

**Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni
u għall-Affarijiet tal-Konsumatur**

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ABBOZZ TA' LIĠI msejjah

ATT biex jipprovi għat-twaqqif ta' Awtorità biex tippromwovi, iżżomm u tinkoraġġixxi kompetizzjoni, biex tissalvagwardja l-interessi tal-konsumatur u ttejjeb l-harsien tiegħu, biex tippromwovi prattiċi ta' negozju tajba, biex taddotta u tikkordina standards fir-rigward ta' prodotti jew servizzi, biex tirregola dawk l-attivitajiet u biex tippromwovi dwar hwejjeġ ancillari jew inċidentali ma' dawn jew marbuta magħhom, biex tippromwovi għat-twaqqif, għuridizzjoni u proċedura ta' tribunal tal-appell u tagħmel emendi għal liġijiet oħra.

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

TAQSIMA I PRELIMINARI

Titolu fil-qosor
dhul fis-seħh.

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur.

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

Tifsir.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtiegx xort'oħra:-

"abbozz ta' *standard*" tfisser dokument li jkun fih it-test tal-ispeċifikazzjonijiet tekniċi dwar xi suġġett partikolari, li jkun qed jiġi kkunsidrat biex jiġi adottat u kif ċirkolat għall-kummenti u l-iskrutinju pubbliku;

"Awtorità" tfisser l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur mwaqqfa bl-artikolu 3;

"Awtorità kompetenti nazzjonali" għandu jkollha l-istess tifsira mogħtija lill-"awtorità kompetenti" fl-artikolu 3(c) tar-Regolament

dwar il-Koperazzjoni u l-Protezzjoni tal-Konsumatur;

"Bord" tfisser il-Bord tal-Gvernaturi mwaqqaf bl-artikolu 8;

"Direttur Ġenerali (Regolamenti Tekniċi)" tfisser l-persuna hekk maħtura bis-saħħa tal-artikolu 19(2);

"Direttur Ġenerali (*Standards* u Metroloġija)" tfisser l-persuna hekk maħtura bis-saħħa tal-artikolu 21(2);

"Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur)" tfisser l-persuna hekk maħtura bis-saħħa tal-artikolu 16(2);

"Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni)" tfisser l-persuna hekk maħtura bis-saħħa tal-artikolu 13(2);

"entitajiet" tfisser l-Uffiċċju għall-Kompetizzjoni, l-Uffiċċju għall-Affarijiet tal-Konsumatur, id-Divizjoni dwar Regolamenti Tekniċi, u l-Istitut dwar l-*Standards* u Metroloġija, u entità għandha tiftiehem rispettivament kif jitlob l-kuntest;

"funzjonijiet" tinkludi setgħat u dmirijiet;

"Gazzetta" tfisser il-Gazzetta tal-Gvern;

"għaqda ta' intrapriži" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar il-Kompetizzjoni; Kap. 379.

"għaqda ta' konsumaturi" jew "għaqda ta' konsumaturi registrata" tfisser għaqda registrata skont it-Taqsima IV tal-Att dwar l-Affarijiet tal-Konsumatur; Kap. 378.

"intrapriża" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar il-Kompetizzjoni; Kap. 379.

"*Chairman*" tfisser iċ-*Chairman* tal-Bord li jkun iċ-*Chairman* tal-Awtorità maħtur skont l-Artikolu 9(1);

"koncentrazzjoni" għandu jkollha l-istess tifsira mogħtija lilha fir-regolament 2(d) tar-Regolamenti dwar il-Kontroll ta' Koncentrazzjonijiet; L.S. 379.08.

"korp ta' għemil ta' *standards* Ewropew" tfisser xi wiehed minn dawn il-korpi li ġejjin:

- CEN - Kumitat Ewropew għall-Għemil ta' *Standards*;

- CENELEC - Kumitat Ewropew għall-Għemil ta' *Standards* fl-Elettroteknika;

- ETSI - Istitut Ewropew għal *Standards* fit-Telekomunikazzjonijiet;

"Kumitat għat-Tmexxija" tfisser l-kumitat mwaqqaf bl-artikolu 5;

Kap. 378. "kummerċjant" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar l-Affarijiet tal-Konsumatur;

"kunflitt ta' interess" tfisser dik is-sitwazzjoni li fiha membri tal-Bord, uffiċjali u impjegati tal-Awtorità u nies li jagħtu l-pariri, konsulenti u persuni oħra mqabnda mal-Awtorità ikollhom interessi privati jew personali suffiċjenti biex jinfluwenzaw jew jidhru li qed jinfluwenzaw l-eżerċizzju tad-dmirijiet tagħhom;

Kap. 378. "Kunsill" tfisser il-Kunsill għall-Affarijiet tal-Konsumatur" kif mwaqqaf taħt l-artikolu 4 tal-Att dwar l-Affarijiet tal-Konsumatur;

"marka ta' konformità" tfisser marka, maħruġa skont ir-regolamenti magħmula taħt l-artikolu 24, li turi konformità ma' *standard* applikabbli;

"Ministru" tfisser il-Ministru responsabbli għall-kompetizzjoni, affarijiet tal-konsumatur, standardizzazzjoni, metroloġija u regolamenti tekniċi;

"Ministeru" tfisser il-Ministeru responsabbli għall-kompetizzjoni, affarijiet tal-konsumatur, standardizzazzjoni, metroloġija u regolamenti tekniċi;

"permess" tfisser awtorizzazzjoni mogħtija mill-Istitut dwar l-iStandards u Metroloġija taħt l-artikolu 24 għall-użu ta' marka ta' konformità;

"persuna" tinkludi individwi, kull korp magħqud u kull korp ta' persuni sew jekk għandu personalità ġuridika distinta sew jekk le;

Kap. 379. "prattika restrittiva" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar il-Kompetizzjoni;

"President" tfisser il-President tat-Tribunal tal-Appell kif mwaqqaf bl-artikolu 31;

"preskritt" tfisser preskritt taħt dan l-Att sakemm mhux xort'oħra mfisser;

"prodott" tfisser kull prodott fabbrikat industrijalment u kull prodott agrikolu, inkluż prodotti tal-ħut;

"programm ta' *standards*" tfisser programm ta' xogħol li jelenka s-suġġetti dwar liema jkun qed jitwettaq xogħol ta' għemil ta' *standards*;

"Regolament dwar il-Koperazzjoni u l-Protezzjoni tal-Konsumatur" tfisser ir-Regolament (KE) Nru. 2006/2004 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' Ottubru 2004 dwar il-kooperazzjoni bejn l-awtoritajiet nazzjonali responsabbli għall-infurzar tal-liġijiet tal-protezzjoni tal-konsumaturi (test b'rilevanza għaž-ŻEE);

"Segretarju Permanenti" tfisser il-persuna maħtura għal superviżjoni tal-Awtorità skont l-Att dwar l-Amministrazzjoni Pubblika; Kap. 497.

"Segretarju Permanenti Ewlieni" tfisser il-persuna maħtura skont l-artiklu 14 tal-Att dwar l-Amministrazzjoni Pubblika;

"sena finanzjarja" tfisser kull perjodu ta' tnax-il xahar li jispiċċa fil-31 ta' Diċembru; iżda l-ewwel sena finanzjarja għandha tibda fid-data tad-dhul fis-sehħ ta' dan l-Att u tispiċċa fil-31 ta' Diċembru tas-sena ta' wara;

"settur pubbliku" għall-finijiet ta' dan l-Att tinkludi ministeri, dipartimenti tal-Gvern, entitajiet pubbliċi, korporazzjonijiet pubbliċi, aġenziji tal-Gvern u kunsilli lokali;

"speċifikazzjoni teknika" tfisser speċifikazzjoni li tinsab f'xi dokument li tistipola l-karatteristiċi meħtieġa minn prodott u, jew, servizz bħalma huma livelli ta' kwalità, funzjonalità, sigurezza jew dimensjonijiet, inklużi l-htigiet applikabbli għall-prodott u, jew, is-servizzi għar-rigward tal-isem li bih il-prodott, u, jew, servizz jinbiegħ, terminoloġija, simboli, ittestjar u metodi ta' ttestjar, ippakkettjar, immarkar jew ittikkettjar użati u proċeduri ta' stima ta' konformità. Din il-frazi tkopri wkoll metodi ta' produzzjoni u proċessi li jintużaw għar-rigward ta' prodotti agrikoli, prodotti maħsuba għall-konsum mill-bnedmin u mill-annimali, u prodotti mediċinali, kif ukoll metodi ta' produzzjoni u proċessi li jirrigwardaw prodotti oħra, meta dawn ikollhom effett fuq il-karatteristiċi tagħhom.

Għall-finijiet ta' din it-tifsira, "proċeduri ta' stima ta' konformità" tfisser kull proċedura użata, direttament u indirettament, sabiex jiġi stabbilit li htigiet rilevanti f'regolamenti tekniċi jew *standards* jitwettqu, inklużi fost l-oħrajn, proċeduri għat-tehid ta' kampjuni, ttestjar u spezzjoni; valutazzjoni, verifika u assigurazzjoni ta' konformità, reġistrazzjoni, akkreditament u approvazzjoni kif ukoll kull kombinazzjoni ta' dawn kollha;

"standard" tfisser speċifikazzjoni teknika approvata minn korp ta' għemil ta' *standards* rikonoxxut għal applikazzjoni ripetuta jew kontinwa, ma' liema mhijiex obbligatorja il-konformità, sew jekk jinkludi htigiet oħra sew jekk le, u li hu wiehed minn dawn li ġejjin:-

- *Standard Internazzjonali*: *standard* adottat minn organizzazzjoni ta' għemil ta' *standards* internazzjonali, minbarra xi korp ta' għemil ta' *standards* Ewropew, u li jkun disponibbli għall-pubbliku;

- *Standard Ewropew*: *standard* adottat minn korp ta' għemil ta' *standards* Ewropew u li jkun disponibbli għall-pubbliku;

- *Standard Nazzjonali*: *standard* adottat mill-Awtorità u li jkun disponibbli għall-pubbliku;

"TFUE" tfisser it-Trattat dwar il-Funzjonament tal-Unjoni Ewropea;

"Tribunal tal-Appell" tfisser it-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur mwaqqaf bl-artikolu 31;

"uffiċjal" u "impjegat" tinkludi uffiċjal pubbliku inkarigat jagħmel xogħol f'xi waħda mill-entitajiet mwaqqfa taħt dan l-Att;

"uffiċjal pubbliku" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 124 tal-Kostituzzjoni ta' Malta imma ma tinkludix imħallef tal-qrati superjuri jew maġistrat tal-qrati inferjuri;

"Uffiċċju Uniku ta' Kooperazzjoni" għandu jkollha l-istess tifsira mogħtija lil "uffiċċju uniku ta' kooperazzjoni" fl-artikolu 3(d) fir-Regolament dwar il-Koperazzjoni u l-Protezzjoni tal-Konsumatur; u

"università approvata" għandu jkollha l-istess tifsira mogħtija lilha fit-tifsira "awtorità kompetenti" skont l-artikolu 2 tal-Att dwar ir-Rikonoxximent Reċiproku ta' Kwalifiki.

Kap. 451.

TAQSIMA II

TWAQQIF, FUNZJONIJIET U TMEXXIJA

TAL-AFFARIJIET TAL-AWTORITA'

Twaqqif tal-Awtorità.

3. (1) Ikun hemm korp, li jkun magħruf bhala l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, li jkollha l-funzjonijiet assenjati lilha b'dan l-Att jew b'xi liġi oħra.

(2) L-Awtorità tkun korp magħqud li jkollha personalità

ġuridika separata u distinta u li tista', fil-qadi tal-funzjonijiet tagħha tagħmel kuntratti, takkwista, ikollha fil-pussess tagħha jew tiddisponi minn proprjetà reali u personali, tharrek jew tiġi mharrka u tagħmel dak kollu li jkun inċidentali jew li jirriżulta fit-twettiq tal-funzjonijiet tagħha, inkluż li tislef jew tissellef il-flus.

(3) (a) Iċ-*Chairman* għandu jkollu ir-rappreżentazzjoni legali u ġudizzjarja tal-Awtorità:

Iżda l-Awtorità tista' tahtar wiehed jew iżjed mill-ufficjali jew impjegati tagħha biex jidhru f'isem u jirrapreżentaw lilha f'kull proċedura u f'kull att, kuntratt, strument jew dokument ieħor ikun x'ikun, jew fil-każ ta' vakanza fil-post taċ-*Chairman*:

Iżda wkoll f'kwistjonijiet li jirreletaw esklussivament għar-responsabbiltajiet ta' entità li tiffirma parti mill-Awtorità kif mwaqqfa skont it-Taqsimiet IV sa VII ta' dan l-Att, ir-rappreżentazzjoni legali u ġuridika tal-Awtorità f'dawk il-kwistjonijiet għandha tvesti fid-Direttur Ġenerali li jmexxi l-entità;

(b) Kull dokument li jidher li jkun strument magħmul jew maħruġ mill-Awtorità u ffirmat miċ-*Chairman* jew mid-Diretturi Ġenerali dwar kull haġa delegata lilhom f'isem l-Awtorità għandu jkun riċevut bhala prova u għandu, sakemm ma jkunx ppruvat il-kuntrarju, jitqies bhala strument magħmul jew maħruġ mill-Awtorità.

(4) L-organi ewlenin tal-Awtorità huma l-Bord tal-Gvernaturi, l-Kumitat għat-Tmexxija u l-erba' entitajiet rispettivi. L-organi tal-Awtorità.

(5) Meta f'dan l-Att ssir xi haġa minn jew kontra jew fir-rigward tal-Awtorità, jew xi avviż li jkun ser jingħatha lil jew mingħand l-Awtorità, sew dik il-haġa jew dak l-avviż jistgħu wkoll isiru minn jew kontra jew fir-rigward ta' jew jingħataw minn jew lill-entità li taht il-ġurisdizzjoni tagħha tkun taqa' dik il-haġa; u għall-finijiet hawn qabel imsemmija kull referenza f'dan l-Att għall-Awtorità tinkludi referenza għal dik l-entità xierqa.

(6) L-Awtorità għandha tassumi l-persuna preċedentement vestita fl-Ufficċju tal-Kompetizzjoni Ġusta, Dipartiment għall-Affarijiet tal-Konsumatur u l-Awtorità Maltija dwar l-Istandards u, mid-dhul fis-seħh ta' dan l-Att, għandha tassumi r-responsabbiltà għall-assi, l-passiv u l-obbligazzjonijiet kollha preċedenti li daħlu fihom l-imsemmija Ufficċju, Dipartiment u Awtorità jew korpi oħra f'isimhom.

4. Il-funzjonijiet tal-Awtorità għandhom ikunu dawn li ġejjin: Funzjonijiet tal-Awtorità.

(a) li tippromwovi u ssaħħaħ l-politika tal-kompetizzjoni;

(b) li tippromwovi u ssaħħaħ l-politika tal-konsumatur;

(ċ) li tippromwovi *standards* volontarji u tipprovdi servizzi relatati mal-għemil tal-*standards*;

(d) li tippromwovi l-istrategija nazzjonali tal-metrologija;

(e) li tippromwovi it-trasposizzjoni u l-adozzjoni mingħajr xkiel ta' regolamenti tekniċi; u

(f) li twettaq dawk il-funzjonijiet oħra li jistgħu jiġu assenjati lilha taħt din il-liġi jew liġi jew regolamenti oħra.

Twaqqif tal-Kumitat għat-Tmexxija.

5. (1) Ikun hemm mwaqqaf Kumitat għat-Tmexxija, magħmul miċ-*Chairman* u d-Diretturi Ġenerali tal-erba' entitajiet rispettivi.

(2) Mingħajr hsara għad-disposizzjonijiet oħra ta' dan l-Att, it-tmexxija tal-Awtorità, l-amministrazzjoni tagħha u l-organizzazzjoni u l-kontroll amministrattiv tal-uffiċjali u impjegati tagħha, għandha tkun ir-responsabbiltà tal-Kumitat għat-Tmexxija tal-Awtorità, li wkoll għandu jkollu dawk is-setgħat oħra kif jista' jiġi delegat lilu minn żmien għal żmien mill-Bord.

(3) Iċ-*Chairman* għandu jippresjedi fuq il-Kumitat għat-Tmexxija.

(4) Iċ-*Chairman* għandu jkun responsabbli għas-servizzi korporattivi u l-kordinazzjoni ġenerali tal-affarijiet amministrattivi tal-Awtorità.

Twaqqif tal-funzjoni ta' Awditur Intern.

6. (1) L-Awtorità għandha wkoll taħtar wiehed mill-uffiċjali tagħha bħala l-Awditur Intern, li għandu:

(a) jipprovdi indukrar tas-sistemi ta' kontroll intern u l-kontroll tar-riskji tal-Awtorità u jassisti u jappoġġa lill-Awtorità fit-twettiq tar-responsabbiltajiet tagħha f'dak ir-rigward;

(b) jipprovdi holqa ta' komunikazzjoni ma' awdituri esterni u jevalwa u jikkordina r-rapport tal-progress ta' verifika interna u finanzjarja tal-Awtorità;

(ċ) jiskrutinja u jivvaluta kull transazzjoni li tidhol fiha l-Awtorità b'valur li jkun aktar minn elf euro (€1,000); u

(d) jirrevedi u jevalwa l-effettività tat-tmexxija tal-

Awtorità skont il-linji ta' politika u fit-twettiq tal-funzjonijiet regolatorji u ta' konformità tagħha.

(2) L-Awditur Intern għandu jirraporta direttament u esklussivament lill-Bord skont il-proċeduri stabbiliti mill-Awtorità.

7. (1) L-erba' entitajiet mwaqqfa fit-Taqsimiet IV sa VII, għandu jkollhom r-responsabbiltajiet provduti f'dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur, l-Att dwar is-Sigurezza tal-Prodotti rispettivament, u kull liġi jew regolamenti oħra.

Respon
sabbiltajiet tal-
entitajiet.
Kap. 379.
Kap. 378.
Kap. 427.

(2) L-Awtorità għandha tottjeni l-funzjonijiet mnizzla fl-artikolu 4 permezz tar-responsabbiltajiet vestiti fl-entitajiet rispettivi, kif provdut taht is-subartikolu (1).

(3) Ir-responsabbiltajiet vestiti f'kull entità u l-operazzjoni ta' kuljum tagħha għandhom ikunu eżerċitati mid-Direttur Ġenerali li jmexxi l-entità rispettiva u permezz t'hekk kull Direttur Ġenerali għandu jaġixxi b'mod indipendenti u awtonomu, liberu mid-direzzjoni jew kontroll ta' kull persuna jew awtorità mingħajr ħsara għall-artikolu 12:

Izda fit-twettiq tar-responsabbiltajiet vestiti fl-entitajiet, id-Diretturi Ġenerali għandhom jiżguraw illi jimplementaw il-politika mwaqqfa mill-Awtorità jagħtu effett lill-politika tal-Gvern u għal dan il-għan, huma għandhom ikunu soġġetti għas-supervizjoni u l-kontroll ġenerali tal-Awtorità.

TAQSIMA III

TWAQQIF, DMIRIJET U TMEXXIJA TAL-AFFARIJET TAL-BORD TAL-GVERNATURI

8. Ikun hemm mwaqqaf Bord tal-Gvernaturi fi ħdan l-Awtorità, minn hawn 'l quddiem msejjah "il-Bord".

Twaqqif tal-
Bord tal-
Gvernaturi.

9. (1) Il-Bord ikun magħmul kif ġej:

Ghamla tal-
Bord.

(a) iċ-*Chairman*, maħtur mill-Ministru, filwaqt li jkun sodisfatt illi l-persuna għandha l-kwalifiki u l-esperjenza meħtieġa u li jista' wkoll jokkupa kull kariga oħra fi ħdan l-Awtorità;

(b) seba' membri oħra li jkollhom l-kompetenza teknika neċessarja f'materji tal-konsumatur, materji tal-kompetizzjoni, materji relatati mal-armonizzazzjoni teknika, metroloġija u *standards* u r-regolament ta' prodotti mediċinali u attivitajiet farmaċewtiċi, li għandhom jiġu maħtura mill-

Ministru, li jkunu:

Kap. 321.

(i) membru li jkollu l-*warrant* biex jipprattika t'avukat b'seba' snin esperjenza u speċjalizzazzjoni fil-liġi tal-kompetizzjoni u, jew tal-konsumatur;

(ii) membru li jkollu grad fl-ekonomija minn università approvata b'seba' snin esperjenza u kwalifiki, preferibbilment fl-organizzazzjoni industrijali u, jew imġieba fl-ekonomija;

(iii) membru li jkollu l-*warrant*, maħruġ skont l-Att dwar il-Professjoni tal-Inġinerija, biex jipprattika bħala inġinier, b'seba' snin esperjenza;

(iv) membru li jkollu l-*warrant* biex jipprattika bħala spiżjar b'seba' snin esperjenza fir-regolament ta' prodotti mediċinali u attivitajiet farmaċewtiċi;

(v) membru li jkollu l-*warrant* biex jipprattika bħala *accountant* pubbliku ċertifikat b'seba' snin esperjenza;

(vi) membru, wara konsultazzjoni mal-komunità tan-negozju, kif rappreżentata fil-Kunsill Malti għall-Iżvilupp Ekonomiku u Soċjali; u

(vii) membru ieħor, wara konsultazzjoni ma' għaqdiet nazzjonali rikonoxxuti tal-konsumatur, jekk ikun hemm:

Iżda fl-eventwalità li ma jkunx hemm għaqda bħal dik, l-Ministru jista' jahtar membru temporanju sakemm jiġi nominat membru li jirrapreżenta l-għaqda nazzjonali tal-konsumatur; u

(ċ) wieħed mill-membri kif maħtur fis-subparagrafi (b)(i) sa (v) għandu jkun nominat bħala Deputat *Chairman*.

(2) Id-Deputat *Chairman* għandu jkollu is-setgħat kollha u jaqdi l-funzjonijiet kollha ta' *Chairman* matul l-assenza jew l-inkapaċità ta' dan tal-aħħar li jagħmilha ta' *Chairman*, jew meta ċ-*Chairman* ikun fuq btala, jew matul kull vakanza fil-kariga ta' *Chairman* u b'mod alternattiv il-Ministru jista' wkoll, f' kull waħda miċ-ċirkostanzi hawn qabel imsemmija, jahtar persuna oħra biex tagħmilha ta' *Chairman*.

(3) Il-membri tal-Bord għandhom ikunu maħtura mill-Ministru għal żmien ta' sena jew għal żmien itwal kif jista' jkun

speċifikat fl-istrument tal-ħatra, liema żmien m'għandux ikun iktar minn tliet snin u jkunu eliġibbli biex jinhatru mill-ġdid.

(4) (a) Il-Ministru għandu jinkariga wieħed mill-uffiċjali tal-Awtorità biex jagħmilha ta' segretarju għal dak il-perjodu li hu jqis xieraq.

Dmirijiet tas-segretarju.

(b) Ikun id-dmir tas-segretarju illi jagħmel il-preparazzjonijiet meħtieġa għall-laqgħat tal-Bord u li jzomm l-minuti ta' dawk il-laqgħat.

(5) (a) Persuna ma tkunx eliġibbli li tiġi maħtura bħala jew li żzomm il-kariga ta' *Chairman* jew ta' membru tal-Bord jekk dik l-persuna:-

Persuni mhux eliġibbli li jzommu l-kariga

(i) tkun Ministru, Segretarju Parlamentari, membru tal-Kamra tad-Deputati, membru ta' xi Kunsill Lokali jew membru tal-Parlament Ewropew; jew

(ii) tkun Imħallef jew Magistrat; jew

(iii) tkun legalment inkapaċitata; jew

(iv) kienet ġiet dikjarata falluta jew tkun għamlet transazzjoni jew arrangement mal-kredituri tagħha, sakemm ma tkunx ġiet rijabilitata fil-kummerċ skont il-Kodiċi tal-Kummerċ; jew

Kap. 13.

(v) kienet ġiet misjuba hatja minn qorti kompetenti fuq reat li jinvolvi frodi jew xi haġa dizonesta oħra, jew tkun kisret xi disposizzjoni tal-liġi li jkollha l-għan li tiproteġi l-membri tal-pubbliku kontra telf finanzjarju li jiġi kkawżat minn dizonestà, inkompetenza jew għemil ħażin minn persuni involuti f'attivitajiet tal-kummerċ jew fit-twettiq ta' professjoni, jew tkun ħadet sehem f'xi prattika tan-negozju li l-Ministru jidhirlu li tkun oppressiva jew qarrieqa jew inkella mhux xierqa (kemm jekk tkun kontra l-liġi jew le) jew li inkella turi diskreditu fil-metodi ta' kif tmexxi n-negozju jew il-professjoni tagħha, jew kienet ġiet misjuba hatja ta' xi reat kontra dan l-Att jew xi Att ieħor illi l-Awtorità tamministra jew xi regolamenti magħmula taħtha; jew

(vi) ikollha interess finanzjarju jew xi interess ieħor f'xi impriza jew attività li x'aktarx taffettwa l-esekuzzjoni tad-dmirijiet tagħha:

Iżda l-Ministru jista' jiddetermina illi l-

interess ta' dik il-persuna x'aktarx mhux ser jaffettwa it-twettiq tal-funzjonijiet tiegħu u fuq dik id-determinazzjoni dik il-persuna għanda tikkwalifika biex iżzomm il-kariga ta' membru tal-Awtorità iżda biss jekk l-interess dikjarat u d-determinazzjoni tal-Ministru ikunu pubblikati fil-Gazzetta; jew

(vii) ma tkunx mod ieħor adatta u xierqa biex iżzomm dik il-kariga skont il-paragrafu (b).

(b) Biex jistabbilixxi jekk persuna tkunx adatta u xierqa, il-Ministru għandu jqis l-integrità ta' dik il-persuna, il-kompetenza u l-kapaċità tagħha biex twettaq ir-responsabbiltajiet ta' dik il-kariga, id-diligenza li biha dik il-persuna tkun qed twettaq jew x'aktarx twettaq dawk ir-responsabbiltajiet u jekk l-interessi ta' xi persuna huma, jew x'aktarx ikunu, mhedda waqt li tkun f'dik il-kariga;

(c) Kull persuna li l-Ministru jahtar jew ikun bi ħsiebu jahtar bhala membru tal-Bord għandha, meta tkun hekk mitluba mill-Ministru, tagħtih dik l-informazzjoni li l-Ministru jidhirlu meħtieġa għat-twettiq tad-dmirijiet tal-Ministru taħt il-paragrafi (a) u (b);

(d) Membru tal-Bord jista' jitneħħa mill-kariga mill-Ministru jekk ma jkunx kapaċi jwettaq il-funzjonijiet tal-kariga tiegħu, kemm jekk dan ikun dovut għal inkapaċità mentali jew fiżika, jew għal xi raġuni oħra, jew minħabba imġieba ħażina; u għall-finijiet ta' dan il-paragrafu, assenja ripetuta u mhux ġustifikata minn laqgħat tista' titqies li tammonta għal imġieba ħażina;

(e) L-ismijiet tal-membri kollha tal-Bord u kull tibdil f'dik l-išhubija għandhom jiġu pubblikati fil-Gazzetta; u

(f) Kull membru tal-Bord jista' jirriżenja mill-kariga permezz ta' ittra indirizzata lill-Ministru.

(6) Iċ-*Chairman* u l-membri tal-Bord għandhom jithallsu dak l-ħlas kif il-Ministru jista' jistabbilixxi.

(7) Kull membru tal-Bord li għandu interess dirett jew indirett f'xi haġa magħmula jew li hi maħsuba li ssir mill-Bord, li ma jkunx interess li jiskwalifika dak il-membru milli jibqa' membru, għandu, mhux aktar tard mill-ewwel laqgħa li tinzamm wara li jkun sar jaf biċ-ċirkostanzi rilevanti, jiżvela n-natura tal-interess tiegħu lill-Bord, u l-membru li għandu dan l-interess għandu jirtira minn kull laqgħa li

fiha dik il-ħaġa tkun qed tiġi diskussa. L-iżvelar ta' dan it-tagħrif għandu jingħata lill-Ministru mingħajr dewmien. Meta l-interess ta' dak il-membri jkun tali li jiskwalifikah milli jibqa' membru, hu għandu jirraporta dan il-fatt lill-Ministru minnufih u joffri r-riżenja tiegħu.

(8) Jekk membru jirriżenja jew jekk il-kariga ta' membru tal-Bord tkun mod ieħor vakanti jew jekk membru jkun għal xi raġuni inkapaċi li jwettaq il-funzjonijiet tal-kariga tiegħu, il-Ministru jista' jahtar persuna li tkun kwalifikata biex tiġi maħtura bħala membru, biex tkun membru temporanju tal-Bord; u kull persuna hekk maħtura għandha, bla ħsara għad-disposizzjonijiet tas-subartikolu (3), tieqaf milli tibqa' membru meta tiġi maħtura persuna biex timla l-vakanza jew, kif ikun il-każ, meta l-membri li ma kienx kapaċi jwettaq il-funzjonijiet tal-kariga tiegħu jerga' jibda jwettaq dawk il-funzjonijiet.

10. (1) Bla ħsara għad-disposizzjonijiet l-oħra ta' dan l-Att, il-Bord jista' jirregola l-proċedura tiegħu stess.

Tmexxija tal-affarijiet tal-Bord.

(2) Il-Bord għandu jiltaqa' kull meta jkun meħtieġ, imma fl-ebda każ ma tkun inqas minn darba f'kull xahar kalendarju.

(3) Il-Bord jista' jeżerċità l-funzjonijiet tiegħu minkejja xi vakanza fis-sħubija tiegħu, sakemm dawk il-vakanzi ma jkunux iżjed minn tnejn.

(4) Il-laqgħat tal-Bord għandhom jissejhu miċ-*Chairman*, jew mid-Deputat *Chairman*, fl-assenza taċ-*Chairman*, jew fuq inizjattiva tiegħu stess jew fuq talba bil-miktub ta' xi tlieta mill-membri oħra tal-Bord.

(5) (a) Id-deċiżjonijiet għandhom jittieħdu b'maġġoranza sempliċi tal-voti tal-membri li jkunu preżenti u li jivvotaw;

(b) Iċ-*Chairman* jew, fl-assenza tiegħu, id-Deputat *Chairman*, jew xi persuna oħra li tkun maħtura biex tagħmilha ta' *Chairman*, ikollu vot oriġinali u, f'każ ta' voti ndaqs, vot deċiżiv; u

(ċ) Bla ħsara għal htigiet l-oħra ta' dan l-Att, l-ebda deċiżjoni ma tkun valida jekk ma tkunx sostnuta minn tal-inqas tliet membri tal-Bord.

(6) Bla ħsara għad-disposizzjonijiet ta' qabel ta' dan l-artikolu, l-ebda att jew proċediment tal-Bord m'għandha tiġi invalidata għar-raġuni biss li jkun hemm vakanza waħda fost il-membri tiegħu.

(7) Kull att magħmul minn persuna *bona fide*, bħala membru tal-Bord, għandu jkun validu bhallikieku kienet membru minkejja li wara jiġi skopert li kien hemm xi difett fil-ħatra jew fil-kwalifiki tagħha. Ebda att jew proċediment tal-Bord m'għandu jiġi kontestat minhabba raġuni ta' ksur, minn xi membru, tad-disposizzjonijiet tal-artikolu 10.

(8) L-ebda att jew proċediment tal-Bord m'għandu jiġi mistoqsi minhabba l-ksur tad-disposizzjonijiet tal-artikolu 10 minn membru.

Dmirijiet tal-Bord.

11. (1) Bla ħsara għal xi dmir ieħor mogħti lilu b'dan l-Att jew b'xi liġi jew regolamenti oħra, il-Bord għandu jkollu dawn id-dmirijiet li ġejjin:

(a) li jstabilixxi l-politika li għandha tiġi segwita mill-Awtorità fi ħdan il-kuntest tal-politika stabbilita mill-Gvern u skont l-funzjonijiet mnizzla fl-artikolu 4 u biex jiżgura l-implimentazzjoni proprja u xierqa tagħhom mill-entitajiet;

(b) li jiżgura li l-entitajiet jwettqu r-responsabbiltajiet tagħhom taħt dan l-Att skont il-politika tal-Gvern dwar l-affarijiet tal-konsumatar u kompetizzjoni, *standards*, metroloġija u regolamenti tekniċi;

(ċ) li jiggarrantixxi l-indipendenza funzjonali tal-entitajiet;

(d) li jippubblika l-pjan ta' dħul u nefqa wara l-approvazzjoni tiegħu mill-Ministru wara konsultazzjoni mal-Ministru responsabbli għall-Finanzi;

(e) li jippubblika r-rapporti annwali;

(f) li japprova kull Memorandum ta' Ftehim, ftehim bilaterali jew multilaterali proposti;

(g) li jagħti parir, jagħmel proposti u rakkomandazzjonijiet lill-Ministru fuq kull haġa marbuta mal-funzjonijiet tiegħu; u

(ħ) li jsegwi il-korp nazzjonali dwar l-akkreditament biex jiżgura li qed iħares il-ħtigiet msemija fl-artikolu 8 tar-Regolament (KE) Nru. 765/2008 tal-Parlament Ewropew u tal-Kunsill.

(2) L-entitajiet għandhom jipprovdu lill-Bord b'dik l-informazzjoni kollha kif jista' jkun meħtieġ għat-twettiq xieraq tad-

dmirijiet tagħha:

Iżda l-membri tal-Bord ma jkollhomx aċċess għal informazzjoni kunfidenzjali dwar xi persuna individwali, dar jew intrapriża akkwistata mill-entitajiet fit-twettiq tar-responsabbiltajiet tagħhom.

(3) Xejn f'dan l-artikolu m'għandu jiftiehem li qed iħalli lill-Bord jeżerċità xi setgħa jew funzjoni mogħtija lill-entitajiet taħt dan l-Att jew taħt xi liġi oħra.

12. (1) Tkun il-funzjoni tal-Ministru li jiżgura li l-Awtorità tkun infurmata bi sħiħ dwar il-politika tal-Gvern relatata mal-affarijiet tal-konsumatur u l-kompetizzjoni, *standards*, metroloġija u regolamenti tekniċi u li jikkontrolla t-twettiq xieraq ta' dik il-politika.

Relazzjonijiet bejn il-Ministru u l-Awtorità u kontroll mis-Segretarju Permanenti.

(2) Hlief kif provdut f'dan l-Att, l-Att dwar l-Affarijiet tal-Konsumatur, l-Att dwar il-Kompetizzjoni, l-Att dwar is-Sigurezza tal-Prodotti, l-Att dwar il-Metroloġija, l-Att dwar is-Sigurtà fl-Ikel, l-Att dwar il-Kontroll tal-Pesticidi u kull Att jew regolamenti oħra amministrati mill-Awtorità, l-Awtorità għandha tkun taħt id-direzzjoni ġenerali u kontroll tal-Ministru, u soġġetta għal dik id-direzzjoni u kontroll, taħt is-supervizzjoni tas-Segretarju Permanenti responsabbli għall-Ministeru.

Kap. 378.
Kap. 379.
Kap. 427.
Kap. 454.
Kap. 449.
Kap. 430.

