

MALTA

ATT Nru XLIII tal-2023

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

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

ACT No. XLIII of 2023

AN ACT enacted by the Parliament of Malta.

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

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

22 ta' Diċembru, 2023

ATT Nru XLIII tal-2023

ATT sabiex ikompli 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, ħareġ b'ligi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2023 li jemenda l-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali (Emenda Nru 2), 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. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat b'dan li ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) minnufih qabel it-tifsira "assoċjazzjoni ta' prinċipali" tiegħu għandhom jiġu miżjuda dawn it-tifsiriet godda li ġejjin:

" "agenzija tal-impjieg" u "negozju tal-impjieg"
tfisser persuna fiżika jew ġuridika li jwettqu kwalunkwe attività f'Malta:

(a) għar-reklutaġġ ta' persuni għal impjieg f'Malta jew barra minn Malta;

(b) bħala aġenzija ta' xogħol temporanju; jew

(c) bħala aġenzija ta' outsourcing;

u fil-każ ta' persuna ġuridika li l-oġġetti tagħha jinkludu t-twettiq tal-attivitajiet relevanti kif ukoll attivitajiet anċillari jew inċidentali għalihom, iżda ma jinkludux oġġetti li mhumiex kompatibbli mas-servizzi ta' aġenzija tal-impjieg jew negozju tal-impjieg;

"aġenzija tal-outsourcing" tfisser persuna fiżika jew ġuridika u fil-każ ta' persuna ġuridika li l-għanijiet tagħha fil-memorandum tal-assoċjazzjoni tagħha jinkludu t-twettiq tal-attivitajiet relevanti kif ukoll l-attivitajiet kollha anċillari jew inċidentali għalihom, iżda ma jinkludux dawk l-għanijiet li mhumiex kompatibbli mas-servizzi ta' aġenzija ta' outsourcing, li tidhol f'kuntratti ta' impjieg jew relazzjonijiet ta' impjieg ma' haddiema u li tassenja, kemm fuq bażi regolari jew fuq bażi irregolari, il-haddiema lill-impriżi utenti biex jaħdmu hemm temporanjament, billi jkunu fiżikament preżenti fil-bini tal-impriża utenti jew jaħdmu mill-bogħod, taħt is-supervizjoni, direzzjoni u kontroll tal-aġenzija ta' outsourcing, kemm jekk dik l-attività tkun l-attività prinċipali jew anċillari tal-aġenzija ta' outsourcing jew le;

"aġenzija ta' xogħol temporanju" tfisser persuna fiżika jew ġuridika, u fil-każ ta' persuna ġuridika li l-għanijiet tagħha fil-memorandum tal-assoċjazzjoni tagħha jinkludu t-twettiq tal-attivitajiet relevanti kif ukoll l-attivitajiet kollha anċillari jew inċidentali għalihom, iżda ma jinkludux dawk l-għanijiet li mhumiex kompatibbli mas-servizzi ta' aġenzija tax-xogħol temporanju, li tidhol f'kuntratti ta' impjieg jew relazzjonijiet ta' impjieg ma' haddiema temporanji permezz ta' aġenzija u li tassenja, fuq bażi regolari jew irregolari, il-haddiema temporanji permezz ta' aġenzija lil impriżi utenti biex jaħdmu hemm temporanjament taħt is-supervizjoni, direzzjoni u kontroll tagħhom, kemm jekk dik l-attività hija l-attività prinċipali jew anċillari tal-aġenzija tax-xogħol temporanju jew le;"; u

(b) minnufih wara t-tifsira "reġistrazzjoni" tiegħu għandha tiġi miżjuda din it-tifsira ġdida li ġejja:

" "reklutaġġ ta' persuni għal impjieg" tfisser persuna fiżika jew ġuridika, u fil-każ ta' persuna ġuridika li l-għanijiet tagħha fil-memorandum tal-assoċjazzjoni tagħha jinkludu t-tweqqif tal-attivitajiet rilevanti kif ukoll l-attivitajiet kollha anċillari jew incidentali għalihom, iżda li ma jinkludux dawk l-għanijiet li mhumiex kompatibbli mas-servizzi ta' reklutaġġ ta' persuni għal impjieg, li tipprovdi servizzi ta' tqabbil ta' offerti ta' u applikazzjonijiet għal impjieg, mingħajr ma l-provditur ta' reklutaġġ ta' persuni għal impjieg ikun parti mir-relazzjoni ta' impjieg li tista' tirriżulta minn tali servizzi;"

3. Minnufih wara l-artikolu 21 tal-Att prinċipali għandhom jiġu miżjuda dawn l-artikoli ġodda 21A u 21B li ġejjin:

Żieda ta' artikoli 21A u 21B ġodda fl-Att prinċipali.

