

ABBOZZ TA' LIĠI
imsejjah

ATT biex ikunu jistgħu jinbnew proċedimenti kollettivi f'każijiet ta' ksur tal-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur.

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:-

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2011 dwar Proċedimenti Kollettivi. Titolu fil-qosor
dħul fis-seħh.

(2) Dan l-Att għandu jidhol fis-seħh f'dik id-data li l-Prim Ministru jista' b'avviż fil-Gazzetta jistabilixxi, u jistgħu jiġu hekk stabbiliti f'dati differenti għal disposizzjonijiet differenti ta' dan l-Att.

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

“l-Att” tfisser l-Att dwar Proċedimenti Kollettivi;

“azzjoni ta' grupp” tfisser proċedimenti li jiġu pprezentati f'isem għadd ta' membri ta' klassi individwali u li jkollhom rappreżentant ta' klassi li tkun tissodisfa l-kriterji

msemija fis-subartikolu (2) tal-artikolu 12 tal-Att;

“azzjoni rappreżentattiva” tfisser proċedimenti li jiġu preżentati f’isem għadd ta’ membri ta’ klassi minn korp rappreżentattiv skont l-artikolu 12(1) tal-Att;

“digriet tal-proċedimenti kollettivi” tfisser digriet li jawtorizza li l-azzjoni titmexxa bħala proċediment kollettiv;

“ftehim dwar proċedimenti kollettivi” tfisser ftehim magħmul bejn membru ta’ klassi u r-rappreżentant ta’ klassi fejn il-membri ta’ klassi jagħti l-kunsens tiegħu biex ikun inkluż fil-proċedimenti kollettivi u għall-ħatra tar-rappreżentant ta’ klassi u jista’ jinkludi wkoll provvediment għall-ħlas minn qabel u, jew rimborż ta’ kull spiża għudizzjarja mgarrba mir-rappreżentant ta’ klassi;

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“għaqda ta’ konsumaturi registrata” tfisser għaqda ta’ konsumaturi registrata kif imfisser fl-Att dwar l-Affarijiet tal-Konsumatur, kif ukoll kull għaqda ta’ konsumaturi oħra li tkun giet ufficialment rikonoxxuta f’xi pajjiż ieħor;

Kap.431.

“korp kostitwit” tfisser korp kostitwit li huwa stabbilit bl-iskop li jagixxi fl-interessi tal-membri tiegħu u jinkludi kull korp rikonoxxut taħt l-Att dwar il-Kunsill Malti għall-Iżvilupp Ekonomiku u Soċjali, kif ukoll kull korp istitwit ieħor ta’ xorta simili rikonoxxut bħala korp kostitwit taħt xi liġi oħra jew skont prattika amministrattiva stabbilita;

“kwistjonijiet individwali” tfisser kwistjonijiet li jkunu rilevanti biss għal ċertu persuni rappreżentati individwali;

“kwistjonijiet komuni” tfisser –

(a) kwistjonijiet komuni iżda mhux neċessarjament identiċi fil-fatti, jew

(b) kwistjonijiet komuni iżda mhux neċessarjament identiċi fil-liġi li joriginaw minn fatti komuni iżda mhux neċessarjament identiċi;

“membru ta’ klassi” tfisser persuna li tkun taqa’ fil-klassi speċifikata fid-digriet tal-proċedimenti kollettivi;

“persuna rappreżentata” tfisser membru ta’ klassi li jkun

għażel li jidhol fi proċedimenti kollettivi;

“proċedimenti kollettivi” tfisser proċedimenti li jiġu pprezentati minn rappreżentant ta’ klassi f’isem persuni li t-talbiet tagħhom ikunu jinvolvu kwistjonijiet komuni u li jistgħu jkunu istitwiti bħala azzjoni ta’ grupp jew azzjoni rappreżentattiva;

“proċedimenti li jsiru b’għażla li tidhol” tfisser proċedimenti kollettivi li jiġu preżentati f’isem membri ta’ klassi li jinnotifikaw lir-rappreżentant ta’ klassi kif hawn fl-Att li t-talba tagħhom għandha tiġi inkluża fil-proċedimenti kollettivi;

“rappreżentant ta’ klassi” tfisser l-attur, jiġifieri, il-persuna li tkun awtorizzata tippreżenta t-talbiet fi proċedimenti kollettivi u tinkludi sotto-rappreżentant ta’ klassi;

“TFUE” tfisser it-Trattat dwar il-Funzjonament tal-Unjoni Ewropea.

3. Jistgħu jiġu istitwiti proċedimenti kollettivi meta:-

Kif japplika l-Att.

(a) ksur tal-liġijiet elenkati fi Skeda A li tinsab mal-Att hija allegata li seħħet ;

(b) investigazzjoni jew proċedimenti dwar ksur ta’ dawk il-liġijiet quddiem awtorità, tribunal jew korps simili, jew qorti ta’ ġurisdizzjoni civili tkun jew ikunu għadhom pendenti; jew

(ċ) deċiżjoni jew sentenza li tistabbilixxi ksur ta’ dawk il-liġijiet għaddiet f’gudikat.

4. (1) Meta r-rappreżentant ta’ klassi jippreżenta talba għal danni li tkun toriġina minn ksur tal-Att dwar il-Kompetizzjoni u, jew l-Artikoli 101 jew 102 tal-TFUE, għandhom jiġu applikati *mutatis mutandi* d-dispożizzjonijiet tal-artikolu 27A tal-Att dwar il-Kompetizzjoni.

Preżentata ta’ proċedimenti kollettivi għal ksur tal-Att dwar il-kompetizzjoni. Kap. 379.

(2) Minkejja l-provvedimenti tal-artikolu 7(1)(ċ) tal-Att, proċedimenti kollettivi jistgħu jkunu istitwiti wkoll fir-rigward ta’ danni kaġunati minn prodotti difettużi taħt Taqsima VIII tal-Att Dwar l-Affarijiet tal-Konsumatur.

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X'għandu jkun fih ir-rikors.

5. (1) Il-proċedimenti kollettivi għandhom jigu istitwiti b'rikors ġuramentat fil-Prim'Awla tal-Qorti Ċivili jew fil-Qorti tal-Maġistrati (Għawdex) fil-ġurisdizzjoni superjuri tagħha jew b'rikors fil-Qrati Inferjuri:

Kap. 12.

Iżda l-artikolu 56A tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jkun japplika wkoll.

(2) L-attur għandu jitlob fir-rikors li l-Qorti tiddikjara li l-proċedura dwar proċedimenti kollettivi hi l-aktar proċedura xierqa fiċ-ċirkostanzi.

