita l-funzjonijiet tiegħu indipendentement u skond l-arbitriju tiegħu. Fl-eżerċizzju tal-funzjonijiet tiegħu l-Bord jista':

(a) jikkonsulta lil dawk il-persuni skond ma jista' jidhirlu li jkunu meħtieġa; u

(b) jahtar kumitati li l-president tagħhom ikun membru tal-Bord biex jaqdu dawk id-dmirijiet u hidmiet li l-Bord jista' jassenjalhom."

Żjieda ta' artikolu 7A ġdid ma' l-Att prinċipali.

**83.** Minnufih wara l-artikolu 7 ta' l-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

"Appelli. 7A. Deċiżjonijiet tal-Bord ikunu soġġetti għal appell quddiem it-Tribunal ta' Reviżjoni Amministrattiva mwaqqaf skond l-artikolu 5(1) ta' Kap. 490. l-Att dwar il-Ġustizzja Amministrattiva."

## TAQSIMA XVIII

### EMENDI GHALL-ATT DWAR IS-SERVIZZI TA' L-IVVJAĠĠAR U TAT-TURIŻMU GHAL MALTA

Emendi għall-Att dwar is-Servizzi ta' l-Ivvjaġġar u tat-Turiżmu għal Malta. Kap. 409.

**84.** (1) Din it-Taqsima temenda l-Att dwar is-Servizzi ta' l-Ivvjaġġar u tat-Turiżmu għal Malta u għandha tinqara u tinftiehem haġa waħda ma' l-Att dwar is-Servizzi ta' l-Ivvjaġġar u tat-Turiżmu għal Malta, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

(2) Din it-Taqsima għandha tidhol fis-seħħ mal-pubblikazzjoni ta' dan l-Att.

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

**85.** Fl-artikolu 2 tal-Att prinċipali:

(a) it-tifsira "gwida tat-turisti" għandha tiġi sostitwita b'dan li ġej:

" "gwida tat-turisti" tfisser persuna li jmexxi lill-visitaturi bil-lingwa ta' l-għazla tagħhom u jinterpreta l-wirt kulturali u naturali ta' Malta u/jew post jew postijiet speċifiċi, u li jkollu l-kwalifika speċifika relevanti u liċenzja magħrufa u/jew rikonoxxuta mill-Awtorità;"

(b) minnufih wara t-tifsira "stabbiliment li jipprovdi l-

ikel" għandha tidhol it-tifsira ġdida li ġejja:

" "Stat Membru" tfisser Stat Membru taż-Żona Ekonomika Ewropea;" u

(è) minnufih wara d-definizzjoni "uffiċjal pubbliku" għandha tizdied din it-tifsira:

" "rekwiżiti" tfisser kull obbligazzjoni, projbizzjoni, kundizzjoni jew limitazzjoni, provdut fil-liġijiet jew regolamenti jew fid-disposizzjonijiet amministrattivi, jew prattiċi amministrattivi ta' l-Awtorità;"

**86.** L-artikolu 17 ta' l-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni ta' l-artikolu 17 ta' l-Att prinċipali.

"Żvelar ta' interess f'kuntratt.

17. (1) Kull membru ta' l-Awtorità u ta' xi kumitat, kummissjoni jew korp ieħor imwaqqaf b'dan l-Att li jkollu interess dirett jew indirett f'xi haġa partikolari li tiġi kkunsidrata jew li għandha tiġi kkunsidrata mill-Awtorità jew minn dak il-korp ieħor, għandu jiddikara x-xorta ta' l-interess tiegħu jew fil-laqgħa fejn il-kwistjoni tiġi kkunsidrata għall-ewwel darba jew, jekk fid-data ta' dik il-laqgħa ma kienx interessat f'dik il-haġa, fl-ewwel laqgħa li jmiss wara li jkun sar hekk interessat.

(2) Mingħajr ħsara għad-disposizzjonijiet tas-subartikolu (1), meta f'laqgħa tal-Awtorità tqum xi wahda minn dawn il-kwistjonijiet, jiġifieri -

(a) arrangament li l-Awtorità hi parti minnu jew proposta għal arrangament bħal dan, jew

(b) kuntratt jew ftehim ieħor mal-Awtorità jew proposta għal kuntratt jew ftehim ieħor bħal dan, jew

(è) il-valutazzjoni ta' xi applikazzjoni li tirrigwarda l-hruġ jew tiġdid ta' liċenza jew awtorizzazzjoni u xi deċiżjoni li tirrigwarda l-istess liċenza jew awtorizzazzjoni, jew

(d) kull deċiżjoni tal-Awtorità wara xi analiżi tal-operat tad-detentur tal-liċenza, jew

(e) xi haġa oħra partikolari fejn membru tal-Awtorità jew ta' dak il-korp ieħor, għandu b'xi mod, direttament jew indirettament, interess,

f'dan il-każ, kull membru tal-Awtorità preżenti fil-laqgħa li, f'kapaċità li mhijiex il-kapaċità tiegħu bħala tali membru, għandu interess materjali fil-kwistjoni għandu -

(i) fil-laqgħa, jiżvela lill-Awtorità l-fatt u n-natura ta' dan l-interess,

(ii) jassenta ruħu mil-laqgħa jew dik il-parti mil-laqgħa li matulha tkun qed tiġi diskussa din il-kwistjoni,

(iii) ma jiehu ebda parti fi kwalunkwe deliberazzjoni tal-Awtorità li għandha x'taqsam mal-kwistjoni, u

(iv) ma jivvutax fuq deċiżjoni marbuta ma' din il-kwistjoni.

(3) Meta jiġi divulgat interess materjali skond is-subartikolu (2), l-interess divulgat għandu jitniżżel fil-minuti tal-laqgħa kkonċernata u, sakemm il-kwistjoni relata mad-divulgazzjoni tkun ittrattata fil-laqgħa, il-membru li jkun għamel id-divulgazzjoni m'għandux jingħadd fil-kworum tal-laqgħa.

(4) Membru tal-Awtorità li, barra mill-kapaċità tiegħu jew tagħha bħala membru għandu interess materjali -

(a) f'arrangament jew arrangament propost li għalih japplika s-subartikolu (2)(a); jew

(b) f'kuntratt jew ftehim ieħor jew kuntratt jew ftehim propost ieħor li għalihom japplika s-subartikolu (2)(b); jew

(ċ) fil-valutazzjoni ta' xi applikazzjoni li tirrigwarda l-hruġ jew tiġdid ta' liċenza jew awtorizzazzjoni u xi deċiżjoni li tirrigwarda l-istess liċenza jew awtorizzazzjoni, jew

(d) f'xi deċiżjoni tal-Awtorità wara xi analiżi tal-operat ta' detentur ta' liċenza; jew

(e) f'xi haġa oħra partikolari fejn membru tal-Awtorità jew ta' dak il-korp ieħor, għandu b'xi mod, direttament jew indirettament, interess,

ma għandu la jinfluwenza u lanqas jipprova jinfluwenza xi deċiżjoni li l-Awtorità għandha tiegħu f'dak ir-rigward.

(5) Meta f'laqgħa tal-Awtorità tqum kwistjoni dwar jekk linja ta' mġieba, jekk segwita minn membru tal-Awtorità, tikkostitwix nuqqas minnu jew minnha biex jikkonforma mar-rekwiżiti tas-subartikoli (2) u (3), il-kwistjoni tista', bla ħsara għas-subartikolu (6), tkun determinata miċ-*chairperson* tal-laqgħa, li d-deċiżjoni tiegħu tkun finali, u fejn tali kwistjoni tkun hekk determinata, il-partikolaritajiet ta' din id-determinazzjoni għandhom jitniżżlu fil-minuti tal-laqgħa.

(6) Meta f'laqgħa tal-Awtorità ċ-*chairperson* tal-laqgħa jkun il-membru li fil-konfront tiegħu trid tiġi determinata kwistjoni li għaliha japplika s-subartikolu (5), f'dan il-każ il-membri l-oħra tal-Awtorità li jkunu preżenti għall-laqgħa għandhom jagħżlu wieħed minn fosthom biex ikun iċ-*chairperson* tal-laqgħa sabiex jiddetermina l-kwistjoni kkonċernata.

(7) Meta l-Ministru jkun sodisfatt li membru tal-Awtorità kiser xi disposizzjoni ta' dan l-artikolu, il-Ministru jista', jekk hu jaħseb li jkun hekk xieraq, ineħhi dak il-membru mill-kariga u, meta persuna titneħha mill-kariga bis-saħħa ta' dan is-subartikolu, minn dak iż-żmien 'il quddiem hi ma tibqax tikkwalifika biex tkun membru tal-Awtorità.

(8) Il-kliem 'interest materjali' f'dan l-artiklu, jinkludi wkoll, izda mhux biss, li wiehed ikun fl-istess kwalità ta' xoghol bhall-applikant jew id-detentur tal-liċenza, skond il-każ li jkun."

Emenda ta' l-artikolu 18 ta' l-Att prinċipali.

ġej:

**87.** L-artikolu 18 ta' l-Att prinċipali għandu jiġi emendat kif

(a) fis-subartikolu (4), wara l-kelma "speċifikat.", għandu jiżdied il-paragrafu li ġej:

"Izda t-tigdid tal-liċenza għandu jkun suġġett biss għal kisba kontinwa tar-rekwiżiti rilevanti applikabbli fis-seħh f'dak iż-żmien."; u

(b) is-subparagrafu (7) għandu jiġi mħassar u sostitwit b'dan li ġej:

"(7) Liċenza tista' tiġi mogħtija jew imġedda kif suġġetta għal tali rekwiżiti, kundizzjonijiet, limitazzjonijiet u esklużjonijiet kif l-Awtorità tista' tikkonsidra neċessarju, xierqa, proporzjonali skond dan l-Att."

Emenda ta' l-artikolu 19 ta' l-Att prinċipali.

ġej:

**88.** L-artikolu 19 ta' l-Att prinċipali għandu jiġi emendat kif

(a) fil-paragrafu (a), il-kliem "Barra minn dan, il-persuna li tkun fil-fatt ser tmexxi għandha tkun kwalifikata u, jew ikollha esperjenza li hekk tmexxi għas-sodisfazzjoni ta' l-Awtorità;", għandhom jiġu mħassra; u

(b) fil-paragrafu (a) wara l-paragrafu li jispiċċa bil-kliem "illi fil-fatt teżegwixxi dik it-tmexxija jew tipprovdi dak l-alloġġ.", għandu jiżdied il-paragrafu li ġej:

"Il-persuna li tkun responsabbli għal dik it-tmexxija jew li tipprovdi l-alloġġ jew min fil-fatt imexxi dik it-tmexxija jew jipprovdi dak l-alloġġ irid ikollu l-kapaċitajiet u l-kompetenzi neċessarji biex imexxi n-negozju ta' lukanda, *guest house*, *hostel*, postijiet għall-vaganzi jew stabbiliment li jipprovdi l-ikel jew li sejra tipprovdi alloġġ f'dar, skond il-każ, għas-sodisfazzjoni ta' l-Awtorità permezz ta' jew kwalifiki formali rilevanti minn istituzzjoni ta' taħriġ rikonoxxut jew minn ta' l-inqas sentejn esperjenza fit-tmexxija ta' attività ta' negozju simili;"

**89.** Fl-artikolu 20 ta' l-Att prinċipali l-kliem "tiġi trasferita lil kull persuna li fil-fehma ta' l-Awtorità għandha attributi", għandhom jiġu mhassra u sostitwiti bil-kliem "tiġi trasferita lil kull persuna li tissodisfa r-rekwiżiti".

Emenda ta' l-artikolu 20 ta' l-Att prinċipali.

**90.** L-artikolu 27 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 27 ta' l-Att prinċipali.

(a) fis-subartikolu (2), wara l-kliem "kif jiġi speċifikat." għandu jidhol dan il-proviso li ġej:

"Izda li t-tiġdid tal-liċenza għandha tkun suġġetta biss għall-kisba kontinwa tar-rekwiżiti rilevanti applikabbli fis-sehħ f'dak iż-żmien."; u

(b) minflok is-subartikolu (4) għandu jiġi sostitwit dan li ġej:

"(4) Liċenza tista' tinhareġ jew tiġġedded kif soġġetta għal dawk ir-rekwiżiti, kundizzjonijiet, limitazzjonijiet u esklużjonijiet li l-Awtorità tista' tikkunsidra neċessarji, xierqa u proporzjonali skond dan l-Att."

**91.** Is-subartikolu (a) ta' l-artikolu 28 ta' l-Att prinċipali għandu jiġi mhassar u sostitwit b'dan li ġej:

Emenda ta' l-artikolu 28 ta' l-Att prinċipali.

"(a) Il-persuna li tapplika għaliha hi ta' kondotta tajba u hija tajba u idonea biex tingħata u tmexxi liċenza għar-rigward ta' negozju ta' agent tat-turiżmu jew agent ta' l-ivvjaġġar jew *destination management company*, skond il-każ:

Izda jekk l-applikant ikun persuna ġuridika -

(i) ir-rekwiżiti msemmija fil-paragrafu preċedenti għandhom japplikaw għal dik il-persuna magħżula biex tkun responsabbli għat-tmexxija ta' l-attività tan-negozju li tkun qed tiġi liċenzjata;

(ii) il-persuna li tapplika għal dik il-liċenza jkollha l-kapaċitajiet u l-kompetenzi neċessarji biex tmexxi n-negozju ta' agent tat-turiżmu, jew ta' agent ta' l-ivvjaġġar jew ta' *destination management company*, skond il-każ, għas-sodisfazzjon ta' l-Awtorità permezz ta' jew kwalifiki formali rilevanti minn istituzzjoni rikonoxxuta tat-taħriġ jew minn ta' l-inqas sentejn esperjenza fit-tmexxija ta' attività ta' negozju simili:

Iżda wkoll meta l-applikant hija persuna ġuridika, r-rekwiżiti msemmija fil-paragrafu preċedenti għandhom japplikaw għal dik il-persuna magħmula biex tkun responsabbli għat-tmexxija ta' dik l-attività ta' negozju li tkun qed tiġi liċenzjata."

Emenda ta' l-artikolu 30 ta' l-Att prinċipali.

**92.** Fis-subartikolu (1) ta' l-artikolu 30 ta' l-Att prinċipali, il-kliem "fil-fehma ta' l-Awtorità tissodisfa d-disposizzjonijiet ta' l-artikolu 28" għandhom jiġu mħassra u sostitwiti bil-kliem "tissodisfa d-disposizzjonijiet ta' l-artikolu 28".

Emenda ta' l-artikolu 31 ta' l-Att prinċipali.

**93.** Is-subartikolu (1) ta' l-artikolu 31 ta' l-Att prinċipali għandu jiġi mħassar u sostitwit b'dan li ġej:

"(1) Kull attività turistica li teħtieġ liċenza skond dan l-Att, hliet għal liċenza biex wiehed jagħmilha ta' gwida tat-turisti sakemm mhux stabbilit speċifikament fir-Regolamenti magħmula taħt dan l-Att, għandha tissodisfa lill-Awtorità li f'kull waqt għandha favur tagħha polza ta' assikurazzjoni lejn terzi persuni u, barra minn dan, jew jekk mitluba mill-Awtorità, polza ta' assikurazzjoni għal indenizz professjonali, liema polza jew poloz għandhom jindeminizzaw lill-attività nnifisha, u lil kull persuna li tkun impjegata magħha, jew li tkun qiegħda xort'ohra ta'gixxi għal dik l-attività, għal dak l-ammont, b'dak il-mod, u dwar dawk l-affarijiet kif l-Awtorità tiddeċiedi."

Emenda ta' l-artikolu 32 ta' l-Att prinċipali.

**94.** L-artikolu 32 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2), wara l-kliem "kif jiġi speċifikat.", għandu jidhul dan il-proviso li ġej:

"Iżda li t-tiġdid tal-liċenza għandu jkun suġġett biss għal kisba kontinwa tar-rekwiżiti rilevanti applikabbli fis-seħh f'dak iż-żmien."; u

(b) is-subartikolu (4) għandu jiġi mħassar u sostitwit b'dan li ġej:

"(4) Liċenza tista' tiġi mogħtija jew imġedda kif suġġetta għar-rekwiżiti, kundizzjonijiet, limitazzjonijiet jew esklużjonijiet kif l-Awtorità tista' tikkonsidra neċessarju, xieraq u proporzjonali skond dan l-Att."

Emenda ta' l-artikolu 33 ta' l-Att prinċipali.

**95.** Is-subartikolu (a) ta' l-artikolu 33 ta' l-Att prinċipali għandu jiġi mħassar u sostitwit b'dan li ġej:

"(a)(i) il-persuna li tapplika għaliha hi ta' kondotta tajba u

li hija tajba u idonea biex tinghata u tmexxi liċenża għar-rigward ta' negozju ta' operatur ta' ġiti organizzati:

Iżda jekk l-applikant tkun persuna ġuridika, r-rekwiżiti msemmija fil-paragrafu preċedenti għandhom japplikaw għal dik il-persuna magħżula biex tkun responsabbli għat-tmexxija ta' l-attività tan-negozju li tkun qed tiġi liċenzjata;

(ii) il-persuna li tapplika għal dik il-liċenża jkollha l-kapaċitajiet u l-kompetenzi neċessarji biex tmexxi n-negozju ta' operatur ta' ġiti organizzati, għas-sodisfazzjon ta' l-Awtorità permezz ta' jew kwalifiki formali rilevanti minn istituzzjoni rikonoxxuta tat-tahriġ jew minn ta' l-inqas sentejn esperjenza fit-tmexxija ta' attività ta' negozju simili:

Iżda fejn l-applikant hija persuna ġuridika, r-rekwiżiti msemmija fil-paragrafu preċedenti għandhom japplikaw għal dik il-persuna magħżula biex tkun responsabbli għat-tmexxija ta' dik l-attività ta' negozju li tkun qed tiġi liċenzjata;"

**96.** Fis-subartikolu (1) tal l-artikolu 35 ta' l-Att prinċipali, il-kliem "li fil-fehma ta' l-Awtorità tissodisfa d-disposizzjonijiet ta' l-artikolu 33" għandhom jiġu mhassra u sostitwiti bil-kliem "jissodisfa r-rekwiżiti ta' l-artikolu 33".

Emenda ta' l-artikolu 35 ta' l-Att prinċipali.

**97.** L-artikolu 36 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 36 ta' l-Att prinċipali.

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

"(1) Ebda persuna m'għandha taġixxi, tagħmilha li qed taġixxi bhala gwida tat-turisti jew tuża t-titlu ta' "gwida tat-turisti", jekk ma jkollhiex liċenża skond dan l-Att jew Regolamenti maħruġa taht l-Att.";

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

"(2) Liċenża tista' tiġi mogħtija jew imgedda kif sugġetta għar-rekwiżiti, kundizzjonijiet, limitazzjonijiet jew esklużjonijiet kif l-Awtorità tista' tikkonsidra neċessarju, xieraq u proporzjonali skond dan l-Att."; u

(ċ) is-subartikolu (4) għandu jiġi mhassar.

**98.** L-artikolu 37 ta' l-Att prinċipali għandu jiġi mhassar u sostitwit b'dan li ġej:

Emenda ta' l-artikolu 37 ta' l-Att prinċipali.

"37. Liċenża m'għandiex tinhareġ għall-finijiet ta' l-artikolu 36 hlief jekk:

(a) Il-persuna li tapplika għaliha tkun ta' kondotta tajba u idonea u tajba biex tagħmilha ta' gwida tat-turisti; u

(b) Il-persuna li tapplika għaliha jkollha l-kwalifiki relevanti biex tagħmilha ta' gwida tat-turisti, jew

(ċ) turi li għandha l-kompetenzi teoretiċi u prattiċi u l-esperjenza meqjusa u rikonoxxuta bħala ekwivalenti għal (b), mill-Awtorità skond dan l-Att u r-Regolamenti mahruġa taħt dan l-Att."

Emenda ta' l-artikolu 47 ta' l-Att prinċipali.

**99.** Is-subartikolu (1)(b) ta' l-artikolu 47 ta' l-Att prinċipali għandu jiġi mħassar u sostitwit b'dan li ġej:

"(b) jehtieg li xi kategorija jew klassi ta' nies impjegati kemm jekk impjegati jew *self-employed*, f'xi hidma tat-turiżmu għandu jkollhom dawk il-liċenzi jew ikollhom dawk iċ-ċertifikati ta' kompetenza jew kwalifiki kif jiġi preskritt;"

## TAQSIMA XIX

### EMENDI GĦALL-ATT DWAR L-AWTORITÀ TA' MALTA DWAR IR-RIŻORSI

Emendi għall-Att dwar l-Awtorità ta' Malta dwar ir-Riżorsi. Kap. 423.

**100.** (1) Din it-Taqsima temenda l-Att dwar l-Awtorità ta' Malta dwar ir-Riżorsi u għandha tinqara u tinftiehem haġa waħda ma' l-Att dwar l-Awtorità ta' Malta dwar ir-Riżorsi, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

(2) Din it-Taqsima għandha tidhol fis-seħh mal-pubblikazzjoni ta' dan l-Att.

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

**101.** L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fit-tifsira "awtorizzazzjoni" minflok il-kliem "jew servizz ikunu kif ikunu deskritti li għandu x'jaqsam mar-riżorsi", għandhom jidhlu l-kliem "li għandu x'jaqsam mar-riżorsi u ma' dak li għandu x'jaqsam ma' servizzi u provdituri ta' servizzi tfisser permess, liċenża, *warrant*, haġra, konċessjoni jew kull deċiżjoni li tirrigwarda attività ta' servizz jew l-eżerċizzju tagħha li għandha x'taqsam mar-riżorsi";

(b) minnufih wara t-tifsira "provditur awtorizzat" għandha tiżdied it-tifsira ġdida li ġejja:

" "provvidur ta' servizz" tfisser kull persuna li hija ċittadina ta' Stat Membru, jew kull persuna ġuridika kif imsemmija fl-Artikolu 48 tat-Trattat u stabbilita fi Stat Membru, li tkun toffri jew li tkun tipprovdi servizz;"

(ċ) minnufih wara t-tifsira ġdida "provvidur ta' servizz" għandha tiżdied it-tifsira ġdida li ġejja:

"raġunijiet aktar importanti fir-rigward tal-interess pubbliku" tfisser ir-raġunijiet rikonoxxuti bħala tali fil-każistika tal-Qorti tal-Ġustizzja Ewropea għar-rigward tal-Artikoli 43 u 49 tat-Trattat, u hekk kif dawn jistgħu jibqgħu jevolvu u inklużi r-raġunijiet li ġejjin:

(a) il-politika pubblika, is-sigurezza pubblika, is-sigurtà pubblika, u s-saħħa pubblika, iżda dawn għandhom jiġu interpretati skond l-Artikolu 46 u l-Artikolu 55 tat-Trattat;

(b) iż-żamma tal-ordni fis-soċjetà;

(ċ) l-oġettivi tal-politika soċjali;

(d) il-protezzjoni tar-riċevituri ta' servizzi;

(e) il-protezzjoni tal-konsumatur;

(f) il-ġlieda kontra l-frodi;

(g) il-prevenzjoni tal-kompetizzjoni ingusta;

(h) il-protezzjoni tal-ambjent;"

(d) minnufih wara t-tifsira "raġunijiet aktar importanti fis-rigward tal-interess pubbliku" għandha tiżdied it-tifsira ġdida li ġejja:

" "riċevitur" tfisser kull persuna naturali li hija ċittadina ta' Stat Membru jew li tibbenefika mid-drittijiet mogħtija lilha mill-atti Komunitarji, jew kull persuna ġuridika kif imsemmija fl-Artikolu 48 tat-Trattat u stabbilita fi Stat Membru, li, għal finijiet professjonali jew mhux professjonali, tuża, jew tkun tixtieq tuża, servizz;"

(e) minnufih wara t-tifsira "sena finanzjarja" għandha tiżdied it-tifsira ġdida li ġejja:

" "servizz" tfisser attività ta' persuni li jaħdmu għal rashom u magħmula għal korrispettiv finanzjarju kif imsemmija fl-Artikolu 50 tat-Trattat;"

(f) minnufih wara t-tifsira "servizz" għandha tiżdied it-tifsira ġdida li ġejja:

" "servizzi ta' interess ekonomiku ġenerali" tfisser dawk is-servizzi ddikjarati mill-Ministru responsabbli għall-Kompetizzjoni bhala servizzi ta' interess ekonomiku ġenerali skond l-artikolu 30(3) ta' l-Att dwar il-Kompetizzjoni;"

Kap. 379.

(g) minnufih wara t-tifsira "servizzi ta' interess ekonomiku ġenerali" għandha tiżdied it-tifsira ġdida li ġejja:

" "Sistema ta' Informazzjoni għas-Suq Intern" tfisser sistema ta' informazzjoni li permezz tagħha l-awtoritajiet kompetenti jaqsmu l-informazzjoni skond l-obbligi tagħhom taht il-Kapitolu VI tad-Direttiva 2006/123/KE tal-Parlament Ewropew u tal-Kunsill tat-12 ta' Diċembru 2006 dwar is-servizzi fis-suq intern;"

(h) minnufih wara t-tifsira "Sistema ta' Informazzjoni għas-Suq Intern" għandha tiżdied it-tifsira ġdida li ġejja:

" "skema ta' awtorizzazzjoni" tfisser kull għoti ta' awtorizzazzjoni jew proċedura oħra ta' xorta amministrattiva, li taħtha provditur jew riċevitur ikun fil-fatt meħtieġ li jieħu passi biex jibda l-attività involuta u biex jikseb mingħand awtorità kompetenti awtorizzazzjoni li tirrigwarda aċċess għal attività ta' servizz jew l-eżerċizzju tagħha;"

(i) minnufih wara t-tifsira "skema ta' awtorizzazzjoni" għandha tiżdied it-tifsira ġdida li ġejja:

" "stabbiliment" tfisser it-twertieq effettiv ta' xi attività ekonomika, kif imsemmi fl-Artikolu 43 tat-Trattat, mill-provditur ta' servizz għal perjodu indefinit u permezz ta' infrastruttura stabbli li minnu n-negozju ta' provvista ta' servizzi jkun qiegħed fil-fatt jitwettaq;"

(j) minnufih wara t-tifsira "stabbiliment" għandha tiżdied it-tifsira ġdida li ġejja:

" "Stat Membru" tfisser Stat Membru taż-Żona

Ekonomika Ewropea;";

(k) minnufih wara t-tifsira "Stat Membru" ghandha tizdied it-tifsira ġdida li ġejja:

" "Stat Membru fejn is-servizz jiġi provdut" tfisser l-Istat Membru fejn is-servizz jiġi provdut minn provditur stabbilit fi Stat Membru ieħor;";

(l) minnufih wara t-tifsira "Stat Membru fejn is-servizz jiġi provdut" ghandha tizdied it-tifsira ġdida li ġejja:

" "Stat Membru ta' stabbiliment" tfisser l-Istat Membru li fit-territorju tiegħu l-provditur tas-servizzi konċernat ikun stabbilit; u

(m) minnufih wara t-tifsira "trasmissjoni" ghandha tizdied it-tifsira ġdida li ġejja:

" "Trattat" tfisser it-Trattat li jistabbilixxi l-Unjoni Ewropea;".

**102.** Minnufih wara l-artikolu 38 ta' l-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

Żjieda ta' artikolu 39 ġdid ma' l-Att prinċipali.

"Provdituri ta' servizzi.

