

Nru. 177

13. 11. 2020

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Edward Scicluna, M.P., Ministru għall-Finanzi u s-Servizzi Finanzjarji, f'isem il-Ministru fi ħdan l-Uffiċċju tal-Prim Ministru, u moqri għall-Ewwel darba fis-Seduta tal-5 ta' Novembru 2020.

A BILL introduced by the Honourable Edward Scicluna, M.P., Minister for Finance and Financial Services, on behalf of the Minister within the Office of the Prime Minister, and read the First time at the Sitting of the 5th November 2020.

ATT sabiex jemenda l-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, Kap. 452.

AN ACT to amend the Employment and Industrial Relations Act, Cap. 452.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjah

ATT sabiex jemenda l-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, Kap. 452.

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

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2020 li jemenda l-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.
Kap. 452.

2. Fl-artikolu 2 tal-Att prinċipali, fil-paragrafu li jinsab wara l-paragrafu (ċ) tat-tifsira "tkeċċija ngusta", il-kliem "skont l-artikolu 36(3);" għandhom jiġu sostitwiti bil-kliem "skont l-artikolu 36(3), jew" u minnufih wara għandu jiżdied il-paragrafu ġdid li ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

"(d) it-terminazzjoni mill-prinċipal dwar dak il-ħaddiem ta' kuntratt ta' servizz għal terminu ta' żmien fiss:

Iżda l-iskadenza tad-data tat-tmiem ta' kuntratt ta' servizz għal terminu ta' żmien fiss ma għandux jitqies bħala temm ta' kuntratt ta' servizz għal terminu ta' żmien fiss;"

3. L-artikolu 36 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 36 tal-Att prinċipali.

(a) is-subartikolu (11) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(11) Prinċipal li jitermina kuntratt ta' impjieg ta' impjegat qabel ma jagħlaq iż-żmien speċifikat f'kuntratt

ta' servizz, ikollu jhallas lill-impjegat somma li tkun daqs nofs il-paga kollha li kienet tkun tmiss lill-impjegat dwar il-bqija taż-żmien espressament miftiehem.";

(b) is-subartikolu (14) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(14) Minkejja d-dispożizzjonijiet ta' hawn qabel ta' dan l-artikolu, prinċipal jista' jibgħat impjegat b'kuntratt ta' servizz għal żmien bla limitu u l-impjegat b'kuntratt ta' servizz għal żmien bla limitu jista' jitlaq is-servizz tal-prinċipali, mingħajr ma jagħti avviż u mingħajr ebda obbligu li jagħmel hlas kif provdut fis-subartikolu 10 jekk ikun hemm raġuni tajba u biżżejjed biex dak l-impjegat jintbagħat jew jitlaq mis-servizz:" u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Izda minkejja d-dispożizzjonijiet ta' hawn qabel ta' dan l-artikolu, impjegat jista' jabbanduna kuntratt ta' servizz għal perjodu ta' żmien fiss qabel ma jagħlaq iż-żmien speċifikat fil-kuntratt u l-prinċipal jista' jitermina kuntratt ta' servizz għal perjodu ta' żmien fiss qabel ma jagħlaq iż-żmien speċifikat fil-kuntratt kif provdut fis-subartikoli (11) u (12) jekk ikun hemm raġuni valida u gusta għal din it-tkeċċija jew abbandun."; u

(ċ) il-kliem "Izda prinċipal ma jistax iġib" għandhom jiġu sostitwiti bil-kliem "Izda wkoll prinċipali ma jistax iġib".

Emenda tal-artikolu 75 tal-Att prinċipali.

