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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Helena Dalli, M.P., Ministru għall-Affarijiet Ewropej u l-Ugwaljanza, u moqri għall-Ewwel darba fis-Seduta tas-17 ta' Lulju 2019.

A BILL introduced by the Honourable Helena Dalli, M.P., Minister for European Affairs and Equality, and read the First time at the Sitting of the 17th July 2019.

ATT biex jipprovdi għat-twaqqif ta' korp li jkun magħruf bħala l-Kummissjoni għad-Drittijiet tal-Bniedem u l-Ugwaljanza skont il-Prinċipji dwar l-Istatus tal-Istituzzjonijiet Nazzjonali (Prinċipji ta' Pariġi) u l-legiżlazzjoni tal-Unjoni Ewropea dwar l-ugwaljanza, responsabbli għall-promozzjoni u l-protezzjoni tad-drittijiet tal-bniedem inkluż id-dritt għal trattament indaqs u n-nondiskriminazzjoni f'Malta; biex jipprovdi għax-xoljiment tal-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa u biex jipprovdi għall-assenjazzjoni tal-funzjonijiet tagħha lill-Kummissjoni għad-Drittijiet tal-Bniedem u l-Ugwaljanza u sabiex jipprovdi dwar affarijiet anċillari għal dan jew konnessi magħhom.

AN ACT to provide for the establishment of a body to be known as the Human Rights and Equality Commission in line with the principles relating to the Status of National Institutions (The Paris Principles) and European Union equality legislation, responsible for the promotion and protection of human rights including the right to equal treatment and non-discrimination in Malta; to provide for the dissolution of the National Commission for the Promotion of Equality for Men and Women and to provide for the conferral of its functions to the Human Rights and Equality Commission and to make provision with respect to matters ancillary thereto or connected therewith.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjah

ATT biex jipprovdi għat-twaqqif ta' korp li jkun magħruf bħala l-Kummissjoni għad-Drittijiet tal-Bniedem u l-Ugwaljanza skont il-Prinċipji dwar l-Istatus tal-Istituzzjonijiet Nazzjonali (Prinċipji ta' Pariġi) u l-leġislazzjoni tal-Unjoni Ewropea dwar l-ugwaljanza, responsabbli għall-promozzjoni u l-protezzjoni tad-drittijiet tal-bniedem inkluż id-dritt għal trattament indaqs u n-nondiskriminazzjoni f'Malta; biex jipprovdi għax-xoljiment tal-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa u biex jipprovdi għall-assenjazzjoni tal-funzjonijiet tagħha lill-Kummissjoni għad-Drittijiet tal-Bniedem u l-Ugwaljanza u sabiex jipprovdi dwar affarijiet anċillari għal dan jew konnessi magħhom.

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

TAQSIM TAL-ATT

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Taqsim I
Preliminari

Titolu fil-qosor
u bidu fis-seħh.

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2019 dwar il-Kummissjoni għad-Drittijiet tal-Bniedem u l-Ugwaljanza.

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

Tifsir.

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

"Bord" tfisser il-Bord għall-Ugwaljanza stabbilit bl-artikolu 22;

"Direttur Eżekuttiv" tfisser il-persuna maħtura skont l-artikolu 47;

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"diskriminazzjoni" għandu jkollha l-istess tifsira mogħtija lilha taħt l-Att tal-2019 dwar l-Ugwaljanza;

Kap. 319.

"drittijiet tal-bniedem" tinkludi d-drittijiet u l-libertajiet fundamentali kif stabbiliti fil-Kostituzzjoni u dawk id-drittijiet u l-libertajiet fundamentali elenkati fl-Artikoli 2 sa 18 (inkluż) tal-Konvenzjoni u l-Artikoli 1 sa 3 (inkluż) tal-Ewwel Protokoll, l-Artikoli 1 sa 4 (inkluż) tar-Raba' Protokoll, l-Artikoli 1 u 2 tas-Sitt Protokoll, l-Artikoli 1 sa 5 (inkluż) tas-Seba' Protokoll tal-Konvenzjoni u l-Artikolu 1 tat-tnax-il Protokoll, liema artikoli huma riprodotti fl-Ewwel Skeda tal-Att dwar il-Konvenzjoni Ewropea, dawk id-drittijiet u l-libertajiet fundamentali kif stabbiliti fi kwalunkwe trattati oħra internazzjonali għad-drittijiet tal-bniedem, ratifikati minn Malta inkwantu dawn huma esegwibbli minn kwalunkwe persuna skont, u bħala parti, mil-Liġi Maltija, u dawk il-prinċipji u prattiċi rikonoxxuti mill-ġurisprudenza tal-Qrati ta' Malta u dawk internazzjonali;

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"dritt għal trattament indaqs u n-nondiskriminazzjoni" tirreferi għad-drittijiet mogħtija permezz tal-Att tal-2019 dwar l-Ugwaljanza;

"impjegat" tfisser persuna impjegata mill-Kummissjoni;

Kap. 319.

"Konvenzjoni" għandu jkollha l-istess tifsira mogħtija lilha taħt l-Att dwar il-Konvenzjoni Ewropea;

"Kummissarju" tfisser il-Kummissarju għad-Drittijiet tal-Bniedem u l-Ugwaljanza maħtur skont l-artikolu 7;

"Kummissjoni" tfisser il-Kummissjoni għad-Drittijiet tal-Bniedem u l-Ugwaljanza stabbilita bl-artikolu 3;

"Ministru" tfisser il-Ministru responsabbli mill-ugwaljanza;

"persuna" tfisser kwalunkwe persuna naturali, jew grupp ta' persuni naturali.

Taqsimi II

Twaqqif u tmexxija tal-affarijiet tal-Kummissjoni

3. (1) Għandu jkun hemm Kummissjoni li għandha tkun magħrufa bħala l-Kummissjoni għad-Drittijiet tal-Bniedem u l-Ugwaljanza sabiex tippromwovi u tipproteġi d-drittijiet tal-bniedem u d-dritt għal trattament indaqs u n-nondiskriminazzjoni f'Malta skont il-funzjonijiet u s-setgħat assenjati lilha permezz ta' dan l-Att.

Twaqqif tal-Kummissjoni għad-Drittijiet tal-Bniedem u l-Ugwaljanza.

(2) Il-Kummissjoni għandha tkun responsabbli lejn il-Parlament, u, bla ħsara għad-dispożizzjonijiet ta' dan l-Att, għandha twettaq il-funzjonijiet tagħha b'imparzjalità u indipendenza.

(3) Fit-twettiq tal-funzjonijiet tagħhom taħt dan l-Att, il-Kummissarju u l-membri tal-Kummissjoni ma għandhomx ikunu soġġetti għad-direzzjoni jew kontroll ta' xi persuna jew awtorità oħra.

(4) Mingħajr ħsara għad-dispożizzjonijiet tas-subartikoli (2) u (3), il-Kummissjoni għandha, fit-twettiq tal-funzjonijiet tagħha, tqis u tkun iggwidata mill-aħjar Prattika internazzjonali applikabbli għall-istituzzjonijiet nazzjonali tad-drittijiet tal-bniedem u korpi dwar l-ugwaljanza.

(5) Il-Kummissjoni għandha tkun korp ġuridiku li jkollu personalità ġuridika distinta u li tkun tista' tagħmel kuntratti, takkwista u tidisponi minn kull proprjetà għall-finijiet tal-funzjonijiet tagħha taħt dan l-Att jew kwalunkwe liġi oħra, tħarrek u tiġi mharrka, u tagħmel dawk il-ħwejjeġ u transazzjonijiet kollha li jkunu inċidentali jew li jwasslu għall-eżercizzju jew il-qadi tal-funzjonijiet tagħha skont dan l-Att.

4. (1) Il-Kummissjoni għandha tkun magħmula minn *chairperson* li għandu jissejjaħ il-Kummissarju għad-Drittijiet tal-Bniedem u l-Ugwaljanza, u tmien (8) membri oħra.

Kompożizzjoni tal-Kummissjoni.

(2) Il-Kummissjoni għandha, kemm jista' jkun, tkun magħmula minn rappreżentazzjoni bilanċjata, wiesgħa u pluralista tas-soċjetà Maltija.

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Eligibbiltà.

5. (1) Persuna għandha tkun eligibbli sabiex tkun nominata u appuntata bħala Kummissarju għad-Drittijiet tal-Bniedem u l-Ugwaljanza jekk dik il-persuna:

(a) jkollha fil-pussess tagħha kwalifiki akkademiċi rikonoxxuti u rilevanti;

(b) uriet b'konsistenza impenn ċar għall-protezzjoni u l-promozzjoni tad-drittijiet tal-bniedem u l-ugwaljanza; u

(ċ) għandha tal-inqas għaxar (10) snin ta' esperjenza professjonali fi hdan is-settur tad-drittijiet tal-bniedem jew l-ugwaljanza.

(2) Persuna għandha tkun eligibbli sabiex tkun nominata u maħtura bħala membru tal-Kummissjoni jekk dik il-persuna:

(a) uriet il-kapaċità li tittratta kwistjonijiet relatati mad-drittijiet tal-bniedem u l-ugwaljanza, jew kwistjonijiet legali u amministrattivi li għandhom x'jaqsmu magħhom;

(b) uriet b'konsistenza, impenn ċar għall-protezzjoni u l-promozzjoni tad-drittijiet tal-bniedem u l-ugwaljanza; u

(ċ) għandha tal-inqas ħames (5) snin ta' esperjenza professjonali jew volontarja fi hdan is-settur tad-drittijiet tal-bniedem jew l-ugwaljanza.

Skwalifika.

6. (1) Persuna ma tkunx eligibbli biex tokkupa l-kariga ta' Kummissarju jew membru tal-Kummissjoni jekk dik il-persuna –

(a) tkun membru tal-Kamra jew tal-Parlament Ewropew;

(b) tkun imħallef jew magistrat prattikanti;

(ċ) tkun legalment interdetta jew inabilitata;

(d) għet ikkundanata għal reat li jgħorr sentenza ta' prigunerija ta' mhux inqas minn sitt (6) xhur;

(e) hija soġġetta għall-iskwalifika taht l-artikolu 320 tal-Att dwar il-Kumpanniji;

Kap. 386.

(f) hija involuta jew għandha interess f'xi intrapriża jew attività li tista' x'aktarx taffettwa l-qadi xieraq tal-funzjonijiet tagħha bħala membru fil-Kummissjoni;

(g) hija falluta jew għamlet arrangament mal-kredituri tagħha, jew hija insolventi; jew

(h) mingħajr preġudizzju għall-artikolu 10(4), tkun digà okkupata xi kariga fil-Kummissjoni għal żewġ (2) termini.

(2) Matul it-terminu tal-kariga tagħhom, il-membri tal-Kummissjoni ma għandhomx iżommu xi pożizzjoni li ma tkunx kompatibbli mat-tweqqif korrett tad-dmirijiet uffiċjali tagħhom taht dan l-Att, jew mal-imparzjalità u l-indipendenza tagħhom jew mal-fiduċja pubblika fihom.

7. (1) L-*Speaker* għandu jniedi konsultazzjoni pubblika fejn jistieden nomini sekondati, bil-miktub, ta' persuni sabiex jokkupaw il-pożizzjoni ta' Kummissarju u ta' persuni sabiex jokkupaw il-pożizzjoni ta' membru tal-Kummissjoni. Hatra tal-Kummissjoni.

(2) Hekk kif il-konsultazzjoni pubblika msemmija fis-subartikolu preċedenti tiġi fi tmiemha, l-*Speaker* għandu, abbażi tad-dokumenti preżentati mill-persuni nominati, jivverifika liema nomini sottomessi huma eliġibbli skont l-artikoli 5 u 6.

(3) L-*Speaker* għandu mbagħad jippubblika l-lista tal-persuni eliġibbli, nominati għall-pożizzjoni ta' Kummissarju, flimkien mad-dokumenti mehmuża man-nomini, kif ukoll il-lista ta' persuni eliġibbli, nominati għall-pożizzjoni ta' membru tal-Kummissjoni, flimkien mad-dokumenti mehmuża man-nomini, u jippreżenta ż-żewġ (2) listi msemmija lill-Kumitat Permanenti dwar il-Ħatriet Pubbliċi (hawn aktar 'il quddiem f'dan l-artikolu msejjaħ "il-Kumitat").

(4) Il-Kumitat għandu jkollu s-setgħa li jwettaq smiġh, preliminarjament għall-ħatra tal-persuni nominati skont dan l-artikolu.

(6) Il-proċess sħiħ tal-għażla għandu jsir fil-miftuħ, u kwalunkwe persuna għandu jkollha l-fakultà illi tressaq sottomissjonijiet bil-miktub dwar xi nomina tal-anqas tlett (3) ijiem qabel is-smiġh dwar dik in-nomina:

Iżda wkoll l-Kumitat għandu, matul il-proċess tas-smiġh, jiżgura illi kwalunkwe sottomissjonijiet li jkun irċieva skont dan is-subartikolu jkunu indirizzati adegwament.

(7) Matul il-proċess tal-għażla, il-Kumitat għandu jitlob lill-persuni nominati sabiex jiddikjaraw bil-miktub l-istat tagħhom fis-soċjetà, kif ukoll kwalunkwe interess li jista' jkun rilevanti għall-irwol tagħhom fil-Kummissjoni:

Iżda din id-dikjarazzjoni għandha tinkludi l-impjeg tal-membri prospettivi kif ukoll kwalunkwe rwol li dik il-persuna jista' jkollha fi hdan kwalunkwe assoċjazzjoni, organizzazzjoni, jew entità legali.

(8) Matul il-proċess tal-għażla tal-persuna li tkun ser tokkupa l-pożizzjoni ta' Kummissarju, kif ukoll tal-persuni li jkunu ser jiffurmaw parti mill-Kummissjoni, il-Kumitat għandu, kemm jista' jkun possibbli, jiżgura illi l-għażliet tiegħu jkunu magħmula minn rappreżentazzjoni bilanċjata, wiesgħa, u pluralista tas-soċjetà Maltija, skont ir-rekwiżiti tal-Prinċipji dwar l-Istatus tal-Istituzzjonijiet Nazzjonali (Prinċipji ta' Pariġi).

(9) Malli l-Kumitat itemm il-proċess tal-għażla tiegħu, il-Kumitat għandu jippreżenta lill-Kamra lista finali, li tkun tikkonsisti minn persuna nominata għall-pożizzjoni ta' Kummissarju, u tmien (8) persuni oħra nominati għall-pożizzjoni ta' membri tal-Kummissjoni.

(10) Il-ħatra tal-persuni nominati mill-Kumitat għandha tkun sostnuta minn riżoluzzjoni tal-Kamra:

Iżda l-ħatra tal-Kummissarju għandha tkun sostnuta minn riżoluzzjoni tal-Kamra b'voti ta' mhux anqas minn żewġ terzi tal-membri kollha tal-Kamra.

(11) Fejn il-Kamra tapprova l-membri tal-Kummissjoni, iżda r-riżoluzzjoni tal-Kamra għall-ħatra tal-Kummissarju tonqos milli tikseb il-voti ta' mhux anqas minn żewġ terzi tal-membri kollha tal-Kamra, il-proċedura skont is-subartikoli (1) sa (9) għandha terġa' tinbeda limitatament għall-ħatra tal-Kummissarju:

Iżda l-ħatra tat-tielet persuna nominata u magħżula mill-Kumitat biex tokkupa l-kariga ta' Kummissarju għandha tkun sostnuta b'riżoluzzjoni tal-Kamra.

(12) Il-Kummissarju u l-membri tal-Kummissjoni għandhom jinnominaw kwalunkwe wieħed mill-membri tagħha bħala Deputat Kummissarju u l-membri hekk maħtur għandu jkollu s-setgħat kollha u għandu jaqdi dawk il-funzjonijiet kollha tal-Kummissarju fl-assenza jew l-inabbiltà temporanja tiegħu jew meta jkun bil-vaganzi, jew kull meta l-kariga ta' Kummissarju tkun battala. L-isem tal-persuna maħtura bħala Deputat Kummissarju għandu jiġi ppubblikat fil-Gazzetta.

Dikjarazzjoni u kunflitt ta' interess.

8. (1) Kwalunkwe membru tal-Kummissjoni li għandu xi interess dirett jew indirett fi kwalunkwe kwistjoni jew sitwazzjoni li l-Kummissjoni jew il-Bord ikunu qed jikkunsidraw jew jisimgħu, li mhuwiex interess li jiskwalifikah milli jibqa' membru, għandu jiżvela n-natura tal-interess tiegħu fl-ewwel laqgħa tal-Kummissjoni wara li l-fatti rilevanti ġew mgharrfa lilu.

(2) Tali żvelar għandu jiġi mniżżel fil-minuti tal-laqgħa, u l-membri li għandu l-interess kif hawn qabel imsemmi għandu jirtira

minn kull laqgħa fejn tali kwistjoni jew sitwazzjoni hija diskussa. Tali żvelar għandu jiġi mgħarraf lill-Kamra mingħajr dewmien.

9. It-terminu ta' kull membru tal-Kummissjoni għandu jkun ta' erba' (4) snin: Terminu tal-kariga.

Iżda kull membru tal-Kummissjoni jista' jiġi nominat għall-ħatra mill-ġdid għal terminu ieħor biss skont l-artikolu 7.

10. (1) Bla ħsara għad-dispożizzjonijiet tal-artikolu 9, il-membri tal-Kummissjoni ma għandhomx jitneħħew mill-kariga ħlief mill-President, li għandu jaġixxi skont indirizz mill-Kamra, bis-sostenn tal-voti ta' mhux anqas minn żewġ terzi tal-membri tagħha, bit-talba għal tali tneħħija għar-raġuni li dak il-membru: Terminazzjoni u riżenja.

(a) naqas milli jattendi għal tliet (3) laqgħat konsekuttivi tal-Kummissjoni mingħajr raġuni valida;

(b) ġie pruvat li huwa inkapaċi li jaqdi l-funzjonijiet tal-kariga tiegħu jew li huwa ta' imġieba ħażina;

(c) iżomm kariga li hija inkompatibbli mat-twettiq korrett tad-dmirijiet uffiċjali tiegħu jew mal-imparzjalità u l-indipendenza tiegħu jew mal-fiduċja pubblika fihom;

(d) huwa legalment interdett jew inabilitat;

(e) ġie kkundanat għal reat li jgħorr sentenza ta' prigunerija ta' mhux inqas minn sitt xhur;

(f) huwa soġġett għall-iskwalifika taħt l-artikolu 320 tal-Att dwar il-Kumpanniji; jew Kap. 386.

(g) huwa fallut mhux rijabilitat jew għamel arrangament mal-kredituri tiegħu.

(2) Il-Parlament jista' b'liġi jirregola l-proċedura għall-preżentata ta' indirizz u għall-investigazzjoni u prova dwar it-terminazzjoni tal-kariga ta' membru tal-Kummissjoni skont id-dispożizzjonijiet tas-subartikolu preċedenti.

