

MALTA

ATT Nru XVIII tal-2016

ATT maħruġ b'liġi mill-Parlament ta' Malta.

ATT biex jemenda l-Att dwar ir-Regolament ta' Ċerti Xoghlijiet f'Utilitajiet u Servizzi, biex jimplimenta miżuri biex tonqos l-ispiza għall-installazzjoni ta' *networks* tal-komunikazzjoni elettronika b'veloċità għolja, biex jagħmel dispożizzjonijiet dwar affarijiet anċillari għalihom jew konnessi magħhom u biex jipprovdi dwar ċerti miżuri li għandhom x'jaqsmu mal-komunikazzjonijiet elettronici.

ACT No. XVIII of 2016

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Utilities and Services (Regulation of Certain Works) Act, to implement measures to reduce the cost of deployment of high-speed electronic communications networks, to make provision with respect to matters ancillary thereto or connected therewith and to provide for certain measures relating to electronic communications.

Naghti l-kunsens tiegħi.

(L.S.)

**MARIE LOUISE
COLEIRO PRECA
President**

12 ta' April, 2016

ATT Nru XVIII tal-2016

ATT biex jemenda l-Att dwar ir-Regolament ta' Ċerti Xogħlijiet f'Utilitajiet u Servizzi, biex jimplementa miżuri biex tonqos l-ispiza għall-installazzjoni ta' networks tal-komunikazzjoni elettronika b'veloċità għolja, biex jagħmel dispożizzjonijiet dwar affarijiet anċillari għalihom jew konnessi magħhom u biex jipprovdi dwar ċerti miżuri li għandhom x'jaqsmu mal-komunikazzjonijiet elettroniċi.

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

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2016 li jemenda l-Att dwar ir-Regolament ta' Ċerti Xogħlijiet f'Utilitajiet u Servizzi, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar ir-Regolament ta' Ċerti Xogħlijiet f'Utilitajiet u Servizzi, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor
u bidu fis-sehħ.

Kap. 81.

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

2. L-għan ta' dan l-Att huwa li jemenda l-Att dwar ir-Regolament ta' Ċerti Xogħlijiet f'Utilitajiet u Servizzi, biex jimplementa d-Direttiva 2014/61/UE tal-Parlament Ewropew u tal-Kunsill tal-15 ta' Mejju 2014 dwar miżuri biex tonqos l-ispiza għall-installazzjoni ta' *networks* tal-komunikazzjoni elettronika b'veloċità għolja, biex jiġu regolati ċerti xogħlijiet in konnessjoni mal-utilitajiet

Għan.

A 690

u ma' servizzi oħra, u biex jiġu emendati liġijiet eżistenti oħra li għandhom x'jaqsmu ma' dawn il-miżuri u mal-provdiment ta' servizzi ta' komunikazzjonijiet elettronici.

Żjieda ta' intestatura minnufih qabel l-artikolu 1 tal-Att prinċipali.

3. Minnufih qabel l-artikolu 1 tal-Att prinċipali għandha tiżdied l-intestatura ġdida li ġejja:

"TAQSIMA I
Preliminari".

Sostituzzjoni tal-artikolu 2 tal-Att prinċipali.

4. L-artikolu 2 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Tifsir.

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

"awtorità kompetenti għall-ġhoti ta' permess" jew "awtoritajiet kompetenti għall-ġhoti ta' permess" tfisser dak il-korp, jew dawk il-korpi, tas-settur pubbliku li għandhom ir-responsabbiltà li jagħtu permessi ta' xogħlijiet civili;

"Bord għas-Soluzzjoni ta' Tilwim" jew "Bord" tfisser il-Bord għas-Soluzzjoni ta' Tilwim għal *Networks* dwar l-Utilitajiet, stabbilit taħt it-Taqsima IV;

"enerġija" tinkludi l-enerġija elettrika, karburanti, shana meta din tiġi trasmessa bhala attività kummerċjali, u l-enerġija li tinkiseb minn sorsi li jiġgeddu;

"fond" tfisser kull fond kemm jekk pubbliċi jew privati u tinkludi kull triq, mogħdija, bini jew kostruzzjoni, ikunu kif ikunu deskritti, jew ilma;

"impriża" tfisser, sakemm ma jingħadx xort'oħra f'dan l-Att, impriża li tipprovdi jew li tkun awtorizzata li tipprovdi *networks* ta' komunikazzjonijiet pubbliċi;

"infrastruttura diġà installata fil-bini għal *broadband* veloċità għolja" tfisser infrastruttura fiżika fil-bini maħsuba biex tilqa' elementi jew tippermetti t-twettiq ta' *networks* ta' komunikazzjoni elettronika b'veloċità għolja;

"infrastruttura fiżika" tfisser kwalunkwe element ta' *network* li huwa maħsub biex jospita elementi oħra ta' *network* mingħajr ma jsir hu stess element attiv tan-*network*, inkluż imma mhux limitat għal, pajpijiet, arbli, kanali, kmamar ta' ispezzjon, toqob tal-ispezzjon, kaxxi, binjiet jew id-dahliet għal binjiet, installazzjonijiet tal-antenni, torrijiet u arbli:

L.S. 449.57.

Iżda l-*cables*, inkluża l-fibra skura, kif ukoll l-elementi ta' *networks* użati għall-għoti ta' ilma maħsub għall-konsum mill-bniedem kif imfisser fir-regolament 3 tar-Regolamenti dwar Ilma Maħsub għall-Konsum mill-Bniedem, m'humiex infrastruttura fiżika fis-sens ta' dan l-Att;

"infrastruttura fiżika fil-bini" tfisser infrastruttura fiżika jew installazzjonijiet fiżiċi fil-post tal-utent aħħari, inkluż elementi b'sjeda kongunta, maħsuba biex tilqa' *networks* ta' aċċess bil-wajer u, jew mingħajru, meta dawk in-*networks* ta' aċċess ikunu jifilhu jagħtu servizzi ta' komunikazzjonijiet elettronici u jqabbd u l-punt ta' aċċess tal-bini mal-punt ta' terminazzjoni tan-*network*;

"korp tas-settur pubbliku" tfisser Stat, awtorità reġjonali jew lokali, korp regolat mid-dritt pubbliku jew assoċjazzjoni maħluqa minn awtorità waħda jew diversi awtoritajiet bħal dawk jew minn xi korp wieħed jew diversi korpi bħal dawn irregolati mid-dritt pubbliku;

"korpi regolati mid-dritt pubbliku" tfisser il-korpi li għandhom dawn il-karatteristiċi kollha li ġejjin:

(a) huma stabbiliti għall-iskop speċifiku biex jaqdi htigijiet fl-interess generali, li ma jkunux ta' xorta industrijali jew kummerċjali;

(b) għandhom personalità ġuridika; u

(ċ) huma finanzjati, kollha jew fil-biċċa l-kbira, mill-Istat, jew minn awtoritajiet reġjonali jew lokali, jew minn korpi oħra regolati mid-dritt pubbliku; jew li huma soġġetti għal superviżjoni tal-ġestjoni minn dawk l-awtoritajiet jew korpi; jew li għandhom bord amministrattiv, manigerjali jew superviżorju, li aktar minn nofs il-membri tiegħu jkunu maħtura mill-Istat, minn awtoritajiet reġjonali jew lokali jew minn korpi oħrajn regolati mid-dritt pubbliku;

"Kumitat dwar l-Utilitajiet" tfisser il-Kumitat Konsultattiv għal Servizzi dwar l-Utilitajiet stabbilit taħt l-artikolu 22;

"*network*" tfisser kull infrastruttura fiżika uttilizzata minn operatur tan-*network*;

"*network* tal-komunikazzjoni elettronika b'veloċità għolja" tfisser *network* ta' komunikazzjonijiet elettronici li kapaċi jwassal servizzi ta' aċċess tal-*broadband* b'veloċitajiet ta' mill-inqas tletin Mbps:

Iżda l-Ministru responsabbli għall-komunikazzjonijiet elettronici jista' b'avviż fil-Gazzetta jvarja dawk il-veloċitajiet;

"*network* ta' komunikazzjonijiet elettronici" u "servizz ta' komunikazzjonijiet elettronici" għandu jkollhom rispettivament l-istess tifsira bħalma għandhom taħt l-Att biex jirregola Komunikazzjonijiet Elettronici;

"operatur ta' *network*" tfisser impriża li tipprovdi jew li hija awtorizzata li tipprovdi *networks* ta' komunikazzjonijiet pubblici kif ukoll impriża li tipprovdi infrastruttura fiżika maħsuba biex tagħti:

(a) servizz ta' produzzjoni, trasport jew distribuzzjoni ta':

- (i) gass;
- (ii) elettriku, inkluż dawl;
- (iii) tişhin;

(iv) ilma, inkluż ir-rimi jew it-trattament tal-ilma mormi u dranaġġ, u sistemi ta' dranaġġ;

(b) servizzi ta' trasport, inklużi linji ferrovjarji, toroq, portijiet u ajruporti; "permess" tfisser deċiżjoni espliċita jew impliċita ta' xi awtorità kompetenti wara kwalunkwe proċedura li fiha impriza tintalab tiegħu passi sabiex legalment tagħmel xogħlijiet ta' bini jew inginerija ċivili;

"punt ta' aċċess" tfisser punt fiżiku, li jkun jinsab ġewwa jew barra l-bini, li jkun aċċessibbli għal imprizi li jipprovdu jew li huma awtorizzati biex jipprovdu *networks* pubbliċi ta' komunikazzjonijiet, li permezz tiegħu tista' ssir disponibbli infrastruttura diġà installata fil-bini għal *broadband* b'veloċità għolja;

"Punt Waħdieni ta' Informazzjoni" tfisser l-entità pubblika mahtura taħt l-artikolu 19 biex taqdi l-funzjonijiet ta' punt uniku ta' kuntatt;

"regolatur kompetenti ta' infrastruttura" jew "regolaturi kompetenti ta' infrastruttura" tfisser dak il-korp tas-settur pubbliku jew il-korpi responsabbli għar-regolament ta' dik l-infrastruttura li jistgħu jkunu elenkati fl-Ewwel Skeda, u dik il-lista għandha ssemmi lill-awtorità responsabbli għar-regolament ta' kull wieħed mis-servizzi ta' utilità differenti u, meta jkun japplika, in-*networks* imniżżla fil-lista:

Iżda din l-Iskeda tista' minn żmien għal żmien tiġi emendata mill-Prim Ministru b'avviż fil-Gazzetta;

"regolatur kompetenti ta' utilitajiet" jew "regolaturi kompetenti ta' utilitajiet" tfisser dak il-korp tas-settur pubbliku jew dawk il-korpi tas-settur pubbliku li huma responsabbli skont il-liġi biex jirregolaw is-servizzi tal-utilitajiet elenkati skont it-Tieni Skeda, liema lista għandha tiddikjara liema awtorità hi responsabbli għar-regolamentazzjoni ta' kull wieħed mis-servizzi ta' utilità differenti u, fejn ikun applikabbli, in-*networks* elenkati fihom:

Iżda din l-Iskeda tista' minn żmien għal żmien tiġi emendata mill-Prim Ministru b'avviż fil-Gazzetta;

"sid" tinkludi l-okkupant u l-utent;

Kap. 490. "Tribunal" tfisser it-Tribunal tar-Revizjoni Amministrattiva stabbilit bl-artikolu 5 tal-Att dwar il-Ġustizzja Amministrattiva;

"utilitajiet" tinkludi servizzi ta' komunikazzjonijiet elettronici, gass, elettriku inkluż id-dawl pubbliku, it-tishin, l-ilma inkluż ir-rimi jew it-trattament ta' skart u dranaġġ, u sistemi ta' dranaġġ, servizzi tat-trasport inklużi t-toroq, portijiet u ajruporti, u dawk is-servizzi l-oħra hekk kif il-Ministru responsabbli għall-infrastruttura jista' b'avviz fil-Gazzetta isemmi bhala "utilitajiet" għall-iskopijiet ta' dan l-Att;

"xogħlijiet ċivili" tfisser kull eżitu tax-xogħlijiet ta' bini jew inginerija ċivili kollha flimkien li jkunu biżżejjed minnhom infushom biex iwettqu funzjoni ekonomika jew teknika u jkunu jinkludu element wiehed jew hafna ta' infrastruttura fiżika;

"xogħlijiet kbar ta' rinnovazzjoni" tfisser xogħlijiet ta' bini jew inginerija ċivili fil-post fejn jinsab l-utent aħhari li jkunu jinkludu bidliet strutturali tal-infrastruttura fiżika fil-bini jew ta' xi parti sinifikanti minnha, inklużi l-partijiet komuni, u li jkunu jeħtieġu permiss ta' bini.

(2) Minflok il-kliem "Awtorità għat-Trasport f'Malta" kull fejn dawn jinsabu fl-Att prinċipali, għandhom jidhlu l-kliem "regolatur kompetenti ta' infrastruttura".

Thassir tal-artikolu 3 tal-Att prinċipali.

5. L-artikolu 3 tal-Att prinċipali għandu jiġi mhassar.

Żjieda ta' intestatura mal-Att prinċipali.

6. Minnufih qabel l-artikolu 4 tal-Att prinċipali għandha tiżdied l-intestatura ġdida li ġejja:

"TAQSIMA II

Regolament ta' Aċċess għall-Infrastruttura ta' Utilitajiet".

Sostituzzjoni tal-artikolu 4 tal-Att prinċipali.

7. L-artikolu 4 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġejj:

"Setgħa li jiġi ordnat it-tqegħid ta' *cable*, eċċ.

4. Għall-finijiet ta' dan l-Att, regolatur kompetenti ta' infrastruttura jista' jordna li jiġu mqieghda *cables* u fili jew li jsiru xogħlijiet oħra sew taħt, fuq jew mal-ġnub, ġewwa xi bini, dhul jew partijiet komuni ta' xi bini jew fond u li jiġu mhaffra, imqieghda, imwaqqfa jew imwahħla trinek, fosos, arbli, ventijiet, brazzijiet u l-aċċessorji l-oħra kollha meħtieġa sabiex jithaddmu sew is-sistemi tan-*networks* ma' jew ġewwa xi bini, dhul jew partijiet komuni ta' xi bini jew xi fond; u kull ordni bħal dak għandu jiġi notifikat lil sid dak il-fond mill-inqas għaxart ijiem qabel ma jinbeda xi wieħed jew iehor mix-xogħlijiet hawn qabel imsemmija."

8. Minnufih wara l-artikolu 4 tal-Att prinċipali għandhom jizziedu l-artikoli ġodda li ġejjin:

Żjieda ta' artikoli ġodda mal-Att prinċipali.

"Setgħa li tiġi ordnata kollokazzjoni, eċċ.

4A. (1) Ir-regolatur kompetenti tal-infrastruttura jista' jordna l-kollokazzjoni, użu jew qsim tal-istess faċilitajiet fuq, ma' jew taħt proprjetà pubblika jew privata fir-rigward ta' xi *cables*, fili, infrastruttura fiżika jew aċċessorji oħra, ikunu kif ikunu deskritti, użati jew li għandhom jintużaw għall-forniment ta' xi utilità minn xi provditur ta' xi utilitajiet bħal dawk f'kull bini, żoni komuni, dhul għall-bini, trinek, hofor, kanali, tubi, bokkaporti, kabinetti jew fuq xi arbli, antenni, torrijiet jew kostruzzjonijiet oħra ta' appoġġ, ventijiet jew brazzijiet, maqtugħin, imqieghda, imtelliġin jew imwahħla minn provditur iehor ta' utilitajiet bħal dawk:

Iżda r-regolatur kompetenti tal-infrastruttura jista' jordna t-teħid ta' miżuri li jkun jista' jikkunsidra meħtieġa biex jiffacilita l-koordinament ta' xogħlijiet pubbliċi biex jiġu protetti l-ambjent, is-saħħa pubblika, is-sigurtà pubblika jew biex jitharsu l-ippjanar tal-bliet u l-għanijiet tal-pajjiż. B'hekk ir-regolatur kompetenti tal-infrastruttura jista' wkoll jagħmel regoli dwar l-apporzjonament tal-ispejjeż tal-faċilità jew kondivizjoni tal-proprjetà.

(2) Jista' jinhareg ordni taht is-subartikolu (1) mir-regolatur kompetenti tal-infrastruttura li jagixxi fuq inizjattiva tieghu stess jew wara li ssirlu talba bil-miktub minn regolatur kompetenti tal-infrastruttura li jikkunsidra li l-hruġ ta' ordni bhal dak ikun mehtieg biex jiġi provdut servizz ta' utilità:

Izda qabel ma jiddeċiedi jekk għandux johroġ xi ordni, ir-regolatur kompetenti tal-infrastruttura għandu, meta jkun hekk adatt, jikkonsulta bil-miktub lir-regolatur jew regolaturi kompetenti hekk kif jista' jkun il-każ:

Izda wkoll ma jista' jinhareg ebda ordni bhal dawk jekk dan ikollu x'jaqsam ma' xi tilwima pprezentata quddiem il-Bord għas-Soluzzjoni ta' Tilwim taht dan l-Att, jew ma' xi appell quddiem il-forum tal-appell kompetenti li jikkontesta deċiżjoni finali mahruġa minn dak il-Bord dwar xi tilwima bhal dik li tkun giet ipprezentata quddiemu.

(3) Ir-regolatur kompetenti tal-infrastruttura għandu jinnotifika kull ordni magħmul taht is-subartikolu (1) lill-provditur tas-servizz ta' utilità li jintlaqat minn ordni ta' kollokazzjoni, u lil dawk il-persuni l-oħra li jikkunsidra li jkun xieraq fiċ-ċirkostanzi fejn iqis li dawk il-persuni jista' jkollhom interess li jkunu jafu li nharġet l-ordni, mill-inqas għaxart ijiem qabel it-twettiq ta' xi wiehed mix-xogħlijiet imsemmija hawn aktar qabel:

Izda r-regolatur kompetenti tal-infrastruttura għandu jagħti, qabel ma johroġ xi ordni bhal dak, dik l-opportunità ragonevoli li jqis li fiċ-ċirkostanzi tkun xierqa lill-persuni kollha interessati biex jesprimu l-veduti tagħhom bil-miktub.

(4) Kull miżura li tittiehed mir-regolatur kompetenti tal-infrastruttura kif hawn f'dan l-artikolu għandha tkun oġġettiva, trasparenti, mhux diskriminatorja u proporzjonata, u fejn ikun xieraq, dawn il-miżuri għandhom jitwettqu b'koordinament mar-regolatur jew regolaturi kompetenti ta' infrastruttura u ma' kull korp ieħor tas-settur pubbliku rilevanti.

Dhul fis-sehh tal-ordnijiet, eċċ.

4B. Ordni mahruġ kif hemm fl-artikolu 4 jew fl-artikolu 4A għandu jkollu effett minnufih malli jgħaddi l-għaxar jum wara li dan jiġi notifikat; u r-riċevitur tal-ordni għandu jimplimentah kompletament, minnufih u kif xieraq, jew jippermetti li ssir l-implimentazzjoni kompleta, minnufih u xierqa tiegħu, u għandu jzomm lura milli jikkaguna jew jibqa' jikkaguna xi impediment jew tfixkil għal dik l-implimentazzjoni:

Izda l-implimentazzjoni ta' xi ordni bħal dak m'għandux ikun impedut, ristrett jew imdewwem minhabba f'xi talba għal xi hlas dovut minghand ir-riċevitur tal-ordni.

Hlas għal kollokazzjoni u tilwima dwar dan.

4Ċ. (1) Ir-riċevitur ta' ordni magħmul taht l-artikolu 4A għandu jithalla jitlob hlas għall-kollokazzjoni jew l-użu ta' faċilitajiet imwahnha jew imtella' minnha b'rati bbażati fuq spejjeż relevanti raġonevoli. Il-hlasijiet għall-kollokazzjoni jew l-użu tal-istess faċilitajiet għandhom ikunu orjentati lejn l-ispiza u m'għandhomx jinkludu spejjeż ta' xorta ġenerali bħalma huma l-bejgħ, spejjeż għall-persunal jew manutenzjoni, appartu minn dawk li jkunu ntnefqu direttament fuq l-faċilitajiet użati.