(3) Il-Ministru jista', għar-rigward ta' dawk l-affarijiet li jkunu jidhrulu li jolqtu l-interess pubbliku, minn żmien għal żmien, jagħti lill-Awtorità direttivi bil-miktub ta' xorta ġenerali, li ma jkunux inkonsistenti mad-disposizzjonijiet ta' dan l-Att, l-Att dwar l-Affarijiet tal-Konsumatur, l-Att dwar il-Kompetizzjoni, l-Att dwar is-Sigurezza tal-Prodotti, l-Att dwar il-Metroloġija, l-Att dwar is-Sigurtà fl-Ikel, l-Att dwar il-Kontroll tal-Pesticidi u kull Att jew regolamenti oħra amministrati mill-Awtorità, dwar il-politika li għandha tiġi segwita mill-Awtorità fit-twettiq tal-funzjonijiet tagħha, b'dan l-Att jew tahtu, u l-Awtorità għandha, kemm jista' jkun malajr, iġġib fis-seħħ dawk id-direttivi kollha.

(4) Is-subartikoli (2) u (3) m'għandhomx japplikaw għar-rigward tas-setgħat mwettqa mid-Diretturi Ġenerali tal-Uffiċċju għall-Kompetizzjoni u l-Uffiċċju għall-Affarijiet tal-Konsumatur taħt dan, l-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur rispettivament jew xi liġi jew regolamenti oħra dwar prijoritizzazzjoni, investigazzjoni, u determinazzjoni tal-każijiet u infurzar.

(5) L-Awtorità għandha tagħti lill-Ministru faċilitajiet biex jakkwista informazzjoni rigward il-proprjetà u l-attivitàjiet finanzjarji

tagħha u għandha tagħtih dawk il-prospetti, kontijiet u informazzjoni oħra dwarhom u tagħtih il-facilitajiet biex ikun jista' jivverifika l-informazzjoni mogħtija, b'dak il-mod u f'dawk iż-żminijiet li hu jista' raġonevolment jitlob.

(6) Jekk l-Awtorità tonqos milli thares xi direttiva mahruġa skont dan l-artikolu, il-Prim Ministru jista' jagħmel ordni li biha jittrasferixxi lill-Ministru kull jew parti mill-funzjonijiet tagħha.

Kap. 497.

(7) L-operar tal-Awtorità għandu jkun dak li hemm fil-ftehim dwar il-hidma tal-Awtorità' li jkun hemm qbil dwaru bejn is-Segretarju Permanenti u l-Awtorità u għal dan il-għan l-Artiklu 40 tal-Att dwar l-Amministrazzjoni Pubblika għandu *mutatis mutandis* japplika.

(8) Hlief kif provdut f'dan l-Att, l-Att dwar l-Affarijiet tal-Konsumatur, l-Att dwar il-Kompetizzjoni, l-Att dwar is-Sigurezza tal-Prodotti, l-Att dwar il-Metroloġija, l-Att dwar is-Sigurtà fl-Ikel, l-Att dwar il-Kontroll tal-Pesticidi u kull Att jew regolamenti oħra amministrati mill-Awtorità, l-Artiklu 38 tal-Att dwar l-Amministrazzjoni Pubblika għandu *mutatis mutandis* japplika.

TAQSIMA IV

TWAQQIF TAL-UFFIĊĊJU GĦALL-KOMPETIZZJONI

Twaqqif tal-Uffiċċju għall-Kompetizzjoni.

13. (1) Għandu jiġi mwaqqaf uffiċċju, li jkun magħruf bħala l-Uffiċċju għall-Kompetizzjoni, li għandu jkun immexxi mid-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni).

(2) Id-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni) għandu jkun persuna bi kwalifiki professjonali, kompetenza rikonoxxuta, esperjenza u speċjalizzazzjoni fil-kamp tal-liġi tal-kompetizzjoni, u, jew fl-ekonomija tal-organizzazzjoni industrijali, u, preferibbilment, b'għarfien tal-affarijiet tal-konsumatur, u għandu jiġi maħtur mill-Awtorità wara konsultazzjoni mal-Ministru, għal perjodu ta' tlett snin u dan il-perjodu jista' jiġi mtawwal għal perjodi oħra ta' tliet snin kull wieħed:

Iżda l-ewwel Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni) għandu jiġi maħtur mill-Ministru.

Responsabbiltajiet tal-Uffiċċju.

14. Ir-responsabbiltajiet tal-Uffiċċju għall-Kompetizzjoni għandhom ikunu dawn li ġejjin:-

(a) li jinvestiga, jiddetermina u jrazzan prattici restrittivi;

(b) li jeżamina u jikkontrolla konċentrazzjonijiet bejn

intrapriži rigward l-effett tagħhom fuq l-istruttura tal-kompetizzjoni fis-suq;

(ċ) li jaġixxi bhala l-awtorità kompetenti nazzjonali f'Malta kif magħruf bis-saħħa tal-artikolu 35(1) tar-Regolament tal-Kunsill (KE) Nru. 1/2003;

(d) li jirrevedi s-swieq u l-attivitajiet kummerċjali li għandhom x'jaqsmu mal-provvista ta' oġġetti u servizzi u li jiġbor informazzjoni u evidenza sabiex ikun jista' jaċċerta jekk dawk s-swieq u attivitajiet jistgħux jaffetwaw b'mod ħażin l-interessi tal-konsumatur;

(e) li jistudja s-swieq u jirrakkomanda azzjoni fejn meħtieġ;

(f) li jinkoraġġixxi l-intrapriži u l-għaqdiet ta' intrapriži biex iħarsu l-ligi tal-kompetizzjoni u jippromwovu prattiċi ta' negozju tajba;

(g) li jagħti parir lis-settur pubbliku dwar l-implikazzjonijiet tal-proposti għal-leġislazzjoni;

(h) li jagħti parir lis-settur pubbliku dwar kwistjonijiet ta' kompetizzjoni li jistgħu jkunu fit-twettiq tal-funzjonijiet tiegħu;

(i) li jagħti parir fuq restrizzjonijiet ta' kompetizzjoni imposti bil-ligi, politika jew prattika amministrattiva;

(j) li jgħin fit-thejjija ta' pjan ta' dhul u nefqa tal-Aworità;

(k) li jipparteċipa f'laqgħat organizzati minn aġenziji u organizzazzjonijiet internazzjonali;

(l) li jagħti parir lill-Bord fuq materji tal-kompetizzjoni;

(m) li jissottometti lill-Bord rapport annwali dwar ix-xogħol tiegħu; u

(n) jeżerċità b'mod ġenerali is-setgħat mogħtija lilu taħt dan l-Att u taħt l-Att dwar il-Kompetizzjoni u kull regolamenti magħmula taħthom. Kap. 379.

(2) Fit-twettiq tar-responsabbiltajiet msemmija fis-subartikoli (1)(d) u (e), id-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni)

għandu jikkopera mad-Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur) jekk dan tal-aħħar ikun qed jirrevedi jew jistudja l-istess suq.

(3) Xejn f'dan l-Att ma għandu jiftiehem bhala li jagħti lil xi persuna, konsumatur jew intrapriża id-dritt li jitlob lid-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni) li jaġixxi f'ismu u fl-interessi tiegħu f'xi materja jew tilwima partikolari ma' xi kummerċjant, fornitur ta' servizzi jew intrapriża quddiem xi qorti, tribunal jew x'imkien ieħor.

Gradi differenti ta' prijorità.

15. (1) Id-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni) jista' jalloka gradi differenti ta' prijorità għall-kazijiet migjuba jew pendenti quddiemu u meta jagħmel hekk għandu jikkonsidra, fost fatturi oħra, dawn li ġejjin:

(a) il-livell ta' hsara lill-konsumatur li tirriżulta mill-allegat jew suspettat ksur tal-ligi;

(b) il-limitu ta' benefiċċju lill-konsumatur li jirriżulta mill-intervent tal-Uffiċċju għall-Kompetizzjoni;

(ċ) in-natura u l-gravità tal-allegat jew suspettat ksur tal-ligi;

(d) l-istadju tal-investigazzjoni;

(e) jekk il-prattici allegati għadhomx għaddejnin jew jekk l-effetti ta' hsara għadhomx jippersistu; u

(f) jekk l-allegata imgieba illegali hijiex qiegħda tiġi eżaminata jew jekk tistax tiġi eżaminata aħjar minn awtorità oħra taħt ir-regim regulatorju tagħha.

(2) Id-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni) jista' minn żmien għal żmien johroġ linji ta' gwida taħt dan l-artikolu.

TAQSIMA V

TWAQQIF TAL-UFFIĊĊJU GĦALL-AFFARIJET TAL-KONSUMATUR

Twaqqif tal-Uffiċċju għall-Affarijiet tal-Konsumatur.

16. (1) Għandu jiġi mwaqqaf uffiċċju, li jkun magħruf bhala l-Uffiċċju għall-Affarijiet tal-Konsumatur fi hdan l-Awtorità li għandu jkun immexxi mid-Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur).

(2) Id-Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur) għandu jkun persuna bi kwalifiki professjonali,

kompetenza rikonoxxuta, esperjenza u speċjalizzazzjoni fil-kamp tal-ligi tal-konsumatur, u, jew imgieba fl-ekonomija u għandu jiġi mahtur mill-Awtorità, wara konsultazzjoni mal-Ministru, għal perjodu ta' tlett snin u dan il-perjodu jista' jiġi mtawwal għal perjodi oħra ta' tliet snin kull wiehed:

Iżda l-ewwel Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur) għandu jiġi mahtur mill-Ministru.

17. (1) Ir-responsabbiltajiet tal-Uffiċċju għall-Affarijiet tal-Konsumatur għandhom ikunu dawn li ġejjin:-

Responsabbiltajiet tal-Uffiċċju għall-Affarijiet tal-Konsumatur.

(a) li jipprovdi informazzjoni, pariri u linji ta' gwida lill-pubbliku li għandhom x'jaqsmu mal-affarijiet tal-konsumatur;

(b) li jsegwi il-prattiċi ta' negozju relatati mal-provvista ta' oġġetti u servizzi lill-konsumatur, u li jieħu miżuri għat-trażzin u l-prevenzjoni ta' kull Prattika li tista' tkun ta' detriment lill-konsumatur;

(c) li jirċievi u jinvestiga ilmenti tal-konsumatur rigward l-provvista ta' oġġetti u servizzi u biex jieħu dik l-azzjoni li hi fis-setgħa tiegħu sabiex jirrimedja kull aggravju gustifikat li jista' jiġi għall-attenzjoni tiegħu;

(d) li jipprovdi pariri kontinwi lill-konsumatur dwar id-drittijiet tiegħu;

(e) li jidderiġi lill-konsumatur lejn l-organizzazzjoni proprja li tkun l-iżjed xierqa biex tagħtih għajnuna dwar ilmenti speċifiċi;

(f) li jinkoraġġixxi lill-kummerċjanti biex iħarsu il-ligi tal-konsumatur u li jipromwovi prattiċi tajba ta' negozju fit-tweqqi tal-attivitajiet li jistgħu jaffetwaw l-interessi ekonomiċi tal-konsumatur f'Malta;

(g) li jipprovdi pariri lill-kummerċjanti fuq materji relatati mal-affarijiet tal-konsumatur;

(h) li jipprovdi medjazzjoni bejn l-konsumatur u l-kummerċjanti;

(i) li jirrevedi s-swieq u l-attivitajiet kummerċjali li għandhom x'jaqsmu mal-provvista ta' oġġetti u servizzi u li jiġbor informazzjoni u provi sabiex ikun jista' jaċċerta jekk dawk s-swieq u attivitajiet jistgħux jaffetwaw b'mod ħażin l-

interessi tal-konsumatur;

(j) li jistudja s-swieq u jirrakkomanda azzjoni ta' rimedju fejn meħtieġ;

(k) li jassisti lill-Kunsill fit-twettiq tal-funzjonijiet u d-dmirijiet tiegħu u li jipprovdilu dik l-informazzjoni kif tista' tkun mitluba mill-Kunsill dwar l-eżerċizzju tad-dmirijiet tiegħu;

(l) li jagħti parir lis-settur pubbliku dwar l-implikazzjonijiet fuq il-konsumatur li jqumu minn proposti legiislattivi;

(m) li jagħti parir lis-settur pubbliku dwar affarijiet tal-konsumatur li jistgħu jqumu fit-twettiq tal-funzjonijiet tiegħu;

(n) li jagħti parir dwar l-impatt fuq l-interessi tal-konsumatur li l-liġi, politika jew prattiċi amministrattivi jista' jkollhom;

(o) li jaġixxi bħala jew jwettaq l-funzjonijiet ta' awtorità kompetenti skont ir-Regolament dwar il-Koperazzjoni u l-Protezzjoni tal-Konsumatur;

(p) li jaġixxi bħala u jwettaq l-funzjonijiet ta' uffiċċju uniku ta' kooperazzjoni f'Malta responsabbli biex jikkordina l-applikazzjoni tar-Regolament dwar il-Koperazzjoni u l-Protezzjoni tal-Konsumatur;

(q) li jizviluppa l-istrateġiji neċessarji għat-twettiq tar-responsabbiltajiet tiegħu;

(r) biex jgħin fit-tnejjija ta' pjan ta' dħul u nefqa tal-Awtorità;

(s) li jagħti parir lill-Bord fuq kwistjonijiet ta' interess lill-konsumatur;

(t) li jissottometti lill-Bord rapport annwali dwar ix-xogħol tiegħu; u

(u) jeżerċità b'mod ġenerali is-setgħat mogħtija lilu taħt dan l-Att, l-Att dwar l-Affarijiet tal-Konsumatur u kull liġi jew regolamenti dwar l-affarijiet tal-konsumatur.

Kap. 378.

(2) Fit-twettiq tar-responsabbiltajiet msemmija fl-artikoli 17(1)(i) u (j), l-artikolu 14(2) għandu *mutatis mutandis* japplika għad-Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur).

(3) Xejn f'dan l-Att jew f'xi liġi oħra ma għandu jiftiehem bħala li jagħti lil xi konsumatur id-dritt li jitlob lid-Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur) li jaġixxi f'ismu u fl-interessi tiegħu f'xi materja jew tilwima partikolari ma' xi kummerċjant jew fornitur ta' servizzi quddiem xi qorti, tribunal jew arbitru.

18. (1) Għall-finijiet tal-artikolu 17(1)(o) u (p), l-Uffiċċju għall-Affarijiet tal-Konsumatur għandu jkun l-awtorità kompetenti nazzjonali fir-rigward tal-liġijiet tal-UE elenkati fit-Tielet Skeda.

Akkwist ta' Informazzjoni.

(2) Il-Ministru jista' b'ordni jemenda it-Tielet Skeda.

TAQSIMA VI TWAQQIF TAD-DIVIŻJONI DWAR REGOLAMENTI TEKNIĊI

19. (1) Għandha tiġi mwaqqfa diviżjoni fi ħdan l-Awtorità li tkun magħrufa bħala d-Diviżjoni dwar Regolamenti Tekniċi li għandha tkun immexxija mid-Direttur Ġenerali (Regolamenti Tekniċi).

Twaqqif tad-Diviżjoni dwar Regolamenti Tekniċi.

(2) Id-Direttur Ġenerali (Regolamenti Tekniċi) għandu jkun persuna bi kwalifiki professjonali, kompetenza rikonoxxuta, esperjenza u speċjalizzazzjoni f'armonizzazzjoni teknika u affarijiet relatati mal-evalwazzjoni ta' konformità, u għandu jiġi mahtur mill-Awtorità, wara konsultazzjoni mal-Ministru, għal perjodu ta' tlett snin u dan il-perjodu jista' jiġi mtawwal għal perjodi oħra ta' tliet snin kull wieħed:

Iżda l-ewwel Direttur Ġenerali (Regolamenti Tekniċi) għandu jiġi mahtur mill-Ministru.

20. (1) Ir-responsabbiltajiet tad-Diviżjoni dwar Regolamenti Tekniċi għandhom ikunu dawn li ġejjin:-

Responsabbiltajiet tad-Diviżjoni dwar Regolamenti Tekniċi.

(a) li tabbozza leġislazzjoni dwar l-oqsma ta' kompetenza u maħruġa bis-saħħa tal-artikolu 38 tal-Att dwar is-Sigurezza tal-Prodotti, l-artikolu 10 tal-Att dwar is-Sigurtà fl-Ikel u l-artikolu 5 tal-Att dwar il-Kontroll tal-Pestiċidi u b'kull liġi oħra;

Kap. 427.

Kap. 449.

Kap. 430.

(b) li tagħti parir lill-Bord u aġenziji tal-Gvern oħra u lis-settur privat;

(ċ) li tassisti s-setturi kollha tal-industrija biex jifhmu u jikkonformaw mal-htigiet essenzjali imposti b'regolamenti

teknici, maħruġa bis-saħħa tal-Att dwar is-Sigurezza tal-Prodotti, l-Att dwar is-Sigurtà fl-Ikel u l-Att dwar il-Kontroll tal-Pestiċidi u b'kull liġi oħra, u l-ħtigiet ta' teknika, kwalità u sigurtà ta' *standards* armonizzati Ewropej u internazzjonali;

(d) li tikkordina u timplimenta l-programm regolatorju tal-entità fl-oqsma li jaqgħu taħt it-responsabbiltà tagħha u, b'mod partikolari, teżerċita l-funzjonijiet konsultattivi mogħtija lil din id-Divizjoni bis-saħħa tal-artikolu 38 tal-Att dwar is-Sigurezza tal-Prodotti, l-artikolu 9(1) tal-Att dwar is-Sigurtà fl-Ikel u b'kull liġi oħra;

(e) li tistabbilixxi, bil-kunsens tal-Ministru u tač-*Chairman* tal-Awtorità, kumitati teknici għal dawk l-oqsma ta' kompetenza li huma indikati hawn f'dan il-paragrafu, u li tippresjedi u tikkordina x-xogħol ta' dawk il-kumitati;

(f) li tagħmilha ta' Punt ta' Kuntatt tal-Prodott u tipprovdi appoġġ lill-punt fokali għal kull ħtieġa ta' notifikazzjoni, sabiex tiżgura il-prinċipju tal-moviment hieles tal-oġġetti kif mniżżel fl-artikolu 9 tar-Regolament tal-Kunsill (KE) Nru. 764/2008;

(g) li tifformola u tagħti seħħ lil programmi ta' assistenza teknika indirizzati lejn operatori fil-kummerċ bil-għan li tiġi faċilitata il-konformità tagħhom mar-regolamenti teknici u *standards* rilevanti:

Għall-fini ta' dan il-paragrafu, "programmi ta' assistenza teknika" tinkludi it-twaqqif u l-manutenzjoni ta' programm dwar l-akkreditazzjoni.

(h) li tikkomunika lill-pubbliku ġenerali u lill-partijiet interessati kull informazzjoni dwar programmi regolatorji fl-oqsma ta' kompetenza tagħha;

(i) li tipprovdi taħriġ u informazzjoni dwar ir-regolamenti teknici fl-oqsma ta' kompetenza;

(j) li tipparteċipa f'attivitajiet rilevanti nazzjonali u internazzjonali;

(k) li twettaq valutazzjoni tar-riskji u tikkordina l-attivitajiet tas-sorveljanza fuq is-suq kif preskritti fl-artikolu 27 tal-Att dwar is-Sigurezza tal-Prodotti;

(l) li jgħin fit-tnejjija tal-pjan ta' dħul u nefqa tal-Awtorità;

- (m) li jissottometti lill-Bord rapport annwali dwar ix-xoghol tiegħu;
- (n) li tizviluppa l-istrategiji neċessarji għall-implimentazzjoni tar-responsabbiltajiet tagħha;
- (o) li teżercità b'mod generali is-setgħat mogħtija lilha taħt dan l-Att, u taħt l-Att dwar is-Sigurezza tal-Prodotti, l-Att dwar is-Sigurtà fl-Ikel, l-Att dwar il-Kontroll tal-Pestiċidi u kull Att ieħor jew regolamenti magħmula taħtu; u
- (p) li tissorvelja l-implimentazzjoni tal-liġi taħt l-Att dwar Servizzi li jingħataw fis-Suq Intern u li ssegwi l-applikazzjoni tagħha.
- (2) Id-Divizjoni dwar Regolamenti Tekniċi għandha tkun l-awtorità f'Malta inkarigata bl-implimentazzjoni:
- (a) tar-Regolament (KE) Nru 764/2008 tal-Parlament Ewropew u tal-Kunsill tad-9 ta' Lulju 2008 li jistabbilixxi l-proċeduri relatati mal-applikazzjoni ta' ċerti regoli tekniċi nazzjonali għal prodotti legalment kummerċjalizzati fi Stat Membru ieħor;
- (b) tar-Regolament (KE) Nru 765/2008 tal-Parlament Ewropew u tal-Kunsill tad-9 ta' Lulju 2008 li jistabbilixxi r-rekwiziti għall-akkreditament u għas-sorveljanza tas-suq relatati mal-kummerċjalizzazzjoni ta' prodotti;
- (c) Deciżjoni Nru 768/2008/KE tal-Parlament Ewropew u tal-Kunsill tad-9 ta' Lulju 2008 dwar qafas komuni għall-kummerċjalizzazzjoni ta' prodotti; u
- (d) u attivitajiet relatati.

TAQSIMA VII
TWAQQIF TAL-ISTITUT DWAR L-ISTANDARDS
U METROLOĠIJA

21. (1) Għandu jiġi mwaqqaf istitut fi hdan l-Awtorità li jkun magħruf bhala l-Istitut dwar l-*Standards* u Metroloġija għandu jkun immexxi mid-Direttur Ġenerali (*Standards* u Metroloġija).

Twaqqif tal-Istitut dwar l-*Standards* u Metroloġija.

(2) Id-Direttur Ġenerali (*Standards* u Metroloġija) għandu jkun persuna bi kwalifiki professjonali, kompetenza rikonoxxuta. esperjenza u speċjalizzazzjoni fil-kamp ta' *standards* u f'affarijiet tal-metroloġija, kalibrazzjoni u ttestjar, u għandu jiġi maħtur mill-Awtorità, wara konsultazzjoni mal-Ministru, għal perjodu ta' tlett

snin u dan il-perjodu jista' jigi mtawwal għal perjodi oħra ta' tliet snin kull wieħed:

Iżda l-ewwel Direttur Ġenerali (*Standards* u Metroloġija) għandu jigi mahtur mill-Ministru.

Responsabbiltajiet tal-Istitut dwar l-*Standards* u Metroloġija.

22. (1) Ir-responsabbiltajiet tal-Istitut dwar l-*Standards* u Metroloġija għandhom ikunu dawn li ġejjin:-

(a) li jagħmel, jaddotta u jippubblika *standards*, dwar kull klassi, kategorija jew tip ta' prodotti u, jew servizzi;

(b) li jikkordina, jsegwi u jgħib 'il quddiem l-għemil ta' *standards* u attivitajiet relatati fid-diversi livelli korporattivi, nazzjonali, reġjonali u internazzjonali, u biex jipprovdi u, jew, jiżgura li jkun hemm servizzi relatati ta' sostenn adatti:

Għall-finijiet ta' dan il-paragrafu, "servizzi relatati ta' sostenn" tinkludi:

(i) il-promozzjoni tal-adozzjoni u l-applikazzjoni ta' kull aspett ta' metroloġija bħala haġa miżjuda meħtieġa għall-għemil ta' *standards*;

(ii) id-disponibbiltà jew l-iżgurar tad-disponibbiltà ta' servizzi tal-ittestjar;

(iii) l-offerta ta' servizzi tal-iċċertifikar;

(ċ) li jippubblika lista ta' korpi għall-għemil ta' *standards* li jkunu rikonoxxuti mill-Istitut dwar l-*Standards* u Metroloġija għall-finijiet ta' dan l-Att;

(d) li jikkonsidra kull applikazzjoni għal permess għall-użu ta' marka ta' konformità u għall-għoti ta' permessi għal dak l-għan;

(e) li jgħarraf lill-pubbliku bil-punti godda inklużi fil-programm ta' *standards* u bit-thejjija jew l-emenda ta' *standard*, kemm-il darba dak l-*istandard* ma jkunx traspożizzjoni identika jew ekwivalenti ta' *standard* Internazzjonali jew Ewropew. Din l-informazzjoni għandha tindika, b'mod partikolari, jekk l-*istandard* involut:

- ikunx se jittrasponi *standard* internazzjonali mingħajr ma jkun l-ekwivalenti tiegħu;

- huwix se jkun *standard* nazzjonali gdid; jew

- ikunx se jemenda *standard* nazzjonali; u

(f) li jikkopera ma' korpi Nazzjonali, Ewropej, Reġjonali jew korpi internazzjonali oħra fil-qasam tal-għemil ta' *standards* u jiskambja informazzjoni magħhom b'mod generali, u b'mod partikolari sa dak il-limitu daqskemm jista' jiġi provdut dwaru f'xi obbligu internazzjonali li Malta tintrabat bih jew hekk kif jista' jiġi preskritt;

(g) li jkun responsabbli għall-esekuzzjoni, manutenzjoni u konservazzjoni tal-*Standards* ta' Kejl Nazzjonali u li jzomm dejjem l-eżattezza tagħhom bit-tqabbil ma' *standards* ta' kejl internazzjonali;

(h) li jipprovdi *Standards* ta' Kejl Funzjonali ta' eżattezza adatta għall-użu f'Malta, bi tqabbil ma' l-*Standards* ta' Kejl Nazzjonali;

(i) li jkun responsabbli għall-*Standards* ta' Kejl Nazzjonali u t-traċċabilità tagħhom;

(j) li jipprovdi servizzi ta' kalibrar;

(k) li jwettaq xogħol xjentifiku u tekniku fl-oqsma kollha tal-metroloġija u metodi ta' kejl;

(l) li jiehu sehem fix-xogħol ta' organizzazzjonijiet nazzjonali oħra interessati fil-metroloġija;

(m) li jxerred informazzjoni li għandha x'taqsam mal-metroloġija;

(n) li jkun responsabbli għall-infurzar tar-regolamenti tal-metroloġija kollha maħruġa bis-saħħa tal-Att dwar il-Metroloġija regolamenti oħra; Kap. 454.

(o) li jkun responsabbli għall-esekuzzjoni u l-kalibrar ta' *standards* ta' kejl u ta' tagħmir ta' verifika;

(p) li jgħasses, jsegwi u jissorvelja l-fabbrikazzjoni u t-tiswija ta' strumenti li jkejju;

(q) li jgħib għall-attenzjoni tal-awtoritajiet kull frodi fir-rigward ta' kejl fl-għoti ta' oġġetti u servizzi;

(r) li jipprovdi biex isiru eżamijiet bil-għan li jkun aċċertat jekk persuna jkollhiex biżżejjed hila, għarfien u integrità professjonali biex tkun tista' taqdi kif għandu jkun il-

funzjonijiet tagħha li jridu jiġu mwettqa bis-saħħa tal-Att dwar il-Metroloġija;

(s) li jikkollabora mal-korpi ta' spezzjoni rilevanti floqsma ta' strumenti li jkejju u prodotti ppakkjati minn qabel;

(t) li jzomm kuntatt ma' istituzzjonijiet nazzjonali barranin li għandhom għanijiet simili u li jirrappreżenta lill-Malta f'istituzzjonijiet metroloġiċi internazzjonali;

(u) li jissottometti lill-Bord rapport annwali dwar ix-xogħol tiegħu;

(v) li jiżviluppa l-istrategiji neċessarji għall-implimentazzjoni tar-responsabbiltajiet tiegħu;

(w) li jgħin fit-tnejn tal-pjan ta' dħul u nefqa tal-Awtorità; u

(x) li jeżerċita b'mod generali ir-responsabbiltajiet mogħtija lilu taħt dan l-Att, u taħt l-Att dwar il-Metroloġija u taħt kull Att ieħor jew regolamenti magħmula taħtu.

(2) L-Istitut dwar l-*Standards* u Metroloġija għandu jkun l-korp nazzjonali inkarigat bil-kordinazzjoni tal-għemil ta' *standards* u attivitajiet relatati, u għandu jkun responsabbli għall-affarijiet relatati mal-metroloġija u metroloġija legali.

(3) L-Istitut dwar l-*Standards* u Metroloġija għandu jiffacilita l-ħtiġiet tal-ittestjar għal industrija.

Tibdil,
sostituzzjoni
jew revoka ta'
standards.

(4) Is-setgħa mogħtija lill-Istitut dwar l-*Standards* u Metroloġija biex jagħmel, jaddotta u jippubblika *standards* għandha tiftiehem li tinkludi s-setgħa, eżerċitabbli bl-istess mod, li jbidel, jissostitwixxi jew jirrevoka xi *standard* bħal dak.

Tiġi pubblikata
lista ta'
standards.

23. (1) L-Istitut dwar l-*Standards* u Metroloġija għandu jippubblika fil-Gazzetta lista ta' *standards* magħmula, adottati jew trasposti minnu flimkien mal-ekwivalenza internazzjonali tagħhom, jekk din tkun tapplika, u għandu jindika wkoll f'dawk l-avvizi mnejn tkun tista' tinkiseb kopja ta' dawk l-*standards*; u

(2) Minkejja d-disposizzjonijiet l-oħra ta' dan l-Att u ta' kull liġi oħra, il-lista ta' *standards* imsemmija qabel kif ukoll kull *standards* magħmula, adottati jew trasposti mill-Istitut dwar l-*Standards* u Metroloġija jistgħu jsiru, jiġu pubblikati, jiġu preskritti jew jitqiegħdu għad-disposizzjoni tal-pubbliku bl-ilsien Malti jew Inġliż.

24. (1) L-Istitut dwar l-*Standards* u Metroloġija għandu jagħti permess għall-użu ta' marka ta' konformità dwar xi prodott u, jew, servizzi li jissodisfaw l-*standards* u r-regolamenti tekniċi u jwettaq il-kondizzjonijiet stipulati fihom li tkun qiegħda tiġi dikjarata konformità magħhom.

Marka ta' konformità.

(2) L-Istitut dwar l-*Standards* u Metroloġija m'għandux joħroġ permess jekk ma jkollux dik il-prova u ma jiġux mogħtija lilu dawk l-opportunitajiet u l-faċilitajiet li jistgħu jkunu raġonevolment meħtieġa sabiex l-Istitut jkun jista' jissodisfa ruħu li l-prodott u, jew, is-servizzi li dwarhom tkun saret l-applikazzjoni jkunu jikkwalifikaw għal dak il-permess.

(3) F'kull permess mogħti dwar xi prodott u, jew, servizz, l-Istitut barra milli jiddeskrivi dak il-prodott u, jew, servizz, għandu wkoll:-

(a) isemmi l-persuna li jkun inħargilha il-permess;

(b) isemmi l-pajjiż fejn dawk l-oġġetti jkunu prodotti, fabbrikati jew ipproċessati; u

(c) jispeċifika l-*standards* applikabbli għal dak il-prodott u, jew servizzi:

Iżda, meta ma jkun hemm ebda tibdil fiċ-ċirkostanzi l-oħra li kienu ġġustifikaw l-għoti ta' liċenza, l-Istitut dwar l-*Standards* u Metroloġija għandu dwar kull permess bħal dak jawtorizza, fuq talba, is-sostituzzjoni tal-persuna msemmija fiha kif jiġi ppruvat li jkun meħtieġ.

(4) Għall-finijiet ta' din it-Taqsima il-partikolaritajiet imsemmija fil-paragrafi (a) u (b) għandhom jitqiesu li jagħmlu parti mid-deskrizzjoni tal-prodott u, jew, servizz li għalihom jirreferu.

25. (1) L-uffiċjali awtorizzati bil-miktub għal hekk mill-Istitut dwar l-*Standards* u Metroloġija jkunu jistgħu fil-hinijiet kollha raġonevoli jidhlu, għall-finijiet ta' dan l-Att, f'kull fond fejn prodotti u, jew, servizzi huma prodotti, fabbrikati jew ipproċessati u li għalihom ikun hemm permess fis-seħħ, u jkollhom dritt jispezzjonaw dak il-fond, jeżaminaw dawk l-oġġetti u jieħdu kampjuni tagħhom bil-mod preskritt mill-Ministru.

Setgħat tal-Istitut dwar l-*Standards* u Metroloġija li jispezzjona fondi u jakkwista informazzjoni.

(2) Kull min iċaħhad lil xi uffiċjal awtorizzat kif hawn aktar qabel imsemmi mid-dritt t'aċċess għal dak il-fond jew jostakolah jew ifixklu fil-qadi ta' dmirijietu, jkun ħati ta' reat u jehel, meta jinsab ħati mill-Qorti tal-Maġistrati, multa ta' mhux anqas minn mija u għoxrin euro (€120) u mhux iżjed minn hames mitt euro (€500) jew

prigunerija għal żmien ta' minn xahar sa tliet xhur jew dik il-multa u prigunerija flimkien.

TAQSIMA VIII

AKKWIST U FORNIMENT TA' INFORMAZZJONI

Forniment ta' informazzjoni.

26. F'din it-Taqsima, kemm il-darba r-rabta tal-kliem ma teħtiegħ xort'ohra, kull referenza għal "Uffiċċji" għandha tiftiehem bħala referenza għall-"Uffiċċju għall-Kompetizzjoni" u għall-"Uffiċċju għall-Affarijiet tal-Konsumatur" u il-kliem "Direttur Ġenerali" u "Direttur Ġenerali" għandhom jirreferu kemm għad-"Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni)" kif ukoll għad-"Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur)".

27. (1) L-Uffiċċji jistgħu jikkonsultaw mas-settur pubbliku fl-applikazzjoni ta' dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull Att ieħor, jew regolamenti magħmula taħthom li l-Uffiċċji huma intitolati li jinfurzaw.

(2) L-Uffiċċji jistgħu jitolbu informazzjoni minghand is-settur pubbliku jew xi korp li jkun qed iwettaq funzjoni regolatorja kif huma iqisu neċessarju għall-applikazzjoni ta' dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull Att ieħor, jew regolamenti magħmula taħthom li l-Uffiċċji huma intitolati li jinfurzaw.

(3) L-Uffiċċji jistgħu jidhlu fi ftehim għall-iskambju ta' informazzjoni u forom ohra ta' kollaborazzjoni mal-korpi li jkollhom funzjonijiet regolatorji.

(4) Kull ftehim li jidhol fih l-Uffiċċju għall-Kompetizzjoni skont is-subartikolu (3) m'għandux japplika għal investigazzjonijiet mibdija minnu li jkollhom x'jaqsmu mal-allegat ksur tal-Artikoli 101 u, jew 102 tat-TFUE.

Żvelar ta' informazzjoni kunfidenzjali.

28. (1) Hlief fejn stabbilit mil-liġi, ebda persuna ma għandha xjentement tiżvela informazzjoni kunfidenzjali u dokumenti interni li tkun kisbet waqt il-qadi ta' dmirijietha bħala membru, uffiċjal jew impjegat tal-Awtorità jew bħala persuna li tagħti l-pariri, konsulent jew xi persuna ohra ingaġġata mal-Awtorità.

(2) Kull persuna li tikser id-disposizzjonijiet tas-subartikolu (1) tkun hatja ta' reat kontra dan l-Att u, tista', meta tinsab hatja, tehel multa ta' mhux inqas minn elfejn euro (€2,000) u mhux iżjed minn għaxart'elef euro (€10,000).