(3) Kull membru tal-Kummissjoni jista', f'kull waqt, jirriżenja mill-kariga tiegħu permezz ta' avviż bil-miktub lill-President, u r-riżenja tiegħu għandha tkun effettiva mill-ġurnata li fiha l-President jirċievi l-avviż.

(4) Jekk il-kariga ta' Kummissarju jew ta' membru tal-Kummissjoni ssir battala, il-proċedura msemmija fl-artikolu 7 għandha tidhol fis-seħħ, u l-persuna maħtura għandha tokkupa dik il-pożizzjoni

għall-bqija tat-terminu:

Iżda wara li jgħaddi dak iż-żmien, dik il-persuna għandha xorta waħda tkun eliġibbli sabiex tiġi nominata għar-rwol ta' Kummissarju jew ta' membru tal-Kummissjoni skont l-artikolu 7 u bla ħsara għad-dispożizzjonijiet tal-artikolu 9.

Dispożizzjonijiet fir-rigward ta' proċeduri tal-Kummissjoni.

11. (1) Il-laqgħat tal-Kummissjoni għandhom jissejhu mill-Kummissarju kull meta dan ikun meħtieġ għat-twettiq xieraq tal-funzjonijiet tagħha iżda mhux inqas minn darba kull xahrejn (2), jew fuq inizjattiva tiegħu stess jew fuq talba ta' kwalunkwe żewġ (2) membri mill-membri l-oħrajn.

(2) Il-kworum għal-laqgħat tal-Kummissjoni għandu jkun ta' ħames (5) membri, b'dana li wieħed minn dawk il-membri għandu jkun il-Kummissarju jew id-Deputat Kummissarju.

(3) Id-deċiżjonijiet tal-Kummissjoni għandhom jgħaddu b'maġġoranza sempliċi tal-voti tal-membri preżenti. Il-Kummissarju għandu jkollu ukoll vot deċiżiv.

(4) Il-validità ta' kwalunkwe proċediment tal-Kummissjoni ma għandhiex tkun affetwata minn xi vakanza fost il-membri tal-Kummissjoni jew minħabba xi nuqqas fil-ħatra ta' xi membru.

(5) Il-Kummissjoni tista' tahtar kwalunkwe mill-uffiċjali jew impjegati tagħha sabiex jaġixxu bħala Segretarju u jassisti fit-teħid tal-minuti tal-laqgħat tagħha.

(6) Il-Kummissjoni tista' minn żmien għal żmien tistieden kwalunkwe persuna biex tattendi laqgħa jew għadd ta' laqgħat minn tagħha, b'mod partikolari sabiex tipprovdi parir espert dwar kwistjonijiet speċifiċi.

(7) Il-Kummissjoni tista' tahtar sotto-komitati jew gruppi ta' hidma kif tqis li hu xieraq sabiex taqdi aħjar il-funzjonijiet tagħha:

Iżda kwalunkwe sottokomitati jew grupp ta' hidma hekk mahtur għandu dejjem ikun ippresedut minn membru tal-Kummissjoni.

(8) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, il-Kummissjoni għandha, generalment, tirregola l-proċeduri tagħha stess.

(9) Dawn il-proċeduri għandhom isiru bil-miktub sal-aħhar tal-ewwel tnax-il xahar (12) mid-dhul fis-seħħ ta' dan l-Att, u għandhom ikunu disponibbli pubblikament u faċilment aċċessibbli u għandhom, sa fejn ikun possibbli, jindirizzaw il-kwistjonijiet kollha relatati mal-

funzjonijiet tal-Kummissjoni.

12. (1) Għandu jiġi stabbilit Kumitat Konsultattiv Permanenti fi hdan il-Kummissjoni li għandu jkun kompost mis-segwenti:

Kumitat
Konsultattiv
Permanenti.

- (a) il-Kummissarju għat-Tfal *ex officio*;
- (b) il-Kummissarju dwar il-Vjolenza Abbażi tal-Ġeneru u Vjolenza Domestika *ex officio*;
- (ċ) il-Kummissarju għas-Sahħa Mentali *ex officio*;
- (d) il-Kummissarju għall-Anzjani *ex officio*
- (e) il-Kummissarju għad-Drittijiet ta' Persuni b'Diżabilità *ex officio*;
- (f) il-Kummissarju għall-Organizzazzjonijiet Volontarji *ex officio*;
- (g) il-Kummissarju għall-Infommazzjoni u l-Protezzjoni tad-Data *ex officio*;
- (h) il-Kummissarju għar-Rifugjati *ex officio*.

(2) Il-Kumitat Konsultattiv Permanenti għandu jiltaqa' kull meta dan ikun meħtieġ u għandu jirregola l-proċeduri tiegħu.

(3) Il-Kumitat Konsultattiv Permanenti għandu jiġi konsultat f'kull kwistjoni diskussa mill-Kummissjoni.

(4) Il-Kumitat Konsultattiv Permanenti għandu jagħti r-rakkomandazzjonijiet tiegħu lill-Kummissjoni fejn dan ikun mitlub minnu skont is-subartikolu preċedenti:

Iżda kwalunkwe rakkomandazzjonijiet mogħtija m'għandhomx ikunu vinkolanti fuq il-Kummissjoni.

(5) Il-Kumitat Konsultattiv Permanenti għandu jkollu s-setgħa sabiex jissottometti lill-Kummissjoni, fuq bażi konsultattiva u fuq inizjattiva tiegħu stess, opinjonijiet, rakkomandazzjonijiet, proposti u rapporti dwar kwalunkwe materjal li jikkonċerna l-promozzjoni u l-protezzjoni tad-drittijiet tal-bniedem u tad-dritt għal trattament indaqs u n-nondiskriminazzjoni.

13. Ir-rappreżentanza legali u ġuridika tal-Kummissjoni għandha tkun vestita fil-Kummissarju, iżda l-Kummissjoni tista' taħtar kwalunkwe wieħed jew aktar mill-membri tagħha, jew kwalunkwe wieħed jew aktar mill-uffiċjali jew impjegati tagħha, biex jidhru

Rappreżentanza
legali u
ġuridika.

f'isimha jew għan-nom tagħha fi kwalunkwe proċedimenti ġudizzjarji u fi kwalunkwe att, kuntratt, ftehim jew kwalunkwe dokument ieħor ikun li jkun.

Taqsimha III
Funzjonijiet u setgħat tal-Kummissjoni

Funzjonijiet tal-Kummissjoni

14. Il-funzjonijiet tal-Kummissjoni għandhom jinkludu s-segwenti:

(a) li tippromwovi u tipproteġi d-drittijiet tal-bniedem u d-dritt għal trattament indaqs u n-nondiskriminazzjoni;

(b) li taħdem favur l-eliminazzjoni tal-abbuż tad-drittijiet tal-bniedem u tad-dritt għal trattament indaqs u n-nondiskriminazzjoni;

(c) li tinkoraġixxi l-iżvilupp ta' kultura ta' rispett għad-drittijiet tal-bniedem u tad-dritt għal trattament indaqs u n-nondiskriminazzjoni u għad-djalogu interkulturali;

(d) li ssaħħaħ l-għarfien u fehim pubbliku dwar id-drittijiet tal-bniedem u t-trattament indaqs u n-nondiskriminazzjoni u tiġġieled id-diversi forom ta' diskriminazzjoni billi żżid il-kuxjenza pubblika, speċjalment permezz tat-tixrid tal-informazzjoni u tal-edukazzjoni;

(e) li tissottometti lill-Gvern, lill-Parlament u lill-korpi pubbliċi, fuq bażi konsultattiva, jew fuq it-talba tal-awtoritajiet konċernati jew fuq inizjattiva tagħha stess, opinjonijiet, rakkomandazzjonijiet, proposti u rapporti dwar kwalunkwe kwistjoni li tikkonċerna l-promozzjoni u l-protezzjoni tad-drittijiet tal-bniedem u d-dritt għal trattament indaqs u n-nondiskriminazzjoni;

(f) il-monitoraġġ u l-eżaminazzjoni tal-abbozzar u l-implimentazzjoni tal-politiki nazzjonali dwar id-drittijiet tal-bniedem u d-dritt għal trattament indaqs u n-nondiskriminazzjoni u li tagħmel dawk ir-rakkomandazzjonijiet li tqis xierqa sabiex tiżgura li dawn il-politiki huma konformi mad-drittijiet tal-bniedem u mad-dritt għal trattament indaqs u n-nondiskriminazzjoni;

(g) il-monitoraġġ u l-eżaminazzjoni tal-abbozzar u l-implimentazzjoni ta' miżuri u politiki nazzjonali dwar il-prinċipju tal-azzjoni pożittiva skont l-Att tal-2019 dwar l-Ugwaljanza, u li tagħmel dawk ir-rakkomandazzjonijiet li tqis xierqa sabiex tiżgura li dawn il-miżuri u politiki huma konformi

mal-prinċipju tal-azzjoni pożittiva;

(h) li teżamina u tirrevedi l-adegwatezza u l-effettività ta' dispożizzjonijiet leġiżlattivi jew amministrattivi fis-seħħ, kif ukoll abbozzi u proposti leġiżlattivi, jew fuq talba tal-awtoritajiet jew fuq inizzjattiva tagħha stess, u li tagħmel dawk ir-rakkomandazzjonijiet li tqis xierqa sabiex tiżgura li dawn id-dispożizzjonijiet huma konformi mad-drittijiet tal-bniedem u mad-dritt għal trattament indaqs u n-nondiskriminazzjoni, u jekk ikun meħtieġ, tirrakkomanda l-adozzjoni ta' leġiżlazzjoni ġdida, l-emenda ta' leġiżlazzjoni diġà fis-seħħ u l-addozzjoni jew l-emenda ta' miżuri amministrattivi;

(i) li tissorvelja u tippromwovi l-armonizzazzjoni tal-leġiżlazzjoni nazzjonali, tar-regolamenti u tal-prattiċi ma' strumenti internazzjonali tad-drittijiet tal-bniedem u tal-ugwaljanza u tan-nondiskriminazzjoni li għalihom Malta hija parti, u l-implimentazzjoni effettiva tagħhom;

(j) li tfejji rapporti u tikkummissjona riċerki fuq is-sitwazzjoni nazzjonali fir-rigward tad-drittijiet tal-bniedem u tad-dritt għal trattament indaqs u n-nondiskriminazzjoni, jew fuq kwalunkwe suġġett jew settur speċifiku ieħor relatat mal-imsemmija;

(k) li ttipprovdi assistenza indipendenti, inkluża l-għajjnuna legali, skont il-bżonn, fejn il-Kummissjoni tqis li tali għajjnuna hi meħtieġa u xierqa;

(l) li iżzomm konsultazzjoni u, meta tħoss li jkun xieraq għat-twettiq aħjar tal-funzjonijiet tagħha, tikkollabora mal-organizzazzjonijiet tal-Gvern li huma responsabbli għall-promozzjoni u l-protezzjoni tad-drittijiet tal-bniedem u tad-dritt għal trattament indaqs u n-nondiskriminazzjoni jew għall-eliminazzjoni tal-ksur tad-drittijiet tal-bniedem u tal-ugwaljanza u għall-eliminazzjoni tad-diskriminazzjoni, jew li huma dedikati għall-protezzjoni ta' grupp li huwa partikolarment vulnerabbli;

(m) iżzomm fis-seħħ konsultazzjoni, tiżviluppa relazzjonijiet u, fejn tħoss li jkun xieraq għat-twettiq aħjar tal-funzjonijiet tagħha, tikkollabora mal-organizzazzjonijiet mhux governattivi, responsabbli għall-promozzjoni u l-protezzjoni tad-drittijiet tal-bniedem u tad-dritt għal trattament indaqs u n-nondiskriminazzjoni jew għall-eliminazzjoni tal-ksur tad-drittijiet tal-bniedem u tal-ugwaljanza u n-nondiskriminazzjoni jew li huma dedikati għall-protezzjoni ta' grupp li jinsabu f'sitwazzjoni ta' vulnerabbiltà';

(n) tikkontribwixxi fil-formulazzjoni ta' programmi għat-tagħlim u għar-riċerka dwar id-drittijiet tal-bniedem u t-trattament indaqs u n-nondiskriminazzjoni, u sabiex tiegħu sehem fl-eżekuzzjoni tagħhom fl-iskejjel, kulleġġi, universitajiet u stabbilimenti edukattivi oħra;

(o) tikkollabora ma' organizzazzjonijiet oħra sabiex tippromwovi u tipproteġi d-drittijiet tal-bniedem u d-dritt għal trattament indaqs u n-nondiskriminazzjoni;

(p) tipparteċipa, tikkontribwixxi, u taqsam informazzjoni ma' entitajiet internazzjonali oħrajn fil-fora internazzjonali għall-iżvilupp globali u reġjonali tad-drittijiet tal-bniedem u t-trattament indaqs u n-nondiskriminazzjoni;

(q) li tipprovdi l-għarfien u l-ħiliet neċessarji sabiex tiffacilita l-implimentazzjoni tal-leġiżlazzjoni dwar id-drittijiet tal-bniedem u l-ugwaljanza u nondiskriminazzjoni eżegwibbli f'Malta, fost l-oħrajn permezz tal-użu ta' taħriġ u kampanji ta' sensibilizzazzjoni;

(r) li tippubblika kwalunkwe materjal li tqis li hu ta' interess pubbliku skont id-dispożizzjonijiet ta' dan l-Att;

(s) li tirċievi ilmenti mingħajr ħlas minn kwalunkwe persuna, ukoll jekk megħjuna jew rappreżentata minn kwalunkwe assoċjazzjoni, organizzazzjoni, jew entità legali, fuq kwalunkwe kwistjoni li tikkonċerna l-protezzjoni tad-dritt għal trattament indaqs u n-nondiskriminazzjoni;

(t) li titlob lill-Bord sabiex jisma' kwalunkwe kwistjoni dwar il-ksur tad-dritt għal trattament indaqs u n-nondiskriminazzjoni, abbażi ta' ilment li jkun ġie riċevut skont dan l-Att, jew abbażi ta' inizjattiva tal-Kummissjoni stess;

(u) li tibda, f'isimha stess, proċeduri fir-rigward ta' allegat ksur tad-drittijiet tal-bniedem, inklużi proċeduri kontra l-Avukat Ġenerali, quddiem il-Prim' Awla tal-Qorti Ċivili fil-ġurisdizzjoni kostituzzjonali tagħha meta tkun tal-fehma li hemm xi dispożizzjoni legali li tmur kontra l-Kostituzzjoni;

(v) li tibda, f'isimha stess, proċeduri quddiem il-qorti kompetenti fir-rigward ta' allegat ksur tad-dritt għal trattament indaqs u n-nondiskriminazzjoni, inklużi proċeduri kontra l-Avukat Ġenerali, meta tkun tal-fehma li hemm xi dispożizzjoni legali tmur kontra d-dispożizzjonijiet tal-Att tal-2019 dwar l-Ugwaljanza;

(w) li tipparteċipa bis-sħiħ bħala *amicus curiae* fi proċedimenti quddiem il-qorti kompetenti fir-rigward ta' allegat ksur tad-drittijiet tal-bniedem jew tad-dritt għal trattament indaqs u n-nondiskriminazzjoni, skont il-każ;

(x) li twettaq kwalunkwe funzjoni oħra li tista' tiġi assenjata lilha permezz ta' dan l-Att jew kwalunkwe liġi oħra.

15. Meta l-Kummissjoni jkollha suspett raġonevoli ta' ksur tad-dritt għal trattament indaqs u n-nondiskriminazzjoni, hija għandha titlob lill-Bord sabiex jibda proċeduri fuq il-kwistjoni:

Il-Kummissjoni għandha titlob lill-Bord sabiex jibda proċeduri.

Izda f'dawn il-każijiet hekk inizjati, l-artikolu 31 tal-Att tal-2019 dwar l-Ugwaljanza m'għandux japplika.

Abbozz Nru. 96 tal-2019.

16. (1) Bla ħsara għal kwalunkwe rimedju ieħor disponibbli fi kwalunkwe liġi oħra, kull persuna li temmen li hija vittma tal-ksur tad-dritt għal trattament indaqs u n-nondiskriminazzjoni tista' tressaq ilment quddiem il-Kummissjoni, fejn titlob lill-Bord sabiex jinbdew il-proċeduri meħtieġa skont dan l-Att.

Ilmenti.

(2) Kull ilment għandu jsir bil-miktub:

Izda meta l-persuna li tkun qiegħda tissottometti ilment bil-fomm teħtieġ l-għajjnuna biex tiffirmola dak l-ilment bil-miktub, il-Kummissjoni għandha tiegħu l-passi neċessarji biex tassisti lil dik il-persuna:

Izda wkoll ilment għandu dejjem jiġi ffirmat mill-persuna li qiegħda tissottometti l-ilment.

(3) Il-Kummissjoni għandha tniżzel kull ilment li tircievi u twassal dawn l-ilmenti lill-Bord.

17. (1) Minkejja kwalunkwe dispożizzjoni f'xi liġi oħra, kull ilment miktub minn persuna li tkun qiegħda tinzamm f'kustodja, għandu minnufih jitwassal, mhux miftuħ, lill-Kummissarju mill-persuna li f'dak il-waqt ikollha responsabbiltà tal-post fejn l-awtur ta' dak l-ilment ikun qiegħed jinzamm.

Ilmenti sottomessi minn persuni li jkunu qed jinzammu f'kustodja.

(2) Kwalunkwe ittra li tinkiteb mill-Kummissarju lil persuna kif deskritt għandha titwassal minnufih, mhux miftuħa, lil dik il-persuna minn min f'dak il-waqt ikun responsabbli għal dak il-post.

18. (1) Minkejja kwalunkwe dispożizzjoni f'xi liġi oħra, kull ilment li jkun inkiteb minn pazjent f'xi faċilità liċenzjata għas-saħħa mentali skont l-Att dwar is-Saħħa Mentali, indirizzata lill-Kummissjoni, għandha minnufih titwassal, mhux miftuħa, lill-Kummissarju mill-persuna li f'dak il-waqt ikollha responsabbiltà tal-

Ilmenti sottomessi minn pazjenti f'faċilitajiet liċenzjati għas-saħħa mentali. Kap. 525.

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faċilità fejn l-awtur ta' dak l-ilment jkun pazjent.

(2) Kwalunkwe ittra li tinkiteb mill-Kummissarju lil pazjent kif deskritt għandha titwassal minnufih, mhux miftuħa, lil dak il-pazjent minn min f'dak il-waqt ikun responsabbli għal dik il-faċilità.

Ilmenti
sottomessi minn
assoċjazzjonijiet,
organizza-
zjonijiet jew
entitajiet legali.