(2) Ir-riċevitur ta' ordni magħmul taht l-artikolu 4A għandu jgħaddi l-hlasijiet tiegħu lill-provditur tal-kollokazzjoni jew li jagħmel użu mill-faċilitajiet imwahnha jew imtella' mill-istess riċevitur fi żmien tletin jum minn meta tibda l-kollokazzjoni jew l-użu kif hawn qabel imsemmi:

Izda jekk il-provditur li jagħti l-kollokazzjoni jew li jagħmel użu bħal dak ma jkunx jaqbel ma' hlasijiet bħal dawk huwa jista', fi żmien għoxrin jum minn meta jirċevi talba għalihom, iressaq tilwima quddiem il-Bord għas-Soluzzjoni ta' Tilwim u dak il-Bord għandu jirrisolvi dik it-tilwima fl-iqsar żmien possibbli u f'kull każ fi żmien xahrejn mid-data meta tasallu t-tilwima hlief f'ċirkostanzi eċċezzjonali kif hemm fid-dispożizzjonijiet tal-artikolu 32.

(3) Ir-regolatur kompetenti tal-infrastruttura jista', wara konsultazzjoni bil-miktub mar-regolatur jew regolaturi kompetenti ta' infrastruttura, meta ssirlu applikazzjoni mir-riċevitur ta' xi ordni magħmula taħt l-artikolu 4A, jordna lill-persuna li jkollha permess tikkolloka jew li tagħmel użu mill-facilitajiet imwaħħla jew imtella' mill-imsemmi riċevitur, biex jipprovdu garanzija għall-pagament tal-hlasijiet dovuti kif inniżżel hawn aktar 'l isfel fir-rigward ta' dik il-kollokazzjoni jew użu f'dak l-ammont u f'dik il-forma kif jistgħu jiġu stabbiliti mir-regolatur kompetenti tal-infrastruttura.

Eżerċizzju ta' funzjonijiet mir-regolatur kompetenti tal-infrastruttura.

4D. Ir-regolatur kompetenti tal-infrastruttura fl-eżerċizzju tal-funzjonijiet tiegħu taħt dan l-Att għandu:

(a) jaġixxi fuq il-bażi sempliċi, effiċjenti, trasparenti u ta' proceduri disponibbli għall-pubbliku, applikati mingħajr diskriminazzjoni u mingħajr dewmien, u għandu f'kull każ jiehu deċiżjoni fi żmien erba' xhur mid-data tal-applikazzjoni;

(b) isegwi l-prinċipji ta' trasparenza u ebda diskriminazzjoni meta jkun qed jimponi kondizzjonijiet ma' xi drittijiet li jista' jagħti lil xi provditur ta' servizzi ta' utilità; u

(ċ) jagħti raġunijiet għad-deċiżjonijiet tiegħu:

Izda r-regolatur kompetenti tal-infrastruttura għandu, dwar kull hlas li jista' jiġi awtorizzat jimponi b'dan l-Att jew tahtu dwar dawk ix-xogħlijiet, jiżgura li l-hlasijiet ikunu oġġettivament ġustifikati, trasparenti, mhux diskriminatorji u proporzjonati b'relazzjoni mal-ghan maħsub għalihom:

Izda wkoll ir-regolatur kompetenti tal-infrastruttura għandu, dwar emendi li jikkunsidra li jagħmel għal xi drittijiet, kondizzjonijiet u proċeduri li għandhom x'jaqsmu ma' dawk ix-xogħlijiet, jiżgura li kull emenda ssir biss f'każijiet oggettivament ġustifikati u b'mod proporzjonat. Qabel ma jagħmel kull emenda bħal dik, ir-regolatur kompetenti tal-infrastruttura għandu jagħti avviż b'dak il-mod li jidhirlu adatt għall-intenzjoni tiegħu, filwaqt li jistieden partijiet interessati, inkluzi utenti u konsumaturi, iressqu s-sottomissjonijiet tagħhom dwar l-emendi proposti fi żmien mhux inqas minn tletin jum hekk kif jista' jiġu speċifikat fl-avviż. Ir-regolatur kompetenti tal-infrastruttura jista' f'dawk iċ-ċirkostanzi li jqis li jkun eċċezzjonali, iqassar dak iż-żmien:

Izda wkoll ir-regolatur kompetenti tal-infrastruttura għandu jikkonsulta ruħu bil-miktub mar-regolatur jew regolaturi kompetenti ta' infrastruttura dwar emendi li jqis li jagħmel u ordnijiet ta' kollokazzjoni li kienu nħarġu qabel.

Kontestazzjoni ta' deċiżjoni regolatorja.

4E. Persuna jew regolatur kompetenti ta' infrastruttura li jhossu ruħhom aggravati b'xi deċiżjoni regolatorja tkun kif tkun deskritta taht din it-Taqsima tista' tappella quddiem it-Tribunal:

Izda kull persuna bħal dik fl-appell tagħha għandha tispjega l-interess ġuridiku li jkollha fil-kontestazzjoni tad-deċiżjoni li jkun qed isir appell minnha:

Izda wkoll, meta jkun hekk japplika, ir-regolatur kompetenti tal-infrastruttura li jkollu interess fit-tilwima, għandu jiġi notifikat ukoll b'kull appell ipprezentat taht dan l-artikolu u għandu jkun intitolat li jintervjeni f'dawk il-proċedimenti filwaqt li jagħmel is-sottomissjonijiet tiegħu fuqhom."

9. Fl-artikolu 5 tal-Att prinċipali, minflok il-kliem "fl-aħħar artikolu qabel dan" għandhom jidhlu l-kliem "fl-artikoli 4 u 4A"; u minflok il-kliem "lill-Qorti tal-Appell" għandhom jidhlu l-kliem "quddiem il-Prim'Awla tal-Qorti Ċivili".

Emenda tal-artikolu 5 tal-Att prinċipali.

A 700

Emenda tal-artikolu 6 tal-Att prinċipali.

10. L-artikolu 6 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu minflok il-kliem "lir-regolatur kompetenti" għandhom jidhlu l-kliem "lir-regolatur kompetenti tal-infrastruttura";

(b) fil-paragrafu (ċ) tas-subartikolu (2) tiegħu minflok il-kliem "lir-regolatur kompetenti" għandhom jidhlu l-kliem "lill-provditur tas-servizz ta' utilità involut";

(ċ) minflok is-subartikolu (3) tiegħu għandu jidhol dan li ġej:

"(3) Qabel ma tittiehed xi deċiżjoni ulterjuri għal xi talba taht dan l-artikolu, ir-regolatur kompetenti tal-infrastruttura meta jiġi biex jittratta din it-talba, għandu -

(a) fejn ikun meħtieġ, jikkonsulta bil-miktub mar-regolatur jew regolaturi kompetenti ta' utilitajiet; jew, u

(b) jikkonsulta ruħu bil-miktub ma' kull min ir-regolatur kompetenti tal-utilitajiet jikkunsidra li jista' jintlaqat b'mod negattiv, filwaqt li jagħti lil dawk il-persuni opportunità raġonevoli biex jagħmlu s-sottomissjonijiet tagħhom bil-miktub."

Żjieda tal-artikolu ġdid mal-Att prinċipali.

11. Wara l-artikolu 6 tal-Att prinċipali għandu jżidied l-artikolu ġdid li ġej:

"Applikabilità tal-artikolu 471 tal-Kodiċi Ċivili.

Kap. 16.

6A. Għall-finijiet tal-ispezzjoni, ittestjar jew manutenzjoni fi stat tajjeb ta' tiswija ta' xi xogħlijiet imwettqa taht dan l-Att, għandhom japplikaw id-dispożizzjonijiet tal-artikolu 471 tal-Kodiċi Ċivili."

Sostituzzjoni tal-artikolu 7 tal-Att prinċipali.

12. L-artikolu 7 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Meta s-sid ta' fond jista' jitolb it-tneħhija tal-cable, eċċ.

7. (1) Meta s-sid ta' xi fond li fih, fuqu jew imwaħħal miegħu jkun hemm xi *cable*, fili, arblu, vent, brazz jew xi aċċessorju essenzjali ieħor, ikun biħsiebu jagħmel alterazzjonijiet fil-fond u dawk l-alterazzjonijiet ma jkunux jistgħu jsiru kemm-il darba -

(a) il-cable, fil, arblu, vent, brazz jew aċċessorju essenzjali ieħor ma jiġix għal xi zmien jew b'mod permanenti mneħhi; jew

(b) il-pożizzjoni ta' dak il-*cable*, fil, arblu, vent jew brazz jew aċċessorju essenzjali ieħor ma tkunx tista' tinbidel, għaldaqstant is-sid jista' jitlob li dak ix-xogħol għal xi żmien jew b'mod permanenti jitneħħa, jew inkella li l-pożizzjoni ta' dak ix-xogħol tinbidel, u dan minkejja li s-sid ikun ta l-kunsens tiegħu biex isir ix-xogħol jew kien irċieva kumpens kif hawn f'din it-Taqsima.

(2) Talba li ssir taħt is-subartikolu (1) għandha ssir b'rikors quddiem il-Prim'Awla tal-Qorti Ċivili li bih is-sid għandu jiddikjara bil-gurament għaliex kif hemm fid-dispożizzjonijiet tas-subartikolu (1) tkun qiegħda ssir it-talba:

Iżda meta jkun qed jippreżenta talba bħal dik is-sid għandu:

(a) javża lir-regolatur kompetenti tal-infrastruttura, lil kull regolatur jew regolaturi kompetenti ta' infrastruttura fejn applikabbli, u lil kull operatur ta' *network* li jistgħu jintlaqtu b'mod negattiv; u

(b) jagħti avviż ta' tliet xhur tal-intenzjoni li jkollu li jagħmel l-alterazzjonijiet imsemmija hawn aktar qabel.

(3) Operatur ta' *network* jista', fi żmien għoxrin jum minn notifika ta' talba magħmula taħt dan l-artikolu, jikkontesta dik it-talba biss jekk jista' jgħib prova li s-sid ikollu mezzi raġonevoli oħra biex jagħmel l-alterazzjonijiet u li jkun se jintlaqat hażin jekk dik it-talba tintlaqa'.

(4) Jekk it-talba taħt dan l-artikolu ma tkunx ikkontestata, is-sid jista' mingħajr ebda avviż ieħor ulterjuri jipproċedi bl-alterazzjonijiet meta jiskadi ż-żmien ta' tliet xhur mill-avviż imsemmi fis-subartikolu (2)(b):

Iżda s-sid għandu jirrifondi, meta t-talba tiegħu ma tkunx giet kontestata, jew jekk tkun giet kontestata u l-kontestazzjoni tiegħu tkun giet rifjutata, kull kumpens li seta' kien irċieva."

13. Fl-artikolu 8 tal-Att prinċipali minflok il-kliem "u tat-telegrafu" għandhom jidhlu l-kliem "u *networks* tal-

Emenda tal-artikolu 8 tal-Att prinċipali.

A 702

komunikazzjonijiet elettroniki".

Emenda tal-artikolu 9 tal-Att prinċipali.

14. Fl-artikolu 9 tal-Att prinċipali minflok il-kliem "multa ta' mhux iżjed minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (232.94) jew il-prigunerija għal żmien ta' mhux iżjed minn xahar jew il-piena tal-multa u tal-prigunerija flimkien" għandhom jidhlu l-kliem "multa ta' mhux iżjed minn hamest elef euro (€5,000)".

Emenda tal-artikolu 10 tal-Att prinċipali.

15. Fl-artikolu 10 tal-Att prinċipali minflok il-kliem "tat-telegrafu" għandhom jidhlu l-kliem "tan-networks tal-komunikazzjonijiet elettroniki"; u minflok il-kliem "multa ta' mhux iżjed minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (232.94) jew il-prigunerija għal żmien ta' mhux iżjed minn tliet xhur jew il-piena tal-multa u tal-prigunerija flimkien" għandhom jidhlu l-kliem "multa ta' mhux iżjed minn hamest elef euro (€5,000)".

Thassir tal-artikoli 11 u 12 tal-Att prinċipali.

16. L-artikoli 11 u 12 tal-Att prinċipali għandhom jiġu mhassra.

Emenda tal-artikolu 13 tal-Att prinċipali.

17. Fl-artikolu 13 tal-Att prinċipali minflok il-kliem "l-artikolu 11" għandhom jidhlu l-kliem "l-artikolu 37".

Żjieda tat-Taqsimiet u artikoli godda mal-Att prinċipali.

18. Minnufih wara l-artikolu 13, kif emendat, tal-Att prinċipali għandhom jiżdiedu dawn it-Taqsimiet u artikoli godda li ġejjin:

"TAQSIMA III

Facilitar ta' Elementi ta' *Networks* tal-Komunikazzjoni Elettronika b'Veloċità Għolja

Aċċess għal infrastruttura fiżika eżistenti.

14. (1) Operatur ta' *network* għandu jqis kull talba raġonevoli li ssir bil-miktub minn impriża li tkun qiegħda titlob aċċess għall-infrastruttura fiżika tiegħu taht pattijiet u kondizzjonijiet imparzjali u raġonevoli, inkluż il-prezz, bil-għan li jinstalla elementi ta' *networks* tal-komunikazzjoni elettronika b'veloċità għolja:

Izda l-impriża involuta għandha fit-talba tagħha tispeċifika l-elementi tal-proġett li għalih tkun qiegħda titlob l-aċċess, inkluż perjodu ta' żmien speċifiku:

Izda wkoll xejn f'din it-Taqsima m'għandu jinftiehem bħala li jipprojbixxi lill-operaturi tan-*network* milli joffru aċċess għall-infrastruttura fiżika tagħhom.

(2) Kull każda ta' aċċess wara talba magħmula kif hawn fis-subartikolu (1) għandha tkun ibbażata fuq kriterji oġġettivi, trasparenti u proporzjonati li jinkludu iżda mhumiex limitati:

(a) għall-adeqwatezza teknika tal-infrastruttura fiżika li għaliha jkun gie mitlub l-aċċess biex jilqa' xi wiehed mill-elementi ta' *networks* tal-komunikazzjoni elettronika b'veloċità għolja msemmija fis-subartikolu (1);

(b) għad-disponibbiltà tal-ispazju biex jilqa' l-elementi ta' *networks* tal-komunikazzjoni elettronika b'veloċità għolja msemmija fis-subartikolu (1), inkluż li l-htigiet futuri għall-ispazju tal-operatur tan-*network* huma murija b'mod suffiċjenti;

(ċ) għat-thassib dwar is-sikurezza u s-saħħa pubblika;

(d) għall-integrità u s-sigurtà ta' kull *network*, b'mod partikolari tal-infrastruttura nazzjonali kritika;

(e) għar-riskju ta' interferenzi serji tas-servizzi ppjanati ta' komunikazzjonijiet elettronici mal-għoti ta' servizzi oħra fuq l-istess infrastruttura fiżika;

(f) għad-disponibilità ta' mezzi alternattivi vijabbli ta' aċċess bl-ingrossa għall-infrastruttura fiżika tan-*network* ipprovduti mill-operatur tan-*network* u adegwati għall-forniment ta' *networks* ta' komunikazzjoni elettronika b'veloċità għolja, dejjem jekk dan l-aċċess jiġi offrut skont termini u kondizzjonijiet ġusti u raġonevoli.

(3) Meta l-operatur ta' *network* ikun qed jagħti każda tiegħu, huwa għandu jiddikjara bil-miktub ir-raġunijiet tiegħu għaċ-każda ta' dik it-talba, u dawk ir-raġunijiet għandhom jingħataw fi żmien xahrejn mid-data ta' meta jirċievi t-talba kompluta għall-aċċess:

Iżda meta jkun qed jagħmel dan l-operatur tan-*network* għandu, meta jkun applikabbli, jipprovdi lill-impriza li tagħmel it-talba kull dokumentazzjoni relevanti b'sostenn għaċ-ċahda tiegħu.

(4) Meta jiġi miċhud aċċess jew ftehim dwar termini u kondizzjonijiet speċifiċi, fosthom il-prezz, ma jkunx intlaħaq fi żmien xahrejn mid-data tar-riċevuta tat-talba għal aċċess, għaldaqstant kull parti tista' tirreġistra tilwima mal-Bord għas-Soluzzjoni ta' Tilwim u dik it-tilwima għandha tiġi pprezentata bil-miktub lill-Bord minn meta jiskadi l-perjodu ta' xahrejn imsemmi f'dan is-subartikolu.

(5) Il-Bord għas-Soluzzjoni ta' Tilwim għandu jagħti, meta jkun qed jiddeċiedi dwar xi tilwima, imqiegħda quddiemu kif hawn f'dan l-artikolu, meta jittiehed kont tal-prinċipju ta' proporzjonalità, deċiżjoni li tkun torbot biex jirrizolvi t-tilwima, inkluż li jiġu stabbiliti termini u kondizzjonijiet ġusti u raġonevoli, inkluż il-prezz, meta jkun hekk xieraq:

Iżda meta t-tilwima jkollha x'taqsam mal-aċċess għall-infrastruttura ta' provditur tan-*network* ta' komunikazzjonijiet elettronici, il-Bord għandu jqis, meta jkun adatt, l-objettivi stabbiliti fl-artikolu 4 tal-Att biex Jirregola Komunikazzjonijiet Elettronici:

Kap. 399.

Iżda wkoll kull prezz stabbilit mill-Bord għandu jiżgura illi l-provditur tal-aċċess ikollu opportunità ġusta biex iġib lura l-ispejjeż tiegħu u għandu jqis l-impatt tal-aċċess mitlub fuq il-pjan tan-negozju tal-provditur tal-aċċess, inkluż l-investimenti magħmula mill-operatur tan-*network* li lili ssirlu t-talba għal aċċess, b'mod partikolari fl-infrastrutturi fiżiċi li jintużaw għall-għoti tas-servizzi tal-komunikazzjoni elettronika b'veloċità għolja.

(6) Il-Bord għas-Soluzzjoni ta' Tilwim għandu jirrisolvi kull tilwima riferita lilu kif hawn f'dan l-artikolu fl-iqsar żmien possibbli u f'kull każ fi żmien erba' xhur mid-data minn meta jirċievi t-talba kompluta, hlief f'ċirkostanzi eċċezzjonali kif hemm fid-dispożizzjonijiet tal-artikolu 32.

(7) Id-dispożizzjonijiet ta' dan l-artikolu m'għandhomx ikunu ta' preġudizzju għad-dritt għall-proprjetà tas-sid tal-infrastruttura fiżika f'każijiet fejn l-operatur tan-*network* ma jkunx is-sid, u għad-dritt għall-proprjetà ta' kwalunkwe parti terza oħra, bħas-sidien tal-artijiet u s-sidien ta' proprjetà privata.

Trasparenza
fir-rigward tal-
infrastruttura
fiżika.

15. (1) Filwaqt li impriża tkun qiegħda titlob aċċess għal infrastruttura fiżika kif hemm fl-artikolu 14(1), din ikollha d-dritt għal aċċess, fuq talba, għall-informazzjoni minima dwar l-infrastruttura fiżika eżistenti ta' kwalunkwe operatur tan-*network*:

- (a) fejn tinsab, u rotta;
- (b) it-tip u l-użu attwali tal-infrastruttura; u
- (ċ) punt ta' kuntatt:

Izda meta l-impriża tkun qiegħda tagħmel dan, hija għandha tispeċifika ż-żona li fiha hemm imbassar l-installazzjoni ta' elementi tan-*networks* tal-komunikazzjoni elettronika b'veloċità għolja:

Izda wkoll l-ġhoti ta' xi informazzjoni bhal dik lill-impriża tista' tkun soġġetta għal kull limitazzjoni konsegwenzjali għas-sigurtà tan-*networks* u l-integrità tagħhom, għas-sigurtà nazzjonali, għas-saħħa jew is-sikurezza pubblika, il-konfidenzjalità jew sigrieti operazzjonali u kummerċjali hekk kif jista' jiġi stabbilit mir-regolatur kompetenti tal-infrastruttura.