29. (1) Hlief fejn stabbilit mil-liġi, id-Diretturi Ġenerali m'għandhomx jikkomunikaw jew jagħmlu aċċessibli informazzjoni, inkluż dokumenti, li huma iqisu li hija interna jew li jkun fiha sigrieti tan-negozju jew informazzjoni kunfidenzjali oħra fuq xi persuna.

Identifikazzjoni u protezzjoni ta' informazzjoni kunfidenzjali.

(2) Kull persuna, intrapriża jew għaqda ta' intrapriži jew xi korp ieħor li tissottometti informazzjoni jew kummenti f'waħda mis-sitwazzjonijiet mnizzla hawn isfel jew sussegwentement tissottometti iżjed informazzjoni lid-Direttur Ġenerali fil-kors tal-investigazzjoni, għandha b'mod ċar tidentifika kull materjal li hi tikkonsidra kunfidenzjali, tagħti r-raġunijiet, u ttiprovdri verżjoni separata mhux kunfidenzjali sa dik d-data stabbilita mid-Direttur Ġenerali biex turi l-fehmiet tagħha:

- min jagħmel l-ilment taħt l-Att dwar il-Kompetizzjoni jew taħt l-Att dwar l-Affarijiet tal-Konsumatur;

Kap. 379.

- persuna, intrapriża jew għaqda ta' intrapriži jew xi korp ieħor li tkun qed tħares talba għall-forniment ta' informazzjoni taħt l-Att dwar il-Kompetizzjoni jew taħt l-Att dwar l-Affarijiet tal-Konsumatur;

Kap. 378.

- indirizzat tal-istqarrija tal-oġġezzjonijiet magħmula taħt l-artikolu 12A tal-Att dwar il-Kompetizzjoni fejn jintwerew l-fehmiet tiegħu dwar l-oġġezzjoni;

- min jagħmel l-ilment fejn juri l-fehmiet tiegħu fuq l-istqarrija ta' oġġezzjonijiet taħt l-artikolu 12A tal-Att dwar il-Kompetizzjoni

- min jagħmel l-ilment fejn juri l-fehmiet tiegħu fuq l-ittra mid-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni) li jinfurmah bil-ħsieb tal-Uffiċċju illi l-ilment magħmul taħt l-artikolu 14(2) tal-Att dwar il-Kompetizzjoni ser jiġi miċhud;

- indirizzat ta' stedina mid-Direttur Ġenerali biex jibdew diskussjonijiet li jwasslu għall-ftehim taħt l-artikolu 12B tal-Att dwar il-Kompetizzjoni.

(3) Bla ħsara għas-subartikolu (2), id-Diretturi Ġenerali jistgħu jitolbu lill-persuni, intrapriži u għaqdiet ta' intrapriži jew xi korp ieħor biex jissottomettu dokumenti jew stqarrijiet skont dan l-Att biex jidentifikaw id-dokumenti jew partijiet mid-dokumenti illi huma iqisu illi għandhom sigrieti tan-negozju jew informazzjoni oħra kunfidenzjali li jappartjenu lilhom u li jidentifikaw l-intrapriži fir-

rigward ta' liema dawk d-dokumenti għandhom jiġu kkunsidrati kunfidenzjali.

(4) Fil-każ ta' stqarrija tal-oġġezzjonijiet mibghuta mid-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni) taħt l-Att dwar il-Kompetizzjoni u fil-każ ta' deċiżjoni meħuda mid-Direttur Ġenerali, persuni, intrapriżi jew għaqda ta' intrapriżi jistgħu jiġu mitluba biex jidentifikaw xi parti mill-istqarrija ta' oġġezzjonijiet jew mid-deċiżjoni meħuda li fil-fehma tagħhom ikun fiha sigrieti tan-negozju.

(5) Id-Direttur Ġenerali jista' jistabbilixxi terminu f'liema perjodu il-persuni, intrapriżi u l-għaqda ta' intrapriżi jew xi korp ieħor għandhom:

(a) jissostanzjaw il-pretensjoni tagħhom dwar l-kunfidenzjalità fir-rigward ta' kull dokument individwali jew parti minn dak id-dokument, stqarrija jew parti minn dik l-istqarrija;

(b) jipprovdu lid-Direttur Ġenerali b'verżjoni mhux kunfidenzjali tad-dokumenti jew stqarrijiet, li fihom l-passaġġi (siltiet) kunfidenzjali jiġu mhassra; u

(c) jipprovdu deskrizzjoni qasira ta' kull parti mill-informazzjoni mhassra.

(6) F'każ li l-persuni, intrapriżi jew l-għaqda ta' intrapriżi jew xi korp ieħor jonqsu milli jharsu s-subartikoli (2) sa (4), id-Direttur Ġenerali jista' iqis illi d-dokumenti jew stqarrijiet konċernati m'għandhomx informazzjoni kunfidenzjali.

(7) Meta il-persuni, intrapriżi jew l-għaqda ta' intrapriżi jew xi korp ieħor jissodisfaw il-kondizzjonijiet fis-subartikoli (2) sa (4), id-Direttur Ġenerali għandu:

(a) jaċċetta provvizorjament it-talbiet li jkunu jidhru ġustifikati; jew

(b) jinforma lil persuna jew lill-intrapriża jew lill-għaqda ta' intrapriżi jew xi korp ieħor illi hu ma jaqbilx mal-pretensjoni kollha jew parti minnha dwar l-kunfidenzjalità, fejn jidher illi l-pretensjoni mhix ġustifikata.

(8) Id-Direttur Ġenerali jista' jdawwar lura l-aċċettazzjoni provvizorja tal-pretensjoni kollha jew parti minnha dwar il-kunfidenzjalità, fi stadju iżjed tard.

(9) Meta d-Direttur Ġenerali ma jaqbilx mal-pretensjoni dwar

il-kunfidenzjalità mill-bidu jew meta ikun tal-fehma illi l-aċċetazzjoni provvizorja tal-pretensjoni dwar il-kunfidenzjalità għandha tiġi mregġa' lura, u għaldaqstant ikun hemm il-ħsieb li jiżvela l-informazzjoni, id-Direttur Ġenerali għandu jinforma bil-miktub lill-persuna jew lill-intrapriża jew lill-għaqda ta' intrapriži jew lil xi korp ieħor bil-ħsieb tiegħu li jiżvela l-informazzjoni, jagħti r-raġunijiet tiegħu, u jistabbilixxi terminu f'liema dik il-persuna jew intrapriża jew għaqda ta' intrapriži jew xi korp ieħor jistgħu jinformawh bil-miktub dwar il-fehmiet tagħhom. Jekk, wara s-sottomissjoni ta' dawk il-fehmiet, nuqqas ta' qbil fuq il-pretensjoni dwar l-kunfidenzjalità jippersisti, id-Direttur Ġenerali għandu jieħu deċiżjoni dwar dan.

(10) F'dawk il-każijiet meta il-persuna jew l-intrapriża jew l-għaqda ta' intrapriži jew xi korp ieħor ma taqbilx mad-deċiżjoni tad-Direttur Ġenerali fis-subartikolu (9), il-persuna jew l-intrapriża jew l-għaqda ta' intrapriži jew xi korp ieħor tista' tappella quddiem it-Tribunal tal-Appell fi żmien għaxart'ijiem minn meta d-deċiżjoni tad-Direttur Ġenerali tiġi notifikata u d-deċiżjoni tal-Tribunal tal-Appell għandha tkun finali.

(11) Il-persuni li jagħmlu ilmenti jew intrapriži jew għaqda ta' intrapriži jew xi korp ieħor jew kull persuna li tikkollabora f'investigazzjoni mmexxija mill-Uffiċċji għandhom, jekk ikunu jridu jibqgħu anonimi, jitolbu hekk lid-Direttur Ġenerali. Id-Direttur Ġenerali għandu jaċċetta din it-talba għall-anonimità jekk jidhirlu li t-talba hija ġustifikata. Id-Direttur Ġenerali għandu jipproteġi l-anonimità billi jipprovdi aċċess għall-verżjoni mhux kunfidenzjali jew għat-taqsira tad-dokumenti preżentati. It-talbiet għall-anonimità għandhom jiġu trattati skont is-subartikoli (6) sa (8). Meta d-Direttur Ġenerali ma jqisx illi t-talba għall-anonimità hija ġustifikata, is-subartikoli (9) u (10) għandhom japplikaw.

30. (1) L-Awtorità għandha, sugġett għall-protezzjoni ta' kull informazzjoni illi tikkonsidra kunfidenzjali, tippubblika minn żmien għal żmien dik l-informazzjoni illi tkun tagħti kontribut lil suq miftuħ u kompettiv jew għall-benefiċċju tal-konsumatur.

Pubblikazzjoni
ta'
informazzjoni.

(2) Meta tiġi ppubblikata informazzjoni kif hemm imsemmi fis-subartikolu (1), l-Awtorità għandha isegwi il-principji tas-sewwa u tal-oġgettività.

(3) Id-Diretturi Ġenerali u kull uffiċċjal li jkun qed jaġixxi fuq l-istruzzjonijiet jew l-awtorità tal-imsemmija Diretturi Ġenerali, ikunu eżentati minn kull responsabbiltà għal dak l-għemil li jkun sar *bona fide* bi twettiq skont dan l-artikolu. Din l-eżenzjoni tapplika għall-persuni kollha li jippubblikaw, jistampaw, jirreġistraw, ixandru

jew jikkomunikaw dik l-informazzjoni b'kull mezz li jkun.

TAQSIMA IX

TWAQQIF TAT-TRIBUNAL TAL-APPELL TAL-KOMPETIZZJONI U TAL-KONSUMATUR

Twaqqif tat-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur.

31. (1) Għandu ikun hemm tribunal, li jkun magħruf bħala t-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur, minn hawn 'l quddiem msejjaħ "it-Tribunal tal-Appell", li jeżerċità u jwettaq il-funzjonijiet mogħtija lilu b'dan l-Att, bl-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur jew b'kull regolament magħmul taħthom.

Ghamla.

32. (1) It-Tribunal tal-Appell għandu jkun magħmul mill-President li għandu jkun Mħallef, u żewġ membri oħra minn elenku ta' membri ordinarji magħzula mill-President.

(2) Għandu jkun hemm elenku ta' sitt membri ordinarji, kollha b'tal-anqas għaxar snin esperjenza, maħtura mill-President ta' Malta, fuq il-parir tal-Prim Ministru li jkun magħmul minn żewġ avukati, bi kwalifiki ta' speċjalizzazzjoni u esperjenza. wieħed fil-liġi tal-kompetizzjoni u l-iehor fil-liġi tal-konsumatur; żewġ ekonomisti, b'kompetenza rikonoxxuta, preferibbilment wieħed fl-ekonomija tal-organizzazzjoni industrijali u l-iehor fl-imġieba fl-ekonomija; *accountant* pubbliku ċertifikat u persuna b'għarfien tal-industrija u l-kummerċ.

(3) Fl-għażla taż-żewġ membri ordinarji li jkunu fit-Tribunal tal-Appell taht is-subartikolu (1), il-President għandu jiehu kont tan-natura tal-każ u tas-suq konċernat.

(4) Il-membri ordinarji tat-Tribunal tal-Appell għandhom jiġu maħtura għal perjodu ta' tliet snin u jkunu eligibbli għall-ħatra mill-ġdid.

(5) Il-membri ordinarji tat-Tribunal tal-Appell jistgħu jirriżenjaw mill-kariga tagħhom permezz ta' ittra indirizzata lill-President ta' Malta. Ir-riżenja ikollha effett meta il-kitba li tissinjifika ir-riżenja tkun rċevuta mill-President ta' Malta jew minn persuna awtorizzata minnu.

(6) Membru ordinarju tat-Tribunal tal-Appell ma jistgħax jitneħħa mill-kariga tiegħu ħlief mill-President ta' Malta li jaġixxi skont l-parir tal-Prim Ministru minħabba f'inkapaċità ippruvata li jwettaq id-dmirijiet tal-kariga tiegħu (kemm jekk għal mard korporali jew mentali jew għal xi raġuni oħra) jew imġieba ħazina.

(7) Avviż ta' kull ħatra fit-Tribunal tal-Appell u ta' kull tibdil ieħor fis-shubija tiegħu għandu jiġi pubblikat fil-Gazzetta.

(8) It-Tribunal tal-Appell għandu jkun indipendenti fit-twettiq tal-funzjonijiet tiegħu.

(9) (a) Il-membri ordinarji tat-Tribunal tal-Appell, m'għandhomx jitwaqqfu mill-prattika tal-professjoni rispettiva tagħhom.

(b) Il-ħlas dovut lill-membri ordinarji tat-Tribunal tal-Appell għandu jiġi ħallas mill-Fond Konsolidat mingħajr il-ħtieġa ta' iżjed approprazzjoni.

(10) Persuna ma tikkwalifikax biex tinħatar jew tibqa' membru ordinarju tat-Tribunal tal-Appell jekk:

(a) tkun falluta mhux meħlusa; jew

(b) tkun ingħatat sentenza ta' prigunerija għal sitt xhur jew iżjed minn xi qorti; jew

(c) tkun instabet ħatja ta' xi reat kontra dan l-Att, l-Att dwar il-Kompetizzjoni jew l-Att dwar l-Affarijiet tal-Konsumatur jew xi regolament ieħor magħmula taħthom; jew

(d) tkun Membru tal-Kamra tad-Deputati jew tal-Parlament Ewropew jew ta' Kunsill Lokali.

(11) Kull membru ordinarju tat-Tribunal tal-Appell għandu, qabel ma jibda jiġi trattat xi każ, jiddikjara kull interess li huwa jista' jkollu fil-proċedimenti u l-President jista' jahtar membru ieħor mill-elenku.

(12) Meta jibdew proċeduri u ma tkun ingħatat l-ebda deċiżjoni finali u wieħed mill-membri ordinarji ikun waqaf mill-kariga ta' membru jew għal kull raġuni oħra ikun waqaf illi jkun disponibbli, il-President jista' jagħzel li jahtar membru ieħor mill-elenku minflok dan u jekk ikun strettament meħtieġ għad-determinazzjoni xierqa tal-każ jibda mill-ġdid il-proċeduri, jew ikompli jisma' il-każ b'membri ordinarju wieħed biss:

Iżda meta ż-żmien tal-ħatra ikun għadda u l-membri ordinarju ma jkunx gie maħtur mill-ġdid, il-membri ordinarju għandu jkompli jisma' l-każ sakemm jinqata'.

(13) Il-membri ordinarji tat-Tribunal tal-Appell, għandhom, tul jew wara l-kariga tagħhom, jaġixxu b'integrità u ma jkollhomx

x'jaqsmu ma' xi attività li, minhabba t-tagħrif miksub minn informazzjoni kunfidenzjali u sigrieti tan-negozju waqt il-kariga tagħhom, tqajjem kunflitt ta' interess u tagħmel ħsara lill-interessi tal-intrapriži konċernati. Kull persuna li tikser dan is-subartikolu tkun hatja ta' reat kontra dan l-Att, u meta tinsab hatja, tista' tehel multa ta' mhux inqas minn ħamest'elef euro (€5,000) u tiġi impedita milli tiġi mahtura f'kariga bħal dik għal perjodu ta' mhux inqas minn għaxar snin.

Registru tat-Tribunal tal-Appell.

33. (1) Għandu jkun hemm registru tat-Tribunal tal-Appell.

(2) Il-Ministru responsabbli għall-gustizzja jista', permezz ta' regolamenti taħt dan l-Att, jwaqqaf Registru tat-Tribunal tal-Appell u l-funzjonijiet tiegħu.

(3) Il-Ministru responsabbli għall-gustizzja jista' wkoll permezz ta' regolamenti taħt dan l-Att jistabbilixxi:

(a) id-drittijiet li jistgħu jkunu dovuti lir-Registru tat-Tribunal tal-Appell;

(b) id-drittijiet li jistgħu jkunu dovuti lil avukati, prokuraturi legali jew persuni oħra li jirrapreżentaw il-partijiet li jidhru quddiem it-Tribunal tal-Appell; u

(ċ) id-drittijiet li jistgħu jkunu dovuti lil esperti li jidhru quddiem it-Tribunal tal-Appell.

(4) It-Tribunal tal-Appell għandu jzomm verżjoni kunfidenzjali u mhux kunfidenzjali tar-*records* tiegħu.

(5) Ir-*records* tat-Tribunal tal-Appell għandu jkun aċċessibli għall-persuni kollha, u kopji għandhom jingħataw bi ħlas tad-dritt preskritt lil kull persuna fuq talba:

Iżda għandu jittiehed kont għall-protezzjoni ta' kull informazzjoni kunfidenzjali u sigrieti tan-negozju.

(6) Ir-*records* tat-Tribunal tal-Appell għandhom jiġu depożitati u miżmuma f'dawk l-arkivji kif jista' jkun determinat mill-Ministru responsabbli għall-gustizzja b'regolamenti taħt dan l-Att.

Hatra ta' Segretarju.

34. Il-Ministru għandu jahtar uffiċjal pubbliku bħala Segretarju tat-Tribunal tal-Appell. Is-segretarju għandu ikollu *mutatis mutandis* l-istess setgħat u dmirijiet tar-Registratur tal-Qrati, u għandu jiehu struzzjonijiet mingħand il-President fiċ-ċirkostanzi kollha li l-imsemmi Registratur skont il-Kodiċi ta' Organizzazzjoni u

Kap. 12.

Proċedura Ċivili għandu jiehu mingħand imħallef li jkun qed jippresjedi qorti partikolari.

35. Il-Ministru, fuq parir tal-President, għandu jahtar avukat, li jkollu *postgraduate degree* li tkopri l-liġi tal-kompetizzjoni u, jew konsumatur, fuq bażi *full-time* biex jgħin lit-Tribunal tal-Appell bħala referendarju biex jabbozza deċiżjonijiet, jirriċerka u jwettaq kull xogħol ieħor relatat mal-kompetenza tat-Tribunal tal-Appell kif mogħtija lilu mill-President. Hatra ta' avukat.

36. (1) It-Tribunal tal-Appell presedut mill-President tiegħu ikollu kompetenza li jisma' u jaqta' appelli minn deċiżjonijiet, ordnijiet jew miżuri tad-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni) u d-Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur) kif stabbilit fl-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull regolament magħmul taht l-imsemmija Atti. Kompetenza tat-Tribunal.
Kap. 378.
Kap. 379.

(2) Id-deċiżjonijiet ta' kazijiet quddiem it-Tribunal tal-Appell għandhom ikunu skont l-opinjoni unanima tal-membri li jiddeċiedu l-każ jew skont deċiżjoni b'maġġoranza liema maġġoranza trid tinkludi l-President.

37. (1) Sakemm mhux provdut mod ieħor, it-Tribunal tal-Appell ikollu s-setgħat u għandu jsegwi l-proċeduri mnizzla fl-artikoli ta' dan l-Att u fit-Tieni Skeda, l-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur u kull regolament magħmula tahtom. Proċeduri tat-Tribunal tal-Appell.

(2) Il-Ministru jista', jagħmel regoli mhux inkonsistenti ma' dan l-Att, l-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur u kull regolament magħmula tahtu, li jippreskrivu kif għandhom jissegwew u jintużaw il-proċeduri u l-forom quddiem it-Tribunal tal-Appell.

(3) Fin-nuqqas ta' disposizzjonijiet jew regoli kif imsemmi qabel, it-Tribunal tal-Appell għandu jirregola il-proċeduri tiegħu.

TAQSIMA X

UFFIĊJALI U IMPJEGATI TAL-AWTORITA'

38. L-Awtorità tista' bl-approvazzjoni tal-Ministru tingaġġa dawk l-uffiċjali u impjegati li teħtieġ għat-tweqqiq xieraq tal-funzjonijiet tagħha taht dan l-Att. It-termini u l-kondizzjonijiet tal-impieg u hatra għandhom jiġu stabbiliti mill-Awtorità bil-qbil tal-Ministru. Hatriet tal-persunal.

39. L-Awtorità tista', bl-approvazzjoni tal-Ministru mogħtija wara konsultazzjoni mal-Ministru responsabbli għall-finanzi, tistabilixxi skema jew skemi, b'arrangamenti kontributorji jew mhux kontributorji jew b'parti minn wiehed u b'parti mill-iehor, għall-ħlas ta' pensjonijiet, gratwitajiet u benefiċċji oħra bħal dawk lill-uffiċjali u l-impjegati tagħha meta jirtiraw, imutu jew ikorru, jew lid-dipendenti tagħhom.

Inkarigu ta' uffiċjali pubbliċi għal xogħol mal-entitajiet.

40. (1) Is-Segretarju Permanenti Ewlieni, fuq id-direzzjoni tal-Prim Ministru jista', minn żmien għal żmien, jidderigi li uffiċjal pubbliku għandu jiġgi inkarigat għal xogħol mal-Awtorità f'dik il-kapaċità u taħt dawk il-kondizzjonijiet b'effett minn dik id-data li hu jista' jispeċifika.

(2) Is-Segretarju Permanenti Ewlieni, fuq id-direzzjoni tal-Prim Ministru, jista' f'kull hin jirrevoka kull direzzjoni bħal dik mogħtija taħt is-subartikolu (1).

Status ta' uffiċjali pubbliċi inkarigati jagħmlu xogħol mal-entitajiet.

41. (1) Meta uffiċjal pubbliku jiġi inkarigat jagħmel xogħol mal-Awtorità taħt xi disposizzjoni tal-artikolu 40, dak l-uffiċjal għandu, matul il-perjodu li fih dik id-direttiva jkollha effett fir-rigward tiegħu, jkun taħt l-awtorità amministrattiva u l-kontroll tal-Awtorità, imma huwa għandu għall-finijiet u l-effetti kollha jibqa' u jkun ikkonsidrat u ttrattat bħala uffiċjal pubbliku.

(2) Bla ħsara għall-generalità t'hawn aktar qabel, uffiċjal inkarigat jagħmel xogħol kif hawn qabel imsemmi:

(a) m'għandux matul il-perjodu li matulu huwa jkun hekk inkarigat:-

(i) jiġi mcaħhad milli japplika għal trasferiment f'xi dipartiment tal-Gvern skont it-termini u l-kondizzjonijiet ta' servizz marbuta mal-ħatra taħt il-Gvern li kellu fid-data li fiha huwa hekk kien inkarigat biex jagħmel ix-xogħol; jew

(ii) ikun hekk impjegat li l-ħlas u l-kondizzjonijiet ta' servizz tiegħu ikunu inqas favorevoli minn dawk li jkunu marbuta mal-ħatra taħt il-Gvern u li jkun qed igawdi fid-data hawn qabel imsemmija jew li kieku kienu jkunu marbuta ma' dik il-ħatra, matul dak il-perjodu, li kieku dak l-uffiċjal ma kienx gie inkarigat jagħmel xogħol mal-Awtorità; u

(b) ikun intitolat li s-servizz tiegħu mal-Awtorità jiġi meqjus bħala servizz mal-Gvern għall-finijiet ta' pensjoni għal servizz mal-Gvern, li kien intitolat għalih, u jkun responsabbli

għal dak kollu li jista' jkun responsabbli għalih, li kieku dak l-uffiċjal ma jkunx gie mqabbad jaqdi dmirijietu mal-Awtorità:

Iżda fil-kalkolu tal-emolumenti pensjonabbli ta' dak l-uffiċjal għall-finijiet ta' xi ligi li għandha x'taqsam mal-pensjonijiet għal servizz mal-Gvern, m'għandu jittiehed ebda kont ta' xi *allowance*, bonus jew gratwitajiet mhallsa lil dak l-uffiċjal mill-Awtorità li tkun iżjed minn dak li għandu jedd għalih bhala uffiċjal pubbliku:

Iżda wkoll matul iż-żmien li hu jkun assenjat biex jaqdi dmirijietu mal-Awtorità, il-pattijiet u l-kondizzjonijiet tas-servizz tiegħu ma għandhomx ikunu inqas favorevoli minn dawk marbuta mal-ħatra tiegħu taħt il-Gvern fl-istess perjodu. Dawk it-termini u l-kondizzjonijiet m'għandhomx jitqiesu li jkunu inqas favorevoli sempliċement għaliex ma jkunux f'kull rigward identiċi ma' jew superjuri għal dawk gawduti mill-uffiċjal involut fid-data li fiha jkun assenjat, jekk il-pattijiet u l-kondizzjonijiet, meħudin flimkien, fil-fehma tal-Prim Ministru jkunu joffru benefiċċji sostanzjalment ekwivalenti jew aħjar.

(3) Meta ssir applikazzjoni kif hemm provdut fis-subartikolu (2)(a)(i), għandha tingħata l-istess konsiderazzjoni bħallikieku l-applikant ma kienx gie inkarigat jagħmel servizz mal-Awtorità.

(4) L-Awtorità għandha tħallas lill-Gvern dawk il-kontribuzzjonijiet li jistgħu minn żmien għal żmien jiġu stabbiliti mill-Ministru responsabbli għall-Finanzi fir-rigward tan-nefqa ta' pensjonijiet u gratwitajiet li jaqla' uffiċjal li jiġi inkarigat jagħmel xogħol mal-Awtorità kif hawn qabel imsemmi matul l-perjodu li fih ikun qed jagħmel dak ix-xogħol.

42. (1) L-Awtorità tista', bl-approvazzjoni tal-Prim Ministru, toffri lil uffiċjal li jkun inkarigat jagħmel xogħol mal-Awtorità taħt id-disposizzjonijiet tal-artikolu 40, impieg permanenti magħha b'dak il-ħlas u b'dawk it-termini u l-kondizzjonijiet li ma jkunux inqas favorevoli minn dawk li dak l-uffiċjal ikun qed igawdi fid-data ta' dik l-offerta.

Offerta ta' impieg permanenti mal-Awtorità lill-uffiċjali pubbliċi inkarigati jagħmlu xogħol mal-Awtorità.

(2) It-termini u l-kondizzjonijiet komprizi f'xi offerta magħmula kif hawn qabel imsemmi m'għandhomx jitqiesu li jkunu inqas favorevoli sempliċement minħabba li ma jkunux f'kull rigward identiċi ma' jew aħjar minn dawk li l-uffiċjal involut ikun qed igawdi fid-data ta' dik l-offerta, jekk dawk it-termini u l-kondizzjonijiet, meħuda ilkoll flimkien, ikunu fil-fehma tal-Prim Ministru, joffru benefiċċji sostanzjalment ekwivalenti jew aħjar.

(3) L-uffiċjal għandu, fi żmien xahar minn meta l-offerta msemmija fis-subartikolu (1) tkun saret, jindika bil-miktub jekk aċċettax l-offerta jew le.

(4) Kull uffiċjal pubbliku li jaċċetta impieg permanenti li jiġi offrut lil mal-Awtorità, taht id-disposizzjonijiet tas-subartikolu (1) għandu, għall-finijiet kollha barra minn dawk ta' xi liġi dwar pensjonijiet għall-servizz mal-Gvern, u bla ħsara għad-disposizzjonijiet tal-artikolu 63, jitqies li temm milli jibqa' fis-servizz mal-Gvern u li daħal fis-servizz mal-Awtorità fid-data minn meta jaċċetta, u għall-finijiet ta' dik il-liġi, sakemm din tkun applikabbli għalih, servizz mal-Awtorità għandu jitqies bħala servizz mal-Gvern fil-parametri tat-tifsiriet relattivi rispettivament.

(5) Kull uffiċjal bħal dak hawn qabel imsemmi li, minnufih qabel ma jaċċetta impieg permanenti mal-Awtorità, jkun intitolat għal benefiċċju taht l-Att dwar il-Pensjoni tar-Romol u l-Orfni, jkompli jkollu dak il-jedd għal benefiċċju taht dak l-Att għal kull fini bħallikieku s-servizz tiegħu mal-Awtorità kien servizz mal-Gvern.

(6) L-Awtorità għandha tħallas lill-Gvern dawk il-kontribuzzjonijiet li jistgħu minn żmien għal żmien jiġu stabbiliti mill-Ministru responsabbli għall-Finanzi dwar in-nefqa ta' pensjonijiet u gratwitajiet li jaqla' uffiċjal li jkun aċċetta impieg permanenti mal-Awtorità kif hawn qabel imsemmi matul l-perjodu li jibda għaddej mid-data minn meta dak l-uffiċjal ikun aċċetta.

(7) Għall-finijiet tal-Ordinanza dwar il-Pensjonijiet, l-emolumenti pensjonabbli ta' dak l-uffiċjal pubbliku meta jirtira għandhom jitqiesu li jkunu l-emolumenti pensjonabbli li jithallsu lil xi uffiċjal fis-servizz tal-Gvern fil-grad u fil-livell inkrementali li jikkorrispondi mal-kariga u l-livell inkrementali li jkollu l-uffiċjal meta jirtira minn mal-Awtorità.

(8) (a) Għall-finijiet biex jiġu kalkolati l-emolumenti tal-pensjoni, karigi u gradi salarjali mal-Awtorità għandhom ikunu klassifikati fil-gradi u l-livelli inkrementali li jkunu l-aktar jikkorrispondu ma' dawk ta' min hu fis-servizz taht il-Gvern b'riferenza għad-deskrizzjoni ta' xogħol, kapaċitajiet, responsabbiltajiet u fatturi oħra li jixxiebħu;

(b) Il-klassifikazzjoni msemmija fil-paragrafu (a) għandha ssir minn bord li jkun magħmul minn *Chairman* li jiġi mahtur mill-Ministru responsabbli għall-Finanzi u magħmul ukoll minn żewġ membri oħra, wiehed mahtur mill-Ministru ċentralment responsabbli għal politika dwar il-persunal fis-servizz pubbliku u wiehed li jiġi mahtur mill-Awtorità. Il-klassifikazzjoni tkun sugġetta

għall-approvazzjoni finali tal-Ministru responsabbli għall-Finanzi;

(c) Dik il-klassifikazzjoni għandha ssehh fi żmien tliet xhur minn kull meta isir aġġustament tas-salarji ta' impjegati fis-servizz mal-Gvern u, jew, ta' impjegati tal-Awtorità;

(d) Ebda kariga ma għandha tiġi klassifikata fi grad oġġla minn dak ta' Grad 3 fis-servizz tal-Gvern jew dak il-grad ieħor li l-Ministru responsabbli għall-Finanzi jista' minn żmien għal żmien jistabbilixxi b'avviż fil-Gazzetta; u

(e) Bla ħsara għall-artikolu 113 tal-Kostituzzjoni, hadd ma jista', wara klassifikazzjoni kif hawn qabel imsemmi, ikun intitolat għal drittijiet taht l-imsemmija Ordinanza dwar il-Pensjonijiet li jkunu inqas favorevoli minn dawk li kien ikun intitolat għalihom qabel dik il-klassifikazzjoni.

43. L-Awtorità tista', fejn ikun meħtieġ għat-twettiq xieraq tal-funzjonijiet tagħha, jinkarigaw, f'kapacità konsultattiva, lil min iridu jekk il-perizja partikolari tiegħu tkun meħtieġa għat-twettiq xieraq ta' xogħol partikolari:

Hatra ta persuni b'mod temporanju.

Iżda meta l-konsulent meħtieġ ikun impjegat pubbliku, il-Prim Ministru jista' jinkariga, fuq talba tad-Direttur Ġenerali konċernat, lill-impjegat pubbliku sabiex jassisti.

Iżda wkoll dik il-persuna għandha wkoll tkun marbuta bl-istess kondizzjonijiet bħal dawk ta' uffiċjali oħra impjegati mal-Awtorità.

44. Kull persuna maħtura bħala uffiċjal tal-Awtorità għandha, qabel ma tidhol għad-dmirijiet tagħha, tiegħu l-ġurament li ser twettaq d-dmirijiet tal-kariga jew tal-impieg tagħha fedelment u b'imparzjalità. Il-forma tal-ġurament għandu jkun dak li hemm mnizzel fl-Ewwel Skeda u għandu jingħata mill-President tat-Tribunal tal-Appell.

Ġurament ta' segretezza.

45. (1) Meta uffiċjal pubbliku jew impjegat tal-Awtorità, konsulent, persuna li tagħti l-pariri jew kull persuna oħra ingaġġata mill-Awtorità, ikollu xi interess fi, jew materjali għal, xi kwistjoni li għandha tiġi kkunsidrata mill-Awtorità, hu-

Żvelar ta' interess.

(a) għandu jiżvela lill-Awtorità ix-xorta tal-interess tiegħu fl-ewwel laqgħa tal-Awtorità wara li jinkiseb dak l-interess jew qabel ma tiġi kkunsidrata l-kwistjoni, skont liema tiġi l-ewwel;

(b) għandu la jinfluwenza u lanqas jipprova jinflu-

wenza deċiżjoni li għandha x'taqsam mal-kwistjoni;

(ċ) ma għandu jieħu ebda sehem fil-konsiderazzjoni ta' dik il-kwistjoni.

(2) Meta tqum kwistjoni dwar jekk imġieba segwita minn persuna, tirriżultax jew le f'nuqqas tagħha milli tikkonforma ruħha mal-htigiet tas-subartikolu (1), il-kwistjoni għandha tiġi deċiża mill-Awtorità u kemm id-deċiżjoni u l-motivazzjoni tagħha għandhom jiġu mnizzla fil-minuti tal-laqgħa li fiha jkunu ttieħdu.

(3) Meta jsir xi żvelar lill-Awtorità skont is-subartikolu (1), għandhom jiġu mnizzla d-dettalji ta' dak l-iżvelar fil-minuti ta' dik il-laqgħa.

(4) Meta persuna li għaliha japplika is-subartikolu (1) tonqos milli tagħmel l-iżvelar meħtieġ, l-Awtorità għandha tiddeċiedi dwar liema azzjoni adatta għandha tieħu, li tista' tinkludi t-tneħħija mill-kariga jew it-terminazzjoni tal-kuntratt tal-persuna konċernata.

Kodiċi tal-Etika.

46. (1) Id-Diretturi Ġenerali u l-impjegati tal-Awtorità għandhom jimxu ma' kull Kodiċi tal-Etika applikabbli għal uffiċjali pubbliċi u għandu jkollhom, bla ħsara għal kull liġi kuntrarja, l-istess obbligi tahtu:

Iżda id-Diretturi Ġenerali għandhom, bl-approvazzjoni tal-Kumitat għat-Tmexxija, ihejju valuri ta' servizz u Kodiċijiet tal-Etika fir-rigward tal-entitajiet rispettivi tagħhom, sabiex jiġi ssupplimentat kull Kodiċi tal-Etika tas-servizz pubbliku.

(2) (a) Il-membri tal-Bord, uffiċjali pubbliċi u impjegati tal-Awtorità u persuni li jagħtu l-pariri, konsulenti u persuni oħra inkarigati mal-Awtorità għandhom, wara t-tmiem tal-kariga tagħhom, jaġixxu b'integrità u ma jkollhomx x'jaqsmu ma xi attività li, minhabba t-tagħrif miksub minn informazzjoni kunfidenzjali u sigrieti tan-negozju waqt il-kariga tagħhom, tkun tqajjem kunflitt ta' interess u tagħmel ħsara lill-interessi ta' xi persuna; u

(b) Kull persuna li tikser dan l-artikolu tkun hatja ta' reat kontra dan l-Att, u meta tinsab hatja, tista' tehel multa ta' mhux inqas minn ħamest'elef euro (€5,000) u tiġi impedita milli tiġi maħtura f'kariga bħal dik għal perjodu ta' mhux inqas minn għaxar snin.