39. (1) Meta tirregola l-aċċess għall-attivitajiet ta' servizzi li jaqgħu taħt dan l-Att u, jew l-eżerċizzju tagħhom, l-Awtorità għandha, meta l-istess attività ta' servizz tkun taqa' fil-kamp ta' applikazzjoni ta' l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern:

(a) taġixxi b'mod oġġettiv, trasparenti, effiċjenti u fil-hin;

(b) tipprovdi informazzjoni u għajnuna lill-provdituri ta' servizz u lir-riċevituri skond id-disposizzjonijiet ta' dan l-Att;

(ċ) tagħmel possibbli li jsiru l-proċeduri u l-formalitajiet kollha li għandhom x'jaqsmu mal-aċċess għal attività ta' servizz u għall-eżerċizzju tiegħu, disponibbli b'mod elettroniku permezz tal-punt ewlieni ta' kuntatt stabbilit:

Iżda l-htieġa li jsir possibbli li jitlestew il-proċeduri u l-formalitajiet b'mod elettroniku, permezz tal-punt ewlieni ta' kuntatt m'għandhiex tapplika għal spezzjonijiet ta' fond minn fejn is-servizz ikun provdut jew għal tagħmir li jintuża mill-provditur ta' servizz.

(2) Meta provditur ta' servizz jkun diġà stabbilit fi Stat Membru ieħor, u jitlob aċċess għal attività ta' servizz jew għall-eżerċizzju tagħha f'Malta:

(a) meta l-attività ta' servizz tkun soġġetta għal skema ta' awtorizzazzjoni jew għat-tweqqif ta' htigiet oħra li jirregolaw l-istabiliment f'Malta, l-Awtorità m'għandhiex tidduplika l-htigiet u l-kontrolli li huma ekwivalenti jew essenzjalment komparabbli fir-rigward tal-għan tagħhom li għalihom il-provditur ta' servizz jista' jkun diġà soġġett fi Stat Membru ieħor fejn ikun diġà stabbilit;

(b) meta l-Awtorità tkun teħtieġ li provditur ta' servizz jipprovdi ċertifikat, attestazzjoni jew xi dokument ieħor li jkun jixhed li xi rekwiżit ikun intlaħaq skond dan l-Att jew regolamenti magħmulin tahtu:

(i) għandha taċċetta kull dokument minn Stat Membru ieħor li jkun iservi għal skop ekwivalenti jew li jkun juri biċ-ċar li r-rekwiżit konċernat ikun ġie sodisfatt;

(ii) ma tistax teħtieġ li dokument minn Stat Membru ieħor ikun oriġinali, jew kopja awtentikata jew traduzzjoni awtentikata, hlief fil-każijiet previsti fi strument Komunitarju jew meta rekwiżit bħal dan ikun ġustifikat minn raġuni aktar importanti fir-rigward tal-interess pubbliku inkluż l-ordni pubbliku u s-sigurezza pubblika:

Iżda id-disposizzjonijiet ta' dan il-paragrafu ma għandhomx jaffettwaw id-dritt tal-Awtorità li titlob traduzzjoni mhux awtentikata ta' dokumenti fil-lingwa Maltija jew Ingliża.

(3) Meta n-numru ta' awtorizzazzjonijiet disponibbli għal attività ta' servizz ikun limitat minhabba fin-nuqqas ta' riżorsi naturali disponibbli, kapaċità teknika, jew jekk ġustifikat minn raġuni aktar importanti fir-rigward tal-interess pubbliku, l-Awtorità għandha tapplika proċedura ta' għażla għal kandidati potenzjali sabiex tiżgura l-imparzjalità, it-trasparenza, kondizzjonijiet ta' kompetizzjoni libera, inkluż b'mod partikolari, reklamar adegwat dwar it-tniedija, il-kondotta u t-tlestija tal-proċedura. Meta jiġu stabbiliti r-regoli għall-proċedura tal-għażla, l-Awtorità tkun tista' tikkunsidra każijiet li jkollhom x'jaqsmu ma' saħħa pubblika, objettivi ta' politika soċjali, is-saħħa u s-sigurtà tal-ħaddiema jew persuni li jaħdmu għal rashom, il-ħarsien tal-ambjent u raġunijiet oħrajn aktar importanti li għandhom x'jaqsmu mal-interess pubbliku, skond id-dritt Komunitarju.

(4) Awtorizzazzjoni mogħtija lil providitur ta' servizz għandha tkun għal perjodu indefinit hlief meta:

(a) l-awtorizzazzjoni tkun tiġġedded b'mod awtomatiku jew tkun soġġetta biss għat-twettiq kontinwu tar-rekwiżiti;

(b) in-numru ta' awtorizzazzjonijiet disponibbli jkun limitat skond is-subartikolu (3); jew

(ċ) perjodu limitat ta' awtorizzazzjoni jista' jkun ġustifikat minn raġuni aktar importanti li għandha x'taqsam mal-interess pubbliku:

Iżda fil-każijiet imsemmija fil-paragrafu (b), awtorizzazzjoni għandha tinghata għal perjodu limitat li jkun jippermetti li l-provditur ta' servizz ikun jista' jiġbor lura l-ispejjeż tal-investment u jagħmel dħul ġust fuq il-kapital investit, liema awtorizzazzjoni ma għandux ikollha tul eċċessiv, tkun soġġetta għal tiġdid awtomatiku, jew tagħti xi vantaġġ ieħor lill-provditur ta' servizz li l-awtorizzazzjoni tiegħu tkun għadha kemm skadjet jew lil xi persuna oħra li jkollha rabtiet partikolari ma' dak il-provditur ta' servizz.

(5) Awtorizzazzjoni mogħtija mill-Awtorità għandha tippermetti li l-provditur ta' servizz ikollu aċċess għall-attività ta' servizz, jew l-eżerċizzju tagħha madwar Malta, inkluż permezz ta' l-istabiliment ta' aġenziji, kumpanniji sussidjarji, ferġat jew ufficċji, hliet meta l-awtorizzazzjoni għal kull stabiliment individwali jew limitu tal-awtorizzazzjoni għal xi parti mit-territorju tkun ġustifikata b'raġuni aktar importanti li għandha x'taqsam mal-interess pubbliku:

Iżda l-provditur ta' servizz ikun meħtieġ jinforma lill-Awtorità dwar il-ħolqien ta' kumpanniji sussidjarji, ferġat, ufficċji jew aġenziji li l-attivitajiet tagħhom jaqgħu fil-kamp ta' applikazzjoni ta' l-iskema ta' awtorizzazzjoni.

(6) Fit-twettieq tal-funzjonijiet tagħha rigward awtorizzazzjonijiet skond dan l-artikolu, l-Awtorità għandha:

(a) tgħarraf l-applikazzjonijiet kollha li jkunu qegħdin jitolbu awtorizzazzjoni;

(b) fil-każ ta' applikazzjoni li ma tkunx kompluta, tinforma lill-applikant mill-aktar fis dwar il-htieġa li jipprovdi xi informazzjoni addizzjonali, kif ukoll dwar il-konsegwenzi li jinqalġu jekk l-applikant idum biex jipprovdi l-imsemmija informazzjoni jew htigiet;

(c) tmexxi applikazzjoni għal awtorizzazzjoni mill-iktar fis u, f'kull każ f'perjodu ta' żmien li għandu jiġi stabbilit u magħmul pubbliku minn qabel, u finnuqqas ta' dan għandu jiġi meqjus li l-awtorizzazzjoni tkun inghatat. Il-perjodu għandu jibda għaddej mill-ġurnata li l-informazzjoni kollha dovuta tkun preżentata u kull rekwizit u formalità oħra tkun intemmet sabiex l-Awtorità tkun tista' tmexxi l-applikazzjoni:

Iżda l-perjodu ta' żmien jista' jiġi estiż darba, għal żmien limitat, meta jkun ġustifikat bil-komplessità tal-każ. L-estensjoni u kemm iddum għandhom jkunu debitament ġustifikati u għandhom jiġu notifikati lill-applikant qabel ma l-perjodu oriġinali jkun skada:

Iżda wkoll l-Awtorità tista' b'mod objettiv tagħmel arrangamenti differenti, fejn ġustifikati minn raġunijiet aktar importanti li għandhom x'jaqsmu mal-interess pubbliku, inkluż l-interess legittimu ta' partijiet terzi;

(d) tipprovdi informazzjoni dwar il-mezzi ta' rimedji li jkunu disponibbli f'każ ta' nuqqas ta' aċċettazzjoni ta' applikazzjoni;

(e) tagħti awtorizzazzjoni hekk kif l-applikant jissodisfa l-htigiet kollha, mingħajr preġudizzju għad-dritt tal-Awtorità li tħassar jew tbiddel awtorizzazzjoni meta l-kondizzjonijiet tal-awtorizzazzjoni ma jkunux aktar osservati mill-provditur ta' servizz;

(f) f'każ li applikazzjonijiet ikunu rifjutati minħabba fil-fatt li ma jissodisfawx il-proċeduri jew formalitajiet meħtieġa, l-applikant għandu jiġi avżat dwar iċ-ċaħda mill-aktar fis possibbli;

(g) hlief fil-każ tal-ghoti ta' awtorizzazzjoni, deċiżjoni mill-Awtorità, inkluż ċaħda jew irtirar, għandha tkun tinkludi r-raġunijiet kollha u għandha tkun miftuha għal rikuża quddiem il-Bord tal-Appell.

(7) Hlief l-attivitajiet ta' servizz u ta' affarijiet li jkunu dikjarati li huma servizzi ta' interess ekonomiku ġenerali, li *inter alia* jistgħu jinkludu -

(a) fis-settur tal-elettriku, servizzi koperti bid-Direttiva 2003/54/KE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2003 dwar regoli komuni għas-suq intern fl-elettriku;

(b) fis-settur tal-gass, servizzi koperti bid-Direttiva 2003/55/KE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2003 dwar regoli komuni għas-suq intern fil-gass naturali;

(ċ) distribuzzjoni tal-ilma u servizzi ta' provvista u servizzi tal-iskart tal-ilma,

l-Awtorità għandha tirrispetta d-dritt ta' provdituri ta' servizzi li jkunu stabbiliti legalment u li jipprovdu servizzi fi Stat Membru ieħor biex jipprovdu servizzi f'Malta u ma tistax twaqqafhom milli jipprovdu l-attivitajiet ta' servizzi bħal dawk billi timponi htigiet li jkunu diskriminatorji, mhux mehtieġa jew mhux proporzjonati:

Izda l-Awtorità tista' timponi htigiet dwar il-forniment ta' xi attività ta' servizz partikolari meta dawn ikunu ġustifikati minħabba f'raġunijiet li għandhom x'jaqsmu ma' l-ordni pubbliku, mas-sigurtà pubblika, mas-saħħa pubblika u mal-ħarsien tal-ambjent:

Iżda wkoll meta tkun qeghda tistabilixxi jekk provditur ikunx qieghed jeżerċita l-libertà tiegħu li jipprovdi servizzi fi hdan it-tifsir ta' dan l-artikolu u ta' l-Artikolu 49 tat-Trattat, jew jekk ikunx każ ta' stabbiliment, l-Awtorità għandha tivvaluta u tiddeċiedi kull każ fuq il-mertu individwali tiegħu u f'konformità mad-dritt Komunitarju u mad-deċiżjonijiet tal-Qorti Ewropea tal-Ġustizzja.

(8) Mingħajr preġudizzju għas-subartikolu (7), f'ċirkostanzi eċċezzjonali biss, l-Awtorità tista', f'każ ta' provditur ta' servizz li jkun stabbilit fi Stat Membru ieħor, tiegħu miżuri sabiex tiżgura s-sigurtà tas-servizzi provduti f'Malta. Meta tiegħu daww il-miżuri, l-Awtorità għandha ssegwi l-proċedura stabbilita fir-Raba' Skeda li tinsab ma' l-Att dwar Servizzi li jingħataw fis-Suq Intern, u għandha tiżgura li jiġu osservati l-kondizzjonijiet li ġejjin:

(a) id-disposizzjonijiet nazzjonali li f'konformità magħhom jittiehdu l-miżuri, ma kienux soġġetti għall-armonizzazzjoni Komunitarja fil-qasam tas-sigurtà tas-servizzi;

(b) il-miżuri li jkunu ttiehdu jipprovdu livell ta' protezzjoni oghla tar-riċevitur milli jkun il-każ f'miżura mehuda mill-Istat Membru ta' stabbiliment skond id-disposizzjonijiet nazzjonali tiegħu;

(ċ) l-Istat Membru ta' stabbiliment ma jkun ha l-ebda miżura jew ikun ha miżuri li ma jkunux suffiċjenti meta mqabbla ma' daww mitluba mill-Awtorità u kif imsemmija fil-paragrafi 2 u 3 tar-Raba' Skeda li tinsab ma' l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern;

(d) il-miżuri ikunu proporzjonati:

Iżda meta l-Awtorità ssir taf b'xi ghemil jew att minn provditur ta' servizz stabbilit f'Malta u li jkun iforni servizzi fi Stati Membri oħrajn, li, sa fejn tkun taf hi, jistgħu jikkawżaw dannu serju fis-saħħa jew fis-sigurtà ta' persuni jew tal-ambjent, l-Awtorità għandha tinforma lill-Istati Membri l-oħrajn kollha u lill-Kummissjoni Ewropea fl-iqsar perjodu ta' żmien possibli permezz tas-Sistema ta' Informazzjoni għas-Suq Intern.

(9) (a) L-Awtorità għandha teħtieġ lill-provdituri ta' servizz stabbiliti f'Malta u li jaqgħu taħt il-kamp tagħha ta' kompetenza li jzommuha aġġornata f'kull hin bl-informazzjoni li hija tidentifika bhala meħtieġa u oġġettivament ġustifikata sabiex twettaq il-funzjoni superviżorja tagħha dwar is-servizzi skond dan l-Att u l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern.

(b) L-Awtorità għandha teżerċita l-funzjonijiet superviżorji tagħha fuq il-provdituri ta' servizzi f'Malta u li jaqgħu taħt il-kamp tagħha ta' kompetenza, kemm jekk is-servizz jiġi provdut f'Malta kemm fi Stat Membru ieħor.

(ċ) Fl-eżekuzzjoni tal-funzjoni superviżorja tagħha, meta servizz ikun qiegħed jiġi provdut fi Stat Membru ieħor minn provditur ta' servizz stabbilit f'Malta, l-Awtorità għandha tghin lill-awtorità kompetenti rilevanti tal-Istat Membru l-ieħor skond il-proċedura stabbilita fit-Tieni Skeda li tinsab ma' l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern. Meta tagħmel dan, l-Awtorità m'għandiex tieqaf milli tiehu miżuri ta' infurzar superviżorji f'Malta minhabba fil-fatt li servizz ikun ġie provdut jew li jkun ikkawża hsara fi Stat Membru ieħor:

Iżda l-Awtorità m'għandiex tkun marbuta li twettaq verifiki u kontrolli fl-Istat Membru li fih is-servizz ikun qed jiġi provdut.

(d) Meta servizz ikun qed jiġi provdut f'Malta, f'każ ta' ċaqliq temporanju minn provditur ta' servizz stabbilit fi Stat Membru ieħor:

(i) l-Awtorità għandha tipparteċipa fis-superviżjoni tal-provditur ta' servizz skond il-proċedura stabbilita fit-Tieni Skeda li tinsab ma' l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern;

(ii) meta l-Awtorità tkun imponiet htigiet skond l-ewwel proviso tas-subartikolu (7), hija għandha tassumi r-responsabbiltà għas-superviżjoni ta' dak il-provditur ta' servizz f'Malta biex tiżgura l-konformità ma' dawk il-htigiet.

(e) L-Awtorità għandha tiskambja talbiet u informazzjoni ma' l-awtoritajiet kompetenti rilevanti ta' l-Istati Membri l-oħra permezz tas-Sistema ta' Informazzjoni għas-Suq Intern.

(f) Mingħajr preġudizzju għal-limiti imposti minn kull liġi oħra, l-Awtorità għandha tforni informazzjoni lill-awtorità kompetenti rilevanti ta' Stat Membru ieħor dwar azzjonijiet dixxiplinarji jew amministrattivi jew sanzjonijiet u deċiżjonijiet kriminali li jkkonċernaw insolvenza jew falliment li jkunu jinvolvu frodi, fir-rigward tal-provditur li jkunu direttament rilevanti għall-kompetenza jew għall-affidabilità professjonali tal-provditur, skond il-proċedura stabbilita fit-Tielet Skeda li tinsab ma' l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern."

## TAQSIMA XX

### EMENDI GHALL-ATT DWAR IS-SERVIZZI VETERINARJI

**103.** (1) Din it-Taqsima temenda l-Att dwar is-Servizzi Veterinarji, u għandha tinqara u tinftiehem haġa waħda ma' l-Att dwar is-Servizzi Veterinarji, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emendi għall-Att dwar is-Servizzi Veterinarji. Kap. 437.

(2) Din it-Taqsima għandha tidhol fis-sehħ mal-pubblikazzjoni ta' dan l-Att.

Emenda ta' l-  
artikolu 43 ta' l-  
Att prinċipali.

**104.** L-artikolu 43 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (3) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (b) tiegħu, minnufih wara l-kliem "mill-Kunsill," għandhom jiżdiedu l-kliem "wara konsultazzjoni mal-Kunsill Malti għall-Kwalifiki u skond ma Kap. 451. hemm fl-Att dwar ir-Rikonoxximent Reċiproku ta' Kwalifiki, u l-liġijiet magħmulin tahtu," u minflok il-kliem ", jekk ikun hemm" għandhom jidhlu l-kliem "jew fi Stat Membru";

(ii) fil-paragrafu (g) tiegħu, minnufih wara l-kliem "ċittadin Malti" għandhom jiżdiedu l-kliem "jew ta' Stat Membru";

(b) minnufih wara s-subartikolu (3) għandhom jiżdiedu s-subartikoli godda li ġejjin:

"(4) (a) Il-Kunsill għandu jagħti rċevuta dwar applikazzjoni għal *warrant* mill-iktar fis possibbli u f'kull każ sa mhux aktar tard minn xahar minn meta jirċievi d-dokumentazzjoni kollha rilevanti pprezentata biex jitwettqu l-htigiet elenkati fis-subartikolu ta' qabel dan. L-irċevuta għandha tinkludi ż-żmien sa meta l-Kunsill jippretendi li jasal għal deċiżjoni skond dan is-subartikolu u l-mezzi ta' rimedju disponibbli minn deċiżjonijiet tal-Kunsill:

Iżda l-Kunsill għandu jinforma lill-applikant fil-każ li jkun hemm xi dokumenti neqsin:

Iżda wkoll meta l-applikant ikun diġà stabbilit fi Stat Membru ieħor u, jew ikun kiseb il-kwalifiki tiegħu fi Stat Membru ieħor u, jew ikun ċittadin ta' Stat Membru ieħor, il-Kunsill jista' jitlob verifika tad-dokumenti pprezentati mill-applikant ma' l-awtorità kompetenti rilevanti ta' dak l-Istat Membru skond l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern.

(b) Il-Kunsill għandu jeżamina d-dokumentazzjoni kollha pprezentata mill-applikant mill-aktar fis possibbli u jasal għal deċiżjoni motivata kif imiss fi żmien tliet xhur. Dak il-perjodu għandu jibda jgħodd mid-data meta jasl u d-dokumenti kollha meħtieġa. Meta jkun hemm raġuni valida għaldaqstant, dan il-perjodu jista' jiġi estiż b'xahar mill-Kunsill, sakemm l-applikant jiġi notifikat qabel ma jkun skada l-perjodu oriġinali stabbilit fil-paragrafu (a).

(ċ) Meta ma tinghatax risposta fiż-żminijiet stabbiliti f'dan is-subartikolu dan m'għandux jitqies bħala li jimplika l-approvazzjoni taċita ta' l-applikazzjoni magħmula mill-applikant.

Kap. 451.  
A.L. 422 ta' l-  
2007.

(5) Mingħajr preġudizzju għas-subartikoli (2) u (3), u skond l-Att dwar ir-Rikonoxximent Reċiproku tal-Kwalifiki u r-Regolamenti ta' l-2007 dwar ir-Rikonoxximent Reċiproku ta' Kwalifiki Professjonali, persuna tista' tipprovdi s-servizz ta' veterinarju f'Malta fuq bazi temporanja u okkażjonali, sakemm:

(a) tkun stabbilita skond il-liġi fi Stat Membru ieħor bil-għan li teżerċita l-professjoni ta' kirurgu veterinarju f'dak l-Istat Membru; u

(b) tkun eżerċitat l-professjoni ta' kirurgu veterinarju għal mill-inqas sentejn matul l-għaxar snin ta' qabel.

(6) (a) Persuni msemmija fis-subartikolu (5) għandhom jgħarrfu lill-Kunsill minn qabel bl-intenzjoni li jkollhom li jipprovdu servizzi veterinarji f'Malta permezz ta' dikjarazzjoni bil-miktub. Dik id-dikjarazzjoni bil-miktub għandha tinkludi:

(i) prova dwar iċ-ċittadinanza;

(ii) attestazzjoni li tkun tiċċertifika li dik il-persuna tkun stabbilita skond il-liġi fi Stat Membru ieħor bil-għan li teżerċita l-professjoni ta' kirurgu veterinarju f'dak l-Istat Membru;

(iii) prova tal-kwalifiki akkademiċi li jkollu u tal-prattika li jkun għamel matul l-għaxar snin ta' qabel;

(iv) dettalji tal-polza ta' l-assigurazzjoni li jkollu jew ta' xi mezz ieħor ta' protezzjoni kollettiva dwar ir-responsabbiltà professjonali, skond ma jkun il-każ;

(v) deskrizzjoni tas-servizzi li jkun bi hsiebu jipprovdi u l-post minn fejn ikun bi hsiebu jipprovdi dawk is-servizzi.

(b) (i) Il-Kunsill għandu minnufih wara li jirċievi dikjarazzjoni skond l-aħħar paragrafu, jibgħat konferma lill-applikant u jinformat dwar xi dokumentazzjoni nieqsa.

(ii) Il-Kunsill għandu, fi żmien mhux aktar minn xahar mid-data ta' l-irċevuta konfermata ta' dikjarazzjoni kompluta u bid-dokumenti kollha neċessarji li jkun hemm magħha, jgħarraf lill-applikant bir-riżultat tal-verifiki tal-kwalifiki u d-dokumenti ppreżentati.

(iii) F'każ ta' diffikultà li tirriżulta f'dewmien, il-Kunsill għandu jgħarraf lill-applikant li jkun qiegħed jagħmel id-dikjarazzjoni, fi żmien xahar, bir-raġuni għad-dewmien u biż-żmien meħtieġ sabiex tingħata d-deċiżjoni finali tal-Kunsill:

Izda dan iż-żmien m'għandux jiġi mġedded għal iżjed minn xahar.

(iv) Jekk ma jkunx hemm reazzjoni mill-Kunsill fiż-żmien stipulat f'dan is-subartikolu, is-servizz jista' jiġi provdut.

(ċ) Meta l-Kunsill jiddeċiedi skond dan is-subartikolu u s-subartikolu ta' qabel, il-Kunsill għandu jikkunsidra u jiddeċiedi kull applikazzjoni skond il-mertu tagħha.

(7) (a) Il-Kunsill tal-Kirurgi Veterinarji għandu jzomm lista fir-Registru tal-Kirurgi Veterinarji tal-persuni approvati li jipprovdi servizzi veterinarji fuq bażi temporanja jew okkażjonali taħt dan l-artikolu.

(b) Din ir-registrazzjoni ghandha tkun valida għal sena u ghandha tiġġedded, minn qabel, għal kull sena li fiha l-applikant ikun bi hsiebu jipprovdi servizzi veterinarji temporanji jew okkażjonali f'Malta matul dik is-sena:

Izda, għal raġunijiet ta' saħħa pubblika u ta' saħħa ta' l-annimali, dik il-persuna ghandha tenhtieg tinforma lill-Kunsill kull darba li hija tkun bi hsieba tipprovdi servizzi veterinarji temporanji jew okkażjonali f'Malta, hmistax-il gurnata qabel u ghandha tipprovdi lill-Kunsill dik l-informazzjoni skond is-subartikolu (6)(a)(v)."; u

(ċ) is-subartikolu (5) għandu jiġi enumerat mill-ġdid bħala s-subartikolu (8) tiegħu u għandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) tiegħu, il-kliem "mill-President ta' Malta" għandhom jithassru; u

(ii) fil-paragrafu (b) tiegħu, minnufih wara l-kliem "il-Kunsill" għandhom jidhlu l-kliem "wara konsultazzjoni mal-Kunsill Malti għall-Kwalifiki".

**105.** Fl-artikolu 45A ta' l-Att prinċipali, minnufih wara l-kliem "l-Att dwar ir-Rikonoxximent Reċiproku tal-Kwalifiki" għandhom jidhlu l-kliem "u l-Att dwar Servizzi li jingħataw fis-Suq Intern,".

Emenda ta' l-artikolu 45A ta' l-Att prinċipali.

## TAQSIMA XXI

### EMENDI GHALL-ATT DWAR IL-LIĊENZI TAL-KUMMERĊ

**106.** (1) Din it-Taqsima temenda l-Att dwar il-Liċenzi tal-Kummerċ, u ghandha tinqara u tinftiehem haġa waħda ma' l-Att dwar il-Liċenzi tal-Kummerċ, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

Emendi għall-Att dwar il-Liċenzi tal-Kummerċ. Kap. 441.

(2) Din it-Taqsima ghandha tidhol fis-seħħ mal-pubblikazzjoni ta' dan l-Att.

**107.** L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

(a) minnufih wara t-tifsira "bejgħ" ghandha tiżdied din it-tifsira ġdida li ġejja:

" "esibizzjoni" tfisser avveniment f'lok wiehed fejn

parteċipant wiehed jew aktar jagħmlu wiri jew promozzjoni tal-oġġetti jew is-servizzi tagħhom bla ma jkollhom l-għan li jbigħu dawk l-oġġetti jew servizzi minn dak il-lok jew minn xi band'ohra;"

(b) minnufih wara t-tifsira ġdida "esibizzjoni" għandha tizdied din it-tifsira ġdida li ġejja:

" "esibizzjoni kummerċjali" tfisser avveniment f'lok wiehed fejn parteċipant wiehed jagħmel wiri jew promozzjoni tal-oġġetti jew is-servizzi tiegħu bil-għan li jbigħ dawk l-oġġetti jew servizzi minn dak il-lok jew minn xi band'ohra:

Izda dak l-avveniment m'għandux ikun jinkludi fih il-wiri jew il-promozzjoni ta' oġġetti jew servizzi għal bejgħ bl-ingrossa jew bl-imnut minn fond li jkollu liċenza għaldaqstant;"

(ċ) minflok it-tifsira "fiera kummerċjali" għandha tidhol din it-tifsira li ġejja:

" "fiera kummerċjali" tfisser avveniment minn lok wiehed fejn aktar minn parteċipant wiehed jagħmlu wiri jew promozzjoni tal-oġġetti jew is-servizzi tagħhom minn siti differenti f'dak il-lok bil-għan li jbigħu dawk l-oġġetti jew servizzi minn dak il-lok jew minn xi band'ohra;" u

(d) minnufih wara t-tifsira "suq fil-beraħ" għandha tizdied din it-tifsira ġdida li ġejja:

" "it-Trattat" tfisser it-Trattat li jwaqqaf il-Komunità Ewropea;"

Thassir ta' l-artikoli 5 sa 7 ta' l-Att prinċipali.

**108.** L-artikoli 5, 6 u 7 ta' l-Att prinċipali għandhom jithassru.

Enumerazzjoni mill-ġdid u emenda ta' l-artikolu 8 ta' l-Att prinċipali.