(2) Korp tas-settur pubbliku li jkollu f'format elettroniku, minhabba l-kompiti tiegħu, elementi tal-informazzjoni minima msemmija fis-subartikolu (1) dwar l-infrastruttura fiżika ta' operatur tan-*network*, għandu jagħmel dik l-informazzjoni disponibbli:

- (a) permezz tal-Punt Waħdieni ta' Informazzjoni b'mezzi elettronici; u, jew
- (b) għal impriża wara li ssir talba bil-miktub minn dik l-impriża, u dan mingħajr preġudizzju għal-limitazzjonijiet imsemmija fis-subartikolu (1):

Iżda kwalunkwe aġġornament għal dik l-informazzjoni jew kull element ġdid tal-informazzjoni minima msemmija fis-subartikolu (1) li jirċievi l-korp tas-settur pubbliku għandhom ikunu disponibbli għall-Punt Waħdieni ta' Informazzjoni fi żmien xahrejn mid-data tar-riċevuta tagħha, u dak il-perjodu ta' xahrejn jista' jiġi estiż b'mhux aktar minn xahar, meta dan ikun meħtieġ biex tiġi żgurata l-affidabilità tal-informazzjoni pprovduta:

Iżda wkoll kull informazzjoni pprovduta lill-Punt Waħdieni ta' Informazzjoni għandha tiġi aġġornata minnufih mill-entità responsabbli biex tipprovdi dik l-informazzjoni u dik l-entità għandha tinforma b'dan lill-Punt Waħdieni ta' Informazzjoni.

(3) Informazzjoni minima li ssir disponibbli lill-Punt Waħdieni ta' Informazzjoni kif hawn fis-subartikolu (2) għandha tkun aċċessibbli minnufih, permezz tal-Punt Waħdieni ta' Informazzjoni, f'format elettroniku u skont termini proporzjonati, mhux diskriminatorji u trasparenti. Aċċess bħal dak għandu jintgħamel disponibbli permezz tal-Punt Waħdieni ta' Informazzjoni sa mhux aktar tard mill-1 ta' Jannar 2017.

(4) Meta l-informazzjoni minima msemmija fis-subartikolu (1) ma tkunx disponibbli permezz tal-Punt Waħdieni ta' Informazzjoni, allura l-operaturi tan-*network* għandhom jipprovdu aċċess għal informazzjoni bħal dik wara talba speċifika bil-miktub li ssir minn impriża. Meta tagħmel talba bħal dik l-impriża għandha tispeċifika ż-żona li fiha hu mbassar li jiġu installati elementi tan-*network* tal-komunikazzjoni elettronika b'veloċità għolja:

Iżda l-aċċess għall-informazzjoni għandu jingħata fi żmien xahrejn mid-data tar-riċevuta tat-talba bil-miktub skont termini proporzjonati, mhux diskriminatorji u trasparenti mingħajr preġudizzju għal-limitazzjonijiet taht is-subartikolu (1).

(5) Meta ssir it-talba speċifika bil-miktub ta' impriza, l-operatur ta' *network* għandu jilqa' talbiet raġonevoli għall-istharrig fuq il-post ta' elementi speċifiċi tal-infrastruttura fizika tagħhom. Meta tagħmel talba bħal dik l-impriza għandha tispeċifika l-elementi tan-*network* konċernat bil-ħsieb li jiġu installati l-elementi tan-*network* tal-komunikazzjoni elettronika b'veloċità għolja:

Izda l-istharrig fuq il-post tal-elementi tan-*network* speċifikat għandu jingħata taht termini proporzjonati, mhux diskriminatorji u trasparenti fi żmien xahar mid-data minn meta tiġi riċevuta t-talba bil-miktub, mingħajr preġudizzju għal-limitazzjonijiet li hemm fis-subartikolu (1).

(6) Fil-każ ta' tilwima li tirrizulta b'konnessjoni mad-drittijiet u l-obbligi previsti f'dan l-artikolu, kull parti tista' tirreferi l-kwistjoni lill-Bord għas-Soluzzjoni ta' Tilwim li għandu, wara li jittiehed kont sħiħ tal-prinċipju ta' proporzjonalità, joħroġ deċiżjoni li torbot biex jirrizolvi t-tilwima fl-iqsar żmien possibbli u f'kull każ fi żmien xahrejn, hliet f'każijiet eċċezzjonali b'mod konformi mal-artikolu 32.

(7) Il-Punt Wahdieni ta' Informazzjoni, wara konsultazzjoni ma' xi regolatur jew regolaturi kompetenti ta' utilitajiet kif jista' jkun il-każ u ma' xi tali korp jew korpi oħra tas-settur pubbliku kif jitqies li jkun meħtieġ, jista' jipprova għal eżenzjonijiet mill-obbligi li hemm fis-subartikoli (1) sa (5) fil-każ tal-infrastrutturi fiżiċi eżistenti li jitqiesu li ma jkunux teknikament adatti għall-installazzjoni ta' *networks* ta' komunikazzjonijiet elettronici jew fil-każ tal-infrastruttura kritika. Meta jagħmel dan, għandu jagħti r-raġunijiet tiegħu bil-miktub u għandu, qabel ma jieħu deċiżjoni finali, jagħti lil partijiet interessati l-opportunità li jagħmlu sottomissjonijiet bil-miktub f'dak iż-żmien raġonevoli li jista' jistabbilixxi.

(8) Impriza li tikseb aċċess għal informazzjoni b'mod konformi mad-dispożizzjonijiet ta' dan l-artikolu għandha, hekk kif ikun xieraq, tiżgura li l-informazzjoni hekk miksuba tiġi trattata wara li titqies sew il-kunfidenzjalità, u s-sigrietni operattivi u dawk tan-negozju.

Koordinament ta' xogħlijiet ċivili.

16. (1) Operatur ta' *network* ikollu d-dritt jinnegozja ftehimiet dwar il-koordinament ta' xogħlijiet ċivili ma' imprizi bil-ħsieb li jiġu installati l-elementi ta' *networks* tal-komunikazzjoni elettronika b'veloċità għolja.

(2) Operatur tan-*network* li jwettaq direttament jew indirettament xogħlijiet ċivili, finanzjati sew għal kollox sew biss f'parti minn fondi pubbliċi, għandu jwieġeb għal kwalunkwe talba raġonevoli bil-miktub biex jikkoordina xogħlijiet ċivili fuq termini trasparenti u mhux diskriminatorji, magħmulin minn impriza, bil-ħsieb li jiġu installati elementi ta' *networks* tal-komunikazzjoni elettronika b'veloċità għolja, sakemm:

(a) talba bħal dik ma tkunx tinvolvi xi spejjeż żejda, inklużi dawk minħabba f'dewmien addizzjonali, għal xogħlijiet ċivili maħsuba mill-bidu;

(b) talba bħal dik ma tkunx timpedixxi kontroll fuq il-koordinament tax-xogħlijiet; u

(ċ) it-talba għal koordinament issir minnufih u fi kwalunkwe każ tal-anqas xahar qabel il-proġett finali jittressaq quddiem l-awtoritajiet kompetenti għall-ġhoti ta' permessi:

Izda l-Ministru responsabbli għall-infrastruttura jista' jagħmel dawk ir-regolamenti li jista' jqis li jkunu meħtieġa dwar it-tqassim tal-ispejjeż assoċjati mal-koordinament ta' xogħlijiet ċivili. Meta jsir dan, il-Ministru għandu jikkonsulta lir-regolatur jew regolaturi kompetenti ta' utilitajiet kif jista' jkun il-każ u ma' kull korp tas-settur pubbliku jew entitajiet li jkunu jidhrulu meħtieġa fiċ-ċirkostanzi.

(3) Jekk ma jintlahaqx ftehim dwar il-koordinament ta' xogħlijiet ċivili skont is-subartikolu (2) fi żmien xahar mid-data tar-riċevuta tat-talba formali bil-miktub għal negozjati, għaldaqstant kull parti aggravata tista' tirreferi t-kwistjoni lill-Bord għas-Soluzzjoni ta' Tilwim.

(4) Il-Bord għas-Soluzzjoni ta' Tilwim għandu jagħti, meta jkun qed jaqta' xi tilwima riferita lilu kif hawn f'dan l-artikolu, filwaqt li jqis għal kolloxx il-prinċipju ta' proporzjonalità, deċiżjoni li torbot biex isolvi t-tilwima inkwistjoni, inkluż li jiġu stabbiliti termini, kondizzjonijiet u imposti ġusti u mhux diskriminatorji fejn jixraq:

Iżda l-Bord għandu jirrisolvi kull tilwima riferita lilu kif hawn f'dan l-artikolu fl-iqsar żmien possibbli u f'kull każ fi żmien xahrejn mid-data tar-riċevuta tat-tilwima hliet f'ċirkostanzi eċċezzjonali kif hemm fl-artikolu 32.

(5) L-awtorità kompetenti għall-għoti ta' permess tista' tipprovi, wara konsultazzjoni bil-miktub mar-regolatur jew regolaturi kompetenti ta' utilitajiet kif jista' jkun il-każ u ma' kull tali korp tas-settur pubbliku jew korpi oħra li tista' tqis li jkun meħtieġ, għal eżenzjonijiet mill-obbligi f'dan l-artikolu għal xogħlijiet ċivili ta' importanza insinifikanti, pereżempju fir-rigward ta' valur, daqs jew tul ta' żmien, jew fil-każ ta' xi infrastruttura nazzjonali kritika:

Iżda meta tkun qed tagħmel dan, l-awtorità kompetenti għall-għoti ta' permess għandha tagħti r-raġunijiet tagħha bil-miktub u għandha, qabel ma tiegħu deċiżjoni finali, tagħti lil kull parti interessata l-opportunità li tagħmel sottomissjonijiet bil-miktub dwar l-abbozzi ta' eżenzjonijiet f'dak iż-żmien raġonevoli li tista' tistabbilixxi.

Trasparenza
dwar xogħlijiet
ċivili.

17. (1) Sabiex jinnegozja ftehimiet dwar il-koordinament ta' xogħlijiet ċivili msemmija fl-artikolu 16, l-operatur ta' *network* għandu jagħmel disponibbli, fuq talba bil-miktub speċifika ta' impriża, din l-informazzjoni minima li ġejja li jkollha x'taqsam ma' xogħlijiet ċivili li għaddejjin jew li huma ppjanati marbutin mal-infrastruttura fiżika tiegħu li għaliha ngħata permess, li għaliha l-proċedura tal-għoti ta' permessi tkun pendenti jew li jkun previst li titressaq għall-ewwel darba quddiem l-awtorità kompetenti għall-għoti ta' permessi fis-sitt xhur segwenti:

- (a) il-post u t-tip ta' xogħlijiet;
- (b) l-elementi tan-*network* involuti;
- (ċ) id-data stmata meta ser jibdew ix-xogħlijiet u kemm ser idumu; u
- (d) punt ta' kuntatt:

Iżda l-għoti ta' kull informazzjoni bħal dik lill-impriża għandu jkun bla hsara għal kull limitazzjoni konsegwenzjali għas-sigurtà tan-*networks* u l-integrità tagħhom, is-sigurtà nazzjonali, is-saħha jew sikurezza pubblika, il-konfidenzjalità jew sigrieti operazzjonali u kummerċjali.

(2) L-impriża għandha, meta tagħmel it-talba tagħha, tispeċifika ż-zona li fiha mbassra li jiġu installati l-elementi ta' *networks* ta' komunikazzjoni elettronika b'veloċità għolja:

Iżda fi żmien erbatax-il jum mid-data ta' riċevuta tat-talba bil-miktub, l-operaturi tan-*network* għandhom jipprovdu l-informazzjoni mitluba skont termini proporzjonati, mhux diskriminatorji u trasparenti.

(3) L-operatur tan-*network* jista' jirrifjuta t-talba magħmula taht is-subartikolu (1) jekk:

- (a) ikun għamel l-informazzjoni mitluba disponibbli għall-pubbliku f'format elettroniku; jew
- (b) l-aċċess għal informazzjoni bħal dik jiġi żgurat permezz tal-Punt Waħdieni ta' Informazzjoni.

(4) L-operatur tan-*network* għandu jagħmel l-informazzjoni minima mitluba msemmija fis-subartikolu (1) disponibbli permezz tal-Punt Wahdieni ta' Informazzjoni.

(5) Jekk, meta jiskadi l-perjodu ta' erbatax-il jum imsemmi fis-subartikolu (2), l-informazzjoni mitluba kif hemm fid-dispożizzjonijiet ta' dan l-artikolu ma tiġix provduta, għaldaqstant parti aggravata tista' minn meta jiskadu l-erbatax-il jum imsemmija hawn qabel, tirreferi t-tilwima li jista' jkollha dwar id-drittijiet u l-obbligi taht dan l-artikolu, lill-Bord għas-Soluzzjoni ta' Tilwim li għandu meta jkun qed jaqta' dwar xi tilwima riferita lilu b'mod konformi ma' dan l-artikolu, filwaqt li jqis sew il-prinċipju ta' proporzjonalità, joħroġ b'deċizzjoni li tkun torbot biex issolvi t-tilwima inkwistjoni, inkluż li jigu stabbiliti termini, kondizzjonijiet u imposti ġusti u mhux diskriminatorji fejn jixraq:

Izda l-Bord għandu jirrisolvi kull tilwima riferita lilu kif hawn f'dan l-artikolu fl-iqsar żmien possibbli u f'kull każ fi żmien xahrejn mid-data minn meta jirċievi t-talba kompluta hliet f'ċirkostanzi eċċezzjonali kif hemm fl-artikolu 32, mingħajr preġudizzju għall-possibbiltà li xi parti tirreferi l-każ lill-Qorti.

(6) L-awtorità kompetenti għall-ġħoti ta' permiss tista' tipprovi, wara konsultazzjoni bil-miktub mar-regolatur jew regolaturi kompetenti ta' utilitajiet kif jista' jkun il-każ u ma' kull korp jew korpi fis-settur pubbliku hekk kif tista' tqis li jkun meħtieġ, dwar eżenzjonijiet mill-obbligi f'dan l-artikolu għal xogħlijiet ċivili ta' valur insinifikanti jew fil-każ ta' infrastruttura nazzjonali kritika. Meta tagħmel dan, għandha tagħti r-raġunijiet tagħha bil-miktub u għandha, qabel ma tiegħu deċizzjoni finali, tagħti lill-partijiet interessati kollha l-opportunità li jagħmlu s-sottomissjonijiet tagħhom bil-miktub dwar l-abbozzi ta' eżenzjonijiet f'dak iż-żmien raġonevoli kif hija tista' tistabbilixxi.

Proċedura tal-
għoti ta'
permessi.

18. (1) Kull informazzjoni rilevanti dwar il-kondizzjonijiet u proċeduri li japplikaw għall-għoti ta' permessi għal xogħlijiet ċivili mehtieġa bil-għan li jiġu installati l-elementi ta' *networks* tal-komunikazzjoni elettronika b'veloċità għolja, inkluża kull informazzjoni dwar l-eżenzjonijiet applikabbli għal elementi bħal dawk dwar xi permessi jew il-permessi kollha mehtieġa taħt il-liġi nazzjonali, għandhom ikunu disponibbli permezz tal-Punt Waħdieni ta' Informazzjoni.

(2) Impriza tista' b'mezzi elettronici permezz tal-Punt Waħdieni ta' Informazzjoni, tippreżenta applikazzjonijiet għal permessi mehtieġa għal xogħlijiet ċivili li huma mehtieġa bil-ħsieb li jiġu installati elementi ta' *networks* tal-komunikazzjoni elettronika b'veloċità għolja.

(3) L-awtorità kompetenti għall-għoti ta' permess għandha tagħti jew tiċhad permess fi żmien erba' xhur mid-data tar-riċevuta tat-talba kompluta għall-permess, mingħajr preġudizzju għal skadenzi jew obbligi speċifiċi oħrajn stabbiliti għat-twettiq xieraq tal-proċedura li huma applikabbli għall-proċedura tal-għoti ta' permessi skont id-dritt nazzjonali jew tal-Unjoni Ewropea jew dwar ir-riżoluzzjoni ta' tilwim jew proċedimenti ta' litigazzjoni jkunu kif ikunu deskritti:

Izda kull każda għandha tkun debitament ġustifikata fuq il-bażi ta' kriterji oġġettivi, trasparenti, mhux diskriminatorji u proporzjonati:

Izda wkoll eċċezzjonalment f'każijiet debitament ġustifikati, it-terminu ta' skadenza jista' jiġi mtawwal, u dik l-estensjoni għandha tkun l-iqsar possibbli biex jingħata jew jiġi miċhud permess.

(4) Impriza li tkun sofriet danni bħala riżultat ta' nuqqas ta' konformità mat-termini taħt dan l-artikolu jkollha d-dritt li tfittex kumpens b'mod konformi mad-dritt nazzjonali li jkun japplika.

Punt Waħdieni ta' Informazzjoni.

19. (1) Il-funzjonijiet tal-Punt Waħdieni ta' Informazzjoni taħt dan l-Att għandhom jiġu moqdiya mir-regolatur kompetenti tal-infrastruttura.

(2) Kull persuna li, kif hawn f'dan l-Att, tkun meħtieġa tipprovdni xi informazzjoni tkun kif tkun deskritta, għandha tiżgura li dik l-informazzjoni tiġi provduta lill-Punt Waħdieni ta' Informazzjoni f'waqtha u b'mod konformi ma' terminu stabbilit kif hawn f'dan l-Att, jew fin-nuqqas ta' dawk it-termini, f'dawk it-termini l-oħra li l-Punt Waħdieni ta' Informazzjoni jista' raġonevolment jistabbilixxi.

(3) Kull persuna li taġixxi bi ksur ta' xi hteġa taħt din it-Taqsima f'dak li għandu x'jaqsam mal-ġhoti ta' xi informazzjoni lill-Punt Waħdieni ta' Informazzjoni teħel multa amministrattiva ta' mhux iżjed minn għaxart elef euro (€10,000) u, jew multa amministrattiva ta' kuljum ta' mhux iżjed minn hames mitt euro (€500).

Avviż lill-Kummissjoni meta tingħata xi eżenzjoni.

20. (1) Meta jkun japplika, kull persuna jew korp li jagħtu eżenzjoni b'mod konformi mad-dispożizzjonijiet ta' din it-Taqsima, għandhom jgħarrfu minnufih bil-miktub lill-Kumitat dwar l-Utilitajiet bl-ġhoti ta' dik l-eżenzjoni u meta jkun japplika lil xi korp tas-settur pubbliku.

(2) Il-Kumitat dwar l-Utilitajiet għandu javża lill-Kummissjoni Ewropea b'kull eżenzjoni mogħtija kif hemm fid-dispożizzjonijiet ta' dan l-Att.

Jipprevalu d-dispożizzjonijiet tal-Att biex Jirregola Komunikazzjonijiet Elettroniċi. Kap. 399.

21. Fil-każ ta' kunflitt id-dispożizzjonijiet tal-Att biex Jirregola Komunikazzjonijiet Elettroniċi, u tar-regolamenti elenkati taħt it-Tielet Skeda għandhom jipprevalu fuq kull dispożizzjoni ta' din it-Taqsima:

Iżda l-Ministru responsabbli għall-komunikazzjonijiet elettronici jista', minn żmien għal żmien, b'avviż fil-Gazzetta, jemenda l-lista ta' regolamenti murija fl-Iskeda hawn qabel msemmija.

Twaqqif u rwol tal-Kumitat Konsultattiv għal Servizzi dwar l-Utilitajiet.

22. (1) Għandu jitwaqqaf korp li jkun magħruf bħala l-Kumitat Konsultattiv għal Servizzi dwar l-Utilitajiet, u dak il-korp għandu jinhatar mill-Ministru responsabbli għall-infrastruttura għal terminu, li jista' jiġi mġedded, ta' mhux inqas minn sena u mhux iżjed minn tliet snin, u dak il-korp għandu jkun magħmul minn:

(a) *chairman* li jintgħażel mill-Ministru responsabbli għall-infrastruttura minn fost persuni b'hila dwar il-qsim parteċipattiv tal-infrastruttura ta' utilità;

(b) rappreżentant ta' kull regolatur ta' utilità li jiġi mahtur mir-regolatur ta' utilità rispettiv kif dan jista' jiġi elenkat minn żmien għal żmien fit-Tieni Skeda;

(c) rappreżentant minn kull korp governattiv ieħor, li l-Ministru responsabbli għall-infrastruttura jista' jikkonsidra bħala relevanti;

(d) mill-inqas persuna waħda b'esperjenza kif imiss fil-qsim parteċipattiv tal-infrastruttura ta' utilità.

