Nagħti l-kunsens tiegħi.

(L.S.) GEORGE ABELA
President

17 ta’ Lulju, 2009

ATT Nru. XIV ta’ l-2009

ATT biex jemenda l-Att dwar l-Affarijiet tal-Konsumatur (Kap. 378).

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

Titolu fil-qosor.

Kap. 378.

1. It-titolu fil-qosor ta’ dan l-Att huwa l-Att ta’ l-2009 li jemenda l-Att dwar l-Affarijiet tal-Konsumatur, u dan l-Att għandu jinqara u jinftiehem ħaġa waħda ma’ l-Att dwar l-Affarijiet tal-Konsumatur, hawnhekk iżjed ’il quddiem imsejjaħ "l-Att prinċipali".

Emenda ta’ l-artikolu 14A ta’ l-Att prinċipali.

2. Fis-subartikolu (1) ta’ l-artikolu 14A ta’ l-Att prinċipali, minflok il-kliem "is-sottomissjonijiet tagħha lid-Direttur." għandhom jidħlu l-kliem "is-sottomissjonijiet tagħha lid-Direttur:", u minnufih wara dan, għandu jiżdied dan il-proviso li ġej:

"Iżda d-Direttur jista’:

(a) jeħtieġ li l-persuna involuta ġġib prova ta’ l-eżattezza tal-pretensjonijiet fattwali fir-rigward ta’ xi prattika kummerċjali jekk, meta jitqies l-interess leġittimu tal-persuna involuta u ta’ kull parti oħra fil-proċeduri, dik il-ħtieġa tkun tidher ġustifikata fuq il-bażi taċ-ċirkostanzi tal-każ partikolari; u

(b) jikkunsidra l-pretensjonijiet fattwali bħala mhux eżatti jekk ma tinġiebx il-prova meħtieġa skond il-paragrafu (a) ta’ dan il-proviso jew din titqies bħala waħda insuffiċjenti mid-Direttur.".

Emenda ta’ l-artikolu 44 ta’ l-Att prinċipali.

3. Is-subartikolu (2) ta’ l-artikolu 44 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (w) tiegħu, minflok il-kliem "tal-kummerċjant; u" għandhom jidħlu l-kliem "tal-kummerċjant;";

(b) fil-paragrafu (x) tiegħu, minflok il-kliem "xi servizz." għandhom jidħlu l-kliem "xi servizz;"; u

(ċ) minnufih wara l-paragrafu (x) tiegħu, għandhom jidħlu dawn il-paragrafi ġodda li ġejjin:

"(y) jeskludu jew jillimitaw ir-responsabbiltà legali ta’ kummerċjant jew fornitur fil-każ li konsumatur imut jew ikorri, liema mewt jew korriment jirriżulta minn att jew omissjoni ta’ dak il-kummerċjant jew fornitur;

(z) jawtorizzaw lill-kummerċjant jew lill-fornitur ixolji l-kuntratt fuq bażi diskrezzjonali meta l-istess faċilità ma tingħatax lill-konsumatur, jew jippermettu lill-kummerċjant jew lill-fornitur li jżomm is-somom imħallsa għal servizzi li jkunu għadhom ma ġewx ipprovduti minnu fil-każ li jkun il-kummerċjant jew il-fornitur innifsu li jxolji l-kuntratt;

(aa) jawtorizzaw lill-kummerċjant jew lill-fornitur li jtemm kuntratt ta’ tul ta’ żmien mhux stabbilit mingħajr ma tingħata twissija raġonevoli ħlief meta jkun hemm raġunijiet serji sabiex dan isir;

(bb) jestendu awtomatikament kuntratt għal tul ta’ żmien fiss meta l-konsumatur ma jindikax mod ieħor, meta l-iskadenza ffissata għall-konsumatur sabiex jesprimi din ix-xewqa tiegħu li ma jestendix il-kuntratt issir fi

żmien qabel li ma jkunx wieħed raġonevoli;

(ċċ) jeskludu jew ifixklu d-dritt li għandu l-konsumatur li jieħu azzjoni legali jew li jeżerċita xi rimedju legali ieħor, b'mod partikolari billi jeħtieġu lill-konsumatur li jieħu xi kwistjoni għal arbitraġġ li ma jkunx jaqa' taħt xi disposizzjoni tal-liġi, biex b'hekk jirrestrinġu l-evidenza li jkollu f'idejh jew jimponu fuqu l-oneru tal-prova li, skond il-liġi li tkun tapplika, għandu jinkombi fuq il-parti l-oħra fil-kuntratt.".

4. Fis-subartikolu (2) ta' l-artikolu 47, minflok il-kliem "favorevoli għall-konsumatur." għandhom jidħlu l-kliem "favorevoli għall-konsumatur:", u minnufih wara għandu jiżdied il-proviso li ġej: Emenda ta' l-artikolu 47 ta' l-Att prinċipali.

"Iżda dan is-subartikolu ma għandux japplika għall-proċeduri miġjuba taħt l-artikolu 94.".

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 140 tal-14 ta' Lulju, 2009.

LOUIS GALEA
Speaker

PAULINE ABELA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.) GEORGE ABELA
President

17th July, 2009

ACT No. XIV of 2009

AN ACT to amend the Consumers Affairs Act (Cap. 378).

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.

Cap. 378.

1. The short title of this Act is the Consumer Affairs (Amendment) Act, 2009 and this Act shall be read and construed as one with the Consumer Affairs Act, hereinafter referred to as "the principal Act".

Amendment of article 14A of the principal Act.

2. In subarticle (1) of article 14A of the principal Act, for the words "make his submissions to the Director." there shall be substituted the words "make his submissions to the Director:", and immediately thereafter there shall be added the following proviso:

"Provided that the Director may:

(a) require the person concerned to furnish evidence as to the accuracy of factual claims in relation to a commercial practice if, taking into account the legitimate interest of the person concerned and any other party to the proceedings, such a requirement appears appropriate on the basis of the circumstances of the particular case; and

(b) consider factual claims as inaccurate if the

evidence demanded in accordance with paragraph (a) of this proviso is not furnished or is deemed insufficient by the Director.".

3. Subarticle (2) of article 44 of the principal Act shall be amended as follows:

Amendment of article 44 of the principal Act.

(a) in paragraph (w) thereof, for the words "of the trader; and", there shall be substituted the words "of the trader;";

(b) in paragraph (x) thereof, for the words "a service.", there shall be substituted the words "a service;"; and

(c) immediately after paragraph (x) thereof, there shall be added the following new paragraphs:

"(y) excluding or limiting the legal liability of a trader or supplier in the event of the death of a consumer or personal injury to the latter resulting from an act or omission of that trader or supplier;

(z) authorizing the trader or supplier to dissolve the contract on a discretionary basis where the same facility is not granted to the consumer, or permitting the trader or supplier to retain the sums paid for services not yet supplied by him where it is the trader or supplier himself who dissolves the contract;

(aa) enabling the trader or supplier to terminate a contract of indeterminate duration without reasonable notice except where there are serious grounds for doing so;

(bb) automatically extending a contract of fixed duration where the consumer does not indicate otherwise, when the deadline fixed for the consumer to express this desire not to extend the contract is unreasonably early;

(cc) excluding or hindering the consumer’s right to take legal action or exercise any other legal remedy, particularly by requiring the consumer to take disputes to arbitration not covered by legal provisions, unduly restricting the evidence available to him or imposing on him a burden of proof which, according to the applicable law, should lie with another party to the contract.".

4. In subarticle (2) of article 47 of the principal Act, for the words "shall prevail." there shall be substituted the words "shall prevail:", and immediately thereafter there shall be added the

Amendment of article 47 of the principal Act.

following proviso:

"Provided that this subarticle shall not apply to proceedings brought under article 94.".

Passed by the House of Representatives at Sitting No. 140 of the 14th July, 2009.

LOUIS GALEA
Speaker

PAULINE ABELA
Clerk to the House of Representatives