**109.** L-artikolu 8 ta' l-Att prinċipali għandu jiġi enumerat mill-ġdid bħala l-artikolu 5, u fis-subartikolu (5) tiegħu, minflok il-kliem "tal-Bord." għandhom jidhlu l-kliem "tal-Bord:" u minnufih wara għandu jizdied il-proviso li ġejj:

"Izda l-Ministru jista' jahtar segretarju sostitut f'dawn il-każijiet li ġejjin:

(a) f'każijiet ta' urgenza meta s-segretarju maħtur għal xi raġuni ma jkun disponibbli biex iwettaq

dmirijietu; u

(b) f'kazijiet meta s-segretarju mahtur jastjeni għal dawk l-istess raġunijiet li għalihom membru tal-bord ikun jista' jastjeni kif hawn qabel imsemmi."

**110.** L-artikoli 9, 10, 11 u 12 ta' l-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala l-artikoli 6, 7, 8 u 9 rispettivament.

Enumerazzjoni mill-ġdid ta' l-artikoli 9 sa 12 ta' l-Att prinċipali.

**111.** Minnufih wara l-artikolu 9 ta' l-Att prinċipali, kif enumerat mill-ġdid, għandu jiżdied l-artikolu ġdid li ġej:

Żjieda ta' artikolu 10 ġdid ma' l-Att prinċipali.

"Attivitajiet li jehtieġu liċenza u permessi.

10. (1) M'għandha ssir ebda attività kummerċjali f'Malta hlief taht liċenza mingħand l-awtorità regolatorja:

Iżda kull attività kummerċjali, li tista' tiġi preskritta, tista':

(a) titqies bħala li jkollha liċenza wara li jingħata avviż lill-awtorità regolatorja qabel ma tinbeda dik l-attività kummerċjali mill-persuna li tintrabat li tiġġestixxi l-attività maħsuba;

(b) titqies bħala li jkollha liċenza wara li jingħata avviż lill-awtorità regolatorja, f'dak iż-żmien li jiġi preskritt, wara li tinbeda dik l-attività kummerċjali:

Iżda wkoll kull min ikun qiegħed jiġġestixxi xi attività kummerċjali xorta jibqa' meħtieġ li jikkonforma ruħu mad-disposizzjonijiet rilevanti ta' dan l-Att u ta' kull regolament sussidjarju relattiv, irrispettivament minn jekk l-attività kummerċjali jkollhiex liċenza bħala riżultat ta' applikazzjoni li ssir lill-awtorità regolatorja jew titqiesx li jkollha liċenza wara li jkun ingħata avviż lill-awtorità regolatorja.

(2) Ċerti aktivitajiet, kif jista' jiġi preskritt, jistgħu:

(a) jiġu indikati bħala li ma jkunux jeħtieġu liċenza iżda li jkunu jeħtieġu permessi rilevanti oħra mill-awtorità lokali u, jew mingħand il-Kummissarju tal-Pulizija jew ikunu soġġetti għal kondizzjonijiet maħruġin mill-awtoritajiet lokali u, jew mill-Kummissarju tal-Pulizija;

(b) jiġu indikati bħala li jkunu jeħtieġu xi permessi rilevanti oħra, b'zjedda ma' xi liċenza mill-awtorità regolatorja, inklużi:

(i) permess mill-awtorità lokali; u

(ii) permess mingħand il-Kummissarju tal-Pulizija:

Izda persuna li tagħmel f'xi gurnata speċjali jew speċifika -

(a) xi purċissjoni jew attività oħra f'post pubbliku li ssir fil-kuntest ta' festa, xi marċ bil-banda, xi *disco*, ballu, żfin jew xi attività oħra bhal dik, irrispettivament minn kif dawn ikunu magħrufa; jew

(b) xi attività sportiva li ssir fuq medda ta' iktar minn lokalità waħda jew fuq bażi nazzjonali; jew

(c) xi attività li tkun organizzata minn xi partit politiku

tkun teħtieġ biss permess mill-Kummissarju tal-Pulizija maħruġ bis-saħha ta' dan l-Att.

(3) Il-ħruġ ta' liċenza minn awtorità regolatorja jew permess mill-awtorità lokali jew mill-Kummissarju tal-Pulizija jistgħu jkunu soġġetti:

(a) għall-preżentata u l-valutazzjoni ta' dokumenti u informazzjoni oħra preskritta skond ma jista' jitqies li jkun meħtieġ sabiex jiġi żgurat l-adempiment tal-ħtiġiet ta' liċenza;

(b) għal awtorizzazzjonijiet, permessi, approvazzjonijiet u kunsensi minn entitajiet oħra skond ma jista' jiġi preskritt u skond ma jkun japplika b'leġislazzjoni oħra rilevanti u kurrenti f'dak iż-żmien;

Kap. 451.

(ċ) għal konformità ma' dawk il-pattijiet u kondizzjonijiet li jistgħu jiġu preskritti, inklużi l-pussess ta' kwalifiki rilevanti li jkunu konformi ma' l-Att dwar ir-Rikonoxximent Reċiproku ta' Kwalifiki, u ma' kull regolament magħmul tahtu:

Izda l-awtorità regolatorja tista' titlob lill-applikant li jgħib prova dwar il-kompetenza tiegħu li jkompli jiġġestixxi l-attività kummerċjali rilevanti permezz ta' kwalifiki oħra għal raġunijiet prevalenti ta' interess pubbliku, skond id-Direttiva 2006/123 tal-Parlament Ewropew u tal-Kunsill tat-12 ta' Diċembru, 2006 dwar servizzi fis-suq intern:

Izda wkoll meta persuna tkun legalment stabbilita biex tiġġestixxi fi Stat Membru ieħor xi attività kummerċjali li tkun tinkwadra taht id-disposizzjonijiet implimentattivi tad-Direttiva 2006/123 tal-Parlament Ewropew u tal-Kunsill tat-12 ta' Diċembru, 2006 dwar servizzi fis-suq intern u tkun qegħda titlob li jkollha liċenza f'Malta, l-awtorità regolatorja, b'mod konformi ma' l-istess Direttiva, m'għandhiex tidduplika l-htigiet jew il-kontrolli li huma ekwivalenti jew essenzjalment komparabbli f'dak li għandu x'jaqsam ma' l-għan tagħhom li dik il-persuna tista' tkun diġà soġġetta għalihom fi Stat Membru ieħor.

(4) Minkejja l-hruġ ta' xi liċenza, permess jew awtorizzazzjoni, il-Kummissarju tal-Pulizija jista':

(a) meta jgri li f'xi post ikun hemm jew x'aktarx ikun hemm xi għieda jew irvell, jordna li kull post kummerċjali fl-imkien jew hdejn fejn ikun hemm jew x'aktarx ikun hemm il-għieda jew l-irvell, jinżamm magħluq għal dak il-hin kollu li, fl-opinjoni tal-Kummissarju tal-Pulizija, jkun raġonevolment meħtieġ;

(b) għal raġunijiet ta' ordni pubbliku, sigurtà pubblika jew moralità pubblika jwaqqaf kull attività li dwarha jkun inhareġ permess jew liċenza jew awtorizzazzjoni jew kellhom jinharġu taħt dan l-Att."

Żjieda ta' artikolu 11 ġdid ma' l-Att prinċipali.

**112.** Minnufih wara l-artikolu 10 ġdid ta' l-Att prinċipali, għandu jiżdid l-artikolu ġdid li ġej:

"Attività kummerċjali fuq bażi mhux permanenti u li ssir minn żmien għal żmien.

11. Meta persuna diġà jkollha liċenza jew tkun xort'ohra legalment stabbilita biex twettaq xi attività kummerċjali fi Stat Membru ieħor, u dik il-persuna tkun tixtieq tiġġestixxi dik l-attività kummerċjali f'Malta fuq bażi mhux permanenti u li ssir minn żmien għal żmien, l-awtorità regolatorja m'għandhiex twaqqaf lil dik il-persuna milli tagħmel dan billi timponi xi htigiet li jkunu diskriminatorji, mhux meħtieġa jew sproporzjonati:

Iżda l-awtorità regolatorja tista' timponi dawk il-htigiet dwar il-provdiment ta' attività ta' servizz partikolari, meta dawn ikunu ġustifikati għal raġunijiet li jkollhom x'jaqsmu ma' l-ordni pubbliku, is-sigurtà pubblika, is-saħħa pubblika jew il-protezzjoni ta' l-ambjent:

Iżda wkoll meta tkun qiegħda tistabilixxi jekk provditur ikunx qiegħed jeżerċita l-libertà tiegħu li jipprovi servizzi fi ħdan it-tifsir ta' l-artikolu 16 ta' l-Att ta' l-2009 dwar Servizzi li jingħataw fis-Suq Intern u ta' l-Artikolu 49 tat-Trattat, jew jekk ikunx każ ta' stabbiliment, jew jekk provditur ta' servizzi jkunx qiegħed jieħu vantaġġ mil-libertà li jforni servizzi, l-awtorità kompetenti għandha tivvaluta u tiddeċiedi kull każ fuq il-mertu individwali tiegħu u f'konformità mad-dritt Komunitarju u mad-deċiżjonijiet tal-Qorti Ewropea tal-Ġustizzja."

- 113.** It-Taqsima III u l-artikoli 13, 14, 15 u 16, it-Taqsima IV u l-artikolu 17 u t-Taqsima V u l-artikolu 18 ta' l-Att prinċipali għandhom jithassru. Thassir ta' l-artikoli 13 sa 18 u t-Taqsimiet III sa V ta' l-Att prinċipali.
- 114.** It-Taqsima VI ta' l-Att prinċipali għandha tiġi enumerata mill-ġdid bħala t-Taqsima III tiegħu, u l-artikoli 19 sa 22 għandhom jithassru. Enumerazzjoni mill-ġdid tat-Taqsima VI u thassir ta' l-artikoli 19 sa 22 ta' l-Att prinċipali.
- 115.** L-artikolu 23 ta' l-Att prinċipali għandu jiġi enumerat mill-ġdid bħala l-artikolu 12 tiegħu. Enumerazzjoni mill-ġdid ta' l-artikolu 23 ta' l-Att prinċipali.
- 116.** L-artikoli 24 u 25 ta' l-Att prinċipali għandhom jithassru. Thassir ta' l-artikoli 24 u 25 ta' l-Att prinċipali.
- 117.** Minnufih wara l-artikolu 12 ġdid ta' l-Att prinċipali, kif enumerat mill-ġdid, għandu jiżdied l-artikolu ġdid li ġej:
- "Bejgh minn swieq fil-beraħ. 13. Meta jkun ġie mwaqqaf xi suq fil-beraħ f'xi lokalità, hadd ma jista' jiġġestixxi xi attività kummerċjali minn xi post fiss f' dak is-suq kemm-il darba huwa ma jikkonformax ruħu ma' dawk il-kondizzjonijiet li jistgħu jiġu preskritti."
- 118.** Minnufih wara l-artikolu 13 ġdid ta' l-Att prinċipali kif Żjieda ta' artikolu 13 ġdid ma' l-Att prinċipali.
- Żjieda ta' artikolu 14 ġdid ma' l-Att prinċipali.

enumerat mill-ġdid, għandu jizdied l-artikolu ġdid li ġej:

"Makni tal-bejgħ awtomatiċi.

14. Hadd ma jista' jqiegħed xi makna tal-bejgħ awtomatika jew xi makna magħrufa bħala *kiddie ride machine* mingħajr ma jkollu l-awtorizzazzjoni meħtieġa skond ma jista' jiġi preskritt."

Enumerazzjoni mill-ġdid ta' l-artikoli 26 u 27 ta' l-Att prinċipali.

**119.** L-artikoli 26 u 27 ta' l-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala l-artikoli 15 u 16 tiegħu.

Enumerazzjoni mill-ġdid ta' l-Taqsima VII ta' l-Att prinċipali.

**120.** It-Taqsima VII ta' l-Att prinċipali għandha tiġi enumerata mill-ġdid bħala t-Taqsima IV tiegħu.

Enumerazzjoni mill-ġdid u emenda ta' l-artikolu 28 ta' l-Att prinċipali.

**121.** L-artikolu 28 ta' l-Att prinċipali għandu jiġi enumerat mill-ġdid bħala l-artikolu 17 tiegħu u minflok il-paragrafu (f) tiegħu għandu jidhol il-paragrafu ġdid li ġej:

"(f) biex jiġu stabbiliti l-pieni jew sanzjonijiet amministrattivi li jista' jehel kull min jikser xi d-disposizzjoni ta' dan l-Att u regolamenti magħmulin tahtu,".

Enumerazzjoni mill-ġdid ta' l-artikolu 29 ta' l-Att prinċipali.

**122.** L-artikolu 29 ta' l-Att prinċipali għandu jiġi enumerat mill-ġdid bħala l-artikolu 18 tiegħu.

Enumerazzjoni mill-ġdid u emenda ta' l-artikolu 30 ta' l-Att prinċipali.

**123.** L-artikolu 30 ta' l-Att prinċipali għandu jiġi enumerat mill-ġdid bħala l-artikolu 19 tiegħu u jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "li tista' tiġi preskritta dwar dak ir-reat" għandhom jidhlu l-kliem "u, jew sanzjonijiet amministrattivi li jistgħu jiġu preskritti dwar dak ir-reat";

(b) minflok is-subartikolu (2) tiegħu għandu jidhol dan li ġej:

"(2) Il-Ministru għandu jippreskrivi l-pieni u sanzjonijiet amministrattivi li jistgħu jiġu mitluba mill-awtorità regolatorja dwar xi reat speċifikat."; u

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem "il-piena li tiġi indikata" għandhom jidhlu l-kliem "il-piena u, jew sanzjonijiet amministrattivi li jiġu indikati".

**124.** L-artikoli 31, 32 u 33 ta' l-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala l-artikoli 20, 21 u 22 tiegħu.

Enumerazzjoni mill-ġdid ta' l-artikoli 31 sa 33 ta' l-Att prinċipali.

## TAQSIMA XXII

### EMENDI GĦALL-ATT DWAR IL-PATRIMONJU KULTURALI

**125.** (1) Din it-Taqsima temenda l-Att dwar il-Patrimonju Kulturali, u għandha tinqara u tinftiehem haġa waħda ma' l-Att dwar il-Patrimonju Kulturali, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emendi għall-Att dwar il-Patrimonju Kulturali. Kap. 445.

(2) Din it-Taqsima għandha tidhol fis-seħh mal-pubblikazzjoni ta' dan l-Att.

**126.** Fis-subartikolu (1) ta' l-artikolu 33 ta' l-Att prinċipali, minflok il-kliem "l-htigiet ta' l-artikoli 31 jew 32." għandhom jidhlu l-kliem "l-htigiet ta' l-artikoli 31 jew 32:" u minnufih wara għandu jiżdied il-proviso li ġej:

Emenda ta' l-artikolu 33 ta' l-Att prinċipali.

"Izda d-deċiżjoni tal-Ministru li jilqa' jew jiċhad applikazzjoni għandha tiġi notifikata lill-applikant bil-miktub fi żmien erba' xhur minn meta tasal l-applikazzjoni. Jekk l-applikant ma jkunx notifikat bid-deċiżjoni dwar l-applikazzjoni għal *warrant* fiż-żmien stabbilit, dan għandu jitqies li jfisser li, għal raġunijiet ta' interess pubbliku, l-applikazzjoni għal *warrant* tkun ġiet miċhuda. Meta ma tkunx ġiet notifikata deċiżjoni lill-applikant fiż-żmien stabbilit, dak l-applikant jista' jappella quddiem il-Qorti tal-Appell kostitwita skond l-artikolu 41(6) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili:

Izda wkoll applikazzjoni għal *warrant* ma titqiesx li tkun ġiet ipprezentata minn applikant kemm-il darba din ma tkunx mimlija kollha u jkollha magħha l-informazzjoni u d-dokumentazzjoni kollha meħtieġa."

**127.** L-artikolu 33A ta' l-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni ta' l-artikolu 33A ta' l-Att prinċipali.

"Servizzi fuq bazi temporanja. Kap. 451.

**33A.** Mingħajr preġudizzju għall-Att dwar ir-Rikonoxximent Reċiproku ta' Kwalifiki u minkejja d-disposizzjonijiet ta' artikolu 31 ta' dan l-Att, kull persuna stabbilita fi Stat Membru iehor tista' teżerċita l-professjoni ta' restawratur f'Malta fuq bazi temporanja u okkażjonali jekk dik il-persuna:

(a) hija stabbilita legalment fi Stat Membru iehor sabiex teżerċita l-professjoni ta' restawratur f'dak l-Istat Membru; u

(b) tkun eżerċitat il-professjoni ta' restawratur għal mhux anqas minn sentejn matul l-għaxar snin ta' qabel l-għoti tas-servizzi meta l-professjoni ma tkunx regolata f'dak l-Istat Membru.

(2) Il-persuni msemmija fis-subartikolu (1) għandhom jinfurmaw lill-Bord permezz ta' dikjarazzjoni bil-miktub minn qabel, liema dikjarazzjoni għandha tinkludi dan li ġej:

(a) id-dettalji ta' kopertura tal-assigurazzjoni jew mezzi oħra ta' protezzjoni personali jew kollettiva rigward ir-responsabbiltà professjonali. Din id-dikjarazzjoni għandha ssir kull sena jekk il-provditur ta' servizz ikollu l-ħsieb li jipprovdi servizzi temporanji jew okkażjonali f'Malta matul dik is-sena;

(b) prova taċ-ċittadinanza tal-provditur tas-servizz;

(ċ) attestazzjoni li tkun tiċċertifika li d-detentur tal-*warrant* ikun stabbilit legalment fi Stat Membru bil-għan li jeżerċita l-attivitajiet konċernati u li mhuwiex projibit milli jeżerċita, ukoll fuq bażi temporanja, fil-waqt li jitwasslu l-attestazzjonijiet;

(d) prova ta' kwalifiki professjonali; u

(e) fejn applikabbli, kull mezz ta' prova li l-provditur ta' servizz ikun eżerċita l-professjoni ta' restawratur għal mhux anqas minn sentejn matul l-għaxar snin minnufih qabel l-għoti ta' servizzi.

(3) Meta l-Bord, li jkun qed jeżerċita l-awtorità tiegħu skond dan l-artikolu, jidhirlu li hemm differenza sostanzjali bejn il-kwalifiki professjonali tal-provditur tas-servizz u l-kwalifiki akademiċi meħtieġa skond l-artikolu 31, li tkun tali li dik id-differenza tkun hekk li tkun ta' hsara għas-saħħa jew is-sigurtà pubblika, il-Bord għandu jagħti lill-provditur tas-servizz l-opportunità li juri, b'mod partikolari permezz ta' test ta' kapaċità, li huwa jkun kiseb l-għarfien jew il-kompetenza li jkunu neqsin.

(4) Il-Bord għandu jivvaluta n-natura temporanja u okkażjonali tal-forniment tas-servizzi fuq bażi ta' każ b'każ.

(5) Il-Bord għandu, fi żmien xahar mid-data meta tasal id-dikjarazzjoni msemmija fis-subartikolu (2), jinforma lill-provditur tas-servizz jew bid-deċiżjoni tiegħu li ma jikkontrollax il-kwalifiki tiegħu jew bl-eżitu ta' dan il-kontroll. Meta jkun hemm diffikultà li tista' twassal għal dewmien sabiex tinghata deċiżjoni fiż-żmien stabbilit, il-Bord għandu javża lill-provditur tas-servizz fiż-żmien stabbilit f'dan is-subartikolu. Il-Bord jista' jestendi dan il-perjodu darba biss għal xahar ieħor.

(6) Fil-każ li l-Bord ma jagħtix id-deċiżjoni tiegħu fil-perjodu msemmi fis-subartikolu (5), is-servizzi ta' restawr jistgħu jiġu provduti.

(7) Persuna li teżerċita l-professjoni skond dan l-artikolu tkun meqjusa li għandha *warrant* u d-disposizzjonijiet ta' dan l-Att u ta' kull liġi oħra applikabbli jkunu jgħoddu għaliha bl-istess mod kif japplikaw għal kull persuna oħra li għandha *warrant*".

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## L-EWWEL SKEDA

[Artikolu 6(1)]

Servizzi u affarijiet esklużi mill-applikazzjoni ta' l-artikolu 6(1)

(1) Servizzi ta' interess ekonomiku ġenerali, fost l-oħrajn:

(a) fis-settur postali, servizzi koperti bid-Direttiva 97/67/KE tal-Parlament Ewropew u tal-Kunsill tal-15 ta' Diċembru 1997 dwar regoli komuni għall-iżvilupp tas-suq intern ta' servizzi postali Komunitarji u t-titjib fil-kwalità tas-servizz;

(b) fis-settur ta' l-elettriku, servizzi koperti bid-Direttiva 2003/54/KE tal-Parlament Ewropew u tal-Kunsill tas-26 Ġunju, 2003 li tirrigwarda regoli komuni għas-suq intern ta' l-elettriku;

(ċ) fis-settur tal-gass, servizzi koperti bid-Direttiva 2003/55/KE tal-Parlament Ewropew u tal-Kunsill tas-26 Ġunju 2003 li tirrigwarda regoli komuni għas-suq intern tal-gass naturali;

(d) id-distribuzzjoni u servizzi ta' forniment ta' ilma u servizzi ta' l-ilma mormi;

(e) it-trattament ta' l-iskart.

(2) Affarijiet koperti bid-Direttiva 96/71/KE tal-Parlament Ewropew u tal-Kunsill tas-16 Diċembru 1996 dwar l-inkarigi mogħtija lil haddiema fil-kuntast tal-provvista ta' servizzi.

(3) Affarijiet koperti bid-Direttiva 95/46/KE tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Ottubru 1995 fuq il-ħarsien ta' individwi f'dak li hu l-proċessar ta' *data* personali u fuq il-moviment hieles ta' *data* bħal dik.

(4) Affarijiet koperti bid-Direttiva tal-Kunsill 77/249/KEE tat-22 ta' Marzu, 1977 biex jiffaċilitaw l-eżerċizzju effettiv mill-avukati tal-libertà li jipprovdu servizzi.

(5) L-attività ta' l-irkupru ġudizzjarju ta' djun.

(6) Affarijiet koperti bit-Titolu II tad-Direttiva 2005/36/KE kif trasposta fil-liġi ta' Malta bis-saħħa tar-Regolamenti ta' l-2007 dwar ir-Rikonoxximent Reċiproku ta' Kwalifiki Professjonali, kif ukoll il-ħtiġiet fl-Istat Membru fejn jiġi provdut is-servizz, li jirriservaw attività għal xi professjoni partikolari.

(7) Affarijiet koperti bir-Regolament (KEE) Nru. 1408/71 fuq l-applikazzjoni ta' skemi tas-sigurtà soċjali għal persuni impjegati jew persuni li jimpjegaw lilhom infushom u għal membri tal-familji tagħhom li għandhom id-

dritt ta' moviment fil-Komunità.

(8) Dwar formalitajiet amministrattivi li jirrigwardaw il-moviment liberu ta' persuni u r-residenza tagħhom, affarijiet koperti bid-disposizzjonijiet tad-Direttiva 2004/38/KE fuq id-dritt li è-ċittadini ta' l-Unjoni Ewropea u l-membri tal-familja tagħhom għandhom ta' moviment u residenza libera fit-territorju ta' l-Istati Membri u li l-benefiċjarji għandhom josservaw.

(9) Dwar ċittadini ta' pajjiżi terzi li jmorru fi Stat Membru ieħor fil-kwadru ta' l-għoti ta' servizz, il-possibilità li Stati Membri jeħtieġu viża jew permessi ta' residenza għal ċittadini ta' pajjiżi terzi li ma jkunux koperti bir-regolamentazzjoni tar-rikonossiment reċiproku li hemm prevista fl-Artikolu 21 tal-Konvenzjoni li timplimenta l-Ftehim ta' Schengen ta' l-14 ta' Ġunju, 1985 dwar l-abolizzjoni gradwali ta' verifiki fuq il-konfini komuni jew il-possibilità li ċittadini ta' pajjiżi terzi jiġu obbligati li jirrappurtaw għand l-awtoritajiet kompetenti meta huma jidhlu jew wara li jkunu daħlu fil-pajjiż.

(10) Dwar it-tagħbija fuq bastimenti ta' skart, affarijiet koperti bir-Regolament tal-Kunsill (KEE) Nru. 259/93 ta' l-1 ta' Frar, 1993 fuq is-superviżjoni u l-kontroll ta' tagħbijiet ta' skart ġewwa, lejn u 'l barra mill-Komunità Ewropea.

(11) Drittijiet ta' l-awtur, drittijiet ta' viċinat u drittijiet koperti bid-Direttiva tal-Kunsill 87/54/KEE tas-16 ta' Diċembru, 1986 kif trasposta fil-liġijiet ta' Malta bis-saħħa ta' l-Att dwar id-Drittijiet ta' l-Awtur, u regolamenti magħmulin taħtu, dwar il-harsien legali ta' topografiji ta' prodotti semikondutturi u bid-Direttiva 96/9/KE tal-Parlament Ewropew u tal-Kunsill tal-11 Marzu, 1996 fuq il-harsien legali ta' *databases*, kif ukoll drittijiet ta' proprjetà industrijali.

(12) Atti li jkunu jeħtieġu bil-liġi s-schem ta' nutar pubbliku.

(13) Affarijiet koperti bid-Direttiva 2006/43/KE tal-Parlament Ewropew u tal-Kunsill tas-17 ta' Mejju, 2006 dwar verifika statutorja ta' kontijiet ta' kull sena u ta' kontijiet konsolidati.

(14) Ir-registrazzjoni ta' vetturi mikrija fi Stat Membru ieħor.

(15) Disposizzjonijiet li jirrigwardaw obbligi kuntrattwali u mhux kuntrattwali, inkluża l-forma ta' kuntratti, stabbilita konformement mar-regoli tad-dritt internazzjonali privat.

## IT-TIENI SKEDA

[Artikolu 8(3) u (4)]

Koperazzjoni ma' awtorità kompetenti ta' Stat Membru ieħor

(1) Meta jkun qiegħed jiġi provdut servizz f'xi Stat Membru ieħor minn provduttur stabbilit f'Malta, awtorità kompetenti għandha tikkopera ma' l-awtorità kompetenti rilevanti ta' Stat Membru ieħor, u twettaq l-obbligi tagħha kif imfisser hawn aktar 'l isfel:

(a) meta tkun qegħda tirċievi talba mill-awtorità kompetenti rilevanti ta' Stat Membru ieħor, awtorità kompetenti għandha tikkonferma jekk provduttur ikunx stabbilit f'Malta u li skond ma tkun taf hi l-provduttur ma jkunx qiegħed jeżerċita l-attività tiegħu b'mod illeċitu;

(b) l-awtorità kompetenti għandha twettaq dawk il-verifiki, spezzjonijiet u investigazzjonijiet skond ma tkun mitluba tagħmel u, jew li jkunu meħtieġa, u għandha tgħarraf lill-awtorità kompetenti rilevanti fl-Istat Membru l-ieħor bir-riżultati u, jew dwar kull miżura li hija tkun ħadet:

Izda awtorità kompetenti tista' tiddeċiedi dwar liema miżuri jkunu adatti;

(ċ) jekk jiġri li l-awtorità kompetenti tiltaqa' ma' xi diffikultà biex tilqa' xi talba għall-informazzjoni jew tagħmel xi verifiki, spezzjonijiet jew investigazzjonijiet, hija għandha tgħarraf kemm jista' jkun malajr lill-awtorità kompetenti li tkun qegħda tagħmel it-talba b'dawk id-diffikultajiet sabiex tkun tista' tinsab soluzzjoni.

(2) Malli jkollu f'idejh l-informazzjoni ta' kwalunkwe kondotta jew atti speċifiċi minn fornitur stabbilit fit-territorju tiegħu li jforni servizzi fi Stati Membri oħrajn, li, sa fejn jaf hu, jista' jikkawża dannu serju fis-saħħa jew fis-sigurtà ta' persuni jew lill-ambjent, l-Istat Membru ta' l-istabbiliment għandu jinforma l-Istati Membri l-oħrajn kollha u l-Kummissjoni fl-iqsar perjodu ta' żmien possibli.