(2) Il-Kumitat dwar l-Utilitajiet għandu jaqdi kull funzjoni li jista' jkun meħtieġ li jwettaq kif hawn f'dan l-Att, inklużi:

(a) l-għemil ta' linji gwida dwar kull aspekk regolat b'dan l-Att safejn u sakemm dawk il-linji gwida jkunu jirreferu għall-aċċess tal-infrastruttura ta' utilità u, jew is-soluzzjoni ta' kull tilwim li jkollu x'jaqsam ma' dan inklużi, imma mhux limitati għal, linji gwida:

(i) dwar il-kriterji għar-rifjut ta' aċċess għal infrastruttura fiżika;

(ii) dwar il-format tal-htigiet ta' informazzjoni għal talbiet ta' aċċess għall-infrastruttura ta' utilità;

(iii) dwar il-format ta' kif tingħata informazzjoni fuq l-infrastruttura fiżika tal-operatur tan-*network* lill-Punt Waħdieni ta' Informazzjoni;

(iv) dwar l-inqas informazzjoni, jekk ikun hemm, li għandha tiġi provduta minhabba fis-sigurtà tan-*networks* jew fl-integrità tagħhom, jew minhabba fis-sigurtà nazzjonali, is-saħħa jew is-sikurezza pubblika, il-konfidenzjalità jew informazzjoni li tkun kummerċjalment sensitiva;

(v) biex jgħin lil kull korp aġġudikattiv jew regolatorju meta jiġi biex jaqta' xi tilwima tkun kif tkun deskritta kif tista' tiġi riferita lil dak il-korp biex tinqata' taħt dan l-Att;

(b) l-għoti ta' pariri dwar l-għemil ta' regoli fuq l-apporzjonament tal-ispejjeż li jkollhom x'jaqsmu mal-koordinament ta' xogħlijiet ċivili;

(ċ) l-għoti ta' pariri fuq l-għemil ta' regoli dwar hlasijiet għal aċċess għall-infrastruttura u, jew l-aspetti tekniċi dwar dak l-aċċess għall-infrastruttura;

(d) meta jkun japplika, li jiġu trattati talbiet għal eżenzjonijiet magħmulin taħt dan l-Att; u

(e) dawk il-kompiti l-oħra li l-Ministru għall-infrastruttura jista' jassenjalu b'mod konformi mal-għanijiet ta' dan l-Att.

(3) Ebda haġa f'dan l-artikolu m'għandha tinftiehem bħala li tipprekludi lil xi korp fis-settur pubbliku milli jagħmel xi linji gwida jew regoli jkunu kif ikunu deskritti dwar xi materji msemmija fis-subartikolu (2) sakemm dawk il-linji gwida jew regoli jkollhom x'jaqsmu man-*networks* jew servizzi regolati mill-korp fis-settur pubbliku involut:

Iżda dawk il-linji gwida jew regoli għandhom, galadarba jkunu nħarġu, jiġu komunikati lil kull korp ieħor bħal dawk fis-settur pubbliku li l-korp emittenti fis-settur pubbliku jikkunsidra li jkollhom interess li jkunu jafu dwar il-ħruġ ta' dawk il-linji gwida jew regoli billi dawn jistgħu jkollhom impatt fuq ix-xogħol regolatorju ta' kull korp ieħor bħal dawk fis-settur pubbliku.

TAQSIMA IV

Bord għas-Soluzzjoni ta' Tilwim għal *Networks* dwar l-Utilitajiet

Hatra tal-Bord għas-Soluzzjoni ta' Tilwim għal *Networks* dwar l-Utilitajiet.

23. Għandu jitwaqqaf bord għas-soluzzjoni ta' tilwim li jkun magħruf bħala l-Bord għas-Soluzzjoni ta' Tilwim għal *Networks* dwar l-Utilitajiet, u dak il-Bord għandu jeżercita u jaqdi l-funzjonijiet assenjati lilu b'dan l-Att u b'kull liġi oħra.

Għamla tal-Bord għas-Soluzzjoni ta' Tilwim għal *Networks* dwar l-Utilitajiet.

24. (1) Il-Bord għas-Soluzzjoni ta' Tilwim għandu jkun kompost minn President, li jkun imħallef jew ex-imħallef, jew magħrat jew ex-magħrat li jinħatar mill-President ta' Malta fuq il-parir tal-Prim Ministru, u żewġ membri magħżulin mill-President tal-Bord minn fost lista ta' membri ordinarji:

Iżda jekk il-President ikun ex-imħallef jew ex-magħrat, il-ħatra tiegħu tkun għal żmien hames snin u għandu jhalli l-kariga tiegħu meta jiskadi ż-żmien ta' dik il-ħatra.

(2) Għandu jkun hemm lista ta' sitt membri ordinarji, il-koll b'mill-anqas għaxar snin esperjenza rilevanti, maħtura mill-President ta' Malta li jaġixxi fuq il-parir tal-Prim Ministru, minn fost persuni li jkollhom il-kwalifiki rilevanti f'wieħed jew aktar mill-oqsma ta' kompetenza relatati mal-materji regolati minn dan l-Att jew li jistgħu minn żmien għal żmien jiġu riferiti lill-Bord għal soluzzjoni.

(3) Meta jintgħażlu ż-żewġ membri ordinarji biex ikunu membri tal-Bord taħt is-subartikolu (1), il-President għandu jqis sew ix-xorta tal-każ u tas-suq involut.

(4) Il-membri ordinarji tal-Bord għandhom jinhatru għal żmien hames snin u dak iż-żmien ta' kariga jista' jiġġedded għal żmien wiehed iehor li ja jeccedix hames snin.

(5) Il-membri ordinarji tal-Bord għas-Soluzzjoni ta' Tilwim jistgħu jirriżenjaw mill-kariga tagħhom b'ittra indirizzata lill-President ta' Malta. Dik ir-riżenja għandha tibda sseħħ meta l-ittra ta' riżenja tasal għand il-President ta' Malta jew għand xi persuna li tkun hekk awtorizzata minnu.

(6) Membru ordinarju tal-Bord għas-Soluzzjoni ta' Tilwim ma jistax jitneħħa mill-kariga hlief mill-President ta' Malta li jaġixxi fuq il-parir tal-Prim Ministru minhabba f'inkapaçità bil-provi li jaqdi l-funzjonijiet tal-kariga tiegħu kemm jekk dawn ikunu gejjin minn xi mard fil-ġisem jew tal-moħħ jew minhabba f'kull kawża oħra, jew minhabba f'imgiba ħazina bil-provi.

(7) Għandu jiġi ppubblikat fil-Gazzetta avviz tal-ħatriet kollha fil-Bord għas-Soluzzjoni ta' Tilwim u tal-bidliet l-oħra kollha tal-membri tiegħu.

(8) Il-Bord għas-Soluzzjoni ta' Tilwim għandu jkun indipendenti mill-partijiet kollha fit-tilwima fil-qadi tal-funzjonijiet tiegħu, u l-membri tiegħu fl-eżerçizzju tal-funzjonijiet tagħhom għandhom jaġixxu fuq il-ġudizzju individwali tagħhom nfushom u m'għandhom ikunu soġġetti għad-direzzjoni jew il-kontroll ta' ebda persuna jew awtorità.

(9) Il-membri ordinarji tal-Bord għas-Soluzzjoni ta' Tilwim m'għandhomx ikunu prekluzi mill-eżerçizzju tal-professjonijiet rispettivi tagħhom.

(10) Il-membri ordinarji tal-Bord għas-Soluzzjoni ta' Tilwim għandhom jirçievu dik ir-rimunerazzjoni stabbilita kif hemm fir-Raba' Skeda, u dik ir-rimunerazzjoni m'għandhiex tinbidel fil-kors tal-ħatra tagħhom bi żvantagġ għalihom:

Iżda dik l-Iskeda tista' minn żmien għal żmien tinbidel mill-Prim Ministru:

Iżda wkoll dik ir-rimunerazzjoni għandha tithallas mill-Fond Konsolidat mingħajr il-htieġa għal ebda approprjazzjoni oħra.

(11) Persuna ma tkunx kwalifikata biex tinħatar jew tibqa' membru ordinarju tal-Bord għas-Soluzzjoni ta' Tilwim jekk:

(a) tkun giet dikjarata falluta mhux mehlusa; jew

(b) tkun inġhatat sentenza ta' prigunerija għal sitt xhur jew aktar minn xi qorti; jew

(c) tkun instabet hatja ta' xi reat kontra dan l-Att, xi liġi li għandha x'taqsam mar-regolament ta' xi servizz ta' utilità jew ta' xi regolamenti magħmulin taħt dan l-Att jew taħt xi liġijiet oħra bhalu; jew

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

(12) Kull membru ordinarju tal-Bord għas-Soluzzjoni ta' Tilwim għandu, qabel ma jibda jinstema' kull każ, jiddikjara kull interess li jista' jkollu fil-proċedimenti u l-President għandu, meta jkun jidhirlu li dak l-interess jista' jippreġudika l-indipendenza ta' dak il-membru, jahtar lil xi membru ieħor mil-lista.

(13) Meta l-proċedimenti jkunu bdew u tkun għadha ma nġhatat ebda deċiżjoni finali u l-membru jkun temm milli jkun membru tal-Bord jew għal xi raġuni oħra ma jkunx jista' jaqdi l-funzjonijiet tal-kariga tiegħu, il-President jista' jagħzel li jahtar lil xi membru ieħor mil-lista minflok u jekk ikun tassew meħtieġ biex it-tilwima tiġi deċiża kif ikun xieraq, jerggħu jinbdew il-proċedimenti, jew inkella titkompla tinstema' t-tilwima b'membru ordinarju wiehed biss:

Iżda meta jkun skada t-terminu tal-hatra u l-membru ordinarju ma jkunx gie mahtur mill-ġdid, il-membru ordinarju għandu jkompli jisma' t-tilwima sa tmiemha.

(14) President li jkun ex-imhallett jew ex-maġistrat u l-membri ordinarji tal-Bord għas-Soluzzjoni ta' Tilwim għandhom, matul iż-żmien tal-kariga tagħhom, jaġixxu b'integrità u ma jiehdu sehem f'ebda attività li tagħmel ħsara lill-amministrazzjoni xierqa tal-gustizzja kif inhu xieraq jew li, minhabba f'xi tagħrif miksub minn sigrieti tan-negozju jew minn xi informazzjoni kunfidenzjali oħra fil-kors tal-kariga tagħhom, tkun tagħti lok għal xi konflitt ta' interess u tagħmel ħsara lill-interessi ta' xi parti fil-proċedimenti quddiem il-Bord. Kull persuna li taġixxi bi ksur ta' dan is-subartikolu tkun hatja ta' reat kontra dan l-Att u tehel, meta tinsab hekk hatja, multa ta' mhux anqas minn ħamest elef euro (€5,000) u mhux iżjed minn ħamsa u għoxrin elf euro (€25,000), u l-qorti tista', b'żieda magħha, tagħti l-piena ta' interdizzjoni ġenerali perpetwa jew temporanja milli dik il-persuna tokkupa xi kariga pubblika.

Kif jitmexxew il-proċeduri u jinstema' l-każ dwar it-tilwim.

25. (1) Malli jibda jisma' tilwima, il-Bord għas-Soluzzjoni ta' Tilwim għandu javża lill-partijiet involuti bil-materja inkwistjoni, filwaqt li jagħtihom dak iż-żmien raġonevoli li l-Bord jista' jistabbilixxi biex tingieb informazzjoni rilevanti u jagħmlu s-sottomissjonijiet tagħhom.

(2) Il-Bord għas-Soluzzjoni ta' Tilwim għandu f'kull waqt jagħmel mill-aħjar biex jiddeċiedi kull tilwima li tiġi riferita lilu fl-iqsar żmien possibbli, u f'kull każ b'mod konformi mat-termini ta' żmien speċifiku stabbiliti taħt dan l-Att jew taħt kull liġi oħra li tkun tapplika u li jkollu s-setgħa li jisma' t-tilwim taħtha:

Iżda jkun fid-diskrezzjoni tal-Bord dwar kif għandu jmexxi l-proċedimenti quddiemu. B'mod partikolari l-Bord jista', jekk jidhirlu hekk xieraq fiċ-ċirkostanzi, jiddeċiedi tilwima biss fuq il-bażi ta' dawk is-sottomissjonijiet bil-miktub u dik id-dokumentazzjoni li l-Bord jista' jeħtieġ, u jkun fid-diskrezzjoni tiegħu li jistabbilixxi jekk ikunux meħtieġa li jsiru seduti u, jew żjarat fuq is-sit:

Iżda wkoll il-Bord għandu fil-każijiet kollha jimxi mal-prinċipji ta' gustizzja naturali.

(3) Il-Bord għas-Soluzzjoni ta' Tilwim għandu, wara li jeżamina l-fatti u kwalunkwe sottomissjonijiet li jiġu ppreżentati quddiemu u dik l-informazzjoni l-oħra li jista' jkun jehtieg, jiddeċiedi dwar it-tilwima.

(4) Il-Bord għas-Soluzzjoni ta' Tilwim jista', fid-diskrezzjoni tiegħu sew b'inizjattiva tiegħu stess sew wara talba ta' xi parti fit-tilwima, jekk jikkunsidra talba bħal dik bħala waħda raġonevoli fiċ-ċirkostanzi speċifiċi tat-tilwima, jgħin lill-partijiet jaslu fi ftehim amikevoli fuq it-tilwimiet kollha jew fuq xi whud mill-kwistjonijiet fit-tilwima qabel il-proċediment jew waqt it-tkomplija tas-smiġh tat-tilwima:

Iżda meta jkun qed jagħmel dan, il-Bord għandu fil-każijiet kollha jqis il-htieġa li jsolvi t-tilwima fl-iqsar żmien possibbli u kull impatt negattiv li xi parti tista' ssofri jekk ikun hemm dewmien fir-riżoluzzjoni tat-tilwima:

Iżda wkoll parti aggravata għandha qabel ma tirreġistra tilwima taht din it-Taqsima, meta jkun possibbli, tagħmel mill-aħjar biex issolvi kull tilwima bħal dik billi tmur għall-medjazzjoni tar-regolatur jew regolaturi kompetenti ta' utilitajiet jew ta' infrastruttura kif jista' jkun il-każ.

26. (1) Ir-Registratur tal-Qrati jew kull persuna oħra li taġixxi minfloku jew f'ismu kif hemm fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jkun ir-Registratur tal-Bord għas-Soluzzjoni ta' Tilwim mahtur skont din it-Taqsima.

(2) L-atti kollha li jingiebu quddiem il-Bord għas-Soluzzjoni ta' Tilwim għandhom jinżammu fir-Registru tal-Qrati Inferjuri li għandu jkun ir-registru tal-Bord.

(3) Il-Ministru responsabbli għall-gustizzja jista' jistabbilixxi b'regolamenti taht dan l-Att:

(a) id-drittijiet li jistgħu jkunu dovuti lir-Registru tal-Bord għas-Soluzzjoni ta' Tilwim;

Registru tal-Bord għas-Soluzzjoni ta' Tilwim.
Kap. 12.

(b) id-drittijiet li jistgħu jkunu dovuti lill-avukati, prokuraturi legali u persuni oħra li jirrapprezentaw il-partijiet li jidhru quddiem il-Bord; u

(ċ) id-drittijiet li jistgħu jkunu dovuti lill-esperti li jidhru quddiem il-Bord:

Kap. 12. Izda sakemm jiġu stipulati d-drittijiet mill-Ministru responsabbli għall-gustizzja taħt il-paragrafi (a) sa (ċ), għandhom japplikaw id-drittijiet stabbiliti fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(4) Ir-Reġistru tal-Bord għas-Soluzzjoni ta' Tilwim għandu, meta jkun hekk japplika, iżomm sew verżjoni mhux kunfidenzjali, u, meta jkun japplika għax hekk jiġi ordnat mill-Bord, verżjoni kunfidenzjali tal-atti ta' kull tilwima mgħoddija lill-Bord.

(5) L-atti tal-Bord għas-Soluzzjoni ta' Tilwim għandhom ikunu aċċessibbli għall-persuni kollha, u għandhom jingħataw kopji, mal-ħlas tad-dritt dovut, lil kull min jista' jitlobhom:

Izda għandha tingħata konsiderazzjoni dovuta għall-protezzjoni ta' kull informazzjoni kunfidenzjali u sigrieti tan-negozju.

Kap. 12. (6) L-atti kollha għandhom jiġu pprezentati, maħruġin u notifikati kif hemm fid-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, bla ħsara għal kull regola magħmula taħt dan l-Att, jew regolamenti magħmulin taħtu jew sakemm il-Ministru responsabbli għall-gustizzja b'regolamenti ma jippreskrivix xort' oħra.

Persunal u s-seduti tal-Bord għas-Soluzzjoni ta' Tilwim. 27. (1) Ir-Reġistratur għandu jipprovdi l-persunal meħtieġ biex jinżammu s-seduti tal-Bord għas-Soluzzjoni ta' Tilwim. L-uffiċjali li jiġu hekk nominati għandhom, fl-eżekuzzjoni tad-dmirijiet tagħhom, igawdu u jeżerċitaw dawk is-setgħat kollha li bihom huma vestiti bil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili l-uffiċjali li jwettqu dmirijiet bħal dawk.

Kap. 12.

(2) Is-seduti tal-Bord għas-Soluzzjoni ta' Tilwim għandhom, meta jkun hekk japplika, jinżammu f'dawk il-jiem u f'dawk il-ħinijiet li jistgħu jiġu stabbiliti mill-President fil-bini tal-Qrati f'Malta u, jew f'Għawdex jew f'kull post ieħor f'Malta u, jew f'Għawdex hekk kif il-President jista' jidhirlu xieraq fiċ-ċirkostanzi.

Setgħa ta' għemil ta' regolamenti dwar il-proċedura li għandha tiġi segwita fil-Bord għas-Soluzzjoni ta' Tilwim.

28. (1) Il-Bord għas-Soluzzjoni ta' Tilwim għandu jkollu s-setgħat u jsegwi l-proċeduri stabbiliti fid-dispożizzjonijiet ta' dan l-Att u ta' kull regolamenti magħmulin taħtu.

(2) Il-Ministru responsabbli għall-gustizzja jista' jagħmel regoli, li ma jkunux inkonsistenti ma' dan l-Att, u kull regolament magħmul taħthom, li jstipula l-proċeduri u l-forom li għandhom jiġu segwiti u użati fil-Bord għas-Soluzzjoni ta' Tilwim.

(3) Fin-nuqqas ta' dispożizzjonijiet jew regoli kif hawn qabel imsemmi, il-Bord għas-Soluzzjoni ta' Tilwim għandu jirregola l-proċeduri tiegħu stess.

Il-Bord għas-Soluzzjoni ta' Tilwim jista' jahtar esperti jew jeħtieġ kontribut minn korpi tas-settur pubbliku u jista' jharrek xhieda.

29. (1) Il-Bord għas-Soluzzjoni ta' Tilwim, meta jkun qed jisma' xi tilwima riferita lilu, jista':

(a) jeħtieġ lil xi korp tas-settur pubbliku jipprovdri informazzjoni jew jippreżenta kull rapport li l-Bord jidhirlu li jista' jkun meħtieġ biex jgħinu fid-deċiżjoni tat-tilwima msemmija; u, jew

(b) jahtar espert kwalifikat fl-oqsma li jaqgħu fi ħdan il-mandat tal-Bord, biex dan jirrapporta lill-Bord dwar kull aspett tat-tilwima riferita lill-Bord:

Izda l-Bord meta jkun qed jeħtieġ informazzjoni bħal dik u, jew xi rapport bħal dak, għandu jstabilixxi dawk it-termini u kondizzjonijiet li jista' jqis li jkunu raġonevoli fiċ-ċirkostanzi, inkluż fil-każ ta' xi rapport bħal dak li jista' jeħtieġ kif hawn f'dan l-artikolu, il-kwistjonijiet li dwarhom ikun qiegħed jintalab il-kontribut mill-korp jew espert imsemmija.

(2) Il-Bord għas-Soluzzjoni ta' Tilwim jista', permezz tal-President tiegħu, isejjaħ lil kull persuna biex tidher quddiemu u tixhed u gġib dokumenti, u l-President ikollu s-setgħa li jagħti l-gurament.

Dritt ta' appell quddiem il-Qorti tal-Appell.

30. (1) Kull parti għal xi tilwima li tiġi riferita lill-Bord għas-Soluzzjoni ta' Tilwim u li tħoss ruħha aggravata b'xi deċiżjoni mogħtija mill-Bord wara li dan jiddeċiedi xi tilwima riferita lilu, tista' tikkontesta xi punt ta' liġi f'dik id-deċiżjoni quddiem il-Qorti tal-Appell (Ġurisdizzjoni Inferjuri) kostitwita kif hemm fl-artikolu 41(6) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili b'rikors ipprezentat fir-reġistru ta' dik il-qorti fi żmien għoxrin jum mid-data tad-deċiżjoni tal-Bord għas-Soluzzjoni ta' Tilwim.

Kap. 12.

(2) Il-Ministru responsabbli għall-gustizzja jista' b'regolamenti taħt dan is-subartikolu jistabbilixxi l-hlasijiet dovuti fir-reġistru tal-qorti għall-prezentata ta' atti għudizzjarji f'konnessjoni ma' appelli taħt dan l-artikolu:

Iżda sakemm dawk il-hlasijiet jiġu hekk stabbiliti, għandhom japplikaw id-drittijiet fl-Iskeda A li tinsab mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Kap. 12.

Jekk isir appell minn deċiżjoni din tibqa' tghodd sakemm il-Qorti tal-Appell ma tiddeċidix mod ieħor.

31. (1) Id-deċiżjoni tal-Bord għas-Soluzzjoni ta' Tilwim għandha, pendent appell quddiem il-Qorti tal-Appell (Ġurisdizzjoni Inferjuri), tibqa' tghodd u tiġi segwita mill-partijiet kollha li d-deċiżjoni tkun tapplika għalihom.

(2) Il-Qorti tal-Appell (Ġurisdizzjoni Inferjuri) tista', meta tħoss li jkun hekk xieraq, wara li jsirilha rikors minn xi parti fl-appell, tissospendi għal kollox jew parzjalment id-deċiżjoni li tkun qiegħda tiġi appellata sakemm jinqata' l-appell. Meta l-Qorti tal-Appell (Ġurisdizzjoni Inferjuri) tkun qiegħda tiddeċiedi jekk għandhiex tissospendi jew le d-deċiżjoni, hija għandha tiddikjara r-raġunijiet tagħha u għandha tiegħu konsiderazzjoni taċ-ċirkostanzi rilevanti kollha, inklużi:

(a) l-urġenza tal-kwistjoni,

(b) l-effett fuq il-parti li tagħmel it-talba jekk ir-rikors għal sospensjoni ma jintlaqax, u

(ċ) l-effett fuq il-kompetizzjoni u, jew fuq l-utenti finali li kieku r-rikors jintlaqa’:

Iżda meta parti tkun qiegħda tagħmel ir-rikors taħt dan l-artikolu, hija għandha tiddikjara r-raġunijiet fattwali u legali li jistabbilixxu l-każ *prima facie* għas-sospensjoni tad-deċiżjoni. Il-Qorti tal-Appell (Ġurisdizzjoni Inferjuri) għandha, kif jista’ jkun il-każ, meta tircievi xi rikors bħal dak tordna n-notifika tiegħu lill-parti jew partijiet l-oħra fl-appell filwaqt li tagħtihom opportunità raġonevoli biex iressqu r-risposta tagħhom għalih:

Iżda wkoll il-Qorti tal-Appell (Ġurisdizzjoni Inferjuri) meta tkun qiegħda tiddeċiedi xi rikors bħal dak tista’ tinkludi dawk il-kondizzjonijiet li tqis meħtieġa fiċ-ċirkostanzi.

It-termini sa meta tiġi deċiża tilwima jistgħu jiġu estiżi f’ċirkostanzi eċċezzjonali.

32. F’dawk il-każijiet fejn l-Att jistabbilixxi li l-itwal termini għas-soluzzjoni ta’ tilwima riferita lill-Bord għas-Soluzzjoni ta’ Tilwim jistgħu f’ċirkostanzi eċċezzjonali jiġu estiżi u l-Bord jiddeċiedi li jestendi t-terminu, il-Bord għandu javża bil-miktub lill-partijiet kollha fit-tilwima kif xieraq, filwaqt li jiddikjara r-raġunijiet għall-estensjoni tat-terminu, il-perjodu ta’ estensjoni u meta jkun qiegħed jipprevedi lit-tilwima tinqata’.

Dritt għal rimedju ċivili fil-qrati ordinarji.

33. Id-dritt li tilwima tiġi riferita taħt dan l-Att lill-Bord għas-Soluzzjoni ta’ Tilwim għandu jkun minghajr preġudizzju għal rimedju ċivili, inklużi talbiet għal danni sofferti, li parti tista’ tkun intitolata li tfittex bil-ligi fil-qrati ordinarji.

Setgħat tal-Bord għas-Soluzzjoni ta’ Tilwim. Kap. 12.

34. (1) Il-Bord għas-Soluzzjoni ta’ Tilwim għandu jkollu dawk is-setgħat kollha li huma, bis-saħħa tal-Kodiċi ta’ Organizzazzjoni u Proċedura Ċivili, vestiti fil-Prim’Awla tal-Qorti Ċivili.

Kap. 12.

(2) L-infurzar tad-deċiżjonijiet tal-Bord għas-Soluzzjoni ta’ Tilwim bil-mod previst fil-Kodiċi ta’ Organizzazzjoni u Proċedura Ċivili, għandu jkun ivesti fil-Bord innifsu.

(3) Meta jiddeċiedi tilwima taht it-Taqsima III ta' dan l-Att, il-Bord għas-Soluzzjoni ta' Tilwim jista', fejn iqis li parti fit-tilwima naqset b'mod frivolu jew vessatorju li taderixxi ma' xi obbligu taht din it-Taqsima, jitlob lir-regolatur kompetenti ta' utilitajiet biex jieħu dawk il-miżuri li tali regolatur jista' skont il-poteri tiegħu fil-liġi, iqis li huma xierqa fiċ-ċirkustanzi, inkluż l-impożizzjoni ta' penalitajiet amministrattivi:

Izda meta jiġi biex jiddeċiedi x'miżuri għandu jieħu, jekk jieħu, ir-regolatur kompetenti għandu jqis jekk tali att jew ommissjoni jimpatta b'mod negattiv fuq l-ispiza għall-installazzjoni ta' *networks* tal-komunikazzjonijiet elettronici b'veloċità għolja.

Avviż dwar tilwim, eċċ., lir-regolatur kompetenti tal-infrastruttura u lill-Awtorità ta' Malta dwar il-Komunikazzjoni.

35. Kull persuna li tippreżenta tilwima quddiem il-Bord għas-Soluzzjoni ta' Tilwim jew appell minn deċiżjoni mogħtija mill-Bord fil-Qorti tal-Appell (Ġurisdizzjoni Inferjuri), għandha minnufih tavża bil-miktub lir-regolatur kompetenti tal-infrastruttura u lill-Awtorità ta' Malta dwar il-Komunikazzjoni b'dik it-tilwima jew appell kif jista' jkun il-każ.

Konformità mad-deċiżjonijiet mahruġin mill-Bord għas-Soluzzjoni ta' Tilwim.

36. (1) Parti tista' titlob bil-miktub lill-Awtorità ta' Malta dwar il-Komunikazzjoni biex tieħu dawk il-miżuri li l-Awtorità b'mod konformi mas-setgħat tagħha mogħtijin bil-liġi tista' tqis li jkunu xierqa, sabiex jiġi żgurat li deċiżjoni mahruġa mill-Bord għas-Soluzzjoni ta' Tilwim tiġi mharsa:

Izda meta tagħmel dan il-parti involuta għandha tiddikjara r-raġunijiet tagħha għaliex hija tqis li jkun meħtieġ li l-Awtorità għandha tintervjeni biex tiżgura li jkun hemm konformità:

Izda wkoll kull talba bħal dik tista' biss tiġi ppreżentata jekk il-parti aggravata turi għas-sodisfazzjon tal-Awtorità li kull kontinwità ta' nuqqas ta' konformità mad-deċiżjoni tista' jkollha impatt hażin fuq il-provdiment tagħha ta' servizzi ta' komunikazzjonijiet elettronici u, jew *networks*.

(2) L-Awtorità ta' Malta dwar il-Komunikazzjoni tista' b'inizjattiva tagħha stess tidhol għal dawk il-mizuri b'mod konformi mas-setgħat tagħha li tagħtiha l-ligi jekk din tqis li l-kontinwità ta' nuqqas ta' konformità ta' deċiżjoni maħruġa mill-Bord għas-Soluzzjoni ta' Tilwim tkun qiegħda tagħmel impatt hazin fuq il-provdiment ta' servizzi ta' komunikazzjonijiet elettroniċi f'Malta.

TAQSIMA V

Mixxellanji

Setgħa li jsiru regolamenti.

37. (1) Kemm-il darba ma jiġix provdut xort'oħra f'dan l-Att, il-Ministru responsabbli għall-infrastruttura jista', b'inizjattiva tiegħu jew meta jqis li jkun hekk meħtieġ wara konsultazzjoni ma' kull Ministru iehor jew Ministri oħra responsabbli għal korpi oħra fis-settur pubbliku, jagħmel, jibdel jew jirrevoka kull regolament dwar materji ttrattati taħt dan l-Att jew meħtieġa biex jitwettaq dan l-Att inkluż imma mhux limitat għal dan li ġej:

(a) kull haġa li jkollha x'taqsam mad-dritt ta' passagġ inklużi l-ħlasijiet li jistgħu jintalbu għal dawk id-drittijiet; u, jew

(b) il-mod li bih xi trinka, foss, arblu, vent, brazz jew xi aċċessorju essenzjali iehor li jkollu x'jaqsam mal-enerġija elettrika fissa u, jew *network* ta' komunikazzjonijiet elettroniċi f'Malta għandhom jiġu maqtugħa, imqiegħda, imtelligħin jew armati u b'mod ġenerali biex jiħaddmu sew dawk in-*networks*, ikunu kif ikunu deskritti.

(2) Kull min jikser xi regolament magħmul taħt dan l-artikolu jehel multa ta' mhux iżjed minn għaxart elef euro (€10,000).

Notifika tal-avviż.

38. Kemm-il darba ma jiġix provdut xort'oħra f'dan l-Att, kull notifika tal-avviż, jissejjaħ kif jissejjaħ, li għandha tingħata lil xi persuna kif hawn f'dan l-Att għandha tiġi indirizzata lil dik il-persuna u għandha tingħata lill-persuna involuta b'xi wieħed minn dawn il-modi li ġejjin:

(a) billi din tinghata lill-persuna nnifisha;

(b) billi din tithalla fl-indirizz fejn il-persuna tkun soltu tirisjedi jew tmexxi n-negozju tagħha;

(c) billi din tintbagħat bil-posta registrata lill-persuna fl-indirizz fejn il-persuna tkun soltu tirisjedi jew tmexxi n-negozju tagħha;

(d) jekk ikun gie provdut indirizz għan-notifika tal-avvizi mill-persuna, billi tiġi kkunsinnata, jew mibgħuta bil-posta registrata u indirizzata lill-persuna f'dak l-indirizz;

(e) f'kull każ meta tkun meħtieġa notifika immedjata tal-avviż, billi din tintbagħat, permezz ta' magna *facsimile* jew bil-posta elettronika, lejn xi mezz jew faċilità li fuqhom jiġu riċevuti messaġġi *facsimile* jew bil-posta elettronika u li jkunu jinsabu fl-indirizz fejn il-persuna tkun soltu tirisjedi jew tmexxi n-negozju tagħha jew, jekk ikun inghata mill-persuna indirizz għan-notifika ta' avvizi, f'dak l-indirizz, sakemm il-magna tal-*facsimile* tal-mittent tkun tiġġenera messaġġ li jkun jikkonferma li t-trasmissjoni tal-għadd totali ta' paġni tal-avviż tkun irnexxiet jew sakemm il-faċilità tal-mittent li tirċievi posta elettronika tiġġenera messaġġ li jikkonferma li l-posta elettronika tkun giet riċevuta:

Iżda d-dispożizzjonijiet ta' dan il-paragrafu m'għandhomx japplikaw għan-notifika ta' dokumenti pprezentati quddiem it-Tribunal, il-Bord għas-Soluzzjoni ta' Tilwim jew xi qorti tkun kif tkun imsejha.

39. Il-Ministru jista', fejn hu adatt, fuq parir ta' jew wara konsultazzjoni mar-regolatur jew regolaturi kompetenti ta' infrastruttura u, jew mar-regolatur jew regolaturi kompetenti ta' utilitajiet, b'avviż legali jnaqqas it-termini ta' żmien imsemmija fl-artikolu 14(3), l-artikolu 15(2) jew l-artikolu 15(4):

Il-Ministru jista' jvarja, ċerti termini ta' żmien li hemm fit-Taqsima III.

Iżda qabel ma jagħmel hekk il-Ministru għandu jagħmel konsultazzjoni pubblika u jqis kull sottomissjoni li tista' ssir matul konsultazzjoni ta' din ix-xorta."

Żjieda ta' skedi
għodda mal-Att
prinċipali.

19. Minnufih wara l-artikolu 39, kif miżjud mal-Att prinċipali, għandhom jiżdiedu l-iskedi għodda li ġejjin:

"L-EWWEL SKEDA

(Artikolu 2)

Kif hemm fid-dispożizzjonijiet tal-artikolu 2 ta' dan l-Att, fil-kuntest tat-tifsira tal-kliem "regolatur kompetenti ta' infrastruttura" dan il-korp tas-settur pubbliku li ġej qiegħed jiġi nominat bhala "regolatur kompetenti ta' infrastruttura":

L-Awtorità għat-Trasport f'Malta ("TM").

IT-TIENI SKEDA

(Artikolu 2)

Kif hemm fid-dispożizzjonijiet tal-artikolu 2 ta' dan l-Att, fil-kuntest tat-tifsira tal-kliem "regolatur kompetenti ta' utilitajiet" dawn il-korpi tas-settur pubbliku li ġejjin qegħdin jiġu nominati bhala "regolaturi kompetenti ta' utilitajiet":

(1) L-Awtorità ta' Malta dwar il-Komunikazzjoni ("MCA") hija responsabbli għar-regolament ta' servizzi ta' komunikazzjonijiet elettronici u *networks*;

(2) Ir-Regolatur għall-Energija u Servizzi tal-Ilma ("REWS") huwa responsabbli għar-regolament tas-servizzi tal-enerġija u *networks* relattivi u għar-regolament tas-servizzi tal-ilma u *networks*; u

(3) L-Awtorità għat-Trasport f'Malta ("TM") hija responsabbli għall-eżerċizzju ta' funzjonijiet regolatorji li għandhom x'jaqsmu mat-toroq u mat-trasport bl-ajru, bil-ferrovija, bit-triq jew bil-baħar.

IT-TIELET SKEDA

(Artikolu 21)

Regolamenti elenkati kif hemm fid-dispożizzjonijiet tal-artikolu 21 ta' dan l-Att:

Ir-Regolamenti dwar *Networks* u *Servizzi* ta' Komunikazzjonijiet Elettroniċi (Ġenerali) (L.S. 399.28).

IR-RABA' SKEDA

(Artikolu 24)

Ir-remunerazzjoni li tithallas lill-President fejn il-hatra tkun ta' persuna li hi *ex-imħallef* jew *ex-maġistrat*, u liż-żewġ membri ordinarji tal-Bord għas-Soluzzjoni ta' Tilwim għandha tkun kif ġej:

(1) Fil-każ tal-President għal:

- l-ewwel siegħa ta' seduta jew parti minnha ħamsa u sebghin euro (€75), u
- kull siegħa li tiġi wara jew parti minnha ħamsa u sittin euro (€65).

(2) Fil-każ ta' membru ordinarju għal:

- l-ewwel siegħa jew parti minnha sittin euro (€60), u
- kull siegħa li tiġi wara jew parti minnha ħamsin euro (€50).

Iżda fil-każ ta' seduti li jinżammu barra mill-post indikat biex jinżammu s-seduti tal-Bord, id-dritt dovut lill-President u lill-membri ordinarji għandu jiżdied b'għaxar euro (€10) għal kull siegħa jew parti minnha."

20. Il-ligijiet fl-Ewwel Kolonna tal-Iskeda li tinsab ma' dan l-Att għandu jkollhom effett soġġetti għall-emendi li jidhru biswithom fit-Tieni Kolonna tal-Iskeda msemmija.

Emendi għal ligijiet oħra.

SKEDA

Emendi għal-Liġijiet

L-Ewwel Kolonna

It-Tieni Kolonna

Liġi

Emendi magħmulin

Att biex Jirregola
Komunikazzjoni-
jiet Elettronici.
Kap. 399.

1. L-artikolu 12 tiegħu għandu jiġi sostitwit b'dan li
gej:

"Kif tiġi
imposta l-
parteċipazzjoni
f'obbligi fis-
sistema tal-fili.

12. L-Awtorità tista', kif ikun mehtieg, timponi obbligi fir-rigward tal-parteċipazzjoni fis-sistema tal-fili go kull bini jew sal-ewwel punt ta' koncentrazzjoni jew distribuzzjoni fejn dan ikun jinsab 'il barra mill-bini, fuq impriza li tkun qed tipprovdi *networks* ta' komunikazzjonijiet elettronici li jkollha d-dritt li tinstalla faċilitajiet fuq, ma' jew taht proprjeta' pubblika jew privata, u jew fuq is-sid ta' dik is-sistema tal-fili, meta dan ikun iggustifikat fuq il-bazi li d-duplikazzjoni ta' dik l-infrastruttura tkun ekonomikament inefficjenti jew ma tkunx fizikament prattikabbi:

Izda dawk l-arrangamenti ta' parteċipazzjoni jew koordinament għandhom ikunu jinkludu regoli għat-tqassim tan-nefqa għal parteċipazzjoni tal-facilita' jew tal-proprjeta' aggstata għar-riskju mittiehed meta dan ikun adatt."

2. Minnufih wara l-artikolu 12 tiegħu għandu jizdied l-artikolu gdid li gej:

"Access għal
infrastruttura
fizika fil-bini.
Kap. 81.

12A. (1) Id-dispozizzjonijiet tal-artikolu 2 tal-Att dwar ir-Regolament ta' Certi Xoghlijiet f'Utilitajiet u Servizzi għandhom, kemm-il darba ma jigix provdut xort'ohra, japplikaw rigward id-dispozizzjonijiet ta' dan l-artikolu.

(2) Id-detentur ta' dritt li jintuza l-punt ta' access u l-infrastruttura fizika fil-bini għandu jkun konformi mat-talbiet kollha ragonevoli għall-access mill-intraprizi taht termini u kondizzjonijiet imparzjali u mhux diskriminatorji, inkluż il-prezz, fejn adatt.

(3) Impriza jkollha d-dritt:

(a) li torganizza *n-network* tagħha bi spejjez tagħha sal-punt ta' access; u

(b) li jkollha aċċess għal kwalunkwe infrastruttura fiżika eżistenti fil-bini bil-ħsieb li jiġi installat *network* ta' komunikazzjonijiet elettronici b'veloċità għolja jekk id-duplikazzjoni tkun teknikament impossibbli jew ekonomikament inefficjenti:

Iżda jekk l-aċċess imsemmi fil-paragrafi (a) jew (b) ma jinkisibx fi żmien xahrejn mid-data tar-riċevuta tat-talba formali bil-miktub għal aċċess, għaldaqstant parti aggravata tista' tirreferi t-tilwima lill-Bord għas-Soluzzjoni ta' Tilwim sabiex dan jevalwa l-konformità mal-ħtiġiet stabbiliti fil-paragrafi hawn qabel imsemmija.

(4) Il-Bord għas-Soluzzjoni ta' Tilwim għandu, meta jkun qed jisma' xi tilwima riferita lilu kif hawn f'dan l-artikolu, iqis għal kollox il-prinċipju ta' proporzjonalità, joħroġ deċiżjoni li torbot biex jirrisolvi t-tilwima mressqa fl-iqsar żmien possibbli u f'kull każ fi żmien xahrejn mid-data meta tiġi riċevuta t-talba kompluta hlief f'ċirkostanzi eċċezzjonali kif hemm fl-artikolu 32 tal-Att dwar ir-Regolament ta' Ċerti Xogħlijiet f'Utilitajiet u Servizzi.

Kap. 81.

(5) L-Awtorità tista', wara li tkun ikkonsultat ma' xi regolatur jew regolaturi oħra tal-utilità kif jista' jkun il-każ u ma' kull korp ieħor jew korpi tas-settur pubbliku li jistgħu jitqiesu meħtieġa fiċ-ċirkostanzi, tagħmel eżenzjonijiet mill-obbligi li hemm provdut dwarhom fis-subartikolu (3) għal bini fejn l-aċċess għal *network* eżistenti li t-terminazzjoni tiegħu tkun fejn jinsabu l-utenti aħħarin u li hi xierqa għall-forniment ta' servizzi tal-komunikazzjoni elettronika b'veloċità għolja, jiġi żgurat b'mod konformi ma' termini u kondizzjonijiet oġġettivi, trasparenti, proporzjonati u mhux diskriminatorji.

(6) Fin-nuqqas ta' infrastruttura diġà installata fil-bini għal b'*broadband* veloċità għolja, imprima tista' tittermina n-*network* tagħha fil-bini tal-abbonat bla hsara għall-qbil tal-abbonat dment li dan inaqqas kemm jista' jkun l-impatt fuq il-proprjetà privata ta' partijiet terzi.

(7) Id-dispożizzjonijiet ta' dan l-artikolu huma mingħajr preġudizzju għad-dritt għall-proprjetà tas-sid tal-punt ta' aċċess jew tal-infrastruttura fiżika fil-bini, f'dawk il-każijiet meta d-detentur ta' dritt għall-użu ta' dik l-infrastruttura jew dak il-punt ta' aċċess ma jkunx is-sid tiegħu, u għad-dritt għall-proprjetà ta' partijiet terzi ohra bhala sidien tal-artijiet u sidien tal-bini.

(8) Persuna li ssofri danni bhala rizultat tal-eżerċizzju tad-drittijiet taht dan l-artikolu għandu jkollha jedd għal kumpens finanzjarju adegwat b'mod konformi mal-liġijiet nazzjonali li jkunu japplikaw."

Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni. Kap. 418.

3. L-artikolu 4 tiegħu għandu jiġi emendat kif ġej:
 - (a) is-subartikolu (13) tiegħu għandu jiġi mħassar; u
 - (b) is-subartikolu (14) tiegħu għandu jiġi enumerat mill-ġdid bhala s-subartikolu (13).
4. Is-subartikolu (1) tal-artikolu 31 tiegħu għandu jiġi emendat kif ġej:
 - (a) minflok il-kliem "jew li tonqos milli thares xi deċiżjoni mogħtija mill-Awtorità jew xi kundizzjoni ta' awtorizzazzjoni:" għandhom jidhlu l-kliem "jew li tonqos milli thares xi deċiżjoni mogħtija mill-Awtorità jew xi deċiżjoni mogħtija mill-Bord għas-Soluzzjoni ta' Tilwim għal *Networks* dwar l-Utilitajiet meta l-Awtorità tqis li n-nuqqas ta' tharis minn xi persuna ta' dik id-deċiżjoni jista' jkollha impatt hażin fuq il-provdiment ta' servizzi ta' komunikazzjonijiet elettronici jew *networks*, jew fuq xi kondizzjoni ta' awtorizzazzjoni:" u
 - (b) minnufih wara l-paragrafu (c) tiegħu għandu jiżdied il-proviso ġdid li ġej:

"Izda referenza għal deċiżjoni mogħtija mill-Bord għas-Soluzzjoni ta' Tilwim għal *Networks* dwar l-Utilitajiet tinkludi kull deċiżjoni tal-Bord li jsir appell minnha quddiem il-Qorti tal-Appell imma li ma tkunx għet sospiża mill-Qorti tal-Appell, u kull deċiżjoni tal-Qorti tal-Appell wara appell minn xi deċiżjoni tal-Bord."

5. L-artikolu 46 tiegħu għandu jiġi emendat kif ġej:
- (a) L-artikolu 46 għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tal-imsemmi artikolu; u
 - (b) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jizdied is-subartikolu ġdid li ġej:

"(2) Il-Ministru jista', wara konsultazzjoni mal-Awtorità, b'ordni fil-Gazzetta jelenka fit-Tieni Skeda kull leġislazzjoni tal-Unjoni Ewropea tkun kif tkun deskritta jew xi parti minnha li tkun direttament tapplika għal Malta, u għaladarba dik il-leġislazzjoni tiġi hekk elenkata din għandha titqies li tkun ligi infurzata mill-Awtorità b'mod konformi mas-setgħat taħt it-Taqsima VI:

Izda l-Ministru jista', wara konsultazzjoni mal-Awtorità, b'ordni fil-Gazzetta jemenda dik il-lista."

6. L-Iskeda li tinsab mal-Att għandha tiġi enumerata mill-ġdid bħala l-Ewwel Skeda.

7. Minnufih wara l-Ewwel Skeda li tinsab mal-Att, kif enumerata mill-ġdid, għandha tiżdied l-Iskeda ġdida li ġejja:

"IT-TIENI SKEDA

(Artikolu 46(2))

Din il-leġislazzjoni li ġejja qiegħda tiġi elenkata kif hemm fid-dispożizzjonijiet tal-artikolu 46(2):

- (i) Ir-Regolament (UE) Nru 531/2012 tal-Parlament Ewropew u tal-Kunsill tat-13 ta' Ġunju 2012 dwar *roaming* fuq netwerks pubbliċi ta' komunikazzjonijiet mobbli fi hdan l-Unjoni; u

(ii) Ir-Regolament (UE) Nru 2015/2120 tal-Parlament Ewropew u tal-Kunsill tal-25 Novembru 2015 li jstabbilixxi miżuri dwar l-aċċess għall-internet miftuħ u li jemenda d-Direttiva 2002/22/KE dwar is-servizz universali u d-drittijiet tal-utenti li jirrelataw ma' netwerks ta' komunikazzjonijiet elettronici u servizzi u r-Regolament (UE) Nru 531/2012 dwar *roaming* fuq netwerks pubbliċi ta' komunikazzjonijiet mobbli fi hdan l-Unjoni."

Att dwar l-Awtorità għat-Trasport f'Malta. Kap. 499.

8. L-artikolu 47 tiegħu għandu jiġi emendat kif ġej:
- (a) minflok in-nota marginali għandu jidhol dan li ġej:
- "Pieni amministrattivi."; u
- (b) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:
- "(1) Kemm-il darba ma jingħadx xort'ohra fil-liġi, l-Awtorità għandu jkollha s-setgħa li timponi, fuq kull persuna li tikser xi dispozizzjoni ta' dan l-Att, ta' regolamenti magħmulin tahtu, jew ta' dawk id-dispożizzjonijiet tal-Att dwar ir-Regolament ta' Ċerti Xoghlijiet f'Utilitajiet u Servizzi, li l-Awtorità għandha s-setgħa li tinforza, jew li tonqos milli thares xi direttiva, deċiżjoni jew ordni tkun kif tkun deskritta mogħtija mill-Awtorità, piena amministrattiva billi tuża dawk il-proċeduri li jistgħu jiġu stabbiliti f'dan l-Att jew f'regolamenti magħmulin tahtu."
-

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 371 tal-4 ta' April, 2016.

ANGLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

**MARIE LOUISE
COLEIRO PRECA
President**

12th April, 2016

ACT No. XVIII of 2016

AN ACT to amend the Utilities and Services (Regulation of Certain Works) Act, to implement measures to reduce the cost of deployment of high-speed electronic communications networks, to make provision with respect to matters ancillary thereto or connected therewith and to provide for certain measures relating to electronic communications.

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. 81.

1. (1) The short title of this Act is the Utilities and Services (Regulation of Certain Works) (Amendment) Act, 2016, and this Act shall be read and construed as one with the Utilities and Services (Regulation of Certain Works) Act, hereinafter referred to as "the principal Act".

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

Purpose.

2. The purpose of this Act is to amend the Utilities and Services (Regulation of Certain Works) Act, to implement Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks, the regulation of certain works in connection with utilities and other services, and to amend other

existing laws that relate to such measures and to the provision of electronic communications services.

3. Immediately before article 1 of the principal Act there shall be added the following new heading:

Addition of heading immediately before article 1 of the principal Act.

**"PART I
Preliminary".**

4. Article 2 of the principal Act shall be substituted by the following:

Substitution of article 2 of the principal Act.

"Interpretation.

2. (1) In this Act unless the context otherwise requires:

"access point" means a physical point, located inside or outside the building, accessible to undertakings providing or authorized to provide public communications networks, where connection to the high-speed-ready in-building physical infrastructure is made available;

"bodies governed by public law" means bodies that have all of the following characteristics:

(a) they are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;

(b) they have legal personality;
and

(c) they are financed, in full or for the most part, by the State, or regional or local authorities, or by other bodies governed by public law; or are subject to management supervision by those authorities or bodies; or have an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities or by other bodies governed by public law;

"civil works" means every outcome of building or civil engineering works taken as a whole which is sufficient of itself to fulfil an economic or technical function and entails one or more elements of a physical infrastructure;

"competent authority for permit granting" or "competent authorities for permit granting" means such public sector body or bodies responsible for the granting of civil works permits;

"competent infrastructure regulator" or "competent infrastructure regulators" means such public sector body or bodies responsible for the infrastructure regulation as may be listed in the First Schedule, which Schedule may from time to time be amended by the Minister responsible for infrastructure by means of a notice in the Gazette;

"competent utility regulator" or "competent utility regulators" means any such public sector body or bodies responsible at law for the regulation of those utility services listed in accordance with the Second Schedule, which list shall state the authority responsible for the regulation of each of the different utility services and, where applicable the networks therein listed:

Provided that this Schedule may from time to time be amended by the Prime Minister by notice in the Gazette;

"Dispute Resolution Board" or "Board" means the Utilities Networks Dispute Resolution Board established under Part IV;

"electronic communications network" and "electronic communications service" shall respectively have the same meaning as under the Electronic Communications (Regulation) Act;

Cap. 399.

"energy" includes electrical energy, fuel, heat when transmitted as a commercial activity, and energy derived from renewable sources;

"high-speed electronic communications network" means an electronic communications network which is capable of delivering broadband access services at speeds of at least thirty Mbps:

Provided that the Minister responsible for electronic communications may by notice in the Gazette vary such speeds;

"high-speed-ready in-building physical infrastructure" means in-building physical infrastructure intended to host elements or enable delivery of high-speed electronic communications networks;

"in-building physical infrastructure" means physical infrastructure or installations at the end-user's location, including elements under joint ownership, intended to host wired and, or wireless access networks, where such access networks are capable of delivering electronic communications services and connecting the building access point with the network termination point;

"major renovation works" means building or civil engineering works at the end-user's location encompassing structural modifications of the entire in-building physical infrastructure or a significant part thereof, including the common parts, and requiring a building permit;

"network" means any physical infrastructure utilised by a network operator;

"network operator" means an undertaking providing or authorized to provide public communications networks as well as an undertaking providing a physical infrastructure intended to provide:

(a) a service of production, transport or distribution of:

(i) gas;

(ii) electricity, including public lighting;

(iii) heating;

(iv) water, including disposal or treatment of waste and sewage, and drainage services;

(b) transport services, including railways, roads, ports and airports;

"owner" includes occupier and user;

"permit" means an explicit or implicit decision of a competent authority for permit granting following any procedure under which an undertaking is required to take steps in order to legally carry out building or civil engineering works;

"physical infrastructure" means any element of a network which is intended to host other elements of a network without becoming itself an active element of the network, including but not limited to, pipes, masts, ducts, inspection chambers, manholes, cabinets, buildings or entries to buildings, antenna buildings, towers and poles:

S.L. 449.57

Provided that cables, including dark fibre, as well as elements of networks used for the provision of water intended for human consumption as defined in regulation 3 of the Water Intended for Human Consumption Regulations are not physical infrastructure within the meaning of this Act;

"public sector body" means a state, regional or local authority, a body governed by public law or an association formed by one or several such authorities or one or several such bodies governed by public law;

"Single Information Point" means the public entity appointed under article 19 to perform the functions of a single point of contact;

"tenement" means any tenement whether private or public and includes any road, path, building or construction however so described, or water;

Cap. 490.

"Tribunal" means the Administrative Review Tribunal established by article 5 of the Administrative Justice Act;

"undertaking" means, unless stated otherwise in this Act, an undertaking providing or authorized to provide public communications networks;

"utilities" includes electronic communications services, gas, electricity including public lighting, heating, water including disposal or treatment of waste and sewage, and drainage systems, transport services including roads, ports and airports, and such other services as the Minister responsible for infrastructure may by notice in the Gazette designate as "utilities" for the purposes of this Act; and

"Utilities Committee" means the Utilities Services Advisory Committee established under article 22.

(2) For the words "the Authority for Transport in Malta", wherever they occur in the principal Act, there shall be substituted the words "the competent infrastructure regulator".

5. Article 3 of the principal Act shall be deleted.

Deletion of article 3 of the principal Act.

6. Immediately before article 4 of the principal Act there shall be added the following new heading:

Addition of heading to the principal Act.

"PART II

Regulation of Utilities' Infrastructure Access"

7. Article 4 of the principal Act shall be substituted by the following:

Substitution of article 4 of the principal Act.

"Power to order placing of cable, etc.

4. For the purposes of this Act, it shall be lawful for the competent infrastructure regulator to order that cables and wires be placed or other works be carried out either below, above, by the side of or in any building, entry to or common parts of any building or tenement and that trenches, pits, poles, stays, brackets and all other accessories essential to the proper working of the networks be cut, placed, erected in or affixed to or within any building, entry to or common area of any building or any tenement; and any such order shall be notified to the owner of the said tenement at least ten days prior to the carrying out of any of the works aforesaid."

8. Immediately after article 4 of the principal Act there shall

Addition of new articles to the principal Act.

be added the following new articles:

"Power to
order
collocation, etc.

4A. (1) The competent infrastructure regulator may order the collocation, use or sharing of the same facilities on, over or under public or private property in relation to any cables, wires, physical infrastructure or other accessories, however so described, used or to be used for the provision of any utilities by a provider of any such utilities in any buildings, common areas, entries to buildings, trenches, pits, ducts, conduits, manholes, cabinets or on any poles, masts, antennae, towers or other supporting constructions, stays or brackets, cut, placed, erected or affixed by another provider of any such utilities:

Provided that the competent infrastructure regulator may order the taking of such measures as it may consider necessary to facilitate the coordination of public works in order to protect the environment, public health, public security or to meet town planning and country objectives. In doing so the competent infrastructure regulator may also provide for rules of apportioning the costs of facility or property sharing.

(2) An order under sub-article (1) may be issued by the competent infrastructure regulator acting of its own initiative or following the written request of a competent utility regulator who considers the issue of such an order necessary for the provision of a utility service:

Provided that before deciding whether to issue an order, the competent infrastructure regulator shall where appropriate in writing consult with the competent utility regulator or regulators as the case may be:

Provided further that no such order shall be issued if it relates to a dispute lodged before the Dispute Resolution Board under this Act, or to an appeal before the competent appellate forum contesting a final decision issued by that Board on any such dispute lodged before it.

(3) The competent infrastructure regulator shall notify any order made under sub-article (1) to the provider of the utility service impacted by the order of collocation, and to any other persons as it may consider appropriate in the circumstances where it considers that such persons may have an interest in knowing about the issue of the order, at least ten days prior to the carrying out of any of the works aforesaid:

Provided that the competent infrastructure regulator shall before issuing any such order afford such reasonable opportunity as it may consider appropriate in the circumstances to all interested persons to express their views in writing.

(4) Any measures taken by the competent infrastructure regulator in accordance with this article shall be objective, transparent, non-discriminatory, and proportionate, and where appropriate, these measures shall be carried out in coordination with the competent utility regulator or regulators and any other relevant public sector body.

Coming into
effect of orders,
etc.

4B. An order issued in accordance with article 4 or article 4A shall have effect immediately on the lapse of the tenth day following its notification; and the recipient of the order shall thereupon fully, immediately and properly, implement the same or allow the full, immediate and proper implementation thereof, and shall refrain from causing or continuing to cause any impediment or hindrance to the said implementation:

Provided that the implementation of any such order shall not be impeded, restricted or delayed by reason of any claim for charges made by the recipient of the order.

Charging for collocation and dispute related thereto.

4C. (1) The recipient of an order made under article 4A shall be allowed to charge for the collocation or the use of the facilities affixed or erected by it at rates based on reasonable relevant costs. Charges for collocation or use of the same facilities shall be cost-oriented and shall not include charges for overheads such as marketing, personnel or maintenance costs, other than those directly incurred on the facilities used.

(2) The recipient of an order made under article 4A shall submit its charges to the provider collocating or making use of the facilities affixed or erected by the said recipient within thirty days of commencement of collocation or use as aforesaid:

Provided that if the provider collocating or making such use disagrees with such charges it may, within twenty days of receipt of the same, make a dispute before the Dispute Resolution Board which Board shall resolve any such dispute within the shortest time frame and in any case within two months from the date of receipt of the dispute except in exceptional circumstances in accordance with the provisions of article 32.

(3) The competent infrastructure regulator may, following consultation in writing with the competent utility regulator or regulators, upon application by the recipient of an order made under article 4A, order the person allowed to collocate or to make use of the facilities affixed or erected by the said recipient to provide security for the payment of charges due hereunder in respect of such collocation or use in an amount and in such form as may be determined by the competent infrastructure regulator.

Exercise of functions by the competent infrastructure regulator.

4D. The competent infrastructure regulator in the exercise of its functions under this Act shall:

(a) act on the basis of simple, efficient, transparent and publicly available procedures, applied without discrimination and without delay, and shall in any case make a decision within four months from the application date;

(b) follow the principles of transparency and non-discrimination in attaching conditions to any rights it may grant to a utility service provider; and

(c) give reasons for its decisions:

Provided that the competent infrastructure regulator shall, in relation to any fees it may be authorized to impose by or under this Act relating to such works, ensure that fees are objectively justified, transparent, non-discriminatory and proportionate in relation to their intended purpose:

Provided further that the competent infrastructure regulator shall, in relation to amendments that it may consider making to any rights, conditions and procedures relating to such works, ensure that any amendment is only made in objectively justified cases and in a proportionate manner. Before making any such amendment, the competent infrastructure regulator shall give notice in such manner as it considers appropriate of its intention, inviting interested parties including users and consumers, to make representations on the proposed amendments within a period of not less than thirty days as may be specified in the notice. The competent infrastructure regulator may in those circumstances which it considers to be exceptional, shorten such period:

Provided further that the competent infrastructure regulator shall in writing consult with the competent utility regulator or regulators in relation to amendments that it may consider making to collocation orders which were previously issued.

Contestation of a regulatory decision.

4E. A person or a competent utility regulator aggrieved by any regulatory decision however so described taken under this Part may appeal to the Tribunal:

A 746

Provided that any such person in appealing shall explain his juridical interest in impugning the decision appealed from:

Provided further that where applicable the competent utility regulator which has an interest in the matter, shall also be notified with any appeal filed under this article and shall be entitled to intervene in such proceedings and make submissions thereon."

Amendment of article 5 of the principal Act.

9. In article 5 of the principal Act, for the words "in the last preceding article" there shall be substituted the words "in articles 4 and 4A"; and for the words "to the Court of Appeal" there shall be substituted the words "to the First Hall of the Civil Court".

Amendment of article 6 of the principal Act.

10. Article 6 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "to the regulator concerned" there shall be substituted the words "to the competent infrastructure regulator";

(b) in paragraph (c) of sub-article (2) thereof, for the words "to the regulator concerned" there shall be substituted the words "to the provider of the utility service concerned";

(c) sub-article (3) thereof shall be substituted by the following:

"(3) Before taking a decision further to any request under this article the competent infrastructure regulator in dealing with such a request, shall -

(a) where necessary, consult in writing with the competent utility regulator or regulators; or, and

(b) consult in writing with any persons who the competent infrastructure regulator considers may be effected in a negative manner, giving such persons a reasonable opportunity to make their submissions in writing."

Addition of a new article to the principal Act.

11. Immediately after article 6 of the principal Act there shall be added the following new article:

"Applicability of article 471 of the Civil Code.
Cap. 16.

6A. For the purpose of inspecting, testing or maintaining in good state of repair any work carried out under this Act, the provisions of article 471 of the Civil Code shall apply."

12. Article 7 of the principal Act shall be substituted by the following:

Substitution of article 7 of the principal Act.

"Where the owner of the tenement may ask for removal of a cable, etc.

7. (1) Where the owner of a tenement in, over or upon which there is any cable, wire, pole, stay, bracket or other essential accessory, intends to make alterations in the tenement and such alterations cannot be effected unless -

(a) the cable, wire, pole, stay, bracket or other essential accessory is temporarily or permanently removed; or

(b) the position of such cable, wire, pole, stay or bracket or other essential accessory cannot be changed,

then the owner may request that such work be temporarily or permanently removed, or else that the position of such work be changed, this notwithstanding that the owner had given his consent for the execution of the work or had received compensation in terms of this Part.