19. (1) Bla ħsara għal kwalunkwe rimedju ieħor fi kwalunkwe liġi oħra, kull assoċjazzjoni, organizzazzjoni, jew entità legali tista' tipprezenta ilment lill-Kummissjoni f'isem jew bl-appoġġ ta' persuna li temmen li hija vittma tal-ksur tad-dritt għal trattament indaqs u n-nondiskriminazzjoni, bil-kunsens ta' tali persuna, fejn titlob lill-Bord sabiex jinbdew il-proċeduri meħtieġa skont dan l-Att.

(2) Kwalunkwe assoċjazzjoni, organizzazzjoni, jew entità legali tista' tipprezenta ilment ukoll f'dawk il-każijiet fejn ma hemmx persuna speċifika li hija identifikata bħala l-vittma tal-ksur tad-dritt għal trattament indaqs u n-nondiskriminazzjoni:

Iżda l-ilment għandu jkun ta' interess pubbliku jew dwar settur jew grupp partikolari tas-soċjetà.

(3) Kull ilment sottomess lill-Kummissjoni għandu jsir bil-miktub.

Rapport
annwali.

20. (1) Il-Kummissjoni għandha, hekk kif ikun prattikabbli wara kull sena kalendarja, imma fi kwalunkwe każ mhux iktar tard mill-aħħar ta' Marzu tas-sena li tiġi minnufih wara, tipprezenta rapport tal-attivitajiet tagħha matul dik is-sena (liema rapport hawn aktar 'il quddiem f'din il-parti jissejjaħ ir-"rapport annwali").

(2) Ir-rapport annwali għandu jinkludi fih rapport ġenerali tal-iżviluppi matul il-perjodu li jkun jikkonċerna, fir-rigward ta' dawk il-kwistjonijiet li jaqgħu fl-ambitu tal-funzjonijiet tal-Kummissjoni u għandu wkoll jinkludi rapport fuq l-attivitajiet, rakkomandazzjonijiet, pariri u inizjattivi oħrajn meħudin mill-Kummissjoni fl-avvanz tal-funzjonijiet tagħha sabiex tippromwovi u tiproteġi d-drittijiet tal-bniedem u d-dritt għal trattament indaqs u n-nondiskriminazzjoni, matul il-perjodu li għalih jirreferi r-rapport.

(3) Ir-rapport għandu jiġi diskuss mill-Kumitat dwar l-Affarijiet Soċjali tal-Kamra jew minn kwalunkwe kumitat li jissostitwixxi l-istess:

Iżda l-Kummissjoni għandha tiġi mistiedna sabiex tattendi l-laqgħat tal-Kumitat u għandha tithalla tagħmel ir-rappreżentazzjonijiet tagħha lill-istess Kumitat.

21. Il-Kummissjoni tista' minn żmien għal żmien fl-interess pubbliku jew fl-interess ta' kwalunkwe persuna, jew dipartiment, jew organizzazzjoni, tippubblika rapporti relatati generalment mal-eżerċizzju tal-funzjonijiet tagħha taht dan l-Att. Tali rapporti jistgħu jiġu ppubblikati, kemm jekk il-kwistjonijiet trattati fir-rapport ikunu jiffirmaw parti mir-rapport annwali u anke jekk le. Pubblikazzjoni.

Taqsimha IV
Il-Bord għall-Ugwaljanza

22. (1) Għandu jiġi stabbilit Bord, li għandu jkun magħruf bħala l-Bord għall-Ugwaljanza, u għandu jkollu s-setgħa li jisma' każijiet relatati ma' allegat ksur tad-dritt għal trattament indaqs u n-nondiskriminazzjoni, imressqa quddiemu jew fuq inizjattiva tal-Kummissjoni stess, jew malli jitressaq ilment skont dan l-Att. Twaqqif tal-Bord għall-Ugwaljanza.

(2) Minkejja xi dispożizzjoni oħra f'dan l-Att, fl-eżerċizzju tal-funzjonijiet tiegħu, l-Bord m'għandux ikun soġġett għad-direzzjoni jew kontroll ta' xi persuna jew awtorità oħra.

23. (1) Il-Bord għandu jkun kompost minn: Kompożizzjoni.

(a) *Chairperson* li għandu jkun persuna li jkollha *warrant* biex teżerċita l-professjoni ta' avukat u illi tkun Prattikat bħala avukat għal perjodu ta', jew perjodi li jammontaw b'kollox għal mhux anqas minn għaxar (10) snin, jew imħallef jew maġistrat irtirat;

(b) tliet (3) persuni li jkollhom *warrant* biex jeżerċitaw il-professjoni ta' avukat u li jkunu Prattikaw dik il-professjoni għal perjodu ta', jew perjodi li jammontaw b'kollox għal, mhux anqas minn ħames (5) snin u b'esperjenza fi kwistjonijiet relatati mad-dritt għal trattament indaqs u n-nondiskriminazzjoni; u

(ċ) persuna oħra li għandha tkun adattata sabiex titratta kwistjonijiet relatati mad-drittijiet tal-bniedem u mad-dritt għal trattament indaqs u n-nondiskriminazzjoni, u li għandha wkoll esperjenza ta' ħidma f'dan is-settur għal perjodu ta', jew perjodi li jammontaw b'kollox għal, mhux anqas minn ħames (5) snin.

24. (1) Il-membri tal-Bord għandhom jiġu mahtura mill-President li jagixxi skont il-parir tal-Prim Ministru. Hatra.

(2) Il-membri tal-Bord għandhom iżommu l-kariga tagħhom għal perjodu ta' seba' (7) snin:

Iżda *ċ-Chairperson* għandu jokkupa l-kariga tiegħu għal perjodu ta' għaxar (10) snin, jew sakemm jagħlaq ħamsa u sebgħin

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sena, liema waħda minnhom tiġi l-ewwel;

Iżda wkoll tali membri ma jistgħux jokkupaw il-kariga tagħhom għal iktar minn terminu wiehed (1).

(3) Mal-ħatra tagħhom, il-membri kollha tal-Bord għandhom jieħdu ġurament biex jeżaminaw u jiddeċiedu l-kazijiet miġjuba quddiemhom b'imparzjalità u b'ekwità skont il-liġi, liema ġurament għandu jittiehed quddiem l-Avukat Ġenerali.

Terminazzjoni u riżenja.

25. (1) Bla ħsara għad-dispożizzjonijiet tal-artikolu 24, il-membri tal-Bord ma għandhomx jitneħħew mill-kariga tagħhom ħlief mill-President, li għandu jaġixxi skont indirizz mill-Kamra bis-sostenn tal-voti ta' mhux anqas minn żewġ terzi tal-membri tagħha u bit-talba għal tali tneħħija minħabba li dak il-membru:

(a) ikun ġie kkundannat għal reat li jgħorr sentenza ta' prigunerija ta' mhux inqas minn sitt (6) xhur;

Kap. 386.

(b) huwa soġġett għall-iskwalifika taħt l-artikolu 320 tal-Att dwar il-Kumpanniji;

(ċ) huwa fallut mhux rijabilitat, jew għamel arrangament mal-kredituri tiegħu, jew huwa insolventi;

(d) ġie pruvat li huwa inkapaċi li jaqdi l-funzjonijiet tal-kariga tiegħu jew li huwa ta' imġieba ħażina; jew

(e) huwa legalment interdett jew inkapaċitat.

(2) Il-Parlament jista' b'liġi jirregola l-proċedura għall-preżentata ta' indirizz u għall-investigazzjoni u prova dwar it-terminazzjoni tal-kariga ta' membru tal-Bord skont id-dispożizzjonijiet tas-subartikolu preċedenti.

(3) Kull membru tal-Bord jista', f'kull waqt, jirriżenja mill-kariga tiegħu permezz ta' avviż bil-miktub lill-President, u r-riżenja tiegħu għandha tkun effettiva mill-ġurnata li fiha l-President jirċievi l-avviż.

Proċedura.

26. (1) *Iċ-Chairperson* għandu jippresjedi l-Bord.

(2) Il-kworum tal-Bord għandu jkun ta' tliet (3) membri, li wiehed minnhom għandu jkun *iċ-Chairperson*.

(3) Il-validità ta' kwalunkwe proċediment tal-Bord ma għandhiex tkun affettwata minħabba xi vakanza fost il-membri tal-Bord jew minħabba xi nuqqas fil-ħatra ta' xi membru.

(4) Il-Bord għandu jkollu Segretarju maħtur minn fost il-persunal tal-Kummissjoni, li għandu jattendi għal kull seduta tal-Bord, iżomm akkont dettaljat ta' kull seduta u jwettaq dawk il-funzjonijiet li jistgħu jkunu meħtieġa għat-tmexxija tajba u effiċjenti tal-proċeduri:

Iżda s-Segretarju ma għandux ikollu vot.

(5) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, il-Bord għandu jirregola l-proċedura tiegħu stess:

Iżda tali proċedura għandha tqis il-prinċipji tal-ġustizzja naturali, proporzjonalità, effettività, u nuqqas ta' dewmien:

Iżda wkoll tali proċedimenti għandhom ikunu ppubblikati, aċċessibbli u aġġornati.

(6) Il-membri kollha tal-Bord, għandhom f'kull hin, ikunu marbuta bl-obbligu tas-segretezza professjonali.

(7) Il-partijiet jistgħu jidhru personalment jew jistgħu jagħzlu li jiġu rappreżentati jew meġhuna minn persuna jew persuni tal-fiduċja tagħhom.

(8) Il-proċedimenti tal-Bord għandhom jinżammu fil-pubbliku, kemm-il darba, meta jiġu meqjusa ċ-ċirkostanzi kollha tal-każ, iċ-*Chairperson* iqis li huwa xieraq li l-proċedimenti, jew parti minnhom, jinżammu fil-privat.

(9) Id-deċiżjonijiet tal-Bord għandhom jittieħdu b'maġġoranza tal-voti tal-membri preżenti u votanti, u ċ-*Chairperson* fil-każ ta' voti indaqs, għandu jkollu vot deċiżiv:

Iżda mingħajr preġudizzju għad-deċiżjoni tal-Bord, kwalunkwe membru tal-Bord jista' jippreżenta, bil-miktub, opinjoni kuntrarja, li għandha tiġi annessa mad-deċiżjoni tal-Bord.

(10) L-artikolu 21 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu japplika għall-Bord. Kap. 12.

27. (1) Kwalunkwe membru tal-Bord jista' jiġi rikuzat, jew jista' jastjeni milli jservi bħala membru tal-Bord f'kull waħda miċ-ċirkostanzi msemmija fl-artikolu 734 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, u f'kull każ bħal dan id-dispożizzjonijiet tas-Sub-Titolu II tat-Titolu II tat-Tielet Ktieb ta' dak il-Kodiċi għandhom japplikaw safejn dawn ikunu applikabbli u bla ħsara għad-dispożizzjonijiet l-oħra ta' dan l-Att. Rikuza jew astensjoni.
Kap. 12.

(2) F'każ li membru tal-Bord jiġi hekk rikuzat, jew ikun astjena,

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l-President, fuq parir tal-Prim Ministru, għandu jahtar persuna *ad hoc* biex tissostitwixxi lil dak il-membru:

Iżda dik il-persuna hekk maħtura għandu jkollha r-rekwiziti meħtieġa skont l-artikolu 23.

Setgħat tal-Bord.

28. Għat-twettiq tal-funzjonijiet tiegħu, is-setgħat tal-Bord għandhom ikunu s-segwenti:

(a) li jirċievi talbiet mill-Kummissjoni fejn formalment titlob lill-Bord biex jibda proċeduri fuq kwistjoni speċifika skont l-artikolu 15;

(b) li jirċievi ilmenti sottomessi lill-Kummissjoni skont l-artikoli 16, 17, 18 u 19;

(ċ) li jibda proċeduri fir-rigward tal-ilmenti u tat-talbiet li jirċievi;

(d) li jirrifjuta li jisma' ilmenti skont id-dispożizzjonijiet tal-artikoli 30 u 31;

(e) li jiġbor l-evidenza, jisma' lil kwalunkwe persuna, u jikseb kwalunkwe informazzjoni u kwalunkwe dokumenti li jistgħu jkunu meħtieġa għal dan l-iskop skont id-dispożizzjonijiet tal-artikolu 36;

(f) li jordna miżuri interim f'dawk iċ-ċirkostanzi msemmija fl-artikolu 43;

(g) li jordna lil kwalunkwe parti kkonċernata sabiex tiegħu dawk il-miżuri adattati u adegwati sabiex jiġi provdut rimedju jew sabiex dak il-ksur jiġi effettivament mitmum, skont il-każ, skont id-dispożizzjonijiet ta' dan l-Att u tal-Att tal-2019 dwar l-Ugwaljanza;

Abbozz Nru. 96 tal-2019.

(h) li jimponi penalitajiet amministrattivi skont id-dispożizzjonijiet ta' dan l-Att;

(i) li jordna l-ħlas ta' kumpens għad-dannu kkawżat, jekk ikun hemm, inkluż dannu mhux finanzjarju, imġarrab mill-vittma;

Abbozz Nru. 96 tal-2019.

(j) li tikkumpila linji gwida dwar dan l-Att u l-Att tal-2019 dwar l-Ugwaljanza għall-pubbliku fi żmien sitt (6) xhur mit-twaqqif tal-Bord, liema linji gwida għandhom ikunu faċilment aċċessibbli u aġġornati minn żmien għal żmien; u

(k) kwalunkwe setgħat oħrajn konferiti lilu taħt kwalunkwe dispożizzjoni ta' dan l-Att.

29. (1) Bla hsara għall-artikoli 30 u 31, il-Bord għandu, wara li jirċievi ilment, jew talba mill-Kummissjoni *ex officio*, jibda proċeduri sabiex jiddetermina jekk ikunx seħħ jew ikunx qiegħed iseħħ ksur tad-dritt għal trattament indaqs u n-nondiskriminazzjoni. Proċeduri.

(2) Proċeduri quddiem il-Bord għandhom jiġu riżolti mingħajr dewmien bla bżonn.

30. Il-kwistjonijiet li ġejjin ma għandhomx ikunu soġġetti għal proċeduri quddiem il-Bord: Kwistjonijiet mhux soġġetti għal proċeduri.

(a) kwalunkwe kwistjoni ċertifikata mill-Prim Ministru bħala waħda li toqot is-sigurtà interna jew esterna ta' Malta;

(b) azzjoni meħuda fi kwistjonijiet ċertifikati mill-Ministru responsabbli għall-affarijiet barranin bħala li jaffettwaw relazzjonijiet jew negozjati bejn il-Gvern u kwalunkwe Gvern ieħor jew kwalunkwe organizzazzjoni internazzjonali ta' Stati jew Gvernijiet;

(ċ) azzjoni meħuda mill-Ministru responsabbli għall-gustizzja taħt l-Att dwar l-Estradizzjoni; Kap. 276.

(d) l-eżerċizzju tas-setgħa tal-Prim Ministru taħt l-artikolu 515 tal-Kodiċi Kriminali; u Kap. 9.

(e) kwalunkwe att diskriminatorju fir-rigward ta' ħatriet għall-karigi uffiċjali, tneħhija minn tali karigi, u l-eżerċizzju ta' kontroll dixxiplinarju fuq persuni li jkollhom jew ikunu jaġixxu f'xi karigi bħal dawk, fejn il-kontestazzjoni jew rimedju hu l-mandat esklussiv ta' kwalunkwe entità rilevanti oħra stabbilita mill-Kostituzzjoni.

31. (1) Il-Bord għandu jirrifjuta li jisma', jew li jkompli jisma', kwalunkwe ilment jew talba li jkun irċieva jekk: Rifut li jisma'.

(a) huwa tal-opinjoni li l-ilment jew it-talba hija frivola jew vessatorja jew ma saritx bil-*bona fide*:

Iżda f'dan il-każ, l-ispejjeż kollha għandhom jiġihallu mill-parti li resqet l-istess, u l-Bord jista' jordna lil din il-parti sabiex tħallas multa ta' mhux iżjed minn ħames mitt euro (€500), liema multa għandha tingabar mill-Bord bħala dejn ċivili;

(b) hemm diġà pendenti quddiem kwalunkwe qorti jew

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tribunal ieħor kompetenti, proċedimenti relatati mas-suġġett tal-ilment jew tat-talba;

(ċ) is-suġġett tal-ilment jew talba diġà gie deċiż mill-Bord jew minn kwalunkwe qorti jew tribunal ieħor kompetenti;

Kap. 385.

(d) hemm pendent i quddiem l-Ombudsman skont l-Att dwar l-Ombudsman, investigazzjoni fuq is-suġġett tal-ilment jew tat-talba;

(e) bla ħsara għad-dispożizzjonijiet tal-artikolu 19(2), il-Bord huwa tal-opinjoni li l-persuna li qed tilmenta ma għandhiex interess personali suffiċjenti fis-suġġett tal-ilment; jew

(f) fir-rigward tal-ilmenti riċevuti skont l-artikolu 19(2), il-Bord huwa tal-opinjoni li l-ilment ma huwiex ta' interess pubbliku jew ma jinteressax lil settur jew grupp partikolari tas-soċjetà.

(2) Il-Bord għandu jissospendi kwalunkwe proċedimenti pendent i quddiemu jekk jinbdeu proċedimenti dwar is-suġġett tal-ilment jew tat-talba quddiem il-Qrati kriminali kompetenti, sakemm jispiċċaw dawn il-proċeduri kriminali.

(3) Fi kwalunkwe każ fejn il-Bord jiddeċiedi li mhux ser jisma', jew li mhux ser ikompli jisma' ilment jew talba, l-Bord għandu jinforma lill-partijiet rilevanti kollha, u lill-Kummissjoni, u għandu jindika r-raġunijiet tiegħu bil-miktub:

Iżda d-deċiżjoni tal-Bord li ma jismax jew li ma jkomplix jisma' ilment jew talba tista' tkun soġġetta għal sħarriġ tal-Kummissjoni, iżda mhux għal sħarriġ ġudizzjarju.

L-ilmenti għandhom isiru fi żmien sentejn.

32. Il-Bord ma għandux jieħu konjizzjoni ta' ilment kemm-il darba dan l-ilment ma jsirx fi żmien sentejn (2) minn meta l-persuna li tkun qed tressqu tkun saret taf għall-ewwel darba dwar il-kwistjonijiet misjuba fih:

Iżda meta l-proċeduri, mal-wasla tal-ilment, jitwaqqfu skont dan l-artikolu, il-Bord għandu jinforma bil-miktub lill-partijiet rilevanti kollha u lill-Kummissjoni, li l-proċeduri twaqqfu.

Irtirar tal-ilment.

33. Proċeduri li jkunu nbdeu malli jkun gie riċevut ilment għandhom jitwaqqfu jekk dak l-ilment jiġi irtirat:

Iżda meta l-proċeduri, mal-wasla tal-ilment, jitwaqqfu skont dan l-artikolu, il-Bord għandu jinforma bil-miktub lill-partijiet rilevanti kollha, u lill-Kummissjoni, li l-proċeduri twaqqfu.