4. Is-subartikolu (1) tal-artikolu 75 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafu (b) tiegħu għandu jiġi enumerat mill-ġdid bħala l-paragrafu (ċ); u

(b) fil-paragrafu (a) tiegħu, il-kelma "u" għandha tiġi mħassra u minnufih wara għandu jiżdied il-paragrafu ġdid li ġej:

"(b) it-talbiet kollha magħmula skont is-subartikoli (11) u (12) tal-artikolu 36 tal-Att, għall-ammonti li jistgħu jiġu dovuti lil haddiem jew prinċipal wara temm ta' kuntratt ta' servizz għal perjodu ta' żmien fiss qabel id-data ta' tmiem it-terminu definitivament speċifikat fil-kuntratt; u".

Riżervi.
Abbozz Nru 177
tal-2020.

5. (1) Id-dispożizzjonijiet tal-Att tal-2020 li jemenda l-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali għandu japplika għal kull proċeduri li għandhom x'jaqsmu mat-terminazzjoni ingusta ta'

kuntratti ta' servizz għal perjodu ta' żmien fiss li huma pendenti quddiem il-Prim Awla tal-Qorti Ċivili, Qorti tal-Maġistrati (Għawdex) (Ġuriżdizzjoni Superjuri) u Tribunal Industrijali u liema każi kienu għadhom pendenti meta jidhol fis-seħħ dan l-Att u li ma sarux *res judicata*.

(2) Il-Prim Awla tal-Qorti Ċivili u l-Qorti tal-Maġistrati (Għawdex) (Ġuriżdizzjoni Superjuri), minkejja d-dispożizzjonijiet ta' dan l-Att, jibqgħu kompetenti li jittratta dawk il-każijiet ta' terminazzjoni ingusta ta' kuntratti ta' servizz għal perjodu ta' żmien fiss illi kienu qegħdin jinstemgħu quddiema qabel ma daħal fis-seħħ dan l-Att inklużi dawk li ġew trasferiti għal Prim Awla tal-Qorti Ċivili u l-Qorti tal-Maġistrati (Għawdex) (Ġuriżdizzjoni Superjuri) mit-Tribunal Industrijali qabel ma daħal fis-seħħ dan l-Att. Il-Prim Awla tal-Qorti Ċivili u l-Qorti tal-Maġistrati (Għawdex) (Ġuriżdizzjoni Superjuri) għandhom jibqgħu jieħdu konjizzjoni tat-tali każijiet sakemm dawn jiġu deċiżi definittivament minn dik il-qorti.

(3) It-Tribunal Industrijali, minkejja kull talba li għandha x'taqsam dwar nuqqas ta' ġuriżdizzjoni mogħtija qabel id-dħul fis-seħħ ta' dan l-Att, għandu jkun kompetenti li jittratta dawk il-każijiet ta' terminazzjoni ingusta ta' kuntratti ta' servizz għal perjodu ta' żmien fiss wara id-dħul fis-seħħ ta' dan l-Att.

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jikkjarifikaw li l-ġuriżdizzjoni tat-Tribunal Industrijali f'każijiet ta' tkeċċija ingusta mhux ristrett għal kuntratti ta' servizz għal żmien bla limitu. It-Tribunal Industrijali għandu ġuriżdizzjoni li jisma' u jiddeċiedi każi ta' terminazzjoni ingusta ta' kuntratti ta' servizz għal perjodu ta' żmien fiss. L-Abbozz ta' Liġi jikkjarifika wkoll id-dispożizzjonijiet applikabbli għall-kuntratti ta' servizz għal perjodu ta' żmien fiss u jelimina diskrepanzi bejn dispożizzjonijiet li għandhom x'jaqsmu ma' kuntratti ta' servizz għal perjodu ta' żmien fiss.

C 4974

**A BILL
entitled**

AN ACT to amend the Employment and Industrial Relations Act, Cap. 452.

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

Short title. **1.** The short title of this Act is the Employment and Industrial Relations (Amendment) Act, 2020 and this Act shall be read and construed as one with the Employment and Industrial Relations Act, hereinafter referred to as "the principal Act".
Cap. 452.