(3) Ir-rikors għandu –

(a) ikun fih l-isem tar-rappreżentant ta' klassi;

(b) ikun fih l-isem tal-konvenut;

(c) jagħti deskrizzjoni tal-klassi;

(d) jiddiskrivi l-kwistjonijiet komuni għat-talbiet li r-rappreżentant ta' klassi jkun ippreżenta fil-proċedimenti kollettivi;

(e) jiddikjara t-talba jew talbiet li tkun qegħda tigi vantata u, meta dan ikun japplika, jehmeż rendikont tal-ammonti relattivi dovuti lill-membri ta' klassi;

(f) igib kull prova li l-attur ikun bi ħsiebu jserraħ fuqha biex jissodisfa l-kriterji għal dikjarazzjoni u approvazzjoni kif hemm fl-artikoli 9 u 12 tal-Att; u

(g) jipprovdi lill-Qorti bi ftehim dwar proċedimenti kollettivi.

Kap. 12.

Iżda d-dispożizzjonijiet tal-artikolu 156 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom, meta dan ikun japplika, jkunu wkoll japplikaw għar-rikors ġuramentat fi proċedimenti kollettivi :

Iżda wkoll il-Qorti għandha tordna li r-rikors jigi emendat meta membri oħra ta' klassi jmexxu b'għażla li jidhlu fil-perjodu msemmi fl-artikolu 7(2) tal-Att jew wara li jkollhom il-permess tal-Qorti kif hemm fl-artikolu 8(1) tal-Att.

6. Il-Qorti għandha żżomm seduta preliminari tal-kawża u— Seduta preliminari tal-kawża.

(a) jew tagħti digriet li jkun jordna t-tkomplija tal-proċedimenti flimkien ma' kull ordni oħra li tista' tqis xierqa; jew

(b) tagħti digriet biex tissospendi l-proċedimenti jekk il-partijiet jaqblu, matul dik is-seduta, li jippruvaw jittransigu l-kawża permezz ta' riżolviment alternattiv tat-tilwimiet jew b'mezzi oħra.

7. (1) Il-Qorti għandha tagħti digriet dwar it-tkomplija ta' proċedimenti jekk — Digriet li jordna t-tkomplija ta' proċedimenti.

(a) hija tiddikjara li l-proċeduri jkunu xierqa għal proċedimenti kollettivi kif hemm fl-artikolu 9 tal-Att;

(b) hija tapprova li l-attur jaġixxi bħala r-rappreżentant ta' klassi kif hemm fl-artikolu 12 tal-Att; u

(c) hija tkun sodisfatta li t-talbiet ikunu konformi mal-artikolu 3 tal-Att.

(2) Id-digriet għandu jinkludi -

(a) l-isem u l-indirizz tar-rappreżentant ta' klassi;

(b) l-isem tal-konvenut;

(c) deskrizzjoni tal-klassi;

(d) il-kwistjonijiet komuni għat-talbiet li r-rappreżentant ta' klassi ikun ippreżenta fil-proċedimenti kollettivi;

(e) it-talbiet li jkunu qegħdin isiru; u

(f) informazzjoni dwar l-effett legali ta' sentenza mogħtija fi proċedimenti kollettivi:

Iżda d-digriet jista' jkun fih ukoll dawk il-kundizzjonijiet li l-Qorti tista' tqis li jkunu xierqa, u l-Qorti għandha wkoll tordna li dak id-digriet jiġi publikat fil-Gazzetta u f'gurnal lokali bl-Ingliż u bil-Malti u f'kull mezz ieħor ta' komunikazzjoni jekk il-

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Qorti jkun jidhrilha li jkun hekk xieraq, proviżorjament a karigu tar-rappreżentat ta' klassi, u għandu jkun fih li kull terza persuna oħra li tkun trid tidhol bħala membru ta' klassi, tista' tagħmel dan sad-data speċifikata li ma tkunx iżjed minn tliet xhur mid-data tad-digriet, billi tirregistra t-talba tagħha mar-rappreżentant ta' klassi.

Membri ta' klassi.

8. (1) Membru ta' klassi li ma jmexxix b'għażla li jidhol kif hemm fl-artikolu 7 tal-Att ma jistax imexxi b'dan il-mod wara d-data speċifikata, ħlief bil-permess tal-Qorti. Il-Qorti tista' tagħti dak il-permess jekk tkun sodisfatta li d-dewmien ma kienx kaġunat bi ħtija tal-membri ta' klassi u li l-konvenut ma jkunx ser ibati xi preġudizzju sostanzjali li kellu jingħata l-permess.

(2) Membru ta' klassi li jkun diġà preżenta kawza li tinvolvi l-kwistjonijiet komuni indikati fil-proċedimenti kollettivi ma jistax ikun persuna rappreżentata kemm-il darba huwa ma jċedix jew jagħmel rikors biex jissospendi dik il-kawza qabel ma' jagħzel li jidhol fil-proċedimenti kollettivi.

(3) Membru ta' klassi ma jistax ikun persuna rappreżentata meta:

(a) jkun diġà wasal għal transazzjoni barra l-qorti, fuq il-kwistjonijiet komuni msemmija fid-digriet tal-proċedimenti kollettivi, mal-konvenut; jew

(b) ikun diġà ngħata deċiżjoni f'arbitraġġ bejn il-membri ta' klassi u l-konvenut dwar ir-rimedji li l-membri ta' klassi ried jikseb; jew

(c) deċiżjoni dwar il-kwistjonijiet komuni msemmija fid-digriet tal-proċedimenti kollettivi li tkun diġà għaddiet f'gudikat quddiem xi tribunal jew korp simili jew qorti ta' ġurisdizzjoni ċivili u dak it-tribunal jew korp simili jew qorti jkunu diġà iddeċidew dwar ir-rimedji li l-membri ta' klassi ried jikseb.

Dikjarazzjoni li proċedimenti jkunu xierqa b'għala proċedimenti kollettivi.

9. (1) Il-Qorti għandha tiddikjara fid-digriet tagħha li l-proċedimenti jkunu xierqa bħala proċedimenti kollettivi meta -

(a) hija tiġi sodisfatta mir-rappreżentant ta' klassi li t-talbiet fil-proċedimenti —

(i) jkunu qegħdin jiġu preżentati f'isem klassi

identifikata ta' żewġ persuni jew aktar; u

(ii) jgħajmu kwistjonijiet komuni; u

(b) hija tiġi sodisfatta mir-rappreżentant ta' klassi li l-proċedimenti kollettivi huma l-aktar mezz xieraq għal riżolviment ġust u effiċjenti ta' kwistjonijiet komuni.