(3) Meta jkun qiegħed jiġi provdut servizz f'Malta, fil-każ ta' xi moviment temporanju minn provduttur stabbilit fi Stat Membru ieħor:

(a) fuq talba ta' l-awtorità kompetenti rilevanti ta' l-Stat Membru ta' stabbiliment, l-awtorità kompetenti għandha twettaq il-verifiki, spezzjonijiet u investigazzjonijiet meħtieġa sabiex tiżgura s-supervizjoni effettiva mill-awtorità kompetenti ta' stabbiliment:

Izda awtorità kompetenti tista' tiddeċiedi fuq l-iktar mod adatt kif titwettaq it-talba mill-Istat Membru ta' stabbiliment;

(b) l-awtorità kompetenti tista', b'inizjattiva tagħha, tagħmel verifiki, spezzjonijiet u investigazzjonijiet fuq il-post, sakemm dawk il-verifiki, spezzjonijiet u investigazzjonijiet ma jkunux diskriminatorji, motivati mill-fatt li l-provditur ikun stabbilit fi Stat Membru ieħor u jkunu proporzjonati;

(ċ) jekk jiġri li l-awtorità kompetenti tiltaqa' ma' xi diffikultà meta tilqa' xi talba għall-informazzjoni jew tagħmel xi verifiki, spezzjonijiet jew investigazzjonijiet, hija għandha tgħarraf kemm jista' jkun malajr lill-awtorità kompetenti li tkun qegħda tagħmel it-talba b'dawk id-diffikultajiet sabiex tkun tista' tinsab soluzzjoni;

(d) dwar il-htigiet imposti mill-awtorità kompetenti skond l-artikolu 6(3), l-awtorità kompetenti għandha tiegħu dawk il-miżuri meħtieġa sabiex tiżgura li l-provditur ikun konformi ma' dawn il-htigiet u għandha twettaq il-verifiki, spezzjonijiet u kontrolli meħtieġa sabiex tissorvelja s-servizz provdut.

(4) Fejn Stat Membru jsir jaf b'atti jew ċirkustanzi serji u speċifiċi relatati ma' attività ta' servizz li jistgħu jikkawżaw dannu serju għas-saħħa jew sigurtà ta' persuni jew ta' l-ambjent fit-territorju tiegħu jew fit-territorju ta' Stati Membri oħrajn, dak l-Istat Membru għandu jinforma lill-Istat Membru ta' l-istabbiliment, lill-Istati Membri l-oħra konċernati u lill-Kummissjoni fl-iqsar perjodu ta' żmien possibli.

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## IT-TIELET SKEDA

[Artikolu 8(6)]

Proċedura li għandha tiġi segwita fit-trasmissjoni ta' informazzjoni  
dwar il-fama tajba ta' provditur

(1) Meta l-awtorità kompetenti tkun qegħda tipprovi dwar talba għal informazzjoni fuq il-fama tajba ta' provditur, hija għandha timxi skond id-disposizzjonijiet li jirrigwardaw l-iżvelar ta' informazzjoni kif previsti taħt xi liġi oħra.

(2) Mingħajr preġudizzju għall-paragrafu (1), l-awtorità kompetenti għandha, meta tirċievi talba minn awtorità kompetenti oħra, tipprovi kull informazzjoni dwar xi deċiżjoni dixxiplinari jew amministrattiva jew dwar kull deċiżjoni oħra li tkun tirrigwarda stat ta' insolvenza jew falliment direttament rilevanti għall-kompetenza jew affidabilità tal-provditur.

(3) Jekk jiġri li talba tkun tirrigwarda l-iżvelar ta' informazzjoni li jkollha x'taqsam ma' xi sanzjonijiet u deċiżjonijiet amministrattivi, awtorità kompetenti

għandha taċċerta ruħha li dawk is-sanzjonijiet u deċiżjonijiet ikunu finali.

(4) Jekk jiġri li talba tkun tirrigwarda l-iżvelar ta' informazzjoni li jkollha x'taqsam ma' xi deċiżjoni oħra li tista tiġi enforzata, l-awtorità kompetenti għandha tindika b'mod ċar jekk id-deċiżjoni tkunx waħda finali jew soġġetta għal appell. Jekk ikun hemm każ ta' appell, l-awtorità kompetenti għandha tiddikjara d-data meta tkun prevista li ser tinghata d-deċiżjoni ta' l-appell.

(5) Meta jiġri li awtorità kompetenti tirċievi talba mingħand awtorità kompetenti fi Stat Membru ieħor dwar l-iżvelar ta' informazzjoni fuq xi sanzjoni kriminali ta' provditur ta' servizz li tkun direttament rilevanti għall-kompetenza jew l-affidabilità professjonali tal-provditur, l-awtorità kompetenti għandha tirreferi dik it-talba lill-Kummissarju tal-Pulizija u twassal lura l-informazzjoni li tkun irċeviet lill-awtorità kompetenti li tkun qegħda tagħmel it-talba:

Iżda meta talba ssir konformement ma' l-għanijiet imsemmija f'dan is-subartikolu, din għandha tiġi sostanzjata kif imiss, u r-raġuni għal dik it-talba għandha tiġi mgħarrfa lill-awtorità kompetenti.

(6) L-awtorità kompetenti li tagħti dik l-informazzjoni għandha tgħarraf lill-provditur ta' servizz li tkun giet żvelata dik l-informazzjoni.

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## **IR-RABA' SKEDA**

[Artikolu 6(3)]

Assistenza reċiproka jekk ikun hemm deroga li tinghata skond il-mertu ta' kull każ

(1) Meta awtorità kompetenti tkun bi hsiebha tadotta miżuri konformi ma' l-artikolu 6(3) ta' dan l-Att, il-proċedura li ġejja għandha tkun tapplika mingħajr preġudizzju għal kull proċediment fil-qorti, inklużi proċediment preliminari u atti li jsiru fil-qafas ta' xi investigazzjoni kriminali.

(2) Awtorità kompetenti għandha titlob lill-awtorità kompetenti fl-Istat Membru ta' stabbiliment biex din tiegħu miżuri rigward il-provditur, billi tagħti kull informazzjoni rilevanti fuq is-servizzi u ċ-ċirkostanzi tal-każ.

(3) L-awtorità kompetenti fl-Istat Membru ta' stabbiliment għandha, fl-iqsar żmien possibbli, tivverifika jekk il-provditur ikunx qieghed jopera b'mod leċitu u tivverifika l-atti li abbażi tagħhom tkun qegħda ssir it-talba.

(4) Wara li tinghata twegiba mill-awtorità kompetenti fl-Istat Membru ta' stabbiliment dwar il-miżuri meħuda jew li jkunu ser jittieħdu jew, skond il-każ, ir-raġuni għaliex ma tkun hadet ebda miżura, l-awtorità kompetenti għandha tavża lill-Kummissjoni Ewropea u lill-awtorità kompetenti fl-Istat Membru ta'

stabbiliment bl-intenzjoni li jkollha li tadotta xi miżuri, għar-raġunijiet li ġejjin:

(a) għaliex tqis li l-miżuri mehuda jew li jkunu ser jittiehdu mill-awtorità kompetenti fl-Istat Membru ta' stabbiliment ma jkunux adegwati;

(b) għaliex tqis li l-miżura li tkun ser tiehu tkun twettaq dawn il-kondizzjonijiet li ġejjin:

(i) il-miżura nazzjonali ma kenitx soġġetta għall-armonizzazzjoni Komunitarja fil-qasam tas-sigurtà ta' servizzi;

(ii) il-miżura tkun tipprovdi għal livell oghla ta' harsien tar-riċevitur milli jkun il-każ f' miżura li tittiehed mill-awtorità kompetenti rilevanti fl-Istat Membru ta' stabbiliment skond id-disposizzjonijiet nazzjonali tiegħu;

(iii) l-awtorità kompetenti rilevanti fl-Istat Membru ta' stabbiliment ma tkun hadet ebda miżura jew tkun hadet miżuri insuffiċjenti meta dawn jiġu paragonati ma' dawk imsemmija fis-subparagrafu (ii);

(iv) il-miżuri jkunu sproporzjonati.

(5) Il-miżuri ma jkunux jistgħu jittiehdu qabel ma jgħaddu hmistax-il ġurnata mid-data tan-notifika kif previst fil-paragrafu (4).

(6) Madankollu l-awtorità kompetenti għandha, f'każ ta' urġenza, iżżomm lura milli tmexxi skond il-proċedura hawn qabel imsemmija, u għandha tavża lill-Kummissjoni u lill-awtorità kompetenti rilevanti fl-Istat Membru ta' stabbiliment dwar il-miżuri mehuda, flimkien mar-raġunijiet ta' urġenza, u dan fl-iqsar żmien possibbli.

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## IL-HAMES SKEDA

[Artikolu 10(1) u (2)]

Informazzjoni li għandha tingħata lil riċevitur

(1) Provditur stabbilit f'Malta għandu jara li din l-informazzjoni li ġejja tkun f'kull waqt disponibbli għal riċevitur:

(a) ismu, status u forma legali, l-indirizz ġeografiku registrat fejn ikun stabbilit u dawk il-partikolaritajiet li bihom ikun jista' jiġi kuntattjat minnufih u fejn tkun tista' ssir komunikazzjoni direttament u, skond il-każ, b'mezzi elettronici;

(b) meta l-provditur ikun soġġett għal xi kodiċi ta' kondotta, ikun membru ta' xi assoċjazzjoni kummerċjali jew ta' xi korp professjonali li jipprovi mezz għat-temm ta' tilwimiet li ma jkunux proċedimenti bil-qorti, il-partikolaritajiet ta' korp bħal dak u l-mod kif tista' tinkiseb informazzjoni dwar il-karatteristiċi u l-kondizzjonijiet li jkollhom x'jaqsmu ma' dawh il-proċedimenti;

(ċ) meta l-provditur ikun reġistrat f'reġistru tal-kummerċ jew f'xi reġistru pubbliku ieħor bħal dak, l-isem ta' dak ir-reġistru u n-numru ta' reġistrazzjoni tal-provditur, jew mezzi ekwivalenti ta' identifikazzjoni f'dak ir-reġistru;

(d) meta l-attività tkun soġġetta għal skema ta' awtorizzazzjoni, il-partikolaritajiet ta' l-awtorità kompetenti rilevanti jew il-punt ta' kuntatt waħdieni;

(e) meta l-provditur jeżerċita attività li tkun soġġetta għal VAT, in-numru ta' identità msemmi fl-Artikolu 22(1) tas-Sitt Direttiva tal-Kunsill 77/388/KEE tas-17 ta' Mejju, 1977 fuq l-armonizzazzjoni tal-liġijiet ta' l-Stati Membri li għandhom x'jaqsmu ma' taxxi fuq id-dhul totali - Sistema komuni ta' taxxa fuq il-valur miżjud: bażi ta' stima uniformi;

(f) fil-każ tal-professjonijiet regolati, kull korp professjonali jew istituzzjoni simili fejn il-provditur ikun reġistrat, it-titolu professjonali u l-Istat Membru li fih ikun ingħata dak it-titolu;

(g) il-kondizzjonijiet u l-klawsoli ġenerali, jekk ikun hemm, li l-provditur juża;

(h) l-eżistenza ta' klawsoli kuntrattwali, jekk ikun hemm, użati mill-provditur dwar il-liġi li tkun applika għall-kuntratt u, jew il-qrati kompetenti;

(i) l-eżistenza ta' garanzija għal dak li jista' jinqala' wara l-bejgħ, jekk ikun hemm, li ma tkunx imposta bil-liġi;

(j) il-prezz tas-servizz, meta prezz jiġi stabbilit bil-quddiem mill-provditur għal xi tip ta' servizz speċifiku;

(k) il-karatteristiċi prinċipali tas-servizz, jekk dawn ma jkunux diġà jidhru mill-kuntest;

(l) meta huwa jkun soġġett għal kopertura ta' assigurazzjoni jew xi garanzija oħra, il-partikolaritajiet ta' kif jista' jiġi kuntattjat l-assiguratur jew il-garanti u l-kopertura territorjali.

L-informazzjoni imsemmija fis-subparagrafi (a) sa (l):

- (i) ghandha tinghata fuq inizjattiva tal-provditur; u
  - (ii) ghandu tkun aċċessibbli b'mod faċli mir-riċevitur fil-post fejn jiġi provdut is-servizz jew fejn isir il-kuntratt; jew
  - (iii) tkun aċċessibbli b'mod faċli mir-riċevitur elettronikament permezz ta' indirizz mogħti mill-provditur; jew
  - (iv) tkun tidher fuq id-dokumenti kollha fornuti lir-riċevitur mill-provditur u li jkun fihom deskrizzjoni ċara tas-servizz li huwa jkun jipprovdi.
- (2) Provditur għandu jagħmel din l-informazzjoni disponibbli fuq talba tar-riċevitur:
- (a) il-prezz ta' servizz u jekk ma jkunx jista' jinghata prezz eżatt, il-metodu kif għandu jiġi kalkolat il-prezz jew stima dettaljata tiegħu;
  - (b) referenza għar-regoli professjonali li jkunu japplikaw fl-Istat Membru ta' stabbiliment u kif wiehed jista' jkollu aċċess għalihom;
  - (ċ) informazzjoni dwar l-attivitajiet multidixxiplinari tagħhom u soċjetajiet li jkunu direttament marbutin mas-servizz inkwistjoni u dwar il-miżuri li jkunu ttiehdu sabiex jiġu evitati konflitti ta' interess. Dik l-informazzjoni għandha tiġi inkluża f'kull dokument ta' informazzjoni li fih il-provdituri jagħtu deskrizzjoni dettaljata tas-servizzi tagħhom;
  - (d) informazzjoni, jekk ikun hemm, fuq il-kodiċi dwar l-imġieba tal-provditur, jew is-shubija tiegħu f'assoċjazzjoni kummerċjali jew f'korp professjonali li jkun jipprovdi mezz għat-temm ta' tilwimiet li ma jkunux proċedimenti bil-qorti. Il-provditur għandu jispeċifika kif wiehed jista' jkollu aċċess għal informazzjoni dettaljata dwar il-karatteristiċi, u l-kondizzjonijiet għall-użu, ta' mezzi barra mill-qorti kif isir it-temm ta' tilwimiet.
- (3) Il-provditur għandu jiżgura li l-informazzjoni mogħtija skond il-paragrafi (1) u 2 issir disponibbli jew tiġi komunikata b'mod ċar u li jiftiehem sew, u fil-waqt, qabel ma jsir il-kuntratt u, meta ma jkunx hemm kuntratt bil-miktub, qabel ma jiġi provdut is-servizz.
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A 908

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 177 tal-14 ta' Diċembru,  
2009.

LOUIS GALEA  
*Speaker*

PAULINE ABELA  
*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

GEORGE ABELA  
President

29th December, 2009

**ACT No. XXIII of 2009**

*AN ACT to establish general provisions facilitating the exercise of freedom of establishment for service providers and the free movement of services in the internal market and to implement Directive 2006/123/EC.*

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**

**1.** (1) The short title of this Act is the Services (Internal Market) Act, 2009. Short title and commencement.

(2) Parts I to VI (both inclusive) and the Schedules of this Act shall come into force upon publication of this Act.

**PART II - DEFINITIONS**

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

"Appeals Board" means the appeals boards, tribunals or courts established by law, recourse to which may be made by any aggrieved person following a decision of a competent authority;

"authorisation" means a permit, licence, warrant, appointment, concession or any formal or implied decision concerning access to a service activity or the exercise thereof;

"authorisation scheme" means any authorisation and other procedure of an administrative nature, under which a provider or recipient is in effect required to take steps in order to commence the activity in question and obtain, from a competent authority, authorisation concerning access to a service activity or the exercise thereof;

"commercial communication" means any form of communication designed to promote, directly or indirectly, the goods, services or image of an undertaking, organisation or person engaged in commercial, industrial or craft activity, or practicing a regulated profession. The following do not in themselves constitute commercial communications:

(a) information enabling direct access to the activity of the undertaking, organisation or person, including in particular a domain name or an electronic-mailing address;

(b) communications relating to the goods, services or image of the undertaking, organisation or person, compiled in an independent manner, particularly when provided for no financial consideration;

"competent authority" means any body or authority established and, or designated by law and vested with a supervisory and, or regulatory role in relation to service activities, including the regulation of access to service activities and, or the exercise thereof;

"the Directive" means Directive 2006/123/EC of the European Parliament and of the Council of 12 December, 2006, on services in the internal market;

"establishment" means the actual pursuit of an economic activity as referred to in Article 43 of the Treaty, by a service provider for an indefinite period and through a stable infrastructure from where the business of providing services is actually carried out;

"the European Commission" means the Commission of the European Community;

"Internal Market Information System" means the information system, established further to Article 34 of the Directive, through which competent authorities exchange information in fulfilment of their obligations under Chapter VI of the Directive;

"Member State" means a member state of the European Economic Area;

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

"Member State where the service is provided" means the Member State where the service is supplied by a provider established in another Member State;

"the Minister" means the Minister responsible for the economy;

"overriding reasons relating to the public interest", unless otherwise specified in this Act, means the reasons recognised as such in the case law of the European Court of Justice, and as they may continue to evolve, including the following grounds: public policy, public security, public safety, and public health; the maintenance of order in society; social policy objectives, the protection of the recipients of services; consumer protection; the protection of workers including the social protection of workers; animal welfare; the preservation of the financial balance of the social security system; the prevention of fraud; the prevention of unfair competition; the protection of the environment and the urban environment including town and country planning; the protection of creditors; safeguarding the sound administration of justice; road safety; the protection of intellectual property; cultural policy objectives including safeguarding the freedom of expression of various elements in particular social, cultural, religious and philosophical values of society; the need to ensure a high level of education, the maintenance of press diversity and the promotion of the national language; the preservation of national historical and artistic heritage; and veterinary policy;

"point of single contact" means the electronic system through which the competent authorities shall fulfill their functions relating to the completion of all procedures and formalities necessary for establishment and access to and exercise of a service activity in Malta and the provision of relevant information to an applicant, a provider and recipients in terms of this Act or as may be prescribed;

"provider" means any natural person who is a national of a Member State, or any legal person as referred to in Article 48 of the Treaty and established in a Member State, who offers or provides a service;

"recipient" means any natural person who is a national of a Member State or who benefits from rights conferred upon him by Community acts, or any legal person as referred to in Article 48 of the Treaty and established in a Member State, who, for professional or non-professional purposes, uses, or wishes to use, a service;

L.N. 422 of  
2007.

"regulated profession" means a professional activity or a group of professional activities as referred to in Article 3(1)(a) of Directive 2005/36/EC on the recognition of professional qualifications as transposed by the Recognition of Professional Qualifications Regulations, 2007;

"requirement" means any obligation, prohibition, condition or limit provided for in the laws, regulations or administrative provisions, administrative practice, the rules of professional bodies, or the collective rules of professional associations or other professional organisations, adopted in the exercise of their legal autonomy;

"service" means any self-employed activity performed for an economic consideration as referred to in Article 50 of the Treaty;

Cap. 379.

"services of a general economic interest" means those services declared by the Minister as services of general economic interest in terms of article 30(3) of the Competition Act in conformity with Community law;

"the Treaty" means the Treaty establishing the European Community.

### **PART III - SCOPE OF APPLICATION OF THIS ACT**

Scope.

**3.** (1) This Act shall apply to services supplied by a provider.

(2) Without prejudice to subarticle (1), this Act shall not apply to the following activities:

S.L. 371.11

(a) financial services, such as banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment funds, payment and investment advice, including the services listed in Annex I to Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions as transposed by the European Passport Rights for Credit Institutions Regulations;

(b) electronic communications services and networks, and associated facilities and services, with respect to matters covered by Directives 2002/19/EC (Access Directive), 2002/20/EC (Authorisation Directive), 2002/21/EC (Common Regulatory Framework), 2002/22/EC (Universal Services Directive) and 2002/58/EC (Directive on Piracy and Electronic Communication) as transposed into Maltese legislation;

(c) services in the field of transport, including port services, falling within the scope of Title V of the Treaty;

(d) services of temporary work agencies;

(e) healthcare services including pharmaceutical services provided by health professionals to assess, maintain and restore the state of health to patients, whether or not they are provided via healthcare facilities, and regardless of the ways in which they are organised and financed at national level or whether they are public or private;

(f) audiovisual services, including cinematographic services, whatever their mode of production, distribution and transmission, and radio broadcasting;

(g) gambling activities as regulated by the Gaming Act Cap.400.  
and the Lotteries and other Games Act; Cap. 438.

(h) activities which are connected with the exercise of official authority as set out in Article 45 of the Treaty;

(i) social services relating to social housing, childcare and support of families and persons permanently or temporarily in need which are provided by the State, by providers mandated by the State or by charities recognised as such by the State;

(j) private security services;

(k) services provided by notaries and court marshals, who are appointed by an official act of government;

(l) services in the field of taxation.

(3) If the provisions of this Act are in conflict with a provision of a Community act governing specific aspects of access to, or exercise of a service activity in, specific sectors or for specific professions, the provision of the Community act shall prevail and shall apply to those specific sectors or professions. These include:

(a) Directive 96/71/EC on the posting of workers in the framework of the provision of services;

(b) Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and self-employed persons, and to members of their families moving within the Community;

(c) Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities;

(d) Directive 2005/36/EC on the recognition of professional qualifications.

(4) Furthermore, this Act shall not apply to:

(a) rules of private international law, in particular rules governing the law applicable to contractual and non-contractual obligations; and

(b) rules concerning the rules of jurisdiction of the Courts.

#### **PART IV - COMPETENT AUTHORITIES**

General functions of competent authorities regulating access to service activities falling under this Act and, or the exercise thereof.

**4.** Further to the fulfilment of the powers, functions and responsibilities attributed to a competent authority, in the founding and enabling legislation concerning their area of competence, and without prejudice to the allocation of functions and powers vested among authorities within the national administrative system, a competent authority shall:

(a) simplify procedures and formalities applicable to the access to a service activity and to the exercise thereof;

(b) act objectively, transparently, efficiently and in a timely manner;

(c) provide information and assistance to providers and recipients subject to the provisions of this Act;

(d) make it possible to complete all procedures and formalities relating to access to a service activity and to the exercise thereof available electronically through the designated point of single contact:

Provided that the requirement to make it possible to complete all procedures and formalities electronically through the point of single contact shall not be applicable to the inspection of premises on which the service is provided or of equipment used by the provider or to the physical examination of the capability or of the personal integrity of the provider or of his responsible staff;

(e) assist competent authorities of another Member State and seek their assistance in fulfilling the supervisory obligations in terms of article 8;

(f) perform such other functions as may from time to time be assigned to it by the Minister, in consultation with other Ministers, as may be applicable.

5. (1) Where a competent authority grants and regulates access to a service activity, in the carrying out of its authorisation functions, on the basis of an authorisation scheme, the scheme shall be:

Authorisation function and conditions.

(a) non-discriminatory;

(b) necessary, and

(c) justified by an overriding reason relating to the public interest;

Provided that the public interest objective being pursued cannot be attained by means of a less restrictive measure, in particular because *a posteriori* inspections, checks and controls would take place too late to be genuinely effective.

(2) The competent authority shall assess applications and grant authorisations based on criteria that are:

Conditions for granting authorisations.

(a) non-discriminatory;

(b) justified by an overriding reason related to public interest and proportionate to the attainment of that public interest objective;

(c) clear and unambiguous;

(d) objective;

(e) made public in advance; and

(f) transparent and accessible.

(3) A competent authority may not make access to or the exercise of a service activity in Malta subject to compliance to any of the following, in conformity with European Union law:

(a) discriminatory requirements based directly or indirectly on nationality or, in the case of companies, the location of the registered office, including in particular:

(i) nationality requirements for the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies;

(ii) a requirement that the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies be resident in Malta;

(b) a prohibition on having an establishment in more than one Member State or on being entered in the registers or enrolled with professional bodies or associations of more than one Member State;

(c) restrictions on the freedom of a provider to choose between a principal or a secondary establishment, in particular an obligation on the provider to have its principal establishment in Malta, or restrictions on the freedom to choose between establishment in the form of an agency, branch or subsidiary;

(d) conditions of reciprocity with the Member State in which the provider already has an establishment;

(e) the case-by-case application of an economic test making the granting of authorisation subject to proof of the existence of an economic need or market demand, an assessment of the potential or current economic effects of the activity or an assessment of the appropriateness of the activity in relation to the economic planning objectives set by the competent authority; this prohibition shall not concern planning requirements which do not pursue economic aims but serve overriding reasons relating to the public interest;

(f) the direct or indirect involvement of competing operators, including within consultative bodies, in the granting of authorisations or in the adoption of other decisions of the competent authorities, with the exception of professional bodies and associations or other organisations acting as the competent authority; this prohibition shall not concern the consultation of organisations, such as chambers of commerce or social partners, on matters other than individual applications for authorisation, or a consultation of the public at large;

(g) an obligation to provide or participate in a financial guarantee or to take out insurance from a provider or body established in Malta; this paragraph is without prejudice to sub-article (5) or to requirements relating to the participation in a

collective compensation fund for members of professional bodies or organisations;

(h) an obligation to have been pre-registered, for a given period, in the registers held in Malta or to have previously exercised the activity for a given period in Malta.

(4) Where a competent authority makes access to a service activity or the exercise thereof subject to any of the following non-discriminatory requirements:

(a) quantitative or territorial restrictions;

(b) an obligation on the provider to take a specific legal form;

(c) requirements which relate to the shareholding of a company;

(d) requirements, other than those concerning matters covered by Directive 2005/36/EC on the recognition of professional qualifications as transposed by the Recognition of Professional Qualifications Regulations, 2007, or provided for in other Community Instruments, which reserve access to the service activity in question to particular providers by virtue of the specific nature of the activity, L.N. 422 of 2007.

it shall ensure that the requirements are:

(i) not directly nor indirectly discriminatory on the basis of the nationality of the individual or the registered office of the company;

(ii) justified by an overriding reason relating to the public interest; and

(iii) proportionate and suitable for attaining the objective pursued:

Provided that where the access to the service activity in question, or the exercise thereof, is a service of general economic interest, this sub-article shall apply only in so far as it does not obstruct the performance, in law or in fact, of the public service obligation task assigned to the provider or providers:

Provided further that with effect from 28 December 2009, the introduction of the said non-discriminatory requirements shall be notified to the European Commission through established procedure.

(5) Without prejudice to arrangements provided for in other Community instruments concerning professional insurance or guarantees, a competent authority may request a provider established in Malta whose services present a direct and particular risk to the health and safety of the recipient or a third person, or to the financial security of the recipient, to subscribe to a professional liability insurance appropriate to the nature and extent of the risk, or provide a guarantee or similar arrangement which is equivalent or essentially comparable as regards its purpose.

For the purpose of this sub-article:

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

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

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

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

A competent authority shall accept as sufficient evidence attestations of such insurance cover issued by credit institutions and insurers established in other Member States.

(6) A competent authority may not impose requirements on a service provider established in Malta which oblige him to exercise a specific service activity exclusively or which restricts him from exercising his service activity jointly or in partnership except in the case of:

(a) regulated professions, so long as it is justified on the grounds of ethics and conduct;

(b) providers of certification, accreditation, technical monitoring, test or trial services, so long as it is justified on the grounds of independence and impartiality:

Provided that where a competent authority authorises or permits the carrying out of multi-disciplinary activities between providers established in Malta, it shall ensure prevention of any conflict of interest from among the providers, the subsistence of independence and impartiality, and the adherence to professional ethics and codes of conduct where applicable.