"Fond ta' Garanzija tal-Aġenziji tal-Impjieg.

21A. (1) Qiegħed b'dan jitwaqqaf Fond ta' Garanzija tal-Aġenziji tal-Impjieg (hawnhekk iżjed 'il quddiem imsejjaħ ukoll "il-Fond ta' Garanzija tal-Aġenziji") għall-għan li jipprovdi kumpens lil kwalunkwe impjegat ta' kwalunkwe aġenzija ta' xogħol temporanju jew aġenzija ta' outsourcing, skont il-każ, li kellhom l-impjieg tagħhom mitmum minhabba fir-revoka jew nuqqas ta' tiġdid tal-liċenzja skont id-dispożizzjonijiet ta' kwalunkwe regolamenti applikabbli, liema Fond ta' Garanzija tal-Aġenziji għandu jkun regolat u amministrat b'dak il-mod kif il-Ministru jista' jippreskrivi.

(2) Il-Ministru jista', wara konsultazzjoni mal-Ministru għall-Finanzi u mal-Bord, jippreskrivi regolamenti biex jingħata effett aħjar għad-dispożizzjonijiet ta' dan l-artikolu. Bla ħsara għall-generalità ta' dak li ntqal qabel, dawn ir-regolamenti jistgħu jistabbilixxu:

- (a) il-mod li bih il-Fond ta' Garanzija tal-Aġenziji għandu jiġi stabbilit u ffinanzjat;
- (b) il-livell ta' provi meħtieġa sabiex jintużaw il-fondi;
- (ċ) il-mod ta' kif il-Fond ta' Garanzija tal-Aġenziji għandu jiġi amministrat;
- (d) il-mod u ċ-ċirkostanzi li fihom il-fondi jistgħu jintużaw;
- (e) id-dritt tal-Fond ta' Garanzija tal-Aġenziji sabiex jitlob ir-rifużjoni ta' kwalunkwe ammont hekk imħallas; u
- (f) il-miżuri u l-proċeduri li jistgħu jkunu meħtieġa biex jimpedixxu l-abbuż.

(3) Il-Fond ta' Garanzija tal-Aġenziji għandu jkollu personalità ġuridika distinta u għandu jkun kapaċi li jidhol f'kuntratti, li jharrek u jiġi mħarrek, u li jagħmel dawk l-affarijiet kollha u jidhol f'dawk l-operazzjonijiet kollha li jkunu inċidentali jew li jwasslu għat-twettiq tal-għanijiet tiegħu, kif jista' jkun preskritt mill-Ministru.

(4) Il-Fond ta' Garanzija tal-Aġenziji għandu jkollu s-setgħa li jiġbor, jirkupra jew jibda proċedimenti għall-infurzar tad-drittijiet mogħtija lilu skont id-dispożizzjonijiet ta' dan l-Att u ta' kwalunkwe regolamenti maħruġa tahtu.

(5) Ir-rappreżentanza ġuridika u legali tal-Fond ta' Garanzija tal-Aġenziji għandha tkun vestita fiċ-chairperson ta' dik l-awtorità stabbilita sabiex tamministra l-Fond ta' Garanzija tal-Aġenziji jew fi kwalunkwe persuna oħra li l-Fond ta' Garanzija tal-Aġenziji jista' jawtorizza għal dak il-għan.

Bord tal-Appelli
tal-Aġenziji tal-
Impjieġ.

