

ABBOZZ TA' LIĠI msejjaħ

ATT li jemenda l-Ordinanza dwar il-Haddiema tal-Port (Kap.171)

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2007 li jemenda l-Ordinanza dwar il-Haddiema tal-Port, u għandu jinqara u jftiehem haġa waħda ma' l-Ordinanza dwar il-Haddiema tal-Port, hawn iżjed 'il quddiem imsejjaħ "il-liġi prinċipali".

Titolu fil-qosor u bidu fis-seħh.

(2) Dan l-Att għandu jitqies li dahal fis-seħh fl-1 ta' Ġunju, 2007.

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

Emenda ta' l-artikolu 2 tal-liġi prinċipali.

(a) minflok it-tifsira "Bord" għandha tidhol din it-tifsira li ġejja:

“ “Bord” tfisser il-Bord dwar il-Haddiema tal-Port stabbilit taħt artikolu 10;”;

(b) minnufih wara t-tifsira “*foreman*” ghandha tizdied din it-tifsira ġdida li ġejja:

“ “Ftehim dwar il-Livelli ta’ Servizz” tfisser ftehim magħmul bejn haddiema tal-port u prinċipali ta’ haddiema tal-port f’ dak li għandu x’jaqsam ma’ l-ġhoti ta’ servizzi minn haddiema tal-port;”;

(ċ) minflok it-tifsira “haddiem tal-port” ghandha tidhol din it-tifsira li ġejja:

“ “haddiem tal-port” tfisser persuna impjegata f’ port fl-ġhoti ta’ servizzi ta’ xorta temporanja li jinvolvu l-manigġ ta’ merkanzija fil-proċess ta’ tagħbija jew hatt ta’ merkanzija għal fuq jew minn fuq bastiment, minn jew għal xi post fuq l-art, persuna hekk impjegata jew awtorizzata mill-Awtorità jew hekk impjegata minn prinċipal ta’ haddiema tal-port biex timmaniġġa merkanzija f’ mahżen u persuna impjegata fil-manigġ ta’ merkanzija, li l-Ministru jista’ minn żmien għal żmien jippreskrivi, minn tinda tal-merkanzija *in transit* jew minn munzell jew minn fuq il-moll fl-apert għal fuq vettura jew fit-tgħaqqid, fl-aggruppar jew fl- iżmuntar ta’ merkanzija f’ tagħbija jew minn tagħbija f’ unità waħda f’ port, u “xogħol fil-port” ghandha għall-finijiet ta’ l-Att tiftiehem skond hekk;”;

(d) it-tifsira “Kunsill” ghandha tithassar; u

(e) minnufih wara t-tifsira “preskritt” ghandha tizdied din it-tifsira ġdida li ġejja:

“ “prinċipal ta’ haddiema tal-port ” tfisser persuna li tkun hekk awtorizzata jew li jkollha liċenza mill-Awtorità skond id-disposizzjonijiet ta’ l-Att dwar l-Awtorità Marittima ta’ Malta, biex tagħti servizzi li jinkludu t-tagħbija, hatt, trasbord, hżin u ċaqlieq ta’ merkanzija ġenerali u ta’ materjal iehor f’ port u tinkludi operatur ta’ terminal;”.

Kap. 352.

Emenda ta’ l-artikolu 3 tal-liġi prinċipali.

3. Is-subartikolu (3) ta’ l-artikolu 3 tal-liġi prinċipali għandu jithassar u s-subartikoli (4) u (5) tiegħu għandhom jiġu enumerati mill-ġdid bhala s-subartikoli (3) u (4) rispettivament.

Emenda ta’ l-artikolu 4 tal-liġi prinċipali.

4. Fl-artikolu 4 tal-liġi prinċipali, minnufih wara s-subartikolu (5), għandu jiżdied dan is-subartikolu ġdid li ġej:

“(6) Sabiex jiġu żgurati s-sigurtà, żjieda fl-effiġjenza u tiġi żviluppata l-flessibilità, ikun id-dmir ta’ haddiema tal-port li jgħaddu minn programmi ta’ tahriġ perjodiku skond ma jista’ jkun mehtieg.”.

5. Minflok l-artikolu 7 tal-liġi prinċipali għandu jidhol dan li ġej: Sostituzzjoni ta’ l-artikolu 7 tal-liġi prinċipali.

“Twaqqif ta’ Bord ta’ l-Appelli dwar Xogħol fil-Port.

7. (1) Għandu jkun hemm Bord ta’ l-Appelli dwar Xogħol fil-Port, hawn iżjed ’il quddiem imsejjah “il-Bord ta’ l-Appelli”, li għandu jeżerċita u jwettaq il-funzjonijiet li jiġu lilu assenjati b’din l-Ordinanza.

(2) Il-Bord ta’ l-Appelli għandu jinhatar mill-Ministru u jkun magħmul minn *Chairman* li jkollu riputazzjoni tajba u minn żewġ membri li jkunu persuni li fil-fehma tal-Ministru jkollhom esperjenza f’affarijiet marittimi, finanzjarji jew amministrattivi. Il-Ministru għandu wkoll jahtar persuna biex taġixxi bhala segretarju tal-Bord bla ma jkollu ebda vot.

(3) Iċ-*Chairman* u l-membri tal-Bord ta’ l-Appelli għandhom jinhatru għal perjodu ta’ tliet snin u jkunu jistgħu jerġgħu jinhatru mill-ġdid.

(4) Iċ-*Chairman* u l-membri tal-Bord ta’ l-Appelli m’għandu jkollhom ebda interess finanzjarju dirett jew interessi ohra diretti f’affarijiet li jirrigwardaw il-manijġ tal-portijiet u jistgħu jiġu rikuzati jew jastjenu għal kull waħda mir-raġunijiet li dwarhom imhallet jista’ jiġi rikuzat jew jastjeni skond m’hemm fil-Kodiċi ta’ Organizzazzjoni u Proċedura Ċivili. F’dawk il-każijiet il-Ministru għandu jahtar persuna, li jkollha l-kwalifiki li jappartjenu liċ-*Chairman* jew lill-membri rikuzati jew li jkunu qeghdin jastjenu, biex toqgħod minflokhom.

(5) Mhallet, jew maġistrat jew membru tal-Kamra tar-Rappreżentanti jew tal-Parlament Ewropew jew ta’ Kunsill Lokali jkun skwalifikat milli jinhatar jew jaġixxi bhala *Chairman* jew membru tal-Bord ta’ l-Appelli sakemm huwa jibqa’ f’dik il-kariga.

(6) La iċ-*Chairman* u lanqas il-membri tal-Bord ta’ l-Appelli m’għandhom, għal ebda raġuni li tkun, għal perjodu ta’ sena wara t-terminazzjoni tal-hatra tagħhom, jaġhmlu xi attività li minhabba f’kunflitt ta’ interess din kienet tkun inkompatibbli ma’ l-eżerizzju tal-funzjonijiet tagħhom.

Kull min jaġixxi bi ksur ta' dan is-subartikolu jkun hati ta' reat kontra din l-Ordinanza u jista', meta jinsab hati, jehel multa ta' mhux inqas minn elf lira u mhux iżjed minn hamest elef lira.

(7) Il-proċeduri, reati, u hwejjeġ ohra simili li jirrigwardaw il-Bord ta' l-Appelli ghandhom ikunu regolati skond id-disposizzjonijiet ta' l-Ewwel Skeda li tinsab ma' dan l-Att u li tista' tiġi emendata b'regolamenti magħmulin mill-Ministru minn żmien għal żmien:

Iżda dwar reat li jkun hemm provdut dwaru f'regolamenti magħmulin taht dan is-subartikolu ma tistax tiġi imposta multa ta' iżjed minn elf lira jew priġunerija għal perjodu ta' mhux iżjed minn sitt xhur jew dik il-multa u priġunerija flimkien.”.

Sostituzzjoni ta' l-artikolu 8 tal-liġi prinċipali.

6. Minflok l-artikolu 8 tal-liġi prinċipali għandu jidhol dan li ġej:

“Funzjonijiet tal-Bord ta' l-Appelli dwar Xogħol fil-Port.