(7) A competent authority or any other professional body empowered at law to regulate the exercise of regulated professions, shall not prohibit commercial communications by the regulated professions:

Provided that professional rules on commercial communications shall be non-discriminatory, justified by an overriding reason relating to the public interest and proportionate:

Provided further that commercial communications by the regulated professions comply with professional rules, in conformity with Community law, which relate, in particular, to the independence, dignity and integrity of the profession, as well as to professional secrecy, in a manner consistent with the specific nature of each profession.

(8) When a service provider is already established in another Member State, and seeks establishment in Malta:

Service provider established in another Member State.

(a) where the service activity is subject to an authorisation scheme or the fulfillment of other requirements regulating establishment in Malta, the competent authority shall not duplicate requirements or controls which are equivalent or essentially comparable as regards their purpose to which a provider may already be subject to in another Member State where he is established:

Provided that the provisions of this paragraph shall not apply to the documents referred to in Article 7(2) and 50 of Directive 2005/36/EC, in Articles 45(3), 46, 49 and 50 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, in Article 3(2) of Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained, in the First Council Directive 68/151/EEC of 9 March 1968 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community and in the Eleventh Council Directive 89/666/EEC of 21 December 1989 concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another Member State;

(b) where a competent authority requires a provider to supply a certificate, attestation or document proving that a requirement has been satisfied in terms of this Act:

(i) it shall accept any document from another Member State which serves an equivalent purpose or from which it is clear that the requirement in question has been satisfied;

(ii) it may not require a document from another Member State to be produced in its original form or as a certified copy or certified translation save in the cases provided for in any Community instrument or where such a requirement is justified by an overriding reason relating to the public interest, including public order and public security:

Provided that this paragraph shall not affect the right of a competent authority from requesting a non-certified translation of documentation in the Maltese or English language:

Provided further that the competent authority may make use of the electronic system referred to in article 8 to carry out necessary verification, checks and controls with the relevant competent authority in the Member State of establishment;

(c) when a competent authority requires a provider to subscribe to a professional liability insurance in terms of sub-article (5), a competent authority may not require a provider to subscribe to a professional liability insurance or a guarantee where he is already covered by an insurance or guarantee which is equivalent or essentially comparable, as regards its purpose and the cover it provides in terms of the insured risk, the insured sum, or a ceiling for a guarantee and possible exclusions from the cover in another Member State in which the provider is already established. Where equivalence is only partial, a competent authority may require a supplementary insurance or guarantee to cover those aspects not already covered.

Selection from among several candidates.

(9) (a) Where the number of authorisations available for a given service activity is limited because of the scarcity of available natural resources, technical capacity or if justified by an overriding reason relating to public interest, a competent authority shall apply a selection procedure to potential candidates in order to ensure impartiality, transparency, conditions of open competition, including in particular adequate publicity about the launch, conduct and

completion of the procedure.

(b) Subject to the provisions of paragraph (a) and sub-articles (1) and (2), in establishing the rules for the selection procedure, the competent authority may give consideration to issues relating to public health, social policy objectives, the health and safety of employees or self-employed persons, the protection of the environment, the preservation of cultural heritage and other overriding reasons relating to the public interest, in conformity with Community law.

(10) (a) An authorisation granted to a provider shall be for an indefinite period, except where: Duration of authorisation.

(i) the authorisation is being automatically renewed or is subject only to the continued fulfilment of requirements;

(ii) the number of available authorisations is limited in terms of sub-article (9);

(iii) a limited authorisation period can be justified by an overriding reason relating to the public interest.

(b) In cases referred to in paragraph (a)(ii), an authorisation shall be granted for an appropriate limited period enabling the provider to recoup the cost of investment and to make a fair return on the capital invested, which authorisation may not be open to automatic renewal nor confer any other advantage on the provider whose authorisation has just expired or on any person having any particular links with that provider.

(11) (a) An authorisation granted by a competent authority shall enable the provider to have access to the service activity or the exercise thereof throughout the national territory including by means of setting up agencies, subsidiaries, branches or offices, except where the authorisation for each individual establishment or a limitation of authorisation to a certain part of the territory is justified by an overriding reason relating to public interest. Territoriality.

(b) The service provider shall be required to inform the competent authority of the creation of subsidiaries, branches, offices or agencies whose activities fall within the scope of the authorisation scheme.

(12) In the fulfilment of its authorisation function, a competent authority shall: Procedures and formalities.

(a) ensure that the procedures and formalities are

maintained sufficiently simple, clear, objective and made public in advance, and shall not unduly complicate or delay the commencement of the service activity by the provider;

(b) acknowledge all applications requesting authorisation; specifying the time period within which the application shall be processed referred to in paragraph (d), the available means of redress and where applicable, a statement that in the absence of a response within the time-period specified the authorisation shall be deemed to have been granted;

(c) in the case of an incomplete application, inform the applicant as quickly as possible of the need to supply any additional information, together with the consequences which ensue should the applicant delay in providing the said information or requirements;

(d) process an application for an authorisation as quickly as possible and in any event within a time period which shall be fixed and made public in advance failing which it shall be deemed that the authorisation has been granted, the period will start to run from the day when all due information and requirements have been submitted and any other formalities have been completed in order for the competent authority to process the application:

Provided that the time period may be extended once for a limited time when justified by the complexity of the issue, and due justification shall be given to the applicant before the original period has expired:

Provided further that a competent authority may make different arrangements where objectively justified by overriding reasons relating public interest;

(e) provide information regarding the means of redress available in case of non-acceptance of an application;

(f) grant authorisation as soon as the applicant fulfills all requirements, without prejudice to the right of the competent authority to revoke or modify an authorisation when the conditions for authorisation are no longer met by the provider;

(g) in the case of rejected applications due to failure to comply with the required procedures or formalities, inform the applicant of the rejection as soon as possible;

(h) except in the case of the granting of an authorisation, a decision from a competent authority, including refusal or withdrawal, shall be fully reasoned and shall be open to challenge before the Appeals Board.

**6.** (1) With the exclusion of service activities and matters included under the First Schedule, a competent authority shall respect the right of a provider that is lawfully established and providing services in another Member State to provide services in Malta, and may not prevent him from providing such service activity by imposing requirements which are discriminatory, unnecessary or disproportionate.

Freedom to provide services by providers already established in Member States.

For the purposes of this sub-article:

(a) a requirement is discriminatory if it necessitates the fulfilment of obligations which relate to the nationality of the applicant, including the place of establishment of a legal person;

(b) a requirement is unnecessary if it is not justified by reasons of public policy, public security, public health or the protection of the environment;

(c) a requirement lacks proportionality if it goes beyond what is necessary to pursue the objective.

(2) Without prejudice to sub-article (1), a competent authority may not subject a provider established in another Member State who wishes to provide services in Malta, to any of the following requirements:

(a) an obligation on the provider to have an establishment in Malta;

(b) an obligation on the provider to obtain an authorisation from the competent authority including entry in a register or registration with a professional body or association in Malta except where provided for in this Act and other instruments of Community law;

(c) a ban on the provider setting up a certain form or type of infrastructure in Malta, including an office or chambers, which the provider needs in order to supply the services in question;

(d) the application of specific contractual arrangements between the provider and the recipient which prevent or restrict service provision by the self-employed;

(e) an obligation on the provider to possess an identity document issued by the relevant Maltese authorities for the exercise of a service activity;

(f) requirements which affect the use of equipment and material which are an integral part of the service provided, unless necessary for the purpose of health and safety at work;

(g) restriction on the freedom to provide services as contemplated under article 9(b) in relation to the right of recipients:

Provided that a competent authority may necessitate that the provider observes the relevant laws which regulate conditions of employment including those relating to collective agreements in conformity with Community law:

Provided further that in establishing whether a provider is exercising his freedom to provide services within the meaning of this article and Article 49 of the Treaty, or is an establishment case, the competent authority shall assess and decide each case on its individual merits and in conformity with the Community law and rulings of the European Court of Justice.

(3) In exceptional cases only, and on a case by case basis, without prejudice to sub-articles (1) and (2), a competent authority may, in respect of a provider established in another Member State, take measures in order to ensure the safety of services provided in Malta. When taking such measures, a competent authority shall follow the procedure established under the Fourth Schedule, and ensure the fulfilment of the following conditions:

(a) the national provisions in accordance with which the measures are taken have not been subject to Community harmonisation in the field of the safety of services;

(b) the measures taken provide for a higher level of protection of the recipient than would be the case in a measure taken by the Member State of establishment in accordance with its national provisions;

(c) the Member State of establishment has not taken any measures or has taken measures which are insufficient as compared with those requested by the competent authority as referred to in paragraphs 2 and 3 to the Fourth Schedule;

(d) the measures are proportionate:

Provided that where the competent authority becomes aware of a serious specific act or circumstances relating to a service activity that would cause serious damage to the health and safety of persons, or the environment, in Malta or another Member State, it shall inform the Member State of establishment, other Member States that may be concerned or affected, and the European Commission within the shortest time possible through the Internal Market Information System.

7. In its function to provide information and assistance in terms of article 4(c):

Provision of information and assistance to applicants, providers and recipients.

(a) a competent authority shall cooperate with the designated entity in accordance with article 10(3) to ensure that the following are easily accessible to providers and recipients:

(i) the requirements applicable in other Member States relating to access to, and exercise of, the relevant service activities, in particular those relating to consumer protection;

(ii) the contact details of the competent authorities enabling the latter to be contacted directly, including the details of those authorities responsible for matters concerning the exercise of the relevant service activities;

(iii) the means of, and conditions for, accessing public registers and databases on providers and relevant services;

(iv) the means of redress which are generally available in the event of dispute between the competent authorities and the provider or the recipient, or between a provider and a recipient or between providers;

(v) the contact details of the associations or organisations other than the competent authorities, from which providers may obtain practical assistance;

(vi) a list, updated at least annually, of the names and commercial contact details of those providers who are in possession of a valid licence issued by the competent authority;

(b) at the provider's and recipient's request, the competent authority shall provide assistance consisting of simple, generic information of a non-legal nature, on the

interpretation and application of the requirements, procedures and formalities needed for a provider or recipient to have access to the relevant service activity in Malta;

(c) in cooperation with the European Commission and other Member States, the competent authority shall seek to assist recipients in Malta in obtaining information on the protection given to recipients, as well as the available means of redress, and the contact details of associations providing consumer assistance in other Member States.

Supervisory  
functions.

**8.** (1) A competent authority shall require providers established in Malta and falling under its area of competence to keep it updated at all times with the information it identifies as necessary and objectively justified for it to fulfill its supervisory function of services in terms of its enabling Act and this Act.

(2) The competent authority shall exercise its supervisory functions on providers established in Malta, and falling under its area of competence, whether the service is provided in Malta or in another Member State.

(3) In executing its supervisory functions, when a service is being provided in another Member State by a provider established in Malta, a competent authority shall assist the relevant competent authority of that other Member State according to the procedure set up in the Second Schedule. In doing so, the competent authority shall not refrain from taking supervisory enforcement measures in Malta on the grounds that a service has been provided or caused damage in another Member State:

Provided that a competent authority shall not be bound to carry out checks and controls in the Member State where the service is being provided.

(4) When a service is being provided in Malta, in the event of a temporary movement by a provider established in another Member State in terms of article 6:

(a) the competent authority shall participate in the supervision of the provider in accordance with the procedure set up in the Second Schedule;

(b) when it has imposed requirements in terms of the provisos to article 6(2), it shall assume responsibility for the supervision of the provider in Malta in order to ensure compliance with those requirements.

(5) A competent authority shall exchange requests and information with the relevant competent authorities of another Member State and the Commission through the Internal Market Information System.

(6) Without prejudice to the limitations imposed by any other law, a competent authority shall supply information to the relevant competent authority of another Member State on disciplinary or administrative actions, or criminal sanctions and decisions concerning insolvency or bankruptcy involving fraud, which directly concern a provider, in terms of the procedure contemplated under the Third Schedule.

## **PART V - RIGHTS OF RECIPIENTS**

**9.** Recipients and potential recipients of a service shall not be subjected to discriminatory requirements, including: Prohibitions.

(a) limitations to access to services in Malta through a provider's general conditions that contain discriminatory provisions relating to the nationality or place of residence of the recipient, provided that this does not preclude the possibility for a provider to provide for differences in the conditions of access where those differences are directly justified by objective criteria; or

(b) the granting of financial assistance by reason of the fact that the provider is established in another Member State or by reason of the location of the place at which the service is provided; or

(iii) an obligation to obtain authorisation from, or to make a declaration to, a competent authority.

**10.** (1) Further to the right to information and assistance referred to in articles 4 and 7, a provider established in Malta is obliged to provide the information listed in the Fifth Schedule. Right to information and assistance.

(2) For the purpose of subarticle (1), the body responsible for consumer protection shall be responsible to monitor and enforce compliance by the provider with the requirements listed under the Fifth Schedule.

(3) For the purposes of subarticle (1) the body responsible to provide, upon request, information in accordance with article 7(a)(i) to (vi) shall be the entity fulfilling the role of the European Consumer Centre in Malta or any other entity as may be designated by the Minister.

## PART VI - MISCELLANEOUS

Power to take  
necessary  
measures.

**11.** It shall be the function of the Minister, in consultation with other Ministers, to take any additional necessary measures to this Act, in order to ensure Malta's fulfilment of its obligations under the Directive, and to ensure compliance by all concerned with the provisions of this Act.

Power of make  
regulations.

**12.** (1) The Minister may, in consultation with other Ministers, as the case may require, make regulations for the better carrying out of any of the provisions of this Act.

(2) Without prejudice to the generality of the aforesaid power, such regulations may in particular provide for:

(a) the definition of functions of a point of single contact, its administrative and operational set up and function including its coordination with the relevant competent authorities and other bodies established under other laws in fulfilment of the functions assigned to it;

(b) establishing the sanctions or penalties to which an offender under this Act may, on being found guilty, become liable;

(c) conformity by competent authorities with the provisions of this Act;

(d) the designation of a body responsible to communicate with the European Commission for the introduction of any laws, regulations or administrative provisions as referred to in the second proviso to article 5(4), and the procedure to be followed to channel the information to the European Commission;

(e) the designation of a national coordinator for the Internal Market Information System;

(f) the designation of an Appeals Board to take cognizance of complaints lodged by a provider against a competent authority in default of a procedure identified under its founding and enabling legislation;

(g) prescribing anything which may be required to be prescribed by this Act.

Reprint.

**13.** Without prejudice to any other law, in any reprint of this Act, Parts VII to the last Part need not be reproduced and it shall be

sufficient to reproduce Parts I to VI of this Act:

Provided that nothing in this article shall be construed as reducing the validity of anything contained in the parts not so reproduced.

## PART VII

### AMENDMENTS TO THE CODE OF ORGANIZATION AND CIVIL PROCEDURE

**14.** (1) 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 principal law".

Amendments to the Code of Organization and Civil Procedure. Cap. 12.

(2) This Part shall come into force upon publication of this Act.

**15.** Sub-paragraph (a) of paragraph 47 of Tariff E in Schedule A of the principal law shall be substituted by the following new sub-paragraph:

Amendment of Tariff E in Schedule A of the principal law.

"(a) The foregoing provisions of this Tariff shall not prohibit an Advocate or a Legal Procurator and his client, from agreeing on a fee, or the basis on which the fee is to be determined which is different from that established by this Tariff, and in any such case the agreed fee or basis for determining it, not being a basis prohibited by law, shall apply, subject to the provisions of the following sub-paragraphs:

Provided that in any case, an Advocate or a Legal Procurator shall inform his client of the applicable fee or the basis on which the fee is to be determined before the service is provided."

**16.** Immediately after paragraph 19 of Tariff K in Schedule A of the principal law, there shall be added the following new paragraph:

Amendment of Tariff K in Schedule A of the principal law.

"20. (a) The foregoing provisions of this Tariff shall not prohibit a Perit and his client, from agreeing on a fee, or the basis on which the fee is to be determined which is different from that established by this Tariff, and in any such case the agreed fee or basis for determining it, not being a basis prohibited by law, shall apply, subject to the provisions of the following sub-paragraphs:

Provided that in any case, a Perit shall inform his

client of the applicable fee or the basis on which the fee is to be determined before the service is provided.

(b) For the purposes of this paragraph, an agreement concerning fees shall be in writing."

**PART VIII**

**AMENDMENTS TO THE COMMERCIAL CODE**

Amendments to the Commercial Code. Cap. 13.

**17.** (1) This Part amends the Commercial Code, and it shall be read and construed as one with the Commercial Code, hereinafter in this Part referred to as "the principal law".

(2) This Part shall come into force upon publication of this Act.

Substitution of articles 71, 72, 73 and 73A of the principal law.

**18.** Articles 71, 72, 73 and 73A of the principal law shall be substituted by the following new articles:

"Commercial agents.

71. (1) Any person desiring to act as a commercial agent, whether alone or in partnership with any other person, shall notify the regulatory authority requesting registration, within thirty days of undertaking this activity.

(2) In order to be registered as a commercial agent with the regulatory authority an applicant shall apply in writing to the authority in such form as the regulatory authority shall prescribe, containing the full name and surname, age, private and business addresses of the applicant and such other particulars concerning his business or occupation as the regulatory authority shall require. In the case of a person applying to be registered as a commercial agent in partnership, a reference shall be made in the application to the statement published in the Gazette in terms of the Companies Act showing the date of registration of the partnership and the date on which the relative certificate of registration was issued.

Cap. 386

(3) The regulatory authority shall not accept an application for registration to act as a commercial agent from any person who is in the employment of the Government of Malta or of any financial institution, or from any person holding a warrant to practise a profession in Malta and actually practising such profession, or from stockbrokers or from any person who, whether in Malta or abroad, has been found guilty of fraudulent bankruptcy.

(4) Notice of any registration under this article shall be published in the Gazette. In the month of January of each year, a complete list of registrations then in force shall likewise be published in the Gazette.

(5) Any registration carried out under this article may be withdrawn or suspended by the regulatory authority, if the person registered -

(a) is convicted of any crime against property;

(b) is adjudged bankrupt;

(c) accepts employment under the Government of Malta, or with any financial institution, or becomes the holder of a warrant to practise a profession and actually practises such profession or becomes a stockbroker;

(d) is proved, to the satisfaction of the court, not to be a fit and proper person to act as a commercial agent.

(6) Such withdrawal or suspension shall be published in the Gazette.

Power of the Minister to prescribe fee for registration.

72. The Minister after consulting the regulatory authority may, by regulation, prescribe the fee to be charged by the regulatory authority in respect of a registration to act as a commercial agent under the provisions of the last preceding article. Any such regulation may prescribe the payment of an annual fee in addition to the fee payable on the initial registration and may provide that in default of payment of any such annual fee, the registered person or partnership shall removed from the register.

Penalties.

73. Without prejudice to the provisions of article 71(1), any person who, without being registered, represents himself to be, or acts or undertakes to act as a commercial agent, shall be liable:

(a) on a first conviction to a fine (*multa*) not exceeding two thousand and five hundred euro (€2,500); and

(b) on a second or subsequent conviction, to imprisonment for a term not exceeding three months or to a fine (*multa*) not exceeding five thousand euro (€5,000).

No grant or renewal of registration pending settlement of fine.

73A. Where any court has imposed a fine under this sub-title, and such fine has not been paid, the regulatory authority shall not grant or renew the registration on the expiry thereof until such time as the payment of the fine is effected."

Substitution of articles 79 and 80 of the principal law.

**19.** Articles 79 and 80 of the principal law shall be substituted by the following new articles:

"Requirements for becoming a public broker.

79. (1) Any person desiring to act as a public broker shall notify the Council of the Chamber of Commerce, Enterprise and Industry, as the authority regulating this activity, requesting registration, within thirty days of starting such an activity.

(2) In order to be registered as a public broker with the regulatory authority, an applicant shall inform the authority in writing in such form as the regulatory authority shall prescribe, containing the full name and surname, age, private and business addresses of the applicant and such other particulars concerning his business or occupation as the regulatory authority shall require.

(3) Brokers complying with all the aforesaid formalities shall be registered in a register administered by the regulatory authority. Notice of any registration under this article shall be published in the Gazette. In the month of January of each year, a complete list of registrations then in force shall likewise be published in the Gazette.

Forfeiture of office of public broker.

Cap. 9.

80. If a public broker is convicted of any of the crimes provided for in Sub-titles I, II and III of Title IX of Part II of Book First of the Criminal Code, he shall, *ipso facto*, forfeit his office, and his name shall be struck off the register."

**20.** Article 91 of the principal law shall be substituted by the following new article:

Substitution of article 91 of the principal law.

"Penalty for contraventions committed by public brokers.

91. (1) A public broker who acts in contravention of any of the obligations mentioned in the foregoing articles shall, at the instance of any interested party or of the Attorney General, be liable to a penalty of not less than fifty euro (€50) and not exceeding five hundred euro (€500) on proceedings taken before the Civil Court, First Hall, or the Court of Magistrates (Gozo) in its superior commercial jurisdiction, as the case may be, saving any other action arising from this Code or any other law.

(2) The court may, moreover, order the interdiction of the public broker for a period not exceeding two years, in which case the provisions of article 81 shall, during the time of interdiction, be applicable."

Substitution of article 550 of the principal law.

**21.** Article 550 of the principal law shall be substituted by the following new article:

"Commercial fees. 550. It shall be possible for commercial fees, different from those established in the Schedule hereto, to be agreed between parties. The service provider shall inform his client of the applicable fee or the basis on which the fee is to be determined before the service is provided."

## **PART IX**

### **AMENDMENTS TO THE TRAFFIC (REGULATION) ORDINANCE**

Amendments to the Traffic (Regulation) Ordinance. Cap. 65

**22.** (1) This Part amends the Traffic (Regulation) Ordinance, and it shall be read and construed as one with the Traffic (Regulation) Ordinance, hereinafter referred to in this Part as "the principal law".

(2) This Part shall come into force upon publication of this Act.

Amendment of article 2 of the principal law.

**23** Article 2 of the principal law shall be amended as follows:

(a) immediately after the definition "Authority", there shall be added the following new definition:

" "Member State" means a Member State of the European Economic Area;"

(b) immediately after the definition "public transport vehicle", there shall be added the following new definition:

"Treaty" means the Treaty establishing the European Community;" and

(c) immediately after the proviso thereof, there shall be added the following new proviso:

"Provided further that unless otherwise stated in this Act, the definitions in the Services (Internal Market) Act, 2009 shall apply."

Addition of new article 16B to the principal law.

**24.** Immediately after article 16A of the principal law, there

shall be added the following new article 16B:

"Applicability of the Services (Internal Market) Act, 2009.

16B. Nothing in this Ordinance shall be construed as limiting, restricting or otherwise affecting the application of any law, regulation or other rule made in pursuance of the Services (Internal Market) Act, 2009."

25. In article 18 of the principal law, after the words "in the opinion of the Authority", there shall be added the words "or, with respect to self-drive car hire, as provided for under this Ordinance or any other law, regulation or rule".

Amendment of article 18 of the principal law.

## PART X

### AMENDMENTS TO THE POSTAL SERVICES ACT

26. (1) This Part amends the Postal Services Act, and it shall be read and construed as one with the Postal Services Act, hereinafter referred to in this Part as "the principal Act".

Amendments to the Postal Services Act. Cap. 254.

(2) This Part shall come into force upon publication of this Act.

27. Immediately after article 9 of the principal Act, there shall be inserted the following new article 9A:

Addition of new article 9A to the principal Act.

"Default of a reply does not amount to the granting of a licence.

9A. Due to overriding reasons of public interest, the absence of a communication within the time periods provided for in article 9 shall not be construed to imply the automatic granting of the licence applied for, but the applicant shall, if he considers the delay to be unjustified or he has suffered any prejudice as a result of such delay, have a right of appeal in accordance with the provisions of Part VIII of the Malta Communications Authority Act."

Cap. 418.

## PART XI

### AMENDMENTS TO THE ACCOUNTANCY PROFESSION ACT

28. (1) This Part amends the Accountancy Profession Act, and it shall be read and construed as one with the Accountancy Profession Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Accountancy Profession Act. Cap. 281.

(2) This Part shall come into force upon publication of this Act.

Amendment of article 2 to the principal Act.

**29.** Subarticle (1) of article 2 of the principal Act shall be amended as follows:

(a) in the definition "accountancy firm" the words "a partnership whether a civil partnership or a commercial partnership including a company," shall be substituted by the words "an entity, regardless of its legal form,";

(b) immediately after the definition "accountancy firm" there shall be added the following new definition:

" "Appeals Tribunal" means the Administrative Review Tribunal established by article 5(1) of the Administrative Justice Act;"; and

(c) in the definition "audit firm" the words "a civil partnership or a commercial partnership, including a company" shall be substituted by the words "an entity, regardless of its legal form,".

Amendment of article 3 to the principal Act.

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

(a) in subarticle (1) thereof, the words "No person shall" shall be substituted by the words "Except where otherwise prescribed, no person shall";

(b) in subarticle (2) thereof -

(i) in paragraph (b) thereof, the word "and" shall be deleted; and

(ii) in the second proviso to paragraph (d) thereof, immediately after the words "according to the particular circumstances;" there shall be added the word "and";

(c) in subarticle (3) thereof, the words "in any country outside Malta," shall be substituted by the words "in any third-country,";

(d) in subarticle (4) thereof, the words "not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69)" shall be substituted by the words "not exceeding one thousand and two hundred euro (€1,20000)", the words "not exceeding five thousand and eight hundred and

twenty-three euro and forty-three cents (€5,823.43)' shall be substituted by the words "not exceeding six thousand euro (€6,000.00)" and the words "not exceeding one hundred and sixteen euro and forty-seven cents (€116.47)" shall be substituted by the words "not exceeding one hundred and twenty euro (€120.00)"; and

(e) in subarticle (5) thereof, the words "not exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (€11,646.87)" shall be substituted by the words "not exceeding twelve thousand euro (€12,000.00)".

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

Amendment of  
article 7 of the  
principal Act.

(a) in subarticle (1) thereof -

(i) in paragraph (a) thereof, the words "and to advise the Minister;" shall be substituted by the words "and, in the case of warrants, whether to advise the Minister to issue such warrants and, in the case of practising certificates, to decide whether to issue such practising certificates;"

(ii) in paragraph (b) thereof, the words "to deal with" shall be substituted by the words "to deal, through disciplinary committees appointed under article 7(16), with";

(iii) in paragraph (c) thereof, the words "per warrant holder or firm;" shall be substituted by the words "per warrant holder, practising certificate holder or firm;"

(iv) in paragraph (e) thereof, the words "Directive 2006/34/EC;" shall be substituted by the words "Directive 2006/43/EC;"

(v) paragraphs (h) and (i) thereof shall be renumbered as paragraphs (j) and (k) respectively;

(vi) immediately after paragraph (g) thereof, there shall be added the following new paragraphs (h) and (i):

"(h) to carry out all such things as may be necessary to meet the obligations arising from the Services (Internal Market) Act, 2009, and to fulfill the powers, functions and responsibilities attributed to a competent authority in terms of the same Act, including the provision of assistance to competent

authorities of other Member States in accordance with the provisions of the same Act;

(i) to carry out all such things as may be necessary to meet the obligations arising from the Mutual Recognition of Qualifications Act;"

(b) in subarticle (13) thereof, immediately after the words "pertaining to them", there shall be added the words "within fifteen days after the date on which the change occurs";

(c) in the proviso to subarticle (13) thereof, the word "may" shall be substituted by the word "shall"; and

(d) in subarticle (16) thereof, immediately after the words "under subarticle (1)(b)" there shall be added the words "or under any regulations made by the Minister in terms of article 8A,".

Amendment of article 8 to the principal Act.