34. (1) Malli jibdew il-proċeduri, il-Bord permezz ta' ittra registrata għandu jinnotifika lill-partijiet kollha involuti dwar tali bidu sa mhux iktar tard minn hames (5) granet tax-xogħol mid-deċiżjoni tiegħu li jibda dawn il-proċeduri. Avviż ta' bidu.

(2) L-ittra registrata mibgħuta lill-persuna, assoċjazzjoni, organizzazzjoni, jew entità legali li allegatament kisret id-dritt għal trattament indaqs u n-nondiskriminazzjoni għandha tinkludi:

(a) referenza speċifika għall-att jew l-ommissjoni li jikkostitwixxu l-allegat ksor tad-dritt għal trattament indaqs u n-nondiskriminazzjoni inkwistjoni; u

(b) talba sabiex, fi żmien għoxrin (20) jum, jiġu provduti sottomissjonijiet fuq l-allegazzjonijiet li saru kontrih:

Iżda l-Bord għandu jkollu d-dritt li jkompli bil-proċeduri kemm jekk tali sottomissjonijiet jiġu ppreżentati u kemm jekk ma jiġux.

35. (1) F'kull waqt matul il-proċeduri, sakemm il-partijiet ikkonċernati jiddikjaraw li ma għandhomx aktar evidenza jew sottomissjonijiet sabiex jipprezentaw lill-Bord, kwalunkwe parti involuta tista' tagħmel rappreżentazzjonijiet lill-Bord fuq il-materja tal-każ. Il-partijiet jistgħu jagħmlu sottomissjonijiet.

(2) Kwalunkwe evidenza jew sottomissjonijiet għandhom jiġu ppreżentati lill-Bord fi żmien tletin (30) jum minn meta ssir it-talba għall-preżentata ta' tali evidenza jew sottomissjonijiet.

36. (1) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, il-Bord jista' jharrek kwalunkwe persuna naturali jew legali, skont il-każ, li fil-fehma tiegħu tkun tista': Evidenza.

(a) tagħti xi tagħrif li jkollu x'jaqsam ma' xi kwistjoni li tkun qiegħda quddiem il-Bord; jew

(b) tipproduċi kwalunkwe dokumenti, inkartament jew oġġetti li jkollhom x'jaqsmu mal-kwistjoni li tkun qiegħda quddiem il-Bord:

Iżda s-Sub-Titolu III tat-Titolu I tat-Tielet Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw *mutatis mutandis*. Kap. 12.

(2) Meta jharrek kwalunkwe persuna naturali jew legali, skont il-każ, għall-finijiet ta' dan l-artikolu, il-Bord għandu:

(a) jistabbilixxi d-data u l-ħin tat-taħrika quddiem il-

Bord, jew id-data sa meta d-dokumenti, inkartament jew oġġetti mitluba għandhom jiġu preżentati lill-Bord;

(b) jispeċifika liema informazzjoni jew dokumenti, inkartament jew oġġetti huma meħtieġa; u

(ċ) jindika l-konsegwenzi jekk wieħed jonqos milli jipprovdi l-informazzjoni jew dokumenti, inkartament jew oġġetti mitluba.

Kap. 79.

(3) *Ic-Chairperson* għandu jkollu s-setgħa li jamministra affermazzjoni, dikjarazzjoni jew ġurament lil kull xhud imħarrek skont l-Ordinanza dwar il-Kummissjunarji b'setgħa li jagħtu Ġurament u skont it-twemmin, kredu jew reliġjon ta' dik il-persuna:

Izda l-kliem twemmin, kredu jew reliġjon għandhom jirreferu għal kwalunkwe reliġjon jew twemmin filosofiku, u referenza għal tali twemmin, kredu jew reliġjon għandha tinkludi referenza għan-nuqqas tal-istess.

Meta l-evidenza mitluba ma tinghatax.

37. (1) Il-Bord jista', permezz ta' rikors quddiem il-Prim' Awla tal-Qorti Ċivili, jitlob li kwalunkwe persuna, naturali jew legali, skont il-każ, mharrka skont l-artikolu 36 li:

(a) mingħajr kawża ġusta tonqos milli tattendi fil-ħin u fil-post imsemmija fit-tahrifa;

(b) tonqos mingħajr kawża ġusta li twieġeb jew li twieġeb bis-sħiħ u b'mod sodisfacenti, fl-aħjar tagħrif u twemmin tagħha, kull mistoqsija li ssirilha mill-Bord; jew

(ċ) tonqos mingħajr kawża ġusta li tipproduci xi dokument, inkartament jew oġġett li jkun gie rikjest li tipproduci,

tigi ordnata mill-Qorti sabiex tikkonforma mat-tahrifa mahruġa lilha mill-Bord skont l-artikolu 36 jew tagħti kull ordni ieħor li tqis li huwa xieraq u neċessarju skont ic-ċirkostanzi speċifici tal-każ.

(2) L-ebda persuna naturali jew legali, skont il-każ, imħarrka mill-Bord ma tista' tigi sfurzata sabiex twieġeb għal xi domanda meta t-tweġiba għaliha tkun tista tissoġġettaha għal proċess kriminali, u kull tali persuna għandha, fir-rigward ta' kwalunkwe xhieda minnha mogħtija quddiem il-Bord, tkun intitolata għall-istess privileġġi li għalihom huwa intitolat xhud li jkun qed jixhed quddiem qorti tal-ġustizzja.

38. (1) Meta l-Prim Ministru jiċcertifika li l-għoti ta' xi tagħrif jew it-tweġib ta' xi mistoqsija jew il-produzzjoni ta' kwalunkwe oġġett, inkartament jew dokument ieħor:

Eżenzjonijiet minn żvelar.

(a) ikun jolqot is-sigurtà jew id-difiża ta' Malta jew ir-relazzjonijiet jew arrangamenti bejn il-Gvern u xi Gvern ieħor jew xi organizzazzjoni internazzjonali ta' Stati jew Gvernijiet; jew

(b) ikun x'aktarx jagħmel ħsara serja lill-ekonomija nazzjonali; jew

(ċ) ikun jinvolvi l-iżvelar tad-deliberazzjonijiet jew proċedimenti tal-Kabinett jew ta' xi kumitat tal-Kabinett; jew

(d) ikun jippreġudika l-investigazzjoni jew is-sejbien ta' reati,

il-Bord ma għandux jirrikjedi li t-tagħrif jew ir-risposta jingħataw jew, skont il-każ, li l-oġġett, inkartament jew dokument ieħor jiġu prodotti:

Iżda l-Bord jista', permezz ta' rikors quddiem il-Prim' Awla tal-Qorti Ċivil, jitlob lill-Qorti sabiex tordna l-iżvelar ta' kwalunkwe informazzjoni jew it-tweġib ta' kull mistoqsija jew il-produzzjoni ta' kwalunkwe oġġett, inkartament jew dokument u l-Qorti għandha tilqa' t-talba tal-Bord jekk tqis illi l-informazzjoni jew it-tweġiba ta' xi mistoqsija, jew il-produzzjoni ta' xi oġġett, inkartament jew dokument ikun fih jew jirreferi għal kwistjoni li, fir-rigward tagħha, l-interess pubbliku li jinqeda bl-iżvelar jiżboq l-interess pubbliku li jinqeda bin-nuqqas tal-iżvelar.

(2) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (1), id-dispożizzjoni tal-liġi li tawtorizza jew tehtieg iż-żamma ta' xi dokument, oġġett jew inkartament, jew ir-rifjut li tiġi mwiegħba xi mistoqsija, għar-raġuni li l-iżvelar tad-dokument, oġġett jew inkartament jew it-tweġib tal-mistoqsija jkun ta' ħsara għall-interess pubbliku, ma għandhiex tapplika fir-rigward ta' xi proċedura quddiem il-Bord.

39. (1) Bla ħsara għad-dispożizzjonijiet tal-artikolu 40, kull tagħrif li jinkiseb mill-Bord jew minn kwalunkwe persuna li jkollha xi kariga, ħatra jew pożizzjoni fil-Kummissjoni waqt li jkunu għaddejnin proċeduri ma għandux jiġi żvelat hlief għall-għanijiet tal-istess proċeduri u ta' kwalunkwe rapport li jkollu jsir fir-rigward, jew għall-fini ta' xi proċedimenti li jkollhom x'jaqsmu ma' xi reat jew ksur ta' dan l-Att, u l-Bord u kull persuna li jkollha xi kariga, ħatra jew pożizzjoni fil-Kummissjoni ma għandhomx jiġu mharrka sabiex jixhdu f'xi proċedimenti, hlief kif imsemmi preċedement, dwar

Segretezza tal-informazzjoni.

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kwistjonijiet li dwarhom isiru jafu matul il-proċeduri.

Kap. 9.

(2) L-artikolu 133 tal-Kodiċi Kriminali għandu japplika għall-Bord u kull persuna li jkollha xi kariga, hatra jew pożizzjoni fil-Kummissjoni.

Deċiżjonijiet tal-Bord.

40. (1) Hekk kif il-Bord jikkonkludi l-proċeduri skont dan l-Att, dan għandu jippubblika d-deċiżjoni tiegħu, li għandha tkun bil-miktub, u għandha tindika:

(a) l-att jew l-ommissjoni li jikkostitwixxu ksur tad-dritt għal trattament indaqs u n-nondiskriminazzjoni inkwistjoni;

(b) is-sottomissjonijiet tal-partijiet kollha, jekk hemm;

(ċ) ir-raġunijiet u l-bażi legali li wasslu għad-deċiżjoni tal-Bord;

(d) id-deċiżjoni tal-Bord;

(e) il-miżuri, jekk hemm, li l-parti jew partijiet għandhom jiehdu, u ż-żmien li fih l-imsemmija miżuri għandhom jittiehdu, fejn ikun il-każ, u skont l-artikolu 41;

(f) il-penali amministrattiva li għandha tkun applikabbli f'każ li l-parti jew il-partijiet ikkonċernati jinjoraw il-miżuri imposti mill-Bord u ma jiehdu l-ebda azzjoni xierqa fiż-żmien stipulat fid-deċiżjoni tal-Bord, kif xieraq u skont l-artikolu 42;

(g) il-ħlas ta' kumpens għad-dannu kkawżat, jekk ikun hemm, inkluż dannu mhux finanzjarju, imġarrab mill-vittma; u

(h) il-qasma tal-ispejjeż tal-proċedimenti, minn min għandhom jithallsu, u jekk ikun meħtieġ, f'liema proporzjon, skont iċ-ċirkostanzi tal-każ, u skont it-Tariffa E tat-tariffi msemmija fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Kap. 12.

(2) Il-partijiet kollha kkonċernati u l-Kummissjoni għandhom ikunu debitament informati bid-deċiżjoni tal-Bord.

(3) Fl-għoti ta' kwalunkwe deċiżjoni tiegħu, il-Bord għandu jqis b'mod xieraq il-prinċipji tal-gustizzja naturali u l-proporzjonalità.

Sejbien u terminazzjoni ta' ksur.

41. Meta l-Bord ikun tal-opinjoni li kien hemm jew li hemm ksur tad-dritt għal trattament indaqs u n-nondiskriminazzjoni, il-Bord għandu, fid-deċiżjoni tiegħu:

(a) jordna lil parti jew lill-partijiet ikkonċernati sabiex jiehdu dawk il-miżuri adattati u adegwati sabiex jiġi pprovdut

rimedju, jew sabiex dak il-ksur jiġi effettivament mitmum, skont il-każ:

Iżda l-miżuri imposti mill-Bord jistgħu jinkludu miżuri għall-protezzjoni tal-vittmi tal-ksur:

Iżda wkoll li l-Bord m'għandux jordna kwalunkwe miżuri li huma l-mandat esklussiv ta' kwalunkwe entità relevanti oħra stabbilita mill-Kostituzzjoni;

(b) jindika l-perjodu li fih l-imsemmija miżuri għandhom jittieħdu;

(ċ) il-penali amministrattivi li għandhom jithallsu skont dan l-Att f'każ li l-miżuri imposti ma jiġux adottati fiż-żmien indikat;

(d) jordna l-ħlas ta' kumpens għal tali danni, inkluż danni mhux finanzjarji, imġarrba minħabba tali att illegali, skont il-każ:

Iżda tali kumpens għal danni mhux finanzjarji għandu jkun proporzjonat għad-dannu mġarrab, u fl-ebda każ ma għandu jeċċedi s-somma ta' għaxart elef euro (€10,000):

Iżda wkoll li nuqqas tal-parti kkonċernata li tħallas il-kumpens lill-vittma ma għandux ikun soġġett għall-ħlas ta' xi penali amministrattivi:

Iżda wkoll l-imgħax bl-ogħla rata permessa għandu jibda jakkumula mid-data li fiha d-deċiżjoni tal-Bord ssir *res judicata*.

42. (1) Fejn il-miżuri imposti mill-Bord fid-deċiżjoni tiegħu jiġu injorati, u ma tittieħed l-ebda azzjoni xierqa mill-parti kkonċernata fiż-żmien stipulat mill-Bord, il-parti kkonċernata għandha tħallas il-penali amministrattivi imposti fl-istess deċiżjoni: Penali amministrattivi.

Iżda tali penali fl-ebda każ ma għandha teċċedi s-somma ta' għoxrin elf euro (€20,000).

(2) Bla ħsara għas-subartikolu preċedenti, il-Bord jista' jimponi wkoll il-ħlas ta' penali perjodiċi addizzjonali ta' mhux aktar minn ħames mitt euro (€500) għal kull jum matul dak iż-żmien sakemm il-miżuri imposti mill-Bord jiġu implimentati.

(3) Il-penali amministrattivi imposti mill-Bord għandhom ikunu proporzjonati.

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(4) Fil-każijiet kollha, il-penali imposti mill-Bord fid-deċiżjoni tiegħu għandhom ikunu dovuti biss meta l-każ isir *res judicata*.

Miżuri interim.

43. (1) F'każijiet ta' urġenza, minhabba r-riskju ta' ħsara gravi u rreparabbli lil kwalunkwe persuna jew grupp ta' persuni, kwalunkwe parti tista', meta l-proċeduri ma jkunux għadhom ġew konkluzi, titlob lill-Bord sabiex jordna miżuri interim li huma neċessarji u xierqa għall-prevenzjoni ta' tali ħsara.

(2) Il-partijiet ikkonċernati għandhom ikunu nnotifikati b'deċiżjoni meħuda taħt is-subartikolu (1) fl-iqsar żmien possibbli, u tali deċiżjoni għandha tapplika għal perjodu speċifikat mill-Bord, u tista' tiġi mġedda sakemm dan ikun neċessarju u adegwat.

(3) Il-proċedura stabbilita f'dan l-artikolu għandha issir fl-iqsar żmien possibbli għall-prevenzjoni ta' kwalunkwe riskju ulterjuri ta' ħsara gravi u irreparabbli lil kwalunkwe persuna jew grupp ta' persuni.

Irkupru ta' penali amministrattivi.

44. Il-penali amministrattivi imposti mill-Bord skont id-dispożizzjonijiet ta' dan l-Att għandhom jiġu rkuprati mill-Bord bħala dejn ċivili.

Dritt ta' appell.

45. (1) Kull persuna li ttošsha ingurjata minn deċiżjoni tal-Bord tista' tappella quddiem il-Qorti tal-Appell fil-kompetenza tagħha superjuri permezz ta' rikors ipprezentat fir-Registru ta' dik il-Qorti fi żmien għoxrin (20) jum mill-ġurnata tad-deċiżjoni tal-Bord.

(2) Kopja tar-rikors tal-appell għandha tiġi nnotifikata lill-Bord, li għandu jipprezenta risposta bil-miktub fi żmien għoxrin (20) jum mid-data tan-notifika.

(3) Il-Qorti tal-Appell għandha tappunta l-kawża għas-smiġh f'data fil-qrib, u għandha tara illi l-avviż dwar dik id-data jiġi notifikat lill-partijiet.

(4) Wara li tappunta r-rikors għas-smiġh, il-Qorti tal-Appell għandha tiddeċiedi r-rikors fuq il-mertu tiegħu wara li tisma' s-sottomissjonijiet tal-partijiet kollha, fl-iqsar żmien possibbli, iżda mhux aktar tard minn erba' (4) xhur mill-ġurnata li fiha l-appell ġie ipprezentat u l-partijiet ġew debitament notifikati.

(5) Sakemm il-Qorti tal-Appell tasal għad-deċiżjoni tagħha, id-deċiżjoni tal-Bord għandha tiġi sospiza.

(6) L-ispejjeż tal-appell ikunu fid-diskrezzjoni tal-Qorti, u għandhom ikunu somma stabbilita mir-registratur:

Iżda jekk il-Qorti tiddeċiedi li l-appell hu frivolu u vessatorju, l-ispejjeż għandhom jithallsu mill-appellant.

(7) Il-Ministru jista' wara li jikkonsulta mal-Ministru responsabbli għall-gustizzja, permezz ta' regolamenti jistabbilixxi d-drittijiet li għandhom jithallsu fir-reġistru tal-qrati fir-rigward tal-preżentata ta' atti ġudizzjarji li għandhom x'jaqsmu ma' appell lill-Qorti tal-Appell fil-kompetenza tagħha superjuri taħt dan l-artikolu:

Iżda sakemm jiġu hekk stabbiliti d-drittijiet mill-Ministru, għandhom jiġu applikati d-drittijiet li jinsabu fl-Iskeda A li tinsab mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Kap. 12.

46. (1) Bla ħsara għas-subartikolu (2), hekk kif id-deċiżjoni tal-Bord issir *res judicata*, il-Bord għandu jkollu d-dritt illi jagħmel rikors quddiem il-Prim' Awla tal-Qorti Ċivil sabiex jitlob lill-istess Qorti tordna lill-konvenut jikkonforma ruħu bis-sħiħ mad-deċiżjoni tal-Bord.

Id-dritt tal-Bord li jagħmel rikors.

(2) Kwalunkwe penali amministrattivi jew ħlas ta' kumpens imposti mill-Bord għandhom jikkostitwixxu titolu eżekuttiv hekk kif id-deċiżjoni tal-Bord issir *res judicata*.

Taqsim V Impjieġ tal-persunal u riżorsi

47. (1) Il-Kummissjoni għandha taħtar Direttur Eżekuttiv li għandu jaġixxi skont il-politika stabbilita mill-Kummissjoni u skont dawk l-istruzzjonijiet li jistgħu jingħataw mill-Kummissarju.

Direttur Eżekuttiv.

(2) Id-Direttur Eżekuttiv għandu jibqa' fil-kariga taħt kuntratt ta' servizz bil-miktub għal dak il-perjodu kif speċifikat fil-kuntratt u soġġett għal dawk it-termini u kondizzjonijiet kif speċifikati, inklużi dawk relatati ma' remunerazzjonijiet u provvedimenti, kif jista' jiġi determinat mill-Kummissjoni.

(3) Id-Direttur ma għandux ikun membru tal-Kummissjoni, iżda, kemm-il darba ma jiġix dirett xort'ohra mill-Kummissarju, għandu jattendi għal-laqgħat tal-Kummissjoni u jkollu d-dritt li jitkellem u jagħti parir f'dawn il-laqgħat.

(4) Id-Direttur Eżekuttiv ma għandux ikun uffiċjal pubbliku sekondat mill-Gvern.

(5) Id-Direttur Eżekuttiv ma għandux ikollu xi kariga ohra jew jokkupa xi pożizzjoni ohra li fir-rigward tagħha jirċievi pagamenti, kif lanqas ma għandu jwettaq xi negozju mingħajr il-kunsens tal-Kummissjoni.

(6) Id-Direttur Eżekuttiv jista' jitneħħa mill-kariga mill-Kummissjoni għal raġunijiet indikati u skont id-diskrezzjoni tagħha:

Iżda din it-terminazzjoni għandu jkollha s-sostenn tal-voti ta' mhux anqas minn żewġ terzi tal-membri kollha tal-Kummissjoni.

(7) Id-Direttur Eżekuttiv jista', f'kull waqt, jirriżenja mill-kariga tiegħu b'avviż bil-miktub lill-Kummissjoni.

Funzjonijiet tad-Direttur Eżekuttiv.

48. (1) Id-Direttur Eżekuttiv għandu jwettaq, jimmaniġġja u jikkontrolla b'mod ġenerali l-amministrazzjoni tal-Kummissjoni u wkoll jaqdi funzjonijiet oħra li jistgħu jiġu stabbiliti mill-Kummissjoni.

(2) Id-Direttur Eżekuttiv għandu jaqdi l-funzjonijiet tiegħu kif soġġett għal dawk il-politiki li jingħataw mill-Kummissjoni, u għandu jkun responsabbli lejn il-Kummissjoni għat-tmexxija effiċjenti u effettiva tal-Kummissjoni u għat-twettiq xieraq tal-funzjonijiet tiegħu.

(3) Id-Direttur Eżekuttiv għandu jipprovdi lill-Kummissjoni dik l-informazzjoni marbuta mat-twettiq tal-funzjonijiet tiegħu, inkluż informazzjoni regolari fir-rigward tat-twettiq ta' dawk il-funzjonijiet inkwantu dawn ikunu marbuta mal-affarijiet finanzjarji u mal-baġit tal-Kummissjoni, skont kif tista' tirrikjedi l-Kummissjoni.

(4) Id-Direttur Eżekuttiv għandu jkun responsabbli biex japprova l-ispejjeż neċessarji għal bini adegwat, salarji, għamara, materjali u attivitajiet amministrattivi li huma neċessarji għal twettiq tal-funzjonijiet, setgħat u dmirijiet tal-Kummissjoni taħt dan l-Att.

(5) Id-Direttur Eżekuttiv jista' jagħmel proposti lill-Kummissjoni fuq kwalunkwe kwistjoni relatata mal-funzjonijiet tagħha, inklużi kwalunkwe rakkomandazzjonijiet ta' politika meħtieġa.

(6) Il-Kummissjoni tista' taħtar membru tal-persunal tal-Kummissjoni sabiex temporanjament iwettaq il-funzjonijiet ta' Direttur Eżekuttiv fin-nuqqas tad-Direttur Eżekuttiv jew meta l-pożizzjoni ta' Direttur Eżekuttiv tkun vakanti, u membru li jkun hekk maħtur għandu, f'dan in-nuqqas jew malli din il-pożizzjoni issir vakanti, iwettaq dawk il-funzjonijiet.

Uffiċjali tal-Kummissjoni.

49. (1) Il-Kummissjoni tista' taħtar dawk l-uffiċjali u l-impjegati li huma meħtieġa sabiex twettaq b'mod sħiħ il-funzjonijiet u d-dmirijiet tagħha taħt dan l-Att.

(2) Is-setgħa li taħtar tinkludi l-approvazzjoni għan-numru ta' persuni li jistgħu jiġu maħtura taħt dan l-artikolu, kemm jekk b'mod ġenerali jew fir-rigward ta' kwalunkwe dmirijiet speċifiċi jew

klassijiet ta' dmirijiet, is-salarji tagħhom, u l-kundizzjonijiet tal-ħatra skont dan l-Att.

50. (1) Il-Prim Ministru jista', fuq talba tal-Kummissjoni, minn żmien għal żmien jordna li kwalunkwe uffiċjali pubbliċi jiġu assenjati sabiex jaqdu dmirijietom mal-Kummissjoni f' dik il-kapaċità u b' seħħ minn dik id-data li tista' tiġi speċifikata fl-ordni.

Uffiċjali
pubbliċi
assenjati biex
jaqdu dmirijiet
mal-
Kummissjoni.

(2) Il-perjodu li matulu għandu japplika l-ordni kif imsemmi qabel fir-rigward ta' kwalunkwe uffiċjali speċifikati fih għandu, kemm-il darba l-uffiċjali ma jirtirawx mis-servizz pubbliku, jew xort'oħra jieqfu milli jkunu uffiċjali pubbliċi f' data preċedenti, jew sakemm ma jkunx hemm data differenti speċifikata fl-ordni, isir effettiv mas-seħħ ta' kwalunkwe mill-avvenimenti segwenti, jiġifieri: -

(a) l-aċċettazzjoni minn dawk l-uffiċjali pubbliċi ta' offerta għat-trasferiment tas-servizz ta', u impjeg permanenti mal-Kummissjoni magħmul skont is-subartikolu (8); jew

(b) ir-revoka mill-Prim Ministru ta' xi ordni minnhom magħmula taħt dan l-artikolu dwar dawk l-uffiċjali.

(3) Meta ordni kif imsemmi qabel jiġi revokat mill-Prim Ministru fir-rigward ta' kwalunkwe uffiċjal, il-Prim Ministru jista', permezz ta' ordni oħra, jassenja lil tali uffiċjal sabiex jaqdi dmirijietu mal-Kummissjoni f' dik il-kapaċità u b' effett minn dik id-data kif jista' jiġi speċifikat f' dak l-ordni ulterjuri, u b' hekk d-dispożizzjonijiet tas-subartikolu (2) għandhom japplikaw għall-perjodu tat-terminu ta' dak l-ordni ulterjuri fir-rigward ta' dak l-uffiċjal.

(4) Meta uffiċjal pubbliku jiġi assenjat biex jaqdi dmirijietu mal-Kummissjoni taħt kwalunkwe mid-dispożizzjoni ta' dan l-artikolu, dak l-uffiċjal għandu, matul iż-żmien li fih l-ordni ikun effettiv fir-rigward tiegħu, ikun taħt l-awtorità amministrattiva u l-kontroll tal-Kummissjoni, iżda għandu għall-finijiet u effetti kollha jibqa', u jitqies u jiġi ttrattat bħala uffiċjal pubbliku.

(5) Bla ħsara għall-generalità ta' dak imsemmi qabel, uffiċjal pubbliku li jkun assenjat għal dmirijiet kif imsemmi qabel:

(a) ma għandux, matul iż-żmien li matulu dak l-uffiċjal jkun hekk assenjat:

(i) ikun prekluz milli japplika għal trasferiment f' xi dipartiment tal-Gvern skont it-termini u l-kondizzjonijiet tas-servizz marbuta mal-ħatra tiegħu mal-Gvern li jkollu fid-data meta jkun gie hekk assenjat għal dmirijietu; jew

(ii) ikun hekk impjegat li r-rimunerazzjoni u l-kondizzjonijiet tas-servizz tiegħu jkunu inqas favorevoli minn dawk li jkunu marbuta mal-ħatra tiegħu mal-Gvern miżmuma minnu fid-data meta jkun gie assenjat għal dmirijietu kif imsemmi qabel, jew li kienu marbuta ma' dik il-ħatra matul l-imsemmi perjodu, li kieku dak l-uffiċjal ma jkunx gie assenjat biex jaqdi dmirijietu mal-Kummissjoni; u

(b) għandu jkollu l-jedd li s-servizz tiegħu mal-Kummissjoni jiġi meqjus bħala servizz mal-Gvern għall-finijiet ta' kwalunkwe pensjoni, gratwità jew benefiċċju skont l-Ordinanza dwar il-Pensjonijiet, jew l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema u ta' kull dritt jew privileġġ ieħor li għalih kien ikun intitolat, u għandu jkun responsabbli għal kull oneru li kien ikun jgħajjat lilu, li kieku ma kienx għall-fatt li gie assenjat sabiex iwettaq dmirijietu mal-Kummissjoni.

Kap. 93.
Kap. 58.

(6) Meta ssir applikazzjoni kif stabbilit fis-subartikolu (2)(a)(i), għandha tingħatalha l-istess konsiderazzjoni daqslikieku l-applikant ma gie assenjat biex jaqdi dmirijietu mal-Kummissjoni.

(7) Il-Kummissjoni għandha tħallas lill-Gvern dawk il-kontribuzzjonijiet li jistgħu minn żmien għal żmien jiġu stabbiliti mill-Ministru responsabbli għall-finanzi fir-rigward tal-ispiza tal-pensjonijiet u ta' kwalunkwe gratwità li jkun irċieva l-uffiċjal li jkun assenjat mal-Kummissjoni fit-twettiq ta' dmirijietu, kif diġà stabbilit, għall-perjodu li matulu jkun hekk assenjat.

(8) Il-Kummissjoni tista' toffri lil kwalunkwe uffiċjal pubbliku assenjat biex jaqdi dmiru mal-Kummissjoni taħt is-subartikolu (2) impjieg permanenti mal-Kummissjoni bi ħlas u taħt it-termini u l-kundizzjonijiet speċifikati fl-offerta.

(9) Kull uffiċjal pubbliku li jaċċetta impjieg permanenti mal-Kummissjoni li jiġi offrut lilu bis-saħħa ta' dan l-artikolu għandu, għall-finijiet kollha minbarra dawk tal-Ordinanza dwar il-Pensjonijiet u tal-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, jieqaf milli jkun fis-servizz tal-Gvern u għandu jidhol fis-servizz mal-Kummissjoni b'seħħ mid-data tal-aċċettazzjoni tal-offerta, jew minn data oħra miftiehma bejnu u bejn il-Kummissjoni; u għall-finijiet tal-imsemmija Ordinanza u tal-imsemmi Att, servizz mal-Kummissjoni għandu jitqies li jkun servizz mal-Gvern fi hdan it-tifsiriet tagħhom:

Kap. 93.
Kap. 58.

Kap. 93.

Iżda għall-finijiet tal-Ordinanza dwar il-Pensjonijiet, id-dhul mill-pensjoni ta' dak l-uffiċjal pubbliku meta huwa jirtira għandu jitqies bħala dhul mill-pensjoni pagabbli lil uffiċjal fis-servizz tal-Gvern fi grad u f'livelli inkrementali li jikkorrispondu għall-kariga u l-

livell inkrementali li bih l-uffiċjal jirtira mill-Kummissjoni.

51. Il-Kummissjoni tista', fit-twettiq ta' kwalunkwe mill-attivitajiet jew rapporti tagħha taht dan l-Att tahtar, f'kapaċità konsultattiva, lil kwalunkwe persuna li l-perizja partikolari tagħha tkun meħtieġa biex taqdi l-funzjonijiet tagħha b'mod iktar effettiv: Esperti.

Iżda jekk il-konsulent ikun uffiċjal pubbliku, il-Prim Ministru jista', wara li ssirlu talba mill-Kummissarju, jahtar lil dak l-uffiċjal pubbliku sabiex jassisti.

52. Ir-remunerazzjoni u l-provvedimenti pagabbli lill-Kummissarju, lill-membri kollha tal-Kummissjoni, liċ-*Chairperson* tal-Bord, u lill-membri kollha tal-Bord għandhom jiġu stabbiliti mill-Kamra: Remunerazzjoni tal-Kummissjoni u tal-Bord.

Iżda tali remunerazzjoni u provvedimenti ma għandhomx jitnaqqsu matul il-perjodu tal-kariga tal-Kummissjoni jew tal-Bord.

53. Il-Kummissjoni għandha ssegwi l-proċeduri kollha dwar akkwist kif regolati mir-Regolamenti dwar l-Akkwist Pubbliku jew kwalunkwe emenda għalihom. Kuntratti ta' provvista, xoghlijiet jew servizzi. L.S 174.04.

Taqsim VI Dispożizzjonijiet finanzjarji

54. (1) Il-Kamra għandha tiżgura li l-Kummissjoni jkollha fi kwalunkwe waqt, baġit adegwat għat-twettiq xieraq tal-funzjonijiet tagħha. Finanzi.

(2) Mill-inqas tliet (3) xhur qabel it-tmiem ta' kull sena finanzjarja, il-Kummissjoni għandha tippreżenta lill-Kamra l-baġit għas-sena li jkun imiss.

(3) Il-finanzi meħtieġa għar-remunerazzjoni tal-membri tal-Kummissjoni, għas-salarji tal-uffiċjali u tal-impjegati tagħha, inkluż il-membri tal-Bord, u għall-ispejjeż l-oħra kollha tagħha u r-riżorsi għat-twettiq tal-funzjonijiet u l-obbligi tagħha ma għandhomx jeċċedu dak l-ammont massimu indikat fil-baġit.

(4) Il-Kamra ma għandhiex tnaqqas il-baġit approvat tal-Kummissjoni, sakemm ma jkunx previst fil-baġit nazzjonali għal dik is-sena tnaqqis generali għall-entitajiet simili kollha :

Iżda fejn l-imsemmi tnaqqis huwa previst, dan ma għandux ikun oġġha mit-tnaqqis medju tal-entitajiet simili kollha fil-baġit:

Iżda wkoll it-tnaqqis fil-baġit tal-Kummissjoni ma għandux, fi kwalunkwe każ, ikun ta' aktar minn hamsa fil-mija (5%) tal-baġit

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approvat tal-Kummissjoni tas-sena finanzjarja precedenti.

(5) Il-Kummissjoni għandu jkollha s-setgħa li takkumula fondi, u tista' tittrasferixxi minn sena għal oħra fondi mhux użati.

(6) Is-sena finanzjarja tal-Kummissjoni għandha tkun għall-perjodu ta' tna-x-il xahar (12) li jagħlaq fil-31 ta' Diċembru ta' kull sena kalendarja:

Iżda l-ewwel sena finanzjarja tal-Kummissjoni wara d-dhul fis-seħħ ta' dan l-Att għandha tibda mad-dhul fis-seħħ ta' dan l-Att, u tintemm fil-31 ta' Diċembru tas-sena sussegwenti.

L-ispejjeż tal-Kummissjoni għandhom jittieħdu mill-Fond Konsolidat.

55. Il-finanzi approvati mill-Kamra għall-ispejjeż tal-Kummissjoni għandhom jittieħdu mill-Fond Konsolidat mingħajr ebda approprijazzjoni ulterjuri minbarra taht dan l-Att.

Kontijiet.

56. (1) Il-Kummissjoni għandha żżomm kontijiet xierqa tad-dhul u l-hruġ tagħha u għandha tipprepara u tibgħat lill-*Speaker* dikjarazzjonijiet ta' kontijiet dwar kull waħda mis-snin finanzjarji tagħha.

Kap. 174.

(2) Il-kontijiet tal-Kummissjoni għandhom jiġu verifikati mill-Awditur Ġenerali u għandu japplika l-Att dwar l-Amministrazzjoni Finanzjarja u l-Verifika.

Eżenzjoni mit-taxxa fuq id-dhul.
Kap. 123.

57. Il-Kummissjoni għandha tkun eżentata minn kull obbligu ta' hlas ta' taxxa fuq id-dhul tagħha taht l-Att dwar it-Taxxa fuq l-*Income*.

Part VII

Xoljiment tal-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa

Xoljiment tal-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa.
Kap. 456

58. (1) Wara l-promulgazzjoni ta' dan l-Att u tal-Att tal-2019 dwar l-Ugwaljanza, għandu jkun hemm perjodu ta' tranżizzjoni li fih il-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa stabbilita taht l-Att dwar l-Ugwaljanza għall-Irġiel u n-Nisa għandha tagħmel it-tranżizzjoni tagħha fil-Kummissjoni.

(2) Matul dan il-perjodu ta' tranżizzjoni il-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa għandha tibqa' topera sakemm il-funzjonijiet tagħha jiġu trasferiti lill-Kummissjoni.

(3) Matul dan il-perjodu ta' tranżizzjoni, id-dispożizzjonijiet relattivi, f'dan l-Att, għandhom jidhlu fis-seħħ fl-ordni li ġej u f'dawk id-dati li l-Ministru jista' b'ordni jistabbilixxi:

(a) il-ħatra tal-Kummissjoni u tal-Bord;

(b) ir-reklutaġġ tad-Direttur Eżekuttiv, wara liema, il-membri u l-persunal tal-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa, għandhom jiġu trasferiti lill-Kummissjoni, bl-eċċezzjoni tad-Direttur Eżekuttiv, ta' kwalunkwe persunal ibbażat fuq proġetti, u ta' kwalunkwe persunal li qed jittrattaw ilmenti pendenti; u

(ċ) s-setgħat tal-Kummissjoni u tal-Bord.

(4) Hekk kif il-proċeduri elenkati taħt is-subartikolu (3) jiġu kompluti, u għall-inqas xahrejn (2) wara d-dhul fis-seħħ ta' dan l-Att u tal-Att tal-2019 dwar l-Ugwaljanza, is-setgħa tal-Kummissjoni li tirċievi ilmenti u s-setgħa tal-Bord li jikkunsidra dawn l-ilmenti jew talbiet *ex officio* għandha tiġi fis-seħħ, u d-dispożizzjonijiet rilevanti tal-Att tal-2019 dwar l-Ugwaljanza għandhom ukoll jidhlu fis-seħħ.

Abbozz Nru. 96
tal-2019.

(5) Fl-istess żmien, il-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa għandha tieqaf milli taċċetta jew tinvestiga ilmenti godda skont l-artikolu 17 tal-Att tal-2019 dwar l-Ugwaljanza għall-Irġiel u n-Nisa, u l-Att tal-2019 dwar l-Ugwaljanza għall-Irġiel u n-Nisa għandu jiġi kompletament imħassar:

Abbozz Nru. 96
tal-2019.
Kap. 456.

Iżda l-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa għandu xorta waħda jkollha l-mandat li tinvestiga u tikkonkludi kwalunkwe investigazzjonijiet li jinsabu pendenti quddiemha:

Iżda wkoll id-dispożizzjonijiet rilevanti fl-Att dwar l-Ugwaljanza għall-Irġiel u n-Nisa għandhom jibqgħu applikabbli għall-investigazzjonijiet pendenti.

Kap. 456.

(6) Kwalunkwe referenza fil-liġi għall-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa għandha tinftiehem bħala referenza għall-Kummissjoni.

59. (1) Kull persuna, bl-eċċezzjoni tad-Direttur Eżekuttiv u kwalunkwe persunal ibbażat fuq proġetti, li minnufih qabel id-dhul fis-seħħ ta' dan l-Att kienet impjegata mill-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa għandha, skont id-dispożizzjonijiet tal-artikolu 58(3)(b), tkun impjegata tal-Kummissjoni.