21B. (1) Għandu jkun hemm bord tal-appelli li jissejjaħ "il-Bord tal-Appelli tal-Aġenziji tal-Impjieġ" (hawnhekk iżjed 'il quddiem imsejjaħ il-"Bord tal-Appelli"), li għandu jeżerċita u jaqdi l-funzjonijiet u s-setgħat mogħtija lilu bil-liġi.

(2) Il-Bord tal-Appelli għandu jikkonsisti minn Chairperson u żewġ (2) membri oħra magħżula miċ-Chairperson tal-Bord tal-Appell, li għandhom ikollhom esperjenzi differenti biex iġibu għarfien fil-Bord tal-Appelli, kemm jista' jkun indaqs, tal-interessi fit-talbiet ipprezentati. Dawn il-membri għandhom jintgħażlu minn panel ta' persuni maħtura mill-Ministru biex iservu bħala membri tal-Bord tal-Appelli kull meta jkun hemm il-ħtieġa, liema panel għandu jkollu aktar minn żewġ (2) persuni.

(3) Il-Ministru għandu jaħtar panel ta' mhux inqas minn żewġ (2) persuni u mhux aktar minn ħames (5) persuni biex iservu bħala Chairpersons tal-Bord tal-Appelli jew wara xulxin jew skont it-tqassim tad-dmirijiet u suġġett għal dawk id-dispożizzjonijiet dwar rikuża u ċirkostanzi oħra, kif jista' jiġi preskritt mill-Ministru.

(4) Iċ-Chairpersons u l-membri l-oħra għandhom jissodisfaw il-kriterji skont is-subartikoli (5) jew (6), u s-subartikoli (7) u (8) għandhom japplikaw.

(5) Iċ-Chairperson għandu jkun avukat li, għal perjodu jew perjodi li fit-total jammontaw għal mhux anqas minn seba' (7) snin, ikun serva bħala avukat f'Malta jew serva bħala magistrat f'Malta, jew parti hekk ipprattika u parti hekk serva.

(6) Bla ħsara għal kwalunkwe dispożizzjoni oħra ta' xi liġi dwar il-kompożizzjoni tal-Bord tal-Appelli jew il-kwalifiki tal-membri tiegħu, il-membri l-oħra tal-Bord tal-Appelli għandhom ikunu persuni li fil-fehma tal-Ministru jkollhom l-għarfien espert meħtieġ u l-esperjenza meħtieġa fil-qasam tax-xogħol.

(7) Iċ-Chairperson u l-membri l-oħra tal-Bord tal-Appelli għandhom iżommu l-kariga għal perjodu ta' tliet (3) snin, u għandhom ikunu eliġibbli li jerggħu jinhatru u ma jistgħux jitneħhew matul il-perjodu tal-ħatra tagħhom ħlief minħabba inabbiltà ppruvata li jwettqu l-funzjonijiet tal-kariga tagħhom kemm jekk tirriżulta minn inkapaċità fiżika jew mentali jew xi raġuni oħra, jew minħabba mgħiba ħażina ppruvata.

(8) Iċ-Chairperson u l-membri l-oħra tal-Bord tal-Appell għandhom jirċievu dik ir-rimunerazzjoni kif tista' tigi stabbilita fid-dokument tal-ħatra tagħhom.

(9) Appell skont id-dispożizzjonijiet tas-subartikolu (11) għandu jkun magħmul lill-Bord tal-Appelli bil-miktub fejn jiġu spjegati ċar ir-raġunijiet għal dak l-appell sa mhux iktar tard minn tletin (30) jum mid-data li d-deċiżjoni jew l-azzjoni inkwistjoni tkun giet notifikata lill-persuna aggravata, u d-Direttur għandu jkollu tletin (30) jum mid-data minn meta jkun gie notifikat b'dak l-appell biex jippreżenta r-risposta tiegħu.

(10) Il-Bord tal-Appelli għandu jittratta kwalunkwe materja li tingieb quddiemu bl-akbar urġenza u għandu jagħti d-deċiżjoni tiegħu mingħajr dewmien.

(11) It-talba għad-deċiżjoni tal-Bord tal-Appelli għandha tkun jekk, għar-raġunijiet miġjuba mill-appellant, id-Direttur ikunx applika xi dispożizzjoni tar-regolamenti maħruġa taħt dan l-Att dwar l-aġenziji tal-impjieġ b'mod ħażin fid-deċiżjoni tiegħu.

