

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,482, 6 ta' Ottubru, 2015

Taqsima C

Nru. 116

6. 10. 2015

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Helena Dalli, M.P., Ministru għad-Djalogu Soċjali, Affarijiet tal-Konsumatur u Libertajiet Ċivili, u moqri għall-Ewwel darba fis-Seduta tal-5 ta' Ottubru, 2015.

A BILL introduced by the Honourable Helena Dalli, M.P., Minister for Social Dialogue, Consumer Affairs and Civil Liberties, and read the First time at the Sitting of the 5th October, 2015.

ATT li jemenda l-Att dwar l-Affarijiet tal-Konsumatur, Kap. 378, u għal affarijiet oħra konsegwenzjali jew ancillari għal dan.

AN ACT to amend the Consumer Affairs Act, Cap. 378, and for any other matter consequential or ancillary thereto.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

Abbozz ta' Ligi msejjah

ATT li jemenda l-Att dwar l-Affarijiet tal-Konsumatur, Kap. 378, u għal affarijiet oħra konsegwenzjali jew anċillari għal dan.

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

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2015 li jemenda l-Att dwar l-Affarijiet tal-Konsumatur, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar l-Affarijiet tal-Konsumatur, hawn aktar 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor
u bidu fis-sehh.
Kap. 378.

(2) Dan l-Att għandu jidhol fis-sehh f'dik id-data li l-Ministru responsabbli għall-affarijiet tal-konsumatur jista', b'avviż fil-Gazzetta, jistabbilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal finijiet differenti u għal dispożizzjonijiet differenti ta' dan l-Att.

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

Emenda tal-
artikolu 2 tal-
Att prinċipali.

(a) minnufih qabel it-tifsira "Awtorità", għandha tiżdied it-tifsira ġdida li ġejja:

" "ADR" tfisser soluzzjoni alternattiva għat-tilwim;" u

(b) minnufih wara t-tifsira "konsumatur", għandhom jiżdiedu t-tifsiriet godda li ġejjin:

C 1220

" "kuntratt ta' bejgħ" tfisser kull kuntratt li permezz tiegħu n-negozjant jittrasferixxi jew jimpenja ruħu li jittrasferixxi l-proprjetà ta' oġġetti lill-konsumatur u l-konsumatur iħallas jew jimpenja ruħu li jħallas il-prezz ta' dawn l-oġġetti, kif ukoll kull kuntratt li għandu bħala s-sugġett tiegħu kemm oġġetti kif ukoll servizzi;

"kuntratt ta' servizz" tfisser kull kuntratt li mhuwiex kuntratt ta' bejgħ li abbazi tiegħu n-negozjant iforni jew jimpenja ruħu li jforni servizz lill-konsumatur u l-konsumatur iħallas jew jimpenja ruħu li jħallas il-prezz għal dan;"

Emenda tal-
artikolu 7 tal-
Att prinċipali.

3. Is-subartikolu (1) tal-artikolu 7 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (f) tiegħu, minflok il-kliem "kull aspett ieħor ta' arrangamenti ta' kreditu lill-konsumatur" għandhom jidhlu l-kliem "kull aspett ieħor ta' arrangamenti ta' kreditu lill-konsumatur; u"; u

(b) minnufih wara l-paragrafu (f) tiegħu, għandu jizjed il-paragrafu ġdid li ġej:

"(g) sabiex jipprovdi għal kull hwejjeġ ohra li jistgħu jkunu meħtieġa għall-finijiet li jkun hemm konformità mal-obbligi internazzjonali ta' Malta li għandhom jikkonċernaw l-affarijiet tal-konsumatur, b'mod partikolari għall-finijiet ta' konformità ma' kull kondizzjoni, deskritta kif deskritta, tal-Unjoni Ewropea."

Enumerazzjoni
mill-ġdid tat-
Taqsimi VI sat-
Taqsimi XII
tal-Att
prinċipali.