Eżenzjoni minn responsabbiltà.

(3) Ma tista' tittieħed ebda azzjoni kontra l-Awtorità, l-organi tal-Awtorità, il-membri tal-Bord, uffiċjali pubbliċi u impjegati tal-Awtorità, persuni li jagħtu l-pariri, konsulenti u persuni oħra inkarigati mal-Awtorità dwar xi att jew ommissjoni in konnessjoni

ma'dan l-Att jew regolamenti magħmula tahtu, sakemm dak l-att jew ommissjoni jidhru li saru jew li naqsu milli jsiru, skont il-każ, b' mala fede.

TAQSIMA XI DISPOSIZZJONIJIET FINANZJARJI

47. (1) L-Awtorità għandha tkun gvernata bid-disposizzjonijiet tal-Att dwar l-Amministrazzjoni Finanzjarja u l-Verifika, sakemm ma jkunx speċifikat xort'ohra fil-ftehim ta' ħidma tal-Awtorità magħmul bejn is-Segretarju Permanenti u l-Awtorità kif msemmi fl-artikolu 12(7) f'liema każ ikunu japplikaw id-disposizzjonijiet ta' dan tal-aħħar.

Disposizzjonijiet tal-Att dwar l-Amministrazzjoni Pubblika. Kap. 174.

48. (1) Bla ħsara għad-disposizzjonijiet li ġejjin ta' dan l-artikolu, l-Awtorità għandha hekk tmexxi l-affarijiet tagħha li daqstant mill-ispiza meħtieġa għat-twettiq xieraq tal-funzjonijiet tagħha għandha, daqskemm dan ikun possibbli, tinħareġ mid-dhul tagħha.

L-infiq tal-Awtorità isir mid-dhul tagħha. Kap. 174.

(2) Għall-finijiet tas-subartikolu (1), l-Awtorità, għandha timponi kull dritt, ħlas u pagament ieħor preskritt jew meqjus li hu preskritt b'dan l-Att jew tahtu jew taht xi liġi oħra relatata li tipprovdi dwar affarijiet li huma taht is-setgħat rispettivi u l-funzjonijiet tagħha:

Izda fejn l-entitajiet huma fdati speċifikament mill-liġi biex jitolbu drittijiet jew jimponu multi amministrattivi, dawk id-drittijiet u multi għandhom jiġu mposti mill-entitajiet konċernati.

(3) L-Awtorità għandha tithallas ukoll mingħand il-Gvern, mill-Fond Konsolidat, dawk l-ammonti li l-Kamra tad-Deputati, hawnhekk iżjed 'il quddiem imsejha "il-Kamra", tista' minn żmien għal żmien tawtorizza li jiġu approprjati sabiex minnhom issir kull nefqa li l-Awtorità tista' jkollha tagħmel u li ma tkunx tista' tinħareġ mid-dhul tagħha u l-ispejjeż ta' xogħlijiet speċifikati biex dawn jitkomplew jew xort'ohra jsiru minnha, li jkunu xogħlijiet ta' infrastruttura jew ta' xorta kapitali simili.

(4) Kull eċċess ta' dhul fuq l-infiq għandu, bla ħsara għal dawk id-direttivi li l-Ministru, wara konsultazzjoni mal-Ministru responsabbli għall-Finanzi, jista' jagħmel minn żmien għal żmien, jiġi applikat mill-Awtorità għall-formazzjoni ta' fondi ta' riżerva sabiex dawn jintuzaw għall-għanijiet tagħha u bla ħsara għall-generalità tas-setgħat mogħtija lill-Ministru b'dan is-subartikolu, kull direttiva li ssir mill-Ministru kif hawn aktar qabel imsemmi tista' tkun tordna t-trasferiment lill-Gvern, jew l-applikazzjoni b'dak il-mod kif jista' jiġi speċifikat fid-direttiva, ta' xi parti mid-drittijiet, rati jew ħlasijiet oħra miġbura skont is-subartikolu (2).

(5) Il-flus kollha tal-Awtorità li ma jkunux meħtieġa minnufih biex minnhom issir l-ispiza jistgħu jiġu investiti b'dak il-mod li jista' jkun approvat minn żmien għal żmien mill-Ministru.

Setgħa li tissewli jw toriġina kapital.

49. (1) Bil-għan li tkun tista' twettaq kull funzjoni tagħha skont dan l-Att, l-Awtorità tista', bl-approvazzjoni bil-miktub tal-Ministru, li tingħata wara konsultazzjoni mal-Ministru responsabbli għall-Finanzi, tissewli jw tiġbor flus b'dak il-mod, mingħand dik il-persuna, korp jw awtorità, u taħt daww it-termini u l-kondizzjonijiet li l-Ministru, wara konsultazzjoni kif imsemmija qabel, jista' japprova bil-miktub.

(2) L-Awtorità tista' wkoll, minn żmien għal żmien, tissewli jw permezz ta' *overdraft* jw xort'ohra, daww l-ammonti li tista' teħtieġ sabiex twettaq il-funzjonijiet tagħha taħt dan l-Att:

Iżda għal kull ammont li jkun jeċċedi l-mija u għoxrin elf euro (€120,000), għandha tingħata l-approvazzjoni tal-Ministru bil-miktub.

Avvanzi mill-Gvern.

50. Il-Ministru responsabbli għall-Finanzi jista', wara konsultazzjoni mal-Ministru, kif ikun il-każ, jagħmel avvanzi lill-Awtorità ta' daww l-ammonti li huwa jista' jaqbel li jkunu meħtieġa mill-Awtorità biex twettaq kull funzjoni tagħha skont dan l-Att, u jista' jagħmel daww l-avvanzi skont daww it-termini u l-kondizzjonijiet li huwa jista', wara konsultazzjoni kif imsemmija qabel, iqis li jkunu xierqa. Avvanz bħal dak jista' jsir mill-Ministru responsabbli għall-Finanzi mill-Fond Konsolidat, u mingħajr ebda approprjazzjoni ohra hliw dan l-Att, b'ordni bil-miktub, li jawtorizza lill-*Accountant General* biex jagħmel dak l-avvanz.

Self mingħand il-Gvern.

51. (1) Il-Ministru responsabbli għall-Finanzi jista', għal kull htieġa tal-Awtorità ta' xorta kapitali, jikkuntratta jw jiġbor kull self, jw jidhol f'passiv, għal daww il-perjodi u b'daww it-termini u kondizzjonijiet hekk kif huwa jista' jqis li jkunu xierqa, u kull ammont dovut għar-rigward ta' jw f'konnessjoni ma' xi self jw passiv bħal dak għandu jkun mniżżel fuq il-Fond Konsolidat.

(2) Għandu jingħata avviz dwar kull self, passiv jw avvanz magħmul jw li jsir taħt id-disposizzjonijiet ta' qabel ta' dan l-artikolu lill-Kamra kemm jista' jkun prattikabbli malajr.

(3) Sakemm ma jibda jsir il-għbir ta' xi self bħal dak imsemmi fis-subartikolu (1), jw bil-għan li l-Awtorità tiġi pprovduta b'kapital funzjonali, il-Ministru responsabbli għall-Finanzi jista', b'kitba magħmula minnu nnifsu, u mingħajr ebda approprjazzjoni ohra hliw dan l-Att, jawtorizza lill-*Accountant General* li jagħmel avvanzi lilha mit-*Treasury Clearance Fund* taħt daww it-termini li jistgħu jiġu

speċifikati mill-Ministru meta dawn isiru.

(4) Ir-rikavat minn kull self li jingabar bil-għan li jsiru avvanzi lill-Awtorità, u kull flejjes oħra li għandhom jiġu avvanzati lill-Awtorità taħt dan l-artikolu, għandhom jitqieghdu ġewwa fond speċifikament stabbilit għal dak il-għan u li jkun magħruf bħala "Fond għal Self lill-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur".

(5) Ammonti li jirċievi l-*Accountant General* mill-Awtorità fir-rigward ta' avvanzi magħmula lilha taħt is-subartikolu (3) għandhom jithallsu, f' dawk li huma ammonti riċevuti bħala ħlas lura billi jitqieghdu fit-*Treasury Clearance Fund* u, f' dawk li huma ammonti riċevuti mill-*Accountant General* bħala imgħax fuq dawk l-avvanzi billi jitqieghdu fil-Fond Konsolidat.

52. (1) L-Awtorità għandha tara li jithejjew f'kull sena finanzjarja, u għandha mhux iktar tard minn erbgħa ġimghat qabel t-tmiem ta' dik is-sena taddotta, estimi tad-dhul u l-infieq tal-Awtorità għas-sena finanzjarja li tiġi minnufih wara li jiddistingwu, b'mod partikolari, bejn kull waħda minn dawk l-entitajiet u Direttorati kif jista' jkun stabbilit taħt id-disposizzjonijiet ta' dan l-Att:

Estimi tal-Awtorità.

Izda l-estimi għall-ewwel sena finanzjarja tal-Awtorità għandhom jiġu preparati u addottati f'dak iż-żmien li l-Ministru jista' b'avviż bil-miktub jispeċifika lill-Awtorità.

(2) Fit-thejjija ta' dawk l-estimi, l-Awtorità għandha tieħu kont ta' kull fond u flejjes oħra li jistgħu jkunu dovuti li jithallsu lilha mill-Fond Konsolidat matul is-sena finanzjarja rilevanti, sew bis-saħħa ta' dan l-Att jew ta' Att ta' approprjazzjoni jew ta' kull liġi oħra u hija għandha hekk thejji l-imsemmija estimi b'mod li tiżgura li d-dhul totali tagħha huwa mill-inqas suffiċjenti biex minnu jithallas kull ammont li sewwasew għandu jintefaq mill-kont tad-dhul tagħha inkluz, izda bla ħsara għall-ġeneralità ta' dik il-frazi, d-deprezzament.

(3) L-estimi għandhom isiru f'dik l-għamla u għandu jkun fihom dik l-informazzjoni u dak it-tqabbil ma' snin ta' qabel hekk kif il-Ministru responsabbli għall-Finanzi jista' jordna.

(4) Kopja tal-estimi għandha, meta dawn jiġu adottati mill-Awtorità, tintbagħat minnufih lill-Ministru u lill-Ministru responsabbli għall-Finanzi.

(5) Il-Ministru għandu, mal-ewwel opportunità, u mhux iktar tard minn sitt ġimghat wara li jkun irċieva kopja tal-estimi mill-Awtorità, japprovahom bl-emendi jew mingħajrhom wara konsultazzjoni mal-Ministru responsabbli għall-Finanzi.

L-infieq ghandu jkun skont l-estimi approvati.

53. (1) M'għandha ssir jew tiġġarrab ebda nefqa mill-Awtorità kemm-il darba ma tkun saret l-ebda disposizzjoni fl-estimi approvati kif provdut fl-artikolu 52.

(2) Mingħajr hsara għad-disposizzjonijiet tas-subartikolu (1):-

(a) sakemm jiskadi l-perjodu ta' sitt xhur mill-bidu ta' sena finanzjarja, jew sakemm issir l-approvazzjoni tal-estimi għal dik is-sena, skont liema data tiġi l-ewwel, l-Awtorità tista' tagħmel jew iġġarrab spiza għat-twettiq tal-funzjonijiet tagħha taħt dan l-Att li ma tkunx globalment iżjed min-nofs l-ammont approvat mill-Ministru għas-sena finanzjarja preċedenti;

(b) in-nefqa approvata għar-rigward ta' intestatura jew subintestatura tal-estimi tista', bl-approvazzjoni tal-Ministru, li tingħata wara konsultazzjoni mal-Ministru responsabbli għall-Finanzi, issir jew tiġġarrab fir-rigward ta' xi intestatura jew subintestatura oħra tal-estimi;

(ċ) dwar l-ewwel sena finanzjarja, l-Awtorità tista' tidhol għal nefqa sakemm l-estimi għal dik is-sena jiġu approvati, liema nefqa ma tkunx iżjed fit-total minn dawk l-ammonti li l-Ministru responsabbli għall-finanzi jista', wara konsultazzjoni mal-Ministru jippermetti; u

(d) jekk fir-rigward ta' xi sena finanzjarja jinstab li l-ammont approvat fl-estimi ma jkunx suffiċjenti jew inkella tkun inqal għet hteġa għal nefqa rigward għan li ma jkunx hekk provdut fl-estimi, l-Awtorità tista' taddotta estimi supplimentari għall-approvazzjoni tal-Ministru, u f'kull każ bhal dak id-disposizzjonijiet ta' dan l-Att applikabbli għall-estimi għandhom kemm jista' ikun japplikaw għall-estimi supplimentari.

Pubblikazzjoni tal-estimi approvati.

54. Il-Ministru jista', mal-ewwel opportunità u mhux iktar tard minn tmien ġimgħat wara li jkun rċieva kopja tal-estimi u tal-estimi supplementari tal-Awtorità, jew jekk f'xi żmien waqt dak il-perjodu l-Kamra ma tkunx qiegħda f'sessjoni, fi żmien tmien ġimgħat mill-bidu tas-sessjoni li minnufih tmiss wara, għandu jara illi dawk l-estimi jitqiegħdu fuq il-Mejda tal-Kamra.

Kontijiet u verifika.

55. (1) L-Awtorità għandha tara li jinżammu kontijiet u *records* oħra kif imiss dwar tal-operazzjonijiet tagħha, u għandha tara li jithejja prospett ta' kontijiet dwar kull sena finanzjarja.

(2) Il-kontijiet tal-Awtorità għandhom jiġu verifikati minn awditur jew awdituri li jinhatru mill-Awtorità u bl-approvazzjoni tal-Ministru responsabbli għall-finanzi u barra minn

hekk ikunu soġġetti għal skrutinju mill-Monitoring Unit tal-Immaniġġjar Finanzjarju, u għall-verifika mid-Direttorat għall-Awditjar Intern u l-Investigazzjonijiet u mill-Awditur Ġenerali, skont il-każ.

(3) Mhux aktar tard minn sitt gimgħat mit-tmiem ta' kull sena finanzjarja, l-Awtorità għandha tippreżenta lill-Ministru permezz tas-Segretarju Permanenti, dikjarazzjoni tal-kontijiet verifikata flimkien ma' kopja ta' kull rapport magħmul mill-awditur fuq dak il-prospett jew il-kontijiet tal-Awtorità.

(4) Il-Ministru għandu jara li kopja ta' dik id-dikjarazzjoni u rapport jitqiegħdu fuq il-Mejda tal-Kamra mhux aktar tard minn sitt gimgħat wara li jiġu rċevuti jew, meta l-Kamra ma tkunx f'sessjoni, mhux aktar tard mit-tieni gimgħa li l-Kamra terġa tibda s-seduti.

56. (1) Il-flus kollha tal-Awtorità għandhom jitqiegħdu f'bank jew banek nominati bhala bankiera tal-Awtorità permezz ta' rizzoluzzjoni tal-Awtorità. Dawk il-flus għandhom, sa kemm ikun prattiku, jitqiegħdu f'dawk il-banek minn jum għall-jum, hlief dak l-ammont li l-Awtorità tista' tawtorizza li għandu jinżamm sabiex isiru nefqiet zġħar minnu u hlasijiet ta' flus likwidi immedjati.

Depożitu tad-dhul u hlasijiet li jsiru mill-Awtorità.

(2) Kull hlas mill-fondi tal-Awtorità, minbarra nefqiet zġħar li ma jkunux jaqbuż ammont stabbilit mill-Awtorità, għandhom isiru minn dak l-uffiċjal jew dawk l-uffiċjali ta' dik l-entità li hija taħtar jew tinnomina għal dak l-għan.

(3) Ċekkijiet li jinħarġu fuq, u zbanki li jsiru minn, xi kont tal-bank tal-Awtorità għandhom ikunu iffirmati minn dak l-uffiċjal ta' hekk kif jista' jiġi maħtur jew nominat mill-Bord għal dak il-għan u għandhom ikunu kontroiffirmati miċ-Chairman jew dak il-membru jew uffiċjal ieħor awtorizzat mill-Awtorità għal dak l-għan.

(4) L-Awtorità għandha wkoll tagħmel disposizzjonijiet dwar:-

(a) il-mod ta' kif il-hlasijiet għandhom jiġu awtorizzati jew approvati u l-uffiċjal jew uffiċjali li għandhom jawtorizzawhom jew japprovawhom;

(b) it-titolu ta' kull kont miżmum f'bank jew banek fejn jiġu depożitati l-flus tagħha, u t-trasferiment ta' fondi minn kont għall-ieħor; u

(ċ) il-metodu li għandu jiġi adottat meta jkun qed jiġihallu flus mill-fondi tagħha, u generalment dwar kull haġa li hi rilevanti għaż-żamma u l-kontroll xieraq tal-kontijiet u l-

kotba u l-kontroll tal-finanzi tagħha.

Kuntratti ta' provvista ta' xogħlijiet.

57. L-Awtorità m'għadniex tagħti jew tidhol f'xi kuntratt għall-għoti ta' oġġetti jew materjali jew għall-esekuzzjoni ta' xogħlijiet, jew għall-għoti ta' servizzi, lil jew għall-benefiċċju tal-Awtorità, hlief skont ir-regolamenti fis-sehħ li jirregolaw l-akkwist ta' oġġetti u servizzi fis-settur pubbliku.

Rapport Annwali.

58. (1) L-Awtorità għandha, mhux aktar tard minn sitt ġimgħat wara t-tmiem ta' kull sena finanzjarja, tippreżenta lill-Ministru permezz tas-Segretarju Permanenti rapport ġenerali dwar l-attivitajiet tal-Awtorità matul dik is-sena finanzjarja, li jiddistingwi, b'mod partikolari, bejn kull waħda mill-entitajiet u Direttorati kif jista' jkun mwaqqfa taht id-disposizzjonijiet ta' dan l-Att u li jkun fih dik l-informazzjoni dwar il-proċeduri u l-politika tal-Awtorità kif il-Ministru jista' minn żmien għal żmien jehtieg.

(2) Il-Ministru għandu jara li kopja ta' dak ir-rapport titqiegħed fuq il-Mejda tal-Kamra mhux aktar tard minn sitt ġimgħat wara li jiġu rċevuti jew, meta l-Kamra ma tkunx f'sessjoni, mhux aktar tard mit-tieni ġimgħa li l-Kamra terġa tibda s-seduti

Eżenzjoni mit-taxxi.

59. L-Awtorità tkun eżentata minn kull responsabbiltà għall-hlas tat-taxxa fuq l-*income* jew fuq dokumenti u trasferimenti taht kull liġi li tkun fis-sehħ f'dak iż-żmien f'Malta.

TAQSIMA XII

TRASFERIMENT TA' ĊERTU PROPRJETA' LILL-AWTORITÀ

Trasferiment ta' attiv lill-Awtorità.

60. (1) (a) Il-proprjeta' u l-intrapriżi li huma tal-Gvern u minnu użati, minnufih qabel id-data tad-dhul fis-sehħ ta' din it-Taqsima, kif ukoll minnu użati għat-thaddim tal-funzjonijiet li b'dan l-Att qieghdin jiġu trasferiti lil jew vestiti fl-Awtorità għandhom, fid-data hawn qabel imsemmija, bis-saħħa ta' dan l-Att u mingħajr ebda assigurazzjoni oħra, jkunu trasferiti lill-Awtorità u jiġu vestiti fl-Awtorità b'dak it-titolu li bih kienu miżmuma mill-Gvern minnufih qabel dik id-data. Id-disposizzjonijiet ta' dan il-paragrafu m'għandhomx japplikaw għal proprjeta' immobbli; u

(b) L-attiv immobbli minn żmien għal żmien speċifikat f'ordni magħmula mill-President ta' Malta u ppubblikata fil-Gazzetta, hawn iżjed 'il quddiem imsejja "l-attiv immobbli", li jkun attiv immobbli li, minnufih qabel id-dhul fis-sehħ ta' din it-Taqsima, kien proprjeta' tal-Gvern u minnu użat għat-thaddim tal-funzjonijiet li b'dan l-Att qed jiġu trasferiti lill-Awtorità jew vestiti fiha għandhom, b'seħħ minn dik il-gurnata li tista' tkun speċifikata f'xi ordni bħal dik, u bis-saħħa ta' dan l-Att u mingħajr ebda assigurazzjoni oħra, jkunu trasferiti lill-Awtorità u vestiti fiha b'dak

it-titolu li bih kienu miżmuma mill-Gvern minnufih qabel dik id-data.

(2) It-trasferiment u l-vestment hawn qabel imsemmija għandhom jestendu għal dik il-proprjetà u dawk l-intrapriżi kollha kemm huma u, bla ħsara għall-ġeneralità hawn qabel imsemmija, għandhom jinkludu kull impjant, tagħmir, apparat, strument, vettura, inġenju, bini, struttura, stallazzjoni, art, triq, xogħol, hażna u proprjetà oħra, mobbli jew immobbli, attiv, setgħa, jedd u privileġġ u kull haġa meħtieġa jew ancillari għal dawn, li jkunu qiegħdin jinżammu jew jiġu gawduti f'konnessjoni magħhom jew li jkunu jappartjenu lilhom, kif ukoll kull obbligazzjoni li taffettwa jew tkun konnessa ma' xi proprjetà jew intrapriżi hawn qabel imsemmija jew xi haġa oħra fihom inkluża kif hawn qabel imsemmija.

61. (1) Bla ħsara għad-disposizzjonijiet ta' dan l-Att, kull liġi, regola, regolament, ordni, sentenza, digriet, deċiżjoni, att, titolu, kuntratt, ftehim, strument, dokument, mandat u arrangament ieħor, li jkun jeżisti minnufih qabel id-data tad-dhul fis-seħħ ta' din it-Taqsima, li jaffettwa jew ikun konness ma' xi waħda mill-proprjetajiet jew intrapriżi trasferiti lill-Awtorità b'dan l-Att jew tahtu, għandu jkollu kull seħħ u effett kontra jew favur l-Awtorità, u għandu jkun infurzabbli liberament u effettivament, bħallikieku minflok il-Gvern jew l-awtorità tal-Gvern, kien hemm imsemmi jew kien hemm parti fih l-Awtorità, u hekk ukoll fis-sostituzzjoni tal-Gvern jew l-awtorità tal-Gvern.

Kif jiftiehem l-
liġijiet u
affarijiet oħra
relatati.

(2) Kull referenza f'xi liġi għall-Uffiċċju għall-Kompetizzjoni Gusta, Dipartiment tal-Affarijiet tal-Konsumatur, Diviżjoni tal-Konsumatur u tal-Kompetizzjoni u l-Awtorità Maltija dwar l-iStandards għandhom jinqraw u jiftiehem bħala referenza għall-Awtorità u, jew għal xi waħda mill-entitajiet tagħha.

62. (1) Meta xi haġa tkun inbdiet minn jew taht l-awtorità tal-Gvern qabel id-data tad-dhul fis-seħħ ta' din it-Taqsima, u dik il-haġa jkollha x'taqsam ma' xi proprjetajiet jew intrapriżi jew xi dritt jew responsabbiltà trasferita lill-Awtorità b'dan l-Att jew tahtu, dik il-haġa tista' tkompli titwettaq u tintemm mill-Awtorità jew kif awtorizzat minnha.

Disposizzjonijiet
Tranzitorji.

(2) Meta minnufih qabel id-dhul fis-seħħ ta' din it-Taqsima, ikun għad hemm proċeduri legali pendenti li fihom il-Gvern ikun jew ikollu titolu li jkun parti, u dawk il-proċeduri jkollhom x'jaqsmu ma' xi proprjetajiet jew intrapriżi, jew ma' xi dritt jew responsabbiltà trasferiti bi jew taht dan l-Att, l-Awtorità għandha, sa mid-data hawn qabel imsemmija, tigi sostitwita f'dawk il-proċeduri għall-Gvern, jew għandha ssir parti fihom bl-istess mod kif seta' gie sostitwit il-Gvern, u dawk il-proċeduri m'għandhom qatt jittiefsu minhabba f'dik is-

sostituzzjoni.

(3) Il-Ministru jista', permezz ta' ordni, jagħmel dawk id-disposizzjonijiet inċidentali, konsegwenzjali u supplementali li huwa jista' jqis meħtieġa jew spedjenti għall-fini li jiddetermina, kif imiss, l-attiv trasferit lill-Awtorità b'dan l-Att u jiżgura u jagħti kull effett lit-trasferiment ta' proprjetà jew intrapriża jew lil kull dritt jew responsabbiltà lill-Awtorità b'dan l-Att u jagħmel dawk l-ordnijiet li jistgħu jkunu meħtieġa sabiex jagħmel kull setgħa u dmir eżerċitabbli mill-Gvern fir-rigward ta' xi proprjetà jew intrapriża trasferiti eżerċitabbli minn jew f'isem l-Awtorità.

TAQSIMA XIII MIXXELLANJI

Persuni li
jitqiesu bhala
uffiċjali
pubbliċi.
Kap. 9.

63. Għall-finijiet tal-Kodiċi Kriminali u ta' kull disposizzjoni oħra ta' xorta penali f'xi liġi oħra, il-membri tal-Bord, uffiċjali u impjegati tal-Awtorità, għandhom jitqiesu li huma uffiċjali pubbliċi.

Servizz ta' atti
tal-Awtorità.

64. (1) Għall-finijiet ta' dan l-artikolu "atti" tfisser kull miżura, ordni, direzzjoni, stqarrija, deċizzjoni jew forom oħra ta' komunikazzjoni maħruġa mill-Awtorità.

Kap. 378.
Kap. 379.

(2) L-Awtorità għandha tinnotifika l-atti tagħha taħt dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur, jew taħt xi Atti oħra, jew regolamenti oħra magħmula taħthom amministrati mill-Awtorità, lid-destinatarju f'xi waħda mill-mezzi li ġejjin:

(a) billi jiġi ikkunsinnat lill-persuna jew jithalla fl-indirizz fejn il-persuna tkun soltu toqgħod jew fejn ikollha n-negozju jew fil-post tax-xogħol jew fl-indirizz postali tagħha f'idejn xi membru tal-familja tagħha jew tad-dar jew f'idejn xi persuna fis-servizz tagħha jew il-prokuratur tagħha jew persuna awtorizzata minnha biex tirċievi l-posta tagħha:

Iżda, il-kopja ma tistgħax tithalla f'idejn persuni ta' età anqas minn erbatax-il sena, jew f'idejn persuna li, minhabba mard tal-moħħ, ma tistgħax tagħti xiehda ta' dik in-notifika. Persuna titqies li hija kapaċi li tagħti dik ix-xiehda, sakemm ma jiġix ippruvat il-kuntrarju; u n-notifika ma tistax tiġi attakkata bhala irregolari, għal waħda minn dawk ir-raġunijiet, jekk jinsab illi fil-fatt il-kopja tkun waslet f'idejn il-persuna li lilha kellha tkun innotifikata:

Iżda wkoll meta persuna li lilha jkun indirizzat att tirrifjuta li tirċevieh personalment mingħand uffiċjal tal-Awtorità, it-Tribunal tal-Appell jista' fuq applikazzjoni tal-

Awtorità u wara li jisma' l-ufficjal tal-Awtorità u wara li jikkonsidra ċ-ċirkostanzi kollha tal-incident, jiddikjara li s-servizz ikun sar lil dik il-persuna fil-ġurnata u l-hin tar-rifjut u tali dikjarazzjoni għandha titqies bħala prova tas-servizz għall-finijiet u l-effetti kollha tal-liġi.

(b) billi jintbagħat bil-posta reġistrata lill-persuna fl-indirizz fejn hi tkun soltu toqgħod jew ikollha n-negozju tagħha;

(c) jekk ikun inġhata indirizz għas-servizz ta' atti mill-persuna, billi dan jithalla, jew jintbagħat bil-posta reġistrata indirizzat lill-persuna f'dak l-indirizz; jew

(d) f'kull każ fejn l-Awtorità tqis li l-kunsinna minnufih tal-att ikun meħtieġ, billi jintbagħat, permezz ta' makna *facsimile* jew bil-posta elettronika, f'apparat jew faċilità għar-reċezzjoni ta' *facsimiles* jew posta elettronika li tkun tinsab fl-indirizz fejn il-persuna tkun soltu toqgħod jew ikollha n-negozju tagħha jew, jekk ikun inġhata indirizz għan-notifika ta' atti mill-persuna, f'dak l-indirizz, kemm-il darba l-makna *facsimile* tal-Awtorità tiġġenera messaġġ li jkun jikkonferma li t-trasmissjoni tkun għaddiet b'suċċess għal dak li hu l-għadd totali ta' paġni tal-avviż jew inkella l-faċilità tal-Awtorità għar-reċezzjoni ta' posta elettronika tiġġenera messaġġ li jkun jikkonferma li l-posta elettronika tkun giet riċevuta:

Iżda d-disposizzjonijiet tal-paragrafu (d) m'għandhomx japplikaw għan-notifika ta' dokumenti ppreżentati quddiem it-Tribunal tal-Appell jew xi Qorti.

(3) Jekk mir-riferta tal-impjegat inkarigat minn servizz tal-att jinstab li l-persuna li għandha tiġi notifikata bl-att, għalkemm ma tirriżultax, li qiegħda barra minn Malta, id-dhul fil-post tar-residenza tagħha ma jkunx jista' jsir, jew il-post tar-residenza tagħha ma jkunx magħruf, it-Tribunal tal-Appell, jista' wara applikazzjoni mill-Awtorità, jordna illi n-notifika ssir billi titwahħhal kopja tal-att fil-post, fil-belt jew fid-distrett fejn soltu jitwahħhlu l-atti ufficjali, u billi jiġi ppubblikat dak l-avviż fil-qosor fil-Gazzetta u f'gurnal ta' kuljum wiehed jew iktar minn wiehed skont kif it-Tribunal tal-Appell jiddeciedi u, meta jkun possibbli, jekk il-post tar-residenza jkun magħruf, billi titwahħhal kopja tal-avviż mal-bieb ta' dik ir-residenza. It-Tribunal tal-Appell jista' wkoll jaddotta dawk il-miżuri oħra li jkunu jidhrulu xierqa sabiex l-att issir taf bih il-persuna li lilha għandu ikun notifikat. F'dawk il-każijiet is-servizz għandu jitqies li jkun sar fit-tielet ġurnata tax-xogħol wara l-aħħar data meta tkun giet ppubblikata jew minn meta tkun twahħlet il-kopja, skont liema tiġi l-aktar tard. F'każijiet meta s-servizz ikun ġie ordnat li jsir b'urgenza,

is-servizz jitqies li jkun sar f'dak iż-żmien speċifiku, wara t-twaħħil jew il-pubblikazzjoni skont kif it-Tribunal tal-Appell jista' jistabbilixxi, liema żmien għandu jissema fl-istess pubblikazzjoni jew twaħħil.

(4) Fil-każ ta' korp li jkollu personalità ġuridika distinta, in-notifika lil dak il-korp għandha ssir billi tithalla kopja tal-att:

(a) fl-uffiċċju registrat, fl-uffiċċju prinċipali tiegħu, jew fil-post tan-negozju jew fl-indirizz postali ta' xi persuna jew persuni vestiti bir-rappreżentazzjoni legali jew ġuridika jew f'idejn is-segretarju tal-kumpannija jew impjegat ta' dak il-korp; jew

(b) f'idejn persuna jew persuni vestiti bir-rappreżentazzjoni legali jew ġuridika tagħha jew segretarju tal-kumpannija bil-mod provdut fis-subartikolu (1).

(5) Id-disposizzjonijiet ta' dan l-artikolu għandu wkoll japplika dwar in-notifika ta' att mahruġa mill-entitajiet tal-Awtorità taħt dan l-Att jew xi liġi oħra infurzata minnhom.

Setgħa tal-Ministru li jagħmel regolamenti.

65. (1) Il-Ministru jista', wara konsultazzjoni mal-Bord, kif ikun il-każ, minn żmien għal żmien jagħmel regolamenti:

(a) li jippreskrivu d-drittijiet li jistgħu jingabru mill-Awtorità taħt dan l-Att;

(b) li jipprovdu għall-metodi addizzjonali għat-twettiq ta' servizz tal-atti tal-Awtorità jew għat-tibdil jew tneħħija ta' xi waħda mill-metodi preskritti taħt l-artikolu 64;

(ċ) li jippreskrivu għall-kwistjonijiet oħra li jkunu jew li jistgħu jiġu preskritti taħt dan l-Att, jew kull Att ieħor amministrat mill-Awtorità; u

(d) b'mod ġenerali għat-tmexxija aħjar tal-għanijiet u finijiet ta' dan l-Att, jew kull Att ieħor amministrat mill-Awtorità.

(2) Iżjed minn hekk, wara konsultazzjoni mal-Bord, il-Ministru jista' minn żmien għal żmien jagħmel regolamenti:

(a) li jippreskrivu l-marka jew is-simbolu li għandu jintuża biex jindika konformità ma' xi *standard*;

(b) li jippreskrivu l-mod u l-forma kif għandha ssir applikazzjoni għal marka ta' konformità, it-tagħrif li tali

applikazzjoni għandu jkollha, u d-drittijiet li għandhom jithallsu dwarha;

(ċ) li jippreskrivu l-mod u l-forma kif għandhom jinħarġu l-permessi mill-Awtorità u d-drittijiet li għandhom jithallsu dwarhom;

(d) li jippreskrivu l-mod ta' reġistrazzjoni ta' permessi maħruġa taht dan l-Att;

(e) li jippreskrivu l-mod kif għandhom jittiehdu l-kampjuni ta' prodotti;

(f) li jipprovdu dwar il-pubblikazzjoni ta' abbozzi ta' *standards* u l-mod kif il-pubbliku jista' jressaq l-ilmenti tiegħu dwarhom lill-Awtorità;

(g) li jippreskrivu d-drittijiet jew il-hlasijiet li jistgħu jiġu imposti għas-servizz provdut mill-Awtorità taht dan l-Att; u

(h) li jippreskrivu kull haġa li tkun jew li tista' tiġi preskritta taht dan l-Att.

66. (1) Għandhom jitwaqqfu id-Direttorati kif elenkati fir-Raba' Skeda, li jkollhom ir-responsabbiltajiet kif hemm deskritti. Il-Ministru jista', wara li jikkonsulta lill-Awtorità, b'Ordni fil-Gazzetta, jabolixxi xi wiehed jew aktar minn dawk id-Direttorati, ivarja ir-responsabbiltajiet tagħhom u iwaqqaf dak id-Direttorat ieħor kif jista' minn żmien għall-żmien iqis neċessarju:

Twaqqif tad-Direttorati.

Izda l-Awtorità tista', b'mod temporanju jew għall-fini speċifika, tawtorizza lid-Direttur Ġenerali li jkun imexxi lill-entità konċernata, li jippermetti li funzjoni partikolari ta' waħda mid-Direttorati tiġi mwettqa minn Direttorat ieħor fi hdan l-istess entità, jekk ikun spedjenti għall-eżekizzju xieraq ta' dik il-funzjoni jew għal dak il-għan speċifiku.

(2) Kull Direttorat, hekk imwaqqaf, għandu jkun immexxi minn persuna li jkollha kwalifiki professjonali rikonoxxuti u esperjenza fil-qasam tal-operat ta' dak id-Direttorat:

Izda l-ewwel kap ta' kull Direttorat għandu jkun mahtur mill-Ministru.

(3) Id-Direttur Ġenerali ta' kull entità rispettiva għandu-

(a) jassumi r-responsabbiltà kollha tas-superviżjoni u kontroll ġenerali tad-Direttorati fi hdan dik l-entità;

(b) jagħti lil kull Direttorat fi hdan dik l-entità dawk id-dmirijiet li huma skont jew bid-disposizzjonijiet ta' dan l-Att vestiti f'kull Direttorat; u

(ċ) jikkordina ix-xogħlijiet tad-Direttorati fi hdan dik l-entità.

Responsabbiltajiet tad-Direttorati.

67. Fil-qadi tar-responsabbiltajiet tagħhom, id-Direttorati għandhom jassistu lid-Direttur Ġenerali tal-entità konċernata biex jwettqu r-responsabbiltajiet ta' dik l-entità b'mod effettiv u effiċjenti fil-qasam tal-operat rispettiv tagħhom.

Lingwa tar-regolamenti.

68. Regolamenti li jkunu meħtieġa li jinħargu mill-Ministru fuq parir tal-Bord jew wara konsultazzjoni miegħu taħt kull Att fir-rigward ta' liema xi waħda mill-entitajiet, skont il-każ, tkun mahtura bhala l-awtorità kompetenti, jistgħu jsiru bl-ilsien Inġliż biss.

Multi amminitrattivi. Kap. 12.

69. Kull multa amministrattiva li għandha tithallas lill-Awtorità tkun tista' tingabar bhala dejn ċivili minnha u tikkostitwixxi titolu eżekuttiv għall-finijiet u l-effetti kollha tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Disposizzjonijiet Tranzitorji dwar l-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur. Kap. 379. Kap. 378.

70. (1) Id-disposizzjonijiet tal-Att dwar il-Kompetizzjoni u tal-Att dwar l-Affarijiet tal-Konsumatur li kienu jeżistu qabel id-dhul fis-seħħ ta' dan l-Att għandhom ikomplu japplikaw, kif ikun il-każ, għal kull:

(a) investigazzjoni pendenti fid-data tad-dhul fis-seħħ ta' dan l-Att quddiem id-Direttur tal-Uffiċċju għall-Kompetizzjoni Ġusta u d-Direttur tal-Affarijiet tal-Konsumatur, it-tnejn kif sostitwiti mid-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni) u d-Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur) b'dan l-Att;

(b) proċedura pendenti fid-data tad-dhul fis-seħħ ta' dan l-Att quddiem il-Kummissjoni għall-Kompetizzjoni Ġusta u l-Bord ta' l-Appell għall-Affarijiet tal-Konsumatur, it-tnejn kif sostitwiti mit-Tribunal tal-Appell, it-Tribunal għal Talbiet ta' Konsumaturi u l-qrati; u

(ċ) deċiżjoni u sentenza li ma jkunux *res judicata* fid-data tad-dhul fis-seħħ ta' dan l-Att.

(2) Mingħajr hsara għall-artikolu 27A(10)(ċ) tal-Att dwar il-Kompetizzjoni, fil-każ ta' ksur tal-Att dwar il-Kompetizzjoni, tal-artikoli 101 u, jew 102 tat-TFUE jew tal-Att dwar l-Affarijiet tal-Konsumatur, li seħhew qabel id-dhul fis-seħħ ta' dan l-Att imma li

dwarhom ma nbdiet l-ebda investigazzjoni mid-Direttur tal-Uffiċċju għall-Kompetizzjoni Ġusta, mill-Kummissjoni Ewropea, minn awtorità kompetenti nazzjonali u mid-Direttur tal-Affarijiet tal-Konsumatur, u l-ebda proċeduri ma nbdew quddiem l-qrati ordinarji jew it-Tribunal għal Talbiet ta' Konsumaturi, id-disposizzjonijiet ta' dan l-Att u d-disposizzjonijiet tal-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur kif emendati b'dan l-Att, għandhom japplikaw:

Iżda fir-rigward tal-applikazzjoni ta' miżuri ta' xorta punittiva taht l-Att dwar il-Kompetizzjoni, l-intrapriża konċernata għandu jkollha l-opportunita' li tagħzel jekk jiġux applikati l-miżuri fis-sehħ qabel id-dhul fis-sehħ ta' dan l-Att jew il-miżuri provduti f'dan l-Att:

Iżda wkoll la darba l-intrapriża konċernata tkun ikkomunikat l-għazla tagħha, id-deċizjoni tagħha tkun finali.

(3) Għall-finijiet tas-subartikolu (1)(b) it-Tribunal tal-Appell għandu jkun vestit bis-setgħat:

(a) tal-Kummissjoni għall-Kummerċ Ġust kif provdut fl-Att dwar il-Kompetizzjoni qabel id-dhul fis-sehħ ta' dan l-Att; u Kap. 378.

(b) tal-Bord ta' l-Appell għall-Affarijiet tal-Konsumatur kif provdut fl-Att dwar l-Affarijiet tal-Konsumatur qabel id-dhul fis-sehħ ta' dan l-Att.

(4) Għall-finijiet tas-subartikolu (1)(a) id-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni) ikun vestit bis-setgħat tad-Direttur tal-Uffiċċju għall-Kompetizzjoni Ġusta kif provdut fl-Att dwar il-Kompetizzjoni qabel id-dhul fis-sehħ ta' dan l-Att.

(5) Għall-finijiet tas-subartikolu (1)(a) id-Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur) ikun vestit bis-setgħat tad-Direttur għall-Affarijiet tal-Konsumatur kif provdut fl-Att dwar l-Affarijiet tal-Konsumatur qabel id-dhul fis-sehħ ta' dan l-Att.

71. Ir-regolamenti magħmula taht l-Att dwar l-Awtorità Maltija dwar l-*Standards* għandhom jibqgħu fis-sehħ bħallikieku magħmula taht id-disposizzjonijiet ta' dan l-Att u jistgħu jiġu emendati u revokati skont hekk. Regolamenti. Kap. 419.

72. *Standards* nazzjonali għandhom ikunu nominati bhala MS XXX:YYYY, fejn XXX huwa numru *integer* u YYYY hija s-sena tal-adozzjoni. Standards nazzjonali.

TAQSIMA XIV
EMENDI TAL-ATT DWAR L-AFFARIJJIET TAL-KONSUMATUR
(KAP. 378.)

Emenda tal-Att
dwar l-Affarijjet
tal-Konsumatur.
Kap. 378.

73. (1) Din it-Taqsima temenda l-Att dwar l-Affarijjet tal-Konsumatur, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar l-Affarijjet tal-Konsumatur, minn hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tat-
titolu twil tal-
Att prinċipali.

(2) It-titolu twil tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Biex jipprovdi għas-setgħat tad-Direttur Ġenerali (Uffiċċju għall-Affarijjet tal-Konsumatur), għat-twaqqif u l-funzjonijiet ta' Kunsill għall-Affarijjet tal-Konsumatur u għat-twaqqif u l-kompetenza tat-Tribunal għat-Talbiet tal-Konsumatur u għal hwejjeg ancillari jew konsegwenti għalihom."

Emenda tat-
Taqsimiet II u
XII tat-taqsim
tal-Att prinċipali

74. It-titolu tat-Taqsima II tat-taqsim tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:-

"TAQSIMA II. Direttur Ġenerali (Uffiċċju għall-Affarijjet tal-Konsumatur) u l-Kunsill għall-Affarijjet tal-Konsumatur".

Emenda tal-
artikolu 2 tal-
Att prinċipali.

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

- (a) it-tifsira "Bord ta' l-Appell" għandha tiġi mhassra;
- (b) it-tifsira "Dipartiment" għandha tiġi mhassra;
- (ċ) it-tifsira "Direttur" għandha tiġi sostitwita b' dan li ġej:

" "Direttur Ġenerali" tfisser id-Direttur Ġenerali (Uffiċċju għall-Affarijjet tal-Konsumatur) kif mahtur bl-artikolu 16 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijjet tal-Konsumatur;" u kull fejn tidher il-kelma "Direttur" fl-Att prinċipali din għandha tiġi sostitwita bil-kelma "Direttur Ġenerali";

(d) minnufih wara t-tifsira "Tribunal" għandha tidhol din it-tifsira ġdida li ġejja:

" "Tribunal tal-Appell" tfisser Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur kif imwaqqaf bl-artikolu 31 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijjet tal-Konsumatur;" u

(e) minnufih wara t-tifsira "Tribunal tal-Appell" għandha tidhol din it-tifsira ġdida li ġejja:

" "Uffiċċju" tfisser l-Uffiċċju għall-Affarijiet tal-Konsumatur kif mwaqqaf taht l-artikolu 16(1) tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur."

76. It-Titolu tat-Taqsima II tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:-

Emenda tat-
titolu ta'
Taqsim II tal-
Att prinċipali.

"Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur) u l-Kunsill tal-Affarijiet tal-Konsumatur".

77. L-artikolu 3 tal-Att prinċipali għandu jiġi emendat kif ġej:

Sostituzzjoni
tal-artikolu 3
tal-Att prinċipali

(a) in-nota marginali tal-artikolu 3 tiegħu għandha tiġi sostitwita bil-kliem "Responsabbiltà tad-Direttur Ġenerali."; u

(b) l-artikolu 3 tiegħu għandu jiġi sostitwit b'dan li ġej:

"(1) Id-Direttur Ġenerali għandu jkun responsabbli għall-amministrazzjoni u l-infurzar ta' dan l-Att u għal dan il-għan għandu jeżerċita r-responsabbiltajiet vestiti fl-Uffiċċju għall-Affarijiet tal-Konsumatur bl-artikolu 17 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur u dan l-Att."

78. Fis-subartikolu (3) tal-artikolu 7 tal-Att prinċipali, il-kliem "sitta u erbgħin elf u ħames mija u sebgħa u tmenin euro u sebgħa u erbgħin ċenteżmu (€46,587.47)" kull fejn jidhru għandhom jiġu sostitwiti bil-kliem "sebgħa u erbgħin elf euro (€47,000)".

Emenda tal-
artikolu 7 tal-
Att prinċipali.

79. L-artikolu 9 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-
artikolu 9 tal-
Att prinċipali.

(a) il-kelma "Dipartiment" fin-nota marginali tiegħu għandha tiġi sostitwita bil-kelma "Uffiċċju"; u

(b) is-subartikolu (3) tiegħu għandu jiġi emendat kif ġej:

"(3) Meta kummerċjant, jinstab ħati li kiser dan l-artikolu huwa jeħel multa ta' mhux anqas minn mija u għoxrin euro (€120) u mhux iżjed minn elfejn u tlett mija u ħamsin euro (€2,350)."

80. Minnufih wara l-artikolu 9 tal-Att prinċipali, għandu

Żieda ta'
artikolu ġdid
mal-Att
prinċipali.

jizdzied dan l-artikolu ġdid li ġej:

"Approvazzjoni mid-Direttur Ġenerali ta' kodiċi ta' mġieba u l-użu ta' simbolu uffiċjali.

9A. (1) Fil-promozzjoni ta' prattiċi tajba ta' negozju, id-Direttur Ġenerali jista' jagħmel arrangamenti għall-approvazzjoni ta' kodiċi ta' mġieba u jista', skont dawn l-arrangamenti, jagħti l-approvazzjoni tiegħu jew jirtira l-approvazzjoni tiegħu minn kull kodiċi ta' mġieba.

(2) Kull arrangament bħal dak għandu jispeċifika il-kriterji li għandhom jiġu applikati mid-Direttur Ġenerali biex jiddetermina jekk għandux japprova jew jirtira l-approvazzjoni minn kodiċi ta' mġieba.

(3) Kull arrangament bħal dak għandu b'mod partikolari:-

(a) jispeċifika it-tip ta' kodiċi ta' mġieba li tista' tkun is-sugġett ta' applikazzjoni lid-Direttur għall-approvazzjoni li tindika l-karatteristiċi rekwiżiti tal-kodiċi ta' mġieba, inkluż il-persuni li huma, jew li ser ikunu sugġetti għall-kodiċi ta' mġieba, il-manjiera b'liema huwa, jew ser ikun operat u l-persuni responsabbli għall-operat tiegħu; u

(b) jipprovdi għall-użu skont l-arrangamenti ta' simbolu uffiċjali maħsub biex juri li kodiċi ta' mġieba huwa approvat mid-Direttur Ġenerali.

(4) Id-Direttur Ġenerali għandu jipubblika kull arrangament taht is-subartikolu (1) f'dik il-manjiera kif hu iqis xieraq.

(5) Għall-finijiet ta' dan l-artikolu "kodiċi ta' mġieba" għandha jkollha l-istess tifsira mogħtija lilha fl-artikolu 51A."

Emenda tal-artikolu 11 tal-Att prinċipali.

81. L-Artikolu 11 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "id-Direttur, jew uffiċjal pubbliku mad-Dipartiment" għandhom jiġu mhassra;

(b) is-subartikolu (2) tiegħu għandu jiġi mhassar;

(ċ) fis-subartikolu (3) tiegħu, il-kliem "multa ta' mhux anqas minn mija u sittax-il euro u sebgha u erbghin ċenteżmu (116.47) u ta' mhux iżjed minn elfejn u tliet mija u disgha u ghoxrin euro u sebgha u tletin ċenteżmu (2,329.37)" għandhom jiġu sostitwiti bil-kliem "multa ta' mhux anqas minn mija u ghoxrin euro (€120) u ta' mhux iżjed minn elfejn tlett mija u hamsin euro (€2,350)."; u

(d) is-subartikolu (3) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (2) tiegħu.

82. Fis-subartikolu (3) tal-artikolu 12 tal-Att prinċipali, il-kliem "tad-Dipartiment" għandhom jiġu sostitwiti bil-kliem "tal-Uffiċċju".

Emenda tal-artikolu 12 tal-Att prinċipali.

83. Minnufih wara l-artikolu 12A tal-Att prinċipali, għandu jiżdied dan l-artikolu ġdid li ġej:

Żieda tal-artikolu 12B mal-Att prinċipali.

"Ilmenti ta' interess generali.

12B. (1) Mingħajr hsara għall-artikolu 12A, entità kwalifikata tista' wkoll tagħmel ilment lid-Direttur Ġenerali li fir-rigward ta' oġġetti u servizzi:

(a) l-istruttura tas-suq konċernat jew xi aspekt minn dik l-istruttura;

(b) kull mgieba, sew fis-suq konċernat jew le, ta' persuna jew iżjed li ttiprovdi jew takkwista oġġetti jew servizzi fis-suq konċernat; jew

(ċ) xi imġieba fir-rigward tas-suq konċernat ta' klijenti ta' persuna li ttiprovdi jew takkwista oġġetti jew servizzi, jew hija jew tidher li qed tagħmel hsara b'mod sinifikanti lill-interessi tal-konsumatur.

(2) Id-Direttur Ġenerali għandu, fi żmien hamsa u erbghin ġurnata wara l-ġurnata li fih jirċievi l-ilment, jippubblika risposta li tgħid kif hu jipproponi li jittratta l-ilment, u b'mod partikolari:

(a) jekk hu ddeċidiex li jieħu azzjoni, jew li ma jieħux azzjoni, bħala risposta għall-ilment; u

(b) jekk hu ddeċida li jieħu azzjoni, x' azzjoni qed jipproponi li jieħu.

(3) Ir-risposta għandha tagħti r-raġunijiet tad-Direttur Ġenerali għall-proposti tiegħu.

(4) Id-Direttur Ġenerali-
(a) għandu jgħid għadha dwar il-prezentazzjoni mill-entità kwalifikata ta' kull każ raġunat għall-ilment; u

(b) jista' jgħid kwalunkwe gwida oħra kif jidher xieraq għall-finijiet ta' dan l-artikolu.

Emenda tal-artikolu 13 tal-Att prinċipali.

84. Fis-subartikolu (2) tal-artikolu 13 tal-Att prinċipali, il-kelma l-kliem "tad-Dipartiment" għandhom jiġu sostitwiti bil-kliem "tal-Uffiċċju".

Emenda tal-artikolu 14 tal-Att prinċipali.

85. Is-subartikolu (1) tal-artikolu 14 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafu (a) tiegħu għandu jiġi sostitwit bil-kliem "ammont li ma jkunx iktar minn sitt mitt euro (€600) għal kull telf ta' flus, u"; u

(b) il-paragrafu (b) tiegħu għandu jiġi sostitwit bil-kliem "ammont li ma jkunx inqas minn hamsa u tletin euro (€35) u mhux iktar minn sebgħa mija u hamsin euro (€750) bħala danni morali għal kull uġiegh, għali, ansjetà u inkonvenjenza."

Emenda tal-artikolu 14B tal-Att prinċipali.

86. Fl-artikolu 14B tal-Att prinċipali, il-kliem "Bord ta' l-Appell" kull fejn jidher u il-kelma "Bord" fis-subartikolu (7) tiegħu għandhom jiġu sostitwiti bil-kliem "Tribunal tal-Appell".

87. Fl-artikolu 20 tal-Att prinċipali, il-kliem "tliet elef u erba' mija u erbgħa u disgħin euro u sitt ċenteżmi (3,494.06)" kull fejn jidhru għandhom jiġu sostitwiti bil-kliem "tlett elef u ħames mitt euro (€3,500)".

Emenda tal-artikolu 20 tal-Att prinċipali.

88. Fl-artikolu 21 tal-Att prinċipali, il-kliem "ammont li ma jkunx inqas minn erbgħa u tletin euro u erbgħa u disgħin ċenteżmu (34.94) u mhux iktar minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (232.94)" għandhom jiġu sostitwiti bil-kliem "ammont li ma jkunx inqas minn ħamsa u tletin euro (€35) u mhux iktar minn ħames mitt euro (€500)".

Emenda tal-artikolu 21 tal-Att prinċipali.

89. L-artikolu 22 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 22 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minnufih qabel il-kliem "isir minn deċiżjoni ta' Tribunal" għandhom jidhru il-kliem "magħmul taht is-subartikoli (2) u (3)"; u

(b) fis-subartikolu (2) tiegħu, il-kliem "Indipendentement mill-ammont tat-talba, jista' dejjem isir appell fil-kazijiet li ġejjin" għandhom jiġu sostitwiti bil-kliem "Appell jista' jsir fil-kazijiet li ġejjin".

90. Fil-proviso tas-subartikolu (1) tal-artikolu 25 tal-Att prinċipali, il-kliem "mija u sittax-il euro u sebgħa u erbgħin ċenteżmu (116.47)" għandhom jiġu sostitwiti bil-kliem "mija u għoxrin euro (€120)".

Emenda tal-artikolu 25 tal-Att prinċipali.

91. L-artikolu 25A tal-Att prinċipali għandhom jiġu sostitwiti b'dan li ġej:

Emenda tal-artikolu 25A tal-Att prinċipali.

"25A. Deċiżjoni tat-Tribunal li tkun għaddiet b'gudikat tista' tiġi infurzata, skont ir-residenza tal-persuna kontra liema l-infurzar huwa mfittex, mill-Qorti tal-Maġistrati (Malta) jew mill-Qorti tal-Maġistrati (Għawdex), bħala titolu eżekuttiv taht il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili:

Izda id-drittijiet pagabbli lill-Qorti dwar xi mandat maħruġ għall-fini ta' infurzar ta' deċiżjoni tat-Tribunal għandu jammonta għal nofs id-drittijiet applikabbli lill-Qorti fuq il-mandati maħruġa għall-fini ta' infurzar ta' sentenzi tal-Qorti tal-Maġistrati msemmija hawn fuq."

92. Fis-subartikoli (4) u (6) tal-artikolu 26 tal-Att prinċipali, il-kliem "minn fost uffiċjali pubbliċi fid-Dipartiment", għandhom jiġu mħassra.

Emenda tal-artikolu 26 tal-Att prinċipali.

Emenda tal-artikolu 34 tal-Att prinċipali.

93. Fl-artikolu 34 tal-Att prinċipali, il-kliem "elfejn u tliet mija u disgħa u għoxrin euro u sebgha u tletin ċenteżmu (€2,329.37)" għandhom jiġu sostitwiti bil-kliem "elfejn u tlett mija u ħamsin euro (€2,350)".

Emenda tal-artikolu 61 tal-Att prinċipali.

94. Fl-artikolu 61 tal-Att prinċipali, il-kliem "erba' mija u ħamsa u sittin euro u sebgha u tmenin ċenteżmu (€465.87)" għandu jiġi sostitwit bil-kliem "ħames mitt euro (€500)".

Emenda tal-artikolu 67 tal-Att prinċipali.

95. Fl-artikolu 67 tal-Att prinċipali, il-kliem "Limitazzjoni ta' azzjoni" fin-nota marginali għandhom jiġu sostitwiti bil-kliem "Preskrizzjoni".

Emenda tal-artikolu 78 tal-Att prinċipali.

96. L-artikolu 78 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kelma "preskrizzjoni" fin-nota marginali tiegħu għandha tiġi sostitwita bil-kliem "limitazzjoni ta' azzjoni"; u

(b) il-kliem "ta' preskrizzjoni" għandu jiġi mhassar.

Emenda tal-artikolu 91 tal-Att prinċipali.

97. Fl-artikolu 91 tal-Att prinċipali, il-kliem "mija u sittax-il euro u sebgha u erbghin ċenteżmu (€116.47)" għandhom jiġu sostitwiti bil-kliem "mija u għoxrin euro (€120)".

Emenda tal-artikolu 94 tal-Att prinċipali.

98. Fil-paragrafu (b) tas-subartikolu (5) tal-artikolu 94 tal-Att prinċipali, il-kliem "il-Bord ta' l-Appell" għandhom jiġu sostitwiti bil-kliem "it-Tribunal tal-Appell".

Emenda tal-artikolu 95 tal-Att prinċipali.

99. Fis-subartikolu (3) tal-artikolu 95 tal-Att prinċipali, il-kliem "il-Bord ta' l-Appell" għandhom jiġu sostitwiti bil-kliem "it-Tribunal tal-Appell".

Emenda tal-artikolu 97 tal-Att prinċipali.

100. L-artikolu 97 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kliem "il-Bord ta' l-Appell" u "il-Bord", kull fejn jidhru, għandhom jiġu sostitwiti bil-kliem "it-Tribunal tal-Appell";

(b) is-subartikolu (3) tiegħu għandu jiġi mhassar; u

(ċ) is-subartikolu (4) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (3).

Emenda tal-artikolu 98 tal-Att prinċipali.

101. Fl-artikolu 98 tal-Att prinċipali, il-kliem "il-Bord ta' l-Appell" għandu jiġi sostitwit bil-kliem "it-Tribunal tal-Appell".

Emenda tal-artikolu 106 tal-Att prinċipali.

102. Fl-artikolu 106 tal-Att prinċipali, il-kliem "mhux inqas minn erba' mija u ħamsa u sittin euro u sebgha u tmenin ċenteżmu

(€465.87) u mhux iktar minn sitta u erbgħin elf, hames mija u sebgha u tmenin euro u sebgha u erbgħin centezmu (€46,587.47)" għandhom jiġu sostitwiti bil-kliem "mhux inqas minn erba' u sebghin euro (€470) u mhux iktar minn sebgha u erbgħin elf euro (€47,000).".

103. L-artikolu 106A tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 106A tal-Att prinċipali.

(a) is-subartikolu (2) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(2) Multa amministrattiva imposta għal ksur taħt is-subartikolu (1) għandha tkun ta' mhux inqas minn erba' mija u sebghin euro (€470) u mhux iktar minn sebgha u erbgħin elf euro (€47,000)."; u

(b) fil-proviso tas-subartikolu (2) tiegħu il-kliem "mhux aktar minn mitejn u tnejn u tletin euro u erbgħa u disgħin centezmu (€232.94)" għandhom jiġu sostitwiti bil-kliem "mhux aktar minn mitejn u tletin euro (€230)"; u

(c) għandu jiżdied is-subartikolu ġdid kif ġej:

"(10) Fil-każ ta' ksur kif msemmi fl-artikolu 25A, id-Direttur għandu joħroġ deċiżjoni li tiddikjara il-ksur u li timponi multa kwotidjana ta' mitejn u tletin euro (€230) għal kull ġurnata ta' ksur u s-subartikoli (5) sa (9) għandhom *mutatis mutandis* japplikaw.".

104. L-artikolu 109 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 109 tal-Att prinċipali.

"Ma tista' tittiehed ebda azzjoni kontra d-Direttur, jew xi ufficjali tiegħu jew xi persuna awtorizzata jew kontra xi membru tal-Kunsill li jkun qed jaġixxi taħt id-direzzjoni u l-kontroll tiegħu dwar xi att jew omissjoni marbuta ma' dan l-Att, jew mar-regolamenti maħruġa tahtu, sakemm dak l-att jew omissjoni ma ġewx magħmula b'*mala fede*.".

105. L-artikolu 110 tal-Att prinċipali għandu jiġi mħassar.

Taħsir tal-artikolu 110 tal-Att prinċipali.

106. L-intestatura "Taqsimha XII" u t-titolu tagħha tal-Att prinċipali, minnufih qabel l-imħassar artikolu 110 tal-Att prinċipali, għandhom jiġu mħassra.

Taħsir ta' intestatura u titolu tal-Att prinċipali.

Taħsir tal-artikolu 110A tal-Att prinċipali.

107. L-artikolu 110A tal-Att prinċipali għandu jiġi mħassar.

Emenda tal-artikolu 110B tal-Att prinċipali.

108. Fl-artikolu 110B tal-Att prinċipali, il-kliem "il-Bord ta' l-Appell" kull fejn jidhru, għandhom jiġu sostitwiti bil-kliem "it-Tribunal tal-Appell".

Emenda tal-artikolu 110Ċ tal-Att prinċipali.

109. Fl-artikolu 110Ċ tal-Att prinċipali, il-kliem "il-Bord ta' l-Appell" kull fejn jidhru, għandhom jiġu sostitwiti bil-kliem "it-Tribunal tal-Appell".

Emenda tal-artikolu 110D tal-Att prinċipali.

110. Fl-artikolu 110D tal-Att prinċipali, il-kliem "tal-Bord ta' l-Appell" fin-nota marginali tiegħu u kull fejn jidhru għandhom jiġu sostitwiti bil-kliem "tat-Tribunal tal-Appell".

Emenda tal-artikolu 110E tal-Att prinċipali.

111. Fl-artikolu 110E tal-Att prinċipali, il-kliem "tal-Bord ta' l-Appell" fin-nota marginali tiegħu u kull fejn jidhru għandhom jiġu sostitwiti bil-kliem "tat-Tribunal tal-Appell".

Emenda tal-artikolu 110F tal-Att prinċipali.

112. Fl-artikolu 110F tal-Att prinċipali, il-kliem "tal-Bord ta' l-Appell" fin-nota marginali tiegħu u kull fejn jidhru għandhom jiġu sostitwiti bil-kliem "tat-Tribunal tal-Appell".

Emenda tal-artikolu 110Ġ tal-Att prinċipali.

113. L-artikolu 110Ġ tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kliem "il-Bord ta' l-Appell" fin-nota marginali tiegħu u kull fejn jidhru għandhom jiġu sostitwiti bil-kliem "it-Tribunal tal-Appell"; u

(b) fis-subartikolu (1) tiegħu, il-kliem "Mingħajr preġudizzju għall-artikolu 97(3)" għandhom jiġu mħassra; u

(ċ) minnufih wara s-subartikolu (2) tiegħu, għandu jidhol dan il-*proviso* li ġej:

"Izda fil-każ ta' ordni ta' tharis, it-Tribunal tal-Appell jew il-Qorti tal-Appell tista', tul id-dewmien tal-każ, timmodifika l-ordni ta' tharis kif hi tqis neċessarju minflok tissospendih."

114. Minnufih wara l-artikolu 110Ġ tal-Att prinċipali, għandu jiżded dan l-artikolu ġdid li ġej:

Zieda tal-artikolu ġdid 110H mal-Att prinċipali.

"Notifika u pubblikazzjoni ta' deċiżjonijiet.

"110H.(1) Kull deċiżjoni jew ordni tad-Direttur Ġenerali mogħtija skont id-disposizzjonijiet ta' dan l-Att għandha tkun notifikata lill-partijiet konċernati u lill min ressaq l-ilment skont l-artikolu 64 tal-Att tal-201 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur b'kont meħud għall-informazzjoni kunfidenzjali u sigrieti tan-negożju.

(2) It-Tribunal tal-Appell u d-Direttur Ġenerali għandhom jipubblikaw mingħajr dewmien id-deċiżjonijiet meħuda taħt dan l-Att u permezz t'hekk it-Tribunal tal-Appell u d-Direttur Ġenerali għandhom iqisu l-interess legittimu tal-partijiet konċernati fil-protezzjoni tas-sigrieti tan-negożju tagħhom.

(3) Kull deċiżjoni mogħtija mit-Tribunal tal-Appell fil-proċedimenti quddiemu għandhom jitqiesu li ġew notifikati lill-partijiet fid-data ta' meta ġiet pronuzjata.

(4) It-Tribunal tal-Appell għandu jipprovdi:

(a) kemm verżjoni kompleta kif ukoll verżjoni mhux kunfidenzjali tad-deċiżjoni tiegħu f'dokument jew fuq xi mezz ieħor durabbli lid-Direttur Ġenerali; u

(b) kopja tad-deċiżjoni tiegħu, fuq talba, lill-partijiet fil-każ, u jiżgura meta jagħmel hekk il-protezzjoni tal-informazzjoni kunfidenzjali u s-sigrieti tan-negożju."

115. It-Tieni Skeda tal-Att prinċipali għandha tiġi emendata kif ġejja:

(a) fil-paragrafu (2) tagħha, il-kliem "għandu jkun elfejn, tliet mija u disgħa u għoxrin euro u sebgħa u tletin ċenteżmu (€2,329.37)" għandu jiġi sostitwit bil-kliem "għandu jkun elfejn u tlett mitt euro u

ħamsin ċenteżmu (€2,350)";

(b) il-paragrafu (4) tagħha għandu jiġi sostitwit b'dan li ġej:

"4. Mingħajr hsara għall-ġeneralita' tar-regola 3, dawn li ġejjin għandhom jkunu f'kull ċirkostanza kkunsidrati bħala ċirkostanzi aggravanti:

- meta il-ksur huwa prattika kummerċjali mhux ġusta inkluża fl-Ewwel Skeda, l-ammont bażiku għandu jiżdied b'somma ta' mhux anqas minn elf, seba' mija u ħamsin euro (€1,750) u mhux aktar minn erbat elef, sitt mija u ħamsin euro (€4,650);

- fil-każ tat-tieni ksur jew ksur sussegwenti, l-ammont bażiku għandu jiżdied b'elfejn, tliet mija u ħamsin euro (€2,350) għal kull ksur sussegwenti;

- fejn il-prattika jew l-iskema li tikkostitwixxi l-ksur hija l-mezz prinċipali li biha l-kummerċjant jmexxi jew jopera l-kummerċ tiegħu, l-ammont bażiku għandu jiżdied b'somma li mhix anqas minn elf, seba' mija u ħamsin euro (€1,750) u mhux aktar minn erbat elef, sitt mija u ħamsin euro (€4,650);

- fejn il-prattika jew l-iskema li tikkostitwixxi l-ksur qiegħda speċifikatament timmira għall-konsumaturi li huma vulnerabbli, l-ammont bażiku għandu jiżdied b'elfejn, tliet mija u ħamsin euro (€2,350);

- fejn il-prattika kummerċjali mhux ġusta hija akkumpanjata minn xi wiehed mill-fatturi msemmija fl-artikolu 51E(2) tal-Att, l-ammont bażiku għandu jiżdied b'somma li mhix anqas minn elf, seba' mija u ħamsin euro (€1,750) u mhux aktar minn erbat elef, sitt mija u ħamsin euro (€4,650).";

(ċ) il-paragrafu (6) tagħha għandu jiġi sostitwit b'dan li ġej:

"6. L-ammont finali tal-multa amministrattiva, f'kull każ, m'għandux jaqbez s-seba' u erbgħin elf euro (€47,000) jew ikun anqas minn erba' mija u sebgħin euro (€470).";

(d) il-paragrafu (8) tagħha għandu jiġi sostitwit b'dan li ġej:

"8. Għall-ksur imsemmi taħt l-artikolu 12, l-ammont tal-multa m'għandux jkun anqas minn erbat elef, sitt mija u ħamsin euro (€4,650) u mhux aktar minn ħdax-il elf, sitt mija u

ħamsin euro (€11,650).";

(e) il-paragrafu (9) tagħha għandu jiġi sostitwit b'dan li ġej:

"9. Għall-ksur isemmi taħt l-artikolu 14B, l-ammont tal-multa m'għandux jkun anqas minn erbat elef, sitt mija u ħamsin euro (€4,650) u mhux aktar minn ħdax-il elf, sitt mija u ħamsin euro (€11,650).";

(f) il-paragrafu (10) tiegħu għandu jiġi sostitwit b'dan li ġej:

"10. Għall-ksur isemmi taħt l-artikolu 94, l-ammont tal-multa m'għandux jkun anqas minn erbat elef, sitt mija u ħamsin euro (€4,650) u mhux aktar minn tlieta u għoxrin elf u tlett mitt euro (€23,300):

Izda fil-każ ta' nuqqas ta' ħarsien, id-Direttur Ġenerali jista' jimponi wkoll multa kwotidjana ta' mhux anqas minn mija u għoxrin euro (€120) u mhux aktar minn mitejn u tletin euro (€230) għal kull ġurnata ta' nuqqas ta' ħarsien.".

TAQSIMA XV EMENDI TAL-ATT DWAR IL-KOMPETIZZJONI (KAP. 379.)

116. Din it-Taqsima temenda l-Att dwar il-Kompetizzjoni, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar il-Kompetizzjoni, minn hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-Att
dwar il-
Kompetizzjoni.
Kap. 379.

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

Emenda tal-
artikolu 2 tal-
Att prinċipali.