8. (1) Il-funzjonijiet tal-Bord ta' l-Appelli jkunu dawn li ġejjin:

(a) li jittratta appelli minn prinċipali ta' haddiema tal-port jew minn haddiema tal-port dwar ir-reviżjoni ta' xi deċiżjoni jew direttiva li tittiehed mill-Awtorità dwar it-tariffi għal operazzjonijiet ta' trasbord; u

(b) li jiddeċiedi dwar kull tilwima li tista' tiġi riferita lil mill-Ministru dwar it-tariffi ta' trasbord.

(2) Kull deċiżjoni jew direttiva mahruġa mill-Awtorità li jkollha x'taqsam ma' tariffi ta' trasbord li jithallsu lill-haddiema tal-port ghandhom biss jibdeu isehhu hmistax-il ġurnata wara li dawn jiġu uffiċjalment mgharrfa lill-haddiema tal-port u lill-prinċipali ta' haddiema tal-port involuti bil-ghan li jkun jista' jsir kull appell possibbli taht is-subartikolu (1) ta' dan l-artikolu:

Iżda:

(a) jekk matul il-perjodu msemmi ta' hmistax-il ġurnata ma jiġi ipprezentat ebda appell kif hawn qabel imsemmi, id-deċiżjoni ta' l-Awtorità għandha tibda ssehħ minnufih wara li jiskadi l-perjodu ta' hmistax-il ġurnata hawn qabel imsemmi; u

(b) jekk jiġi ipprezentat appell kif hawn qabel imsemmi, id-deċiżjoni jew id-direttiva ta' l-Awtorità m'għandhiex tibda ssehh qabel ma l-appell jiġi finalment deċiż mill-Bord ta' l-Appelli.

(3) Deċiżjoni li tittiehed mill-Bord ta' l-Appelli dwar appell li jsir taht is-subartikolu (1) għandha tkun wahda finali u li torbot.

(4) Bħala motivi għal deċiżjoni ta' appell li jsir taht is-subartikolu (1), il-Bord ta' l-Appelli għandu jara li jzomm bilanċ fl-applikazzjoni ta' dawn il-prinċipji li ġejjin, jiġifieri li -

(a) it-tariffi li jintalbu jkunu bażati fuq fatti ekonomiċi u kummerċjali validi, li jinkludu konsiderazzjoni ta' l-interessi ta' konsumaturi u ta' l-industrija in ġenerali u ta' partijiet oħra li jkunu involuti fl-attività portwali, inkluża, meta din tkun tapplika, ir-rata ta' inflazzjoni minn meta l-hlasijiet jkunu ġew l-aħħar riveduti, u kull ċirkostanza ekonomika rilevanti oħra mhux mistennija;

(b) it-tariffi għandhom ikunu raġonevolment relatati ma' l-ispejjeż, inklużi d-deprezzament u r-rikavat fuq il-kapital imhaddem;

(ċ) l-operaturi tal-port, jew persuni oħra involuti fl-attività portwali, għandhom jiġu inkuraġġiti jinvestu f'faċilitajiet portwali biex dawn ikunu jistgħu jikkonformaw mad-domanda;

(d) it-tariffi għandhom ikunu paragonabbli ma' dawk li jingabru minn portijiet oħra li jkunu qegħdin jikkompetu ma' Malta;

(e) il-ksib ta' livelli ta' servizz speċjalment dawk li japplikaw internazzjonalment.”.

7. Minflok il-paragrafu (a) tas-subartikolu (2) ta' l-artikolu 9 tal-liġi prinċipali għandu jidhol dan li ġej:

Emenda ta' l-artikolu 9 tal-liġi prinċipali.

“(a) tipprovdi, hliet meta jkun provdut xort'oħra fil-Ftehim dwar il-Livelli ta' Servizz u skond dik is-sistema li tkun stabbilita b'ordni li tkun fis-sehh taht l-artikolu 11 u bla hsara għal dawk il-kundizzjonijiet li jistgħu jiġu preskritti, haddiema tal-port għal kull

xoghol fil-port awtorizzat mid-Direttur f’ dak l-ghadd, dik l-ordni u priorit  li jistghu jiġu stabbiliti mid-Direttur;”.

Sostituzzjoni ta’ l-artikolu 10 tal-liġi prinċipali.

8. Minflok l-artikolu 10 tal-liġi prinċipali għandu jidhol dan li ġej:

“Twaqqif ta’ Bord dwar il-Haddiema tal-Port.

10. (1) Għandu jkun hemm Bord dwar il-Haddiema tal-Port, hawn iżjed ‘il quddiem imsejjah “il-Bord”, li għandu jeżercita u jaqdi l-funzjonijiet mogħtija lillu b’ din l-Ordinanza.

(2) Il-Bord ikun magħmul minn dawn il-membri li ġejjin:

(a) *Chairman* li jkollu esperjenza f’ affarijiet portwali u li jkun maħtur mill-Ministru;

(b) żewġ membri li jiġu nominati mill-prinċipali ta’ haddiema tal-port;

(c) żewġ membri li jiġu nominati mill-haddiema tal-port;

(d) segretarju li ma jkollu ebda vot u li jinhatar mill-Ministru.

(3) I -*Chairman* u l-membri tal-Bord għandhom jinhatru mill-Ministru għal perjodu ta’ tliet snin u jkunu jistghu jerġghu jinhatru mill-ġdid:

Iżda meta il-prinċipali ta’ haddiema tal-port jew il-haddiema tal-port ma jinnominawx lill-membri msemmiya fil-paragrafi (b) u (c) tas-subartikolu (2) ta’ dan l-artikolu, il-Ministru jista’ jgħaddi biex jahtar lil dawk il-membri li huwa jqis li jkunu idonei, iżda li jkollhom il-kwalifiki u, jew l-esperjenza li jaġixxu fl-interessi tal-persuni li jkunu qegħdin jirraprezentaw fil-Bord.

(4) Meta l-Ministru jkun jidhirlu li jkun meħtieġ aktar minn Bord wiehed biex jittratta mal-volum ta’ xogħol involut, huwa għandu jaġixxi b’ dak il-mod li jqis li jkun meħtieġ skond din l-Ordinanza sabiex jahtar aktar minn Bord wiehed kif jiddependi mill-istat ta’ każijiet prevalenti quddiem il-Bord prinċipali, u, għal dawn il-finijiet, huwa jista’ jordna li dak il-Bord jew Bordijiet għandhom jinhatru għal perjodu speċifiku skond ma huwa jqis li jkun adatt ta’ tliet snin jew inqas.”.

9. Minflok l-artikolu 11 tal-liġi prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 11 tal-liġi prinċipali.

"Funzjonijiet tal-Bord dwar il-Haddiema tal-Port.

11. (1) Il-funzjonijiet tal-Bord għandhom ikunu -

(a) id-dixxiplina ta' haddiema tal-port minbarra l-miżuri dixxiplinari kontemplati f'xi Ftehim dwar il-Livelli ta' Servizz relattiv;

(b) ir-reviżjoni minn żmien għal żmien kif provdut b'regolamenti mahruġa taht l-Ordinanza tan-numru ta' haddiema tal-port li jkunu mehtieġa mill-prinċipali ta' haddiema tal-port biex jissodisfaw id-domandi ta' l-industrija;

(ċ) l-għażla ta' persuni eliġibbli biex jimlew vakanza għal haddiem tal-port skond regolamenti mahruġa taht l-Ordinanza;

(d) li jstabilixxi –

(i) il-kundizzjonijiet ta' impjieg ta' haddiema tal-port, inklużi t-tariffi li għandhom x'jaqsmu magħhom;

(ii) is-sistema kif haddiema tal-port jiġu provduti lil prinċipali ta' haddiema tal-port għal xogħol fil-port;

(iii) l-organizzazzjoni ta' haddiema tal-port:

Iżda l-Bord m'għandux jeżerċita l-funzjonijiet speċifikati f'dan il-paragrafu (d) meta jiġi speċifikament maqbul bil-miktub bejn il-prinċipali ta' haddiema tal-port u l-haddiema tal-port li fid-determinazzjoni ta' l-affarijiet speċifikati f'dan il-paragrafu dawn isiru b'xi mod iehor;

(e) li jagħti parir lill-Awtorità fuq dawk l-affarijiet li għandhom x'jaqsmu max-xogħol fil-port skond ma jistgħu jiġu riferiti lill-Bord minn żmien għal żmien;

(f) li jagħmel rakkomandazzjonijiet lid-Direttur li jirrigwardaw it-thassir ta' registrazzjoni mir-Registru ta' Haddiema tal-Port ta' persuni li jkunu qegħdin

jaħdmu f'port skond il-paragrafi (b), (ċ) u (d) tas-subartikolu (1) ta' l-artikolu 14 ta' dan l-artikolu; u

(g) li jwettaq dawk il-funzjonijiet l-oħra li jistghu jiġu preskritti.

(2) Mingħajr preġudizzju għad-disposizzjonijiet ta' kull liġi oħra, f'dawk il-każijiet li jaqgħu taħt il-paragrafu (a) tas-subartikolu (1) ta' dan l-artikolu, meta persuna tinsab hatja ta' serq magħmul matul jew f'dak li għandu x'jaqsam ma' xogħol fil-port jew tikser jew tonqos milli thares id-disposizzjonijiet ta' din l-Ordinanza, jew iġġib ruhha jew timxi hażin hafna fil-kors ta' jew f'dak li għandu x'jaqsam max-xogħol tiegħu fil-port, f'dak il-każ, mingħajr preġudizzju għad-disposizzjonijiet ta' l-artikolu 18, jew għad-disposizzjonijiet ta' xi liġi oħra, il-Bord jista' -

(a) jissospendih mix-xogħol għal perjodu ta' mhux iżjed minn tliet xhur; jew

(b) jagħtih avviż ta' hmistax-il ġurnata dwar it-thassir tar-registrazzjoni tiegħu; jew

(ċ) iħassar ir-registrazzjoni tiegħu minnufih.

(3) Id-deċiżjonijiet tal-Bord relattivi għal affarijiet taħt is-subartikolu (1) (d) u (e) ta' dan l-artikolu għandhom ikunu bi qbil bejn ir-rappreżentanti fil-Bord ta' prinċipali ta' haddiema tal-port u ta' haddiema tal-port.

(4) Jekk iż-żewġ partijiet ma jkunux jistghu jaqblu dwar affarijiet li jaqgħu taħt is-subartikolu (1) (d) u (e) ta' dan l-artikolu, dawn jistghu jiftehmu li jirreferu l-kwistjoni għal deċiżjoni ta' arbitru li jinhatar mill-Ministru responsabbli għax-xogħol bir-rakkomandazzjoni tagħhom flimkien.

(5) Il-Bord għandu jiehu kull deċiżjoni tiegħu b'vot maġġoritarju skond id-disposizzjonijiet tat-Tieni Skeda.

(6) Mingħajr preġudizzju għal kull dritt ta' appell quddiem il-Bord ta' l-Appelli dwar Xogħol fil-Port meta dak id-dritt ikun jeżisti, kull deċiżjoni tal-Bord dwar xi tariffa jew dwar il-kundizzjonijiet ta' l-impjieg jew dwar il-provdiment ta' haddiema tal-port u kull haġa oħra li fil-fehma ta' *Chairman* tal-Bond tkun tinvolvi prinċipji ta' importanza, għandhom jiġu ippreżentati lill-Ministru għall-approvazzjoni

tieghu u meta jiġu hekk approvati minn dawn għandhom jiġu pubblikati b'ordni fil-Gazzetta u jkun jobbligaw lill-prinċipali kollha tal-haddiema tal-port u lill-haddiema tal-port innifishom mid-data tal-pubblikazzjoni skond ma tista' tiġi appuntata mill-Ministru:

Iżda l-Ministru jista' jiddelega bil-miktub is-setgħat mogħtija lilu b'dan is-subartikolu lil uffiċjal pubbliku jew lil uffiċjal fl-Awtorità:

Iżda wkoll il-Ministru jista' jittratta hu nnifsu kull haġa li tkun pendenti quddiem il-Bord biex jiddeċiediha hu.

(7) Ebda haġa f'dan l-artikolu m'għandha tipprekludi li persuna tirrikorri għal proċeduri ta' koniljazzjoni jew arbitraġġ taħt id-disposizzjonijiet ta' l-Att u, jew kull liġi rilevanti ohra, meta l-parti li tikkonsisti fil-prinċipali ta' haddiema tal-port u l-haddiema li jiffurmaw il-parti l-ohra ma jkunux laħqu ftehim taħt is-subartikoli (3) u (4) ta' dan l-artikolu.

(8) Memorandum tal-pattijiet ta' ftehim dwar tilwima fuq ix-xogħol magħmul skond id-disposizzjonijiet ta' l-Att, u, jew il-liġi rilevanti l-ohra, għandu, għall-finijiet ta' din l-Ordinanza, jitqies bħala ordni magħmul u pubblikat taħt is-subartikolu (6), u, minkejja d-disposizzjonijiet ta' l-Att, u, jew il-liġi rilevanti l-ohra, dak il-memorandum, sentenza jew deċiżjoni jistgħu jiġu sostitwiti b'ordni magħmul mill-Ministru li jippubblika l-approvazzjoni li huwa jagħti lil xi konklużjoni jew deċiżjoni milhuqa skond id-disposizzjonijiet tas-subartikoli (3), (4) jew (5) ta' dan l-artikolu.”.

10. Minflok l-artikolu 12 tal-liġi prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 12 tal-liġi prinċipali.

“Tkun il-Bord li jiddeċiedi tilwimiet fuq ix-xogħol.

12. (1) Minkejja d-disposizzjonijiet ta' l-artikolu 11, il-Bord għandu wkoll jiddeċiedi dwar tilwimiet speċifiċi li jistgħu jqumu bejn il-prinċipali ta' haddiema tal-port u haddiema tal-port f'dak li għandu x'jaqsam ma' xogħol fil-port skond –

(a) kundizzjonijiet ta' impjieg stabbiliti f'ordni li jkun fis-seħħ taħt id-disposizzjonijiet tal-paragrafi (d) u (e) ta' l-artikolu 11; jew

(b) dawk il-livelli li jistghu jidhru li jkunu raġonevoli lill-Bord, meta ma jkunux japplikaw kundizzjonijiet ta' impjeg bhal dawk ghal xi tilwima partikolari:

Iżda meta Ftehim dwar il-Livelli ta' Servizz ikun stabbilixxa proċeduri li taħthom tista' tiġi riżolta xi tilwima partikolari bejn prinċipal ta' haddiema tal-port u haddiema tal-port, il-Bord jista' jiddeċiedi li ma jittratta ebda tilwima bhal dik li tkun ġiet riferita lilu jekk dan jikkundsidra li l-proċeduri taht dak il-Ftehim dwar il-Livelli ta' Servizz partikolari ma jkunux ġew eżawriti.

(2) Kull deċiżjoni li tinghata mill-Bord għandha tkun waħda finali u konklużiva fir-rigward tat-tilwima partikolari iżda m'għandux ikollha l-forza ta' kundizzjonijiet ta' impjeg approvati għall-finijiet ta' xi tilwima ta' xorta simili fil-futur.

(3) Kull deċiżjoni tal-Bord taht dan l-artikolu għandha tinghata lill-partijiet involuti fit-tilwima.

(4) Kemm-il darba il-Ministru ma jordnax xort'ohra, il-proċeduri li għandhom x'jaqsmu ma' hwejjeg li jaqghu taht dan l-artikolu għandhom jiġu regolati bid-disposizzjonijiet tat-Tieni Taqsima tat-Tieni Skeda, u dawk id-disposizzjonijiet jistghu jiġu emendati b'regolamenti magħmulin mill-Ministru minn żmien għal żmien.”.

Sostituzzjoni ta' l-artikolu 13 tal-liġi prinċipali.

11. Minflok l-artikolu 13 tal-liġi prinċipali għandu jidhol dan li ġej:-

“Proċeduri tal-Bord dwar il-Haddiema tal-Port.

13. Bla hsara għad-disposizzjonijiet ta' l-artikolu 12 (4), il-proċeduri u affarijiet ohra simili li jirrigwardaw il-Bord għandhom xort'ohra jkunu regolati bid-disposizzjonijiet tat-Tieni Skeda, u dawk id-disposizzjonijiet jistghu jiġu emendati b'regolamenti magħmulin mill-Ministru minn żmien għal żmien.”.

Emenda ta' l-artikolu 14 tal-liġi prinċipali.

12. L-artikolu 14 tal-liġi prinċipali għandu jiġi emendat kif ġej:-

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “Ir-registrazzjoni ta' haddiem tal-port” għandhom jidhru l-kliem “Ir-registrazzjoni ta' persuna fir-Registru ta' Haddiema tal-Port”;

(b) is-subartikolu (2) tiegħu għandu jithassar;

(ċ) is-subartikolu (3) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (2); u

(d) is-subartikoli (4) u (5) tiegħu għandhom jithassru.

13. Fis-subartikolu (1) ta' l-artikolu 15 minflok il-kliem "tas-subartikolu (3)" għandhom jidhlu l-kliem "tas-subartikolu (2)".

Emenda ta' l-artikolu 15 tal-liġi prinċipali.

14. L-artikolu 17 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 17 tal-liġi prinċipali.

(a) fil-paragrafu (a) tiegħu, il-kliem "jew lill-kuntrattur dwar is-servizzi tal-foremen impjegati minnu" għandhom jithassru; u

(b) fil-paragrafu (f) tiegħu, minflok il-kliem "il-Bord dwar Kwistjonijiet tal-Port" għandhom jidhlu l-kliem "il-Bord dwar il-Haddiema tal-Port".

15. Minflok l-Ewwel Skeda li tinsab mal-liġi prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-Ewwel Skeda li tinsab mal-liġi prinċipali.

"L-EWWEL SKEDA

Artikolu 7 (7)

PROCEDURI FIL-BORD TA' L-APPELLI DWAR XOGHOL FIL-PORT

1. (1) Bla hsara għad-disposizzjonijiet tal-paragrafu 3 ta' din l-Iskeda, appell skond id-disposizzjonijiet ta' l-artikolu 8 ta' din l-Ordinanza għandu jsir mir-rikorrent u għandu jiġi pprezentat lis-segretarju tal-Bord ta' l-Appelli dwar Xogħol fil-Port bil-miktub permezz ta' posta reġistrata jew inkella jiġi kkunsinnat personalment lis-segretarju.

(2) Appell taht paragrafu (1) ta' din l-Iskeda għandu jkun fih din l-informazzjoni prinċipali li ġejja -

(a) dawk id-dettalji li jkunu jirrigwardaw l-appell flimkien mad-dokumenti kollha li jista' jkun hemm b'sostenn li għandhom jiġu annessi kif mehtieg;

(b) dikjarazzjoni qasira tal-fatti, u

(ċ) il-motivi ta' l-appell.

(3) Ir-rikors ghal appell ghandu jiġi ipprezentat lis-segretarju tal-Bord fi tliet originali, u kopja tiegħu għandha sa mhux iżjed tard minn tliet ijiem wara tiġi notifikata separatament permezz tas-segretarju lill-Awtorità u lil kull parti oħra involuta.

(4) Iċ-*Chairman* tal-Bord jista', f'kull waqt, iħalli li ssir emenda fir-rikors għall-fini biss li ssir kjarifika ta' xi affarijiet li jkun fih:

Iżda

Iċ-*Chairman* m'għandux jagħraf dawk l-emendi jekk dawn ikunu dwar motivi li ma jkunux dawk inklużi fl-ewwel rikors.

(5) Meta kopja ta' rikors ta' l-appell tiġi notifikata lill-Awtorità jew lil xi parti oħra li tkun involuta skond il-paragrafu (3) ta' din l-Iskeda, l-Awtorità, jew kull parti oħra involuta, għandha tippreżenta lis-segretarju tal-Bord fit-terminu indikat miċ-*Chairman* f'komunika li huwa jagħmel (li f'ebda każ m'għandu jkun ta' iżjed minn hmistax-il ġurnata) risposta f'żewġ originali fejn jiġu dikjarati r-raġunijiet għall-kontestazzjoni ta' l-appell, u kopja tiegħu għandha tiġi notifikata sa mhux iżjed tard minn tliet ijiem mis-segretarju lir-rikorrent.

(6) I-*Chairman* tal-Bord għandu kemm jista' jkun malajr jappunta ġurnata għas-smiġh ta' l-appell, li salv dak liċ-*Chairman* jista' xort' oħra jordna għal raġunijiet ta' kunfidenzjalità kummerċjali, għandu jinstama' bil-miftuh.

(7) Ebda haġa m'għandha tipprevjeni lill-Bord, sew qabel is-smiġh sew f'xi żmien matul is-smiġh ta' appell, milli sommarjament jiċhad jew ma jhallix illi jsir appell bla ma jisimġhu jew mingħajr ma jibqa' jisimġhu, skond il-każ, għal motivi li l-appell hu wiehed frivolu jew vessatorju jew wiehed li ma kellux isir jew jiġi pprezentat quddiemu.

(8) Kull avviz, mandat, ordni mahruġ mill-Bord għandu -

(a) jkun iffirmat miċ-*Chairman* u jġib ukoll il-firma tas-segretarju;

(b) jiġi notifikat permezz ta' posta reġistrata jew b'kull mod ieħor li ċ-*Chairman* jista' jstabbilixxi.

(9) Fil-kors tal-proċeduri tiegħu, il-Bord għandu jiżgura -

(a) li x-xogħol tal-Bord u l-proċeduri tiegħu jsiru b'mod imparzjali u trasparenti;

(b) li l-proċeduri jintemmu fi żmien raġonevoli;

(ċ) li d-deċiżjoni finali tkun iffirmata miċ-*Chairman*, u li l-oriġinal jinżamm fir-reġistru tal-Bord flimkien ma' l-inkartament shiħ tal-proċeduri tal-każ;

(d) li d-deċiżjoni finali tiġi ppreżentata fl-istess hin miċ-*Chairman* tal-Bord lill-Ministru u liċ-*Chairman* ta' l-Awtorità.

(10) Jekk jitqies li jkun mehtieġ, iċ-*Chairman* tal-Bord jista' jharrek xhieda, jahtar esperti biex jassistu l-Bord, u, meta dan ikun japplika, jisma' x-xiehda tagħhom bil-ġurament.

(11) Il-Bord jista' fid-diskrezzjoni tiegħu jordna lil xi parti, jew partijiet, li jkunu qeghdin jagħmlu appell quddiemu li jhallsu dawk l-ispejjeż raġonevoli li jkollhom x'jaqsmu mal-hidma tal-Bord fit-twettiq tal-funzjonijiet tiegħu taht dawn ir-regolamenti, inklużi, meta dawn ikunu japplikaw, l-ispejjeż li għandhom x'jaqsmu ma' hlasijiet li jsiru lil konsulenti adatti u, jew esperti mehtieġa li jwettqu dmirijiethom u l-funzjonijiet tagħhom kif imiss. Il-Bord jista', meta jkun qiegħed jagħti d-deċiżjoni tiegħu, jistabbilixxi wkoll min ikunu, jew f'liema proporzjon għandhom, il-partijiet ihallsu dawk l-ispejjeż.

(12) Il-Bord għandu jagħmel mill-ahjar biex jiddeċiedi appell fi żmien erbgħin ġurnata mid-data meta l-appell jiġi ppreżentat l-ewwel darba mir-rikorrent:

Iżda l-Ministru jista' għal raġunijiet validi jistabbilixxi estensjonijiet ulterjuri biex il-Bord ikun jista' jikkonkludi d-deliberazzjonijiet tiegħu wara li jintalab jagħmel hekk miċ-*Chairman* tal-Bord.

(13) Għar-rigward tat-tmexxija ta' proċeduri li jkunu qeghdin isiru quddiemu, il-Bord għandu jkollu s-setgħat kollha vestiti bil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili fil-Prim'Awla tal-Qorti Ċivili.

(14) Kull min –

(a) jonqos milli jipprovdi lill-Bord l-informazzjoni rilevanti mitluba fiż-żmien speċifikat fl-avviż bil-miktub, u, jew

(b) li xjentement jagħti informazzjoni qarrieqa lill-Bord,

ikun hati ta' reat taht din l-Ordinanza.

(15) Min –

(a) jagħmel reat taht il-paragrafu (14) (a) ta' din l-Iskeda jista', meta jinsab hati, jehel multa ta' mhux iżjed minn mitejn u hamsin lira, u, fil-każ tat-tieni reat jew ta' reat sussegwenti, multa ta' mhux iżjed minn hames mitt lira;

(b) jagħmel reat taht il-paragrafu (14) (b) ta' din l-Iskeda jista', meta jinsab hati, jehel multa ta' mhux iżjed minn elf lira jew priġunerija għal żmien mhux iżjed minn sitt xhur jew dik il-multa u priġunerija flimkien.

Sostituzzjoni tat-Tieni Skeda li tinsab mal-liġi prinċipali.

16. Minflok it-Tieni Skeda li tinsab mal-liġi prinċipali għandu jidhol dan li ġej:

“IT-TIENI SKEDA

Artikoli 12 u 13

PROCEDURI TA' BORD DWAR IL-HADDIEMA TAL-PORT

L-EWWEL TAQSIMA

Dwar dak li jinkwadra fil-paragrafi (a) u (f) ta' l-artikolu 11 (1)

1. (1) Il-Bord għandu jagħmel il-laqgħat tiegħu bil-miftuh u jkollu s-setgħa li –

(a) jharrek xhieda;

(b) jisma' l-parir ta' esperti;

(c) jagħti ġuramenti, li għandhom jingħataw miç-*Chairman* tal-Bord; u

(d) jehtieg lil kull min jidhirlu li jkollu xi għarfien speċjali dwar il-kwistjoni li tkun qegħda tiġi ikkunsidrata li jagħti bil-fomm jew bil-miktub dawk id-dettalji li jkollhom x'jaqsmu mal-kwistjoni skond ma l-Bord ikun jista' jehtieg.

(2) Fl-eżerċizzju tas-setgħat li għandu, il-Bord ikollu dawk is-setgħat kollha mogħtijin bil-liġi lill-Prim'Awla tal-Qorti Ċivili:

Iżda -

- (a) il-Bord ma jkun jista' b'ebda mod jordna d-detenzjoni ta' xi persuna; u
- (b) id-dmirijiet ta' purtier tal-qorti u ta' marixxal tal-qorti rispettivament għandhom jiġu eżegwiti mill-membri tal-Pulizija Eżekuttiva li tiġi mqabbda għal dan l-għan mill-Kummissarju tal-Pulizija.
- (3) Multa li tiġi imposta mill-Bord għandha tkun tista' tiġi rkuprata mill-Awtorità bhala dejn ċivili dovut lilha.
- (4) Kull ċitazzjoni għandha tiġi iffirmata miċ-*Chairman* tal-Bord u tista' tiġi notifikata sew personalment sew bil-posta reġistrata, u f'dan l-aħhar każ, biex issir prova tan-notifika, ikun biżżejjed li jiġi ippruvat li ċ-ċitazzjoni kienet indirizzata u impustata kif imiss.
- (5) Il-laqgħat tal-Bord għandhom jitlaqqgħu miċ-*Chairman* kull meta jkun meħtieġ.
- (6) Il-minuti tal-laqgħat għandhom jinżammu mis-segretarju u jiġu approvati fil-laqgħa tal-Bord. Il-minuti approvati kollha għandhom jiġu iffirmati miċ-*Chairman*.
- (7) Nofs l-ghadd ta' membri li f'dak iż-żmien ikunu jiffurmaw il-Bord għandhom jagħmlu *quorum*. Id-deċiżjonijiet għandhom jiġu adottati b'maġġoranza sempliċi tal-voti tal-membri presenti u li għandhom il-vot. I-*Chairman* għandu jkollu vot tal-bidu u meta l-votazzjoni tkun indaqs, vot deċiżiv.
- (8) Il-Bord għandu jagħti l-opportunità lil min jidher quddiemu biex jippreżenta l-każ tiegħu.
- (9) Matul il-proċeduri l-persuna li tidher quddiem il-Bord tkun tista' tiġi rappreżentata minn persuna li tagħzel hi stess.
- (10) Bla hsara għad-disposizzjonijiet tas-subartikolu (2) ta' l-artikolu 14 u d-disposizzjonijiet tas-subartikolu (2) ta' l-artikolu 15, id-deċiżjonijiet tal-Bord għandhom altrimenti jkunu finali.
- (11) Il-Bord jista' xort'ohra jirregola l-proċeduri l-ohra tiegħu.

IT-TIENI TAQSIMA

Dwar dak li jinkwadra fil-paragrafi (b), (ċ), (d) u (e) ta' l-artikolu 11 (1) u fl-artikolu 12

1. (1) Bla hsara għad-disposizzjonijiet tal-paragrafu (4) ta' din it-Taqsima, il-laqgħat tal-Bord għandhom jitlaqqgħu miċ-*Chairman* spiss kemm jista' jkun jew b'inizjattiva tiegħu jew fuq talba ta' xi membru tal-Bord, iżda l-Bord għandu jiltaqa' mill-inqas darba fix-xahar biex jiddiskuti kull haġa ta' interess li jista' jkollha x'taqsam max-xogħol fil-port bħala parti mill-funzjonijiet tiegħu taht il-paragrafi (b), (ċ), (d) u (e) ta' l-artikolu 11.

(2) Nofs l-għadd ta' membri li f'dak iż-żmien ikunu jiffurmaw il-Bord għandhom jagħmlu *quorum*.

(3) Bla hsara għad-disposizzjonijiet tas-subartikoli (3), (4) u (5) ta' l-artikolu 11 u tas-subartikolu (2) ta' l-artikolu 12 ta' l-Ordinanza, id-deċiżjonijiet l-oħra kollha tal-Bord għandhom jittiehdu b'maġġoranza sempliċi tal-voti tal-membri preżenti u li għandhom il-vot. Għal dan l-għan, i-*Chairman* għandu jkollu vot tal-bidu u meta l-votazzjoni tkun indaq, vot deċiżiv.

(4) F'dawk l-affarijiet li jinkwadraw taht l-artikolu 12 li jirrigwardaw tilwimiet fuq ix-xogħol f'xi port, il-Bord għandu jitlaqqa' wara li s-segretarju tal-Bord jirċievi avviż bil-miktub li jkun jiddikjara li tkun qamet xi tilwima speċifika bejn prinċipal, jew prinċipali, ta' haddiema tal-port u haddiema tal-port. Fl-avviż għandha tiġi indikata x-xorta tat-tilwima u dan għandu jkun iffirmit mill-persuna, jew persuni, li jkunu qegħdin jagħmlu referenza tal-kwistjoni quddiem il-Bord.

(5) Meta tkun qegħda tagħti l-avviż imsemmi fil-paragrafu (4) ta' din it-Taqsima, il-persuna li tkun qegħda tagħti l-avviż tkun meħtieġa tiddeposita għand is-segretarju ammont ta' hamsin lira bħala d-dritt dovut għal-laqgħa tal-Bord. Il-Bord, jista', meta jkun qiegħed jagħti d-deċiżjoni tiegħu, jistabbilixxi liema mill-partijiet, jew f'liema proporzjon, dawn għandhom ihallsu dawk l-ispejjeż.

(6) F'affarijiet li jinkwadraw taht l-artikolu 12, il-Bord ikollu s-setgħa li –

(a) jharrek xhieda,

(b) jagħti ġuramenti, u

(è) jehtieg lil kull min jidhirlu li jkollu xi gharfien speċjali dwar il-kwistjoni li tkun qeghda tiġi ikkunsidrata li jaghti bil-fomm jew bil-miktub dawk id-dettalji li jkollhom x'jaqsmu mal-kwistjoni skond ma l-Bord ikun jista' jehtieg.

(7) Il-ġuramenti ghandhom jinghataw mill-persuna li tkun qeghda tippresjedi l-Bord.

(8) Fl-eżerizzju tas-setghat li ghandu skond id-disposizzjonijiet tal-paragrafu (6) (a) u (b) ta' din it-Taqsima, il-Bord ghandu jkollu s-setghat li huma mogħtija bil-liġi lill-Prim'Awla tal-Qorti Ċivili:

Iżda –

(a) il-Bord ma jkun jista' f'ebda każ jordna d-detenzjoni ta' xi persuna, u

(b) id-dmirijiet ta' purtier tal-qorti u ta' marixxal tal-qorti rispettivament ghandhom jiġu eżegwiti mill-membri tal-Pulizija Eżekuttiva li jiġu mqabbda għal dan l-ghan mill-Kummissarju tal-Pulizija.

(9) Multa li tiġi imposta mill-Bord tista' tiġi rkuprata mill-Awtorità bhala dejn ċivili li jkun dovut lilha.

(10) Kull ċitazzjoni taht l-artikolu 12 ghandha tkun iffirmata miç-*Chairman* u tista' tiġi notifikata personalment jew bil-posta reġistrata, u, f'dan l-aħhar każ, biex issir prova tan-notifika, ikun biżżejjed li jiġi ippruvat li ċ-ċitazzjoni kienet indirizzata u impustata kif imiss.

(11) Kull talba li toriġina minn tilwima bejn prinċipal ta' haddiema tal-port u haddiema tal-port taht l-artikolu 12 ghandha –

(a) tiġi miçhuda mill-Bord jekk il-persuna jew persuni li jkunu qeghdin jagħmlu dik it-talba, wara li jkunu ġew imharrka kif imiss biex jidhru quddiem il-Bord, tonqos jew jonqsu milli jidhru quddiemu mingħajr ebda raġuni valida sa wara li tgħaddi siegħa mill-hin appuntat għas-smiġh tat-talba;

(b) titqies li tkun ġiet ammessa b'kontumaċja jekk il-Bord ikun sodisfatt li l-persuna jew persuni li kontrihom issir it-talba naqsu milli jidhru quddiemu mingħajr ebda raġuni valida sa wara li tgħaddi siegħa mill-hin appuntat għas-smiġh tat-talba.

(12) Il-minuti tal-laqgħat għandhom jinżammu mis-segretarju wara li dawn jiġu konfermati fil-laqgħa tal-Bord u jiġu iffirmati miċ-*Chairman*.

(13) Il-Bord għandu xort'ohra jirregola kull proċedura oħra tiegħu.”.

Thassir tat-Tielet
Skeda li tinsab mal-
liġi prinċipali.

17. It-Tielet Skeda li tinsab mal-liġi prinċipali għandha tithassar.

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz huma biex jiġi stabbilit Bord ta' l-Appelli dwar Xogħol fil-Port u Bord dwar il-Haddiema tal-Port u biex ikompli jirregola r-reġistrazzjoni u l-ingaġġ ta' haddiema tal-port.

**A BILL
entitled**

AN ACT to amend the Port Workers Ordinance (Cap. 171)

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

1. (1) The short title of this Act is the Port Workers Ordinance (Amendment) Act, 2007, and it shall be read and construed as one with the Port Workers Ordinance, hereinafter referred to as “the principal law”. Short title and coming into force.

(2) This Act shall be deemed to have come into force on 1st June, 2007.

2. Article 2 of the principal law shall be amended as follows: Amendment of article 2 of the principal law.

(a) the definition “Board” shall be substituted by the following definition:

“ “Board” means the Port Workers Board established under article 10;”;

(b) the definition “Council” shall be deleted;

(c) immediately after the definition “Director” there shall be inserted the following new definition:

Cap. 352.

“ “employer of port workers” means a person so authorized or licensed by the Authority in accordance with the provisions of the Malta Maritime Authority Act to provide services including the loading, unloading, transshipment, storage and the movement of general cargoes and other materials in a port and includes a terminal operator;”;

(d) the definition “port worker” shall be substituted by the following definition:

“ “port worker” means a person employed in a port in the provision of services of a temporary nature involving the handling of cargo in the process of loading or unloading cargo on or from a ship, from or to any place on shore, a person so employed or authorized by the Authority or so employed by an employer of port workers to handle cargo in a warehouse and a person employed in the handling of cargo, as the Minister may from time to time prescribe, from a transit shed or stack or open quay to vehicle or in the consolidation, groupage or dismantling of goods in or from a unit load in a port, and “port work” for the purposes of this Act shall be construed accordingly.”; and

(e) immediately after the definition “prescribed” there shall be inserted the following new definition:

“ “Service Level Agreement” means an agreement concluded between port workers and employers of port workers in connection with the provision of services by port workers;”.

Amendment of article 3 of the principal law.

3. Sub-article (3) of article 3 of the principal law shall be deleted and sub-articles (4) and (5) thereof shall be renumbered (3) and (4) respectively.

Amendment of article 4 of the principal law.

4. In article 4 of the principal law, immediately after sub-article (5), there shall be inserted the following new sub-article:

“(6) In order to ensure safety, increase in efficiency and develop flexibility, it shall be the duty of port workers to undergo periodic training programmes as is considered necessary.”.

5. Article 7 of the principal law shall be substituted by the following:

Substitution of article 7 of the principal law.

*Establishment of a Port Work Appeals Board

7. (1) There shall be established a Port Work Appeals Board, hereinafter referred to as “the Appeals Board”, which shall exercise and perform functions assigned to it by this Ordinance.

(2) The Appeals Board shall be appointed by the Minister and shall consist of a Chairman of recognized standing and two members being persons who in the opinion of the Minister have experience in maritime, financial or administrative matters. The Minister shall also appoint a person to act as a secretary to the Board with no voting powers.

(3) The Chairman and members of the Appeals Board shall be appointed for a period of three years and shall be eligible for reappointment.

(4) The Chairman and members of the Appeals Board shall have no direct financial or other interests in matters concerning the management of ports and may be challenged or abstain for any of the reasons for which a judge may be challenged or abstain in accordance with the Code of Organization and Civil Procedure. In such cases the Minister shall appoint a person, having the qualifications of the Chairman or members challenged or abstaining, to sit in substitution.

(5) A judge, or magistrate or a member of the House of Representatives or of the European Parliament or of a Local Council shall be disqualified from being appointed or acting as Chairman or member of the Appeals Board as long as he holds that office.

(6) The Chairman and members of the Appeals Board shall for a period of one year following the termination for whatever reason of his appointment not engage in any activity which because of conflict of interest would have been incompatible with the exercise of his functions. Any person who acts in breach of this sub-article shall be guilty of an offence against this Ordinance and shall, on conviction, be liable to a fine (*multa*) of not less than one thousand liri and not more than five thousand liri.

(7) The procedures, offences, and other similar matters concerning the Appeals Board shall be regulated by the provisions of the First Schedule to this Act which may be amended by regulations made by the Minister from time to time:

Provided that any offence provided for in regulations made under this sub-article shall not be liable to a fine (*multa*) of more than one thousand liri or to imprisonment for a period of not more than six months or to both such fine and imprisonment.”.

Substitution of article 8 of the principal law.

6. Article 8 of the principal law shall be substituted by the following:

“Functions of the Port Work Appeals Board.

8. (1) The functions of the Appeals Board shall be the following:

(a) to hear appeals by employers of port workers or port workers for a review of any decision or directive taken by the Authority with regards to the tariffs for transshipment operations; and

(b) to decide upon any dispute as may be referred to it by the Minister regarding transshipment tariffs.

(2) Any decision or directive issued by the Authority relating to transshipment tariffs payable to port workers shall only come into effect fifteen days after being officially communicated to the port workers and the employers of port workers concerned in order to allow for possible appeals under sub-article (1) of this article:

Provided that:

(a) if no appeal as aforesaid is filed during the said period of fifteen days the decision of the Authority shall come into effect immediately after the lapse of the abovementioned period of fifteen days; and

(b) if an appeal as aforesaid is filed the decision or directive of the Authority shall not come into force until the appeal is finally determined by the Appeals Board.

(3) A decision taken by the Appeals Board relative to an appeal made under sub-article (1) shall be final and binding.

(4) In arriving at a decision on an appeal under sub-article (1), the Appeals Board shall seek to balance the application of the following principles, namely that –

(a) tariffs charged are based on sound economic and commercial facts, including consideration of the interests of consumers and industry in general and other parties involved in port activity, including, where applicable, the rate of inflation since the charges were last revised, and any other relevant unexpected economic circumstances;

(b) tariffs shall be reasonably related to costs, including depreciation and a return on capital employed;

(c) port operators, or other persons involved in port activity, are to be encouraged to invest in port facilities to meet demand;

(d) tariffs should be comparable to those levied at other ports competing with Malta;

(e) the achievement of service standards especially those applicable internationally.”.

7. Paragraph (a) of sub-article (2) of article 9 of the principal law shall be substituted as follows:

Amendment of article 9 of the principal law.

“(a) except where otherwise provided in a Service Level Agreement, supply, in accordance with such system as is established in an order which is in force under article 11, and subject to such conditions as may be prescribed, port workers to any port work authorized by the Director in such numbers, order and priority as may be determined by the Director;”.

8. Article 10 of the principal law shall be substituted by the following:

Substitution of article 10 of the principal law.

“Constitution of Port Workers Board.

10. (1) There shall be established a Port Workers Board, hereinafter referred to as “the Board”, which shall exercise and perform the functions assigned to it by this Ordinance.

(2) The Board shall consist of the following members:

(a) a Chairman of experience in port matters appointed by the Minister;

(b) two members nominated by the employers of port workers;

(c) two members nominated by the port workers;

(d) a secretary with no voting powers to be appointed by the Minister.

(3) The Chairman and members of the Board shall be appointed by the Minister for a period of three years and shall be eligible for reappointment:

Provided that where the employers of port workers or the port workers fail to nominate the members at paragraphs (b) and (c) of sub-article (2) hereof, the Minister may proceed to appoint the members he deems fit, but who have the qualifications and, or experience to act in the capacity of their representation on the Board.

(4) Where it appears to the Minister that more than one Board is required to deal with the volume of work involved, he shall take such action as he considers necessary in accordance with this Ordinance to appoint more than one Board depending on the prevailing case load before the main Board, and, for these purposes, he may direct that such Board or Boards be appointed for a specific term as he deems fit of three year or less.”.

Substitution of article 11 of the principal law.

9. Article 11 of the principal law shall be substituted by the following:

“Functions of the Port Workers Board.

11. (1) The functions of the Board shall be –

(a) the discipline of port workers other than disciplinary measures contemplated in the relative Service Level Agreements;

(b) the review from time to time as provided by regulations issued under the Ordinance of the

complement of port workers required by employers of port workers to satisfy the demands of industry;

(c) the selection of persons eligible to fill a vacancy for a port worker in accordance with regulations issued under the Ordinance;

(d) to determine –

(i) the conditions of employment of port workers including tariffs related thereto;

(ii) the system under which port workers shall be supplied to employers of port workers for any port work;

(iii) the organization of port workers:

Provided that the Board shall not exercise the functions specified in paragraph (d) above where it is specifically agreed to in writing between employers of port workers and port workers in the determination of the matters specified in the said paragraph shall be done in any other manner;

(e) to advise the Authority on such matters relating to labour in the port as may be referred to the Board from time to time;

(f) to make recommendations to the Director concerning the deregistration from the Port Workers Register of persons working at a port in accordance with paragraphs (b), (c) and (d) of sub-article (1) of article 14 hereof; and

(g) to perform such other functions as may be prescribed.

(2) Without prejudice to the provisions of any other law, in cases falling under paragraph (a) of sub-article (1) hereof, in the event that a person is convicted of theft committed during or in connection with port work or contravenes or fails to comply with the provisions of this Ordinance, or grossly misbehaves or misconducts himself in the course of or in connection with his port work, then, without

prejudice to the provisions of article 18, or to the provisions of any other law, the Board may -

(a) suspend him from work for a period not exceeding three months; or

(b) give him a fortnight's notice of cancellation of his registration; or

(c) cancel his registration forthwith.

(3) The conclusions of the Board relative to matters under sub-article (1) (d) and (e) hereof shall be by agreement between the representatives of employers of port workers and of the port workers on the Board.

(4) If the two sides are unable to agree on matters under sub-article (1) (d) and (e) hereof, they may agree to refer the question for a decision by an umpire appointed by the Minister responsible for labour upon their joint recommendation.

(5) The Board shall take all decisions by majority vote in accordance with the provisions of the Second Schedule.

(6) Without prejudice to any right of appeal to the Port Work Appeals Board where such right exists, any conclusion of the Board relating to any tariff or to the conditions of employment of port workers or to the supply of port workers and any other matter which in the opinion of the Chairman of the Board involves principles of importance, shall be submitted to the Minister for approval and when approved by him shall be published by order in the Gazette and shall be binding on all employers of port workers and on port workers from the date of publication as may be appointed by the Minister;

Provided that the Minister may delegate in writing the powers conferred upon him by this sub-article to a public officer or to an officer in the Authority:

Provided further that the Minister may recall for his own determination on any matter that may be pending before the Board.

(7) Nothing in this article shall preclude recourse to conciliation or arbitration proceedings under the provisions of the Act, and, or any other relevant law, where the employers of port workers side and the workers' side have failed to reach agreement under sub-articles (3) and (4) hereof.

(8) A memorandum of the terms of a settlement of a trade dispute made in accordance with the provisions of the Act, and, or such other relevant law, shall, for the purposes of this Ordinance, be deemed to be an order made and published under sub-article (6), and, notwithstanding the provisions of the Act, and, or such other relevant law, such memorandum, award or decision may be superseded by an order made by the Minister publishing an approval by him of a determination or decision arrived at in accordance with the provisions of sub-articles (3), (4) or (5) hereof.”.

10. Article 12 of the principal law shall be substituted by the following:

Substitution of article 12 of the principal law.

“Board to decide work disputes.

12. (1) Notwithstanding the provisions of article 11, the Board shall also decide on specific disputes which may arise between the employers of port workers and port workers in connection with port work in accordance with –

(a) conditions of employment established in an order which is in force under the provisions of paragraphs (d) and (e) of article 11; or

(b) such standards as may seem reasonable to the Board, where no such conditions of employment are applicable to a particular dispute:

Provided that where a Service Level Agreement has established procedures under which a particular dispute between an employer of port workers and port workers can be resolved, the Board may decide not to take cognizance of any such dispute referred to it if it considers that all procedures under the said Service Level Agreement have not been exhausted.

(2) Any decision given by the Board shall be final and binding in respect of the particular dispute but it shall not have the force of approved conditions of employment for the purposes of any future dispute of a similar nature.

(3) Every decision of the Board under this article shall be distributed to the parties involved in the dispute.

(4) Unless the Minister directs otherwise, the procedures relative to matters under this article shall be regulated by the provisions of Part Two of the Second Schedule, which provisions may be amended by regulations made by the Minister from time to time.”.

Substitution of article 13 of the principal law.

11. Article 13 of the principal law shall be substituted by the following:-

“Procedures of the Port Workers Board.

13. Subject to the provisions of article 12 (4), the procedures and other similar matters concerning the Board shall otherwise be regulated by the provisions of the Second Schedule, which provisions may be amended by regulations made by the Minister from time to time.”.

Amendment of article 14 of the principal law.

12. Article 14 of the principal law shall be amended as follows:-

(a) in sub-article (1), for the words “registration of a port worker” there shall be substituted the words “registration of a person in the Port Workers Register”;

(b) sub-article (2) thereof shall be deleted;

(c) sub-article (3) thereof shall be re-numbered as sub-article (2); and

(d) sub-articles (4) and (5) thereof shall be deleted.

Amendment of article 15 of the principal law.

13. In sub-article (1) of article 15 of the principal law for the words “sub-article (3)” there shall be substituted the words “sub-article (2)”.

Amendment of article 17 of the principal law.

14. Article 17 of the principal law shall be amended as follows:

(a) in paragraph (a) thereof, the words “or to the contractor in respect of the services of foremen employed by him” shall be deleted; and

(b) in paragraph (f) thereof, for the words “Port Disputes Board” there shall be substituted the words “Port Workers Board”.

Substitution of the First Schedule to the principal law.

15. For the First Schedule to the principal law there shall be substituted the following:

“FIRST SCHEDULE

Article 7 (7)

PROCEDURES OF THE PORT WORK APPEALS BOARD

1. (1) Subject to the provisions of paragraph 3 hereof, an appeal in accordance with the provisions of article 8 of this Ordinance shall be made by the applicant and shall be filed with the secretary of the Port Work Appeals Board in a written form by registered post or delivered by hand to the secretary.

(2) An appeal under paragraph (1) hereof shall contain the following main information –

(a) the details concerning the appeal with relevant supporting documentation annexed as necessary;

(b) a brief statement of facts, and

(c) the grounds of the appeal.

(3) The application for an appeal shall be filed with the secretary of the Board in triplicate, a copy of which shall by not later than three days be served separately through the secretary on the Authority and on any other affected party.

(4) The Chairman of the Board may, at any time, allow an amendment to be made in the application only for the purpose of making it clearer:

Provided that the Chairman shall not take cognizance of such amendments on grounds other than those submitted in the first application.