**32.** Article 8 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof -

(i) paragraphs (g), (h), (i) and (j) thereof shall be renumbered as paragraphs (h), (i), (j) and (l) respectively;

(ii) immediately after paragraph (f) thereof, there shall be added the following new paragraph (g):

"(g) the procedure to be followed by the Board in relation to applications for the issue of warrants or practising certificates under article 4;"

(iii) immediately after paragraph (j) thereof, as renumbered, there shall be added the following new paragraph (k):

"(k) the implementation of the powers, functions and responsibilities attributed to the Board as a competent authority in terms of the Services (Internal Market) Act, 2009;"

(iv) in paragraph (l) thereof as renumbered, the words "fine (*multa*) of twenty-three thousand, two hundred and ninety-three euro and seventy-three cents (€23,293.73)," shall be substituted by the words "fine (*multa*) of twenty-five thousand euro (€25,000.00)," and the words "fine (*multa*) of one hundred and sixteen euro

and forty-seven cents (€116.47)" shall be substituted by the words "fine (*multa*) of one hundred and twenty euro (€120.00)";

(b) in subarticle (2) thereof -

(i) the words "of warrant holders and holders of practising certificates on" shall be substituted by the words "of warrant holders, practising certificate holders or firms on";

(ii) in paragraph (a) thereof, the words "holders and practising certificate holders" shall be substituted by the words "holders, practising certificate holders or firms";

(iii) in paragraph (b) thereof, the words "warrant holder or practising certificate holder, or his employees" shall be substituted by the words "warrant holder, practising certificate holder, firm or their employees";

(iv) in paragraph (c) thereof, the words "warrant holders and practising certificate holders;" shall be substituted by the words "warrant holders, practising certificate holders and firms;"

(v) in paragraph (i) thereof, the words "any regulations" shall be substituted by the words "any provision of this Act and any regulations";

(vi) paragraphs (l), (m) and (n) thereof shall be renumbered as paragraphs (m), (n) and (o) respectively;

(vii) immediately after paragraph (k) thereof, there shall be added the following new paragraph (l):

"(l) the implementation of the powers, functions and responsibilities attributed to the Board as a competent authority in terms of the Services (Internal Market) Act, 2009"; and

(viii) in paragraph (m) thereof, as renumbered, the words "warrant holders and practising certificate holders" shall be substituted by the words "warrant holders, practising certificate holders and firms".

**33.** In article 8A of the principal Act, the words "thereunder, in relation to the mutual recognition of qualifications of accountant and auditor." shall be substituted by the word "thereunder".

Amendment of  
article 8A of the  
principal Act.

Amendment of article 10 of the principal Act.

**34.** Article 10 of the principal Act shall be amended as follows:

(a) in the second proviso to subarticle (1) thereof, the words "any other service provided by such firms shall not be incompatible with their main object, as aforesaid." shall be substituted by the words "a firm may provide other services subject to compliance at all times with the rules on independence and professional ethics set out in the Code of Ethics and any other regulations, directives or guidelines issued in terms of article 8.";

(b) in sub-article (11) thereof, the words "not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37)," shall be substituted by the words "not exceeding two thousand and five hundred euro (€2,500.00)," the words "not exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (€11,646.87)" shall be substituted by the words "not exceeding twelve thousand euro (€12,000.00)" and the words "not exceeding two hundred and thirty-two euro and ninety-four cents (€232.94)" shall be substituted by the words "not exceeding two hundred and fifty euro (€250.00)".

Amendment of article 11 of the principal Act.

**35.** In subarticle (5) of article 11 of the principal Act, the words "not exceeding five thousand and eight hundred and twenty-three euro and forty-three cents (€5,823.43)," shall be substituted by the words "not exceeding six thousand euro (€6,000.00)," and the words "not exceeding five hundred and eighty-two euro and thirty-four cents (€582.34)" shall be substituted by the words "not exceeding six hundred euro (€600.00)".

Amendment of article 12 of the principal Act.

**36.** In article 12 of the principal Act, the words "not exceeding fifty-eight thousand and two hundred and thirty-four euro and thirty-three cents (€58,234.33)" shall be substituted by the words "not exceeding sixty thousand euro (€60,000.00)".

Amendment of article 15 of the principal Act.

**37.** In subarticle (3) of article 15 of the principal Act, the words "prescribed; and the findings of the said disciplinary committee shall be subject to such reference back, review or appeal as may be" shall be deleted.

Addition of new articles 15A to 15C of the principal Act.

**38.** Immediately after article 15 of the principal Act, there

shall be added the following new articles 15A, 15B and 15C:

"Appeals. 15A. (1) A right of appeal to the Appeals Tribunal, from the decisions referred to in article 15B, shall be competent to any person aggrieved by the decision:

Provided that in any case, a person making an appeal to the Appeals Tribunal shall also explain his juridical interest in impugning the decision appealed from.

Cap. 490. (2) Unless otherwise provided by the Administrative Justice Act or any regulations made thereunder, an appeal from the decisions referred to in article 15B shall be made by application and shall be filed in the registry of the Appeals Tribunal within thirty days from the date on which the said decision has been notified to the party appealing.

Decisions of the Board that may be appealed from. 15B. Unless otherwise provided by law, an appeal shall lie to the Appeals Tribunal from the following decisions made under this Act:

(a) any decision of the Board not to advise the Minister to issue a warrant, taken pursuant to article 7(1)(a), and any decision of the Board not to issue a practising certificate, taken pursuant to article 7(1)(a);

(b) any decision of the Board pursuant to article 7(1)(b) taken following an enquiry held by the disciplinary committee appointed under article 7(16);

(c) any decision of the Board to take a measure in terms of article 7(1)(c);

(d) any decision of the disciplinary committee to impose an administrative fine pursuant to article 7(17);

(e) any decision of the Board to refuse the registration of a firm pursuant to article 10(7) or any decision of the Board pursuant to article 15(1) to suspend, cancel or subject to other conditions the registration of a firm or to revoke or cancel the registration of a firm pursuant to article 15(2)(e);

(f) any decision of the Board, pursuant to article 14, to issue administrative fines or reprimands or to impose other measures;

(g) any decision taken by the Board, pursuant to article 15(1), to revoke, withdraw or suspend a practising certificate, or to subject such practising certificate to other conditions, or to revoke or cancel a practising certificate pursuant to article 15(2)(e);

(h) any decision taken by the Board, pursuant to article 15(1), to suspend a warrant or to subject such warrant to other conditions;

(i) any decision taken by the Minister, on the advice of the Board, pursuant to article 15(1) or article 15(2)(d), to revoke or withdraw a warrant; and

(j) any decision taken in terms of regulations or directives issued under this Act, when the regulation or directive explicitly grants a right of appeal in terms of this article.

Status of decision pending an appeal before the Appeals Tribunal or the Court of Appeal.

15C. (1) The decision of the Board or the Minister, as the case may be, shall stand pending an appeal, whether before the Appeals Tribunal or the Court of Appeal, and shall be adhered to by all the parties to whom the decision applies.

(2) The Appeals Tribunal or the Court of Appeal, as the case may be, where it considers it to be appropriate, may on the application of a party to the appeal, suspend the decision of the Board or the Minister, as the case may be, pending the final determination of the appeal. The Appeals Tribunal or the Court of Appeal, in deciding to suspend the decision, shall state their reasons for doing so."

**39.** In subarticle (2) of article 16 of the principal Act, the words "of article 3(5)" shall be substituted by the words "of article 3(6)".

Amendment of article 16 of the principal Act.

**40.** Subarticle (1) of article 17 of the principal Act shall be substituted by the following:

Amendment of article 17 of the principal Act.

"(1) An auditor shall, in the case of his dismissal or resignation as auditor of an audit client during his term of appointment, inform the Board in writing of such dismissal or resignation of an audit and shall give adequate explanations for the reasons thereof."

**41.** In subarticle (1) of article 18 of the principal Act, the words "shall publish on their websites, within three months of each calendar year, annual transparency reports that include" shall be substituted by the words "shall, within three months of each calendar year, publish an annual transparency report on their website, and maintain such report on their website until the publication of a transparency report the following calendar year, that shall include".

Amendment of article 18 of the principal Act

**42.** Article 20 of the principal Act shall be amended as follows:

Amendment of article 20 of the principal Act.

(a) in the marginal note thereof, immediately after the words "Disclosure of measures" there shall be added the words "and decisions";

(b) the present article shall be renumbered as subarticle (1) thereof; and

(c) immediately after subarticle (1) thereof, as renumbered, there shall be added the following new subarticle:

"(2) Without prejudice to the generality of subarticle (1), the Board or the Minister, as the case may be, shall notify by registered mail the decisions taken pursuant to articles 7(1)(a), 7(1)(b), 7(1)(c), 7(17), 10(7),

14, 15(1), 15(2)(d) and 15(2)(e) to any person to whom such decision applies."

Addition of new article 21 to the principal Act.

**43.** Immediately after article 20 of the principal Act, there shall be added the following new article:

"Demonstration of compliance with Services (Internal Market) Act, 2009.

21. A warrant holder, practising certificate holder or firm shall, if so requested by the Board and in the manner determined by the Board, demonstrate compliance with the obligations imposed on such warrant holder, practising certificate holder or firm pursuant to the Services (Internal Market) Act, 2009."

## PART XII

### AMENDMENTS TO THE DOORSTEP CONTRACTS ACT

Amendments to the Doorstep Contracts Act. Cap. 317.

**44.** (1) This Part amends the Doorstep Contracts Act, and it shall be read construed as one with the Doorstep Contracts Act, hereinafter referred to in this Part as "the principal Act".

(2) This Part shall come into force upon publication of this Act.

Amendment of article 2 of the principal Act.

**45.** In article 2 of the principal Act, immediately after the definition "goods", there shall be added the following new definition:

" "Member State" means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on the 2nd May, 1992 as amended by the Protocol signed at Brussels on the 17th March, 1993 and as amended by any subsequent acts;"

Deletion of articles 4 and 5 of the principal Act.

**46.** Articles 4 and 5 of the principal Act shall be deleted.

Renumbering of article 5A of the principal Act.

**47.** Article 5A of the principal Act shall be renumbered as article 4 thereof.

Addition of new articles 6A and 6B to the principal Act.

**48.** Immediately after article 6 of the principal Act, there shall

be added the following new articles 6A and 6B:

"Obligation of the door-to door seller to give all information necessary of his own initiative.

6A. (1) Every licensed door-to-door seller has to provide to the consumer free of charge, and of his own initiative the following information:

(a) his name, legal status and whether he is operating as a commercial partnership, and what type of commercial partnership, the address of the commercial premises in the Member State in which he is established and details enabling him to be contacted rapidly and communicated with directly and, as the case may be, by electronic means;

(b) if he is registered as a commercial partnership under the Companies Act or under the Commercial Partnerships Ordinance under article 5 of the Companies Act, the number of registration and all information relating to article 6 of the Companies Act;

(c) the particulars of the relevant competent authority issuing the license of a door-to-door seller or the single point of contact;

(d) where the provider exercises an activity which is subject to VAT, the identification number referred to in Article 22(1) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes - Common system of value added tax;

(e) in the case of the regulated professions, any professional body or similar institution with which the door-to-door seller is registered, the professional title and the Member State in which that title has been granted;

(f) the general conditions and clauses used by the provider.

Cap. 386.  
Cap. 168.

(2) In addition to the provisions of sub-article (1), every door-to-door seller duly licensed has to provide free of charge and on his own initiative, to the consumer, the following information:

(a) the existence of contractual clauses, if any, used by the provider concerning the law applicable to the contract and, or the competent courts;

(b) the existence of an after-sales guarantee, if any, not imposed by law;

(c) the price of the service, where a price is pre-determined by the provider for a given type of service;

(d) the main features of the service, if not already apparent from the context.

(3) All information referred to in sub-article (1) according to the provider's preference -

(a) has to be easily accessible to the consumer at the place where the service is provided or the contract concluded;

(b) must be easily accessed by the recipient electronically by means of an address supplied by the provider, and;

(c) must appear in any information documents, supplied to the consumer by the door-to-door seller, which set out a detailed description of the service he provides.

Information to be given by door-to-door seller on the consumer's request.

6B. (1) Every door-to-door seller at the consumer's request has to provide the following additional information:

(a) where the price is not pre-determined by the provider for a given type of service, the price of the service or, if an exact price cannot be given, the method for calculating the price so that it can be checked by the recipient, or a sufficiently detailed estimate;

(b) as regards the regulated professions, a reference to the professional rules applicable in the Member State of establishment and how to access them;

(c) information on the multidisciplinary activities and partnerships which are directly linked to the service in question and on the measures taken to avoid conflicts of interest. That information shall be included in any information document in which door-to-door sellers give a detailed description of their services;

(d) any codes of conduct to which the provider is subject and the address at which these codes may be consulted by electronic means, specifying the language version available;

(e) where a provider is a member of a trade association or professional body which provides for recourse to a non-judicial means of dispute settlement, information in this respect. The provider shall specify how to access detailed information on the characteristics of, and conditions for, the use of non-judicial means of dispute settlement.

(2) Any information as required in sub-article (1) is to be made available or communicated in a clear and unambiguous manner, and in good time before conclusion of the doorstep contract."

**49.** In article 14A of the principal Act, for the words "other than articles 5 and 5A", there shall be substituted the words "other than article 4".

Amendment to  
article 14A of  
the principal  
Act.

Substitution of article 15 of the principal Act.

**50.** Article 15 of the principal Act shall be substituted by the following new article:

"15. The Minister may make regulations for better putting into effect any of the provisions of this Act, and without prejudice to the generality of the foregoing may by such regulations prescribe:

(a) the form in which any contract or cancellation or any clause thereof shall be made, whether generally or in respect of any class of goods;

(b) the means of identification of any door-to-door seller licensed under this Act;

(c) such goods or services that may not be sold by means of a doorstep contract;

(d) any other matter which may be prescribed under this Act."

### **PART XIII**

#### **AMENDMENTS TO THE ENGINEERING PROFESSION ACT**

Amendments to the Engineering Profession Act. Cap. 321.

**51.** (1) This Part amends the Engineering Profession Act, and it shall be read and construed as one with the Engineering Profession Act, hereinafter in this Part referred to as "the principal Act".

(2) This Part shall come into force upon publication of this Act.

Amendment of article 2 of the principal Act.

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

(a) in the definition "Board", for the words "Engineering Board" there shall be substituted the word "Engineering Profession Board";

(b) immediately after the definition "Engineer" there shall be inserted the following new definition:

" "Member State" means a Member State of the European Economic Area;"

(c) in the definition "Minister", for the word "infrastructure" there shall be substituted the word "works"; and

(d) immediately after the definition "profession of

engineer" there shall be inserted the following new definition:

" "service provider" means a person from any Member State or any country in the European Economic Area who exercises the engineering profession on a temporary basis in Malta;"

**53.** Article 3 of the principal Act shall be amended as follows: Amendment of article 3 of the principal Act.

(a) in subarticle (2) thereof -

(i) in paragraph (a) thereof, immediately after the words "he is a citizen of Malta" there shall be added the words "or of a Member State or is otherwise legally entitled to work in Malta"; and

(ii) for subparagraph (i) of paragraph (d) thereof, there shall be substituted the following:

"(i) he is in possession of such degree of the University of Malta or an equivalent academic qualification relating to the engineering profession both of which, at the relevant time, are recognised by the Board to be sufficient for the purposes of this article;" and

(b) immediately after subarticle (4) thereof, there shall be added the following new subarticle:

L.N. 422 of 2007.      "(5) Subarticle (2) shall be interpreted in accordance with the Recognition of Professional Qualifications Regulations, 2007."

**54.** Immediately after article 3 of the principal Act there shall be added the following new article: Addition of new article 3A to the principal Act.

"Acknowledgement of receipt of an application.

3A. (1) The Board shall acknowledge the receipt of an application for a warrant as soon as possible and in any case not later than one month from the date of the receipt of the application. If the applicant does not submit all the documentation, the Board shall inform the applicant accordingly.

(2) The Board shall complete the procedure for examining applications as early as possible. The Board shall give its reasoned decision within three months after the date on which the complete application is received. The Board may extend this period by one month, provided that the applicant is notified prior to the expiration of the original period established in this sub-article.

(3) In the event that the Board does not give its decision within the period established in sub-article (2), this shall not imply tacit approval of the application.

(4) The acknowledgement referred to in sub-article (1) shall specify:

(a) the time period within which the application shall be processed;

(b) the available means of redress; and

(c) a statement that in the absence of a response within the specified time period, the authorisation shall not be deemed to have been granted."

Amendment of article 5 of the principal Act.

**55.** In subarticle (1) of article 5 of the principal Act immediately after the words "grant a special licence to any person holding" there shall be added the words "academic qualifications at least equivalent to those listed in article 3(2)(d) and who is a national of a country outside the European Union or the European Economic Area, and therefore does not fall within the ambit of articles 3 and 5B and holding".

Addition of new article 5B to the principal Act.

**56.** Immediately after article 5A of the principal Act there shall be added the following new article:

"Temporary provision of services. Cap. 451.

**5B.** (1) Without prejudice to the Mutual Recognition of Qualifications Act and notwithstanding the provisions of article 3 of this Act, any person established in another Member State may practise the profession of engineer in Malta on a temporary and occasional basis provided that such person:

(a) is legally established in another Member State for the purpose of pursuing the engineering profession in that Member State; and

(b) has pursued the engineering profession for at least two years during the ten years immediately preceding the provision of services where the engineering profession is not regulated in that Member State.

(2) Persons referred to in subarticle (1) shall inform the Board by means of a written declaration to be made in advance which shall include the following:

(a) the details of an insurance cover or other means of personal or collective protection relative to professional liability. This declaration shall be made once a year if the applicant intends to provide temporary or occasional services during the year;

(b) proof of the nationality of the applicant;

(c) an attestation certifying that the warrant holder is legally established in a Member State for the purpose of pursuing the activities concerned and that he is not prohibited from practising the profession of engineer even temporarily, at the moment of delivering the attestations;

(d) evidence of professional qualifications; and

(e) where applicable, any means of proof that the applicant has pursued the engineering profession for at least two years during the previous ten years immediately preceding the provision of services.

(3) Where the Board, in exercising its authority under this article, deems that there is a substantial difference between the professional qualifications of the applicant and the academic qualifications required under article 3(2)(d)(i), to the extent that the difference is such as to be harmful to public health, safety and security, the Board shall give the applicant the opportunity to show, in particular by means of an aptitude test, that he has acquired the knowledge or competence which he lacks.

(4) The Board shall assess the temporary and occasional nature of the provision of the engineering services on a case by case basis.

(5) (a) The Board shall give its decision within one month from the date of receipt of the declaration referred to in sub-article (2).

(b) Whenever a decision could not be given during the established time, the Board shall notify this information to the applicant within the period established in paragraph (a). The Board shall extend this period only once for another period of one month.

(c) In the event that the Board does not give its decision within the period referred to in paragraph (b), the engineering services falling under this article may be provided.

(6) A person exercising the profession under this article shall be deemed to be a warrant holder and the provisions of this Act and of any other law shall apply to him in the same manner and to the same extent as with any other warrant holder."

Amendment of  
article 6 of the  
principal Act.

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

(a) in subarticle (1) thereof, for the words "Engineering Board" there shall be substituted the words "Engineering Profession Board"; and

(b) immediately after subarticle (8) thereof, there shall be added the following new subarticle:

"(9) The Board shall, in the fulfilment of its

functions, act independently and impartially.".

**58.** Immediately after article 7 of the principal Act there shall be added the following new article:

Addition of new article 7A to the principal Act.

"Appeals. 7A. Decisions of the Board shall be subject to appeal before the Administrative Review Tribunal established by article 5(1) of the Administrative Justice Act."  
Cap. 490.

**59.** Article 10 of the principal Act shall be amended as follows:

Amendment of article 10 of the principal Act.

(a) in subarticle (1) thereof, for the words from "Every warrant holder" to the words "committed by the warrant holder," there shall be substituted the words "Every warrant holder or any person who is granted a special licence under this Act, or any person who exercises the profession of engineer on a temporary and occasional basis or partnership registered under this Act shall be covered by an indemnity insurance against any liability which the warrant holder or any person who is granted a special licence under this Act, or any person who exercises the profession on a temporary and occasional basis or the partnership may incur for compensation in respect of loss or damage to any person as a result of any negligent act, error or omission committed by the warrant holder, or by any person who is granted a special licence under this Act, or any person who exercises the profession on a temporary and occasional basis,";

(b) in the proviso to subarticle (1) thereof, immediately after the words "that the provisions of this subarticle shall not apply to warrant holders" there shall be added the words "or to any person who exercises the profession of engineer on a temporary and occasional basis";

(c) the present subarticle (2) shall be renumbered as subarticle (3) thereof and for the words, "Every warrant holder" there shall be substituted the words "Every person"; and

(d) immediately after subarticle (1) thereof, there shall be added the following new subarticle:

"(2) The Board shall only accept any professional liability insurance of any person providing the services of engineering in terms of article 5B(1) if the Board considers that the professional liability insurance subscribed to is

equivalent or essentially comparable as regards the purpose and cover it provides in terms of insured risk. The Board shall require supplementary insurance or guarantee in those cases when the professional liability insurance is not adequate to cover all risks."

Amendment of article 11 of the principal Act.

**60.** Article 11 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, immediately after the words, "Any agreement or other arrangement purporting to exempt a warrant holder" there shall be added the words "or any person who is granted a special licence under this Act, or any person who exercises the profession of engineer on a temporary and occasional basis"; and

(b) in subarticle (2) thereof, immediately after the words, "Any agreement or other arrangement whereby a warrant holder" there shall be added the words "or a person who is granted a special licence under this Act, or any person who exercises the profession of engineer on a temporary and occasional basis,".

Amendment of article 19 of the principal Act.

**61.** In subarticle (4) of article 19 of the principal Act, immediately after the words, "Any person who, not being the holder of a warrant or a special licence" there shall be added the words "or who is otherwise not entitled to practise temporarily".

#### **PART XIV**

#### **AMENDMENTS TO THE EDUCATION ACT**

Amendments to the Education Act. Cap. 327.

**62.** (1) This Part amends the Education Act and it shall be read and construed as one with the Education Act, hereinafter in this Part referred to as "the principal Act".

(2) This Part shall come into force upon publication of this Act.

Amendment of article 20 of the principal Act.

**63.** Article 20 of the principal Act shall be amended as follows:

(a) in subarticle (2) thereof, for the words "the national minimum conditions:" there shall be substituted the words "the national minimum conditions." and the proviso thereto shall be deleted;

(b) in subarticle (6) thereof, immediately after the words "received by the Minister." there shall be added the words

"A decision to refuse an application for a licence shall be accompanied with the reasons for refusal. Failure to notify the applicant about the decision regarding an application for a licence within the time established in this sub-article shall, for reasons of public interest, be deemed to be a refusal of the licence applied for:" and immediately thereafter there shall be inserted the following new provisos:

"Provided that an application for a licence to establish a school shall not be deemed to have been filed by an applicant unless it is duly filled in and accompanied with all required information and documentation:

Provided further that in the case of an application made under subarticle (2), an application for a licence to establish a school shall not be deemed to have been submitted by the Catholic Church if such application is not signed by the Bishops in Ordinary of these Islands or authorised by them in writing.";

(c) in subarticle (9) thereof, for the words "further or higher education level." there shall be substituted the words "further or higher education level:" and immediately thereafter there shall be inserted the following new proviso:

"Provided that where an applicant for a licence is already licensed or otherwise legally established in a Member State, the Minister, in compliance with Directive 2006/123 of the European Parliament and of the Council of 12 December, 2006 on services in the internal market, shall not duplicate requirements or controls which are equivalent or essentially comparable as regards their purpose to which the applicant may already be subject to in another Member State."; and

(d) for subarticle (10) thereof, there shall be substituted the following:

"(10) Where an application has been refused, suspended or cancelled, the applicant for a licence may appeal to the Court of Appeal (Inferior Jurisdiction) according to the provisions of article 127.".

**64.** In subarticle (1) of article 28 of the principal Act, for the words "as the Council may require." there shall be substituted the words "as the Council may require:" and immediately thereafter there shall be inserted the following new proviso:

Amendment of  
article 28 of the  
principal Act.

"Provided that an application made under this article shall not be deemed to have been filed by an applicant unless it is duly filled in and accompanied with all required information and documentation."

Amendment of article 32 of the principal Act.

**65.** In subarticle (1) of article 32 of the principal Act, immediately after the words "to refuse an application for the issuing of a warrant," there shall be inserted the words "or where no decision has been notified to the applicant within the time established in article 29,".

Addition of new article 33A to the principal Act.

**66.** Immediately after article 33 of the principal Act, there shall be inserted the following new article:

"Temporary provision of services.

L.N. 422 of 2007.

33A. Any person established in a Member State may practise the profession of teacher in Malta on a temporary and occasional basis provided that the provisions of Part II of the Recognition of Professional Qualifications Regulations, 2007 are satisfied."

## PART XV

### AMENDMENTS TO THE MALTA TRANSPORT AUTHORITY ACT

Amendments to the Malta Transport Authority Act. Cap. 332.

**67.** (1) This Part amends the Malta Transport Authority Act, and it shall be read and construed as one with the Malta Transport Authority Act, hereinafter referred to in this Part as "the principal Act".

(2) This Part shall come into force upon publication of this Act.

Amendment of article 2 of the principal Act.

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

(a) immediately after the definition "licence", there shall be added the following new definition:

" "Member State" means a Member State of the European Economic Area;" and

(b) immediately after the definition "transport of goods", there shall be added the following new definition:

" "Treaty" means the Treaty establishing the European Community;".

**69.** Article 2A of the principal Act shall be renumbered as article 2B thereof. Renumbering of article 2A of the principal Act.

**70.** Immediately after article 2 of the principal Act, there shall be added the following new article 2A: Addition of new article 2A to the principal Act.

"Definitions in 2A. Unless otherwise stated in this Act,  
 Services (Internal the definitions in the Services (Internal Market)  
 Market) Act, Act, 2009 shall apply."  
 2009.

**71.** Immediately after paragraph (r) of article 4(1) of the principal Act, there shall be added the following new paragraph: Amendment of article 4 of the principal Act.

"(s) to do all such things as are necessary for facilitating the exercise of freedom of establishment of service providers and the free movement of services in accordance with the Services (Internal Market) Act 2009, including providing applicants, providers or recipients with such relevant information and assistance as is necessary to access and exercise relevant service activities and all such rights as are related thereto, and, where required, cooperating with, assisting, and providing information to the competent authorities of other Member States:

Provided that in fulfilling the above functions and duties, the Authority shall facilitate and encourage communication by electronic means."

**72.** Immediately after subarticle (6) of article 34 of the principal Act, there shall be added the following new sub-article (7): Amendment of article 34 of the principal Act.

"(7) Nothing in this article shall be construed as limiting, restricting or otherwise affecting any law, regulation or other rule made in relation to the conditions and criteria under which the Authority may grant, renew, refuse to grant, refuse to renew, suspend or revoke a licence for service activities falling within the scope of application of the Services (Internal Market) Act, 2009:

Provided that services in the field of transport as set out in Article 45 of the Treaty shall not be deemed to be included within the scope of application of the Services (Internal Market) Act, 2009:

Provided further that, without prejudice to the definition of "licence" in article 2, where the Authority requires a certificate, attestation or document proving that a requirement has been satisfied in terms of the Services (Internal Market) Act

2009, the Authority shall accept any certificate, attestation or document from another Member State which serves the equivalent purpose or from which it is clear that the said requirement has been satisfied and shall not require any such certificate, attestation or document to be produced in its original form or as a certified copy or certified translation save in cases provided for in Community instruments or where it is justified by an overriding reason relating to the public interest, including public order and public security."

Addition of new article 35 to the principal Act.