Amendment of article 2 of the principal Act. **2.** In article 2 of the principal Act, in paragraph (c) of the definition "unfair dismissal", the words "as provided in article 36 (3);" shall be substituted by the words "as provided in article 36(3), or" and immediately thereafter there shall be added the following new paragraph:

"(d) the termination by the employer in respect of that worker of a contract of employment for a fixed term:

Provided that the expiration of a fixed term contract of employment shall not be deemed to be a termination of the fixed term contract of employment;"

Amendment of article 36 of the principal Act. **3.** Article 36 of the principal Act shall be amended as follows:

(a) sub-article (11) thereof shall be substituted by the following new sub-article:

"(11) An employer who terminates the contract of service of an employee before the expiration of the time definitely specified by a contract of service, shall pay to the employee a sum equal to one-half of the full wages that

would have accrued to the employee in respect of the remainder of the time specifically agreed upon.";

(b) sub-article (14) thereof shall be substituted by the following new sub-article:

"(14) Notwithstanding the foregoing provisions of this article, an employer may dismiss the employee on a contract of service for an indefinite time and the employee on a contract of service for an indefinite time may abandon the service of the employee, without giving notice and without any liability to make payment as provided in sub-article (10) if there is good and sufficient cause for such dismissal or abandonment of service:" and immediately thereafter there shall be added the following new proviso:

"Provided that notwithstanding the foregoing provisions of this article, an employee may abandoned a fixed term contract of service prior to its expiry and an employer may terminate a fixed term contract prior to its expiry without any liability to make payment as provided in sub-articles (11) and (12) if there is god and sufficient cause for such dismissal or abandonment."; and

(c) the words "Provided that an employer may not set up" shall be substituted by the words "Provided further that an employer may not set up".

4. Sub-article (1) of article 75 of the principal Act shall be amended as follows:

Amendment of
article 75 of the
principal Act.

(a) paragraph (b) thereof shall be renumbered as paragraph (c);

(b) in paragraph (a) thereof, the word "and" shall be deleted and immediately thereafter there shall be added the following new paragraph:

"(b) all claims made in accordance with sub-articles (11) and (12) of article 36, for sums which may become due to a worker or to an employer following the termination of a contract of service for a fixed term before the expiration of the term definitely specified in the contract; and".

5. (1) The provisions of the Employment and Industrial Relations (Amendment) Act, 2020 shall apply to any proceedings relating to unfair termination of definite contracts of employment

Savings.
Bill No. 177 of
2020.

pending before the First Hall of the Civil Court, Court of Magistrates (Gozo) (Superior Jurisdiction) and the Industrial Tribunal and which on the date of entry into force of this Act are still pending and have not become *res judicata*.

(2) The First Hall of the Civil Court and the Court of Magistrates (Gozo) (Superior Jurisdiction) shall, notwithstanding the provisions of this Act, remain competent to deal with those cases relating to unfair termination of definite contracts of employment of which it was seized before the coming into force of this Act including those which were transferred to First Hall of the Civil Court and the Court of Magistrates (Gozo) (Superior Jurisdiction) by the Industrial Tribunal before the entry into force of this Act. The First Hall of the Civil Court and the Court of Magistrates (Gozo) (Superior Jurisdiction) shall continue to take cognizance of such causes until they are definitely decided by that court.

(3) The Industrial Tribunal shall, notwithstanding any pleas relating to lack of jurisdiction given before the coming into force of this Act, be competent to deal with those causes relating to unfair termination of definite contracts of employment after the coming into force of this Act.

Objects and Reasons

The objects and reasons of this Bill are to clarify that the Industrial Tribunal's jurisdiction in cases or unfair dismissal is not restricted to indefinite term contracts. The Industrial Tribunal has jurisdiction to hear and decide cases of unfair termination of definite contracts of employment. The Bill also clarifies the provisions applicable to fixed term contracts and to eliminate discrepancies between provisions relating to fixed term contracts.