(2) Meta tkun qegħda tiddeċiedi jekk il-proċedimenti kollettivi humiex l-aktar mezz xieraq għal riżolviment ġust u effiċjenti ta' kwistjonijiet komuni għall-finijiet tas-subartikolu (1) (b) tal-artikolu, il-Qorti għandha tiegħu kont, fost affarijiet oħra —

(a) tal-benefiċċji tal-proċedimenti kollettivi proposti; u

(b) x-xorta tal-klassi.

10. Il-Qorti m'għandhiex tiċhad milli tagħti digriet dwar xi proċedimenti bħala proċedimenti kollettivi unikament minħabba xi waħda minn dawn ir-raġunijiet li ġejjin:

Certi affarijiet m'għandhomx iżommu milli jingħata digriet.

(a) it-talba tkun teħtieġ valutazzjoni individwali wara li jiġu deċiżi l-kwistjonijiet komuni;

(b) it-talba jkollha x'taqsam ma' kuntratti separati li jkunu jinvolvu membri ta' klassi differenti;

(ċ) l-ammont u x-xorta tad-danni mitluba jvarjaw fost il-membri ta' klassi differenti.

11. Meta l-Qorti tagħti digriet li l-proċedimenti ma jkunux proċedimenti kollettivi, il-Qorti tista' tħalli li l-proċedimenti jitkomplew bħala proċediment wieħed jew aktar proċedimenti bejn partijiet differenti u, għal dak l-għan, il-Qorti tista' -

Meta Qorti tagħti digriet li proċedimenti ma jkunux proċedimenti kollettivi.

(a) tordna ż-żjieda, tħassir jew sostituzzjoni tal-partijiet;

(b) tordna li jsiru emendi fir-rikors; u

(ċ) tagħmel kull ordni ieħor li tqis li jkun xieraq.

12. (1) F'azzjoni rappreżentattiva, il-Qorti għandha tapprova għaqda ta' konsumaturi registrata jew korp kostitwit biex dan jaġixxi bħala rappreżentant ta' klassi jekk hija sodisfatta li

Approvazzjoni li attur jaġixxi bħala rappreżentant ta' klassi.

r-rappreżentant ta' klassi: –

(a) jkun ser jaġixxi ġustament u adegwatament fl-interessi tal-membri ta' klassi;

(b) ma jkollu, għar-rigward tal-kwistjonijiet komuni għall-membri ta' klassi, ebda interess materjali li jkun kunfligġenti mal-interessi tal-membri ta' klassi; u

(c) jkun jista' jhallas l-ispejjeż kollha li l-konvenut ikun jista' jiġbor jekk huwa jiġi ordnat jagħmel dan.

(2) F'azzjoni ta' grupp, il-Qorti tista' tapprova li l-attur jaġixxi bħala r-rappreżentant ta' klassi jekk l-attur jissodisfaha li huwa -

(a) għandu talba li tinkwadra fi hdan il-proċedimenti kollettivi proposti;

(b) jkun ser jaġixxi ġustament u adegwatament fl-interessi tal-membri ta' klassi;

(c) ma jkollu, għar-rigward tal-kwistjonijiet komuni għall-membri ta' klassi, ebda interess materjali li jkun kunfligġenti mal-interessi tal-membri ta' klassi; u

(d) jkun jista' jhallas l-ispejjeż kollha li l-konvenut ikun jista' jiġbor jekk huwa jiġi ordnat jagħmel dan.

Dmirijiet ta' rappreżentant ta' klassi.

13. (1) Ir-rappreżentant ta' klassi għandu jaġixxi fl-aħjar interessi tal-membri ta' klassi.

(2) Ir-rappreżentant ta' klassi għandu jispjega lill-membri ta' klassi x-xorta tal-proċedimenti kollettivi u għandu wkoll iżommhom infurmati bil-progress tal-proċedimenti inkluża kull sentenza jew digriet li jorbot lil dawk il-membri ta' klassi jew membri ta' sotto-klassi.

(3) Ir-rappreżentant ta' klassi għandu jzomm u jieħu ħsieb registru fejn inizzel l-identità u t-talbiet ta' dawk il-membri ta' klassi li jkunu jikkostitwixxu parti mill-proċedimenti kollettivi u għandu, wara li ssirlu talba, jagħmel dak ir-registru disponibbli lill-konvenut.

(4) Jekk f'xi waqt wara li l-Qorti tkun tat id-digriet tagħha li jkun jordna t-tkomplija ta' proċedimenti, il-Qorti jkun jidhrilha li r-rappreżentant ta' klassi ma jibqax jissodisfa il-kriterji imsemmija fl-artikolu 12 tal-Att jew ma jibqax, għal xi raġuni oħra, f'pożizzjoni li jirrappreżenta l-interessi tal-persuni rappreżentati, il-Qorti tista', jew fuq inizjattiva tagħha stess jew wara li jsirilha rikors minn membru ta' klassi —

Sostituzzjoni.

(a) tissostitwixxi r-rappreżentant ta' klassi b'persuna oħra li tissodisfa l-kriterji ta' approvazzjoni fl-artikolu 12 tal-Att bħala r-rappreżentant ta' klassi; u, jew

(b) tagħti kull ordni oħra li tqis li tkun xieraq.

(5) Rappreżentant ta' klassi jista' biss jirtira bħala parti fil-proċedimenti kollettivi jekk jingħata permess mill-Qorti li jirtira. Il-Qorti tagħti biss permess għall-irtirar jekk hi sodisfatta li r-rappreżentant ta' klassi —

Irtirar.

(a) jkun innotifika r-rikors lill-membri ta' klassi b'mod u manjiera li jkunu approvati mill-Qorti; u

(b) jipprovdi dawk il-kundizzjonijiet dwar l-ispejjeż li l-Qorti tqis li jkunu ġusti.

(6) Jekk il-Qorti tagħti permess lir-rappreżentant ta' klassi biex dan jirtira mill-proċedimenti u ma jiġi approvat ebda rappreżentant ta' klassi sostitut, il-Qorti għandha tagħti ordnijiet dwar kif għandhom jitmexxew il-proċedimenti aktar 'il quddiem u dan jista' jinkludi provvediment li l-proċedimenti għandhom ikompli bħala proċediment wiehed jew aktar proċedimenti bejn partijiet differenti.