4. It-Taqsimi VI tal-Att prinċipali intitolata "Klawżoli mhux ġusti f'kuntratti", it-Taqsimi VII tal-Att prinċipali intitolata "Prattiċi kummerċjali mhux ġusti u skemi illeċiti", it-Taqsimi VIII tal-Att prinċipali intitolata "Responsabbiltà għal prodotti difettużi", it-Taqsimi IX tal-Att prinċipali intitolata "Bejgħ ta' oġġetti lil konsumaturi", it-Taqsimi X tal-Att prinċipali intitolata "Ordnijiet ta' tharis", it-Taqsimi XI tal-Att prinċipali intitolata "Infurzar" u t-Taqsimi XII tal-Att prinċipali intitolata "Mixxellanji" għandhom jiġu enumerati mill-ġdid bħala it-Taqsimi VII, it-Taqsimi VIII, it-Taqsimi IX, it-Taqsimi X, it-Taqsimi XI, it-Taqsimi XII u t-Taqsimi XIII rispettivament u kull referenza għal kull Taqsimi hekk kif kienet qabel ma ġiet enumerata mill-ġdid f'kull liġi għandha mid-data tal-bidu fis-sehħ ta' din id-dispożizzjoni tinftiehem bħala referenza għat-Taqsimi kif enumerata mill-ġdid.

5. Minnufih wara l-artikolu 43 tal-Att prinċipali, għandha tizzied it-Taqsima ġdida li ġejja:

Żjieda ta' Taqsima ġdida mal-Att prinċipali.

**"TAQSIMA VI
Soluzzjoni Alternattiva għat-Tilwim
għall-Konsumatur**

Tifsir.

43A. F'din it-Taqsima, kemm-il darba r-rabta tal-kliem ma teħtieġx xort'ohra:

"din it-Taqsima" tinkludi kull regolamenti magħmul taħt din it-Taqsima; u

"entità tal-ADR residwa" tfisser kull entità bħal dik li l-Ministru jista', wara konsultazzjoni mal-Kunsill, jahtar sabiex tiehu hsieb tilwim li l-konsumaturi jista' jkollhom man-negozjanti għal liema tilwim ma teżisti ebda entità tal-ADR kompetenti mwaqqfa sabiex tiehu hsieb tilwim bħal dak.

Dritt ta' aċċess tal-konsumatur għall-proċeduri ADR.

43B. Il-konsumaturi għandhom id-dritt ta' aċċess għall-proċeduri tal-ADR li jikkonċernaw dak it-tilwim li jista' jkollhom ma' negozjanti:

Izda meta ma jkunx hemm entità tal-ADR kompetenti sabiex tiehu hsieb li tinstab soluzzjoni għal dan it-tilwim, dan it-tilwim għandu jintbagħat lil dik l-entità tal-ADR residwa jew dawk l-entitajiet tal-ADR residwi li jistgħu minn żmien għal żmien jkunu mahtura abbażi ta' din it-Taqsima.

Entità tal-ADR residwa jew entitajiet tal-ADR residwi.

43Ċ. (1) L-entità ekenkata fit-Tielet Skeda ma' dan l-Att għandha twettaq il-funzjoni ta' entità tal-ADR residwa. Il-Ministru jista', wara konsultazzjoni mal-Kunsill, b'ordni jahtar kull entità jew entitajiet ohra sabiex taqdi l-funzjoni ta' entità jew entitajiet tal-ADR residwa/i, liema entità jew entitajiet għandhom ikunu elenkati fit-Tielet Skeda:

Izda l-Ministru jista', wara konsultazzjoni mal-Kunsill, b'ordni jemenda dik l-Iskeda, u b'mod partikolari l-Ministru jista' jahtar entitajiet differenti sabiex jieħdu hsieb tipi differenti ta' tilwim:

Iżda wkoll il-Ministru jista' b'ordni jemenda dik l-Iskeda wara talba bil-miktub mill-Kunsill jekk ikun sodisfatt li l-Kunsill wasal għall-konkluzjoni li entità li kienet giet mahtura bhala entità tal-ADR residwa ma tissodisfax jew ma għadhiex tissodisfa aktar waħda jew aktar mill-kundizzjonijiet taht din it-Taqsima.

(2) Entità mahtura sabiex twettaq il-funzjonijiet ta' entità tal-ADR residwa għandha, meta tagħmel dan, taħdem b'mod indipendenti mill-Kunsill, dan iżda mhux meta irid ikun hemm konformità ma' kull ordni legittima, deskritta kif deskritta, li l-Kunsill jista' jimponi sabiex jiżgura li dik l-entità żżomm mal-obbligi tagħha skont il-liġi waqt li twettaq ir-rwol tagħha bhala entità tal-ADR residwa.

Ir-rwol tal-Kunsill bhala l-awtorità kompetenti u regolatorja tal-ADR taht din it-Taqsima.