(12) Il-Bord tal-Appelli għandu jżomm is-seduti tiegħu fil-pubbliku sakemm, meta jikkunsidra n-natura tal-kwistjoni quddiemu, il-Bord tal-Appelli jidhirlu sewwa u xieraq li jmexxi l-proċedimenti jew xi parti minnhom bil-magħluq. Fi kwalunkwe każ bħal dak, id-deċiżjoni tal-Bord tal-Appelli għandha dejjem tingħata fil-pubbliku. L-indirizz tal-Bord tal-Appelli għandu jkun kwalunkwe indirizz li jista' jintuża minn żmien għal żmien bħala l-uffiċċju ewlieni tad-dipartiment responsabbli għall-impjiegi u relazzjonijiet industrijali, u kwalunkwe korrispondenza għandha tiġi indirizzata liċ-Chairperson.

(13) Iċ-Chairperson jew il-membri l-oħra tal-Bord tal-Appelli jistgħu jiġu rikuzati jew jistgħu jastjenu ruhhom milli joqogħdu f'kawża f'dawk iċ-ċirkostanzi li jiskwalifikaw imħallef f'kawża ċivili, u f'każ bħal dan iċ-Chairperson jew membru għandu jiġi sostitwit minn membru ieħor li jkun maħtur mill-Ministru skont is-subartikoli (2) jew (3) skont il-każ.

(14) Il-Bord tal-Appelli għandu jkollu s-setgħa li jħarrekk xhieda u li jagħtihom il-ġurament, u li jahtar kwalunkwe espert li jista' jidhirlu meħtieġa biex jiddeċiedi l-każ quddiemu. Meta d-Direttur jissejjaħ bħala xhud, id-Direttur għandu jkollu d-dritt li jahtar kwalunkwe uffiċjal tad-dipartiment tad-Direttur biex jipprovdi xhieda, sakemm ma tkunx meħtieġa x-xhieda tad-Direttur stess.

(15) (a) Kull prova għandha tkun relevanti għall-materja inkwistjoni bejn il-partijiet.

(b) Fil-każijiet kollha l-Bord tal-Appelli għandu jitlob l-aħjar prova li l-parti tkun tista' iġġib.

(ċ) Il-Bord tal-Appelli m'għandux jippermetti li tingieb xi prova li jqis bħala waħda irrelevanti jew superfluwa, jew li ma jikkunsidrax bħala li tkun l-aħjar prova li l-parti tista' iġġib.

(16) Fis-smiġħ ta' appell li jsir lilu taħt kwalunkwe liġi, il-Bord tal-Appell għandu jkollu s-setgħa:

(a) li jikkonferma, iħassar jew ivarja d-deċiżjoni tad-Direttur taħt kwalunkwe dispożizzjoni tar-regolamenti maħruġa taħt dan l-Att fir-rigward tal-aġenziji tal-impjiegi u li jagħti direzzjonijiet li jkunu fis-setgħa tiegħu taħt dan l-Att jew xi liġi oħra lid-Direttur biex jimplementa d-deċiżjoni tal-Bord tal-Appelli;

(b) li jeħtieġ il-produzzjoni ta' kwalunkwe dokument jew informazzjoni oħra; u

(c) li jordna l-hlas tal-ispejjeż minn xi parti fl-appell.

(17) Appell mid-deċiżjoni tal-Bord tal-Appelli għandu jsir lill-Qorti tal-Appell biss fuq kwistjoni ta' liġi. Għandu jsir appell sa mhux iżjed tard minn għoxrin (20) jum mid-data tad-deċiżjoni tal-Bord tal-Appell. Fid-deċiżjoni ta' appell bħal dak, il-Qorti tal-Appell għandha jkollha s-setgħat kollha tal-Bord tal-Appelli għall-għemil ta' ordnijiet.

