

VERŻJONI ELETTRONIKA

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 20,978, 20 ta' Diċembru, 2022
Taqsim A

MALTA

ATT Nru XX tal-2022

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

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

ACT No. XX of 2022

AN ACT enacted by the Parliament of Malta.

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

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

20 ta' Diċembru, 2022

ATT Nru XX tal-2022

ATT li 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'ligi dan li ġej:-

1. (1) It-titolu ta' dan l-Att huwa l-Att tal-2022 li jemenda l-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali u dan l-Att għandu jinftehem u jinqara haġa waħda mal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor u skop.

Kap. 452.

(2) L-iskop ta' dan l-Att hu sabiex tigi trasposta parzjalment id-Direttiva (UE) 2019/1152 tal-Parlament Ewropew u tal-Kunsill tal-20 ta' Ġunju 2019 dwar kondizzjonijiet tax-xogħol trasparenti u prevedibbli fl-Unjoni Ewropea.

2. Fis-subartikolu (1) tal-artikolu 2 tal-Att prinċipali, minnufih wara t-tifsira "reġistrazzjoni" għandha tiżdied din it-tifsira ġdida li ġejja:

Emenda tal-artikolu 2 tal-Att prinċipali.

""relazzjoni ta' xogħol" tfisser kwalunkwe "kuntratt ta' servizz" jew "kuntratt ta' impieg" kif imfisser f'dan l-Att;".

Emenda tal-artikolu 36 tal-Att prinċipali.

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

(1) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"Avviż ta' u kumpens għal terminazzjoni ta' kuntratti ta' servizz. (1) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (16), meta relazzjoni ta' xogħol tkun soġġetta għal perjodu ta' prova, dak il-perjodu għandu jkun ta' sitt (6) xhur.";

(2) minnufih wara s-subartikolu (1) tiegħu għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"Obbligu ta' proporzjonalità ta' żmien ta' prova. (1a) Fil-każ ta' relazzjonijiet ta' xogħol b'terminu fiss, il-perjodu ta' prova għandu jkun proporzjonat għat-terminu mistenni tal-kuntratt u n-natura tax-xogħol. Fil-każ tat-tiġdid ta' kuntratt għall-istess funzjoni u inkarigi, ir-relazzjoni tax-xogħol ma għandhiex tkun soġġetta għal perjodu ta' prova ġdid:

Iżda l-ebda kuntratt ta' xogħol b'terminu fiss ma jista' jkun iqsar minn sitt (6) xhur, sakemm tali perjodu iqsar ma jkunx ġustifikat b'raġunijiet oġġettivi bbażati fuq ċirkostanzi preċiżi u konkreti li jkunu jikkarakterizzaw xi attività partikolari. Kull meta prinċipal ikollu intenzjoni li jidhrol f'kuntratt ta' servizz għal żmien fiss ma' impjegat prospettiv għal perjodu iqsar minn sitt (6) xhur, il-prinċipal għandu jniżżel bil-miktub f'dak il-kuntratt ir-raġunijiet oġġettivi għaliex il-kuntratt li daħlu għalih għandu jkun għal perjodu iqsar minn sitt (6) xhur:

Iżda wkoll għal relazzjoni ta' xogħol b'terminu fiss ta' bejn sitt (6) xhur u ħmistax (15)-il xahar, il-perjodu ta' prova għandu jiġi kkalkolat fuq il-bażi ta' perjodu ta' prova ta' xahrejn (2) għal kull perjodu ta' sitt (6) xhur fit-terminu tal-kuntratt; u f'każ illi, skont il-proviso preċedenti, il-kuntratt b'terminu fiss ikun iqsar minn sitt (6) xhur, il-perjodu ta' prova għandu jkun terz tat-terminu tal-istess kuntratt fiss:

Iżda wkoll f'każ ta' kuntratt b'terminu fiss li jaqbeż it-terminu ta' ħmistax (15)-il xahar, il-perjodu ta' prova għandu jkun ta' sitt (6) xhur.

Żmien ta' prova ta' tnaħ-il xahar.

(1b) Minkejja id-dispożizzjonijiet tas-subartikolu (1a), haddiema li jokkupaw karigi tekniċi, eżekuttivi, amministrattivi jew manigerjali, u li għandhom paga li hija tal-anqas id-doppju tal-paga minima nazzjonali stabbilita għal dik is-sena, għandhom ikunu f'perjodu ta' prova ta' tnaħ (12)-il xahar.

Sospensjoni ta' żmien ta' prova.

(1ċ) Fi kwalunkwe każ, il-perjodu ta' prova jista', bi qbil bejn il-partijiet, ikun iqsar mill-perjodi rispettivi stipulati fis-subartikoli (1a) sa (1ċ) u, il-perjodu ta' prova għandu jkun sospiż fil-każ ta' kwalunkwe leave approvat ta' ġimagħtejn (2) jew aktar, fejn il-perjodu ta' prova għandu jkun estiż għal żmien korrispondenti ta' leave. Kull tkeċċija li ssir minn prinċipal ta' haddiem waqt is-sospensjoni tal-perjodu ta' prova għandha tkun illegali."