43D. (1) Il-Kunsill għandu jkun l-awtorità kompetenti u regolatorja tal-ADR u waqt li jwettaq dan ir-rwol, il-Kunsill għandu jaqdi l-funzjonijiet li ġejjin:

(a) jiddeċiedi jekk entità hijiex kwalifikata sabiex taħdem bhala entità tal-ADR;

(b) jiċċekkja l-operat u l-imġiba tal-entitajiet tal-ADR;

(c) jiżgura li l-entitajiet tal-ADR jikkonformaw mal-obbligi li għandhom skont il-liġi u jiżgura li negozjanti josservaw l-obbligi tagħhom skont il-liġi fir-rigward tal-ADR, u, fejn hu neċessarju, jieħu dawk il-miżuri li jista' jqis li huma xierqa; u

(d) jaqdi funzjonijiet oħra li l-Ministru jista' minn żmien għal żmien jitlob li jaqdi marbuta mal-proċeduri tal-ADR ġewwa Malta.

(2) Il-Kunsill għandu, waqt li jwettaq il-funzjonijiet tiegħu taht din it-Taqsima, jaħdem b'mod indipendenti u ma għandux jieħu jew ifittex istruzzjonijiet, deskritti kif deskritti, minn persuni oħra.

(3) Sakemm mhux xort'ohra stabbilit bil-liġi, il-Kunsill għandu jirregola l-proċedura tiegħu waqt li jwettaq il-funzjonijiet tiegħu taħt din it-Taqsima.

(4) Il-Kunsill għandu jwettaq il-funzjonijiet regolatorji tiegħu, deskritti kif deskritti, permezz taç-*Chairman* u, jew permezz ta' wiehed jew aktar mill-uffiċjali pubbliċi u, jew entità jew entitajiet li minn żmien għal żmien ikunu hekk awtorizzati mill-Kunsill:

Iżda ebda waħda minn dawn il-funzjonijiet ma għandha titwettaq minn entità li giet jew li kienet giet maħtura sabiex taħdem bħala entità tal-ADR residwa, jew hija jew kienet entità tal-ADR.

Applikazzjoni ta' whud mid-dispożizzjonijiet tal-infurzar tat-Taqsima XII.

43E. Id-dispożizzjonijiet tal-artikoli 102, 103, 104, 105 u 106 tat-Taqsima XII, sa fejn japplikaw meta d-Direttur Ġenerali ikun qiegħed iwettaq is-setgħat tiegħu ta' infurzar waqt il-qadi tal-funzjonijiet regolatorji tiegħu, għandhom bl-istess mod japplikaw fuq iç-*Chairman* tal-Kunsill meta jkun qiegħed jaħdem sabiex tkun żgurata l-konformità mal-kundizzjonijiet applikabbli tal-ADR tal-konsumatur kif preskritti bil-liġi jew ma' kull deċiżjoni regolatorja li l-Kunsill jista' jieħu abbażi tas-setgħat tiegħu taħt din it-Taqsima.

Applikazzjoni tat-Taqsima XII għall-appelli minn deċiżjoni regolatorji meħuda mill-Kunsill taħt din it-Taqsima.

43F. Deċiżjoni regolatorja meħuda mill-Kunsill taħt din it-Taqsima tista' tiġi kkontestata bl-istess mod daqslikieku kienet deċiżjoni meħuda mid-Direttur Ġenerali taħt dan l-Att, u d-dispożizzjonijiet tat-Taqsima XII, sa fejn japplikaw għal kull aspett tal-appell minn deċiżjoni bħal dik meħuda mill-Kunsill quddiem it-Tribunal tal-Appell jew quddiem il-Qorti tal-Appell, skont il-każ, għandha tapplika skont hekk.

C 1224

Setgħa ta' għemil ta' regolamenti.

43G. Il-Ministru jista' jagħmel regolamenti fuq kull aspekt li jikkonċerna proċeduri dwar soluzzjoni alternattiva għat-tilwim konsumatur ma' negozjant, fuq ir-rwol u l-funzjonijiet tal-Kunsill taht din it-Taqsima, u fuq il-ħidma aħjar ta' proċeduri tal-ADR bħal dawn, kif ukoll is-setgħa tal-Kunsill li jimponi penali amministrattivi ta' mhux aktar minn ħamsin elf euro (€50,000) u, jew ta' mhux aktar minn mitt euro (€100) għal kull ġurnata li fiha jkun hemm nuqqas ta' konformità, u l-proċedura li għandha tkun segwita mill-Kunsill qabel ma tittiehed deċiżjoni dwar jekk il-penali bħal dawn għandhomx ikunu imponuti jew le taht din it-Taqsima."