Trasferiment
tal-persunal.

(2) Il-ħaddiema msemmija fis-subartikolu (1) ma għandhomx jingħataw termini u kundizzjonijiet inqas favorevoli minn dawk it-termini u l-kundizzjonijiet ta' servizz relatati ma' remunerazzjoni li l-ħaddiema kellhom immedjatament qabel dik il-ġurnata:

Iżda kwalunkwe ftehim kollettiv negozjat ma' kwalunkwe trejtdjunjin jew assoċjazzjoni tal-persunal f'dan ir-rigward għandha tkompli tapplika.

Taqsimi VIII
Mixxellanji

Regolamenti
għall-gwida tal-
Kummissjoni.

60. Il-Kamra tista', permezz ta' rizzoluzzjoni, minn żmien għal żmien, jekk taħseb li dan hu xieraq, tagħmel regolamenti għall-implimentazzjoni aħjar ta' dan l-Att.

Setgħa tal-
Ministru.

61. Il-Ministru jista' jagħmel regolamenti sabiex jimplimenta u jagħti effett aħjar lid-dispożizzjonijiet ta' dan l-Att u bla ħsara għall-ġeneralità ta' dak li ntqal qabel jista', permezz ta' dawn ir-regolamenti, jippreskrivi kwalunkwe haġa li għandha tkun, jew li tista' tkun preskritta u jipprovdni għal kwalunkwe kwistjoni konsegwenzjali, inċidentali għal, jew konnessa mad-dispożizzjonijiet ta' dan l-Att.

Taqsimi IX
Emendi konsegwenzjali

Emenda tal-
Kostituzzjoni.

62. Il-Kostituzzjoni ta' Malta, hawn aktar 'il quddiem f'dan l-artikolu msejha "l-Kostituzzjoni", għandha tiġi emendata kif ġej:

Żieda ta'
artikolu ġdid fil-
Kostituzzjoni.

(a) minnufih wara l-artikolu 64A tal-Kostituzzjoni għandu jidhol dan l-artikolu ġdid li ġej:

"Il-
Kummissjoni
għad-
Drittijiet tal-
Bniedem u l-
Ugwaljanza.

64B. (1) Għandu jkun hemm Kummissjoni magħrufa bħala l-Kummissjoni għad-Drittijiet tal-Bniedem u l-Ugwaljanza, li għandu jkollha l-funzjoni li tippromwovi u tipproteġi d-drittijiet tal-bniedem u d-dritt għal trattament indaqs u nondiskriminazzjoni, u li għandha tinkludi fi ħdanha Bord għall-Ugwaljanza li għandu jkollu s-setgħa li jinvestiga każijiet relatati ma' allegat ksur tad-dritt għal trattament indaqs u nondiskriminazzjoni.

(2) Il-mod tal-ħatra, il-perjodu tal-kariga, u l-mod ta' kif issir it-tneħħija jew sospensjoni tal-membri tal-Kummissjoni għad-Drittijiet tal-Bniedem u l-Ugwaljanza, kif ukoll tal-membri tal-Bord għall-Ugwaljanza, flimkien ma' kull haġa oħra anċillari jew inċidentali għal dan jew li titqies meħtieġa jew spedjenti għat-twettiq tal-funzjoni msemmija fis-subartikolu (1), għandha tkun regolata b'Att tal-Parlament."; u

(b) fil-paragrafu (b) tas-subartikolu (2) tal-artikolu 66 tal-Kostituzzjoni, il-kliem "60, 61 u 64A" għandhom jiġu sostitwiti bil-kliem "60, 61, 64A, u 64B".

63. Fil-paragrafu (h) tal-artikolu 253 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, il-kliem "l-Att dwar l-Arbitru għas-Servizzi Finanzjarji." għandhom jiġu sostitwiti bil-kliem "l-Att dwar l-Arbitru għas-Servizzi Finanzjarji;" u minnufih wara għandu jidhol is-subparagrafu ġdid kif ġej:

Emenda tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Kap. 12.

"(i) il-penali amministrattivi jew il-kumpens għal danni ordnati permezz ta' deċiżjoni tal-Bord għall-Ugwaljanza skont l-Att tal-2019 dwar il-Kummissjoni għad-Drittijiet tal-Bniedem u l-Ugwaljanza.".

Abbozz Nru. 97 tal-2019.

64. Fit-Taqsima A tal-Ewwel Skeda tal-Att dwar l-Ombudsman, minnufih wara l-kliem "Il-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja", għandhom jidhlu l-kliem "Il-Kummissjoni għad-Drittijiet tal-Bniedem u l-Ugwaljanza".

Emenda tal-Att dwar l-Ombudsman. Kap. 385.

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz huma sabiex jipprovdi għat-twaqqif tal-Kummissjoni għad-Drittijiet tal-Bniedem u l-Ugwaljanza skont il-prinċipji dwar l-Istatus tal-Istituzzjonijiet Nazzjonali (Prinċipji ta' Pariġi) u sabiex jipprovdi dwar affarijiet anċillari għal dan.

**A BILL
entitled**

An ACT to provide for the establishment of a body to be known as the Human Rights and Equality Commission in line with the Principles relating to the Status of National Institutions (The Paris Principles) and European Union equality legislation, responsible for the promotion and protection of human rights including the right to equal treatment and non-discrimination in Malta; to provide for the dissolution of the National Commission for the Promotion of Equality for Men and Women and to provide for the conferral of its functions to the Human Rights and Equality Commission and to make provision with respect to matters ancillary thereto or connected therewith.

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: -

ARRANGEMENT OF ACT

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Part I
Preliminary

1. (1) The short title of this Act is The Human Rights and Equality Commission Act, 2019. Short title and commencement.

(2) This Act shall come into force on such date as the Minister responsible for equality may by notice in the Gazette establish, and different dates may be so established for different purposes and different provisions thereof.

2. In this Act, unless the context otherwise requires: – Interpretation.

"Board" means the Equality Board established by article 22;

"Commission" means the Human Rights and Equality Commission established by article 3;

"Commissioner" means the Commissioner for Human Rights and Equality appointed in accordance with article 7;

"Convention" shall have the same meaning assigned to it in the European Convention Act; Cap. 319.

"discrimination" shall have the same meaning assigned to it in the Equality Act, 2019; Bill No. 96 of 2019.

"employee" means a person employed by the Commission; "Executive Director" means the person appointed under article 47;

"human rights" includes the fundamental rights and freedoms enshrined in the Constitution and those fundamental rights and freedoms as set out in Articles 2 to 18 (inclusive) of the Convention and Articles 1 to 3 (inclusive) of the First Protocol, Articles 1 to 4 (inclusive) of the Fourth Protocol, Articles 1 and 2 of the Sixth Protocol, Articles 1 to 5 (inclusive) of the Seventh Protocol to the Convention and Article 1 of the Twelfth Protocol, which articles are reproduced in the First Schedule to the European Convention Act, those fundamental rights and freedoms enshrined in any other international human rights treaties ratified by Malta in so far as they are enforceable by any person according to, and as part of Maltese law, and those principles and practices recognised by the jurisprudence of Maltese and international courts;

"Minister" means the Minister responsible for equality;

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"person" means any natural person, or group of natural persons;

Bill No. 96 of 2019.

"right to equal treatment and non-discrimination" means the rights conferred by the Equality Act, 2019.

Part II

Establishment and conduct of affairs of the Commission

Establishment of the Human Rights and Equality Commission.

3. (1) There shall be established a Commission to be known as the Human Rights and Equality Commission to promote and protect human rights and the right to equal treatment and non-discrimination in Malta in accordance with the functions and powers assigned to it by this Act.

(2) The Commission shall be responsible to Parliament and subject to the provisions of this Act, shall perform its functions with impartiality and independence.

(3) In the exercise of their functions under this Act, the Commissioner and the members of the Commission shall not be subject to the direction or control of any other person or authority.

(4) Without prejudice to sub-articles (2) and (3), the Commission shall, in the performance of its functions, have regard to, and be guided by, best international practice applicable to national human rights institutions and equality bodies.

(5) The Commission shall be a body corporate having a distinct legal personality and capable of entering into contracts, of acquiring and disposing of property of any kind for the purposes of its functions under this Act or any other law, of suing and of being sued, and of doing all such things and entering into all transactions as are incidental to or conducive to the exercise or performance of its functions in accordance with this Act.

Composition of the Commission.

4. (1) The Commission shall be composed of a chairperson who shall be called the Commissioner for Human Rights and Equality, and eight (8) other members.

(2) The Commission shall be composed, as far as possible, of a balanced, wide and pluralist representation of Maltese society.

Eligibility.

5. (1) A person shall be eligible to be nominated and appointed as the Commissioner for Human Rights and Equality if that person:

(a) is in possession of a recognised and relevant

academic qualification;

(b) has consistently shown a clear commitment to the protection and promotion of human rights or equality; and

(c) has at least ten (10) years of professional experience within the human rights or equality sector.

(2) A person shall be eligible to be nominated and appointed as a member of the Commission if that person:

(a) has demonstrated the ability to deal with issues relating to human rights and equality, or legal and administrative issues connected therewith;

(b) has consistently shown a clear commitment to the protection and promotion of human rights or equality; and

(c) has at least five (5) years of professional or voluntary experience within the human rights or equality sector.

6. (1) A person shall not be qualified to hold office as a Commissioner or a member of the Commission if that person – Disqualification.

(a) is a member of the House or of the European Parliament;

(b) is a practicing judge or magistrate;

(c) is legally interdicted or incapacitated;

(d) has been convicted of an offence liable to a term of imprisonment for a term of not less than six (6) months;

(e) is subject to disqualification under article 320 of the Companies Act; Cap. 386.

(f) is involved or has interest in any enterprise or activity which is likely to affect the proper discharge of his functions as a member of the Commission;

(g) is an undischarged bankrupt or has made an arrangement with his creditors, or is insolvent; or

(h) without prejudice to article 10(4), has already occupied a position within the Commission for two (2) terms.

(2) The members of the Commission shall not, throughout their term in office, hold any position which is incompatible with the correct

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performance of their official duties under this Act or with their impartiality and independence or with public confidence therein.

Appointment of
the
Commission.

7. (1) The Speaker shall launch a public consultation, inviting seconded nominations, in writing, of persons to occupy the post of Commissioner and of persons to occupy the post of a member of the Commission.

(2) Once the public consultation referred to in the previous sub-article is concluded, the Speaker shall, on the basis of the documents presented by the nominated persons, verify which of the submitted nominations are eligible in terms of articles 5 and 6.

(3) The Speaker shall then publish a list of eligible, nominated persons for the position of Commissioner, together with the documents which accompanied the nominations, as well as the list of persons eligible, nominated for the position of member of the Commission, together with the documents which accompanied the nominations, and present the two (2) lists mentioned to the Standing Committee on Public Appointments (hereinafter in this article referred to as the "Committee").

(4) The Committee shall have the power to conduct pre-appointment hearings of persons nominated in accordance with this article.

(6) The entire selection process shall be held in public, and any person shall have the faculty to make written submissions in relation to any nomination at least three (3) days before the hearing of that nomination:

Provided also that the Committee shall, during the hearing process, ascertain that any submissions received in accordance with this sub-article are adequately addressed.

(7) During the selection process, the Committee shall ask the nominated persons to declare in writing their status in society, as well as any interest which may be pertinent to their role within the Commission:

Provided that such declaration shall include the prospective member's occupation as well as any role which that person may have within any association, organisation, or legal entity.

(8) During the selection process of the person who shall occupy the position of Commissioner, as well as of the persons who shall form part of the Commission, the Committee shall, as far as possible, ascertain that his choices are made from a balanced, wide, and pluralist

representation of Maltese society, in line with the Principles relating to the Status of National Institutions (The Paris Principles).

(9) Once the Committee terminates the selection process, the Committee shall present to the House the final list, consisting of a person nominated for the position of Commissioner, and eight (8) other persons nominated to the position of members of the Commission.

(10) The appointment of persons nominated by the Committee shall be supported by a resolution of the House:

Provided that the appointment of the Commissioner shall be supported by a resolution of the House supported by the votes of not less than two-thirds of all the members of the House.

(11) Where the House approves the members of the Commission, however the resolution of the House for the appointment of the Commissioner fails to secure the votes of not less than two-thirds of all the members of the House, the procedure set out in sub-articles (1) to (9) (inclusive) shall recommence limitedly to the appointment of the Commissioner:

Provided that the appointment of the third person nominated and chosen by the Committee to occupy the office of Commissioner shall be supported by a resolution of the House.

(12) The Commissioner and the members of the Commission shall nominate any one of its members to act as Deputy Commissioner and the member so designated shall have all the powers and shall perform all the functions of the Commissioner during his temporary absence or inability, or while the Commissioner is on vacation, or during any vacancy in the office of the Commissioner. The name of the person designated as Deputy Commissioner shall be published in the Gazette.

8. (1) Any member of the Commission who has any direct or indirect interest in any matter or situation being considered or heard by the Commission or the Board, not being an interest which disqualifies such member from remaining a member, shall disclose the nature of his interest at the first meeting of the Commission after the relevant facts have come to his knowledge.

Declaration and
conflict of
interest.

(2) Such disclosure shall then be recorded in the minutes of the meeting, and the member having an interest as aforesaid shall withdraw from any meetings at which such matter or situation is discussed. Any such disclosure shall be communicated to the House without delay.

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Term of office. **9.** The term of every member of the Commission shall be of four (4) years:

Provided that every member of the Commission may be nominated for re-appointment for one (1) more term in terms of article 7.

Termination and resignation. **10.** (1) Subject to the provisions of article 9, the members of the Commission shall not be removed from office except by the President, acting upon an address of the House supported by the votes of not less than two-thirds of the members thereof and asking for such removal on the ground that such member:

(a) fails to attend three (3) consecutive meetings of the Commission without just cause;

(b) is proved unable to perform the functions of his office or of proved misbehaviour;

(c) holds any position which is incompatible with the correct performance of his official duties or with his impartiality and independence or with public confidence therein;

(d) is legally interdicted or incapacitated;

(e) has been convicted of an offence liable to a term of imprisonment for a term of not less than six (6) months;

Cap. 386. (f) is subject to disqualification under article 320 of the Companies Act; or

(g) is an undischarged bankrupt, or has made an arrangement with his creditors.

(2) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the termination of the office of a member of the Commission in accordance with the provisions of the preceding sub-article.

(3) Any member of the Commission may, at any time, resign his office by notice in writing to the President, and the resignation shall take effect on the day on which he receives such notice.

(4) If the office of the Commissioner or of a member of the Commission becomes vacant, the procedure referred to in article 7 shall come into force, and the person appointed shall occupy that office for the remaining period of that term:

Provided that upon the lapse of that period, that person shall still be eligible to be nominated for the role of Commissioner or member of the Commission in terms of article 7 and subject to the provisions of article 9.

11. (1) The meetings of the Commission shall be called by the Commissioner as often as may be necessary for the due fulfilment of its functions but not less than once every two (2) months, either on his own initiative or at the request of any two (2) of the other members.

Provisions with respect to proceedings of the Commission.

(2) The quorum for meetings of the Commission shall be of five (5) members, one of whom shall be the Commissioner or the Deputy Commissioner.

(3) Decisions of the Commission shall be taken by a simple majority of the votes of the members present. The Commissioner shall also have a casting vote.

(4) The validity of any proceedings of the Commission shall not be affected by any vacancy among the members of the Commission or by any defect in the appointment of any member.

(5) The Commission may appoint any of its officers or employees to act as Secretary and to assist with the taking of minutes of its meetings.

(6) The Commission may from time to time invite any person to attend one or more of its meetings, in particular to provide expert advice on specific issues.

(7) The Commission may appoint sub-committees or working groups as it deems appropriate in order to better discharge its functions:

Provided that any sub-committee or working group so appointed shall always be chaired by a member of the Commission.

(8) Subject to the provisions of this Act, the Commission shall, in general, regulate its own proceedings.

(9) Such proceedings shall be reduced to writing by the end of the first twelve (12) months from the coming into force of this Act, and shall be made publicly available and easily accessible and shall, as far as possible, address all issues regarding the functions of the Commission.

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Standing
Advisory
Committee.

12. (1) There shall be established a Standing Advisory Committee within the Commission which shall be composed of the following:

- (a) the Commissioner for Children *ex officio*;
- (b) the Commissioner on Gender-Based Violence and Domestic Violence *ex officio*;
- (c) the Commissioner for Mental Health *ex officio*;
- (d) the Commissioner for Older Persons *ex officio*;
- (e) the Commissioner for the Rights of Persons with Disability *ex officio*;
- (f) the Commissioner for Voluntary Organisations *ex officio*;
- (g) the Information and Data Protection Commissioner *ex officio*; and
- (h) the Refugee Commissioner *ex officio*.

(2) The Standing Advisory Committee shall meet as often as necessary and shall regulate its own proceedings.

(3) The Standing Advisory Committee shall be consulted on any matter discussed by the Commission.

(4) The Standing Advisory Committee shall give its recommendations to the Commission when this is requested in accordance with the preceding sub-article:

Provided that any recommendations given shall not be binding on the Commission.

(5) The Standing Advisory Committee shall have the power to submit to the Commission, on a consultative basis and on its own initiative, opinions, recommendations, proposals, and reports on any material concerning the promotion and protection of human rights and of the right to equal treatment and non-discrimination.

Legal and
judicial
representation.

13. The legal and judicial representation of the Commission shall vest in the Commissioner, provided that the Commission may appoint any one or more of its members or any one or more of its officers or employees, to appear in its name and on its behalf in any judicial proceedings and on any act, contract, agreement or other document whatsoever.

Part III
Functions and powers of the Commission

14. The functions of the Commission shall include the following: Functions of the Commission.

(a) to promote and protect human rights and the right to equal treatment and non-discrimination;

(b) to work in favour of the elimination of the abuse of human rights and the right to equal treatment and non-discrimination;

(c) to encourage the development of a culture of respect for human rights and the right to equal treatment and non-discrimination and inter-cultural dialogue;

(d) to enhance public knowledge and understanding on human rights and the right to equal treatment and non-discrimination and combat all forms of discrimination by increasing public awareness, especially through the dissemination of information and education;

(e) to submit to Government, Parliament and public bodies, on an advisory basis, either at the request of the authorities concerned or on its own initiative, opinions, recommendations, proposals, and reports on any matter concerning the promotion and protection of human rights and the right to equal treatment and non-discrimination;

(f) to monitor and examine the drafting and the implementation of national policies related to human rights and the right to equal treatment and non-discrimination and to make such recommendations as it deems appropriate in order to ensure that these policies conform to human rights and the right to equal treatment and non-discrimination;

(g) to monitor and examine the drafting and the implementation of measures and national policies related to the principle of positive action in accordance with the Equality Act, 2019 and to make such recommendations as it deems appropriate in order to ensure that these measures and policies are in conformity with the principle of positive action.