14. Jekk il-persuni rappreżentati jkunu jinkludu sotto-klassi ta' persuni li t-talbiet tagħhom jagħtu lok għal kwistjonijiet komuni li ma jkunux maqsuma mal-persuni rappreżentati kollha, il-Qorti għandha tapprova persuna li tkun tissodisfa l-kriterji ta' approvazzjoni fl-artikolu 12 tal-Att biex taġixxi bħala r-rappreżentant ta' klassi għal dik is-sotto-klassi.

Sotto-klassijiet.

15. (1) Bla ħsara għall-artikolu 16 tal-Att, fi proċedimenti kollettivi -

Stadji ta' proċedimenti kollettivi.

(a) kwistjonijiet komuni għal klassi għandhom jiġu deċiżi flimkien;

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(b) kwistjonijiet komuni għal sotto-klassi għandhom jiġu deċiżi flimkien; u

(ċ) kwistjonijiet individwali għandhom jiġu deċiżi matul seduti ulterjuri.

(2) Jekk il-Qorti tordna li tkun meħtieġa l-parteċipazzjoni ta' persuni rappreżentati individwali sabiex jiġu deċiżi kwistjonijiet individwali, ir-rappreżentant ta' klassi għandu jinnotifika, b'dawk is-seduti ulterjuri, lil dawk il-persuni rappreżentati individwali hekk kif jiġi ordnat mill-Qorti.

Sentenzi separati.

(3) Il-Qorti tista' tagħti ordnijiet dwar il-proċeduri li għandhom jiġu segwiti fis-seduti ulterjuri msemmija fis-subartikolu (1)(ċ) ta' dan l-artikolu inkluż li jiġu stabbiliti termini li fihom persuni rappreżentati individwali jistgħu jagħmlu talbiet dwar kwistjonijiet individwali.

(4) Il-Qorti tista' tagħti sentenza dwar kwistjonijiet komuni u sentenzi separati dwar kull kwistjoni oħra.

Il-Qorti tista' tiddeċiedi dwar kif tmexxi l-proċedimenti.

16. Il-Qorti, fuq rikors ta' xi parti jew membru ta' klassi, tista' tagħti kull digriet li tqis xieraq dwar it-tmexxija ta' proċedimenti kollettivi biex tiżgura li tingħata deċiżjoni ġusta u spedittiva u, għal dan l-għan, tista' timponi dawk il-kundizzjonijiet fuq il-partijiet li l-Qorti tqis li jkunu xierqa.

Il-Qorti tista' twaqqaf kull proċedimenti oħra.

17. Il-Qorti, minn jeddha jew fuq rikors ta' xi parti jew membru ta' klassi, tista' twaqqaf kull proċediment li jkollu x'jaqsam mal-proċedimenti kollettivi quddiemha, b'dawk il-kundizzjonijiet li l-Qorti tqis li jkunu xierqa.

Sentenzi u digrieti.

18. (1) Sentenza dwar kwistjonijiet komuni għall-persuni rappreżentati jew sotto-klassi ta' persuni rappreżentati tkun torbot lill-persuni rappreżentati, jew lil dawk fis-sotto-klassi, kif ikun il-każ.

(2) Ir-rappreżentant ta' klassi għandu jinnotifika kull sentenza jew digriet lil dawk il-persuni rappreżentati li jkunu marbutin bihom b'mod u manjiera li jkunu approvati mill-Qorti.

19. (1) Rappreżentant ta' klassi ma jistax jidhol f'transazzjoni jew ċessjoni ta' xi talba jew parti minnha fi proċedimenti kollettivi mingħajr il-permess tal-Qorti. Transazzjoni jew ċessjoni.

(2) Ir-rikors għal permess li jsir taħt is-subartikolu (1) għandu —

(a) jistabbilixxi l-mod u manjiera kif ir-rappreżentant ta' klassi jkun qed jipproponi li jinnotifika lill-persuni rappreżentati bil-ħsieb li jkollu li jidhol f'transazzjoni jew ċessjoni ta' xi talba jew parti minnha fi proċedimenti kollettivi; u

(b) fil-każ ta' rikors biex jidhol f'transazzjoni, jistabbilixxi l-pattijiet tat-transazzjoni proposta.

(3) Meta l-Qorti jaslilha rikors magħmul taħt is-subartikolu (1) ta' dan l-artikolu, hija għandha —

(a) tistabbilixxi data għal seduta biex tiddeciedi jekk għandhiex tapprova t-transazzjoni jew ċessjoni; u

(b) tagħti digriet dwar in-notifika msemmija fis-subartikolu (2)(a) ta' dan l-artikolu.

20. (1) Persuna rappreżentata li toġġezzjona għat-transazzjoni tista', bil-permess tal-Qorti, tithalla barra mit-transazzjoni. Is-seduta biex jiġi deciz l-approvazzjoni ta' transazzjoni jew ċessjoni.

(2) Fis-seduta li fiha jiġi deciz dwar ir-rikors għal permess għat-transazzjoni jew għaċ-ċessjoni l-Qorti tista' —

(a) tapprova t-transazzjoni jew iċ-ċessjoni taħt dawk il-pattijiet li tqis li jkunu xierqa;

(b) tiċhad li tapprova t-transazzjoni hlief jekk it-transazzjoni ma tkunx tipprovdi opportunità għal persuni rappreżentati biex javżaw lir-rappreżentant ta' klassi li huma għandhom jithallew barra minnha u tistabbilixxi l-mod u t-terminu sa meta tkun tista' ssir dik in-notifika; jew

(ċ) tordna li persuni rappreżentati jingħataw l-opportunità li javżaw lir-rappreżentant ta' klassi li huma għandhom jithallew barra mit-transazzjoni u l-mod u t-terminu sa meta għandha ssir dik in-notifika.

(3) Transazzjoni approvata mill-Qorti tkun torbot lil kull persuna rappreżentata, jew lil kull persuna rappreżentata fis-sotto-klassi, kif ikun il-każ, ħlief —

(a) lil dawk li jkunu kisbu permess tal-Qorti taħt is-subartikolu (1) ta' dan l-artikolu biex jithallew barra minnha; u

(b) lil dawk li jkunu avżaw lir-rappreżentant ta' klassi, kif hemm fis-subartikolu 2(b) jew (ċ) ta' dan l-artikolu, li huma għandhom jithallew barra minnha.

(4) Jekk il-Qorti tapprova t-transazzjoni jew iċ-ċessjoni, ir-rappreżentant ta' klassi għandu javża bl-approvazzjoni tagħhom lill-persuni rappreżentati, b'mod u manjiera li tkun approvata mill-Qorti.