**73.** Immediately after article 34 of the principal Act, there shall be added the following new article 35:

"Services falling within the scope of the Services (Internal Market) Act, 2009.

35. Where service activities fall within the scope of application of the Services (Internal Market) Act 2009, the Authority shall respect the right of a provider that is lawfully established and providing services in another Member State to provide services in Malta:

Provided that the Authority may impose requirements with regard to the provision of service activities where these are justified for reasons related to public policy, public security, public health or the protection of the environment:

Provided further that in establishing whether a provider is exercising his freedom to provide services within the meaning of article 6 of the Services (Internal Market) Act, 2009 and Article 49 of the Treaty, or is an establishment case, or whether a service provider is absolutely taking advantage of the freedom to provide services, the Authority shall assess and decide in each case on its own individual merits and in conformity with Community legislation and the rulings of the European Court of Justice."

## PART XVI

### AMENDMENTS TO THE EMPLOYMENT AND TRAINING SERVICES ACT

Amendments to the Employment and Training Services Act. Cap. 343.

**74.** (1) This Part amends the Employment and Training Services Act and it shall be read and construed as one with the Employment and Training Services Act hereinafter in this Part

referred to as "the principal Act".

(2) This Part shall come into force upon publication of this Act.

**75.** Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) for the definition "Director", there shall be substituted the following new definition:

" "Director" means the Director of Industrial and Employment Relations and includes any officer of the Department of Industrial and Employment Relations who is authorized by the Director to act on his behalf;"; and

(b) immediately after the definition "financial year", there shall be inserted the following new definition:

" "Member State" means a member state of the European Union or of the European Economic Area;".

**76.** Article 23 of the principal Act shall be amended as follows: Amendment of article 23 of the principal Act.

(a) subarticle (1) thereof shall substituted by the following new subarticle:

"(1) Without prejudice to the provisions of Part III of this Act, no person shall carry on an employment agency or an employment business unless:

(a) he is the holder of a current licence granted by the Director authorizing him to carry on such an agency or business in premises specified in the licence, or

(b) he is the holder of a relevant authorization to conduct business as an employment agency by a competent authority in a Member State, and has notified the Director of his intention to provide or that he is providing services of an employment agency in Malta within five working days from the date of the commencement of this activity:

Provided that for the purposes of this article, the term 'relevant authorisation' means the authorization to perform the services of an employment agency issued by a competent authority of a Member State and it shall be

read and construed in terms of the Services (Internal Market) Act, 2009:

Provided further that the Director may impose any necessary requirements on holders of relevant authorizations referred to in paragraph (b) in terms of the Services (Internal Market) Act, 2009.";

(b) subarticles (2) to (13) thereof shall be deleted; and

(c) subarticle (14) thereof shall be renumbered as sub-article (2).

Amendment of article 24 of the principal Act.

**77.** Subarticle (1) of article 24 of the principal Act shall be substituted by the following new subarticle:

"(1) Where the Director intends to refuse to grant or transfer a licence, or to revoke the same, he shall notify the applicant for, or the holder of, the licence or the person to whom it is requested that the licence be transferred, of his intention and the reasons therefor."

## PART XVII

### AMENDMENTS TO THE PERITI ACT

Amendments to the Periti Act. Cap. 390.

**78.** (1) This Part amends the Periti Act, and it shall be read and construed as one with the Periti Act, hereinafter in this Part referred to as "the principal Act".

(2) This Part shall come into force upon publication of this Act.

Amendment of article 2 of the principal Act.

**79.** In article 2 of the principal Act, immediately after the definition "profession", there shall be added the following new definitions:

" "service provider" means a person from any Member State or any country in the European Economic Area who exercises the profession on a temporary basis in Malta;

"Treaty" means the Treaty establishing the European Community;"

Amendment of article 3 of the principal Act.

**80.** Immediately after subarticle (2) of article 3 of the

principal Act, there shall be added the following new subarticle:

L.N. 422 of 2007.      "(3) Subarticle (2) shall be interpreted in accordance with the Recognition of Professional Qualifications Regulations, 2007."

**81.** Immediately after article 5 of the principal Act there shall be added the following new article:

Addition of new article 5A to the principal Act.

"Temporary provision of services. Cap. 451.      5A. Without prejudice to the Mutual Recognition of Qualifications Act and notwithstanding the provisions of articles 3 and 4 of this Act, any person established in another Member State may practice the profession in Malta on a temporary and occasional basis subject to further requirements as may be provided under this Act."

**82.** For subarticle (2) of article 7 of the principal Act, there shall be substituted the following new subarticle:

Amendment of article 7 of the principal Act.

"(2) The Board shall exercise its functions independently and according to its own judgment. In the exercise of its functions the Board may:

(a) consult such persons as it may consider necessary; and

(b) appoint committees under the chairmanship of a member of the Board for the purpose of the carrying out of such duties and tasks as the Board may assign to them."

**83.** Immediately after article 7 of the principal Act there shall be added the following new article:

Addition of new article 7A to the principal Act.

"Appeals. Cap. 490.      7A. Decisions of the Board shall be subject to appeal before the Administrative Review Tribunal established by article 5(1) of the Administrative Justice Act."

**PART XVIII**

**AMENDMENTS TO THE MALTA TRAVEL  
AND TOURISM SERVICES ACT**

Amendments to  
the Malta Travel  
and Tourism  
Services Act.  
Cap. 409.

**84.** (1) This Part amends the Malta Travel and Tourism Services Act, and it shall be read and construed as one with the Malta Travel and Tourism Services Act, hereinafter referred to in this Part as "the principal Act".

(2) This Part shall come into force upon publication of this Act.

Amendment of  
article 2 of the  
principal Act.

**85.** In article 2 of the principal Act:

(a) immediately after the definition "licence" there shall be inserted the following new definition:

" "Member State" means a member state of the European Economic Area;"

(b) immediately after the definition "public officer" there shall be added the following definition:

" "requirement" means any obligation, prohibition, condition or limit provided for in the laws or regulations, or in the administrative provisions, or administrative practices of the Authority;" and

(c) the definition "tourist guide" shall be deleted and substituted by the following:

" "tourist guide" means a person who guides visitors in the language of their choice and interprets the cultural and natural heritage of Malta and/or specific area or areas, and who possesses a specific relevant qualification and licence issued and/or recognised by the Authority;"

Substitution of  
article 17 of the  
principal Act.

**86.** Article 17 of the principal Act shall be substituted by the

following new article:

"Disclosure  
of interest in  
contract.

17. (1) Any member of the Authority or of any committee, commission or other body established by this Act who is in any way, directly or indirectly interested in any particular matter considered or to be considered by the Authority or by such other body shall declare the nature of his interest either at the meeting at which the matter is first considered or, if he was not at the date of that meeting so interested in the matter, at the next meeting after he shall have become so interested.

(2) Without prejudice to the provisions of subarticle (1), where at a meeting of the Authority or by such other body any of the following matters arises, namely -

(a) an arrangement to which the Authority is a party or a proposed such arrangement, or

(b) a contract or other agreement with the Authority or a proposed such contract or other agreement, or

(c) the assessment of any application for the issue or renewal of a licence or other authorisation and any decision relating thereto, or

(d) any decision of the Authority taken after reviewing the methods of operation of a licensee, or

(e) any other particular matter in which any member of the Authority or such other body is in any way, directly or indirectly interested,

then, any member of the Authority present at the meeting who otherwise than in his or her capacity as such a member has a material interest in the matter, shall -

(i) at the meeting, disclose to the Authority the fact of such interest and the nature thereof,

(ii) absent himself or herself from the meeting or that part of the meeting during which the matter is being discussed,

(iii) take no part in any deliberation of the Authority relating to the matter, and

(iv) not vote on a decision relating to the matter.

(3) Where a material interest is disclosed pursuant to subarticle (2), the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the member by whom the disclosure is made shall not be counted in the quorum for the meeting.

(4) A member of the Authority who, otherwise than in his or her capacity as such a member has a material interest in -

(a) an arrangement or proposed arrangement to which subarticle (2)(a) applies; or

(b) a contract or other agreement or a proposed contract or other agreement to which subarticle (2)(b) applies; or

(c) the assessment of any application for the issue or renewal of a licence or other authorisation and any decision relating thereto; or

(d) any decision of the Authority taken after reviewing the methods of operation of a licensee; or

(e) any other particular matter in which any member of the Authority or by such other body is in any way, directly or indirectly, interested,

shall neither influence nor seek to influence any decision to be made by the Authority in relation thereto.

(5) Where at a meeting of the Authority a question arises as to whether or not a course of conduct, if pursued by a member of the Authority, would constitute a failure by him or her to comply with the requirements of subarticles (2) and (3), the question may, subject to subarticle (6), be determined by the chairperson of the meeting, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

(6) Where at a meeting of the Authority, the chairperson of the meeting is the member in respect of whom a question to which subarticle (5) applies falls to be determined, then the other members of the Authority attending the meeting shall choose one of their number to be chairperson of the meeting for the purpose of determining the question concerned.

(7) Where the Minister is satisfied that a member of the Authority has acted contrary to any of the provisions of this article, the Minister may, if he or she thinks fit, remove that member from office and, where a person is removed from office pursuant to this subarticle, he or she shall thenceforth be disqualified for membership of the Authority.

(8) The term 'material interest' in this article shall include, but not be limited to, being in the same type of business as the applicant, or licensee, as the case may be."

**87.** Article 18 of the principal Act shall be amended as follows:

Amendment of article 18 of the principal Act.

(a) in subarticle (4) after the word "specified.", the following paragraph shall be added:

"Provided that the renewal of the licence shall only be subject to the continued fulfilment of the relevant applicable requirements current at the time."; and

(b) subparagraph (7) shall be deleted and substituted by the following:

"(7) A licence may be granted or renewed as subject to such requirements, conditions, limitation and exclusions as the Authority may consider necessary, appropriate and proportionate in accordance with this Act."

Amendment of article 19 of the principal Act.

**88.** Article 19 of the principal Act shall be amended as follows:

(a) in paragraph (a), for the words "or provides such accommodation," there shall be substituted the words "or provides such accommodation." and the words ", and in addition the person who will in fact operate as aforesaid will be qualified and, or experienced to so operate to the satisfaction of the Authority;" shall be deleted; and

(b) in paragraph (a) after the paragraph ending with the words "or who in fact effects such operation or provides such accommodation.", there shall be added the following paragraph:

"The person who will be responsible for such operation or provision of accommodation or who in fact effects such operation or provides such accommodation possesses the skills and competencies necessary to operate a business of a hotel, guest house, hostel, holiday premises or catering establishment or to provide accommodation to tourists in a house, as the case may be, proven to the satisfaction of the Authority by means of either a relevant formal qualification from a recognised training institution or at least two years experience in the management of a similar business activity;"

Amendment of article 20 of the principal Act.

**89.** In article 20 of the principal Act the words "be transferred to any person who in the opinion of the Authority has the attributes mentioned in article 19(1)(a)" shall be deleted and substituted by the words "be transferred to any person who fulfils the requirements mentioned in article 19(1)(a)".

Amendment of article 27 of the principal Act.

**90.** Article 27 of the principal Act shall be amended as follows:

(a) in subarticle (2) after the words "as may be specified." there shall be added the following proviso:

"Provided that the renewal of the licence shall only be subject to the continued fulfilment of the relevant applicable requirements current at the time."; and

(b) for subarticle (4) there shall be substituted the following:

"(4) A licence may be granted or renewed as subject to such requirements, conditions, limitations and exclusions as the Authority may consider necessary, appropriate and proportionate in accordance with this Act."

**91.** Subarticle (a) of article 28 of the principal Act shall be deleted and substituted by the following:

Amendment of article 28 of the principal Act.

"(a) the person applying thereof is of good character standing and is fit and proper to be granted and operate a licence in relation to the business of an incoming tourism agent or a travel agent or of a destination management company, as the case may be:

Provided that if the applicant is a body corporate -

(i) the requirements mentioned in the preceding paragraph shall apply to that person designated to be responsible for the management of the business activity being licensed;

(ii) the person applying thereof possesses the skills and competencies necessary to operate a business of an incoming tourism agent, or of a travel agent or of a destination management company as the case may be, proven to the satisfaction of the Authority by means of either a relevant formal qualification from a recognised training institution or at least two years experience in the management of a similar business activity:

Provided further that where the applicant is a body corporate, the requirements mentioned in the preceding paragraph shall apply to that person designated to be responsible for the management of the business activity being licensed;"

**92.** In subarticle (1) of article 30 of the principal Act, the words "in the opinion of the Authority satisfies the provisions of section 28 of this Act" shall be deleted and substituted by the words "fulfils the requirements of article 28".

Amendment of article 30 of the principal Act.

**93.** Subarticle (1) of article 31 of the principal Act shall be deleted and substituted by the following:

Amendment of article 31 of the principal Act.

"(1) Every tourism operation requiring a licence under this Act, except a licence to act as a tourist guide unless specifically prescribed in Regulations made under this Act, shall satisfy the Authority that it has at all times in its favour a policy of third party liability insurance and, in addition, or if required by the Authority, a policy of professional indemnity insurance, which policy or policies shall indemnify it, and any person employed by it, or otherwise acting for it, to such amount, in such manner and in respect of such matters as the Authority may establish."

Amendment of article 32 of the principal Act.

**94.** Article 32 of the principal Act shall be amended as follows:

(a) in subarticle (2), after the words "as may be specified." there shall be added the following proviso:

"Provided that the renewal of the licence shall only be subject to the continued fulfilment of the relevant applicable requirements current at the time."; and

(b) subarticle (4) shall be deleted and substituted by the following:

"(4) A licence may be granted or renewed as subject to such requirements, conditions, limitations and exclusions as the Authority may consider necessary, appropriate and proportionate in accordance with this Act."

Amendment of article 33 of the principal Act.

**95.** Subarticle (a) of article 33 of the principal Act shall be deleted and substituted by the following:

"(a) (i) the person applying thereof is of good character standing and is fit and proper to be granted and operate a licence in relation to the business of an organised excursion operator:

Provided that if the applicant is a body corporate, the requirements mentioned in the preceding paragraph shall apply to that person designated to be responsible for the management of the business activity being licensed;

(ii) the person applying thereof possesses the skills and competencies necessary to operate a business of an organized excursion operator, proven to the satisfaction of the Authority by means of either a relevant formal qualification from a recognised training institution or at least two years experience in the management of a similar business activity:

Provided that where the applicant is a body corporate, the requirements mentioned in the preceding paragraph shall apply to that person designated to be responsible for the management of the business activity being licensed;"

**96.** In subarticle (1) of article 35 of the principal Act, the words "in the opinion of the Authority satisfies the provisions of article 33" shall be deleted and substituted by the words "fulfils the requirements of article 33".

Amendment of article 35 of the principal Act.

**97.** Article 36 of the principal Act shall be amended as follows:

Amendment of article 36 of the principal Act.

(a) subarticle (1) shall be deleted and substituted by the following:

"(1) No person shall act, hold himself out as acting as a tourist guide or use the title of a "tourist guide" unless he is in possession of a licence in accordance with this Act and regulations issued under it.";

(b) subarticle (2) shall be deleted and substituted by the following:

"(2) A licence may be granted and renewed for such periods and as subject to such requirements, conditions, limitations and exclusions as the Authority may consider necessary, appropriate and proportionate in accordance with this Act and regulations issued under it.";  
and

(c) subarticle (4) shall be deleted.

**98.** Article 37 of the principal Act shall be deleted and substituted by the following:-

Amendment of article 37 of the principal Act.

"37. A licence shall not be granted for the purposes of article 36 unless:

(a) the person applying thereof is of good character and is fit and proper to act as a tourist guide; and

(b) the person applying thereof possesses the relevant qualification/s to act as tourist guide; or

(c) demonstrates that he has the practical and theoretical competencies and experience deemed and recognized to be equivalent to (b) above by the Authority in terms of this Act and

regulations issued under it."

Amendment of  
article 47 of the  
principal Act.

**99.** Subarticle (1)(b) of article 47 of the principal Act shall be deleted and substituted by the following:

"(b) require that any category or class of persons working, whether employed or self-employed, in any tourism operation shall be in possession of such licences or shall be in possession of such certificates of competence or qualifications as may be prescribed;"

## PART XIX

### AMENDMENTS TO THE MALTA RESOURCES AUTHORITY ACT

Amendments to  
the Malta  
Resources  
Authority Act.  
Cap. 423.

**100.** (1) This Part amends the Malta Resources Authority Act, and it shall be read and construed as one with the Malta Resources Authority Act, hereinafter referred to in this Part as "the principal Act".

(2) This Part shall come into force upon publication of this Act.

Amendment of  
article 2 of the  
principal Act.

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

(a) in the definition "authorisation", for the words "or service however so described relating to resources", there shall be substituted the words "relating to resources and in relation to services and service providers means a permit, licence, warrant, appointment, concession or decision concerning access to a service activity or the exercise thereof relating to resources";

(b) immediately after the definition "authorisation", there shall be inserted the following new definition:

" "authorisation scheme" means any authorisation or other procedure of an administrative nature, under which a provider or recipient is in effect required to take steps in order to commence the activity in question and obtain from a competent authority authorisation concerning access to a service activity or the exercise thereof;"

(c) immediately after the definition "energy", there shall be inserted the following new definition:

" "establishment" means the actual pursuit of an

economic activity as referred to in Article 43 of the Treaty, by a service provider for an indefinite period and through a stable infrastructure from where the business of providing services is actually carried out;"

(d) immediately after the definition "gas", there shall be inserted the following new definition:

" "Internal Market Information System" means the information system through which competent authorities exchange information in fulfillment of their obligations under Chapter VI of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market;"

(e) immediately after the new definition "Internal Market Information System", there shall be inserted the following new definition:

" "Member State" means a member state of the European Economic Area;"

(f) immediately after the new definition "Member State", there shall be inserted the following new definition:

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

(g) immediately after the new definition "Member State of establishment", there shall be inserted the following new definition:

" "Member State where the service is provided" means the Member State where the service is supplied by a provider established in another Member State;"

(h) immediately after the definition "Minister", there shall be inserted the following new definition:

" "overriding reasons relating to the public interest" means the reasons recognised as such in the case law of the European Court of Justice in relation to Articles 43 and 49 of the Treaty, as they may continue to evolve and including the following grounds:

(a) public policy, public security, public safety and public health; provided that these grounds

shall be interpreted within the meaning of Article 46 and Article 55 of the Treaty;

(b) the maintenance of order in society;

(c) social policy objectives;

(d) the protection of the recipients of services;

(e) consumer protection;

(f) the prevention of fraud;

(g) the prevention of unfair competition;

(h) the protection of the environment;";

(i) immediately after the definition "public officer", there shall be inserted the following new definition:

" "recipient" means any natural person who is a national of a Member State or who benefits from rights conferred upon him by Community acts, or any legal person as referred to in Article 48 of the Treaty and established in a Member State, who, for professional or non-professional purposes, uses, or wishes to use, a service;";

(j) immediately after the definition "resources", there shall be inserted the following new definition:

" "service" means any self-employed activity performed for an economic consideration as referred to in Article 50 of the Treaty;";

(k) immediately after the new definition "service", there shall be inserted the following new definition:

" "services of a general economic interest" means those services declared by the Minister responsible for Competition as services of general economic interest in terms of article 30(3) of the Competition Act;".

(l) immediately after the new definition "services of a general economic interest", there shall be inserted the following new definition:

" "service provider" means any natural person who is a national of a Member State, or any legal person as referred to in Article 48 of the Treaty and established in a Member State, who offers or provides a service;"; and

(m) immediately after the definition "transmission", there shall be inserted the following new definition:

" "Treaty" means the Treaty establishing the European Community;".

**102.** Immediately after article 38 of the principal Act, there shall be inserted the following new article:

Addition of new article 39 to the principle Act.

"Service providers.

39. (1) In regulating access to service activities falling under this Act and, or the exercise thereof, the Authority shall, where such service activities fall within the scope of the Services (Internal Market) Act, 2009:

(a) act objectively, transparently, efficiently and in a timely manner;

(b) provide information and assistance to service providers and recipients subject to the provisions of this Act;

(c) make it possible to complete all procedures and formalities relating to access to a service activity and to the exercise thereof, available electronically through the designated point of single contact:

Provided that the requirement to make it possible to complete all procedures and formalities electronically through the point of single contact shall not apply to the inspection of premises from which the service is provided or of equipment used by the service provider.

(2) When a service provider is already established in another Member State, and seeks access to a service activity or the exercise thereof in Malta:

(a) where the service activity is subject to an authorisation scheme or the fulfillment of other requirements regulating establishment in Malta, the Authority shall not duplicate requirements or controls which are equivalent or essentially comparable as regards their purpose which a service provider may already be subject to in another Member State where he is already established;

(b) where the Authority requires a service provider to supply a certificate, attestation or document proving that a requirement has been satisfied in terms of this Act or regulations made thereunder:

(i) it shall accept any document from another Member State which serves an equivalent purpose or from which it is clear that the requirement in question has been satisfied;

(ii) it may not require a document from another Member State to be produced in its original form or as a certified copy or certified translation save in the cases provided for in a Community instrument or where such a requirement is justified by an overriding reason relating to the public interest, including public order and public security:

Provided that the provisions of this paragraph shall not affect the right of the Authority from requesting a non-certified translation of documentation in the Maltese or in the English language.

(3) Where the number of authorisations available for a service activity is limited because of the scarcity of available natural resources, technical capacity or if justified by an overriding reason relating to public interest, the Authority shall apply a selection procedure to potential candidates in order to ensure impartiality, transparency, conditions of open competition, including in particular, adequate publicity about the launch, conduct and completion of the procedure. In establishing the rules for the selection procedure, the Authority may give consideration to issues relating to public health, social policy objectives, the health and safety of employees or self-employed persons, the protection of the environment, and other overriding reasons relating to the public interest, in conformity with Community law.

(4) An authorisation granted to a service provider shall be for an indefinite period, except where:

(a) the authorisation is being automatically renewed or is subject only to the continued fulfilment of requirements;

(b) the number of available authorisations is limited in terms of sub-article (3);

(c) a limited authorisation period can be justified by an overriding reason relating to the public interest:

Provided that in cases referred to in paragraph (b), an authorisation shall be granted for an appropriate limited period enabling the service provider to recover the cost of investment and to make a fair return on the capital invested, which authorisation may not have an excessive duration, be open to automatic renewal nor confer any other advantage on the service provider whose authorisation has just expired or on any person having any particular links with that provider.

(5) An authorisation granted by the Authority shall enable the service provider to have access to the service activity or the exercise thereof throughout Malta including by means of the setting up of agencies, subsidiaries, branches or offices, except where the authorisation for each individual establishment or a limitation of authorisation to a certain part of the territory is justified by an overriding reason relating to public interest:

Provided that the service provider shall be required to inform the Authority of the creation of subsidiaries, branches, offices or agencies whose activities fall within the scope of the authorisation scheme.

(6) In the fulfillment of its authorisation function in terms of this article, the Authority shall:

(a) acknowledge all applications requesting authorisation;

(b) in case of an incomplete application, inform the applicant as quickly as possible of the need to supply any additional information, together with the consequences which ensue should the applicant delay in providing the said information or requirements;

(c) process an application for an authorisation as quickly as possible and in any event within a time period which shall be fixed and made public in advance failing which it shall be deemed that the authorisation has been granted. The period will start to run from the day when all due information has been submitted and any other requirements and formalities have been completed in order for the Authority to process the application:

Provided that the time period may be extended once for a limited time when justified by the complexity of the issue. The extension and its duration shall be duly justified and given to the applicant before the original period has expired:

Provided further that the Authority may make different arrangements where objectively justified by overriding reasons relating to the public interest including a legitimate interest of third parties;

(d) provide information regarding the means of redress available in case of non-acceptance of an application;

(e) grant an authorisation as soon as the applicant fulfills all requirements, without prejudice to the right of the Authority to revoke or modify an authorisation when the conditions for authorisation are no longer met by the service provider;

(f) in the case of rejected applications due to failure to comply with the required procedures or formalities, inform the applicant of the rejection as soon as possible;

(g) except in the case of the granting of an authorisation, a decision from the Authority, including refusal or withdrawal, shall be fully reasoned and shall be open to challenge before the Appeals Board.

(7) With the exclusion of service activities and matters which are declared to be services of a general economic interest, which *inter alia* may include -

(a) in the electricity sector, services covered by Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity;

(b) in the gas sector, services covered by Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas;

(c) water distribution and supply services and waste water services,

the Authority shall respect the right of service providers that are lawfully established and providing services in another Member State to provide services in Malta, and may not prevent them from providing such service activities by imposing requirements which are discriminatory, unnecessary or disproportionate:

Provided that the Authority may impose requirements with regard to the provision of a particular service activity, where these are justified for reasons relating to public policy, public security, public health or the protection of the environment:

Provided also that in establishing whether a service provider is exercising his freedom to provide services within the meaning of this article and Article 49 of the Treaty, or is an establishment case, or whether a service provider is abusively taking advantage of the freedom to provide services, the Authority shall assess and decide each case on its individual merits and in conformity with Community legislation and rulings of the European Court of Justice.

(8) Without prejudice to sub-article (7), in exceptional cases only, the Authority may, in respect of a service provider established in another Member State, take measures in order to ensure the safety of services provided in Malta. When taking such measures, the Authority shall follow the procedure established under the Fourth Schedule to the Services (Internal Market) Act, 2009, and ensure the fulfillment of the following conditions:

(a) the national provisions, in accordance with which the measures are taken, have not been subject to Community harmonisation in the field of the safety of services;

(b) the measures taken provide for a higher level of protection of the recipient than would be the case in a measure taken by the Member State of establishment in accordance with its national provisions;

(c) the Member State of establishment has not taken any measures or has taken measures which are insufficient as compared with those requested by the Authority and as referred to in paragraphs 2 and 3 to the Fourth Schedule to the Services (Internal Market) Act, 2009;

(d) the measures are proportionate:

Provided that the Authority, upon gaining actual knowledge of any conduct or specific acts by a service provider established in Malta and which provides services in other Member States, which, to its knowledge, could cause serious damage to the health or safety of persons or to the environment, shall inform all other Member States and the European Commission within the shortest possible period of time through the Internal Market Information System.

(9) (a) The Authority shall require service providers established in Malta and falling under its area of competence to keep it updated at all times with the information it identifies as necessary and objectively justified for it to fulfill its supervisory function of services in terms of this Act and the Services (Internal Market) Act, 2009.

(b) The Authority shall exercise its supervisory functions on service providers established in Malta, and falling under its area of competence, whether the service is provided in Malta or in another Member State.

(c) In executing its supervisory functions, when a service is being provided in another Member State by a service provider established in Malta, the Authority shall assist the relevant competent authority of that other Member State in terms of the procedure established in the Second Schedule of the Services (Internal Market) Act, 2009. In doing so, the Authority shall not refrain from taking supervisory enforcement measures in Malta on the grounds that a service has been provided or caused damage in another Member State:

Provided that the Authority shall not be bound to carry out checks and controls in the Member State where the service is being provided.

(d) When a service is being provided in Malta, in the event of a temporary movement by a service provider established in another Member:

(i) the Authority shall participate in the supervision of the service provider in accordance with the procedure set up in the Second Schedule to the Services (Internal Market) Act, 2009;

(ii) when the Authority has imposed requirements in terms of the first proviso to sub-article (7), it shall assume responsibility for the supervision of that service provider in Malta in order to ensure compliance with those requirements.

(e) The Authority shall exchange requests and information with the relevant competent authorities of another Member State through the Internal Market Information System.

(f) Without prejudice to the limitations imposed by any other law, the Authority shall supply information to the relevant competent authority of another Member State on disciplinary or administrative actions, or criminal sanctions and decisions concerning insolvency or bankruptcy involving fraud, which directly concern a provider, and which are directly relevant to the provider's competence or professional reliability, in terms of the procedure contemplated under the Third Schedule of the (Internal Market) Act, 2009."