(18) Il-Ministru jista' jagħmel regolamenti li jirregolaw il-proċeduri u drittijiet sabiex isiru u jitmexxew appelli quddiem il-Bord tal-Appelli:

Iżda fin-nuqqas ta' dawk ir-regolamenti u bla ħsara għar-regoli ta' ġustizzja naturali, il-Bord tal-Appelli għandu jirregola l-proċedura tiegħu stess.

(19) Il-Ministru responsabbli għall-ġustizzja jista' b'regolamenti magħmula taħt dan is-subartikolu jistabbilixxi d-drittijiet li għandhom jithallsu fir-reġistru tal-qorti għall-preżentata ta' atti ġudizzjarji li għandhom x'jaqsmu ma' appelli lill-Qorti ta' Appell taħt dan l-artikolu:

Iżda sakemm dawk id-drittijiet jiġu hekk stabbiliti mill-Ministru responsabbli għall-ġustizzja, għandhom jgħoddu d-drittijiet li hemm fl-Iskeda A li tinsab mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(20) Appell magħmul taħt dan l-artikolu ma jissospendix l-operat ta' xi deċiżjoni jew direttiva li minnha jsir l-appell:

Iżda deċiżjoni biex tkun kancellata, biex ma tingħatax, jew biex ma tiġix imġedda liċenzja, u kwalunkwe telf konsegwenti tal-garanzija bankarja skont kwalunkwe dispożizzjoni tar-regolamenti maħruġa taħt dan l-Att fir-rigward tal-aġenziji tal-impjieġ m'għandhiex issir operattiva sakemm jgħaddi ż-żmien li fih jista' jsir appell taħt dan l-artikolu u, jekk isir appell f'dak iż-żmien, id-deċiżjoni għandha ssir operattiva fid-data tad-deċiżjoni tal-Bord tal-Appelli li jiċhad l-appell jew fid-data li fiha l-appell ikun abbandunat:

A 1164

Iżda wkoll li fejn liċenzja li fir-rigward tagħha tkun ittiegħdet deċiżjoni ta' revoka tiskadi matul il-perjodu li fih isir appell taht dan l-artikolu u, jekk isir appell f'dak iż-żmien, il-liċenzja għandha titqies li għet estiża awtomatikament bl-istess termini sal-iskadenza taż-żmien li fih isir l-appell jew, jekk isir appell f'dak iż-żmien, sad-data tad-deċiżjoni tal-Bord tal-Appelli li tiċċhad l-appell jew id-data li fiha l-appell ikun abbandunat."

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 190 tat-18 ta' Diċembru, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

22nd December, 2023

ACT No. XLIII of 2023

AN ACT to further 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:-

1. The short title of this Act is the Employment and Industrial Relations (Amendment No. 2) Act, 2023, and this Act shall be read and construed as one with the Employment and Industrial Relations Act, hereinafter referred to as "the principal Act".

Short title.

Cap. 452.

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

Amendment of article 2 of the principal Act.

(a) immediately after the definition "employer" thereof there shall be added the following new definition:

" "employment agency" and "employment business" means a natural or legal person carrying out any activity in Malta:

A 1166

(a) for the recruitment of persons for employment in Malta or outside Malta;

(b) as a temporary work agency; or

(c) as an outsourcing agency;

and in the case of a legal person whose objects in their memorandum of association include the carrying out of the relevant activities as well as activities ancillary or incidental thereto, but do not include objects which are not compatible with the services of an employment agency or employment business;"

(b) immediately after the definition "national standard order" thereof there shall be added the following new definition:

"outsourcing agency" means a natural or legal person, and in the case of a legal person whose objects in its memorandum of association include the carrying out of the relevant activities as well as all activities ancillary or incidental thereto, but do not include such objects which are not compatible with the services of an outsourcing agency, who enters into contracts of employment or employment relationships with employees and who assigns, whether on a regular or on an irregular basis, the employees to user undertakings to work there temporarily, by being physically present at the premises of the user undertaking or working remotely, under the supervision, direction and control of the outsourcing agency, whether or not such activity is the main or ancillary activity of the outsourcing agency;"

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

"recruitment of persons for employment" means a natural or legal person, and in the case of a legal person whose objects in its memorandum of association include the carrying out of the relevant activities as well as all activities ancillary or incidental thereto, but do not include such objects which are not compatible with the services of recruitment of persons for employment, that provides services for matching offers of and applications for employment, without the provider of recruitment of persons for employment becoming a party to the employment relationship that may arise from such services;" and