(2) A request under sub-article (1) shall be made by application before the First Hall of the Civil Court whereby the owner shall state under oath why in accordance with the provisions of sub-article (1) the request is being made:

Provided that the owner in filing such a request shall:

(a) notify the competent infrastructure regulator, any competent utility regulator or regulators where applicable, and any network operator who may be effected in a negative manner; and

(b) give three months notice of his intention to affect the alterations aforesaid.

(3) A network operator may, within twenty days from notification of a request made under this article, contest such request only if it can prove that the owner has other reasonable means of making the alterations and that it shall be affected in a negative manner if the request is upheld.

(4) If the request under this article is not contested, the owner may without any further notice proceed with the alterations on the lapse of the three month notice period referred to in sub-article (2)(b):

Provided that the owner shall, where his request has not been contested or, if contested, the contestation thereof has been rejected, refund any compensation which he may have received."

Amendment of article 8 of the principal Act.

13. In article 8 of the principal Act, for the words "and telegraphic communications systems" there shall be substituted the words "and electronic communications networks".

Amendment of article 9 of the principal Act.

14. In article 9 of the principal Act, for the words "to a fine (*multa*) not exceeding two hundred and thirty-two euro and ninety-four cents (232.94) or imprisonment for a term not exceeding one month or to both such fine and imprisonment" there shall be substituted the words "to a fine (*multa*) not exceeding five thousand euro (€5,000)".

Amendment of article 10 of the principal Act.

15. In article 10 of the principal Act, for the words "telegraphic communications systems" there shall be substituted the words "electronic communications networks"; and for the words "to a fine (*multa*) not exceeding two hundred and thirty-two euro and ninety-four cents (232.94) or imprisonment for a term not exceeding three months or to both such fine and imprisonment" there shall be substituted the words "to a fine (*multa*) not exceeding five thousand euro (€5,000)".

Deletion of articles 11 and 12 of the principal Act.

16. Articles 11 and 12 of the principal Act shall be deleted.

Amendment of article 13 of the principal Act.

17. In article 13 of the principal Act, for the words "with article 11" there shall be substituted the words "with article 37".

Addition of new Parts and new articles to the principal Act.

18. Immediately after article 13 of the principal Act, as amended, there shall be added the following new Parts and articles:

"PART IIIFacilitating High-Speed Electronic
Communications Networks

Access to
existing
physical
infrastructure.

14. (1) A network operator shall meet all reasonable requests made in writing by an undertaking requesting access to its physical infrastructure under fair and reasonable terms and conditions, including price, with a view to deploying elements of high-speed electronic communications networks:

Provided that the undertaking concerned shall in its request specify the elements of the project for which the access is requested, including a specific time frame:

Provided further that nothing in this Part shall be construed as prohibiting network operators from offering access to their physical infrastructure.

(2) Any refusal of access following a request made in accordance with sub-article (1) shall be based on objective, transparent, and proportionate criteria including but not limited to:

(a) the technical suitability of the physical infrastructure to which access has been requested to host any of the elements of high-speed electronic communications networks referred to in sub-article (1);

(b) availability of space to host the elements of the high-speed electronic communications networks referred to in sub-article (1), including that the future needs for space of the network operator are sufficiently demonstrated;

(c) safety and public health concerns;

(d) integrity and security of any network, in particular of critical national infrastructure;

(e) the risk of serious interferences of the planned electronic communications services with the provision of other services over the same physical infrastructure;

(f) the availability of viable alternative means of wholesale physical network infrastructure access provided by the network operator and suitable for the provision of high-speed electronic communications networks, provided that such access is offered under fair and reasonable terms and conditions.

(3) The network operator when giving its refusal shall in writing state its reasons for refusing the request, which reasons must be given within two months from the date of receipt of the complete request for access:

Provided that in doing so the network operator shall, where applicable, provide the undertaking making the request with any relevant documentation in support of its refusal.

(4) Where access is refused or an agreement on specific terms and conditions, including price, has not been reached within two months from the date of receipt of the complete request for access, then either party may file a dispute with the Dispute Resolution Board on the lapse of the two months period referred to in this sub-article.

(5) The Dispute Resolution Board shall, in determining any dispute, referred to it in accordance with this article, taking into account the principle of proportionality, issue a binding decision to resolve the dispute, including the setting of fair and reasonable terms and conditions, including price where appropriate:

Provided that where the dispute relates to access to the infrastructure of an electronic communications network provider, the Board shall, where appropriate, take into account the objectives set out in article 4 of the Electronic Communications (Regulation) Act:

Provided further that any price set by the Board shall ensure that the access provider has a fair opportunity to recover its costs and shall take into account the impact of the requested access on the business plan of the access provider, including the investments made by the network operator to whom access is requested, in particular in the physical infrastructures used for the provision of high-speed electronic communications services.

(6) The Dispute Resolution Board shall resolve any dispute referred to it in accordance with this article within the shortest possible time frame and in any case within four months from the date of the receipt of the complete request, except in exceptional circumstances in accordance with the provisions of article 32.

(7) The provisions of this article shall be without prejudice to the right to property of the owner of the physical infrastructure in cases where the network operator is not the owner, and to the right to property of any other third parties, such as landowners and private property owners.

Transparency
concerning
physical
infrastructure.

15. (1) An undertaking in the course of requesting access to physical infrastructure in accordance with article 14(1), has the right to access, upon request, the following minimum information concerning the existing physical infrastructure of any network operator:

- (a) location, and route;
- (b) type and current use of infrastructure; and
- (c) a contact point:

Provided that, in doing so, the undertaking shall specify the area in which it envisages deploying elements of the high-speed electronic communications networks:

Provided further that the provision of any such information to the undertaking may be subject to any limitations consequential to the security of the networks and their integrity, national security, public health or safety, confidentiality or operating and business secrets as may be determined by the competent infrastructure regulator.

(2) A public sector body holding in electronic format, by reason of its tasks, elements of the minimum information referred to in sub-article (1) concerning the physical infrastructure of a network operator, shall make such information available:

(a) through the Single Information Point by electronic means; and, or

(b) to an undertaking upon the request in writing of that undertaking, this without prejudice to the limitations stated in sub-article (1):

Provided that any update to that information or any new element of minimum information referred to in sub-article (1) received by the public sector body shall be made available to the Single Information Point within two months from the date of its receipt, which period of such two months may be extended by a further period not extending one month, where this is required to guarantee the reliability of the information provided:

Provided further that any information provided to the Single Information Point shall be updated forthwith by the entity responsible for the provision of such information which entity shall inform the Single Information Point accordingly.

(3) Minimum information made available to the Single Information Point in accordance with sub-article (2) shall be accessible promptly, through the Single Information Point, in electronic format and under proportionate, non-discriminatory and transparent terms. Such access shall be made available through the Single Information Point by not later than the 1 January 2017.

(4) Where the minimum information referred to in sub-article (1) is not available through the Single Information Point, then network operators shall provide access to such information upon the specific written request by an undertaking. In making such a request the undertaking shall specify the area envisaged for the deployment of elements of high-speed electronic communications networks:

Provided that access to information shall be granted within two months from the date of receipt of the written request under proportionate, non-discriminatory and transparent terms without prejudice to the limitations under sub-article (1).

(5) Upon the specific written request of an undertaking, a network operator shall meet reasonable requests for on-site surveys of specific elements of its physical infrastructures. In making such a request the undertaking shall specify the elements of the network concerned with a view to deploying elements of high-speed electronic communications networks:

Provided that on-site surveys of the specified network elements shall be granted under proportionate, non-discriminatory and transparent terms within one month from the date of receipt of the written request, without prejudice to the limitations in sub-article (1).

(6) In the event of a dispute arising in connection with the rights and obligations provided for in this article, either party may refer the dispute to the Dispute Resolution Board which shall, after taking full account of the principle of proportionality, issue a binding decision to resolve the dispute within the shortest possible time frame and in any case within two months, except in exceptional cases in accordance with article 32.

(7) The Single Information Point following consultation with any competent utility regulator or regulators as the case may be, and such other public sector body or bodies as it may consider necessary, may provide for exemptions from the obligations in sub-articles (1) to (5) in the case of existing physical infrastructures considered not technically suitable for the deployment of electronic communications networks or in the case of critical infrastructure. In doing so it shall give its reasons in writing and shall before taking a final decision, give any interested parties the opportunity to make any written submissions within such reasonable time as it may establish.

(8) An undertaking which obtains any information pursuant to the provisions of this article shall, where appropriate, ensure that the information so acquired is treated with due consideration to confidentiality, and operating and business secrets.

Coordination
of civil works.

16. (1) A network operator has the right to negotiate agreements concerning the coordination of civil works with undertakings with a view to deploying elements of high-speed electronic communications networks.

(2) A network operator performing directly or indirectly civil works, either fully or partially financed by public means, shall comply with any reasonable written request to coordinate civil works on transparent and non-discriminatory terms, made by an undertaking, with a view to deploying elements of high-speed electronic communications networks, provided that:

(a) such request does not entail any additional costs, including because of additional delays, for the initially envisaged civil works;

(b) such request does not impede control over the coordination of the works;
and

(c) the request to coordinate is filed as soon as possible and in any case at least one month before the submission of the final project to the competent authorities for permit granting:

Provided that the Minister responsible for infrastructure may make such regulations as he may consider necessary on apportioning the costs associated with the coordination of civil works. In doing so the Minister shall consult with the competent utility regulator or regulators as the case may be and with any public sector body or bodies as he may consider necessary in the circumstances.

(3) If an agreement on the coordination of civil works in accordance with sub-article (2) is not achieved within one month from the date of receipt of the formal written request to negotiate, then any aggrieved party may refer the dispute to the Dispute Resolution Board.

(4) The Dispute Resolution Board shall, in determining any dispute referred to it in accordance with this article, taking full account of the principle of proportionality, issue a binding decision to resolve the dispute raised, including the setting of fair and non-discriminatory terms and conditions, and charges where appropriate:

Provided that the Board shall resolve any dispute referred to it in accordance with this article within the shortest possible time frame and in any case within two months from the date of the receipt of the dispute except in exceptional circumstances in accordance with article 32.

(5) The competent authority for permit granting may, following consultation in writing with the competent utility regulator or regulators as the case may be and with such other public sector body or bodies as it may consider necessary, provide for exemptions from the obligations in this article for civil works of insignificant importance, such as in terms of value, size or duration, or in the case of critical national infrastructure:

Provided that in so doing, the competent authority for permit granting shall give its reasons in writing and shall before taking a final decision, give any interested parties the opportunity to make any written submissions on the draft exemptions within such reasonable time as it may establish.

Transparency
concerning
civil works.

17. (1) In order to negotiate agreements on the coordination of civil works referred to in article 16, a network operator shall make available upon the specific written request of an undertaking, the following minimum information concerning on-going or planned civil works related to its physical infrastructure for which a permit has been granted, a permit granting procedure is pending or a first submission to the competent authority for permit granting is envisaged in the following six months:

- (a) the location and the type of works;
- (b) the network elements involved;
- (c) the estimated date for starting the works and their duration; and
- (d) a contact point:

Provided that the provision of any such information to the undertaking shall be subject to any limitations consequential to the security of the networks and their integrity, national security, public health or safety, confidentiality or operating and business secrets.

(2) The undertaking shall in making its request, specify the area in which it envisages deploying elements of high-speed electronic communications networks:

Provided that within fourteen days from the date of receipt of the written request, network operators shall provide the requested information under proportionate, non-discriminatory and transparent terms.

(3) The network operator may refuse the request made under sub-article (1) if:

(a) it had made the requested information publicly available in electronic format; or

(b) access to such information is ensured through the Single Information Point.

(4) The network operator shall make the requested minimum information referred to in sub-article (1) available through the Single Information Point.

(5) If on the lapse of the fourteen days period referred to in sub-article (2), the information requested in accordance with the provisions of this article is not provided, then an aggrieved party may on the lapse of the aforesaid fourteen days, refer a dispute it may have in connection with the rights and obligations under this article, to the Dispute Resolution Board which shall in determining any dispute referred to it in accordance with this article, taking full account of the principle of proportionality, issue a binding decision to resolve the dispute raised, including the setting of fair and non-discriminatory terms and conditions and charges where appropriate:

Provided that the Board shall resolve any dispute referred to it in accordance with this article within the shortest possible time frame and in any case within two months from the date of the receipt of the complete request except in exceptional circumstances in accordance with article 32, without prejudice to the possibility of any party to refer the case to court.

(6) The competent authority for permit granting following consultation in writing with the competent utility regulator or regulators as the case may be and with any public sector body or bodies as it may consider necessary, provide for exemptions from the obligations in this article for civil works of insignificant value or in the case of critical national infrastructure. In doing so it shall give its reasons in writing and shall before taking a final decision, give any interested parties the opportunity to make any written submissions on the draft exemptions within such reasonable time as it may establish.

Permit-granting procedure.

18. (1) All relevant information concerning the conditions and procedures applicable for granting permits for civil works needed with a view to deploying elements of high-speed electronic communications networks, including any information concerning exemptions applicable to such elements as regards some or all permits required under national law, shall be available through the Single Information Point.

(2) An undertaking may by electronic means through the Single Information Point, submit applications for permits required for civil works which are needed with a view to deploying elements of high-speed electronic communications networks.

(3) The competent authority for permit granting shall grant or refuse a permit within four months from the date of the receipt of a complete permit request, without prejudice to other specific deadlines or obligations laid down for the proper conduct of the procedure which are applicable to the permit granting procedure in accordance with national or European Union law or of dispute resolution or litigation proceedings however so described:

Provided that any refusal shall be duly justified on the basis of objective, transparent, non-discriminatory and proportionate criteria:

Provided further that exceptionally in duly justified cases, the deadline may be extended, which extension shall be the shortest possible in order to grant or refuse the permit.

(4) An undertaking which has suffered damages as a result of non-compliance with deadlines under this article has the right to seek compensation in accordance with the applicable national legislation.

Single
Information
Point.

19. (1) The functions of the Single Information Point under this Act shall be performed by the competent infrastructure regulator.

(2) Any person who, in accordance with this Act, is required to provide any information however so described, shall ensure that such information is provided to the Single Information Point in a timely manner and in accordance with any time frames established in accordance with this Act, or in the absence of such time frames within such time frames as the Single Information Point may reasonably establish.

(3) Any person who acts in breach of any requirement under this Part in so far as it relates to the provision of any information to the Single Information Point shall be liable to an administrative fine not exceeding ten thousand euro (€10,000) and, or to a daily administrative fine not exceeding five hundred euro (€500).

Notification of
Commission
when granting
exemptions.

20. (1) Where applicable any person or body who grants an exemption in accordance with the provisions of this Part, shall forthwith in writing inform the Utilities Committee of the granting of such an exemption and where applicable any public sector body.

(2) The Utilities Committee shall notify the European Commission of any exemptions granted in accordance with the provisions of this Act.

Provisions of
the Electronic
Communi-
cations
(Regulation)
Act, etc., to
prevail.
Cap. 399.

21. In the event of conflict the provisions of the Electronic Communications (Regulation) Act and of any regulations listed under the Third Schedule shall prevail over any of the provisions of this Part:

Provided that the Minister responsible for electronic communications may, from time to time by notice in the Gazette, amend the list of regulations stated in the aforesaid Schedule.

Establishment and role of the Utilities Services Advisory Committee.

22. (1) There shall be a body to be known as the Utilities Services Advisory Committee, which body shall be appointed by the Minister responsible for infrastructure for a term, which may be renewed, of not less than one year and not more than three years, which body shall be composed of:

(a) a chairman chosen by the Minister responsible for infrastructure from among persons with expertise of infrastructure utility sharing;

(b) a representative of each utility regulator appointed by the respective utility regulator as may from time to time be listed in the Second Schedule;

(c) a representative from any other government body that the Minister responsible for infrastructure may consider as being relevant;

(d) at least one person with proven expertise in utility infrastructure sharing.

(2) The Utilities Committee shall perform any function that it may be required to undertake in accordance with this Act, including:

(a) the making of guidelines on any aspect regulated by this Act in so far as such guidelines relate to utility infrastructure access and, or the determination of any disputes related thereto including but not limited to guidelines:

(i) on the criteria for refusal of access to physical infrastructure;

(ii) on the format of information requirements for requests to access a utility infrastructure;

(iii) on the format of the provision of information on the physical infrastructure of a network operator to the Single Information Point;

(iv) on the minimum information, if any, to be provided because of the security of the networks or their integrity, or because of national security, public health or safety, confidentiality or commercially sensitive information;

(v) to assist any adjudicative or regulatory body in determining any disputes however so described as may be referred to that body for determination under this Act;

(b) advising on the making of rules on the apportioning of the costs related to the coordination of civil works;

(c) advising on the making of rules with regard to infrastructure access charges and, or technical aspects in relation to such infrastructure access;

(d) where applicable dealing with requests for exemptions made under this Act; and

(e) such other tasks as the Minister for infrastructure in line with the purposes of this Act may assign to it.

(3) Nothing in this article shall be construed as precluding any public sector body from the making of any guidelines or rules however so described with respect to any matters referred to in sub-article (2) in so far as such guidelines or rules relate to the networks or services regulated by the public sector body concerned:

Provided that such guidelines or rules shall, once issued, be communicated to any such other public sector bodies which the issuing public sector body considers has an interest in knowing about the issue of such guidelines or rules in that these may impact the regulatory work of such other public sector bodies.

PART IV

Utilities Networks Dispute Resolution Board

Appointment
of the Utilities
Networks
Dispute
Resolution
Board.

23. There shall be a dispute resolution board to be known as the Utilities Networks Dispute Resolution Board which Board shall exercise and perform the functions assigned to it by this Act and by any other law.

Composition of
the Utilities
Networks
Dispute
Resolution
Board.

24. (1) The Dispute Resolution Board shall be composed of a President, who shall be a judge or an ex-judge or a magistrate or an ex-magistrate appointed by the President of Malta acting on the advice of the Prime Minister, and two members selected by the President of the Board from a panel of ordinary members:

Provided that if the President is an ex-judge or an ex-magistrate his appointment shall be for a term of five years and he shall vacate his office at the expiration of the term of the said appointment.

(2) There shall be a panel of six ordinary members, all with at least ten years relevant experience, appointed by the President of Malta acting on the advice of the Prime Minister, from amongst persons having relevant qualifications in any one or more of the fields of expertise related to the matters regulated by this Act or that may from time to time be referred to the Board for resolution.

(3) In selecting the two ordinary members to sit on the Board under sub-article (1), the President shall take due account of the nature of the case and the market concerned.

(4) The ordinary members of the Board shall be appointed for a term of five years which term of office may be renewed for one other term of up to five years.

(5) The ordinary members of the Dispute Resolution Board may resign their office by a letter addressed to the President of Malta. The resignation shall take effect when the letter signifying the resignation is received by the President of Malta or by any person authorized by him.

(6) An ordinary member of the Dispute Resolution Board may not be removed from office except by the President of Malta acting on the advice of the Prime Minister on the ground of proved inability to perform the functions of his office whether arising from infirmity of body or mind or any other cause, or proved misbehaviour.

(7) Notice of all appointments to the Dispute Resolution Board and of all other changes in its membership shall be published in the Gazette.

(8) The Dispute Resolution Board shall be independent from all parties to the dispute in the performance of its functions, and the members thereof in the exercise of their functions shall act on their own individual judgment and shall not be subject to the direction or control of any person or authority.

(9) The ordinary members of the Dispute Resolution Board shall not be precluded from the exercise of their respective professions.

(10) The ordinary members of the Dispute Resolution Board shall receive such remuneration established in accordance with the Fourth Schedule, which remuneration shall not be altered during the tenure of their appointment to their disadvantage:

Provided that the said Schedule may from time to time be varied by the Prime Minister:

Provided further that any such remuneration shall be paid out of the Consolidated Fund without the necessity of any further appropriation.

(11) A person shall not be qualified to be appointed or remain an ordinary member of the Dispute Resolution Board if:

(a) he has been declared an undischarged bankrupt; or

(b) he has been sentenced to imprisonment for six months or more by any court; or

(c) he has been found guilty of any offence against this Act, any law relating to the regulation of any utility service or any regulations made under this Act or any such laws; or

(d) he is a Member of the House of Representatives or of the European Parliament or of a Local Council.