(5) Jekk xi persuna jew aktar persuni rappreżentati jkunu ser jithallew barra mit-transazzjoni, il-Qorti tista' thalli l-proċedimenti jkomplu bħala talba waħda jew aktar talbiet bejn partijiet differenti u, għal dak l-għan —

(a) tordna ż-żjieda, it-tneħħija jew is-sostituzzjoni tal-partijiet;

(b) tordna li r-rikors jiġi emendat; jew

(ċ) tagħmel kull ordni oħra li tkun tqis xierqa.

Appelli.

21. (1) Parti tista' tappella quddiem il-Qorti tal-Appell minn digriet li jiċhad milli jiddikjara l-proċedimenti bħala proċedimenti kollettivi u minn digriet li jiddikjara l-proċedimenti bħala li m'għadhomx aktar proċedimenti kollettivi.

(2) Parti tista' tappella quddiem il-Qorti tal-Appell minn digriet li jiddikjara l-proċedimenti bħala proċedimenti kollettivi biss bil-permess tal-Qorti.

(3) Appell minn sentenza li jkollha x'taqsam mal-kwistjonijiet komuni għal klassi jew sotto-klassi jista' jsir biss minn rappreżentant ta' klassi jew minn konvenut.

(4) Jekk rappreżentant ta' klassi ma jappellax jew ma jitlobx permess biex jappella kif jista' jagħmel bis-subartikolu (1) jew (2) ta' dan l-artikolu, jew jekk rappreżentant ta' klassi jabbanduna appell preżentat taħt is-subartikolu (1) jew (2) ta' dan l-artikolu, kull membru ta' klassi jista' jippreżenta rikors fil-Qorti

tal-Appell biex jithalla jaġixxi bħala r-rappreżentant ta' klassi għall-finijiet tas-subartikolu rilevanti.

(5) Jekk rappreżentant ta' klassi ma jappellax kif imħolli jaġmel bis-subartikolu (3) ta' dan l-Artikolu, jew jekk rappreżentant ta' klassi jabbanduna appell taht is-subartikolu (4) ta' dan l-artikolu, kull membru ta' klassi jista' jaġmel rikors fil-Qorti tal-Appell biex jithalla jaġixxi bħala r-rappreżentant ta' klassi għall-finijiet tas-subartikolu (3) ta' dan l-artikolu:

Izda d-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili dwar appelli minn deċiżjonijiet u digrieti tal-Qorti Ċivili, Prim'Awla għandhom japplikaw *mutatis mutandis* għal appelli ipprezentati fit-termini ta' dan l-artikolu.

22. Il-perjodu ta' preskrizzjoni li japplika għal talba għal danni huwa miksura favur membru ta' klassi meta jinbdeu il-proċedimenti kollettivi izda dak il-ksur jitqies bħallikieku ma sarx meta dan ma jibqax jiffirma parti mill-proċedimenti kollettivi. Preskrizzjoni.

23. (1) Bla ħsara għas-subartikolu (2) ta' dan l-Artikolu, l-ispejjeż jistgħu jinqatgħu favur jew kontra r-rappreżentant ta' klassi, izda ma jistgħux jinqatgħu favur jew kontra persuna rappreżentata li ma jkunx ir-rappreżentant ta' klassi. Spejjeż.

(2) Jekk il-Qorti tkun approvat il-ħatra ta' rappreżentant ta' klassi għal sotto-klassi, l-ispejjeż li jkollhom x'jaqsmu mad-deċiżjoni tal-kwistjonijiet komuni għas-sotto-klassi jistgħu jinqatgħu favur jew kontra dik il-persuna, u mhux kontra r-rappreżentant ta' klassi għall-klassi kollha.

(3) Jekk il-Qorti tibdel id-digriet tal-proċedimenti kollettivi biex hekk tissostitwixxi lir-rappreżentant ta' klassi b'persuna oħra, l-ispejjeż li jkollhom x'jaqsmu mal-proċedimenti kollettivi mgarrab qabel id-data ta' sostituzzjoni ma jistgħux jinqatgħu favur jew kontra dik il-persuna, ħlief jekk il-Qorti ma tordnax xort'oħra.

(4) L-ispejjeż li jkollhom x'jaqsmu mad-deċiżjoni dwar kwistjonijiet individwali kif hemm fl-artikolu 15 jistgħu jinqatgħu favur jew kontra l-persuni rappreżentati individwali rilevanti.

(5) Għaqda ta' konsumaturi registrata hija eżenti mill-ħlas ta' drittijiet tar-registru tal-Qorti kif hemm fi Skeda A, Tariffa A tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili mal-prezentata tal-proċedimenti kollettivi.

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(6) Fil-każ li l-Qorti tiddeċiedi kontra r-rappreżentant ta' klassi li jkun għaqda ta' konsumaturi reġistrata, il-Qorti għandha tnaqqas id-drittijiet tar-reġistru kontra r-rappreżentant ta' klassi b'ammont ta' bejn wieħed minn għaxra u n-nofs l-ispejjeż li soltu jkunu dovuti, wara li jittieħed kont tal-pożizzjoni finanzjarja tar-rappreżentant ta' klassi u l-motivi legali għaliex il-qorti tkun iddeċidiet kontra r-rappreżentant ta' klassi.

(7) Meta l-Qorti jirrizultalha li l-proċedimenti kollettivi jkunu frivoli jew vessatorji, il-Qorti tista' tiddeċiedi li r-rappreżentant ta' klassi jhallas spejjeż doppji:

Izda meta r-rappreżentant ta' klassi jkun għaqda ta' konsumaturi reġistrata, dan ikun jista' jiġi ordnat iħallas biss l-ispejjeż kollha.

(8) Il-konvenut huwa, f'kull każ, marbut bid-dispożizzjonijiet ta' Skeda A tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

24. Il-Prim Ministru jista' minn żmien għal żmien jagħmel regolamenti għall-aħjar tweġiq tad-dispożizzjonijiet ta' dan l-Att u jista', b'mod partikolari -

(a) jestendi l-applikazzjoni ta' dan l-Att għal liġijiet oħra billi jemenda Skeda A li tinsab ma' dan l-Att; u

(b) jestendi l-applikazzjoni tal-artikolu 12(1) ta' dan l-Att għal korpi rappreżentattivi oħra.