(d) immediately after the definition "self-employed persons" thereof there shall be added the following new definition:

"temporary work agency" means a natural or legal person, and in the case of a legal person whose objects in its memorandum of association include the carrying out of the relevant activities as well as all activities ancillary or incidental thereto, but do not include such objects which are not compatible with the services of a temporary work agency, who enters into contracts of employment or employment relationships with temporary agency workers and who assigns, on a regular or on an irregular basis, the temporary agency workers to user undertakings to work there temporarily under their supervision, direction and control, whether or not such activity is the main or ancillary activity of the temporary work agency;"

3. Immediately after article 21 of the principal Act there shall be added the following new articles 21A and 21B:

Addition of new articles 21A and 21B to the principal Act.

"Employment Agencies Guarantee Fund.

21A. (1) There shall be established an Employment Agencies Guarantee Fund (hereinafter referred to as the "Agencies Guarantee Fund") for the purpose of providing compensation to any employee of any temporary work agency or outsourcing agency, as the case may be, whose employment is terminated because of the revocation or non-renewal of the licence in terms of the provisions of any applicable regulations, which Agencies Guarantee Fund shall be regulated and administered in such manner as the Minister may prescribe.

(2) The Minister may, after consultation with the Minister for Finance and with the Board, prescribe regulations for the purpose of giving better effect to the provisions of this article. Without prejudice to the generality of the foregoing, such regulations may establish:

- (a) the manner in which the Agencies Guarantee Fund shall be set up and funded;
- (b) the level of proof required for funds to be utilised;
- (c) the manner in which the Agencies Guarantee Fund shall be administered;
- (d) the manner and the circumstances in which the funds may be utilised;

(e) the right of the Agencies Guarantee Fund to claim reimbursement of any amounts so paid; and

(f) the measures and procedures that may be required in order to prevent abuse.

(3) The Agencies Guarantee Fund shall have a distinct legal personality and shall be capable of entering into contracts, of suing and being sued, and doing all such things and entering into such transactions as are incidental or conducive for the fulfilment of its objectives, as may be prescribed by the Minister.

(4) The Agencies Guarantee Fund shall be empowered to collect, recover and institute proceedings for the enforcement of the rights vested in it in terms of the provisions of this Act and of any regulations issued thereunder.

(5) The legal and judicial representation of the Agencies Guarantee Fund shall vest in the chairperson of that authority established to administer the Agencies Guarantee Fund or in any other person as the Agencies Guarantee Fund may authorise for this purpose.

Employment
Agencies Appeals
Board.

21B. (1) There shall be an appeals board to be called the "Employment Agencies Appeals Board" (hereinafter referred to as the "Appeals Board"), which shall exercise and perform the functions and powers assigned to it by law.

(2) The Appeals Board shall consist of a Chairperson and two (2) other members selected by the Chairperson of the Appeals Board, who shall possess different experiences to bring to the Appeals Board knowledge, so far as equally possible, of the interests in the claims lodged. Said members shall be selected from a panel of persons appointed by the Minister to serve as members of the Appeals Board, whenever the need arises, which panel shall have more than two (2) persons.

(3) The Minister shall appoint a panel of not less than two (2) and not more than five (5) persons to act as Chairpersons of the Appeals Board either in turn or in accordance with such distribution of duties and subject to such provisions as to inability to serve and other circumstances, as may be prescribed by the Minister.

(4) The Chairpersons and members shall satisfy the criteria according to sub-articles (5) or (6), and sub-articles (7) and (8) shall apply.

(5) The Chairperson shall be an advocate who, for a period or periods amounting in the aggregate to not less than seven (7) years, has served as an advocate in Malta or served as a magistrate in Malta, or partly so practised and partly so served.

(6) Subject to any other provision in any other law related to the composition of the Appeals Board or to the qualifications of its members, the other members of the Appeals Board shall be persons who in the opinion of the Minister possess the necessary expertise and experience in the field of employment.