(12) An ordinary member of the Dispute Resolution Board shall, before the commencement of any case, declare any interest he may have in the proceedings and the President shall, where he considers that such interest may prejudice the independence of the member concerned, appoint another member from the panel.

(13) Where proceedings have commenced and no final decision has yet been delivered and the member has ceased to be a member thereof or for any other reason is unable to perform the functions of his office, the President may elect to appoint another member from the panel in his stead, and should it be strictly necessary for the proper determination of the dispute recommence proceedings, or continue to hear the dispute with only one ordinary member:

Provided that where the term of appointment has expired and the ordinary member has not been reappointed, the ordinary member shall continue to hear the dispute until it is concluded.

(14) The President where he is an ex-judge or ex-magistrate and the ordinary members of the Dispute Resolution Board, shall, during their term of office, act with integrity and not engage in any activity which would harm the proper administration of justice or which, due to knowledge gained from business secrets or other confidential information during the tenure of their office, would give rise to conflict of interest and harm the interests of any parties to the proceedings before the Board. Any person who acts in contravention of this sub-article shall be guilty of an offence against this Act and shall on conviction be liable to a fine (*multa*) of not less than five thousand euro (€5,000) and not more than twenty five thousand euro (€25,000), and the court may, in addition, award the punishment of temporary or perpetual general interdiction from occupying any public office.

Conduct of proceedings and determination of disputes.

25. (1) Upon taking cognizance of a dispute, the Dispute Resolution Board shall notify the parties concerned of the matter under dispute, allowing them such reasonable time as may be determined by the Board to produce relevant information and to make their representations.

(2) The Dispute Resolution Board shall in all instances endeavour to determine any dispute referred to it within the shortest possible time, and in any case in accordance with the specific time frames established under this Act or under any other applicable law under which it may be empowered to determine disputes:

Provided that it shall be at the discretion of the Board on how it shall conduct proceedings before it. In particular the Board may, if it considers it appropriate in the circumstances, determine a dispute only on the basis of such written submissions and documentation as it may require, and it shall be at its discretion to determine whether oral hearings and, or on site visits are necessary:

Provided further that the Board shall in all instances abide with the principles of natural justice.

(3) The Dispute Resolution Board shall, after examining the facts and any representations submitted to it and such other information as it may require, determine the dispute.

(4) The Dispute Resolution Board may at its discretion whether of its own initiative or following a request of a party to the dispute if it considers such a request as being reasonable given the specific circumstances of the dispute, assist the parties in arriving at an amicable settlement on all or some of the issues in dispute before proceeding or continuing with the determination of the dispute:

Provided that in doing so the Board shall in all instances factor the need to settle the dispute in the shortest time possible and any negative impact that a party may suffer if there is a delay in resolving the dispute:

Provided further that an aggrieved party shall before making a dispute under this Part, where feasible, endeavour to settle any such dispute by seeking the mediation of the competent utility or infrastructure regulator or regulators as the case may be.

Registry of the
Dispute
Resolution
Board.
Cap. 12.

26. (1) The Registrar of Courts or any other person acting in his stead or on his behalf in accordance with the Code of Organization and Civil Procedure shall be the Registrar of the Dispute Resolution Board appointed in accordance with this Part.

(2) All acts brought before the Dispute Resolution Board shall be kept in the Registry of the Inferior Courts which shall be the registry of the Board.

(3) The Minister responsible for justice may by regulations under this Act establish:

(a) the fees that may be due to the Registry of the Dispute Resolution Board;

(b) the fees that may be due to advocates, legal procurators and other persons representing the parties appearing before the Board; and

(c) the fees that may be due to experts appearing before the Board:

Cap. 12. Provided that until fees are prescribed by the Minister responsible for justice under paragraphs (a) to (c), the fees established in the Code of Organization and Civil Procedure shall apply.

(4) The Registry of the Dispute Resolution Board shall, where applicable, keep both a non-confidential version, and where applicable when directed by the Board a confidential version of the records of each dispute referred to the Board.

(5) The records of the Dispute Resolution Board shall be accessible to all persons, and copies shall be given on payment of the prescribed fee to any person on request:

Provided that due regard shall be had to the protection of any confidential information and business secrets.

Cap. 12. (6) All acts shall be filed, issued and served in accordance with the provisions of the Code of Organization and Civil Procedure, subject to any rules made under this Act, or regulations made thereunder or unless the Minister responsible for justice shall by regulation otherwise prescribe.

Personnel and sittings of the Dispute Resolution Board. 27. (1) The Registrar shall provide the necessary personnel for the holding of sittings of the Dispute Resolution Board. The officials so designated shall, in execution of their duties, enjoy and exercise all such powers as are vested by the Code of Organization and Civil Procedure in officials performing similar duties.

Cap. 12. (2) The sittings of the Dispute Resolution Board shall, where applicable be held on such days and at such times as shall be fixed by the President in the building of the Courts in Malta and, or in Gozo or in any such other place in Malta and, or in Gozo as the President may consider appropriate in the circumstances.

Power to make regulations relating to the procedure to be followed before the Dispute Resolution Board.

28. (1) The Dispute Resolution Board shall have the powers and shall follow the procedures laid out in the provisions of this Act and any regulations made thereunder.

(2) The Minister responsible for justice may make rules not inconsistent with this Act, and any regulations made thereunder, prescribing the procedures and the forms to be followed and used before the Dispute Resolution Board.

(3) In the absence of provisions or rules as aforesaid, the Dispute Resolution Board shall regulate its own procedures.

Dispute Resolution Board may appoint experts or require input from public sector bodies and power to summon witnesses.

29. (1) The Dispute Resolution Board, in determining any dispute referred to it, may:

(a) require any public sector body to provide any information or submit any report which the Board considers may be necessary to assist it in determining the said dispute; and, or

(b) appoint a qualified expert in any areas falling within the remit of the Board, to report to the Board on any aspect of any dispute referred to the Board:

Provided that the Board in requiring any such information and, or any such report, shall establish such time frames and such conditions as it may consider reasonable in the circumstances, including in the case of any such report as it may require in accordance with this article, the matters in relation to which it is seeking input from the said body or expert.

(2) The Dispute Resolution Board may, through its President, summon any person to appear before it and give evidence and produce documents, and the President shall have the power to administer the oath.

Right of appeal to the Court of Appeal.

Cap. 12.

30. (1) Any party to a dispute referred to the Dispute Resolution Board who feels aggrieved with any decision given by the Board following its determination of any dispute referred to it may on a point of law contest such a decision before the Court of Appeal (Inferior Jurisdiction) as constituted in accordance with article 41(6) of the Code of Organization and Civil Procedure by means of an application filed in the registry of that court within twenty days from the date of the decision of the Dispute Resolution Board.

(2) The Minister responsible for justice may by regulations under this sub-article establish the fees payable in the registry of the court in relation to the filing of judicial acts in connection with appeals under this article:

Cap. 12.

Provided that until such fees are so established, the fees in Schedule A to the Code of Organization and Civil Procedure shall apply.

Decision, if appealed, to stand unless Court of Appeal decides otherwise.

31. (1) The decision of the Dispute Resolution Board pending an appeal before the Court of Appeal (Inferior Jurisdiction) shall stand and shall be adhered to by all the parties to whom the decision applies.

(2) The Court of Appeal (Inferior Jurisdiction), where it considers it to be appropriate, may, on the application of a party to the appeal, suspend in whole or in part the decision which is the subject of the appeal pending the final determination of the appeal. The Court of Appeal (Inferior Jurisdiction) in deciding whether or not to suspend the decision shall state its reasons and shall take into account all the relevant circumstances, including:

- (a) the urgency of the matter,
- (b) the effect on the party making the request if the application for suspension is not upheld, and
- (c) the effect on competition and, or on end-users if the application is upheld:

Provided that a party, in making an application under this article, shall state the factual and legal grounds establishing a *prima facie* case for the suspension of the decision. The Court of Appeal (Inferior Jurisdiction) shall on receipt of any such application order the notification thereof to the other party or parties to the appeal affording them reasonable opportunity to make their response thereto:

Provided further that the Court of Appeal (Inferior Jurisdiction) in determining any such application may include such conditions as it considers necessary in the circumstances.

Time frame to determine a dispute may be extended in exceptional circumstances.

32. In those instances where the Act establishes that the maximum time frames for the resolution of a dispute referred to the Dispute Resolution Board may in exceptional circumstances be extended and the Board decides to extend the time frame, the Board shall in writing notify all the parties to the dispute accordingly, stating the reasons why the time frame is being extended, the period of extension and when it envisages that the dispute shall be determined.

Right to seek civil redress before the ordinary courts.

33. The right to refer a dispute under this Act to the Dispute Resolution Board shall be without prejudice to civil redress, including claims for any damages suffered, that a party may be entitled to seek at law before the ordinary courts.

Powers of the Dispute Resolution Board.
Cap. 12.

34. (1) The Dispute Resolution Board shall have all such powers as are, by the Code of Organization and Civil Procedure vested in the First Hall of the Civil Court.

Cap. 12.

(2) The enforcement of the decisions of the Dispute Resolution Board, in the manner provided for in the Code of Organization and Civil Procedure, shall vest in the Board itself.

(3) In giving a decision in relation to a dispute under Part III of this Act, the Dispute Resolution Board may, where it considers that a party to the dispute has in a frivolous or vexatious manner failed to comply with a requirement under this Part, request the competent utility regulator to take such measures as that regulator may, in accordance with its powers at law, consider appropriate in the circumstances, including the imposition of administrative fines:

Provided that in deciding on what measures, if any, to take, the competent regulator shall consider if any such act or omission has impacted negatively on the cost of deployment of the high speed electronic communications networks.

Notification of disputes, etc., to the competent infrastructure regulator and to the Malta Communications Authority. Cap. 418.

35. Any person who files a dispute before the Dispute Resolution Board or an appeal from a decision given by the Board before the Court of Appeal (Inferior Jurisdiction), shall forthwith notify in writing the competent infrastructure regulator and the Malta Communications Authority with such dispute or appeal as the case may be.

Compliance with decisions issued by the Dispute Resolution Board.

36. (1) A party may in writing request the Malta Communications Authority to take such measures as the Authority in accordance with its powers at law may consider appropriate, to ensure that a decision issued by the Dispute Resolution Board is complied with:

Provided that in doing so the party concerned shall state its reasons why it considers it necessary that the Authority should intervene to ensure compliance:

Provided further that any such request may only be submitted if the aggrieved party demonstrates to the satisfaction of the Authority that continued non-compliance with the decision may impact negatively on its provision of electronic communications services and, or networks.

(2) The Malta Communications Authority may of its own initiative undertake any such measures in accordance with its powers at law if it considers that the continued non-compliance of a decision issued by the Dispute Resolution Board is impacting negatively on the provision of electronic communications services and, or networks in Malta.

PART V

Miscellaneous

Power to make regulations.

37. (1) Unless otherwise provided in this Act the Minister responsible for infrastructure may, of his initiative or where he considers necessary after consultation with any other Minister or Ministers responsible for other public sector bodies, make, vary or revoke any regulations in relation to any matters dealt with under this Act or required for the carrying into effect of this Act including but not limited to the following:

(a) any matter relating to rights of way including fees that may be charged for such rights; and, or

(b) for the manner in which any trench, pit, pole, stay, bracket or other essential accessory in connection with fixed electrical power and, or electronic communications network in Malta shall be cut, placed, erected or fixed and generally for the proper working of any such networks however so described.

(2) Any person who acts in contravention of any regulations made under this article shall be liable to a fine (*multa*) not exceeding ten thousand euro (€10,000).

Service of notice.

38. Unless otherwise provided in this Act any service of notice however so described to be given to any person in accordance with this Act shall be addressed to that person and shall be given to the person concerned in any of the following ways:

(a) by delivering it to the person;

(b) by leaving it at the address at which the person ordinarily resides or carries on business;

(c) by sending it by registered post to the person at the address at which the person ordinarily resides or carries on business;

(d) if an address for the service of notices has been provided by the person, by leaving it at, or sending it by registered post addressed to the person to that address;

(e) in any case where the immediate giving of the notice is required, by sending it, by means of a facsimile machine or by electronic mail, to a device or facility for the reception of facsimiles or electronic mail located at the address at which the person ordinarily resides or carries on business or, if an address for the service of notices has been furnished by the person, that address, provided that the facsimile machine of the sender generates a message confirming successful transmission of the total number of pages of the notice or the facility of the sender for the reception of electronic mail generates a message confirming receipt of the electronic mail:

Provided that the provisions of this paragraph shall not apply to the notification of documents filed before the Tribunal, the Dispute Resolution Board or any Court however so described.

Minister may vary certain time frames in Part III.

39. The Minister may, where appropriate, on the advice of or after consultation with the competent infrastructure regulator or regulators and, or with the competent utility regulator or regulators, by legal notice lessen the time frames stated in the article 14(3), article 15(2) or article 15(4):

Provided that before doing so the Minister shall undertake a public consultation and consider any such submissions as may be made in the course of such a consultation."

A 774

Addition of new
schedules to the
principal Act.

19. Immediately after article 39, as added to the principal Act, there shall be added the following new schedules:

"FIRST SCHEDULE

(Article 2)

In accordance with provisions of article 2 of this Act, within the context of the definition of the words "competent infrastructure regulator" the following public sector body is designated a "competent infrastructure regulator":

The Authority for Transport in Malta ("TM").

SECOND SCHEDULE

(Article 2)

In accordance with the provisions of article 2 of this Act, in the context of the definition of the words "competent utility regulator" the following public sector bodies are designated as "competent utility regulators":

The Malta Communications Authority ("MCA") is responsible for the regulation of electronic communications services and networks;

(2) The Regulator for Energy and Water Services ("REWS") is responsible for the regulation of energy services and networks and the regulation of water services and networks; and

(3) The Authority for Transport in Malta ("TM") is responsible for the exercise of regulatory functions relating to roads and to transport by air, rail, road or sea.

THIRD SCHEDULE

(Article 21)

Regulations listed in accordance with the provisions of article 21 of this Act:

The Electronic Communications Networks and Services (General) Regulations (S.L. 399.28).

FOURTH SCHEDULE

(Article 24)

The remuneration payable to the President where the person appointed is a former judge or a former magistrate and to the two ordinary members of the Dispute Resolution Board shall be as follows:

- (1) In the case of the President for:
 - the first hour of a sitting or part thereof seventy five euro (€75), and
 - every subsequent hour or part thereof sixty-five euro (€65).
- (2) In the case of an ordinary member for:
 - the first hour of a sitting or part thereof sixty euro (€60), and
 - every subsequent hour or part thereof fifty euro (€50).

Provided that in the case of any sittings which are held outside the venue designated for the holding of Board sittings, the fee due to the President and to the ordinary members shall be increased by ten euro (€10) per hour or part thereof."

20. The enactments in the First Column of the Schedule to this Act shall have effect subject to the amendments appearing relative thereto in the Second Column of the said Schedule.

Amendment of other enactments.

SCHEDULE

Amendment of Laws

First Column
Enactment

Second Column
Extent of Amendments

A 776

Electronic
Communications
(Regulation) Act.
Cap. 399.

1. Article 12 thereof shall be substituted by the following:

"Imposition of
sharing of wiring
obligations.

12. The Authority may as necessary, impose obligations in relation to the sharing of wiring inside buildings or up to the first concentration or distribution point where this is located outside the building, on an undertaking providing electronic communications networks which has the right to install facilities on, over or under public or private property and, or on the owner of such wiring, where this is justified on the grounds that duplication of such infrastructure would be economically inefficient or physically impracticable:

Provided that such sharing or co-ordination arrangements shall include rules for apportioning the costs of facility or property sharing adjusted for risk where appropriate."

2. Immediately after article 12 thereof, there shall be added the following new article:

"Access to in-
building physical
infrastructure.
Cap. 81.

12A. (1) The provisions of article 2 of the Utilities and Services (Regulation of Certain Works) Act shall, unless provided otherwise, apply with regard to the provisions of this article.

(2) The holder of a right to use the access point and the in-building physical infrastructure shall meet all reasonable requests for access from undertakings under fair and non-discriminatory terms and conditions, including price, where appropriate.

(3) An undertaking has the right:

(a) to roll out its network at its own costs up to the access point; and

(b) to access any existing in-building physical infrastructure with a view to deploying a high-speed electronic communications network if duplication is technically impossible or economically inefficient:

Provided that if access referred to in paragraphs (a) or (b) is not achieved within two months from the date of receipt of a formal written request for access, then an aggrieved party may refer the dispute to the Dispute Resolution Board in order to assess compliance with the requirements provided with in the aforesaid paragraphs.

Cap. 81.

(4) The Dispute Resolution Board shall in determining any dispute referred to it in accordance with this article, take full account of the principle of proportionality, issue a binding decision to resolve the dispute raised within the shortest possible time frame and in any case within two months from the date of the receipt of the complete request except in exceptional circumstances in accordance with article 32 of the Utilities and Services (Regulation of Certain Works) Act.

(5) The Authority may, after having consulted with any other utility regulator or regulators as the case may be and with any such other public sector body or bodies as it may consider necessary in the circumstances, provide for exemptions from the obligations provided for in sub-article (3) for buildings where access to an existing network that terminates at the location of the end-user and that is suitable for the provision of high-speed electronic communications services, is ensured on objective, transparent, proportionate and non-discriminatory terms and conditions.

(6) In the absence of available high-speed-ready in-building infrastructure, an undertaking may terminate its network at the premises of the subscriber subject to the agreement of the subscriber provided that it minimizes the impact on the private property of third parties.

(7) The provisions of this article are without prejudice to the right to property of the owner of the access point or the in-building physical infrastructure, in cases where the holder of a right to use that infrastructure or access point is not the owner thereof, and to the right to property of other third parties such as landowners and building owners.

(8) A person suffering damages as a result of the exercise of the rights under this article shall be entitled to adequate financial compensation in accordance with applicable national legislation."

Malta
Communications
Authority Act.
Cap. 418.

3. Article 4 thereof shall be amended as follows:

(a) sub-article (13) thereof shall be deleted; and

(b) sub-article (14) thereof shall be renumbered as sub-article (13).

4. Sub-article (1) of article 31 thereof shall be amended as follows:

(a) for the words "or who fails to comply with any decision given by the Authority or with any authorization condition:" there shall be substituted the words "or who fails to comply with any decision given by the Authority or with any decision given by the Utilities Networks Dispute Resolution Board where the Authority considers that non-compliance by any person with such a decision may impact negatively on the provision of electronic communications services or networks, or with any authorization condition:"; and

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

"Provided that a reference to a decision given by the Utilities Networks Dispute Resolution Board includes any decision of the Board which is appealed from before the Court of Appeal but has not been suspended by the Court of Appeal, and any decision of the Court of Appeal following an appeal from any decision of the Board."

5. Article 46 thereof shall be amended as follows:

(a) article 46 thereof shall be renumbered as sub-article (1) of the said article; and

(b) immediately after sub-article (1) thereof, as re-numbered, there shall be added the following new sub-article:

"(2) The Minister may, after consultation with the Authority, by order in the Gazette list in the Second Schedule, any European Union legislation however so described or part thereof which is directly applicable to Malta, which legislation, once so listed, shall be considered to be a law enforced by the Authority in accordance with its powers under Part VI:

Provided that the Minister may, after consultation with the Authority, by order in the Gazette amend such list."

6. The Schedule thereof shall be renumbered as the First Schedule.

7. Immediately after the First Schedule thereof, as renumbered, there shall be added the following new Schedule:

"SECOND SCHEDULE

(Article 46(2))

The following legislation is being listed in accordance with the provisions of article 46(2):

(i) Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union; and

(ii) Regulation (EU) 2015/2120 of the European Parliament and of the Council of the 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union."

Authority for in Transport Malta Act. Cap. 499.

8. Article 47 thereof shall be amended as follows:

(a) the marginal note shall be substituted by the following:

"Administrative penalties."; and

(b) sub-article (1) thereof shall be substituted by the following:

A 780

"(1) Unless stated otherwise at law, the Authority shall have the power to impose in respect of any person who infringes any provisions of this Act, of any regulations made thereunder, or of those provisions of the Utilities and Services (Regulation of Certain Works) Act which the Authority is empowered to enforce or who fails to comply with any directive, decision or order however so described given by the Authority, an administrative penalty using such procedures as may be established in this Act or regulations made thereunder."

Passed by the House of Representatives at Sitting No. 371 of the 4th April, 2016.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

VERŻJONI ELETTRONIKA