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(h) to examine and keep under review the adequacy and effectiveness of legislative or administrative provisions in force, as well as bills and legislative proposals, either at the request of the authorities or on its own initiative, and to make such recommendations as it deems appropriate in order to ensure that

these provisions conform to human rights and the right to equal treatment and non-discrimination, and if necessary, to recommend the adoption of new legislation, the amendment of legislation already in force and the adoption or amendment of administrative measures;

(i) to monitor and promote the harmonisation of national legislation, regulations and practices with international human rights and equality and non-discrimination instruments to which Malta is a party, and their effective implementation;

(j) to prepare reports and to commission research on the national situation with regards to human rights and the right to equal treatment and non-discrimination, or on any subject or on any other specific sector related to the aforementioned;

(k) to provide independent assistance, including legal assistance where and as appropriate, where the Commission considers that such assistance is necessary and appropriate;

(l) to maintain consultation and, where it considers it so appropriate to better fulfil its functions, to co-operate with governmental organisations responsible for the promotion and protection of human rights and the right to equal treatment and non-discrimination or the elimination of human rights and equality violations and discrimination, or which are devoted to protecting particularly vulnerable groups;

(m) to maintain consultation, develop relations and, where it considers it so appropriate to better fulfil its functions, to co-operate with non-governmental organisations responsible for the promotion and protection of human rights and the right to equal treatment and non-discrimination or the elimination of human rights and equality and non-discrimination violations or which are devoted to the protection of groups in vulnerable situations;

(n) to contribute in the formulation of programmes for the teaching of, and research into human rights and equal treatment and non-discrimination, and to take part in their execution in schools, colleges, universities and other educational establishments;

(o) to co-operate with other organisations in order to promote and protect human rights and the right to equal treatment and non-discrimination;

(p) to participate, contribute to, and share information with other international entities in international fora for the global and regional developments of human rights and equal treatment and non-discrimination;

(q) to provide the necessary knowledge and skills in order to facilitate the implementation of human rights and equal treatment and non-discrimination legislation enforceable in Malta through the use, among others, of training and awareness raising campaigns;

(r) to publish any material which it considers to be of public interest in accordance with the provisions of this Act;

(s) to receive complaints, free of charge, from any person, even if assisted or being represented by any association, organisation, or legal entity, on any matter concerning the protection of the right to equal treatment and non-discrimination;

(t) to request the Board to hear any matter that concerns the breach of the right to equal treatment and non-discrimination, either following the receipt of a complaint in accordance with this Act, or upon the Commission's own initiative;

(u) to take up cases, in its own name, relating to alleged breaches of human rights, including proceedings against the Attorney General, before the Civil Court, First Hall in its constitutional jurisdiction when it is of the opinion that a legal provision is unconstitutional;

(v) to take up cases, in its own name, before the competent court relating to alleged breaches of the right to equal treatment and non-discrimination, including proceedings against the Attorney General, when it is of the opinion that a legal provision is contrary to the provisions of the Equality Act, 2019;

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(w) to fully participate as *amicus curiae* in proceedings before the competent court with regard to alleged breaches of human rights or the right to equal treatment and non-discrimination, as the case may be; and

(x) to perform any such other function as may be assigned to it by this Act or any other law.

15. Where the Commission has reasonable suspicion of a breach of the right to equal treatment and non-discrimination, it shall request the Board to initiate proceedings on the matter:

Commission to request Board to initiate proceedings.

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Bill No. 96 of 2019.

Provided that in cases so initiated, article 31 of the Equality Act, 2019 shall not apply.

Complaints.

16. (1) Without prejudice to any other remedy available in any other law, any person who believes that he is a victim of an infringement of the right to equal treatment and non-discrimination may file a complaint to the Commission, requesting the Board to initiate the necessary proceedings in accordance with this Act:

(2) Every complaint shall be made in writing:

Provided that where the person submitting the complaint requires assistance to reduce an oral complaint to writing, the Commission shall take the necessary steps to assist such person:

Provided further that a complaint shall always be signed by the person submitting such complaint.

(3) The Commission shall record every complaint received and forward these complaints to the Board.

Complaints submitted by persons detained in custody.

17. (1) Notwithstanding any provision in any law, any complaint written by a person in custody shall be immediately forwarded, unopened, to the Commissioner by the person for the time being in charge of the place where the author of the complaint is detained.

(2) Any correspondence written by the Commissioner to a person so described shall be immediately forwarded, unopened, to such person by the person for the time being in charge of the place.

Complaints submitted by patients in licensed mental health facilities. Cap. 525.

18. (1) Notwithstanding any provision in any law, any complaint written by a patient in any mental health licensed facility in accordance with the Mental Health Act addressed to the Commission shall be immediately forwarded, unopened, to the Commissioner by the person for the time being in charge of the facility where the author of the complaint is a patient.

(2) Any correspondence written by the Commissioner to a patient so described shall be immediately forwarded, unopened, to such patient by the person for the time being in charge of the facility.

Complaints submitted by associations, organisations or legal entities.

19. (1) Without prejudice to any other remedy available in any other law, any association, organisation, or legal entity may file a complaint with the Commission on behalf or in support of a person who believes that he is a victim of an infringement of the right to equal treatment and non-discrimination, with his consent, requesting the Board to initiate the necessary proceedings in accordance with this

Act.

(2) Any association, organisation, or legal entity may lodge a complaint even in cases where no one specific person is identified as a victim of an infringement of the right to equal treatment and non-discrimination:

Provided that the complaint is of public interest or concerns a particular sector or group of society.

(3) Every complaint submitted to the Commission shall be made in writing.

20. (1) As soon as practicable after the end of every calendar year, but in any case, by not later than the end of March of the following year, the Commission shall present a report on its activities during that year (such report shall hereinafter in this section be referred to as the "annual report"). Annual report.

(2) The annual report shall include a general report of developments during the period to which it relates in respect of matters falling within the functions of the Commission and shall also include a report on the activities, recommendations, advice or other initiatives carried out by the Commission in furtherance of its functions to promote and protect human rights and the right to equal treatment and non-discrimination, during the period to which the report relates.

(3) The report shall be discussed by the Social Affairs Committee of the House or any other committee substituting the same:

Provided that the Commission shall be invited to attend the Committee's meetings and shall be allowed to make its representations to the same Committee.

21. The Commission may from time to time in the public interest or in the interest of any person, or department, or organisation, publish reports relating generally to the exercise of its functions under this Act. Such reports may be published whether or not the matters dealt with in the report form part of the annual report. Publication.

Part IV The Equality Board

22. (1) There shall be established a Board, which shall be known as the Equality Board, which shall have the power to hear cases relating to alleged infringements of the right to equal treatment and non-discrimination, brought before it either upon the Commission's own initiative, or upon receipt of a complaint in accordance with this Establishment of the Equality Board.

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Act.

(2) Notwithstanding any other provision in this Act, in the exercise of its functions, the Board shall not be subject to the direction or control of any other person or authority.

Composition.

23. (1) The Board shall be composed of:

(a) a Chairperson who shall be a person in possession of a warrant to practise as an advocate and who has practised as an advocate for a period of, or periods amounting in the aggregate to not less than ten (10) years, or a retired judge or magistrate;

(b) three (3) persons in possession of a warrant to practise as an advocate and who have practised as an advocate for a period of, or periods amounting in the aggregate to not less than five (5) years and having experience in issues relating to the right to equal treatment and non-discrimination; and

(c) another person who shall be suited to deal with issues relating to the right to equal treatment and non-discrimination, having experience in working within this sector for a period of, or periods amounting in the aggregate to not less than five (5) years.

Appointment.

24. (1) The members of the Board shall be appointed by the President acting in accordance with the advice of the Prime Minister.

(2) The members of the Board shall hold their office for a period of seven (7) years:

Provided that the Chairperson shall hold his office for a period of ten (10) years, or until he is seventy-five years of age, whichever is the earliest;

Provided also that such members shall not hold their office for more than one (1) term.

(3) Upon their appointment, the members of the Board shall take an oath to examine and decide the cases brought before them with impartiality and equity according to law, which oath shall be taken before the Attorney General.

Termination and resignation.

25. (1) Subject to the provisions of article 24, the members of the Board shall not be removed from office except by the President, acting upon an address of the House supported by the votes of not less than two-thirds of the members thereof and praying for such removal on the ground that such member:

(a) has been convicted of an offence liable to a term of imprisonment of not less than six (6) months;

(b) is subject to disqualification under article 320 of the Companies Act; Cap. 386.

(c) is an undischarged bankrupt, or has made an arrangement with his creditors, or is insolvent;

(d) is proved unable to perform the functions of his office or of proven misbehaviour; or

(e) is legally interdicted or incapacitated.

(2) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the termination of the office of a member of the Board in accordance with the provisions of the preceding sub-article.

(3) Any member of the Board may, at any time, resign his office by notice in writing to the President, and the resignation shall take effect from the day on which the President receives such notice.

26. (1) The Board shall be presided by the Chairperson. Procedure.

(2) The quorum of the Board shall be of three (3) members, one of whom shall be the Chairperson.

(3) The validity of any of the Board's proceedings shall not be affected by any vacancy amongst its members or by a defect in the appointment of a member.

(4) The Board shall have a Secretary appointed from amongst the Commission's staff, who shall attend every meeting of the Board, keep a detailed record of every such meeting and carry out any such functions as may be necessary for the smooth and efficient running of the proceedings:

Provided that the Secretary shall not have a vote.

(5) Without prejudice to the provisions of this Act, the Board shall regulate its own proceedings:

Provided that such procedure shall take into account the principles of natural justice, proportionality, effectiveness and timeliness:

Provided further that such proceedings shall be published, accessible and updated.

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(6) All the members of the Board, shall at all times, be bound by the duty of professional secrecy.

(7) The parties may appear personally, or they may choose to be represented or helped by a person or persons of their trust.

(8) The proceedings of the Board shall be held in public, unless, when taking into account all the circumstances of the case, the Chairperson deems it appropriate that the proceedings, or part thereof, are held in private.

(9) Decisions of the Board shall be taken by a majority of the members present and voting, and the Chairperson shall have a casting vote in the case of an equality of votes:

Provided that without prejudice to the decision of the Board, any member of the Board may present, in writing, his dissenting opinion, which shall be annexed with the decision of the Board.

Cap. 12. (10) Article 21 of the Code of Organization and Civil Procedure shall apply to the Board.

Challenge or abstention.
Cap. 12. **27.** (1) Any member of the Board may be challenged, or may abstain from serving as a member of the Board in any one of the circumstances mentioned in article 734 of the Code of Organization and Civil Procedure, and in every such case the provisions of Sub-Title II of Title II of Book Third of that Code shall apply so far as applicable and subject to the other provisions of this Act.

(2) When a member of the Board has been objected to, or has abstained, the President acting on the advice of the Prime Minister, shall appoint a person *ad hoc*, to substitute that member:

Provided that the person so appointed shall have the necessary requisites in accordance with article 23.

Powers of the Board. **28.** For the performance of its functions, the powers of the Board shall be the following:

(a) to receive requests by the Commission formally requesting the Board to commence proceedings on a specific matter in accordance with article 15;

(b) to receive complaints submitted to the Commission in accordance with articles 16, 17,18 and 19;

(c) to commence proceedings with regards to the complaints and requests received;

(d) to refuse to hear complaints in accordance with articles 30 and 31;

(e) to collect evidence, hear any person, and obtain any information and any documents which may be necessary for such purpose, in accordance with the provisions of article 36;

(f) to order interim measures in the circumstances referred to in article 43;

(g) to order any party concerned to take such measures which are adequate and appropriate to provide a remedy for, or to bring such infringement effectively to an end, as the case may be, in accordance with the provisions of this Act and the Equality Act, 2019; Bill No. 96 of 2019.

(h) to impose administrative penalties in accordance with the provisions of this Act;

(i) to order the payment of compensation for the damage caused, if any, including non-pecuniary damage suffered by the victim;

(j) to compile guidelines about this Act and the Equality Act, 2019 for the public within six (6) months from the appointment of the Board, which guidelines shall be easily accessible and updated from time to time; and Bill No. 96 of 2019.

(k) any such other powers as are conferred to it under any provision of this Act.

29. (1) Subject to articles 30 and 31, the Board shall, in response to a complaint, or a request by the Commission *ex officio*, initiate proceedings to determine whether an infringement of the right to equal treatment and non-discrimination has taken place or is taking place. Proceedings.

(2) Proceedings before the Board shall be resolved without undue delay.

30. The following matters may not be subject to proceedings before the Board: Matters not subject to proceedings.

(a) any matter certified by the Prime Minister to affect the internal or external security of Malta;

(b) action taken in matters certified by the Minister responsible for foreign affairs to affect relations or dealings between the Government and any other Government or any

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international organisation of States or Governments;

Cap. 276.

(c) action taken by the Minister responsible for justice under the Extradition Act;

Cap. 9.

(d) the exercise of the power of the Prime Minister under article 515 of the Criminal Code; and

(e) any discriminatory act with regard to the appointments to public offices, removal from such offices and to the exercise of disciplinary control over persons holding or acting in any such public offices, where contestation or redress is exclusively mandated to any other relevant entity established by the Constitution.

Refusal to hear.

31. (1) The Board shall refuse to hear, or hear further, any complaint or request received if:

(a) it is of the opinion that the complaint or request is frivolous or vexatious or is not made in good faith:

Provided that in this case, judicial costs shall be borne by the offending party, and the Board may order that party to pay a fine not exceeding five hundred euro (€500), which shall be recoverable by the Board as a civil debt;

(b) proceedings relating to the subject-matter of the complaint or request are already pending before any other competent court or tribunal;

(c) the subject-matter of the complaint or request has already been decided by the Board or any other competent court or tribunal;

Cap. 385.

(d) an investigation on the subject-matter of the complaint or request is already pending before the Ombudsman in terms of the Ombudsman Act;

(e) subject to the provisions of article 19(2), the Board is of the opinion that the complainant does not have a sufficient personal interest in the subject-matter of the complaint; or

(f) in relation to complaints received in accordance with article 19(2), the Board is of the opinion that the complaint is not of general concern or does not concern a particular sector or group of society.

(2) The Board shall suspend any proceedings pending before it if proceedings relating to the subject of the complaint or request are

instituted before the competent criminal Courts, until such criminal proceedings are terminated.

(3) In any case where the Board decides not to proceed or proceed further on a complaint or request, it shall inform all the parties concerned, including the Commission, and shall state its reasons thereof in writing:

Provided that the decision of the Board not to proceed or proceed further on a complaint or request may be subject to review by the Commission, but shall not be subject to judicial review.

32. The Board shall not act upon any complaint unless it is made by not later than two (2) years from the day upon which the complainant first had knowledge of the matters detailed in the complaint: Complaints to be submitted within two years.

Provided that where proceedings upon receipt of a complaint are discontinued according to this article, the Board shall inform in writing all parties concerned, including the Commission, that proceedings have been terminated.

33. Proceedings commenced upon receipt of a complaint shall be discontinued upon the withdrawal of the complaint: Withdrawal of complaint.

Provided that where proceedings upon receipt of a complaint are discontinued according to this article, the Board shall inform in writing all parties concerned, including the Commission, that proceedings have been terminated.

34. (1) Upon the commencement of proceedings, the Board shall notify all interested parties of such commencement by means of registered mail by not later than five (5) working days from its decision to commence such proceedings. Notice of commencement.

(2) The registered mail sent to the person, association, organisation, or legal entity who is allegedly in breach of the right to equal treatment and non-discrimination shall contain:

(a) specific reference to the act or omission constituting the alleged breach of the right to equal treatment and non-discrimination in question; and

(b) a request to submit, within twenty (20) days, submissions on the allegations made against him:

Provided that the Board shall have the right to proceed whether such submissions were submitted or not.

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Parties may
make
submissions.

35. (1) At any time during the proceedings, up until when the parties concerned declare they have no further evidence or submissions to present to the Board, any party concerned may make representations to the Board on the subject-matter of the case.

(2) Any evidence or submissions shall be presented to the Board within thirty (30) days from when a request to produce such evidence or submissions is made.

Evidence.

36. (1) Subject to the provisions of this Act, the Board may summon any person, natural or legal, as the case may be, who in its opinion is able to:

(a) provide any information relevant to the subject-matter of the case before the Board; or

(b) provide any documents, papers, or things which are relevant to the subject-matter of the case before the Board:

Cap. 12.

Provided that Sub-Title III of Title I of Book Third of the Code of Organization and Civil Procedure shall apply *mutatis mutandis*.

(2) When summoning any person, natural or legal, as the case may be, for the purpose of this article, the Board shall:

(a) establish the date and time of the summons before the Board, or the date by which the documents, papers or things requested are to be presented to the Board;

(b) specify what information or documents, papers or things are required; and

(c) state the consequences for failing to provide the information or documents, papers or things requested.

Cap. 79.

(3) The Chairperson shall have the power to administer an affirmation, declaration, or oath to any witness summoned in accordance with the Commissioner for Oaths Ordinance and with that witness' personal belief, creed, or religion:

Provided that the term belief, creed, or religion shall refer to any religious or philosophical belief, and a reference to such belief, creed, or religion shall include a reference to a lack thereof.

Where evidence
requested is not
given.

37. (1) The Board may request, by means of an application before the Civil Court, First Hall, that any person, natural or legal, as the case may be, summoned in accordance with article 36 who:

(a) fails without sufficient cause to attend at the time and place mentioned in the summons;

(b) fails without sufficient cause to answer or to answer fully and satisfactorily, to the best of his knowledge and belief, all questions asked by the Board; or

(c) fails without sufficient cause to produce any document, paper or thing he was required to produce,

be ordered by such Court to comply with the summons issued to them by the Board in accordance with article 36 or give any other order which it may consider appropriate and required according to the specific circumstances of the case.

(2) No person, natural or legal, as the case may be, summoned by the Board may be compelled to answer any question the answer to which may subject him to criminal prosecution, and every such person shall, in respect of any evidence given by him before the Board, be entitled to the same privileges to which a witness giving evidence before a court of law is entitled.

38. (1) Where the Prime Minister certifies that the giving of any information or the answering of any question or the production of any thing, paper or other document:

Exemptions
from disclosure.

(a) affects the security or defence of Malta or relations or dealings between the Government and any other Government or any international organisation of States or Governments;

(b) is likely to seriously damage the national economy;

(c) involves the disclosure of the deliberations or proceedings of Cabinet or any committee of Cabinet; or

(d) prejudices the investigation or detection of offences,

the Board shall not require the information or answer to be given or, as the case may be, the thing, paper or other document to be produced:

Provided that the Board may, by an application filed before the Civil Court, First Hall, request the Court to order the disclosure of any information or the answering of any question or the production of any thing, paper or other document and the Court shall accede to the Board's request if the Court deems that the information, or the answering of any question, or the production of any thing, paper or other document contains or refers to matters in relation to which the public interest that is served by disclosure outweighs the public

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interest that is served by non-disclosure.