4. Fil-verżjoni bl-Ingliż biss, l-artikolu 45 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 45 tal-Att prinċipali.

(a) fin-nota marginali tiegħu, il-kelma "Penalties." għandha tiġi sostitwita bil-kelma "Punishments."; u

(b) fis-subartikolu (1) tiegħu, il-kliem "unless a different penalty is established" għandhom jiġu sostitwiti bil-kliem "unless a different punishment is established".

5. Fis-subartikolu (4) tal-artikolu 73 tal-Att prinċipali, il-kliem "koperti bl-artikolu 75(1)(b)" għandhom jiġu sostitwiti bil-kliem "koperti bl-artikolu 75(1)(ċ)".

Emenda tal-artikolu 73 tal-Att prinċipali.

6. Fis-subartikolu (3) tal-artikolu 82 tal-Att prinċipali, il-kliem "skont l-artikolu 75(1)(a) u (b)" għandhom jiġu sostitwiti bil-kliem "skont l-artikolu 75(1)(a), (b) u (ċ)".

Emenda tal-artikolu 82 tal-Att prinċipali.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 70 tal-14 ta' Diċembru, 2022.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

20th December, 2022

ACT No. XX of 2022

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 and scope.

Cap. 452.

1. (1) The short title of this Act is the Employment and Industrial Relations (Amendment) Act, 2022, and this Act shall be read and construed as one with the Employment and Industrial Relations Act, hereinafter referred to as "the principal Act".

(2) The scope of this Act is to partially transpose Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union.

Amendment of article 2 of the principal Act.

2. In sub-article (1) of article 2 of the principal Act, immediately after the definition "employment" there shall be added the following new definition:

""employment relationship" means any "contract of service" or "contract of employment" as defined in this Act;".

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

Amendment of article 36 of the principal Act.

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

"Notice of and compensation for termination of contracts of service. (1) Saving the provisions of sub-article (16), when an employment relationship is subject to a probationary period, that period shall be of six (6) months.";

(2) immediately after sub-article (1) thereof there shall be added the following new sub-articles:

"Obligation of proportionality of probationary period. (1a) In the case of fixed-term employment relationships, the length of such a probationary period shall be proportionate to the expected duration of the contract and the nature of the work. In the case of the renewal of a contract for the same function and tasks, the employment relationship shall not be subject to a new probationary period:

Provided that no fixed term contract shall be shorter than six (6) months unless a shorter period is justified by objective reasons based on precise and concrete circumstances characterising a given activity. Whenever an employer intends to enter into a contract of service for a fixed term with a prospective employee for a period shorter than six (6) months, the employer shall list in writing in that contract the objective reasons for which the contract is entered into for less than six (6) months:

Provided further that for a fixed term contract of between six (6) months and fifteen (15) months duration, the probationary period shall be calculated on the basis of two (2) months probationary period per six (6) months contract duration; and if, in terms of the preceding proviso, the fixed term contract is shorter than six (6) months, the probationary period shall be one-third of the duration of the same fixed term contract:

Provided further that for a fixed term contract exceeding fifteen (15) months duration, the probationary period shall be of six (6) months.

Probationary period of twelve months. (1b) Notwithstanding the provisions of sub-article (1a), workers holding technical, executive, administrative or managerial positions and whose wages are at least double the national minimum wage established that year shall be on probation for a period of twelve (12) months.

Suspension of probationary period.

(1c) In any case, the probationary period may, by agreement between the parties, be shorter than the respective periods stipulated in sub-articles (1a) to (1c) and, the probationary period shall be suspended in the case of any two (2) weeks or more of approved leave, whereupon the probationary period shall be extended to a corresponding duration of the leave. It shall be unlawful for an employer to dismiss a worker during the period of suspension of probation."

Amendment of article 45 of the principal Act.

4. Article 45 of the principal Act shall be amended as follows:

(a) in the marginal note thereof, the word "Penalties." shall be substituted by the word "Punishments."; and

(b) in sub-article (1) thereof, the words "unless a different penalty is established" shall be substituted by the words "unless a different punishment is established".

Amendment of article 73 of the principal Act.

5. In sub-article (4) of article 73 of the principal Act, the words "covered by article 75(1)(b)" shall be substituted by the words "covered by article 75(1)(c)".

Amendment of article 82 of the principal Act.

6. In sub-article (3) of article 82 of the principal Act, the words "in accordance with article 75(1)(a) and (b)" shall be substituted by the words "in accordance with article 75(1)(a), (b) and (c)".

Passed by the House of Representatives at Sitting No. 70 of the 14th December, 2022.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives