

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,537, 19 ta' Frar, 2016

Taqsimha C

Nru. 143

19. 02. 2016

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Leo Brincat, M.P., Ministru għall-Iżvilupp Sostenibbli, Ambjent u Tibdil fil-Klima, f'isem il-Ministru għall-Ġustizzja, Kultura u Gvern Lokali, u moqri għall-Ewwel darba fis-Seduta tal-15 ta' Frar, 2016.

A BILL introduced by the Honourable Leo Brincat, M.P., Minister for Sustainable Development, the Environment and Climate Change, on behalf of the Minister for Justice, Culture and Local Government, and read the First time at the Sitting of the 15th February, 2016.

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

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

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

Abbozz ta' Ligi msejjah

ATT biex 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, harġet b'ligi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2016 li jemenda l-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.

Kap. 452.

2. L-artikolu 73 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 73 tal-Att prinċipali

(a) fil-paragrafu (b) tas-subartikolu (2) tiegħu, minflok il-kliem "li ma jkunx iktar minn tliet snin" għandhom jidhlu l-kliem "ta' erba' snin", u minflok il-kliem "ma jkunx ta' aktar minn tliet snin" għandhom jidhlu l-kliem "ikun ta' erba' snin";

(b) fil-paragrafu (b) tas-subartikolu (3) tiegħu, minnufih wara l-kliem "maħtura mill-Ministru" għandhom jizdiedu l-kliem "għal perjodu ta' erba' snin li jista' jiġġedded għal perjodi oħra ta' erba' snin";

(ċ) il-paragrafu (ċ) tas-subartikolu (5) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(c) membru mahtur *ad hoc* mill-Ministru,";

(d) is-subartikoli (6) and (7) tiegħu għandhom jiġu sostitwiti b'dan li ġej:

"(6) Il-Prim Ministru jista', wara konsultazzjoni mal-Kunsill Malti għall-Iżvilupp Ekonomiku u Soċjali, ineħhi membru minn fuq il-lista mahtura skont is-subartikolu (2), għal raġunijiet ta' mgħiba ħażina ppruvata, ineffiċjenza ċara jew inkapaċità li jaqdi jew taqdi l-funzjonijiet tiegħu jew tagħha kemm minħabba f'mard korporali jew mentali. Id-deċiżjoni għat-tneħħja ta' tali membru għandu jkun fiha raġunijiet u tkun soġġetta għal dritt ta' appell lill-Qorti tal-Appell, minn dak il-membru, li għandu jiġi pprezentat fi żmien għoxrin ġurnata mid-data meta dik il-persuna tiġi notifikata bid-deċiżjoni. Ir-regoli tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili li jirregolaw is-smiġħ u d-determinazzjoni ta' appelli minn sentenzi tal-Prim'Awla tal-Qorti Ċivili għandhom *mutatis mutandis* japplikaw għal tali appell.

(7) Il-Ministru jista', wara konsultazzjoni mal-Kunsill Malti għall-Iżvilupp Ekonomiku u Soċjali, ineħhi membru minn fuq il-lista mahtura skont il-paragrafu (b) tas-subartikolu (3) għal raġunijiet ta' mgħiba ħażina ppruvata, ineffiċjenza ċara jew inkapaċità li jaqdi jew taqdi l-funzjonijiet tiegħu jew tagħha kemm minħabba f'mard korporali jew mentali. Id-deċiżjoni għat-tneħħja ta' tali membru għandu jkun fiha raġunijiet u tkun soġġetta għal dritt ta' appell lill-Qorti tal-Appell, minn dak il-membru, li għandu jiġi pprezentat fi żmien għoxrin ġurnata mid-data meta dik il-persuna tiġi notifikata bid-deċiżjoni. Ir-regoli tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili li jirregolaw is-smiġħ u d-determinazzjoni ta' appelli minn sentenzi tal-Prim'Awla tal-Qorti Ċivili għandhom *mutatis mutandis* japplikaw għal tali appell."; u

(e) minnufih wara s-subartikolu (9) tiegħu għandu jizdied is-subartikolu ġdid li ġej:

"(10) Xejn f'dan l-Att ma għandu jinftiehem li jeżenta lil xi persuna li tiffirma parti mit-Tribunal milli taġixxi b'indipendenza u imparzjalità u skont il-liġi fis-smiġħ u fid-deċiżjonijiet dwar kwistjonijiet li jinġiebu quddiem it-Tribunal irrispettivament mill-proċedura li biha jew il-lista li minnha dik il-persuna kienet nominata biex tiffirma parti mit-Tribunal."

3. Fis-subartikolu (1) tal-artikolu 80 tal-Att prinċipali, minflok il-kliem "it-Tribunal għandu jqis" għandhom jidhru l-kliem "it-Tribunal għandu, mingħajr preġudizzju għad-dmir tiegħu li jaġixxi b'mod ġust, iqis", u minflok il-kliem "id-deċiżjoni jew il-parir tiegħu iġhinu t-twettiq ta' kull politika u pjani bħal dawk" għandhom jidhru l-kliem "id-deċiżjoni jew il-parir tiegħu huma kompatibbli ma' kull politika u pjani bħal dawk".

Emenda tal-artikolu 80 tal-Att prinċipali

4. (1) L-emendi magħmulin b'dan l-Att għall-paragrafu (b) tas-subartikolu (2) u għall-paragrafu (b) tas-subartikolu (3) tal-artikolu 73 tal-Att prinċipali għandhom japplikaw malli jsiru liġi hekk iżda li, mingħajr preġudizzju għad-dispożizzjonijiet tas-subartikolu (2) hawn aktar 'l isfel, kull persuna li fid-data tal-bidu fis-seħh tal-imsemmija emenda tkun membru fil-lista li għaliha jirreferu l-imsemmija paragrafi għandha titqies li tkun ġiet nominata għal perjodu ta' erba' snin li jibdew jgħoddu mid-data tal-aħħar ha tra tagħha.