(a) it-tifsira "*chairman*" għandha tiġi mhassra;

(b) it-tifsira "Direttur" għandha tiġi sostitwita b' dan li ġej:

" "Direttur Ġenerali" tfisser id-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni) maħtur bl-artikolu 13 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;"

(ċ) minnufih wara t-tifsira "Direttur Ġenerali" għandha tidhol din it-tifsira ġdida li ġejja:

" "entità kwalifikata" għandu jkollha l-istess tifsira mogħtija lilha taħt l-artikolu 2 tal-Att dwar l-Affarijiet tal-Konsumatur;"

(d) it-tifsira "Kummissjoni" ghandha tigi mhassra;

(e) it-tifsira "Ministru" ghandha tigi sostitwita b'dan li ġej:

" "Ministru" tfisser il-Ministru responsabbli għall-affarijiet tal-kompetizzjoni;"

(f) it-tifsira "Kummissjoni Ewropea" ghandha tigi sostitwita b'dan li ġej:

" "Kummissjoni Ewropea" tfisser il-Kummissjoni Ewropea kif mwaqqfa bl-artikolu 13 tat-Trattat dwar l-Unjoni Ewropea;"

(g) minnufih wara t-tifsira "prattika restrittiva" ghandha tidhol din it-tifsira ġdida li ġejja:

" "President" tfisser il-President tat-Tribunal tal-Appell;"

(h) fit-tifsira "prattika restrittiva" il-kliem "Artikolu 81 tat-Trattat tal-KE" u "Artikolu 82 tat-Trattat tal-KE" għandhom jiġu sostitwiti bil-kliem "Artikolu 101 tat-TFUE" u "Artikolu 102 tat-TFUE" rispettivament;

(i) it-tifsira "Trattat tal-KE" għanda tigi sostitwita b'dan li ġej:

" "TFUE" tfisser it-Trattat dwar il-Funzjonament tal-Unjoni Ewropea;"

(j) minnufih wara t-tifsira "Trattat TFUE" ghandha tizzied din it-tifsira ġdida li ġejja:

" "Tribunal tal-Appell" tfisser it-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur kif mwaqqaf bl-artikolu 31 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;" u

(k) it-tifsira "Uffiċċju" ghandha tigi sostitwita b' dan li ġej:

" "Uffiċċju" tfisser l-Uffiċċju għall-Kompetizzjoni, kif imwaqqaf bl-artikolu 13 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;"

118. L-artikolu 3 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) in-nota marginali tiegħu ghandha tigi sostitwita bil-kliem "Responsabbiltà tad-Direttur Ġenerali."; u

(b) l-artikolu 3 tiegħu għandu jiġi sostitwit b'dan li ġej:

"Id-Direttur Ġenerali għandu ikollu l-kompetenza esklussiva li japplika id-disposizzjonijiet ta' dan l-Att u għal dan il-għan hu għandu jeżerċità responsabbiltajietvestiti fl-Uffiċċju għall-Kompetizzjoni taht l-artikolu 14 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur u taht dan l-Att."

119. L-artikolu 4 tal-Att prinċipali għandu jiġi mħassar.

Tahsir tal-artikolu 4 tal-Att prinċipali.

120. L-artikolu 5 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 5 tal-Att prinċipali.

(a) fis-subartikolu (5) tiegħu, il-kliem "Artikolu 81 tat-Trattat tal-KE" għandhom jiġu sostitwiti bil-kliem "Artikolu 101 tat-TFUE"; u

(b) fis-subartikolu (6) tiegħu, il-kliem "Artikolu 81(1) tat-Trattat tal-KE" u "Artikolu 81(3) tat-Trattat tal-KE" għandhom jiġu sostitwiti bil-kliem "Artikolu 101(1) tat-TFUE" u "Artikolu 101(3) tat-TFUE" rispettivament.

121. L-artikolu 9 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 9 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, il-paragrafi (b) u (d) għandu jiġu mħassra u l-paragrafi (ċ), (e) u (f) għandhom jiġu enumerati mill-ġdid bħala (b), (ċ) u (d) rispettivament;

(b) is-subartikolu (3) tiegħu għandu jiġi mħassar; u

(ċ) fis-subartikolu (5) tiegħu, il-kliem "Artikolu 82 tat-Trattat tal-KE" għandhom jiġu sostitwiti bil-kliem "Artikolu 102 tat-TFUE".

122. Minnufih wara l-artikolu 11 tal-Att prinċipali għandu jidhol dan l-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 11 tal-Att prinċipali.

"Inkjesti f'setturi tal-ekonomija u f'tipi ta' ftehim.

11A.(1) Fejn it-tendenza tal-kummerċ, ir-rigidità tal-prezzijiet jew ċirkostanzi oħra jissuġġerixxu li l-kompetizzjoni tista' tkun ristretta, jew imxekkla fi hdan is-suq Malti, id-Direttur Ġenerali jista' jmexxi l-inkjesta fis-settur partikolari tal-ekonomija jew f'tip partikolari ta' ftehim madwar setturi varji. Fil-kors ta' dik l-inkjesta, id-Direttur Ġenerali jista' jitlob lill-intrapriži jew l-għaqda ta' intrapriži

konċernati biex jipprovdu l-informazzjoni neċessarja għall-applikazzjoni tal-artikoli 5 u 9 tal-Att u l-artikoli 101 u 102 tat-TFUE u jista' jagħmel l-ispezzjonijiet neċessarji tiegħu għal dak il-ghan.

(2) Id-Direttur Ġenerali jista' b'mod partikolari jitlob lill-intrapriži jew l-għaqda ta' intrapriži konċernati biex jikkomunikawlu l-ftehim, id-deċiżjonijiet u l-prattiċi miftiehma kollha.

(3) Id-Direttur Ġenerali jista' jippubblika rapport fuq ir-rizultati tal-inkjesta f'setturi partikolari tal-ekonomija jew tipi partikolari ta' ftehim madwar setturi varji u jistieden kummenti minn partijiet interessati.

(4) Kull persuna, intrapriża jew għaqda ta' intrapriži li ma jharsux it-talba tad-Direttur Ġenerali skont it-termini tas-subartikoli (1) u (2), fil-limiti ta' żmien imposti mid-Direttur Ġenerali, tikkommetti ksur ta' dan l-att, u dana mingħajr hsara għal kull responsabbiltà taht dan l-Att jew xi liġi oħra."

Emenda tal-artikolu 12 tal-Att prinċipali.

123. L-artikolu 12 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kliem "sew hu sew il-Kummissjoni jkunu jistgħu jaqdu l-funzjonijiet tagħhom;" fis-subartikolu (1) tiegħu għandhom jiġu sostitwiti bil-kliem "hu jkun jista' jaqdi l-funzjonijiet tiegħu,;" u

(b) is-subartikoli (2) sa (10) tiegħu għandhom jiġu sostitwiti bis-subartikoli (2) sa (14) li ġejjin:-

"(2) Fil-kors ta' kull investigazzjoni magħmula mill-Uffiċċju skont is-subartikolu (1), id-Direttur Ġenerali jista' jitlob lil kull intrapriża jew għaqda ta' intrapriži biex tipprovdi b'kull tagħrif jew dokument fil-pussess tagħha li d-Direttur Ġenerali ikollu għalfajn jahseb li jkun rilevanti għall-kwistjoni li tkun qed tiġi investigata, f'dak iż-żmien li fiċ-ċirkostanzi tal-investigazzjoni d-Direttur Ġenerali iqis li jkun raġonevoli:

Iżda l-ebda haġa f'dan is-subartikolu m'għandha

tiftiehem illi qed tawtorizza lid-Direttur Ġenerali biex jordna l-produzzjoni ta' xi dokument jew jiġi żvelat xi tagħrif li jista' jkun suġġett għad-dmir tas-sigriet professjonali.

(3) Meta jibgħat talba għall-informazzjoni lil intrapriża jew għaqda ta' intrapriži, id-Direttur Ġenerali għandu jispeċifika il-bażi legali u l-għan ta' dik it-talba, jispeċifika liema informazzjoni hija mitluba u jiffissa perjodu ta' żmien li fih l-informazzjoni għandha tkun provduta u jindika l-multi amministrattivi provduti fl-artikoli 21(4) u (5).

(4) Meta intrapriži jew għaqdiet ta' intrapriži jipprezentaw informazzjoni li jqisu bħala kunfidenzjali, l-artikolu 29 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur għandu japplika.

(5) Kull intrapriża li turi illi l-operat tagħha qed jiġi affetwat direttament bl-investigazzjoni li tkun qed issir mid-Direttur Ġenerali u kull għaqda ta' intrapriži, persuna, jew għaqda tal-konsumatur registrata li ttenni li hi jew il-membri tagħha qed tkun jew ikunu affettwati b'mod hażin, minhabba l-ksur ta' xi disposizzjoni ta' dan l-Att li jkunu l-oġġett tal-investigazzjonijiet, jistgħu jagħmlu talba bil-miktub sabiex jagħmlu is-sottomissjonijiet tagħhom quddiem id-Direttur Ġenerali fi kwalunkwe stadju li jkun u d-Direttur Ġenerali għandu jaċċetta t-talba jekk hu jikkonsidra li hi ġustifikata u jstabbilixxi l-manjiera ta' kif jiġu preżentati s-sottomissjonijiet.

(6) Waqt kull investigazzjoni, id-Direttur Ġenerali jista' jirċievi dikjarazzjonijiet bil-miktub jew verbalment minn kull persuna, kif ukoll jagħmel kopji ta' kull dokument mogħti lilu, u ir-*record* ta' dawk id-dikjarazzjonijiet u ta' dawk il-kopji debitament attestati mid-Direttur Ġenerali ikunu jistgħu jingiebu bħala prova quddiem it-Tribunal tal-Appell jew quddiem xi qorti tal-ġustizzja:

Iżda fil-każ ta' persuni naturali li ma jkunux intrapriża, stqarrijiet jistgħu jittiehdu biss bil-kunsens minn qabel tagħhom.

(7) (a) Id-Direttur Ġenerali jista', għall-finijiet ta' kull investigazzjoni taħt dan l-artikolu, jidhol u jagħmel tfittxija f'kull fond u, art u f'kull mezz ta' trasport tal-intrapriża jew għaqda ta' intrapriži fejn huwa jkollu għalfejn jaħseb li tkun tista' tinstab informazzjoni rilevanti għall-investigazzjoni, u fil-

kors ta' kull tfittxija bħal dik jista' jikkonfiska kull oġġett jew dokument, jew jieħu estratti minn jew jieħu kopji ta' dokumenti, jew jordna li ma jitneħħa ebda oġġett minn xi fond, art jew mezz ta' trasport bħal dak, u b'rabta ma' kull ordni bħal dik jista' jaghlaq u jissigilla kwalunkwe parti jew il-partijiet kollha ta' dan il-fond, art, jew mezz ta' trasport, jew jissigilla xi oġġett u, jew jitlob lil xi rappreżentant jew xi wieħed mill-membri tal-persunal tal-intrapriża jew tal-għaqda ta' intrapriži konċernati għal spjegazzjoni tal-fatti jew għad-dokumenti relatati mas-suġġett u l-għan tal-ispezzjoni u jnizzel it-tweġibiet.

(b) L-uffiċjali li jkunu qed imexxu l-ispezzjoni taħt il-paragrafu (a) għandhom jeżerċitaw is-setgħat tagħhom fuq wirja ta' awtorizzazzjoni bil-miktub ffirmata mid-Direttur Ġenerali li tispeċifika s-suġġett u l-għan tal-ispezzjoni u l-pieni mnizzla taħt l-artikolu 21.

(8) (a) Jekk ikun hemm suspett raġjonevoli li kotba jew records oħra relatati man-negozju u mas-suġġett tal-ispezzjoni, li jistgħu jkunu rilevanti biex jagħtu prova ta' ksur tal-artikoli 5 u, jew 9 u, jew tal-artikoli 101, u, jew 102 tat-TFUE, ikunu miżmuma f'xi fond ieħor, art jew mezz ta' trasport, inkluż id-djar ta' diretturi, manigġers jew membri oħra tal-persunal tal-intrapriži jew għaqdiet ta' intrapriži konċernati, id-Direttur Ġenerali jista', debitament awtorizzat b'mandat maħruġ minn Maġistrat, jordna li titmexxa spezzjoni f'dak il-fond, art jew mezz ta' trasport;

(b) Il-Maġistrat, meta jiddeċiedi jekk johroġ mandat taħt il-paragrafu (a) għandu jiżgura illi l-miżuri koersivi maħsuba la jkunu arbitrarji u lanqas eċċessivi, b'kont meħud, b'mod partikolari, għall-gravità tas-suspettat ksur ta' ligi, għall-importanza tal-provi mfittxija, għall-involviment tal-intrapriża jew l-għaqda ta' intrapriži konċernati u għall-probabbiltà raġjonevoli illi kotba tan-negozju u *records* relatati mas-suġġett tal-ispezzjoni huma miżmuma fil-fondijiet dwar liema intalab il-mandat;

(ċ) Il-mandat imsemmi fil-paragrafu (a) għandu jispeċifika is-suġġett, l-għan tal-ispezzjoni, id-data f'liema l-ispezzjoni ser tibda u l-pieni provduti fl-artikolu 21(4);

(d) L-uffiċjali li jkunu qed imexxu l-ispezzjoni taħt dan l-artikolu għandhom jeżerċitaw is-setgħat tagħhom fuq wirja tal-mandat msemmi fil-paragrafu (a) u għandhom għall-fini ta' dan l-artikolu jkollhom is-setgħa li jidhlu jew ifittxu f'dak il-fond, art jew mezz ta' trasport u tul spezzjoni bħal dik,

jistgħu jissekwestraw kull oġġett jew dokument, jew jieħdu estratti jew kopji ta' dokumenti, jew jordnaw li ma jitneħħa ebda oġġett minn dak il-fond, art jew mezz ta' trasport.

(9) (a) Fil-kors ta' kull tfittxija kif imsemmi fis-subartikoli (7) u (8), id-Direttur Ġenerali jista' jitlob l-assistenza tal-Pulizija u f'dak il-każ il-Pulizija għandu ikollha mandat minn Maġistrat biex tassisti lid-Direttur Ġenerali fit-tfittxija; u

(b) Meta l-assistenza tal-Pulizija tintalab mill-Kummissjoni Ewropea skont l-artikolu 20(6) tar-Regolament tal-Kunsill (KE) Nru. 1/2003, ikun hemm bżonn ta' mandat minn Maġistrat.

(10) Fil-ħruġ ta' mandat li jippermetti lill-Kummissjoni Ewropea li tmexxi spezzjoni skont l-artikolu 21 tar-Regolament tal-Kunsill (KE) Nru. 1/2003, il-Maġistrat għandu jsegwi d-disposizzjonijiet tal-paragrafu (3) tiegħu.

(11) Tul il-kors tal-ispezzjoni taħt dan l-artikolu, l-intrapriži jew l-għaqda ta' intrapriži jew persuni soġġetti għall-ispezzjoni jista' jkollhom rappreżentanza legali jew konsulenti ohra tal-għażla tagħhom:

Iżda d-dritt ta' assistenza bħal dik m'għandux ikollha l-effett li tissospendi jew ddewwem l-ispezzjoni.

(12) Id-Direttur Ġenerali għandu dejjem jagħti lill-persuna li tkun fil-fond jew li tkun fil-kontroll tal-ħaġa konfiskata riċevuta ta' kull ħaġa konfiskata. Kull ħaġa li tiġi konfiskata skont il-ligi mid-Direttur Ġenerali u kull ordni mogħtija mid-Direttur Ġenerali skont is-subartikolu (7) tista' tinzamm jew tista' tibqa' fis-seħħ sakemm id-Direttur Ġenerali iqis neċessarju.

(13) L-ebda tfittxija ma tista' tibda f'xi fond wara s-sebġha ta' filgħaxija u qabel is-sebġha ta' filgħodu tal-għada, kemm-il darba ma jkunx hemm għalfejn wiehed jahseb li d-dewmien ikun jista' jwassal għat-telfien ta' informazzjoni meħtieġa u t-tfittxija tkun giet espressament awtorizzata mid-Direttur Ġenerali jew l-Maġistrat, kif ikun il-każ, biex issir bejn l-imsemmija hinijiet.

(14) Ebda ħaġa f'dan l-artikolu ma għandha titqies li tnaqqas is-setgħat tal-Pulizija taħt il-Kodiċi Kriminali jew taħt xi ligi ohra." Kap. 9.

Sostituzzjoni
tal-artikolu 12A
tal-Att
prinċipali.

124. L-artikolu 12A tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Meta d-Direttur Ġenerali jsib il-ksur.

12A. (1) Meta lid-Direttur Ġenerali jirriżultalu illi seta' sehh ksur tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew ksur tal-artikoli 101 u, jew 102 tat-TFUE, hu għandu jinnotifika lill-partijiet konċernati bil-miktub bl-oġġezzjonijiet imressqa kontri hom skont id-disposizzjonijiet tal-artikolu 64 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur u għandu jiffissa terminu ta' żmien f'liema huma jistgħu jinfurmawh bil-fehmiet tagħhom bil-miktub, u l-partijiet konċernati jistgħu fis-sottomissjonijiet tagħhom jiktbu il-fatti kollha illi huma jafu bihom u li jistgħu jkunu relevanti għad-difiża tagħhom kontra l-oġġezzjonijiet mressqa mid-Direttur Ġenerali u għandhom jehmzu d-dokumenti rilevanti kollha bħala prova ta' dan.

(2) (a) Meta d-Direttur Ġenerali johrog stqarrija ta' oġġezzjonijiet fir-rigward ta' kwistjoni li dwarha ikun rċieva ilment, hu għandu jipprovdu lil dik il-persuna li ressqet l-ilment kopja mhux kunfidenzjali tal-istqarrija ta' oġġezzjonijiet;

(b) Il-paragrafu (a) m'għandux japplika meta l-proċedura ta' rizzoluzzjoni taht l-artikolu 12B tkun bdiet, madanakollu id-Direttur Ġenerali għandu jinforma bil-miktub lill-persuna li ressqet l-ilment dwar in-natura u s-sugġett tal-proċedura; u

(ċ) Taht il-paragrafi (a) u (b), id-Direttur Ġenerali għandu jiffissa terminu ta' żmien f'liema dik il-persuna li ressqet l-ilment għandha tgharraf il-fehmiet tagħha bil-miktub.

(3) (a) Id-Direttur Ġenerali għandu jagħti lill-partijiet li jkunu rċevew mingħandu stqarrija ta' oġġezzjonijiet kif imsemmija fis-subartikolu (1), kif ukoll lil dik il-persuna li tkun ressqet l-ilment, l-opportunità sabiex jiżviluppaw l-argumenti tagħhom bil-fomm, jekk ikun hekk mitlub fis-sottomissjonijiet tagħhom bil-miktub.

(b) Id-Direttur Ġenerali jista', fejn xieraq, jistieden kull persuna oħra biex tinfurmah bil-miktub il-fehmiet tagħha, u tista' tagħti lil dik il-persuna l-oppunità li tissottometti il-fehmiet tagħha bil-fomm jekk hekk titlob fis-sottomissjonijiet tagħha bil-miktub.

(4) Mingħajr ħsara għad-dritt tal-persuni msemmija fis-subartikolu (3), li jitolbu laqgħa separata u individwali, id-Direttur Ġenerali jista' ukoll, fuq inizjattiva tiegħu, u, kif iqs xieraq, jistieden lil ftit jew kull wieħed mill-partijiet li jkunu ssottomettew osservazzjonijiet bil-miktub skont is-subartikolu (3), għal laqgħa f'liema huma għandhom jiżviluppaw l-argumenti tagħhom u jagħmlu kontrosottomissjonijiet fil-preżenza ta' xulxin u jirrispondu għall-mistoqsijiet tad-Direttur Ġenerali:

Izda tul dik il-laqgħa, id-Direttur Ġenerali għandu jiżgura li qed jittiehed kont għall-protezzjoni tas-sigrieti tan-negozju u informazzjoni kun-fidenzjali.

(5) Il-partijiet notifikati bi stqarrija ta' oġġezzjonijiet kif imsemmi fis-subartikolu (1) għandhom jkunu intitolati li jkollhom aċċess għal fajl tal-każ tagħhom wara li jkunu ġew notifikati, bla ħsara għan-nuqqas ta' żvelar ta' informazzjoni jew dokumenti identifikati mid-Direttur Ġenerali li jkun fihom sigrieti tan-negozju jew xi informazzjoni kunfidenzjali oħra, jew dokumenti interni tad-Direttur Ġenerali jew tal-Awtoritajiet dwar il-Kompetizzjoni ta' Stati Membri oħra.

(6) Fejn, fuq konkluzjoni tal-investigazzjoni, jirriżulta lid-Direttur Ġenerali li l-ftehim, deċiżjoni, prattika miftiehma jew mgieba investigata tikser id-disposizzjonijiet tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew tikser id-disposizzjonijiet tal-artikoli 101 u, jew 102 tat-TFUE, huwa għandu johroġ deċiżjoni li sar ksur, u jagħti r-raġunijiet tiegħu:

Iżda id-Direttur Ġenerali għandu jibbaża id-deċiżjonijiet tiegħu taht dan is-subartikolu biss fuq oġġezzjonijiet mnizzla fl-istqarrija ta' oġġezzjonijiet msemmija fis-subartikolu (1).

(7) Fl-interpretazzjoni ta' dan l-Att u fl-eżerċizzju tar-responsabbiltajiet tiegħu, b'mod partikolari l-formulazzjoni tad-deċiżjonijiet, ordnijiet jew rapporti tiegħu, id-Direttur Ġenerali għandu jirrikorri għas-sentenzi tal-Qorti tal-Ġustizzja tal-Unjoni Ewropea, u għal deċiżjonijiet u stqarrijiet rilevanti tal-Kummissjoni Ewropea inkluż avvizi interpretattivi dwar id-disposizzjonijiet rilevanti tat-TFUE u leġislazzjoni sussidjarja relattiva għall-kompetizzjoni u jista' jirrikorri wkoll għad-deċiżjonijiet tiegħu u dawk tat-Tribunal tal-Appell.

(8) Kif tiġi notifikata deċiżjoni tad-Direttur Ġenerali kif imsemmi fis-subartikolu (6) dik id-deċiżjoni għandha, bla ħsara għad-dritt t'appell taht l-artikolu 13A, tikkostitwixxi titolu eżekuttiv għall-finijiet u l-effetti kollha tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi tal-Organizzazzjoni u Proċedura Ċivili:

Kap. 12.

Iżda, minkejja id-disposizzjonijiet tal-artikolu 256(2) tal-Kodiċi tal-Organizzazzjoni u Proċedura Ċivili, it-titolu eżekuttiv imsemmi f'dan is-subartikolu ma jkun infurzabbli qabel ma jgħaddu għoxrin ġurnata mid-data ta' meta id-deċiżjoni giet notifikata lill-intrapriża jew għaqda ta' intraprizi konċernati skont l-artikolu 19(1).

(9) Kull deċiżjoni tad-Direttur Ġenerali tista' tiġi riveduta jew mibdula mid-Direttur Ġenerali fejn ikun jirrizulta illi:

(a) it-tagħrif li fuqu kienet ibbażata d-deċiżjoni kienet falza, qarrieqa jew nieqsa; jew

(b) il-kondizzjonijiet tas-suq ikunu tbiddu b'mod sinifikanti."

Żieda tal-artikoli ġodda 12B, 12C u 12D fl-Att prinċipali.

125. Minnufih wara l-artikolu 12A tal-Att prinċipali għandhom

jizdiedu dawn l-artikoli godda li ġejjin:-

"Proċedura ta' rizzoluzzjoni f'kazijiet ta' kartelli.

12B.(1) Tul investigazzjoni dwar ftehim jew prattika miftiehma bejn intrapriži li joperaw fl-istess livell tas-suq u fi hdan l-istess suq rilevanti jew deċizzjoni ta' għaqda ta' intrapriži li jkollha l-għan li tipprevjeni, tirrestringi jew tiddeforma il-kompetizzjoni skont l-artikolu 5 u, jew l-artikolu 101 tat-TFUE, id-Direttur Ġenerali jista', qabel ma johroġ stqarrija ta' oġġezzjonijiet, jistieden lil ftit minn jew kull waħda mill-intrapriži konċernati jew lill-għaqda ta' intrapriži konċernata biex jindikaw bil-miktub, fit-terminu ffissat minnu, jekk huma għandhomx il-ħsieb li jidhlu f'diskussjonijiet ta' rizzoluzzjoni bil-għan li jdaħħlu possibbilment sottomissjonijiet rizzoluttivi:

Izda id-Direttur Ġenerali m'għandux ikun obbligat li jiehu kont ta' twegibiet riċevuti wara t-tmiem ta' dak it-terminu.

(2) Meta żewġ intrapriži jew iktar fl-istess entità ekonomika jindikaw il-volontà tagħhom li jidhlu f'diskussjonijiet rizzoluttivi skont is-subartikolu (1), sat-tmiem tat-terminu ta' żmien iffissat mid-Direttur Ġenerali, huma għandhom jinnominaw rappreżentant kongunt biex jidhol f'isimhom fid-diskussjonijiet mad-Direttur Ġenerali:

Izda meta jiffissa t-terminu ta' żmien skont is-subartikolu (1), id-Direttur Ġenerali għandu jindika lill-intrapriži rilevanti li jiffurmaw parti mill-istess entità ekonomika, li n-nomina tar-rappreżentant kongunt ha jsir għall-fini unika biex titwettaq il-ħtieġa preskritta b'dan is-subartikolu u m'għandu jkollha l-ebda effett fuq l-allokkazzjoni ta' responsabbiltà għall-ksur bejn l-intrapriži differenti fi hdan dik l-imsemmija entità ekonomika.

(3) Intrapriži jew għaqda ta' intrapriži li jieħdu sehem fid-diskussjonijiet ta' rizzoluzzjoni jistgħu jiġu infurmati mid-Direttur Ġenerali dwar:

(a) l-oġġezzjonijiet li hu bi
hsiebu jressaq kontra tagħhom;

(b) il-provi użati biex
jistabbilixxi l-oġġezzjonijiet maħsuba;

(ċ) il-verzjonijiet mhux
kunfidenzjali ta' kull dokument
aċċessibli speċifikat elenkat fil-fajl tal-
każ f'dak il-ħin; u

(d) il-margġini tal-multi
potenzjali:

Izda fil-każ ta' paragrafu (ċ) l-
aċċess jista' jingħata biss fuq talba tal-
intrapriża jew l-għaqda ta' intrapriži
konċernata u meta dik it-talba tkun
neċessarja biex tippermetti lill-parti tkun
ċerta fuq il-pożizzjoni tagħha rigward il-
perjodu ta' żmien jew kull aspekk partikolari
iehor tal-kartell.

(4) Meta jintroduċu is-sottomissjonijiet
tagħhom dwar ir-riżoluzzjoni, l-intrapriži jew
l-għaqda tal-intrapriži li jkunu qed jieħdu
sehem fid-diskussjonijiet ta' riżoluzzjoni
għandhom jikkonfermaw lid-Direttur Ġenerali
illi huma ser jitolbu aċċess għall-fajl u permess
biex jissottomettu l-fehmiet tagħhom bil-fomm
wara li jirċievu l-istqarrija tal-oġġezzjonijiet
biss jekk l-istqarrija tal-oġġezzjonijiet ma
tkunx tirrifletti l-kontenut tas-sottomissjonijiet
ta' riżoluzzjoni tagħhom.

(5) L-informazzjoni mogħtija skont is-
subartikolu (3) għandha tkun kunfidenzjali vis-
a-vis terzi persuni, hlief fejn l-awtorizzazzjoni
espliċita għall-izvelar tkun giet mogħtija minn
qabel mid-Direttur Ġenerali.

(6) Jekk ikun hemm progress fid-
diskussjonijiet ta' riżoluzzjoni, id-Direttur
Ġenerali jista' jiffissa terminu ta' żmien
f'liema l-partijiet jistgħu jikkommettu ruħhom
li jsegwu l-proċedura ta' riżoluzzjoni billi
jdaħħlu sottomissjonijiet riżoluttivi li jirriflettu
ir-riżultati tad-diskussjonijiet ta' riżoluzzjoni u
li jirrikonoxxu il-parteciġipazzjoni tagħhom fi
ksur tal-artikolu 5, u, jew l-artikolu 101 tat-
TFUE kif ukoll r-responsabbiltà tagħhom:

Iżda, qabel ma d-Direttur Ġenerali jiffissa terminu ta' żmien biex jintroduċi s-sottomissjonijiet riżoluttivi tagħhom, il-partijiet konċernati għandhom ikunu intitolati li jkollhom l-informazzjoni speċifikata fis-subartikolu (3) żvelata lilhom, fuq talba, fil-hin:

Iżda wkoll id-Direttur Ġenerali m'għandux ikun obligat li jieħu kont tas-sottomissjonijiet riżoluttivi riċevuti wara t-tmiem ta' dak it-terminu.

(7) Meta l-istqarrija ta' oġġezzjonijiet notifikata lill-partijiet tkun tirrifletti l-kontenut tas-sottomissjonijiet riżoluttivi tagħhom, it-tweġiba bil-miktub tal-intraprizi jew għaqda tal-intraprizi konċernata dwar l-istqarrija ta' oġġezzjonijiet għandha, fit-terminu ffixsat mid-Direttur Ġenerali, tikkonferma illi l-istqarrija ta' oġġezzjonijiet indirizzata lilhom tirrifletti l-kontenut tas-sottomissjonijiet riżoluttivi tagħhom.

(8) Bla ħsara għad-disposizzjonijiet tas-subartikolu (7), id-Direttur Ġenerali jista' mbagħad jipproċedi għall-adozzjoni ta' deċiżjoni skont is-subartikolu 12A:

Iżda id-Direttur Ġenerali jista' jippremja lill-intraprizi jew għaqda ta' intraprizi konċernati għar-riżoluzzjoni billi jnaqqas 10% mill-ammont tal-multa li tkun ser tiġi mposta.

(9) Il-fatt li intrapriza ikkoperat mad-Direttur Ġenerali taħt din il-proċedura ta' riżoluzzjoni għandha tkun indikata fid-deċiżjoni finali, sabiex tiġi spjegata ir-raġuni dwar il-livell tal-multa.

(10) Id-Direttur Ġenerali jista' jiddeċiedi f'kull hin waqt il-proċedura biex jwaqqaf id-diskussjonijiet ta' riżoluzzjoni għal kollox f'każ speċifiku jew fir-rigward ta' wiehed jew iżjed mill-partijiet involuti, jekk hu jikkonsidra illi l-effiċjenzi proċedurali x'aktarx mhux ser jintlahqu.

Rabtiet.

12Ċ.(1) Fejn id-Direttur Ġenerali jkun bi ħsiebu jaddotta deċiżjoni li tehtieg li l-ksur għandu jieqaf u l-intrapriża jew l-għaqda ta' intrapriži konċernati joffru rabtiet li jilhqu it-thassib espressi lilhom mid-Direttur Ġenerali fl-istima preliminari tal-każ, id-Direttur Ġenerali jista' b'deċiżjoni jagħmel dak l-irbit vinkolanti fuq l-intrapriża jew l-għaqda ta' intrapriži. Dik id-deċiżjoni tista' tapplika għal perjodu speċifikat u għandha tikkonkludi li ma jkunx hemm aktar raġunijiet għalfejn id-Direttur Ġenerali għandu jaġixxi:

Izda d-Direttur Ġenerali jista', jerga jibda l-proċeduri mill-ġdid meta jirriżultalu illi:

(a) jkun hemm bidla materjali f'kwalunkwe fatt li fuqu giet ibbażata d-deċiżjoni; jew

(b) l-intrapriża jew l-għaqda ta' intrapriži konċernati mxew kontra l-irbit tagħhom; jew

(ċ) id-deċiżjoni giet ibbażata fuq tagħrif provdut mill-partijiet li kienet mhux kompluta, inkorretta jew qarrieqa.

(2) (a) Meta d-Direttur Ġenerali ikun bi ħsiebu jadotta deċiżjoni taht is-subartikolu (1), hu għandu jippubblika taqsira konċiża tal-każ u l-kontenut ewlieni tal-irbiet jew tal-kors t'azzjoni proposta.

(b) Terzi persuni interessati jistgħu jissottomettu l-osservazzjonijiet tagħhom fit-terminu ta' żmien ffissat mid-Direttur Ġenerali fil-pubblikazzjoni.

(ċ) It-terminu ta' żmien msemmi fil-paragrafu (b) ma jistax ikun inqas minn xahar.

(d) Fil-pubblikazzjoni msemmija fil-paragrafu (a) id-Direttur Ġenerali għandu jieħu kont tal-interess legittimu tal-intrapriži fil-protezzjoni ta' informazzjoni kunfidenzjali u sigriet tan-negozju.

(3) Meta xi intrapriża jew għaqda ta' intrapriži jonqsu milli jharsu jew jaġixxu kontra r-rabta li saret vinkolanti b'deċiżjoni li tkun saret skont is-subartikolu (1), hi tkun qiegħda, mingħajr ħsara għal kull responsabbiltà oħra taħt dan l-Att, jew taħt xi liġi oħra tikkommetti ksur ta' dan l-Att u id-disposizzjonijiet tal-artikolu 12A għandhom japplikaw *mutatis mutandis*.

Meta d-Direttur Ġenerali isib li m'hemmx ksur.

12D. Fejn jirriżulta lid-Direttur Ġenerali, illi l-imġieba mistħarrġa fl-investigazzjoni ma tikkostitwix ksur tad-disposizzjonijiet tal-artikolu 5 u, jew artikolu 9, u, jew l-Artikolu 101 u, jew l-Artikolu 102 tat-TFUE, hu jista' jagħti deċiżjoni għal dak il-għan.

(2) Meta d-Direttur Ġenerali ikun bi ħsiebu jadotta deċiżjoni taħt is-subartikolu (1), id-disposizzjonijiet tal-artikolu 12Ċ(2) għandhom japplikaw *mutatis mutandis*".

126. L-artikolu 13 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 13 tal-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwiti b'dan li ġej:

"Meta joħroġ deċiżjoni li jkun sab ksur taħt l-artikolu 12A, id-Direttur Ġenerali għandu flimkien ma' dik id-deċiżjoni joħroġ ordni ta' waqfien u ebda tkompliġa li biha hu jordna lill-intrapriża jew għaqda ta' intrapriži konċernati, skont il-każ, li tiegħu u ma tkompliex tipparteċipa f'tali ftehim, deċiżjoni, prattika jew mġieba, u, jew ordni ta' konformità li tippreskrivi rimedji fl-imġieba jew ta' struttura indirizzati lill-intrapriża jew għaqda ta' intrapriži konċernati, bil-għan li jwaqqfu l-ksur b'mod immedjat u effettiv."; u

(b) is-subartikolu (2) tiegħu għandu jiġi mħassar u is-subartikoli (3) u (4) tiegħu għandhom jiġu enumerati mill-ġdid b'hal s-subartikoli (2) u (3) rispettivament.

127. L-artikoli 13A u 14 tal-Att prinċipali għandhom jiġu sostitwiti b'dawn l-artikoli li ġejjin:

"Appell
quddiem it-
Tribunal tal-
Appell.

13A.(1) L-intrapriża jew l-għaqda ta' intrapriži konċernati jistgħu jappellaw permezz ta' rikors preżentat quddiem it-Tribunal tal-Appell, minn kull deċiżjoni li ssib ksur, ordni ta' waqfien u ebda tkompliġa jew ordni ta' konformità, jew multa amministrattiva u, jew minn xi hłas ta' penali kwotidjan mahruġ jew impost mid-Direttur Ġenerali skont id-disposizzjonijiet ta' dan l-Att fiż-żmien għoxrin ġurnata mid-data tan-notifika skont l-artikolu 19(1).

(2) L-appell għandu jiġi notifikat lid-Direttur Ġenerali, u d-Direttur Ġenerali għandu jippreżenta ir-risposta tiegħu fiż-żmien għoxrin ġurnata mid-data tan-notifika tal-appell.

(3) Il-preżentata tal-appell skont is-subartikolu (1) m'għandux ikollu l-effett li jissospendi l-ordni, multa amministrattiva u, jew il-hłas ta' penali kwotidjan li dwarhom qed isir l-appell sakemm it-Tribunal tal-Appell, fuq talba raġunata mill-parti fl-istess rikors tal-appell, u wara li jinstema' d-Direttur Ġenerali, ma tissospendix l-ordni, multa amministrattiva u, jew il-hłas ta' penali kwotidjan taht daww il-kondizzjonijiet li jidrilha xierqa u tagħti r-raġunijiet tagħha għal dan, sakemm tingħata sentenza finali tal-appell.

(4) It-Tribunal tal-Appell jista' jew jikkonferma fl-intier jew in parti jew iħassar id-deċiżjoni u, jew l-ordni tad-Direttur Ġenerali u jista' jikkonferma, jirrevoka jew jvarja il-multa amministrattiva u, jew il-hłas ta' penali kwotidjan impost mid-Direttur Ġenerali fil-limiti tal-artikolu 21, filwaqtli jittiehed kont tal-gravità u t-tul taż-żmien li dam il-ksur kif ukoll kull ċirkostanza attenwanti jew aggravanti.

(5) Id-Direttur Ġenerali u kull parti f'appell quddiem it-Tribunal tal-Appell li jhossuhom aggravati b'deċiżjoni tat-Tribunal tal-Appell jistgħu jappellaw fuq punt ta' liġi quddiem il-Qorti tal-Appell permezz ta' rikors preżentat fir-reġistru ta' dik il-qorti, fi żmien għoxrin ġurnata mid-data ta' dik id-deċiżjoni tat-Tribunal tal-Appell.

Tmexxija ta' ilmenti u dritt ta' appell.

14. (1) L-ilmenti għandhom jiġu riċevuti mid-Direttur Ġenerali bil-miktub, u d-Direttur Ġenerali għandu jippreskrivi dawk il-htigiet ġenerali li persuna li tressaq ilment għandha ssegwi meta ttiprovdi informazzjoni:

Izda dik il-persuna li tressaq l-ilment għandha titlob fl-ilment tagħha sabiex titwettaq investigazzjoni fuq dawk il-prattiċi li huma allegatament ristrettivi.

(2) Meta d-Direttur Ġenerali jara li, fuq il-bażi tal-informazzjoni fil-pussess tiegħu m'hemmx raġunijiet suffiċjenti sabiex jaġixxi fuq ilment, hu għandu jinforma lill-persuna li tkun ressqet l-ilment bir-raġunijiet tiegħu u għandu jistabbilixxi terminu ta' żmien li fih il-persuna li tkun ressqet l-ilment tkun tista' turi l-fehmiet tagħha bil-miktub. Id-Direttur Ġenerali m'għandux ikun obligat li jieħu in konsiderazzjoni sottomissjonijiet oħra bil-miktub li jkun rċieva wara l-għeluq ta' dak it-terminu.

(3) Meta l-persuna li ressqet l-ilment turi l-fehmiet tagħha lid-Direttur Ġenerali fit-terminu ffixsat minnu u is-sottomissjonijiet bil-miktub magħmula mill-persuna li tkun ressqet l-ilment ma jwasslux għal evalwazzjoni differenti tal-ilment, id-Direttur Ġenerali għandu jiċhad l-ilment permezz ta' deċiżjoni.

(4) Meta l-persuna li tkun ressqet l-ilment tonqos milli turi l-fehmiet tagħha lid-Direttur Ġenerali fit-terminu ta' żmien lilha ffixsat minnu, l-ilment jiġi meqjus li ġie irtirat.

(5) Meta l-persuna li tkun ressqet l-ilment ma taqbilx mad-deċiżjoni tad-Direttur Ġenerali skont is-subartikolu (3) jew mad-deċiżjoni tad-Direttur Ġenerali fejn isib li ma jkunx hemm ksur skont l-artikolu 12D, hija tista' tappella permezz ta' rikors preżentat quddiem it-Tribunal tal-Appell fi żmien għoxrin ġurnata min-notifika tagħha u dan skont l-artikolu 19(1).

(6) Meta, fuq appell mressaq minn dik il-persuna li tkun ressqet l-ilment, it-Tribunal tal-Appell ma jaqbilx mad-deċiżjoni tad-Direttur Ġenerali li tkun ivaħdet l-ilment skont is-subartikolu (3), hija għandha tinforma lid-Direttur Ġenerali b'dan u hu għandu għalhekk jibda l-investigazzjoni.

(7) Meta, fuq appell mressaq minn dik il-persuna li tkun ressqet l-ilment, it-Tribunal tal-Appell ma jaqbilx mad-deċizjoni tad-Direttur Ġenerali li jkun sab li m'hemmx ksur skont l-artikolu 12D, u jsib illi hemm ksur, hu għandu jagħti deċizjoni f'dan is-sens u jirrimetti d-deċizjoni lid-Direttur Ġenerali li għandu jieħu kull miżura li huwa iqis xieraq skont id-disposizzjonijiet ta' dan l-Att fir-rigward tal-imsemmi ksur.

(8) Kull parti f'appell quddiem it-Tribunal tal-Appell, inkluż id-Direttur Ġenerali, li thoss ruħha aggravata b'deċizjoni tat-Tribunal tal-Appell maħruġa skont is-subartikolu (7) tista' tappella fuq punt ta' liġi quddiem il-Qorti tal-Appell, permezz ta' rikors pprezentat fir-reġistru ta' dik il-qorti, fi żmien għoxrin ġurnata mid-data ta' dik id-deċizjoni tat-Tribunal tal-Appell u d-disposizzjonijiet tas-subartikolu (7) għandhom japplikaw *mutatis mutandis* għall-Qorti tal-Appell.

(9) Kull deċizjoni li jkun ha it-Tribunal tal-Appell fuq appell minn deċizjoni li jkun ha d-Direttur Ġenerali mogħtija skont is-subartikolu (3) tkun waħda finali.

(10) Appell magħmul taħt dan l-artikolu ma jissospendix l-operat ta' xi deċizjoni li minnha jsir l-appell."

Żieda tal-artikoli godda 14A, 14B u 14C tal-Att prinċipali.

128. Minnufih wara l-artikolu 14 tal-Att prinċipali għandhom jiżdiedu l-artikoli godda li ġejjin:-

"Ilmenti ta' interess ġenerali.

14A.(1) Mingħajr hsara għall-artikolu 12, entità kwalifikata tista' wkoll tressaq ilment lid-Direttur Ġenerali illi fir-rigward ta' oġġetti jew servizzi partikolari:

(a) l-istruttura tas-suq konċernat jew xi aspett minn dik l-istruttura;

(b) xi mġieba, sew jekk fis-suq konċernat u sew jekk le, ta' persuna waħda jew iżjed li tipprovdi jew takkwista oġġetti jew servizzi fis-suq konċernat; jew

(ċ) xi imġieba fir-rigward tas-suq konċernat ta' klijenti ta' persuna li tipprovdi jew takkwista oġġetti jew servizzi, hija jew tidher li qed tagħmel hsara b'mod sinifikanti lill-interessi tal-konsumatur.

(2) Id-Direttur Ġenerali għandu, fi żmien disghin ġurnata wara l-ġurnata li fih jirċievi l-ilment, jipubblika risposta li tgħid kif hu jipproponi li jittratta l-ilment, u b'mod partikolari:

(a) jekk hu ddeċidiexli jiehu azzjoni, jew li ma jiehu azzjoni, bħala risposta għall-ilment; u

(b) jekk hu ddeċida li jiehu azzjoni, x'azzjoni qed jipproponi li jiehu.

(3) Ir-risposta għandha tagħti r-raġunijiet tad-Direttur Ġenerali għall-proposti tiegħu.

(4) Id-Direttur Ġenerali-

(a) għandu joħroġ gwida dwar il-preżentazzjoni mill-entità kwalifikata ta' każ raġunat għall-ilment; u

(b) jista' joħroġ kwalunkwe gwida oħra kif jidher xieraq għall-finijiet ta' dan l-artikolu.

Sospensjoni
jew
terminazzjoni
ta' proceduri.

14B.(1) Id-Direttur Ġenerali jista' jissospendi il-proċeduri jew jirrifjuta ilment skont l-artikolu 13 tar-Regolament tal-Kunsill(KE) Nru. 1/2003.

(2) Meta d-Direttur Ġenerali jiċhad jew jissospendi ilment skont is-subartikolu (1), hu għandu jinforma mingħajr dewmien lil dik il-persuna li tkun ressqet l-ilment b'dik l-awtorità tal-kompetizzjoni li tkun qiegħda tmexxi jew ġa imxiet f'dak il-każ.

Ittri ta'
gwida.

14Ċ.(1) Meta id-Direttur Ġenerali jqis xieraq, hu jista', wara talba minn intrapriża, jipprovdi gwida fuq kwistjonijiet godda dwar l-interpretazzjoni tal-artikoli 5 u, jew 9 u l-artikoli 101, u, jew 102 tat-TFUE f'dikjarazzjoni bil-miktub magħrufa bħala "ittra ta' gwida".

(2) Id-Direttur Ġenerali għandu jikkonsidra bħala xieraq li joħroġ ittra ta' gwida taht is-subartikolu (1) biss jekk il-kondizzjonijiet kumulattivi li ġejjin ikunu seħħew:

(a) il-gwida informali mitluba hija kumpatibbli mal-prijoritajiet ta' infurzar tal-Uffiċċju;

(b) il-valutazzjoni sostantiva tal-ftehim jew prattika fid-dawl tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew l-artikoli 101, u, jew 102 tat-TFUE, tqajjem mistoqsija dwar l-applikazzjoni tal-ligi li dwarha ma jkunx hemm kjarifika fil-qafas legali eżistenti Malti jew tal-UE fi gwida ġenerali pubblika disponibbli, f'sentenzi jew deċiżjonijiet jew f'ittri ta' gwida preċedenti;

(ċ) evalwazzjoni prima-facie tal-fatti tal-każ tissuggerixxi illi l-kjarifika tal-kwistjoni ġdida permezz ta' ittra ta' gwida ser tkun utli, b'kont meħud tal-elementi li ġejjin:

- l-importanza ekonomika tal-oġġetti u servizzi konċernati bil-ftehim jew prattika mill-perspettiva tal-konsumatur, u, jew;

- il-limitu sa liema l-ftehim jew prattika ser tiġi applikata jew x'aktarx ser tiġi applikata fis-suq rilevanti jew fi swieq oħra, u, jew;

- l-importanza tal-investimenti marbuta mat-transazzjoni tenut kont tad-daqs tal-kumpanniji konċernati u l-limitu sa fejn it-transazzjoni tirrelata ma' operazzjoni strutturali bħal ma hu l-*holqien ta' joint venture* b'funzjoni mhux sħiħa; u

(d) ikun possibli li tinħareġ ittra ta' gwida fuq il-bażi tal-informazzjoni provduta u ma jkun hemm bżonn tal-ebda mizura oħra ta' tiftix dwar il-fatti mid-Direttur Ġenerali.

(3) Id-Direttur Ġenerali m'għandux jikkonsidra talba għal ittra ta' gwida meta:

(a) ikun jaf illi l-kwistjonijiet mqajma fit-talba huma identiċi għal jew simili ta' kwistjonijiet mqajma f'każ pendent quddiem qorti ta' Malta jew il-Qorti tal-Ġustizzja tal-Unjoni Ewropea; jew

(b) il-ftehim jew il-prattika għal liema t-talba tirreferi tkun sugġetta għal proċedimenti pendenti quddiem id-Direttur Ġenerali, it-Tribunal tal-Appell, il-Kummissjoni Ewropea, u sa fejn hu jista' jkun jaf bihom pendenti quddiem qorti ta' Malta, il-Qorti tal-Ġustizzja tal-Unjoni Ewropea jew qorti ta' Stat Membru ieħor jew awtorità kompetenti nazzjonali.

(4) Id-Direttur Ġenerali m'għandux jikkonsidra mistoqsijiet ipotetiċi jew johroġ ittri ta' gwida dwar ftehim jew prattiċi illi m'għadhomx jiġu implimentati mill-applikanti:

Izda l-intraprizi jistgħu jipprezentaw talba għal ittra ta' gwida lid-Direttur Ġenerali dwar kwistjonijiet mqajma b'xi ftehim jew prattika qabel l-implimentazzjoni tagħhom imma wara l-konkluzjoni tal-ftehim jew prattika jew meta l-intraprizi ikunu jistgħu juru għas-sodisfazzjon tad-Direttur Ġenerali illi n-negozjati waslu fi stadju avanzat suffiċjenti biex talba tiġi kkunsidrata.

(5) Talba għal ittra ta' gwida m'għandux ikollha l-effett li tipprevjeni lid-Direttur Ġenerali, meta hu iqis neċessarju, milli jibda investigazzjoni taħt dan l-Att dwar il-fatti preżentati fit-talba.

(6) It-talba għandu jkun fiha b'mod ċar:

- l-identità tal-intraprizi konċernatikollha jew tal-għaqda ta' intraprizi, kif ukoll indirizz uniku fejn tiġi riċevuta ittra ta' gwida;

- il-kwistjonijiet speċifiċi li dwarhom gwida qiegħda titfittex;

- l-informazzjoni kollha u eżawrjenti fuq il-punti kollha rilevanti għal evalwazzjoni informata tal-mistoqsijiet mqajma inkluż dokumentazzjoni pertinenti;

- raġunament dettaljat għala it-talba tipprezenta kwistjoni ġdida;

- kull informazzjoni oħra illi tippermetti evalwazzjoni tat-talba fid-dawl tal-kondizzjonijiet msemmija fis-subartikoli (2) sa (4), inkluż b'mod partikolari, dikjarazzjoni li l-ftehim jew prattika għal liema tirreferi t-talba

mhijiex sugġett għal proċeduri quddiem il-Qorti tal-Ġustizzja tal-Unjoni Ewropea, qorti ta' Malta jew ta' stat membru ieħor jew quddiem il-Kummissjoni Ewropea jew awtorità kompetenti nazzjonali;

- identifikazzjoni ċara ta' kull informazzjoni kunfidenzjali jew sigrieti tan-negozju; u

- kull informazzjoni oħra jew dokumentazzjoni rilevanti għall-każ individwali.

(7) Id-Direttur Ġenerali għandu jevalwa it-talba fuq il-bażi tal-informazzjoni provduta u, fejn disponibbli, jista' juża informazzjoni addizzjonali għad-disposizzjoni tiegħu minn sorsi pubbliċi, investigazzjonijiet preċedenti jew kull sors ieħor u jista' jsaqsi lill-applikanti biex jipprovdu informazzjoni supplimentari:

Iżda meta juża informazzjoni provduta mill-applikanti jew dik l-informazzjoni oħra, id-Direttur Ġenerali għandu jieħu kont tal-protezzjoni tal-informazzjoni kunfidenzjali u s-sigrieti tan-negozju.

(8) Meta d-Direttur Ġenerali jikkonsidra illi mhux xieraq li johroġ ittra ta' gwida jew li ittra ta' gwida ma tistax tinhareġ taħt dan l-artikolu, id-Direttur Ġenerali għandu jinforma lill-applikant dwar dan filwaqt li jagħti r-raġunijiet għal dan.

(9) Meta d-Direttur Ġenerali ma jkunx għadu hareġ ittra ta' gwida, l-applikant jista' jirtira t-talba tiegħu fi kwalunkwe stadju:

Iżda meta talba għal ittra ta' gwida tiġi rtirata skont dan is-subartikolu, l-informazzjoni mogħtija fil-kuntest tat-talba għall-gwida għandha tibqa' għand id-Direttur Ġenerali u tista' tiġi użata fi proċeduri sussegwenti taħt dan l-Att.

(10) Ittra ta' gwida għandu jkun fiha:

- deskrizzjoni mqassra tal-fatti fuq liema hija bbażata; u

- ir-raġonament legali prinċipali wara l-apprezzament u evalwazzjoni tad-Direttur Ġenerali tal-kwistjoni ġdida relatata mal-artikoli 5 u, jew 9 ta' dan l-Att u, jew l-artikoli 101 u, jew 102 tat-TFUE mqajma fit-talba:

Iżda ittra ta' gwida tista' tkun limitata għal parti mill-kwistjonijiet mqajma fit-talba u tista' wkoll tinkludi aspetti addizzjonali għal daww mnizzla fit-talba.

(11) Ittri ta' gwida għandhom jittellaw fuq is-sit elettroniku tal-Awtorità, b'kont meħud għall-interess legittimu tal-intrapriżi dwar il-protezzjoni ta' informazzjoni kunfidenzjali u sigrieti tan-negożju:

Iżda, qabel ma johroġ ittra ta' gwida, id-Direttur Ġenerali għandu jaqbel mal-applikanti dwar verżjoni pubblika.

(12) Meta ftehim jew prattika tkun iffurmat l-bażi fattwali għal ittra ta' gwida, id-Direttur Ġenerali m'għandux ikun imwaqqaf milli jeżamina sussegwentement dak l-istess ftehim jew prattika fi proċedura taħt dan l-Att, u meta jagħmel hekk, id-Direttur Ġenerali għandu jiehu kont tal-ittra ta' gwida, sugġett b'mod partikolari għal tibdil fil-fatti mnizzla, għal xi aspetti godda mqajma b'ilment, għal żviluppi f'deċiżjonijiet jew sentenzi dwar l-applikazzjoni tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew l-artikoli 101 u, jew 102 tat-TFUE u għal tibdil fil-politika tal-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur kif mwaqqfa bl-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur.

(13) Ittri ta' gwida mhumiex vinkolanti fuq il-qrati jew fuq it-Tribunal tal-Appell, għalkemm jista' jittiehed kont tagħhom jekk ikun hekk meqjus xieraq.

129. L-artikolu 15 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Mizuri
Interim.

15. (1) F'każijiet ta' urgenza min-habba riskju li ssir hsara serja u irraparabbli lill-kompetizzjoni, id-Direttur Ġenerali jista', fuq l-inizjattiva tiegħu stess, permezz ta' deċiżjoni, bbażata fuq sejba ta' ksur *prima facie* tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew l-artikoli 101 u, jew 102 tat-TFUE, jordna li jittieħdu mizuri *interim*.

Sostituzzjoni
tal-artikolu 15
tal-Att
prinċipali.

(2) L-intrapriża jew l-għaqda ta' intrapriži li jkunu taħt investigazzjoni għandhom jiġu notifikatiskont l-artikolu 19(1), b'kopja tad-deċiżjoni li tordna li għandha tittiehed miżura *interim* skont is-subartikolu (1), u dik id-deċiżjoni għandha tapplika għal perjodu ta' żmien speċifikat li jista' jiġġedded jekk ikun neċessarju u xieraq.

(3) L-intrapriża jew l-għaqda ta' intrapriži konċernati jistgħu jappellaw minn kull deċiżjoni li jkun ha d-Direttur Ġenerali skont is-subartikolu (1) permezz ta' rikors preżentat quddiem it-Tribunal tal-Appell fiż-żmien għoxrin ġurnata mid-data tan-notifika tagħha skont l-artikolu 19(1), u dan l-appell ma jkollux l-effett li jissospendi l-miżura *interim* sakemm it-Tribunal tal-Appell, wara li jisma s-sottomissjonijiet tal-intrapriża jew l-għaqda tal-intrapriži konċernati, ma jorndax xort'oħra.

(4) Kull deċiżjoni li jkun ha it-Tribunal tal-Appell skont dan l-artikolu għandha tkun finali.

Tahsir tal-artikolu 16 tal-Att prinċipali.

130. (1) L-artikolu 16 tal-Att prinċipali għandu jiġi mħassar.

Sostituzzjoni tal-artikoli 17, 18 u 19 tal-Att prinċipali.

(2) L-artikoli 17, 18 u 19 tal-Att prinċipali għandhom jiġu sostitwiti b'dawn l-artikoli li ġejjin:

Nuqqas ta' konformità ma' ordni ta' waqfien u ebda tkomplija u ma' ordni ta' konformità.

17. Kull intrapriża jew għaqda ta' intrapriži li jaġixxu kontra ordni ta' waqfien u ebda tkomplija jew ordni ta' konformità maħruġa mid-Direttur Ġenerali skont l-artikolu 13, bla ħsara għal kull responsabbiltà taħt dan l-Att jew taħt kull liġi oħra, ikunu qed jikkommettu ksur ta' dan l-Att.

Nuqqas ta' konformità ma' miżura *interim*.

18. Kull intrapriża jew għaqda ta' intrapriži li jaġixxu kontra miżura *interim* maħruġa mid-Direttur Ġenerali skont l-artikolu 15, bla ħsara għal kull responsabbiltà taħt dan l-Att jew taħt kull liġi oħra, ikunu qed jikkommettu ksur ta' dan l-Att.

Notifika u
Pubblikazzjon
i.

19. (1) Id-deċiżjonijiet jew ordnijiet tad-Direttur Ġenerali mahruġa skont id-disposizzjonijiet ta' dan l-Att għandhom jiġu notifikati lill-partijiet konċernati u lil min ressaq l-ilment skont id-disposizzjonijiet tal-artikolu 64 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarjiet tal-Konsumatur b'kont meħud għall-protezzjoni ta' informazzjoni kunfidenzjali u sigrieti tan-negozju.

(2) It-Tribunal tal-Appell u d-Direttur Ġenerali għandhom jipubblikaw mingħajr dewmien żejjed id-deċiżjonijiet li jkunu ttieħdu skont dan l-Att u waqt li jkun qed isir dan, it-Tribunal tal-Appell u d-Direttur Ġenerali għandhom jieħdu kont tal-interess leġittimu tal-intrapriżi għall-protezzjoni tas-sigrieti tan-negozju tagħhom.

(3) Kull deċiżjoni mogħtija mitt-Tribunal tal-Appell fi proċeduri quddiemu għandhom jitqiesu li jkunu ġew notifikati lill-intrapriża jew l-għaqda ta' intrapriżi konċernati fid-data li ġew mogħtija.

(4) It-Tribunal tal-Appell għandu jipprovdi:

(a) kemm verżjoni kompleta kif ukoll verżjoni mhux kunfidenzjali tad-deċiżjoni tiegħu fuq karta jew fuq mezz durabbli ieħor lid-Direttur Ġenerali; u

(b) kopja tad-deċiżjoni tiegħu, fuq talba, lill-partijiet fil-każ, filwaqt li jiżgura meta jagħmel hekk il-protezzjoni ta informazzjoni kunfidenzjali u sigrieti tan-negozju."

131. L-artikolu 21 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni
tal-artikolu
21 tal-Att
prinċipali.

"Multi
Amministrattivi

21. (1) Kull intrapriża jew għaqda ta' intrapriżi li tikkommetti ksur skont l-artikoli 12A(6), 12Ċ(3), 17 jew 18 tista', b'deċiżjoni tad-Direttur Ġenerali, tehel multa amministrattiva ta' mhux aktar minn għaxra fil-mija tad-dħul annwali tal-intrapriża jew għaqda ta' intrapriżi konċernati:

Iżda meta l-ksur magħmul minn għaqda ikun jirrigwarda l-attivitajiet tal-membri tagħha, il-multa ma tkunx aktar minn għaxra fil-mija tad-dhul annwali ta' kull membru attiv fis-suq affetwat mill-ksur magħmul mill-għaqda.

(2) (a) Meta multa amministrattiva hija imposta fuq għaqda ta' intrapriżi, wara li jkun ittiehed kont tad-dhul annwali tal-membri tagħha, u l-għaqda ma tkunx kapaċi thallas, l-għaqda għandha tagħmel sejha għall-kontribuzzjonijiet mill-membri tagħha biex tkun tista' tkopri l-ammont tal-multa amministrattiva li jkun dovut;

(b) Meta dawk il-kontribuzzjonijiet msemmija fil-paragrafu (a) ma jkunux saru lill-għaqda fit-terminu taż-żmien mogħti mid-Direttur Ġenerali, id-Direttur Ġenerali jista' jitlob illi l-multa amministrattiva tithallas direttament minn kwalunkwe intrapriża li kellha ir-rappreżentanti tagħha membri tal-korpi li jieħdu d-deċiżjonijiet tal-għaqda; u

(ċ) Meta l-applikazzjoni tal-paragrafu (b) ma tkunx biżżejjed biex jiġi żgurat il-ħlas sħiħ tal-multa, id-Direttur Ġenerali jista' jitlob il-ħlas tal-bilanċ minn kull membru tal-għaqda li kienu attivi fis-suq f'liema seħħ l-ksur:

Iżda d-Direttur Ġenerali ma jistax jitlob li l-ħlas isir minn intrapriżi li juru illi huma ma implimentawx id-deċiżjoni illegali tal-għaqda u li ma kienux jafu bl-eżistenza tagħha jew inkella naqsu attivament milli jkollhom x'jaqsmu ma' dik id-deċiżjoni minn qabel mad-Direttur beda jinvestiga l-każ:

Iżda wkoll ir-responsabbiltà finanzjarja ta' kull intrapriża fir-rigward tal-ħlas tal-multa m'għandux ikun iktar minn 10% tad-dhul sħiħ tagħha fis-sena kummerċjali preċedenti.

(3) Meta jiffissa l-ammont tal-multa, id-Direttur Ġenerali għandu jiehu kont tal-gravità u d-dewmien tal-ksur u ta' kull ċirkostanza aggravanti jew attenwanti:

Iżda d-Direttur Ġenerali jista' minn żmien għal żmien johroġ linji ta' gwida li jispeċifikaw il-manjiera ta' kif għandhom jiġu stabbiliti l-multi.

(4) (a) Kull intrapriża jew għaqda ta' intrapriži li tonqos milli tħares xi ordni ta' waqfien u ebda tkomplija jew ordni ta' konformità maħruġa skont l-artikolu 13, jew tonqos milli tħares miżura *interim* skont l-artikolu 15, jew tonqos milli tħares rabta magħmula vinkolanti skont l-artikolu 12Ċ, jew li tonqos milli ttipprovdi informazzjoni korretta u kompleta wara talba għal informazzjoni taħt l-artikoli 11A u 12 jew tonqos milli tissottometti lilha nnifisha għal spezzjoni taħt l-artikolu 12 tista', fid-diskrezzjoni tad-Direttur Ġenerali, tehel il-piena ta' multa kwotidjana li ma tkunx aktar minn hamsa fil-mija tal-medja tad-dhul ta' kuljum tas-sena kummerċjali preċedenti tal-intrapriża jew l-għaqda ta' intrapriži konċernati għal kull ġurnata li l-nuqqas ta' ħarsien tal-obbligazzjonijiet ikompli jseħh.

(b) Il-piena ta' multa kwotidjana msemmi fil-paragrafu (a) għandu jkun kalkolat mid-data stabbilita fid-deċiżjoni tad-Direttur Ġenerali.

(c) Meta l-intrapriża jew l-għaqda ta' intrapriži konċernati iharsu l-obbligazzjonijiet msemmija taħt il-paragrafu (a), id-Direttur Ġenerali jista' jiffissa l-ammont definittiv tal-multa kwotidjana għal somma inqas minn dik li kieku kien jirriżulta mid-deċiżjoni originali tad-Direttur Ġenerali.

(d) Fl-applikazzjoni ta' dan is-subartikolu għalgħaqda ta' intrapriži, is-subartikolu (2) għandu *mutatis mutandis* japplika.

(5) Kull persuna li waqt investigazzjoni jew inkjesta magħmula taħt dan l-Att, jew waqt proċeduri quddiem t-Tribunal tal-Appell bi ħsieb jew bi traskuraġni:

(a) tagħti informazzjoni falza, mhux preċiża jew qarrieqa; jew

(b) ttiprovdi informazzjoni mhux kompleta; jew

(c) ma thallix li sseħh jew ixxeġkel investigazzjoni; jew

(d) tipproduċi jew tagħti, jew tikkawża jew xjentement thalli li jiġi prodott jew mogħti xi dokument jew informazzjoni li hija tkun taf li tkun falza f'xi dettal sostanzjali, tehel il-ħlas ta' multa amministrattiva ta' mhux inqas minn elf euro (€1,000) u mhux aktar minn għaxart elef euro (€10,000), kif impost mid-Direttur Ġenerali.

(6) Meta persuna, li tkun sid, direttur, ufficjal, amministratur jew maniger ta' intrapriża tonqos mingħajr raġuni valida, li tagħti l-informazzjoni mitluba fiż-żmien lilha mogħti, tehel multa amministrattiva ta' elfejn u erba' mitt euro (€2,400) għal kull ġurnata ta' nuqqas."

Żieda tal-artikolu ġdid 21A tal-Att prinċipali.

132. Minnufih wara l-artikolu 21 tal-Att prinċipali, għandu jiżdied l-artikolu ġdid li ġej:

"Nuqqas ta' Ħlas ta' Multi.

21A. Bla ħsara għad-disposizzjonijiet tal-artikolu 13A(1), in-nuqqas ta' ħlas ta' xi multa amministrattiva u, jew ħlas ta' penali kwotidjan impost mid-Direttur Ġenerali, jew mit-Tribunal tal-Appell wara li jkun sar appell mill-multa amministrattiva u, jew mill-ħlas ta' penali kwotidjan impost mid-Direttur Ġenerali, jikkostitwixxi reat kontra dan l-Att, u kull persuna li tkun direttur, u, jew il-ħlas tal-penali ta' kuljum, tehel meta tinstab hatja l-piena ta' multa ta' mhux inqas minn elf euro (€1,000) u mhux aktar minn għoxrin elf euro (€20,000)."

Tahsir tal-artikolu 22A tal-Att prinċipali.

133. L-artikolu 22A tal-Att prinċipali għandu jiġi mħassar.

Emenda tal-artikolu 23 tal-Att prinċipali.

134. L-artikolu 23 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"(1) Kull multa li għandha tiħallas minhabba kummissjoni ta' reati kontra dan l-Att tingabar bhala dejn civili favur il-Gvern mid-Direttur Ġenerali, u l-intrapriża li fl-interessi ekonomiċi tagħha il-persuna misjuba hatja kienet qed taġixxi tkun responsabbli *in solidum* mal-persuna misjuba hatja għall-ħlas tal-imsemmija multa.

Kap. 446. Kap. 9.

(2) Id-disposizzjonijiet tal-Att dwar il-*Probation* u tal-artikolu 21 tal-Kodiċi Kriminali m'għandomx japplikaw għar-rigward ta' reati li jsiru kontra dan l-Att.

(3) Kull multa amministrattiva pagabbli lid-Direttur Ġenerali taht dan l-Att tingabar bhala dejn ċivili mid-Direttur Ġenerali u tkun tikkostitwixxi titolu eżekuttiv għall-finijiet u l-effetti ta' Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili."

Kap. 12.

135. L-artikolu 26A tal-Att prinċipali għandu jiġu sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 26A tal-Att prinċipali.

"Preskrizzjoni dwar l-impożizzjoni ta' multi amministrattivi.

26A.(1) Il-perjodu ta' preskrizzjoni għal impożizzjoni ta' multi amministrattivi taht l-artikolu 21 għandu jkun:

(a) tlett snin fil-każ ta' ksur tal-Att fir-rigward tat-talbiet għal informazzjoni jew għat-tmexxija ta' spezzjonijiet; u

(b) hames snin fil-każ ta' kull ksur ieħor.

(2) Il-perjodu ta' preskrizzjoni jibda jiddekkorri mid-data li fiha sar l-ksur. Madankollu, fil-każ ta' ksur kontinwu jew ripetut, dan il-perjodu għandu jibda jiddekkorri mid-data li fiha jjeqaf l-ksur.

(3) Il-perjodu ta' preskrizzjoni għall-impożizzjoni ta' multi ikun interrott minn kull ghemil tad-Direttur Ġenerali jew, fil-każ tal-applikazzjoni tal-artikoli 101 u 102 tat-TFUE, tal-Kummissjoni Ewropea jew ta' awtorità tal-kompetizzjoni ta' Stat Membru, bil-ħsieb li jiġi investigat jew ikunu istitwiti proċeduri għal xi ksur.

Il-perjodu ta' preskrizzjoni ikun interrott b'effett minn dik id-data meta l-azzjoni tkun notifikata lil tal-anqas intrapriża waħda jew għaqda ta' intrapriži li tkun pparteċipat fil-ksur.

(4) Għemil li jinterrompi il-perjodu ta' preskrizzjoni għandu jinkludi b'mod partikolari dawn li ġejjin:

(i) talbiet bil-miktub għal informazzjoni mid-Direttur Ġenerali, il-Kummissjoni Ewropea jew minn awtorità nazzjonali tal-kompetizzjoni;

(ii) il-ħruġ ta' awtorizzazzjoni bil-miktub ffirmat mid-Direttur Ġenerali jew ta' mandat maħruġ minn Magistrat taħt l-artikolu 12 sabiex titmexxa spezzjoni, jew awtorizzazzjoni bil-miktub mill-Kummissjoni Ewropea skont l-artikolu 20 tar-Regolament tal-Kunsill (KE) Nru. 1/2003 jew dokument ekwivalenti maħruġ minn awtorità nazzjonali tal-kompetizzjoni;

(iii) il-bidu ta' proċeduri mibdija mid-Direttur Ġenerali jew mill-Kummissjoni Ewropea jew minn awtorità nazzjonali tal-kompetizzjoni;

(iv) in-notifika ta' stqarrija ta' oġġezzjonijiet magħmula skont l-artikolu 12A jew il-komunikat ta' stqarrija ta' oġġezzjonijiet minn awtorità nazzjonali tal-kompetizzjoni ta' Stat Membru;

(v) in-notifika ta' stedina mid-Direttur Ġenerali biex isiru diskussjonijiet rizzoluttivi taħt l-artikolu 12B.

(5) L-interruzzjoni tal-perjodu ta' preskrizzjoni japplika għal dawk l-intraprizi u għaqdiet ta' intraprizi kollha li jkunu pparteċipaw fil-ksur.

(6) Il-perjodu ta' preskrizzjoni jerga' jibda jiddekkorri mid-data ta' kull interruzzjoni.

(7) Il-perjodu ta' prekrizzjoni għall-impożizzjoni ta' multi jkun sospiż sakemm id-deċiżjoni tad-Direttur Ġenerali tkun soġġetta għal proċeduri ta' appell pendenti quddiem it-Tribunal tal-Appell jew il-Qorti tal-Appell."

Taħsir tal-artikolu 26B tal-Att prinċipali.

136. L-artikolu 26B tal-Att prinċipali għandu jiġi mħassar.

Sostituzzjoni tal-artikolu 27 tal-Att prinċipali.

137. L-artikolu 27 tal-Att prinċipali għandu jiġi sostitwit b'dan

li ġejj:

"Proċeduri
quddiem qorti
ċivili.

27. (1) Meta quddiem xi qorti ta' ġurisdizzjoni ċivili jiġi allegat li xi ftehim jew deċiżjoni huma nulli u mhux eżegwibbli skont l-artikolu 5 ta' dan l-Att u, jew l-Artikolu 101 tat-TFUE jew, meta jiġi allegat li jkun hemm abbuż minn pożizzjoni dominanti, skont l-artikolu 9 ta' dan l-Att u, jew l-artikolu 102 tat-TFUE, dik il-qorti għandha tissospendi l-proċeduri u titlob lid-Direttur Ġenerali sabiex jippreżenta rapport fuq il-kwistjonijiet ta' kompetizzjoni mqajjma quddiemha u l-qorti għandha tiegħu konjizzjoni ta' dak ir-rapport fil-konsiderazzjonijiet tagħha, u kull sottomissjoni dwaru magħmula mill-partijiet u mid-Direttur Ġenerali qabel ma jiġi deċiż il-każ.