## PART XX

### AMENDMENTS TO THE VETERINARY SERVICES ACT

**103.** (1) This Part amends the Veterinary Services Act, and it shall be read and construed as one with the Veterinary Services Act, hereinafter in this Part referred to as "the principal Act".

Amendments to  
the Veterinary  
Services Act.  
Cap. 437.

(2) This Part shall come into force upon publication of this Act.

**104.** Article 43 of the principal Act shall be amended as follows:

Amendment of  
article 43 to the  
principal Act.

(a) subarticle (3) thereof shall be amended as follows:

Cap. 451. (i) in paragraph (b) thereof, immediately after the words "the Council," there shall be added the words "after consultation with the Malta Qualifications Council and in terms of the Mutual Recognition of Qualifications Act and legislation made thereunder," and for the words ", if any" there shall be substituted the words "or in a Member State";

(ii) in paragraph (g) thereof, immediately after the words "citizen of Malta" there shall be added the words "or of a Member State";

(b) immediately after subarticle (3) there shall be added the following new subarticles:

"(4) (a) The Council shall acknowledge receipt of an application for a warrant as soon as possible and in any case by not later than one month of receipt of all relevant documentation submitted in fulfilment of the requirements listed in the last preceding sub-article. The acknowledgment shall include the time by which the Council expects to reach a decision in terms of this sub-article and the available means of redress from decisions of the Council:

Provided that in the case of incomplete documentation, the Council shall inform the applicant accordingly:

Provided further that where the applicant is already established in another Member State and, or has obtained his qualifications in another Member State and, or is a citizen of another Member State, the Council may seek to verify any of the documentation submitted by the applicant with the relevant competent authority of that Member State in terms of the Services (Internal Market) Act, 2009.

(b) The Council shall examine all documentation submitted by the applicant as early as possible and lead to a duly substantiated decision within three months. Such period shall commence to run from the date of receipt of all necessary documentation. Where duly motivated, this period may be extended by one month by the Council, provided that the applicant is notified before the original period set in paragraph (a) has expired.

(c) Lack of response within the timescales set in accordance with this sub-article shall not be deemed to imply the tacit approval of the applicant's application.

Cap. 451.  
L.N. 422 of 2007

(5) Without prejudice to sub-articles (2) and (3), and in terms of the Mutual Recognition of Qualifications Act, and the Recognition of Professional Qualifications Regulations, 2007, a person may provide veterinary services in Malta, on a temporary and occasional basis, provided that:

(a) he is legally established in another Member State for the purpose of pursuing the profession of a veterinary surgeon in that Member State; and

(b) he has pursued the profession of a veterinary surgeon for at least two years during the preceding ten years.

(6) (a) Persons referred to in sub-article (5) shall inform the Council in advance of their intention to provide veterinary services in Malta by means of a written declaration. Such written declaration shall include:

(i) proof of nationality;

(ii) an attestation certifying that the person is legally established in another Member State for the purpose of pursuing the profession of a veterinary surgeon in that Member State;

(iii) evidence of his professional qualifications and of his practice during the preceding ten years;

(iv) details of his current insurance cover or of any other means of collective protection with regard to professional liability, as it may be applicable;

(v) description of the services intended to be provided and the location from where such services are intended to be provided.

(b) (i) The Council shall, immediately upon receipt of a declaration in terms of the preceding paragraph, send an acknowledgement to the applicant and inform him of any missing documentation.

(ii) The Council shall, within a maximum of one month from the date of an acknowledged receipt of a completed declaration and all necessary accompanying documents, inform the applicant of the outcome of the checks of the submitted qualifications and documents.

(iii) In case of difficulty resulting in delay, the Council shall inform the applicant making the declaration, within the first month, of the reason for the delay and the timescale within which the Council's decision shall be finalised:

Provided that the extended timescale shall not be of more than one month.

(iv) In the absence of a reaction from the Council within the deadlines set in this sub-article the service may be provided.

(c) In making its decision in terms of this and the preceding subarticle, the Council shall assess and determine each application based on its individual merits.

(7) (a) The Veterinary Surgeons' Council shall keep a list within the Veterinary Surgeons' Register of persons approved for the provision of veterinary services on a temporary or occasional basis under this article.

(b) This registration shall be valid for one year and shall be renewed, in advance, for every year in which the applicant intends to provide temporary or occasional services in Malta during that year:

Provided that, for reasons of public and animal health, the person shall be required to inform the Council each time he intends to provide veterinary services on a temporary or occasional basis in Malta, fifteen days in advance and shall provide the Council with the information in terms of subarticle (6)(a)(v)."; and

(c) subarticle (5) shall be renumbered as sub-article (8) thereof and shall be amended as follows:

(i) in paragraph (a) thereof, the words "by the President of Malta" shall be deleted; and

(ii) in paragraph (b) thereof, immediately after the words "the Council" there shall be added the words "after consultation with the Malta Qualifications Council".

**105.** In article 45A of the principal Act, immediately after the words "Mutual Recognition of Qualifications Act" there shall be added the words "and the Services (Internal Market) Act, 2009,". Amendment of article 45A of the principal Act.

## PART XXI

### AMENDMENTS TO THE TRADING LICENCES ACT

**106.** (1) This Part amends the Trading Licences Act, and it shall be read and construed as one with the Trading Licences Act, hereinafter referred to in this Part as "the principal Act". Amendments to the Trading Licences Act. Cap. 441.

(2) This Part shall come into force upon publication of this Act.

**107.** Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) for the definition "commercial fair" there shall be substituted the following:

" "commercial fair" means an event in one location in which more than one participant display or promote their goods or services from different sites of such location with a view to sell such goods or services from such location or from elsewhere;"

(b) immediately after the definition "commercial fair" there shall be inserted the following new definition:

" "commercial exhibition" means an event in one location in which one participant displays or promotes his goods or services with a view to sell such goods or services from such location or from elsewhere:

Provided that such event shall not comprise the display or promotion of goods or services for wholesale or retail from a premises licensed for such purposes;"

(c) immediately after the definition "commercial premises" there shall be inserted the following new definition:

" "exhibition" means an event in one location in which one or more participants display or promote their goods or services without the intention to sell such goods or services from such location or from elsewhere;" and

(d) immediately after the definition "street" there shall be added the following new definition:

" "the Treaty" means the Treaty establishing the European Community."

Deletion of articles 5 to 7 of the principal Act.

**108.** Articles 5, 6 and 7 of the principal Act shall be deleted.

Renumbering and amendment of article 8 of the principal Act.

**109.** Article 8 of the principal Act shall be renumbered as article 5, and in subarticle (5) thereof, for the words "to the Board." there shall be substituted the words "to the Board:", and immediately thereafter there shall be added the following proviso:

"Provided that the Minister may appoint a substitute secretary in the following cases:

(a) in cases of urgency if the designated secretary is in any way not available to perform his duties; and

(b) in cases where the designate secretary abstains himself for the same reasons that a member of the

board may abstain himself as mentioned above."

**110.** Articles 9, 10, 11 and 12 of the principal Act shall be renumbered as Articles 6, 7, 8 and 9 respectively.

Renumbering of articles 9 to 12 of the principal Act.

**111.** Immediately after article 9 of the principal Act, as renumbered, there shall be added the following new article:

Addition of new article 10 to the principal Act.

"Activities requiring licence and permits.

10. (1) No commercial activity shall be carried out in Malta without a licence from the regulatory authority:

Provided that any commercial activity, as may be prescribed, may:

(a) be deemed to be licensed following a notification made to the regulatory authority prior to commencement of the commercial activity by the person who undertakes to carry out the intended activity;

(b) be deemed to be licensed following a notification made to the regulatory authority, within a prescribed time, after commencement of the commercial activity:

Provided further that all persons carrying out any commercial activity shall still be required to comply with the relevant provisions of this Act and of any regulations subsidiary to it, irrespective of the type whether the commercial activity is licensed as a result of an application to the regulatory authority or is deemed to be licensed following a notification to the regulatory authority.

(2) Certain activities as may be prescribed may:

(a) be designated as not requiring a licence but requiring other relevant permits from the local authority and, or the Commissioner of Police or be subject to conditions issued by the local authorities and, or the Commissioner of Police;

(b) be designated as requiring other relevant permits, in addition to a licence from the regulatory authority, including:

(i) a permit from the local authority; and

(ii) a permit from the Commissioner of Police:

Provided that a person who holds on any special or special day or days:

(a) any procession or other activity held in a public place held in the context of a feast, any band march, any disco, ball, dance or any other similar activity, irrespective of the name by which it is called; or

(b) a sporting activity which is held across more than one locality or on a national basis; or

(c) any activity organised by a political party

shall only require a permit from the Commissioner of Police issued under this Act.

(3) The issuing of a licence by a regulatory authority or a permit by the local authority or Commissioner of Police may be subject to:

(a) the submission and evaluation of documents and other prescribed information as may be deemed necessary in order to ensure fulfillment of licence requirements;

(b) authorizations, permits, approvals and clearances from other entities as may be prescribed and applicable by other relevant legislation current at the time;

Cap. 451.

(c) compliance with terms and conditions as may be prescribed, including the possession of relevant qualifications in line with the Mutual Recognition of Qualifications Act and of any regulations made thereunder:

Provided that the regulatory authority may require the applicant to prove his competence to carry on the relevant commercial activity by means of other qualifications for reasons of overriding public interests, in terms of Directive 2006/123 of the European Parliament and of the Council of 12 December, 2006 on services in the internal market:

Provided further that where a person is legally established to carry on in another Member State a commercial activity falling under the implementing provisions of Directive 2006/123 of the European Parliament and of the Council of 12 December, 2006 on services in the internal market and is seeking a licence in Malta, the regulatory authority, in compliance with same Directive, shall not duplicate requirements or controls which are equivalent or essentially comparable as regards their purpose to which such person may already be subject to in another Member State.

(4) Notwithstanding any licence, permit or authorisation issued, the Commissioner of Police may:

(a) where any affray or tumult happens or is expected to happen in any place, order every commercial premises in or near the place where the affray or tumult happens or is expected to happen, to be kept closed during such time as, in the opinion of the Commissioner of Police, is reasonably necessary;

(b) for reasons of public order, public safety or public morality, stop any activity in respect of which any permit or licence or authorization was issued or should have been issued under this Act."

Addition of new article 11 to the principal Act.

**112.** Immediately after the new article 10 of the principal Act, there shall be added the following new article:

"Commercial activity on a non-permanent and occasional basis.

11. Where a person is already licensed or otherwise legally established to carry on a commercial activity in another Member State, and that person wishes to carry out such commercial activity in Malta on a non-permanent and occasional basis, the regulatory authority shall not prevent that person from doing so by imposing any requirements which are discriminatory, unnecessary or disproportionate:

Provided that the regulatory authority may impose such requirements with regard to the provision of a particular service activity, where these are justified for reasons relating to public policy, public security, public health or the protection of the environment:

Provided also that in establishing whether a service provider is exercising his freedom to provide services within the meaning of article 16 of the Services (Internal Market) Act, 2009 and Article 49 of the Treaty, or is an establishment case, or whether a service provider is abusively taking advantage of the freedom to provide services, the competent authority shall assess and decide each case on its individual merits and in conformity with Community law and rulings of the European Court of Justice."

Deletion of articles 13 to 18 and Parts III to V of the principal Act.

**113.** Part III and articles 13, 14, 15 and 16, Part IV and article 17 and Part V and article 18 of the principal Act shall be deleted.

- 114.** Part VI of the principal Act shall be renumbered as Part III thereof, and articles 19 to 22 of the principal Act shall be deleted. Renumbering of Part VI and deletion of articles 19 to 22 of the principal Act.
- 115.** Article 23 of the principal Act shall be renumbered as article 12 thereof. Renumbering of article 23 of the principal Act.
- 116.** Articles 24 and 25 of the principal Act shall be deleted. Deletion of article 24 and 25 of the principal Act.
- 117.** Immediately after the new article 12 of the principal Act as renumbered, there shall be added the following new article: Addition of new article 13 to the principal Act.
- "Selling from  
open-air markets. 13. When an open air market has been established in a locality, no person shall be allowed to carry on any commercial activity from a fixed place in such a market unless he complies with such conditions as may be prescribed."
- 118.** Immediately after the new article 13 of the principal Act as renumbered, there shall be added the following new article: Addition of new article 14 to the principal Act.
- "Vending  
machines, etc. 14. No person shall place any vending machine or any machine known as kiddie ride machine in any street without the necessary authorisation as may be prescribed."
- 119.** Articles 26 and 27 of the principal Act shall be renumbered as articles 15 and 16 thereof. Renumbering of articles 26 and 27 of the principal Act.
- 120.** Part VII of the principal Act shall be renumbered as Part IV thereof. Renumbering of Part VII of the principal Act.
- 121.** Article 28 of the principal Act shall be renumbered as article 17 thereof and for paragraph (f) thereof, there shall be substituted the following new paragraph: Renumbering and amendment of article 28 of the principal Act.
- "(f) for establishing the penalties or administrative sanctions to which any offender against the provisions of this Act and regulations made thereunder shall be liable;"
- 122.** Article 29 of the principal Act shall be renumbered as article 18 thereof. Renumbering of article 29 of the principal Act.

Renumbering and amendment of article 30 of the principal Act.

**123.** Article 30 of the principal Act shall be renumbered as article 19 thereof and amended as follows:

(a) in subarticle (1) thereof, for the words "as may be prescribed in respect of that offence" there shall be substituted the words "and, or administrative sanctions as may be prescribed in respect of that offence";

(b) for subarticle (2) thereof there shall be substituted the following:

"(2) The Minister shall prescribe the penalties and administrative sanctions that may be demanded by the regulatory authority in relation to any specified offence."; and

(c) in subarticle (3) thereof, after the word "penalty" there shall be added the words "and, or administrative sanctions".

Renumbering of articles 31 to 33 of the principal Act.

**124.** Articles 31, 32 and 33 of the principal Act shall be renumbered as articles 20, 21 and 22 thereof.

## PART XXII

### AMENDMENTS TO THE CULTURAL HERITAGE ACT

Amendments to the Cultural Heritage Act. Cap. 445.

**125.** (1) This Part amends the Cultural Heritage Act and it shall be read and construed as one with the Cultural Heritage Act, hereinafter in this Part referred to as "the principal Act".

(2) This Part shall come into force upon publication of this Act.

Amendment of article 33 of the principal Act.

**126.** In sub-article (1) of article 33 of the principal Act, for the words "the requirements of articles 31 or 32." there shall be substituted the words "the requirements of articles 31 or 32:" and immediately thereafter there shall be inserted the following proviso:

"Provided that the decision of the Minister to grant or to refuse an application shall be notified in writing to the applicant within four months from the date of receipt of the application. Failure to notify the applicant about the decision regarding an application for a warrant within the time established shall be deemed, for reasons of public interest, to be a refusal of the warrant applied for. Where no decision has been notified to the applicant within the time established, such applicant may appeal before the Court of Appeal constituted as

provided in article 41(6) of the Code of Organization and Civil Procedure:

Provided further that an application for a warrant shall not be deemed to have been filed by an applicant unless it is duly filled in and accompanied with all required information and documentation."

**127.** Article 33A of the principal Act shall be substituted by the following new article:

Substitution of article 33A of the principal Act.

"Temporary provision of services. Cap. 451.

33A. (1) Without prejudice to the Mutual Recognition of Qualifications Act and notwithstanding the provisions of article 31 of this Act, any person established in another Member State may practise the profession of a restorer in Malta on a temporary and occasional basis provided that such person:

(a) is legally established in another Member State for the purpose of pursuing the restorer's profession in that Member State; and

(b) has pursued the restorer's profession for at least two years during the ten years immediately preceding the provision of services where the restorer's profession is not regulated in that Member State.

(2) Persons referred to in subarticle (1) shall inform the Board by means of a written declaration to be made in advance, which declaration shall include the following:

(a) the details of an insurance cover or other means of personal or collective protection relative to professional liability. This declaration shall be made once a year if the service provider intends to provide temporary or occasional services during the year;

(b) proof of the nationality of the service provider;

(c) an attestation certifying that the warrant holder is legally established in a Member State for the purpose of pursuing the activities concerned and that he is not prohibited from practising the profession of a restorer even temporarily, at the moment of delivering the attestations;

(d) evidence of professional qualifications; and

(e) where applicable, any means of proof that the service provider has pursued the restorer's profession for at least two years during the previous ten years immediately preceding the provision of services.

(3) Where the Board, in exercising its authority under this article, deems that there is a substantial difference between the professional qualifications of the service provider and the academic qualifications required under article 31, to the extent that the difference is such as to be harmful to public health, safety and security, the Board shall give the service provider the opportunity to show, in particular by means of an aptitude test, that he has acquired the knowledge or competence which he lacks.

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

(5) The Board shall, within one month from the date of receipt of the declaration referred to in subarticle (2), inform the service provider either of its decision not to check his qualifications or of the outcome of such check. Whenever a decision cannot be given during the established time, the Board shall notify this information to the service provider within the period established in this subarticle. The Board may extend this period only once for another period of one month.

(6) In the event that the Board does not give its decision within the period referred to in subarticle (5), the restoration services may be provided.

(7) A person exercising the profession under this article shall be deemed to be a warrant holder and the provisions of this Act and of any other applicable law shall apply to him in the same manner and to the same extent as with any other warrant holder."

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## FIRST SCHEDULE

[Article 6(1)]

Services and matters excluded from the application of article 6(1)

(1) Services of general economic interest, *inter alia*:

(a) in the postal sector, services covered by Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service;

(b) in the electricity sector, services covered by Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity;

(c) in the gas sector, services covered by Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas;

(d) water distribution and supply services and waste water services;

(e) treatment of waste.

(2) Matters covered by Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 on the posting of workers in the framework of the provision of services.

(3) Matters covered by Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

(4) Matters covered by Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services.

(5) The activity of judicial recovery of debts.

(6) Matters covered by Title II of Directive 2005/36/EC as transposed into Maltese law by virtue of the Recognition of Professional Qualifications Regulations, 2007, as well as requirements in the Member State where the service is provided which reserve an activity to a particular profession.

(7) Matters covered by Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons or self employed persons and to members of their families moving within the Community.

(8) As regards administrative formalities concerning the free movement of

persons and their residence, matters covered by the provisions of Directive 2004/38/EC on the right of citizens of the European Union and their family members to move and reside freely within the territory of the member states with which beneficiaries must comply.

(9) As regards third country nationals who move to another Member State in the context of the provision of a service, the possibility for Member States to require visa or residence permits for third country nationals who are not covered by the mutual recognition regime provided for in Article 21 of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at the common borders or the possibility to oblige third country nationals to report to the competent authorities on or after their entry.

(10) As regards the shipment of waste, matters covered by Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community.

(11) Copyright, neighbouring rights and rights covered by Council Directive 87/54/EEC of 16 December 1986 as transposed into Maltese law by virtue of the Copyright Act, and regulations made thereunder, on the legal protection of topographies of semiconductor products and by Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases, as well as industrial property rights.

(12) Acts requiring by law the involvement of a notary public.

(13) Matters covered by Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audit of annual accounts and consolidated accounts.

(14) The registration of vehicles leased in another Member State.

(15) Provisions regarding contractual and non-contractual obligations, including the form of contracts, determined pursuant to the rules of private international law.

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## **SECOND SCHEDULE**

[(Article 8(3) and (4)]

Cooperation with a competent authority of another Member State

(1) When a service is being provided in another Member State by a provider established in Malta, a competent authority shall cooperate with the relevant competent authority of another Member State, and fulfill its obligations as

stipulated hereunder:

(a) when receiving a request from the relevant competent authority of another Member State, a competent authority shall confirm whether a provider is established in Malta and that to its knowledge the provider is not exercising his activity in an unlawful manner;

(b) the competent authority shall carry out such checks, inspections and investigations as requested and, or necessary, and shall inform the relevant competent authority in the other Member State of the results and, or of any measures taken by it:

Provided that a competent authority may decide on which measures are appropriate;

(c) in the event that a competent authority encounters difficulty in meeting a request for information or in carrying out checks, inspections or investigations, it shall rapidly inform the requesting competent authority with such difficulties in order to find a solution.

(2) Upon gaining actual knowledge of any conduct or specific acts by a provider established in Malta which provides services in other Member States, that, to its knowledge, could cause serious damage to the health and safety of persons or to the environment, the competent authority shall inform all other relevant competent authorities of other Member States and the Commission within the shortest possible period of time.

(3) When a service is being provided in Malta, in the event of a temporary movement by a provider established in another Member State:

(a) at the request of the relevant competent authority of the Member State of establishment, the competent authority shall carry out checks, inspections and investigations necessary for ensuring the effective supervision by the competent authority of establishment:

Provided that a competent authority may decide on the most appropriate manner to meet the request by the Member State of establishment;

(b) the competent authority may, on its own initiative, conduct checks, inspections and investigations on the spot, provided that those checks, inspections and investigations are not discriminatory, motivated by the fact that the provider is established in another Member State and are proportionate;

(c) in the event that a competent authority encounters difficulty in meeting a request for information or in carrying out checks, inspections or investigations, it shall rapidly inform the requesting competent authority with

such difficulties in order to find a solution;

(d) with respect to the requirements imposed by the competent authority in terms of article 6(3), the competent authority shall take all measures necessary to ensure that the provider complies with these requirements and shall carry out checks, inspections and controls necessary to supervise the service provided.

(4) Where a competent authority becomes aware of serious and specific acts or circumstances relating to a service activity that could cause serious damage to health and safety of persons or to the environment in Malta or in the territory of other Member States, the competent authority shall inform the relevant competent authority of the Member State of establishment, the other Member States concerned and the Commission within the shortest possible time.

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### **THIRD SCHEDULE**

[Article 8(6)]

#### **Procedure to be followed on transmission of information on the good repute of a provider**

(1) In complying with a request for information on the good repute of a provider, a competent authority shall abide by the provisions of disclosure of information provided under any other law.

(2) Without prejudice to paragraph (1), a competent authority upon receipt of a request by another competent authority shall supply any information on disciplinary or administrative decisions or on any other decision concerning a state of insolvency or bankruptcy which are directly relevant to the provider's competence or reliability.

(3) In the event that a request concerns the disclosure of information relating to sanctions and administrative decisions, a competent authority shall ensure that such sanctions and decisions are final.

(4) In the event that a request concerns the disclosure of information on any other enforceable decision, the competent authority shall clearly indicate whether the decision is final or subject to appeal. Should the latter be the case, the competent authority shall provide the expected time when the decision of appeal is expected to be delivered.

(5) In the event that a competent authority receives a request from a competent authority in another Member State relating to the disclosure of information on a criminal sanction of a service provider which is directly relevant

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to the provider's competence or professional reliability, the competent authority shall refer such request to the Commissioner of Police and relay back the information received to the requesting competent authority:

Provided that a request made pursuant to the objectives mentioned in this sub-article must be duly substantiated, and the reason of the request is made known to the competent authority.

(6) The competent authority which supplies the information shall inform the service provider that that information has been disclosed.

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## **FOURTH SCHEDULE**

[(Article 6(3))]

### **Mutual assistance in the case of a case-by-case derogation**

(1) Where a competent authority intends to take a measure pursuant to article 6(3) of this Act, the following procedure shall apply without prejudice to court proceedings, including preliminary proceedings and acts carried out in the framework of a criminal investigation.

(2) A competent authority shall request the competent authority in the Member State of establishment to take measures with regard to the provider, supplying all relevant information on the services and the circumstances of the case.

(3) The competent authority in the Member State of establishment shall, within the shortest time possible, check whether the provider is operating lawfully and verify the acts underlying the request.

(4) Following a reply from the competent authority in the Member State of establishment of the measures taken or envisaged to be taken or, as the case may be, the reason why it has not taken any measures, the competent authority shall notify the European Commission and the competent authority in the Member State of establishment of its intention to take measures, for the following reasons:

(a) why it believes the measures taken or envisaged by the competent authority in the Member State of establishment are inadequate;

(b) why it believes the measure it intends to take fulfills the following conditions:

(i) the national measure has not been subject to Community harmonisation in the camp of the safety of services;

(ii) the measure provides for a higher level of protection of the recipient than would be the case in a measure taken by the relevant competent authority in the Member State of establishment in accordance with its national provisions;

(iii) the relevant competent authority in the Member State of establishment has not taken any measures or has taken measures which are insufficient as compared with those referred in sub-paragraph (ii);

(iv) the measures are not proportionate.

(5) The measures may not be taken before fifteen working days from the date of notification as provided in paragraph (4).

(6) However the competent authority shall, in case of urgency, refrain from following the above procedure, and shall notify the measures taken, together with the reasons of urgency, within the shortest possible period of time to the Commission and the relevant competent authority in the Member State of establishment.

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## **FIFTH SCHEDULE**

[Article 10(1) and (2)]

### Information to be provided to a recipient

(1) A provider established in Malta shall make the following information available to a recipient at all times:

(a) his name, legal status and form, the registered geographic address at which he is established and details enabling him to be contacted rapidly and communicated with directly and, as the case may be, by electronic means;

(b) where the provider is subject to a code of conduct, is a member of a trade association or professional body which provides recourse to settlement dispute proceedings other than judicial proceedings, the details of such body and the manner how the information on the characteristics and conditions relating to such proceedings may be obtained;

(c) where the provider is registered in a trade or other similar public register, the name of that register and the provider's registration number, or equivalent means of identification in that register;

(d) where the activity is subject to an authorisation scheme, the

particulars of the relevant competent authority or the single point of contact;

(e) where the provider exercises an activity which is subject to VAT, the identification number referred to in Article 22(1) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment;

(f) in the case of the regulated professions, any professional body or similar institution with which the provider is registered, the professional title and the Member State in which that title has been granted;

(g) the general conditions and clauses, if any, used by the provider;

(h) the existence of contractual clauses, if any, used by the provider concerning the law applicable to the contract and, or the competent courts;

(i) the existence of an after-sales guarantee, if any, not imposed by law;

(j) the price of the service, where a price is pre-determined by the provider for a given type of service;

(k) the main features of the service, if not already apparent from the context;

(l) where he is subject to an insurance cover or other guarantee, the contact details of the insurer or guarantor and the territorial coverage.

The information referred to in subparagraphs (a) to (l):

(i) shall be provided at the provider's initiative; and

(ii) shall be easily accessible to the recipient at the place where the service is provided or the contract concluded; or

(iii) can be easily accessed by the recipient electronically by means of an address supplied by the provider; or

(iv) appears on all documentation supplied to the recipient by the provider which sets out a detailed description of the service he provides.

(2) A provider shall make the following information available at the recipient's request:

(a) the price of the service and if an exact price cannot be quoted, the method for calculating the price or a detailed estimate;

(b) a reference to the professional rules applicable in the Member State of establishment and how to access them;

(c) information on their multi-disciplinary activities and partnerships which are directly linked to the service in question and on the measures taken to avoid conflicts of interest. Such information shall be included in any information document in which providers give a detailed description of their services;

(d) information, if any, on the provider's code of conduct, or membership of a trade association or professional body which provides for recourse to a non-judicial means of dispute settlement. The provider shall specify how to access detailed information on the characteristics of, and conditions for, the use of non-judicial means of dispute settlement.

(3) The provider shall ensure that the information supplied in accordance with paragraphs (1) and (2) is made available or communicated in a clear and unambiguous manner, and in good time, before the conclusion of the contract and, where there is no written contract, before the service is provided.

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Passed by the House of Representatives at Sitting No. 177 of the 14th December, 2009.

LOUIS GALEA  
*Speaker*

PAULINE ABELA  
*Clerk to the House of Representatives*