25. L-artikolu 27A tal-Att dwar il-Kompetizzjoni għandu jiġi emendat kif ġej:

(a) fil-paragrafu (b) tas-subartikolu (9) ta' dan l-artikolu, minflok il-kliem "jew meta proċeduri separati nbdew" għandhom jidhru l-kliem "u interrotti meta proċeduri separati nbdew"; u

(b) minnufih wara s-subartikolu (10) ta' dan l-artikolu, għandu jiżdied dan il-proviso ġdid li ġej:

"Izda xejn f'dan l-artikolu ma għandu jiġi interpretat li jippreġudika id-dritt ta' xi persuna li jkun sofra dannu bħala riżultat ta' ksur tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew Artikoli 101 u, jew 102 tat-TFUE li seħħew qabel id-dhul fis-seħħ ta' dan l-Att, milli jistitwixxi kull azzjoni fir-rigward ta' dak id-dannu taħt xi liġi oħra li tkun fis-seħħ qabel id-dhul fis-seħħ ta' dan l-Att."

Setgħa li jsiru regolamenti.

Emendi konsegwenzjali għall-Att dwar il-Kompetizzjoni.

Skeda A

Skont l-artikolu 3 tal-Att, is-segwenti tikkostitwixxi l-lista ta' dawk l-Atti fejn proċedimenti kollettivi jistgħu jigu istitwiti:

- I. Att dwar il-Kompetizzjoni (Kap. 379), u Artikli 101 jew 102 tat-TFUE
- II. Att dwar l-Affarijiet tal-Konsumatur (Kap. 378) u dawk l-Atti imsemmija fl-artikolu 111 tal-Att dwar l-Affarijiet tal-Konsumatur
- III. Att dwar is-Sigurezza tal-Prodotti (Kap. 427)

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz ta' Liġi hu sabiex ikunu jistgħu jinbdew proċedimenti kollettivi f'kazijiet ta' ksur ta' liġijiet skont il-provvedimenti ta' dan l-Att.

**A BILL
entitled**

An act to enable the institution of collective proceedings for infringements of the Competition Act and the Consumer Affairs Act.

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

Short title and
Commencement.

1. (1) The short title of this Act is the Collective Proceedings Act, 2011.

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

Interpretation.

2. In this Act unless the context otherwise requires:

“the Act” means the Collective Proceedings Act;

“class member” means a person falling within the class specified in the collective proceedings decree;

“class representative” means the plaintiff, that is, a person who is authorised to bring the claims in collective proceedings and includes a sub-class representative;

“collective proceedings” means proceedings which are brought by a class representative on behalf of persons whose claims raise common issues and which may be instituted as a group action or a representative action;

“collective proceedings agreement” means an agreement entered into between the class member and the class representative whereby the class member consents to his inclusion in the collective proceedings and to the appointment of the class representative and it may also include provision for the pre-payment and, or reimbursement of any judicial costs incurred by the class representative;

“collective proceedings decree” means a decree authorising the action to proceed as collective proceedings;

“common issues” means -

(i) common but not necessarily identical issues of fact, or

(ii) common but not necessarily identical issues of law that arise from common but not necessarily identical facts;

“constituted body” means a body which is purposely set up to act in the interests of its members and includes any body recognised as a constituted body under the Malta Council for Economic and Social Development Act, as well as any other body of a similar nature recognised as a constituted body under any other law or in accordance with established administrative practice; Cap. 431.

“group action” means proceedings that are brought on behalf of a number of individual class members and whose class representative satisfies the criteria mentioned in sub-article (2) of article 12 of the Act;

“individual issues” means issues that are relevant only to certain individual represented persons;

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“opt-in proceedings” means collective proceedings brought on behalf of class members who inform the class representative as provided in the act that their claim should be included in the collective proceedings;

Cap. 378.

“registered consumer association” means a registered consumer association as defined in the Consumer Affairs Act and any other consumer association that has been officially recognised in any other country;

“representative action” means proceedings that are brought on behalf of a number of class members by a representative body according to article 12(1) of the Act;

“represented person” means a class member who has opted into the collective proceedings;

“TFEU” means the Treaty on the Functioning of the European Union.

Application of the Act.

3. Collective proceedings may be instituted where:-

(a) an infringement of the laws listed in Schedule A to this Act is alleged to have occurred;

(b) an investigation or proceedings on an infringement of those laws before an authority, tribunal or similar body, or court of civil jurisdiction is or are still pending; or

(c) a decision or judgment establishing a breach of the said laws has become *res judicata*.

Filing of collective proceedings for an infringement of the Competition Act.

4. (1) Where the class representative files a claim for damages arising from an infringement of the Competition Act and, or Articles 101 or 102 of the TFEU, the provisions of article 27A of the Competition Act shall *mutatis mutandis* apply.

Cap. 378.

(2) Notwithstanding the provisions of article 7(1) (c) of the Act, collective proceedings may also be instituted with respect to damages caused by defective products under Part VIII of the Consumer Affairs Act.

Contents of application.

5. (1) Collective proceedings shall be instituted by means of a sworn application, in the Civil Court First Hall or the Court of

Magistrates (Gozo) in its superior jurisdiction or by means of an application in the inferior Courts.

Provided that article 56A of the Code of Organization and Civil Procedure shall also apply. Cap. 12.

(2) The plaintiff shall therein request that the Court declare that the collective proceedings procedure is the most appropriate procedure in the circumstances.

(3) The application shall—

(a) state the name of the class representative;

(b) state the name of the defendant;

(c) provide a description of the class;

(d) describe the common issues for the claims which the class representative has brought in the collective proceedings;

(e) state the claim or claims being requested and, if applicable, attach a breakdown of the relative amounts due to the class members;

(f) provide all evidence on which the plaintiff intends to rely to satisfy the criteria for declaration and approval according to articles 9 and 12 of the Act; and

(g) provide the Court with a collective proceedings agreement.

Provided that the provisions of article 156 of the Code of Organisation and Civil Procedure shall, where applicable, also apply to the sworn application in collective proceedings: Cap. 12.

Provided further that the Court shall order the amendment of the application where other class members opt- in within the period mentioned in article 7(2) of the Act or following the permission of the Court in terms of article 8(1) of the Act.

6. The Court shall hold a pre-trial hearing and —

Pre-trial hearing.

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(a) either issue a decree ordering the continuation of the proceedings together with other orders as it may deem fit; or

(b) issue a decree to stay the proceedings if the parties agree, during the hearing, to attempt to compromise the lawsuit by alternative dispute resolution or other means.

Decree ordering continuation of proceedings.