(2) Subject to the provisions of sub-article (1), the provision of law which authorises or requires the withholding of any document, thing or paper, or the refusal to answer any question, on the ground that the disclosure of the document, thing or paper or the answering of the question would be injurious to the public interest, shall not apply in respect of proceedings before the Board.

Secrecy of information.

39. (1) Without prejudice to the provisions of article 40, information obtained by the Board or any person holding any office, appointment, or designation under the Commission in the course of any proceedings shall not be disclosed except for the purposes of the proceedings and of any report to be made thereon or for the purpose of any proceedings relating to an offence or infringement under this Act, and the Board or any person holding any office, appointment or designation under the Commission shall not be called upon to give evidence in any proceedings, other than such as aforesaid, on matters coming to their knowledge in the course of any proceedings.

Cap. 9.

(2) Article 133 of the Criminal Code shall apply to the Board and any person holding any office, appointment or designation under the Commission.

Decisions of the Board.

40. (1) Following the conclusion of proceedings in accordance with this Act, the Board shall publish its decision, which shall be made in writing, and shall state:

(a) the act or omission constituting the breach of the right to equal treatment and non-discrimination in question;

(b) the submissions of all parties, if any;

(c) the reasons and the legal basis leading to the decision taken;

(d) the decision of the Board;

(e) the measures, if any, which the party or parties are required to take and the time within which such measures are to be taken, where appropriate and in accordance with article 41;

(f) the administrative penalty, which shall be applicable should the party or parties concerned ignore the measures imposed by the Board and take no appropriate action within the time fixed by the Board's decision, as appropriate and in accordance with article 42;

(g) the payment of compensation for the damage caused, if any, including non-pecuniary damage, suffered by the victim; and

(h) the division of the costs of proceedings, by whom they shall be paid, and if necessary, in what portion, in accordance with the circumstances of the case, and in accordance with Tariff E referred to in the Code of Organization and Civil Procedure. Cap. 12.

(2) All parties concerned and the Commission shall be duly informed of the decision of the Board.

(3) In giving any decision the Board shall give due consideration to the principles of natural justice and proportionality.

41. Where the Board is of the opinion that there has been or that there is an infringement of the right to equal treatment and non-discrimination, the Board shall, in its decision: Finding and termination of an infringement.

(a) order the party or parties concerned to take such measures which are adequate and appropriate to provide a remedy for, or to bring such infringement effectively to an end, as the case may be:

Provided that the measures imposed by the Board may include measures for the protection of the victims of the infringement:

Provided also that the Board may not order any measures which are exclusively mandated to any other relevant entity established by the Constitution;

(b) indicate the period within which such measures are to be taken;

(c) the administrative penalties which shall be paid in accordance with this Act if the imposed measures are not adopted within the period indicated;

(d) order the payment of compensation for such damages, including non-pecuniary damages, suffered through such unlawful act, as the case may be:

Provided that such compensation for non-pecuniary damages shall be proportionate to the damage suffered, and shall in no case exceed the sum of ten thousand euro (€10,000):

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Provided further that failure of the party concerned to pay compensation to the victim shall not be subject to the payment of any administrative penalties:

Provided further that interest at the highest rate permissible shall begin to accrue as from the date when the decision of the Board becomes *res judicata*.

Administrative penalties.

42. (1) Where the measures imposed by the Board in its decision are ignored, and no appropriate action is taken by the party concerned within the time fixed by the Board, the party concerned shall pay the administrative penalties imposed in the same decision:

Provided that such penalty shall in no case exceed the sum of twenty thousand euro (€20,000).

(2) Without prejudice to the previous sub-article, the Board may also impose an additional periodic penalty payment of not more than five hundred euro (€500) per day for such time until the measures imposed by the Board are implemented.

(3) The administrative penalties imposed by the Board shall be proportionate.

(4) In all cases, the penalties imposed by the Board in its decision shall be due only when the case becomes *res judicata*.

Interim measures.

43. (1) In cases of urgency, due to the risk of serious and irreparable harm to any person or group of persons, any party may, where the proceedings have not yet come to a conclusion, request the Board to order interim measures which are necessary and appropriate to prevent such harm.

(2) The parties concerned shall be notified of a decision made under sub-article (1) as soon as possible, and such decision shall apply for a period of time as specified by the Board, and may be renewed in so far as this is necessary and appropriate.

(3) The procedure set out in this article shall be carried out in the timeliest manner possible in order to prevent any further risk of serious and irreparable harm to any person or group of persons.

Recovery of administrative penalties.

44. Administrative penalties imposed by the Board in accordance with the provisions of this Act shall be recovered by the Board as civil debt.

Right of appeal.

45. (1) Any party who is aggrieved by a decision of the Board may appeal to the Court of Appeal in its superior jurisdiction by means

of an application filed in the Registry of that Court within twenty (20) days from the date of the decision.

(2) A copy of the appeal application shall be served on the Board, which shall file a written reply within twenty (20) days from the date of service.

(3) The Court of Appeal shall set down the cause for hearing at an early date, and shall cause notice of such date to be served to the parties.

(4) After appointing the application for hearing, the Court of Appeal shall decide the application on its merits after hearing the submissions of all parties, within the shortest time possible, but not later than four (4) months from the day when the appeal had been filed and the parties were duly notified.

(5) Pending the decision of the Court of Appeal, the decision of the Board shall be suspended.

(6) The cost of the appeal shall be at the discretion of the Court, and shall be a sum fixed by the registrar:

Provided that if the Court determines that an appeal is frivolous or vexatious, costs shall be borne by the appellant.

(7) The Minister may, after consulting the Minister responsible for justice, by regulations establish the fees payable in the registry of the courts in relation to the filing of judicial acts in connection with an appeal to the Court of Appeal (Superior Jurisdiction) under this article:

Provided that until such fees have been so established by the Minister, the fees contained in Schedule A to the Code of Organization and Civil Procedure shall apply. Cap. 12.

46. (1) Without prejudice to sub-article (2), as soon as a decision of the Board becomes *res judicata*, the Board shall have the right to file an application before the Civil Court, First Hall requesting the same Court to order the defendant to comply fully with the decision of the Board. Board's right to file application .

(2) Any administrative penalties or payment of compensation imposed by the Board shall constitute an executive title as soon as the decision of the Board becomes *res judicata*.

Part V
Employment of staff and resources

Executive
Director.

47. (1) The Commission shall appoint an Executive Director who shall act in accordance with such policies established by the Commission and such instructions as may be given by the Commissioner.

(2) The Executive Director shall hold office under a written contract of service for such period as is specified in the contract and subject to such terms and conditions as are so specified, including those relating to remuneration and allowances, as may be determined by the Commission.

(3) The Director shall not be a member of the Commission, however, unless otherwise directed by the Commissioner, he shall attend meetings of the Commission and he shall be entitled to speak at and advise such meetings.

(4) The Executive Director shall not be a public officer seconded from the government.

(5) The Executive Director shall not hold any other office or occupy any other position in respect of which emoluments are payable or carry on any business without the consent of the Commission.

(6) The Executive Director may be removed from office by the Commission for stated reasons and at its own discretion:

Provided that this termination is supported by the votes of not less than two-thirds of all the members of the Commission.

(7) The Executive Director may, at any time, resign his office by notice in writing to the Commission.

Functions of
Executive
Director.

48. (1) The Executive Director shall carry on, manage, and control generally the administration of the Commission and perform such other functions as may be determined by the Commission.

(2) The Executive Director shall perform his functions subject to such policies as may be determined by the Commission, and shall be accountable to the Commission for the efficient and effective management of the Commission and for the due performance of his functions.

(3) The Executive Director shall provide to the Commission such information in relation to the performance of his functions, including regular information with respect to the performance of those functions

in so far as they relate to the financial affairs and budget of the Commission, as the Commission may require.

(4) The Executive Director shall be responsible for approving the necessary expenses for adequate premises, salaries, furnishings, materials and administrative activities required for the carrying out of the Commission's functions, powers and duties under this Act.

(5) The Executive Director may make proposals to the Commission on any matter relating to its functions, including any necessary policy recommendations.

(6) The Commission may designate a member of the staff of the Commission to temporarily perform the functions of Executive Director in the absence of the Executive Director or where the position of Executive Director is vacant, and a member so designated shall, in such absence or upon such position being vacant, perform those functions.

49. (1) The Commission may appoint such officers and employees as necessary in order to fully perform its functions and duties under this Act. Officers of the Commission.

(2) The power to appoint includes the approval of the number of persons that may be appointed under this article whether generally or in respect of any specific duties or classes of duties, their salaries, and conditions of appointment according to law.

50. (1) The Prime Minister may, at the request of the Commission, from time to time direct that any public officers shall be detailed for duty with the Commission in such capacity and with effect from such date as may be specified in the direction. Detailing of public officers for duty with the Commission.

(2) The period during which a direction as aforesaid shall apply to any officers specified therein shall, unless the officers retire from the public service, or otherwise cease to hold office at an earlier date, or unless a different date is specified in the direction, become effective on the happening of any of the following events, that is to say: –

(a) the acceptance by such officers of an offer of transfer to the service of, and permanent employment with the Commission made in pursuance of sub-article (8); or

(b) the revocation by the Prime Minister of any direction made by him under this article in relation to such officers.

(3) Where a direction as aforesaid is revoked by the Prime Minister in relation to any officer, the Prime Minister may, by further

direction, detail such officer for duty with the Commission in such capacity and with effect from such date as may be specified in the further direction, and the provisions of sub-article (2) shall thereupon apply to the period of duration of such further direction in relation to such officer.

(4) When a public officer is detailed for duty with the Commission under any of the provisions of this article, such officer shall, during the time when the direction has effect in relation to him, be under the administrative authority and control of the Commission, but he shall for other intents and purposes remain, and be considered and treated as, a public officer.

(5) Without prejudice to the generality of the foregoing, a public officer detailed for duty as aforesaid:

(a) shall not during the time while such officer is so detailed:

(i) be precluded from applying for a transfer to a Government department in accordance with the terms and conditions of service attached to the Government appointment held by him at the date on which he was detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the Government appointment held by him at the date he was detailed for duty as aforesaid, or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Commission; and

(b) shall be entitled to have his service with the Commission considered as service with the Government for the purpose of any pension, gratuity or benefit under the Pensions Ordinance and the Widows' and Orphans' Pensions Act, and of any other right or privilege to which he would be entitled, and shall be liable to any liability to which he would be liable, but for the fact that he is detailed for duty with the Commission.

(6) Where an application is made as provided in sub-article (2)(a)(i), the same consideration shall be given thereto as if the applicant had not been detailed for duty with the Commission.

(7) The Commission shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities

earned by an officer detailed for duty with the Commission as aforesaid during the period for which he is so detailed.

(8) The Commission may offer to any public officer detailed for duty with the Commission under sub-article (2) permanent employment with the Commission at a remuneration and on terms and conditions specified in the offer.

(9) Every public officer who accepts permanent employment with the Commission offered to them pursuant to this article shall, for all purposes other than those of the Pensions Ordinance and the Widows' and Orphans' Pensions Act, cease to be in the service of the Government and shall enter into service with the Commission with effect from the date of his acceptance of the offer, or such other date agreed between them and the Commission; and for the purposes of the said Ordinance and the said Act, service with the Commission shall be deemed to be service with the Government within the meaning thereof:

Cap. 93.
Cap. 58.

Provided that for the purposes of the said Pensions Ordinance, the pensionable emoluments of such officer on retirement shall be deemed to be the pensionable emoluments payable to an officer in Government service in a grade and at an incremental level corresponding to the post and incremental level at which the officer retires from the Commission.

Cap. 93.

51. The Commission may, in the conduct of any one of its activities or reports under this Act, engage in a consultative capacity any person whose particular expertise is required for the effectiveness of its functions:

Experts.

Provided that if the consultant is a public officer, the Prime Minister may, at the request of the Commissioner, designate the public officer to assist.

52. The remuneration and allowances payable to the Commissioner, to all the members of the Commission, to the Chairperson of the Board, and to all the members of the Board shall be set by the House:

Remuneration of the Commission and the Board.

Provided that such remuneration and allowances are not to be diminished during the Commission's or Board's term of office.

53. The Commission shall follow all procurement procedures as regulated by the Public Procurement Regulations and any amendment thereto.

Contracts of supply, works or services.
S.L. 174.04

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Part VI
Financial provisions

Finance.

54. (1) The House shall ensure that the Commission shall at all times have an adequate budget to properly perform its functions.

(2) At least three (3) months prior to the end of every financial year, the Commission shall present to the House the budget for the ensuing year.

(3) The finance required for the remuneration of the members of the Commission, for the salaries of its officers and employees, including the members of the Board and for all its other expenses and resources for the performance of its functions and duties shall not exceed a maximum amount indicated in the budget.

(4) The House shall not reduce the approved budget of the Commission, unless a general reduction is envisaged for all similar entities within that year's national budget:

Provided that where such reduction is envisaged, it shall not be higher than the average reductions of all similar entities within that budget:

Provided further that the reduction in the Commission's budget shall not, in any case, be more than five per cent (5%) of the approved budget of the Commission for the previous financial year.

(5) The Commission shall be empowered to accumulate funds and may carry over unused funds from one year to the other.

(6) The financial year of the Commission shall be the twelve (12) months ending on the 31st of December of each calendar year:

Provided that the first financial year of the Commission after the coming into force of this Act shall commence on the date of the coming into force of this Act and shall end on the 31st day of December of the following year.

Commission
expenses to be a
charge on
Consolidated
Fund.

55. The finance approved by the House for the expenses of the Commission shall be a charge on the Consolidated Fund without any further appropriation other than this Act.

56. (1) The Commission shall keep proper accounts of its income and expenditure and shall prepare and send to the Speaker statements of accounts in relation to each of its financial years.

Accounts.

(2) The accounts of the Commission shall be audited by the Auditor General and the Financial Administration and Audit Act shall apply.

Cap. 174.

57. The Commission shall be exempt from any liability to pay tax in respect of its income under the Income Tax Act.

Exemption from Income Tax.
Cap. 123.

Part VII

Dissolution of the National Commission for the Promotion of Equality for Men and Women

58. (1) Following the enactment of this Act and the Equality Act, 2019 there shall be a transition period within which the National Commission for the Promotion of Equality for Men and Women established under the Equality for Men and Women Act shall transition into the Commission.

Dissolution of National Commission for the Promotion of Equality for Men and Women.
Cap. 456.

(2) During this transition period, the National Commission for the Promotion of Equality for Men and Women shall remain operative until its duties are transferred to the Commission.

(3) During this transition period, the relative provisions, in this Act, shall come into force in the following order and on such dates as the Minister may by notice establish:

(a) the appointment of the Commission and the Board;

(b) the recruitment of the Executive Director, following which, the members and staff of the National Commission for the Promotion of Equality for Men and Women shall be transferred to the Commission, with the exception of the Executive Director, any projects-based staff, and any staff dealing with pending complaints; and

(c) the powers of the Commission and of the Board.

(4) Once the procedures listed in sub-article (3) are completed, and at least two (2) months following the entry into force of this Act and the Equality Act, 2019 the power of the Commission to receive complaints and the power of the Board to consider such complaints or requests *ex officio* shall come in force, and the relative provisions of the Equality Act, 2019 shall likewise come in force.

Bill No. 96 of 2019.

C 3520

Cap. 456. (5) Simultaneously, the National Commission for the Promotion of Equality for Men and Women shall cease to accept or investigate new complaints in terms of article 17 of the Equality for Men and Women Act, and the Equality for Men and Women Act shall be fully repealed:

Provided that the National Commission for the Promotion of Equality for Men and Women shall still have the mandate to investigate and conclude any pending investigations before it:

Cap. 456. Provided also that the relevant provisions in the Equality for Men and Women Act shall remain applicable to such pending investigations.

(6) Any reference to the National Commission for the Promotion of Equality for Men and Women in any law shall be construed as reference to the Commission.

Transfer of staff. **59.** (1) Every person, with the exception of the Executive Director and any projects-based employees, who immediately before the enactment of this Act were employed by the National Commission for the Promotion of Equality for Men and Women shall, in accordance with article 58(3)(b), be employees of the Commission.

(2) The employees referred to in sub-article (1) shall not be brought to less favourable terms and conditions than the terms and conditions of service relating to remuneration to which the employees were subject immediately before that day:

Provided that any collective agreement negotiated with any trade union or staff association in this regard shall continue to apply.

Part VIII Miscellaneous

Regulations for Commission's guidance. **60.** The House may by resolution from time to time, if it deems fit, make regulations for the better implementation of this Act.

Power of the Minister. **61.** The Minister may make regulations to implement and to give better effect to the provisions of this Act and without prejudice to the generality of the foregoing may, by such regulations, prescribe anything that is to be or which may be prescribed and provide for any matter consequential, incidental to, or connected with the provisions of this Act.

Part IX
Consequential Amendments

62. The Constitution of Malta, hereinafter in this article referred to as "the Constitution", shall be amended as follows: Amendment of the Constitution.

(a) immediately after article 64A of the Constitution there shall be added the following new article: Adds a new article to the Constitution.

"The Human Rights and Equality Commission. 64B. (1) There shall be a Commission to be known as the Human Rights and Equality Commission, which shall have the function to promote and protect human rights and the right to equal treatment and non-discrimination, and which shall include within it an Equality Board which shall have the power to investigate cases relating to alleged breaches of the right to equal treatment and non-discrimination.

(2) The manner of appointment, the term of office, and the manner of removal or suspension of the members of the Human Rights and Equality Commission, as well as the members of the Equality Board, together with any other matter ancillary or incidental thereto or considered necessary or expedient for the carrying out of the function referred to in sub-article (1) shall be provided for by an Act of Parliament."; and

(b) in paragraph (b) of sub-article (2) of article 66 of the Constitution, for the words "60, 61 and 64A" there shall be substituted the words "60, 61, 64A, and 64B". Amendment of article 66 of the Constitution.

63. In paragraph (h) of article 253 of the Code of Organization and Civil Procedure, for the words "Financial Services Act." there shall be substituted the words "Financial Services Act;" and immediately thereafter there shall be added the following new paragraph: Amendment of the Code of Organization and Civil Procedure. Cap. 12.

"(i) the administrative penalties or the compensation of damages ordered by a decision of the Equality Board in terms of The Human Rights and Equality Commission Act, 2019". Bill No. 97 of 2019.

64. In Part A of the First Schedule to the Ombudsman Act, immediately after the words "The Commission for Investigation of Injustices" there shall be added the words "The Human Rights and Equality Commission". Amendment of the Ombudsman Act. Cap. 385.

C 3522

Objects and Reasons

The objects and reasons of this Bill are to establish the Human Rights and Equality Commission, in view of the Principles relating to the Status of National Institutions (The Paris Principles), and to provide for matters ancillary to it.

VERŻJONI ELETTRONIKA