(5) Whenever a copy of an application of appeal is served on the Authority or any other affected party in accordance with paragraph (3) hereof, the Authority, or any other affected party, shall file with the secretary of the Board within the time limit indicated by the Chairman in his communication (which in no case shall exceed fifteen days) a reply in duplicate stating the reasons for contesting the appeal, one copy of which shall by not later than three days be served by the secretary on the applicant.

(6) The Chairman of the Board shall as soon as practicable appoint a day for the hearing of the appeal, which saving as the Chairman

may otherwise direct for reasons of commercial confidentiality, be heard in public.

(7) Nothing shall prevent the Board, either before the hearing or at any time during the hearing of an appeal, from summarily dismissing or disallowing an appeal without hearing it or without hearing any further, as the case may be, on the grounds that the appeal is frivolous or vexatious or one that should not have been brought or made before it.

(8) Notice, warrants, orders issued by the Board shall –

(a) be signed by the Chairman and countersigned by the secretary;

(b) be delivered by registered mail or by any other form that the Chairman may determine.

(9) In conducting its proceedings, the Board shall ensure –

(a) that the affairs of the Board and its proceedings are carried out in an impartial and transparent manner;

(b) that the proceedings are concluded within a reasonable time;

(c) that the final decision is signed by the Chairman, and the original is kept in the registry of the Board with the complete record of the proceedings of the case;

(d) that the final decision is concurrently submitted by the Chairman of the Board to the Minister and the Chairman of the Authority.

(10) If considered necessary, the Chairman of the Board may summon witnesses, appoint experts to assist the Board, and, where applicable, hear evidence on oath.

(11) The Board may at its own discretion order any party, or parties, to an appeal before it to bear the reasonable costs related to the Board's performance of its functions under these regulations, including, where applicable, the costs of retaining appropriate consultants and, or experts necessary to carry out their duties and functions in a proper manner. The Board may, when delivering its decision, also determine which, or in what proportion, are the parties to pay such costs.

(12) The Board shall endeavour to determine an appeal within forty days from the date of the first submission of the appeal by an applicant:

Provided that the Minister may for valid reasons establish further extensions for the Board to conclude its deliberations after application by the Chairman of the Board.

(13) With regard to the conduct of proceedings before it, the Board shall have all the powers that are vested by the Code of Organization and Civil Procedure in the Civil Court, First Hall.

(14) Any person –

(a) who fails to provide the Board with the relevant information requested within the time specified in a written notice, and, or

(b) who knowingly provides false information to the Board,

shall be guilty of an offence under this Ordinance.

(15) A person who –

(a) commits an offence under paragraph (14) (a) of this Schedule shall be liable, on conviction, to a fine (*multa*) not exceeding two hundred and fifty liri, and, in the case of a second offence or subsequent offence, to a fine (*multa*) not exceeding five hundred liri;

(b) commits an offence under paragraph (14) (b) of this Schedule shall be liable, on conviction, to a fine (*multa*) not exceeding one thousand liri or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.”.

16. For the Second Schedule to the principal law there shall be substituted the following:

Substitution of the Second Schedule to the principal law.

“SECOND SCHEDULE

Articles 12 and 13

PROCEDURES OF THE PORT WORKERS BOARD

PART ONE

With regard to matters falling under paragraphs (a) and (f) of article 11 (1)

1. (1) The Board shall hold its sittings in public and have the power to –

(a) summon witnesses;

(b) take expert advice;

(c) administer oaths, which shall be administered by the Chairman of the Board; and

(d) require any person who appears to it to have special knowledge of the matter under consideration to furnish orally or in writing such particulars in relation thereto as the Board may require.

(2) In the exercise of its powers, the Board shall have the powers which are conferred by Law on the First Hall of the Civil Court:

Provided that -

(a) the Board shall not in any case be enabled to order the detention of any person; and

(b) the duties of a court usher and of a court marshal respectively shall be performed by members of the Executive Police detailed for the purpose by the Commissioner of Police.

(3) Any fine inflicted by the Board shall be recoverable by the Authority as a civil debt due to it.

(4) Every summons shall be signed by the Chairman of the Board and may be served either personally or by registered post, and in the latter case, in proving service, it shall be sufficient to prove that the summons was properly addressed and posted.

(5) The meetings of the Board shall be called by the Chairman as often as is necessary.

(6) The minutes of the meetings shall be kept by the secretary and approved at a meeting of the Board. All approved minutes are to be signed by the Chairman.

(7) Half the number of members for the time being constituting the Board shall form a quorum. Decisions shall be adopted by a simple majority of the votes of the members present and voting. The Chairman shall have an initial vote and in the event of an equality of votes, a casting vote.

(8) The Board shall give the person appearing before it the opportunity of presenting his case.

(9) During the proceedings the person appearing before the Board shall be allowed to be represented by a person of his own choice.

(10) Subject to the provisions of sub-article (2) of article 14 and the provisions of sub-article (2) of article 15, the decisions of the Board shall otherwise be final.

(11) The Board may otherwise regulate its other procedures.

PART TWO

With regards to matters falling under paragraphs (b), (c), (d) and (e) of article 11 (1) and matters under article 12

1. (1) Subject to the provisions of paragraph (4) hereof, the meetings of the Board shall be called by the Chairman as often as may be necessary on his own initiative or at the request of any of the members of the Board, but the Board shall meet at least once a month to discuss any matter of interest related to port work as part of its functions under paragraphs (b), (c), (d) and (e) of article 11.

(2) Half the number of members for the time being constituting the Board shall form a quorum.

(3) Subject to the provisions of sub-articles (3), (4) and (5) of article 11 and sub-article (2) of article 12 of the Ordinance, all other decisions of the Board shall be by a simple majority of the votes of the members present and voting. For this purpose the Chairman shall have an initial vote and in the event of an equality of votes, a casting vote.

(4) In matters falling under article 12 concerning work disputes at a port, the Board shall be convened following delivery to the secretary of the Board of a notice in writing stating that a specific dispute has arisen between an employer, or employers, of port workers and port workers. The notice shall state the nature of the dispute and shall be signed by the person, or persons, referring the matter to the Board.

(5) When delivering the notice referred to in paragraph (4) hereof, the person delivering the notice shall be required to deposit with the secretary a sum of fifty liri representing the fee relative to the meeting of the Board. The Board, may, when delivering its decision, determine which, or in what proportion, are the parties to pay the said costs.

(6) In matters falling under article 12, the Board shall be empowered to –

(a) summon witnesses,

(b) administer oaths, and

(c) require any person who appears to it to have special knowledge of the matter under consideration to furnish orally or in writing such particulars in relation thereto as the Board may require.

(7) Oaths shall be administered by the person chairing the Board.

(8) In the exercise of the powers in accordance with the provisions of paragraph (6) (a) and (b) hereof, the Board shall have the powers that are conferred by law on the First Hall of the Civil Court:

Provided that –

(a) the Board shall not in any case be enabled to order the detention of any person, and

(b) the duties of a court usher and of a court marshal respectively shall be performed by members of the Executive Police detailed for the purpose by the Commissioner of Police.

(9) Any fine inflicted by the Board shall be recoverable by the Authority as a civil debt due to it.

(10) Every summons under article 12 shall be signed by the Chairman and may be served personally or by registered post, and, in the latter case, in proving service, it shall be sufficient to prove that the summons was properly addressed and posted.

(11) Any claim arising out of a dispute between an employer of port workers and port workers under article 12 shall –

(a) be rejected by the Board if the person or persons making such a claim, when duly summoned to appear before the Board, fails or fail to appear before it without any valid reason within one hour of the time fixed for the hearing of the claim;

(b) be deemed to have been admitted by default if the Board is satisfied that the person or persons against whom the claim is brought had failed to appear before it without any valid reason within one hour of the time fixed for the hearing of the claim.

(12) The minutes of the meetings shall be kept by the secretary after being confirmed at a meeting of the Board and signed by the Chairman.

(13) The Board shall otherwise regulate its other procedures.”.

Deletion of the
Third Schedule to
the principal law.

17. The Third Schedule to the principal law shall be deleted.

Objects and Reasons

The objects and reasons of this Bill are to establish a Port Work Appeals Board and a Port Workers Board and to further regulate the registration and deployment of port workers.