Żjieda ta' Skeda ġdida mal-Att prinċipali.

6. Minnufih wara t-Tieni Skeda mal-Att prinċipali għandha tiżdied l-Iskeda ġdida li ġejja:

"IT-TIELET SKEDA

(Artikolu 43Ċ)

Skont id-dispożizzjonijiet tal-artikolu 43Ċ, l-entità pubblika li ġejja qiegħda tiġi mahtura sabiex taqdi l-funzjonijiet ta' entità tal-ADR residwa:

Id-Direttorat għall-Ilmenti u l-Medjazzjoni mwaqqaf taht ir-Raba' Skeda tal-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur (Kap. 510)."

Emenda tal-Att dwar l-Arbitraġġ. Kap. 387.

7. Minflok it-tieni proviso għall-paragrafu 1.3 tar-Raba' Skeda li tinsab mal-Att dwar l-Arbitraġġ għandu jidhol dan li ġej:

"Izda wkoll minkejja d-dispożizzjonijiet ta' kull liġi oħra, iżda minbarra l-Att dwar l-Affarijiet tal-Konsumatur jew kull regolament magħmul tahtu fejn dawn il-liġijiet jikkonċernaw is-soluzzjoni, deskritta kif deskritta, ta' kull tilwim tal-konsumatur, u bla ħsara għal każijiet li hemm pendenti, it-Tribunal tal-Arbitraġġ għandu jkollu l-ġurisdizzjoni esklussiva fuq dawn il-każijiet."

Emenda tal-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur. Kap. 510.

8. Is-subtitolu "Uffiċċju għall-Affarijiet tal-Konsumatur" tar-Raba' Skeda li tinsab mal-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur għandu jiġi emendat kif ġej:

(a) fil-paragrafu 1 tiegħu, minflok il-kliem

"bir-responsabbiltà li johloq għarfien tad-drittijiet tal-konsumatur" għandhom jidhlu l-kliem "bir-responsabbiltà li joffri għajjnuna lil konsumaturi, li johloq għarfien tad-drittijiet tal-konsumatur"; u

(b) minflok il-paragrafu 2 tiegħu għandu jidhol dan li ġej:

"Direttorat għall-Ilmenti u Medjazzjoni bir-responsabbiltà li jsegwi tilwim mibdija minn konsumaturi kontra negozjanti, li jipproponi soluzzjoni jew li jlaqqa' l-partijiet flimkien bl-għan li jgħin sabiex tinstab soluzzjoni bonarja. Dan id-Direttorat għandu, waqt li b'mod effettiv ikun qiegħed jiehū hsieb u jsolvi tilwim bħal dan, jaħdem b'mod indipendenti mill-partijiet involuti u minn kull persuna oħra."

9. Minnufih wara l-paragrafu (d) tal-artikolu 2125 tal-Kodiċi Ċivili, għandu jizdied il-paragrafu ġdid li ġej:

Emenda tal-Kodiċi Ċivili, Kap. 16.

Kap. 378. "(e) meta konsumatur li jkollu tilwima ma' negozjant juża proċedura tal-ADR skont l-Att dwar l-Affarijiet tal-Konsumatur li r-riżultat tagħha mhuwiex vinkolanti fuq ebda waħda mill-partijiet, sakemm il-proċedura tal-ADR tigi konkluziva:

Kap. 378. Izda d-dispożizzjonijiet tal-artikolu 2 tal-Att dwar l-Affarijiet tal-Konsumatur għandhom japplikaw b'konnessjoni ma' dan il-paragrafu."

Għanijiet u Raġunijiet

L-għan ewlieni ta' dan l-Abbozz ta' Ligi huwa li jipprovdi għal dispożizzjonijiet dwar soluzzjoni alternattiva għat-tilwim fi hdan l-Att dwar l-Affarijiet tal-Konsumatur. Dan l-Abbozz ta' Ligi jipprovdi wkoll għal emendi konsegwenzjali li għandhom isiru fl-Att dwar l-Arbitraġġ, fl-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur u fil-Kodiċi Ċivili.

C 1226

**A Bill
entitled**

AN ACT to amend the Consumer Affairs Act, Cap. 378, and for any other matter consequential or ancillary thereto.

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

Short title and
commencement.
Cap. 378.

1. (1) The short title of this Act is the Consumer Affairs (Amendment) Act, 2015, and this Act shall be read and construed as one with the Consumer Affairs Act, hereinafter referred to as "the principal Act".

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

Amendment of
article 2 of the
principal Act

2. Article 2 of the principal Act shall be amended as follows:

(a) immediately before the definition "advertisement", there shall be added the following new definition:

" "ADR" means alternative dispute resolution;"

(b) immediately after the definition "registered consumer association" there shall be added the following new definition:

" "sales contract" means any contract under which the trader transfers or undertakes to transfer the ownership of goods to the consumer and the consumer pays or undertakes to pay the price thereof, including any contract having as its object both goods and services;"; and

(c) immediately after the definition "services" there shall be added the following new definition:

" "services contract" means any contract other than a sales contract under which the trader supplies or undertakes to supply a service to the consumer and the consumer pays or undertakes to pay the price thereof;".

3. Sub-article (1) of article 7 of the principal Act shall be amended as follows: Amendment of article 7 of the principal Act.

(a) in paragraph (f) thereof for the words "any other aspect of consumer credit arrangements." there shall be substituted the words "any other aspect of consumer credit arrangements; and"; and

(b) immediately after paragraph (f) thereof there shall be added the following new paragraph:

"(g) to provide for any matters that may be required for the purpose of complying with any international obligations of Malta related to consumer affairs, in particular for the purpose of complying with any requirements however so described of the European Union.".

4. Part VI of the principal Act entitled "Unfair contract terms", Part VII of the principal Act entitled "Unfair commercial practices and Illicit Schemes", Part VIII of the principal Act entitled "Liability for defective products", Part IX of the principal Act entitled "Sale of goods to consumers", Part X of the principal Act entitled "Compliance orders", Part XI of the principal Act entitled "Enforcement" and Part XII of the principal Act entitled "Miscellaneous" shall be re-numbered as Parts VII, VIII, IX, X, XI, XII, and XIII respectively and any references to these Parts as they were prior to their re-numbering in any legislation shall as from the date of the coming into force of this provision be construed as references to the Parts as renumbered. Renumbering of Parts VI to XII of the principal Act.

5. Immediately after article 43 of the principal Act, there shall be added the following new Part: Addition of new Part VI to the principal Act.

C 1228

"PART VI**Consumer Alternative Dispute Resolution**

Interpretation.

43A. In this Part unless the context otherwise requires:

"this Part" includes any regulations made under this Part; and

"residual ADR entity" means any such entity as the Minister may, after consultation with the Council, designate to deal with any disputes that consumers may have with traders in relation to which there is no existing ADR entity in place competent to deal with such disputes.

Consumer right to access ADR procedures.

43B. Consumers shall have the right to have access to ADR procedures with regard to disputes that they may have with traders:

Provided that where there is no ADR entity which is competent to deal with the resolution of any such disputes, then such disputes shall be referred to any such residual ADR entity or entities as may from time to time be designated in accordance with this Part.

Residual ADR entity or entities.

43C. (1) The entity listed in the Third Schedule to this Act shall perform the function of a residual ADR entity. The Minister may, after consultation with the Council, by order designate any other entity or entities to undertake the function of a residual ADR entity or entities which entity or entities shall be listed in the Third Schedule:

Provided that the Minister may by order, after consultation with the Council, amend the said Schedule and in particular the Minister may appoint different entities to deal with different types of disputes:

Provided further that the Minister shall by order amend the said Schedule at the written request of the Council if he is satisfied that the Council considers that an entity that has been designated as a residual ADR entity does not satisfy or no longer satisfies one or more requisites under this Part.

(2) An entity designated to exercise the functions of a residual ADR entity shall, in doing so, act independently of the Council, other than in compliance with any legitimate orders, however so described, that the Council may impose to ensure that the aforesaid entity adheres to its obligations at law in the exercise of its role as a residual ADR entity.

Role of the Council as the competent ADR regulatory authority under this Part.

43D. (1) The Council shall be the competent ADR regulatory authority and in the exercise of such a role the Council shall perform the following functions:

(a) determine whether an entity is qualified to act as an ADR entity;

(b) monitor the operations and conduct of ADR entities;

(c) ensure compliance by ADR entities with their obligations at law and ensure abidance by traders of their obligations at law with regard to ADR, and where necessary take any such measures as it may consider appropriate; and

(d) perform any other functions as the Minister may from time to time require it to undertake in relation to the conduct of ADR procedures in Malta.