Dispożizzjoni transitorja.

(2) Kull persuna li, għalkemm ma tkunx aktar tiffirma parti mil-listi li hemm referenza għalihom fis-subartikoli (2) u (3) tal-artikolu 73 tal-Att prinċipali, tkun, fid-data tal-bidu fis-seħh ta' dan l-Att, għadha tiffirma parti mit-Tribunal għas-smiġh ta' każijiet partikolari, għandha tkompli hekk tiffirma parti mit-Tribunal skont id-dispożizzjonijiet tal-Att prinċipali kif kien fis-seħh qabel il-bidu fis-seħh ta' dan l-Att iżda bla ħsara għad-dispożizzjonijiet tas-subartikoli (6), (7) u (10) tal-artikolu 73 tal-Att prinċipali kif emendat b'dan l-Att.

Għanijiet u Raġunijiet

L-għanijiet u raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex id-dispożizzjonijiet tal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali (Kap. 452) li jirrigwardaw it-Tribunal Industrijali jingiebu kompatibbli ma' żewġ sentenzi mogħtija mill-Qorti Kostituzzjonali fit-12 ta' Frar, 2016, u biex jissahħaħ ir-rispett għad-dritt ta' smiġh xieraq quddiem l-imsemmi Tribunal.

**A Bill
entitled**

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

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

Short title.

1. The short title of this Act is the Employment and Industrial Relations (Amendment) Act, 2016, and this Act shall be read and construed as one with the Employment and Industrial Relations Act, hereinafter referred to as "the principal Act".

Cap. 452.

Amendment of
article 73 of the
principal Act.

2. Article 73 of the principal Act shall be amended as follows:

(a) in paragraph (b) of sub-article (2) thereof, for the words "that does not exceed three years" there shall be substituted the words "of four years", and for the words "not more than three years" there shall be substituted the words "four years";

(b) in paragraph (b) of sub-article (3) thereof, immediately after the words "appointed by the Minister" there shall be added the words "for a term of four years which may be renewed for further terms of four years";

(c) paragraph (c) of sub-article (5) thereof shall be substituted by the following:

"(c) a member appointed *ad hoc* by the Minister;"

(d) sub-articles (6) and (7) thereof shall be substituted by the following:

"(6) The Prime Minister may, after consultation with the Malta Council for Economic and Social Development, remove a member of a panel appointed in terms of sub-article (2) for proved misbehaviour, manifest inefficiency or inability to perform his or her functions whether due to an impairment of mind or body, The decision to remove such a member shall include reasons and shall be subject to a right of appeal by the said member to the Court of Appeal which appeal is to be filed within twenty days from the date when the said person is notified of the decision. The rules of the Code of Organization and Civil Procedure regulating the hearing and determination of appeals from judgements of the First Hall of the Civil Court shall *mutatis mutandis* apply to such an appeal.

(7) The Minister may, after consultation with the Malta Council for Economic and Social Development, remove a member of a panel appointed in terms of paragraph (b) of sub-article (3) for proved misbehaviour, manifest inefficiency or inability to perform his or her functions whether due to an impairment of mind or body, The decision to remove such a member shall include reasons and shall be subject to a right of appeal by the said member to the Court of Appeal which appeal is to be filed within twenty days from the date when the said person is notified of the decision. The rules of the Code of Organization and Civil Procedure regulating the hearing and determination of appeals from judgements of the First Hall of the Civil Court shall *mutatis mutandis* apply to such an appeal."; and

(e) immediately after sub-article (9) thereof there shall be added the following new sub-article:

"(10) Nothing in this Act shall be construed as exempting any person sitting on the Tribunal from the duty to act with independence and impartiality and according to law in hearing and adjudicating upon disputes brought before the Tribunal irrespective of the procedure according to which or the panel from which that person was nominated to sit on the Tribunal."

3. In sub-article (1) of article 80 of the principal Act, for the words "the Tribunal shall take into consideration" there shall be

Amendment of article 80 of the principal Act.

substituted the words "the Tribunal shall, without prejudice to its duty to act fairly, take into consideration", and for the words "decision or advice is in furtherance of any such policies and plans" there shall be substituted the words "decision or advice is compatible with any such policies and plans".

Transitory provision.

4. (1) The amendments made by this Act to paragraph (b) of sub-article (2) and to paragraph (b) of sub-article (3) of article 73 of the principal Act shall apply upon their enactment so however that, without prejudice to the provisions of sub-article (2) hereunder, any person who on the date of the coming into force of the said amendment is a member of a panel to which the said paragraphs refer shall be deemed to have been appointed for a period of four years commencing from the date of his last appointment.

(2) Any person who, although no longer forming part of the panels referred to in sub-articles (2) and (3) of article 73 of the principal Act, shall on the date of the coming into force of this Act be still forming part of the Tribunal for the hearing of particular cases, shall continue to so form part of the Tribunal in accordance with the provisions of the principal Act as in force prior to the coming into force of this Act but subject to the provisions of sub-articles (6), (7) and (10) of article 73 of the principal Act as amended by this Act.

Objects and Reasons

The objects and reasons of this Bill are to bring the provisions of the Employment and Industrial Relations Act (Cap. 452) relating to the Industrial Tribunal into line with two judgements delivered by the Constitutional Court on the 12th February 2016 and to strengthen respect for the right to a fair hearing before the said Tribunal.