7. (1) The Court shall decree the continuation of proceedings if:

(a) it declares the proceedings as appropriate for collective proceedings in accordance with article 9 of the Act;

(b) it approves the plaintiff to act as the class representative in accordance with article 12 of the Act; and

(c) it is satisfied that the claims are pursuant to article 3 of the Act.

(2) The decree shall include-

(a) the name and address of the class representative;

(b) the name of the defendant;

(c) a description of the class;

(d) the common issues for the claims which the class representative has brought in the collective proceedings;

(e) the claims sought; and

(f) information on the legal effect of a judgment in the collective proceedings.

Provided that the decree may also contain such conditions as the Court may deem fit and the Court shall order that such decree is to be published in the Gazette and in a local English and Maltese newspaper and in any other media if the Court deems it fit, provisionally at the expense of the class representative, and shall state that any other third parties who desire to be class members, may do so within a specified date not exceeding three months from the date of the decree, by registering their claim with the class representative.

8. (1) A class member who does not opt-in in accordance with article 7 of the Act may not do so after the specified date, except with the permission of the Court. The Court may grant such permission if it is satisfied that the delay was not caused by the fault of that class member and the defendant would not suffer substantial prejudice if permission were granted.

Class members.

(2) A class member who has already brought a claim that raises the common issues in the collective proceedings may not be a represented person unless he discontinues or applies to stay that claim before opting-in the collective proceedings.

(3) A class member may also not be a represented person where:

(a) he has already reached an out of court settlement on the common issues set out in the collective proceedings decree with the defendant; or

(b) an arbitration decision between the class member and the defendant has already been issued on the remedies sought by the class member; or

(c) a decision on the common issues set out in the collective proceedings decree has already become *res judicata* before a tribunal or similar body or court of civil jurisdiction and the said tribunal or similar body or court has already decided on the remedies sought by the class member.

9. (1) The Court shall decree the proceedings as appropriate for collective proceedings when-

Declaration of proceedings as appropriate for collective proceedings.

(a) it is satisfied by the class representative that the claims in the proceedings—

(i) are brought on behalf of an identified class of two or more persons; and

(ii) raise common issues; and

(b) it is satisfied by the class representative that the collective proceedings are the most appropriate means for the fair and efficient resolution of the common issues.

(2) In determining whether the collective proceedings

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are the most appropriate means for the fair and efficient resolution of the common issues for the purposes of sub-article (1)(b) hereof, the Court will take into account, amongst other things—

- (a) the benefits of the proposed collective proceedings; and
- (b) the nature of the class.

Certain matters not to bar issue of decree.

10. The court shall not refuse to decree proceedings as collective proceedings solely on any of the following grounds:

- (a) the claim requires individual assessment after determination of the common issues;
- (b) the claim relates to separate contracts involving different class members;
- (c) the amount and nature of the damages sought vary among the different class members.

Where Court does not decree proceedings as collective proceedings.

11. Where the Court does not decree the proceedings as collective proceedings, the Court may permit the proceedings to continue as one or more proceedings between different parties and, for that purpose, the Court may:-

- (a) order the addition, deletion or substitution of parties;
- (b) order the amendment of the application; and
- (c) make any further order that it considers appropriate.

Approval of plaintiff to act as class representative.

12. (1) In a representative action, the Court shall approve a registered consumer association or a constituted body to act as a class representative, if it is satisfied that the class representative -

- (a) would fairly and adequately act in the interests of the class members;
- (b) does not have, in relation to the common issues for the class members, a material interest that is in conflict with the interests of the class members; and

(c) will be able to pay the defendant's recoverable costs if ordered to do so.

(2) In a group action, the Court may approve the plaintiff to act as the class representative if it is satisfied by the plaintiff that he-

(a) has a claim which falls within the proposed collective proceedings;

(b) would fairly and adequately act in the interests of the class members;

(c) does not have, in relation to the common issues for the class members, a material interest that is in conflict with the interests of the class members; and

(d) will be able to pay the defendant's recoverable costs if ordered to do so.

13. (1) The class representative shall act in the best interests of the class members.

Duties of class representative.

(2) The class representative shall explain to the class members the nature of the collective proceedings and shall also keep them informed on the progress of the proceedings including any judgment or decree that is binding on those class members or sub-class members.

(3) The class representative shall keep and maintain a register on which he will record the identity and claims of those class members who are part of the collective proceedings and shall, on request, make such register available to the defendant.

(4) If at any time after the Court's decree ordering the continuation of proceedings, it appears to the Court that the class representative no longer satisfies the criteria mentioned in article 12 of the Act or is no longer, for any other reason, in a position to represent the interests of the represented persons, the Court may, either of its own initiative or on the application of a class member —

Substitution.

(a) substitute the class representative by another person who satisfies the criteria for approval in article 12 of the Act as the class representative; and, or

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(b) make any other order it considers appropriate.

Withdrawal.

(5) A class representative may only withdraw as a party to the collective proceedings if the Court gives permission for the withdrawal. The Court will only give permission for the withdrawal if it is satisfied that the class representative –

(a) has given notice of the application to withdraw to the class members in a form and manner that is approved by the Court; and

(b) provides such conditions as to costs that the Court considers just.

(6) If the Court gives permission for the class representative to withdraw from the proceedings and no substitute class representative is approved, the Court shall give directions for the future conduct of the proceedings which may include provision that the proceedings shall continue as one or more proceedings between different parties.

Sub-classes.

14. If the represented persons include a sub-class of persons whose claims raise common issues that are not shared by all the represented persons, the Court shall approve a person who satisfies the criteria for approval in article 12 of the Act to act as the class representative for that sub-class.

Stages of collective proceedings.

15. (1) Subject to article 16 of the Act, in collective proceedings –

(a) common issues for a class shall be determined together;

(b) common issues for a sub-class shall be determined together; and

(c) individual issues shall be determined in further hearings.

(2) If the Court directs that the participation of individual represented persons is necessary in order to determine individual issues, the class representative shall give notice of the further hearings to those individual represented persons as directed by the Court.

(3) The Court may give directions for the procedures to follow in the further hearings referred to in sub-article (1) (c) hereof including setting a time within which individual represented persons may make claims in respect of the individual issues.

(4) The Court may give judgment in respect of the common issues and separate judgments in respect of any other issue.

Separate judgments.

16. The Court, on the application of a party or class member, may issue any decree it considers appropriate with respect to the conduct of collective proceedings to ensure its fair and expeditious determination and, for this purpose, may impose such terms on the parties as it considers appropriate.

Court may determine conduct of proceedings.

17. The Court, on its own initiative or on the application of a party or class member, may stay any proceeding related to the collective proceedings before it, on such terms as it considers appropriate.