(7) The Chairperson and the other members of the Appeals Board shall hold office for a period of three (3) years, and shall be eligible for re-appointment and may not be removed during their term of office except on grounds of proved inability to perform the functions of their office whether arising from infirmity of body or mind or any other cause, or proved misbehaviour.

(8) The Chairperson and other members of the Appeals Board shall receive such remuneration as may be determined in their instrument of appointment.

(9) An appeal in accordance with the provisions of sub-article (11) shall be made to the Appeals Board in writing explaining clearly the grounds for the appeal by not later than thirty (30) days from the date the decision or act in question has been notified to the aggrieved person, and the Director shall have thirty (30) days from the date when it was served with such appeal to file his reply.

(10) The Appeals Board shall proceed to deal with any matter before it with utmost urgency and shall give its decision without delay.

(11) The request for the determination of the Appeals Board shall be whether, for the reasons adduced by the appellant, the Director has wrongly applied any of the provisions of the regulations issued under this Act in relation to employment agencies in his decision.

(12) The Appeals Board shall hold its sittings in public unless, having regard to the nature of the matter before it, the Appeals Board deems it fit and proper to conduct the proceedings or any part thereof behind closed doors. In any such case, the decision of the Appeals Board shall always be delivered in public. The address of the Appeals Board shall be any such address which may be in use from time to time as the head office of the department responsible for employment and industrial relations, and any correspondence shall be addressed to the Chairperson.

(13) The chairperson or other members of the Appeals Board may be challenged or may abstain from sitting in a case in those circumstances that would disqualify a judge in a civil lawsuit, and in such case the Chairperson or member shall be substituted by another member appointed by the Minister in accordance with sub-article (2) or (3) as the case may be.

(14) The Appeals Board shall have the power to summon witnesses and to administer the oath thereto, and to appoint any expert as it may deem necessary for the determination of the case before it. When the Director is to be summoned as a witness, the Director shall have the right to nominate any officer of the Director's department to provide evidence, unless the evidence of the Director is required.

(15) (a) All evidence shall be relevant to the matter in issue between the parties.

(b) In all cases the Appeals Board shall require the best evidence that the party may be able to produce.

(c) The Appeals Board shall disallow any evidence which it considers to be irrelevant or superfluous, or which it does not consider to be the best which the party can produce.

(16) Upon the hearing of an appeal made to it under any law, the Appeals Board shall have the power:

(a) to confirm, annul or vary the decision of the Director under any of the provisions of the regulations issued under this Act in relation to employment agencies and to give directions within its powers under this Act or any other law to the Director to implement the decision of the Appeals Board;

(b) to require the production of any document or other information; and

(c) to order the payment of expenses by any party to the appeal.

(17) An appeal from a decision of the Appeals Board shall lie to the Court of Appeal only on a question of law. An appeal shall be filed by not later than twenty (20) days from the date of the decision of the Appeals Board. In the determination of such an appeal, the Court of Appeal shall have all the powers of the Appeals Board to make orders.

(18) The Minister may make regulations governing the procedure and fees for bringing and conducting appeals before the Appeals Board:

Provided that in the absence of such regulations and subject to the rules of natural justice, the Appeals Board shall regulate its own procedure.

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

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

(20) An appeal made under this article shall not suspend the operation of any decision or directive from which the appeal is made:

Provided that a decision to revoke, not to grant, or not to renew a licence, and any consequent forfeiture of the bank guarantee in terms of any of the provisions of the regulations issued under this Act in relation to employment agencies shall not become operative until the expiration of the period within which an appeal lies under this article and, if an appeal is made within such period, the decision shall become operative on the date of the decision of the Appeals Board dismissing the appeal or the date on which the appeal is abandoned:

A 1172

Provided further that where a licence in respect of which a decision to revoke has been made expires during the period within which an appeal lies under this article and, if an appeal is made within such period, the licence shall be deemed to be automatically extended on the same terms until the expiration of the period within which an appeal lies or, if an appeal is made within such period, until the date of the decision of the Appeals Board dismissing the appeal or the date on which the appeal is abandoned."

Passed by the House of Representatives at Sitting No. 190 of the 18th December, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

VERŻJONI ELETTRONIKA