(2) The Council shall in the exercise of its functions under this Part act independently and shall not take or seek instructions however so described from any other person.

(3) Unless provided otherwise at law, the Council in the exercise of its functions under this Part shall regulate its own procedure.

(4) The Council shall exercise its regulatory functions however so described through its Chairman and, or through any one or more of such public officers and, or such public entity or entities as may from time to time be authorized by the Council for that purpose:

Provided that no such functions shall be exercised by any entity which is or may have been designated to act as a residual ADR entity, or else is or was an ADR entity.

C 1230

Application of certain enforcement provisions of Part XII.

43E. The provisions of articles 102, 103, 104, 105 and 106 of Part XII, in so far as they relate to the exercise of the powers of enforcement of the Director General in the performance of his regulatory functions, shall similarly apply to the Chairman of the Council when acting to ensure compliance with applicable consumer ADR requirements as prescribed by law or with any regulatory decisions as the Council may issue in accordance with its powers under this Part.

Application of Part XII with regard to appeals from regulatory decisions taken by the Council under this Part.

43F. A regulatory decision taken by the Council under this Part may be contested in the same manner as if it is a decision taken by the Director General under this Act, and the provisions of Part XII in so far as they relate to any aspect concerning the appeal of any such decision taken by the Council before the Appeals Tribunal or before the Court of Appeal as the case may be, shall apply accordingly.

Power to make regulations.

43G. The Minister may make regulations on any aspect relating to consumer to trader alternative dispute resolution procedures, on the role and functions of the Council under this Part, and for the better functioning of such ADR procedures in Malta, including the power of the Council to impose administrative penalties not exceeding fifty thousand euro (€50,000) and, or not exceeding one hundred euro (€100) for each day of non-compliance, and the procedure to be followed by the Council before taking a final decision whether to impose such penalties or not under this Part."

Addition of Schedule to the principal Act.

6. Immediately after the Second Schedule to the principal Act there shall be added the following new schedule:

"THIRD SCHEDULE

(Article 43C)

In accordance with the provisions of article 43C, the following public entity is being designated to perform the functions of a residual ADR entity:

The Complaints and Conciliation Directorate established under the Fourth Schedule of the Malta Competition and Consumer Affairs

Act (Cap. 510)."

7. The second proviso to paragraph 1.3 of the Fourth Schedule to the Arbitration Act shall be substituted by the following:

Amendment of the Arbitration Act. Cap. 387

"Provided further that notwithstanding the provisions of any other law other than the Consumer Affairs Act or any regulations made thereunder insofar as such laws deal with the resolution, however so described, of any consumer disputes, and without prejudice to pending cases, the Arbitration Tribunal shall have exclusive jurisdiction over these cases."

8. The sub-title "Office for Consumer Affairs" of the Fourth Schedule to the Malta Competition and Consumer Affairs Authority Act shall be amended as follows:

Amendment of the Malta Competition and Consumer Affairs Authority Act. Cap. 510.

(a) in paragraph 1 thereof for the words "with the responsibility to create awareness of consumer rights" there shall be substituted the words "with the responsibility to offer assistance to consumers, to create awareness of consumer rights"; and

(b) paragraph 2 thereof shall be substituted by the following:

"2. Complaints and Conciliation Directorate with the responsibility of following disputes lodged by consumers against traders, of proposing solutions or bringing the parties together with the aim of facilitating an amicable solution. This Directorate shall in the effective handling and resolution of any such disputes act independently from the parties involved and from any other persons."

9. Immediately after paragraph (d) of article 2125 of the Civil Code there shall be added the following new paragraph:

Amendment of the Civil Code. Cap.16.

Cap. 378. "(e) where a consumer who has a dispute with a trader, has recourse to an ADR procedure in accordance with the Consumer Affairs Act, the outcome of which procedure is not binding on either party, until such time when the ADR procedure is brought to a conclusion:

Cap. 378. Provided that the provisions of article 2 of the Consumer Affairs Act shall apply in relation to this paragraph."

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Objects and Reasons

The main object of this Bill is to provide for the provision of consumer alternative dispute resolution within the Consumer Affairs Act. The Bill also provides for the consequential amendments required to be inserted in the Arbitration Act, in the Malta Competition and Consumer Affairs Authority Act and in the Civil Code.