Court may stay any other proceedings.

18. (1) A judgment on the common issues for the represented persons or a sub-class of represented persons will bind the represented persons, or those within the sub-class, as the case may be.

Judgments and decrees.

(2) The class representative shall give notice of any judgment or decree to those represented persons who are bound by it in a form and manner that is approved by the Court.

19. (1) A class representative may not compromise or discontinue all or part of a claim in collective proceedings without the permission of the Court.

Compromise or discontinuance.

(2) The application for permission made under sub-article (1) hereof shall—

(a) set out the form and manner by which the class representative proposes to give notice to the represented persons of the intention to compromise or discontinue all or part of a claim in the collective proceedings; and

(b) in the case of an application to compromise, set out the terms of the proposed compromise.

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(3) On receipt of an application made under sub-article (1), the Court will—

(a) set a date for a hearing to determine whether to approve the compromise or discontinuance; and

(b) issue a decree for the giving of the notice referred to in sub-article (2)(a) hereof.

Hearing to determine approval of compromise or discontinuance.

20. (1) A represented person who objects to the compromise may, with the permission of the Court, be omitted from the compromise.

(2) At the hearing to determine the application for permission to compromise or withdrawal, the Court may—

(a) approve the compromise or discontinuance on terms it considers to be appropriate;

(b) refuse to approve a compromise unless the compromise provides an opportunity for represented persons to notify the class representative that they are to be omitted from it and sets out the manner and time by which that notification is to be made; or

(c) order that represented persons be given an opportunity to notify the class representative that they are to be omitted from a compromise and the manner and time by which that notification is to be made.

(3) A compromise approved by the Court binds every represented person, or every represented person within the sub- class, as the case may be, except—

(a) those who have obtained permission of the Court under sub-article (1) hereof to be omitted from it; and

(b) those who have notified the class representative, in accordance with sub-article 2(b) or (c) hereof, that they are to be omitted from it.

(4) If the Court approves the compromise or discontinuance, the class representative shall give notice of its approval, in a form and manner that is approved by the Court, to the represented persons.

(5) If one or more of the represented persons are to be omitted from the compromise, the Court may permit the proceedings to continue as one or more claims between different parties and, for that purpose—

(a) order the addition, removal or substitution of parties;

(b) order the amendment of the application; or

(c) make any other order that it considers appropriate.

21. (1) A party may appeal to the Court of Appeal ^{Appeals.} from a decree refusing to declare the proceedings as collective proceedings and from a decree that declares the proceedings as no longer being collective proceedings.

(2) A party may appeal to the Court of Appeal from a decree declaring the proceedings as collective proceedings only with leave of the Court.

(3) An appeal from a judgment relating to the common issues for a class or sub-class may only be made by a class representative or a defendant.

(4) If a class representative does not appeal or seek leave to appeal as permitted by sub-article (1) or (2) hereof, or if a class representative abandons an appeal filed under sub-article (1) or (2) hereof, any class member may file an application to the Court of Appeal for leave to act as the class representative for the purposes of the relevant sub-article.

(5) If a class representative does not appeal as permitted by sub-article (3) hereof, or if a class representative abandons an appeal under sub-article (4) hereof, any class member may make an application to the Court of Appeal for leave to act as the class representative for the purposes of sub-article (3) hereof.

Provided that the provisions of the Code of Organization and Civil Procedure relating to appeals from judgments and decrees of the Civil Court, First Hall shall *mutatis mutandis* apply to appeals filed in terms of this article.

Prescription.

22. The period of prescription applicable to a claim for damages is interrupted in favour of a class member on the commencement of the collective proceedings but that interruption shall be deemed inoperative if he withdraws from the collective proceedings.

Costs.

23. (1) Subject to sub-article (2) hereof, costs may be awarded in favour or against the class representative, but may not be awarded in favour or against a represented person who is not the class representative.

(2) If the Court has approved the appointment of a class representative for a sub-class, costs associated with the determination of the common issues for the sub-class may be awarded in favour or against that person, and not the class representative for the whole class.

(3) If the Court varies the collective proceedings decree so as to substitute the class representative by another person, costs associated with the collective proceedings incurred before the date of substitution may not be awarded in favour or against that person, unless the Court orders otherwise.

(4) Costs associated with the determination of individual issues in accordance with article 15 of the Act may be awarded in favour or against the relevant individual represented persons.

(5) A registered consumer association is exempted from the payment of Court registry fees according to Schedule A, Tariff A of the Code of Organization and Civil Procedure upon the filing of collective proceedings.

(6) In the event that the Court finds against the class representative that is a registered consumer association, the Court shall reduce court registry fees against the class representative by between one tenth and one half of the fees normally due, taking into account the economic standing of the class representative and the legal reasons for finding against the class representative.

(7) Where the Court finds that the collective proceedings are frivolous or vexatious, the Court may award double costs against the class representative:

Provided that where the class representative is a registered consumer association, it may only be ordered to pay the full costs.

(8) The defendant shall in all cases, be liable to the provisions of Schedule A of the Code of Organization and Civil Procedure.

24. The Prime Minister may from time to time make regulations for the better carrying out of the provisions of this Act and may, in particular -

Power to make regulations.

(a) extend the application of this Act to other laws by amending Schedule A to this Act; and

(b) extend the application of article 12(1) of the Act to other representative bodies.

25. Article 27A of the Competition Act shall be amended as follows:

Consequential amendments to the Competition Act

(a) in paragraph (b) of sub-article (9) thereof, for the words “or where separate proceedings have been instituted” there shall be substituted the words “and interrupted where separate proceedings have been instituted”; and

(b) immediately after sub-article (10) thereof, there shall be inserted the following new proviso:

“Provided that nothing in this article shall be interpreted as prejudicing the right of any person who has suffered damage as a result of an infringement of articles 5 and, or 9 of this Act and, or Articles 101 and, or 102 of the TFEU occurring before the coming into force of this Act to file any action in respect of the said damage under any other law as in force prior to the coming into force of this Act.”

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Schedule A

In accordance with article 3 of the Act, the following constitutes the list of Acts whereby collective proceedings may be instituted:

I. Competition Act (Cap. 379), and Articles 101 or 102 of the TFEU

II. Consumer Affairs Act (Cap. 378) and those Acts mentioned in article 111 of the Consumer Affairs Act

III. Product Safety Act (Cap. 427)

Objects and Reasons

The object of this Bill is to enable the institution of collective proceedings for infringements of laws in accordance with the provisions of the said Act.