(2) Meta d-Direttur Ġenerali, fuq inizjattiva tiegħu stess, isir jaf b'allegazzjonijiet hekk kif msemmija fis-subartikolu (1), f'kawża ċivili, hu għandu, permezz ta' rikors, jitlob lill-qorti biex tapplika l-proċedura tas-subartikolu (1).

(3) Għall-finijiet ta' thejjiġa ta' rapporti taħt dan l-artikolu id-Direttur Ġenerali jista' jirrikorri għas-setgħat investigattivi mogħtija lilu taħt dan l-Att."

138. Minnufih wara l-artikolu 27 tal-Att prinċipali, għandu jiżdied dan l-artikolu ġdid li ġejj:

Żieda tal-
artikolu ġdid
27A tal-Att
prinċipali.

"Dritt għad-
danni.

27A.(1) Kull persuna li ssofri danni bħala riżultat tal-ksur tal-artikoli 5 u, jew 9 u, jew l-artikoli 101 u, jew 102 tat-TFUE tista' tibda azzjoni għad-danni quddiem qorti ta' ġurisdizzjoni ċivili.

(2) Għall-finijiet ta' dan l-artikolu, persuna għandha titqies li soffriet danni anke meta dik il-persuna ma tkunx l-klijent immedjat tal-konvenut.

(3) L-attur ikollu d-dritt għal kumpens għat-telf attwali u għat-telf ta' qliegħ, flimkien mal-interessi minn dak iż-żmien li sehħew d-danni sakemm is-somma kapitali mogħtija tiġi attwalment mħallsa.

(4) Qabel ma jigi stabbilit l-ammont ta' danni, il-Qorti għandha titlob lid-Direttur Ġenerali biex jissottometti rapport fuq l-ammont tad-danni mgarrba mill-attur. Fil-kalkolu tal-ammont tad-danni, id-Direttur Ġenerali għandu jieħu kont tal-kontro-xenarju fattwali li kien jipprevali kieku l-ksur ma seħħx.

(5) Azzjoni taħt dan l-artikolu tista' tingieb fin-nuqqas ta' investigazzjoni jew proċeduri taħt dan l-Att jew taħt ir-Regolament tal-Kunsill (KE) Nru 1/2003:

Iżda azzjoni taħt dan l-artikolu tista' wkoll tingieb:

(a) meta ikun hemm deċiżjoni finali taħt dan l-Att li tistabilixxi ksur tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew l-artikoli 101 u, jew 102 tat-TFUE;

(b) meta ikun hemm deċiżjoni finali tal-Kummissjoni Ewropea li tistabilixxi ksur tal-artikoli 101 u, jew 102 tat-TFUE;

(ċ) waqt investigazzjoni jew proċeduri pendenti taħt dan l-Att jew taħt ir-Regolament tal-Kunsill (KE) Nru 1/2003;

(d) waqt proċeduri separati pendenti quddiem jew wara deċiżjoni finali tal-Prim' Awla tal-Qorti Ċivili li tinvolvi l-applikazzjoni tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew l-artikoli 101 u, jew 102 tat-TFUE.

(6) Fiċ-ċirkostanzi msemmija fil-paragrafi (a) u (b) tal-*proviso* tas-subartikolu (5), il-qorti tkun marbuta bis-sejba ta' ksur fid-deċiżjoni u fiċ-ċirkostanzi l-oħra kollha msemmija fis-subartikolu (5), l-artikolu 27 għandu japplika.

(7) Il-konvenut ma jistax jallega nuqqas ta' ħsieb, traskuraġni jew nuqqas tat-tort tiegħu bħala difiża f'talba għal danni taħt is-subartikolu (1):

Iżda l-konvenut jista' juri illi l-ksur seħħ bħala riżultat ta' żball ġenwin skużabbli. Għall-finijiet ta' dan il-*proviso*, żball ikun skużabbli jekk persuna raġonevoli meta tuża livell għoli ta' kura, ma setgħatx tkun taf illi dik l-imġieba tirristringi l-kompetizzjoni.

(8) Il-konvenut jista' jqajjem bhala difiża l-fatt li l-attur għadda l-hsara inizjalment mgarrba minnu lill-klijenti tiegħu.

(9) (a) L-azzjoni taht dan l-artikolu tkun preskritta biż-żmien ta' sentejn li jibdew mid-data li fiha l-parti leża saret taf jew imissha raġonevolment saret taf bid-danni, il-ksur u l-identità tal-intrapriża jew għaqda ta' intrapriži responsabbli għall-ksur.

(b) Iż-żmien msemmi fil-paragrafu (a) jiġi sospiż jekk proċeduri dwar ksur ġew mibdija mid-Direttur Ġenerali taht dan l-Att jew mill-Kummissjoni Ewropea taht ir-Regolament tal-Kunsill (KE) Nru 1/2003 jew meta proċeduri separati nbdeu quddiem il-Qorti Ċivili kif msemmija fil-paragrafu (d) tal-proviso tas-subartikolu (5) sa meta daww il-proċeduri jintemmu b'deċiżjoni li tkun saret *res judicata*.

(10) (a) Id-disposizzjonijiet ta' dan l-artikolu għandhom jipprevalu fuq kull haġa kuntrarja li tinsab fil-Kodiċi Ċivili;

(b) Id-dritt li tibda azzjoni taht is-subartikolu (1) m'għandux jaffettwa id-dritt li tingieb kull proċedura oħra dwar l-istess ksur taht dan l-Att, jew xi regolamenti magħmula tahtu jew xi liġi oħra; u

(c) Is-subartikolu (1) għandu japplika biss għal talbiet dwar ksur li jseħh wara d-dhul fis-seħh ta' dan l-artiklu."

Kap. 16.

139. L-artikolu 29 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 29 tal-Att prinċipali.

"Koperazzjoni taht ir-Regolament 1/2003. **29.** Id-Direttur Ġenerali għandu jikkopera mal-Kummissjoni Ewropea u l-Awtoritajiet Nazzjonali tal-Kompetizzjoni skont ir-Regolament (KE) Nru. 1/2003."

140. L-artikolu 31 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Emenda tal-artikolu 31 tal-Att prinċipali.

"Ma tista' tittiehed l-ebda azzjoni kontra membru tat-Tribunal tal-Appell, id-Direttur Ġenerali, jew xi ufficjal tiegħu jew kull persuna awtorizzata li taġixxi taht id-direzzjoni u l-kontroll tiegħu, għal kull att jew ommissjoni marbuta ma' dan l-Att, jew xi regolamenti magħmula taht dan l-Att, magħmula jew li naqsu li jsiru minnhom sakemm dak l-att jew ommissjoni ma

kienux magħmula b'*mala fede*."

Emenda tal-artikolu 32 tal-Att prinċipali.

141. Il-kliem "*joint ventures* konċentrattivi" fl-artikolu 32 tal-Att prinċipali, għandhom jiġu sostitwiti bil-kliem "*joint ventures* b'funzjoni shiħa".

Emenda tal-artikolu 33 tal-Att prinċipali.

142. (1) Is-subartikolu (2) tal-artikolu 33 tal-Att prinċipali għandu jiġi emendat kif ġej:

"(2) Il-Ministru jista' jagħmel regolamenti:

(a) li jippreskrivu il-proċedura li għandha tiġi segwita mill-uffiċċju f'investigazzjonijiet kongunti, koperazzjoni u skambju ta' informazzjoni ma' awtoritajiet nazzjonali tal-kompetizzjoni oħra;

(b) li jippreskrivu il-proċedura għal koperazzjoni bejn it-Tribunal tal-Appell, il-Kummissjoni Ewropea, il-qrati nazzjonali u l-awtoritajiet nazzjonali tal-kompetizzjoni; u

(ċ) li jipprovdu għas-setgħa li tinħafer jew titnaqqas il-multa applikabbli f'investigazzjonijiet dwar kartelli."

Tahsirtal-Iskeda tal-Att prinċipali.

143. L-Iskeda tal-Att prinċipali għandha tiġi mħassra.

TAQSIMA XVI
EMENDA TAL-ATT DWAR
L-AMMINISTRAZZJONI PUBBLIKA
(KAP. 497.)

Emenda tal-Att dwar l-Amministrazzjoni Pubblika. Kap. 497.

144. Din it-Taqsima temenda l-Att dwar l-Amministrazzjoni Pubblika, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar l-Amministrazzjoni Pubblika, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tat-Taqsima I tat-Tieni Skeda tal-Att prinċipali.

145. Ir-referenza li hemm għad-"Divizjoni tal-Konsumatur u l-Kompetizzjoni" fit-Taqsima I tat-Tieni Skeda tal-Att prinċipali għandha tiġi mħassra.

TAQSIMA XVII
TAHSIR TAL-ATT DWAR L-AWTORITA' MALTIJA
DWAR L-ISTANDARDS
(KAP. 419.)

Tahsir tal-Att dwar l-Awtorità Maltija dwar l-*Standards*. Kap. 419.

146. (1) Din it-Taqsima tħassar l-Att dwar l-Awtorità Maltija dwar l-*Standards*, minn hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

(2) L-Att prinċipali b'dan qed jiġi mħassar, bla ħsara għal kull

haġa li saret jew li naqset milli ssir tahtu.

147. L-avvizi legali 419.01, 419.02, 419.05, 419.06, 419.07 u 419.08 magħmula taht l-Att dwar l-Awtorità Maltija dwar l-*Standards* għandhom jibqgħu fis-seħh daqs li kieku ġew magħmula taht l-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur.

Kontinwazzjoni fis-seħh tal-legislazzjoni sussidjarja tal-Att dwar l-Awtorità Maltija dwar l-*Standards*.

148. Kull fejn f'xi liġi hemm referenza għall-Awtorità Maltija dwar l-*Standards*, din għandha tiftiehem skont il-każ bħala referenza għad-Divizjoni dwar Regolamenti Tekniċi u, jew l-Istitut dwar l-*Standards* u Metroloġija, kif mwaqqfa bid-disposizzjonijiet ta' dan l-Att.

TAQSIMA XVIII EMENDI TAL-ATT DWAR IS-SIGUREZZA TAL-PRODOTTI (KAP. 427.)

149. Din it-Taqsima temenda l-Att dwar is-Sigurezza tal-Prodotti, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar is-Sigurezza tal-Prodotti, minn hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-Att dwar is-Sigurezza tal-Prodotti. Kap. 427.

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

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) it-tifsira "id-Direttur" għandha tiġi sostitwita b'dan li ġej:

" "id-Direttur Ġenerali" tfisser id-Direttur Ġenerali (Regolamenti Tekniċi) kif mahtur bl-artikolu 19 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;" u kull fejn tidher il-kelma "Direttur" fl-Att prinċipali din għandha tiġi sostitwita bil-kliem "Direttur Ġenerali";

(b) minnufih wara it-tifsira "distributtur" għandha tiżdied din it-tifsira ġdida li ġejja:

" "Diviżjoni dwar Regolamenti Tekniċi" tfisser id-Diviżjoni dwar Regolamenti Tekniċi, kif mwaqqfa bl-artikolu 19 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur."; u

(ċ) it-tifsira "*standard*" għandha tiġi sostitwita b'dan li ġej:

" "*standard*" għandu jkollha l-istess tifsira mogħtija lilha bl-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;".

Emenda tal-artikolu 9 tal-Att prinċipali.

151. Il-kliem "Att dwar l-Awtorità Maltija dwar *Standards*" fl-artikolu 9(2) tal-Att prinċipali għandhom jiġu sostitwiti bil-kliem "Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur".

Emenda tal-artikolu 27 tal-Att prinċipali.

152. L-artikolu 27 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kliem "Funzjonijiet ta' l-Awtorità Maltija dwar l-*Standards*" fin-nota marginali tiegħu għandhom jiġu sostitwiti bil-kliem "Responsabbiltajiet tad-Divizjoni dwar Regolamenti Tekniċi"; u

(b) il-kliem "l-Awtorità Maltija dwar l-*Standards*" fl-artikolu 27 għandu jiġi sostitwit bil-kliem "id-Divizjoni dwar Regolamenti Tekniċi".

Emenda tal-artikolu 28 tal-Att prinċipali.

153. L-artikolu 28 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kliem "bi ftehim mal-kap tad-Direttorat għall-Affarijiet Regulatorji stabbilit taht l-Att dwar l-Awtorità Maltija dwar l-*Standards* jew kull kap ieħor ta' xi Direttorat ieħor skont ma jista' il-Ministru jahtar minfloku b'Ordni" fis-subartikolu (1) tal-artikolu 28 tiegħu għandhom jiġu mħassra; u

(b) il-kliem "u l-eżenzjoni minn kull responsabbiltà legali skond l-imsemmi subartikolu (3) għandha tkun estiża għad-Direttur ta' Sorveljanza fuq is-Suq" fis-subartikolu (3) tal-artikolu 28 tiegħu għandhom jiġu mħassra.

Emenda tal-artikolu 38 tal-Att prinċipali.

154. Il-kliem "ta' l-Awtorità Maltija dwar l-*Standards*" fl-artikolu 38 tal-Att prinċipali għandhom jiġu sostitwiti bil-kliem "tad-Direttur Ġenerali (Regolamenti Tekniċi)".

TAQSIMA XIX EMENDI TAL-ATT DWAR IL-METROLOĠIJA (KAP. 454.)

Emenda tal-Att dwar il-Metroloġija. Kap. 454.

155. Din it-Taqsima temenda l-Att dwar il-Metroloġija, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar il-Metroloġija, minn hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

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

(a) it-tifsira "Awtorità" għandha tiġi sostitwita b'dan li ġej:

" "Awtorità" tfisser l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur kif mwaqqfa

bl-Att tal-2010 dwar l-Awtorità għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;"

(b) it-tifsira "Direttorat" għandha tiġi mhassra u kull fejn tidher il-kelma "Direttorat" fl-Att prinċipali din għandha tiġi sostitwita bil-kelma "Istitut";

(ċ) minnufih wara t-tifsira "ippakkettjar lest" għandha tidhol din it-tifsira ġdida li ġejja:

" "Istitut" tfisser l-Istitut dwar l-*Standards* u Metroloġija kif mwaqqaf bl-artikolu 21 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;"

(d) it-tifsira "Kap" għandha tiġi sostitwita b'dan li ġej:

" "Direttur Ġenerali" tfisser il-persuna mahtura bhala Direttur Ġenerali (*Standards* u Metroloġija) bl-artikolu 21 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;" u kull fejn tidher il-kelma "Kap" fl-Att prinċipali din għandha tiġi sostitwita bil-kelma "Direttur Ġenerali"; u

(e) it-tifsira "Ministru" għandha tiġi sostitwita b'dan li ġej:

" "Ministru" tfisser il-Ministru responsabbli għall-*standards* u l-metroloġija u tinkludi, sal-limitu tal-awtorità mogħtija, kull min ikun awtorizzat mill-Ministru għal daqshekk għal kull għan ta' dan l-Att;"

157. (1) In-nota marginali tas-subartikolu (1) tal-artikolu 3 tal-Att prinċipali, "Id-Direttorat dwar il-Metroloġija. Kap. 419." għandha tiġi mhassra.

Sostituzzjoni tal-artikolu 3 tal-Att prinċipali.

(2) Is-subartikolu (1) tal-artikolu 3 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Id-Direttur Ġenerali (*Standards* u Metroloġija) kif mahtur bl-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, għandu jkollu ir-responsabbiltajiet kif jistgħu jiġu mogħtija lilu b'dan l-Att, bl-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur jew b'kull liġi oħra.".

158. L-artikolu 20 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 20 tal-Att prinċipali.

(a) il-kliem "bl-artikolu 5 tal-Att dwar l-Awtorità Maltija dwar

l-Istandards" għandhom jiġu sostitwiti bil-kliem "bl-artikolu 48 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur"; u

(b) il-kliem "Kap. 419." fin-nota marginali tiegħu għandhom jiġi mħassra.

TAQSIMA XX
EMENDI TAL-ATT DWAR IL-ĠUSTIZZJA
AMMINISTRATTIVA
(KAP. 490.)

Emenda tal-Att
dwar il-Ġustizzja
Amministrattiva.
Kap. 490.

159. Din it-Taqsima temenda l-Att dwar il-Ġustizzja Amministrattiva, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar il-Ġustizzja Amministrattiva, minn hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Tahsir tal-punti
fl-Ewwel Skeda
tal-Att
prinċipali.

160. Il-kliem "378 Att dwar l-Affarijiet tal-Konsumatur 16 Tribunal għal Talbiet tal-Konsumatur" u il-kliem "379 Att dwar il-Kompetizzjoni 4 Kummissjoni għall-Kummerċ Ġust" fit-Taqsima A tal-Ewwel Skeda tal-Att prinċipali għandhom jiġu mħassra.

TAQSIMA XXI
EMENDI TAL-ATT DWAR KUNTRATTI
FUQ L-GĦATBA TAL-BIEB
(KAP. 317.)

Emenda tal-Att
dwar Kuntratti
Fuq l-Għatba tal-
Bieb.
Kap. 317.

161. Din it-Taqsima temenda l-Att dwar Kuntratti Fuq l-Għatba tal-Bieb, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar Kuntratti Fuq l-Għatba tal-Bieb, minn hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-
artikolu 2 tal-
Att prinċipali.

162. Fl-artikolu 2 tal-Att prinċipali it-tifsira "Direttur" għandha tiġi sostitwita b'dan li ġej:

""Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur)" tfisser id-Direttur Ġenerali kif mahtur bl-artikolu 16 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;" u kull fejn tidher il-kelma "Direttur" din għandha tiġi sostitwita bil-kelma "Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur)".

TAQSIMA XXII
EMENDI TAL-ATT DWAR DESKRIZZJONIJIET
KUMMERĊJALI
(KAP. 313.)

163. Din it-Taqsima temenda l-Att dwar Deskrizzjonijiet Kummerċjali, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar Deskrizzjonijiet Kummerċjali, minn hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-Att
dwar
Deskrizzjonijiet
Kummerċjali.
Kap. 313.

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

Emenda tal-
artikolu 2 tal-
Att prinċipali.

(a) it-tifsira "marka ta' konformità" għandha tiġi sostitwita b'dan li ġej:

" "marka ta' konformità" għandu ikollha l-istess tifsira mogħtija lilha bl-artikolu 2 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;"
u

(b) minnufih wara it-tifsira "servizzi" għandha tiżdied din it-tifsira ġdida li ġejja:

" "Uffiċċju" tfisser l-Uffiċċju għall-Affarijiet tal-Konsumatur kif mwaqqaf bl-artikolu 16 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;"

165. Il-kliem "Dipartiment tal-Affarijiet tal-Konsumatur" fis-subartikolu (1) tal-artikolu 22 tal-Att prinċipali għandu jiġi sostitwit bil-kelma "Uffiċċju".

Emenda tal-
artikolu 22 tal-
Att prinċipali.

TAQSIMA XXIII
EMENDI TAL-ATT DWAR IS-SIGURTA' FL-IKEL
(KAP. 449.)

166. Din it-Taqsima temenda l-Att dwar is-Sigurtà fl-Ikel, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar is-Sigurtà fl-Ikel, minn hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-Att
dwar is-Sigurtà
fl-Ikel.
Kap. 449.

167. L-artikolu 5(1) tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-
artikolu 5 tal-
Att prinċipali.

(a) il-paragrafu (d) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(d) l-uffiċjal anzjan responsabbli għall-operazzjonijiet rigward l-ikel fi hdan l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, nominat mid-Direttur

Ġenerali (Regolamenti Tekniċi);" u

(b) il-paragrafu (e) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(e) l-uffiċjal pubbliku anzjan responsabbli għall-operazzjonijiet rigward l-affarijiet tal-konsumatur fi hdan l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, nominat mid-Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur);".

Emenda tal-artikolu 7A tal-Att prinċipali.

168. L-artikolu 7A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kliem "ta' l-Awtorità" fin-nota marginali tiegħu għandhom jiġu sostitwiti bil-kliem "tad-Direttur Ġenerali (Regolamenti Tekniċi)";

(b) il-kliem "ta' l-Awtorità Maltija dwar l-*Standards* kif stabbilita bl-artikolu 3 ta' l-Att dwar l-Awtorità Maltija dwar l-*Standards*" fis-subartikolu (1) tiegħu għandhom jiġu sostitwiti bil-kliem "tad-Direttur Ġenerali (Regolamenti Tekniċi)"; u

(ċ) il-kliem "ta' l-Awtorità Maltija dwar l-*Standards*" fis-subartikoli (2), (3) u (4) tiegħu għandhom jiġu sostitwiti bil-kliem "tad-Direttur Ġenerali (Regolamenti Tekniċi)".

Emenda tal-artikolu 9 tal-Att prinċipali.

169. Fis-subartikolu (1) tal-artikolu 9 tal-Att prinċipali, il-kliem "il-Kap tad-Direttorat tas-Sorveljanza fuq is-Suq ta' l-Awtorità Maltija dwar l-*Standards* stabbilit taht l-Att dwar l-Awtorità Maltija dwar l-*Standards* jew kull kap ta' kull Direttorat ieħor skond ma l-Ministru jista' jahtar minfloku b'Ordni" għandhom jiġu sostitwiti bil-kliem "id-Direttur Ġenerali (Regolamenti Tekniċi) kif mahtur bl-artikolu 19 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur".

TAQSIMA XXIV

EMENDI TAL-ATT DWAR IL-KONTROLL TAL-PESTIĊIDI (KAP. 430.)

Emenda tal-Att dwar il-Kontroll tal-Pestiċidi. Kap. 430.

170. Din it-Taqsima temenda l-Att dwar il-Kontroll tal-Pestiċidi, u għandha tinqara u tiftiehem haġa waħda mal-Att dwar il-Kontroll tal-Pestiċidi, minn hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 2 tal-Att prinċipali.

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

(a) it-tifsira "l-Awtorità" għandha tiġi sostitwita b'dan li ġej:

" "l-Awtorità" tfisser l-Awtorità ta' Malta għall-

Kompetizzjoni u għall-Affarijiet tal-Konsumatur kif mwaqqfa bl-artikolu 3 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;" u

(b) fit-tifsira "id-Direttur" il-kliem "il-kap tad-Direttorat għall-Affarijiet Regulatorji stabbilit taht l-Att dwar l-Awtorità Maltija dwar l-*Standards* jew kap ta' kull Direttorat ieħor skond ma jista' l-Ministru jahtar minfloku b'Ordni" għandhom jiġu sostitwiti bil-kliem "id-Direttur Ġenerali (Regolamenti Tekniċi) kif mahtur bl-artikolu 19 tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur".

TAQSIMA XXV
EMENDI TAL-KODIĊI TAL-ORGANIZZAZZJONI
U PROCEDURA ĊIVILI
(KAP. 12.)

172. Din it-Taqsima temenda il-Kodiċi tal-Organizzazzjoni u Proċedura Ċivili, u għandha tinqara u tiftiehem haġa waħda mal-Kodiċi tal-Organizzazzjoni u Proċedura Ċivili, minn hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi".

Emenda tal-Kodiċi tal-Organizzazzjoni u Proċedura Ċivili. Kap. 12.

173. Fl-artikolu 253 tal-Kodiċi, għandu jidhol dan il-paragrafu li ġej:

Emenda tal-artikolu 253 tal-Kodiċi.

"(f) deċiżjonijiet tat-Tribunal għal Talbiet ta' Konsumaturi".

**L-EWWEL SKEDA
(ARTIKOLU 44)**

FORMA TAL-ĠURAMENT

Jiena, nahlef/solennement niddikjara illi bil-fedeltà u onestà kollha naqdi d-dmir tiegħi bħala uffiċjal tal-Awtorità skont il-htigiet tal-Att tal-2010 dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, u kull liġi oħra li l-Awtorità tamministra u kull ordni maħruġa tahtu, u li, hlief fil-qadi tad-dmirijiet tiegħi taht dak l-Att u dawk l-ordnijiet, ma niżvelax u ma nxandarx, waqt l-impieg tiegħi bħala uffiċjal f'dik l-Awtorità jew f'xi żmien wara, xi haġa li nsir naf biha li għandha x'taqsam ma' xi persuna, familja jew intrapriża minhabba fl-impieg tiegħi bħala uffiċjal f'dik l-Awtorità.

Hekk Alla jgħini.

**IT-TIENI SKEDA
(ARTIKOLU 37)
REGOLI TA' PROĊEDURA TAT-TRIBUNAL TAL-APPELL TAL-
KOMPETIZZJONI U TAL-KONSUMATUR**

1. It-Tribunal tal-Appell għandu jiddeċiedi kull kwistjoni quddiemu b'gustizzja u imparzjalità u skont id disposizzjonijiet ta' dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull regolamenti magħmula taħthom.

2. Qabel jassumu l-funzjonijiet tagħhom, il-membri ordinarji tat-Tribunal tal-Appell għandhom jieħdu gurament quddiem il-President li jaqdu l-funzjonijiet tagħhom b'gustizzja u imparzjalità u skont id-disposizzjonijiet ta' dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull regolamenti magħmula taħthom.

3. Membru ordinarju tat-Tribunal tal-Appell għandu jastjeni u jista' jiġi rikuzat fl-istess ċirkostanzi, *mutatis mutandis*, bħalma imħallef tal-qrati superjuri għandu jastjeni jew jista' jiġi rikuzat skont il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Kull rikuz għandha tiġi determinata mill-President.

4. Id-deċiżjonijiet tat-Tribunal tal-Appell għandhom jagħtu r-raġunijiet u jindikaw b'mod ċar l-intraprizi jew għaqdiet ta' intraprizi li għalihom jkunu indirizzati.

5. Proċeduri quddiem it-Tribunal tal-Appell għandhom isiru b'mod pubbliku b'kont meħud għal protezzjoni ta' informazzjoni kunfidenzjali jew sigriet tan-negozju:

Izda l-intrapriza jew l-għaqda ta' intraprizi konċernati, jew id-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni) u d-Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur), jew min ressaq l-ilment jista' jitlob lill-President biex jinstema' in camera fejn s-sottomissjonijiet li jsiru jew l-provi li jingabu ikunu ta' natura kunfidenzjali jew ikun fihom sigrieti tan-negozju.

Izda wkoll id-Direttur Ġenerali (Uffiċċju għall-Kompetizzjoni) u d-Direttur Ġenerali (Uffiċċju għall-Affarijiet tal-Konsumatur) jew kull uffiċjal iehor mill-Uffiċċju għall-Kompetizzjoni u l-Uffiċċju għall-Affarijiet tal-Konsumatur) debitament awtorizzati mill-imsemmija Diretturi Ġenerali, għandu jkollhom id-dritt li jkunu preżenti fil-proċeduri kollha.

6. Fil-każijiet kollha li jinvolvu l-applikazzjoni tal-Artikolu 101 u, jew 102 tat-TFUE, il-Kummissjoni Ewropea għandu jkollha d-dritt li tagħmel sottomissjonijiet dwar kull kwistjoni li tkun quddiem it-Tribunal tal-Appell.

7. (a) Verżjoni kunfidenzjali u waħda mhux kunfidenzjali għandhom jingiebu ta' kull osservazzjoni bil-miktub u ta' kull prova dokumentarja li titressaq quddiem it-Tribunal tal-Appell; u

(b) It-Tribunal tal-Appell għandu jivverifika l-kunfidenzjalità jew n-nuqqas tagħha tal-informazzjoni prodotta.

8. It-Tribunal tal-Appell għandu jkollu, eżerċitabbli permezz tal-President tiegħu, is-setgħat vestiti fil-Prim'Awla tal-Qorti Ċivili, u b'mod partikolari s-setgħa li jharrek xhieda, is-setgħa li jahtar periti tekniċi u s-setgħa li jamministra l-gurament.

Meta xhud, debitament imharrek ma jidhirx fil-gurnata li fih jiġi msejjaħ, il-President jista' jordna lill-Pulizija biex tarresta lil dak ix-xhud u tressqu quddiem it-Tribunal tal-Appell biex jixhed.

9. Fl-interpretazzjoni ta' dan l-Att, it-Tribunal tal-Appell jista' jirrikorri għas-sentenzi tal-Qorti tal-Gustizzja tal-Unjoni Ewropea, u għad-deċiżjonijiet u l-istqarrijiet rilevanti tal-Kummissjoni Ewropea inklużi avvizi interpretattivi fuq id-disposizzjonijiet rilevanti tat-TFUE u għall-leġislazzjoni sussidjarja relattiva għall-kompetizzjoni u jista' jirrikorri wkoll għad-deċiżjonijiet preċedenti tiegħu.

IT-TIELET SKEDA
(ARTIKOLU 18)
LISTA TA' ATTI LEĠISLATTIVI TAL-UE GHAL-LIEMA FINIJET L-
UFFIĊĊJU GĦALL-AFFARIJET TAL-KONSUMATUR HUWA L-
AWTORITA' KOMPETENTI NAZZJONALI

1. Direttiva tal-Kunsill 84/450/KEE tal-10 ta' Settembru 1984 li għandha x'taqsam mat-tqarrib lejn xulxin tal-liġijiet, ir-regolamenti u d-disposizzjonijiet amministrattivi tal-Istati Membri li jirrigwardaw ir-reklamar qarrieqi.
2. Direttiva tal-Kunsill 85/577/KEE tal-20 ta' Diċembru 1985 biex tħares lill-konsumatur rigward kuntratti nnegożjati barra mill-lok tan-negożju.
3. Direttiva tal-Kunsill 93/13/KEE tal-5 ta' April 1993 dwar klawżoli iġusti f'kuntratti mal-konsumatur.
4. Direttiva 97/7/KE tal-Parlament Ewropew u tal-Kunsill tal-20 ta' Mejju, 1997 dwar il-protezzjoni tal-konsumatur fir-rigward tal-kuntratti mid-distanza.
5. Direttiva 97/55/KE tal-Parlament Ewropew u tal-Kunsill tas-6 t'Ottubru 1997 li temenda d-Direttiva 84/450/KEE dwar reklamar qarrieqi sabiex jinkludi reklamar komparattiv.
6. Direttiva 98/6/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Frar 1998 dwar protezzjoni tal-konsumatur fl-indikazzjoni ta' prezzijiet ta' prodotti offruti lill-konsumatur.
7. Direttiva 1999/44/KE tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Mejju 1999 dwar ċerti aspetti tal-bejgħ ta' oġġetti lill-konsumatur u garanziji assoċjati.
8. Regolament (KE) Nru 261/2004 tal-Parlament Ewropew u tal-Kunsill tal-11 ta' Frar 2004 li jstabilixxi regoli komuni dwar il-kumpens u l-assistenza għal passigġieri fil-każ li ma jithallewx jitolgħu u ta' kancellazzjoni jew dewmien twil ta' titjiriet, u li jhassar ir-Regolament (KEE) Nru 295/91.
9. Direttiva 2005/29/KE tal-Parlament Ewropew u tal-Kunsill tal-11 ta' Mejju 2005 dwar prattiċi kummerċjali żleali fin-negożju mal-konsumatur fis-suq intern li temenda d-Direttiva tal-Kunsill 84/450/KEE, id-Direttivi 97/7/KE, 98/27/KE u 2002/65/KE tal-Parlament Ewropew u tal-Kunsill, u r-Regolament (KE) Nru 2006/2004 tal-Parlament Ewropew u tal-Kunsill.
10. Direttiva 2008/48/KE tal-Parlament Ewropew u tal-Kunsill tat- 23 ta' April 2008 dwar ftehim ta' kreditu għall-konsumatur u li tħassar id-Direttiva tal-Kunsill 87/102/KEE.

**IR-RABA' SKEDA
(ARTIKOLU 66)
DIRETTORATI**

Mingħajr hsara għas-setgħat mogħtija lill-Ministru taħt l-artikolu 66, l-Uffiċċju għall-Kompetizzjoni, l-Uffiċċju għall-Affarijiet tal-Konsumatur, id-Divizjoni dwar Regolamenti Tekniċi u l-Istitut dwar l-*Standards* u Metroloġija, ikollhom id-Direttorati li ġejjin:

Uffiċċju għall-Kompetizzjoni

1. Direttorat għall-Ispettorat u għall-Investigazzjoni ta' Kartelli bir-responsabbiltà li jiskopri u jrażżan il-kartelli u biex jwettaq spezzjonijiet skont l-Att dwar il-Kompetizzjoni.

2. Direttorat dwar is-Swieq tal-Komunikazzjoni, Energija, Trasport u Servizzi Finanzjarji li jiffoka fuq tħassib dwar il-kompetizzjoni, ksur ta' liġi, u konċentrazzjonijiet fi swieq regolati.

3. Direttorat dwar is-Swieq Primarji, Industrijali u bl-Imnut li jiffoka fuq prattiċi ristrettivi u konċentrazzjonijiet f'setturi oħra tal-ekonomija.

Uffiċċju għall-Affarijiet tal-Konsumatur

1. Direttorat għall-Infurmazzjoni, Edukazzjoni u Riċerka bir-responsabbiltà li johloq għarfien tad-drittijiet tal-konsumatur, jistimula prattiċi tajba ta' negozju, jeduka lill-konsumatur biex jagħmel għażliet informati fis-suq u jistudja s-swieq bil-ħsieb li jidentifika u jirretifika nuqqasijiet fis-suq.

2. Direttorat għall-Ilmenti u Medjazzjoni bir-responsabbiltà li joffri għajjnuna lill-konsumatur u jipprovi medjazzjoni bejn il-konsumatur u l-kummerċjant.

3. Direttorat għall-Infurzar li jiffoka fuq infurzar pubbliku billi jinvestiga prattiċi kummerċjali żlejali fin-negozju u klawżoli ingusti f'kuntratti mal-konsumatur, jiżgura trasparenza fil-prezzijiet u ħarsien ta' obbligi oħra relatati mal-infurmazzjoni.

Divizjoni dwar Regolamenti Tekniċi

1. Direttorat għall-Affarijiet Regulatorji bir-responsabbiltà tat-trasposizzjoni u l-implimentazzjoni ta' liġijiet fil-qasam tal-moviment hieles tal-prodotti.

2. Direttorat għas-Sorveljanza tas-Suq bir-responsabbiltà li jiżgura illi prodotti li jħarsu r-regolamenti biss ikunu disponibbli fuq is-suq.

Istitut dwar l-*Standards* u Metroloġija

1. Direttorat dwar Standardizzazzjoni bir-responsabbiltà ta' programmi annwali għal għemil ta' *standards*, il-kordinazzjoni ta' għemil ta' *standards* u attivitajiet relatati.
2. Direttorat dwar il-Metroloġija bir-responsabbiltà tal-metroloġija legali, industrijali u xjentifika.
3. Direttorat dwar Servizzi Laboratorji bir-responsabbiltà li jipprovdi pariri u servizzi ta' ttestjar f'oqsma differenti għall-industrija u l-entitajiet tal-gvern u li qabel id-dhul fis-sehħ ta' dan l-Att kienu taht ir-responsabbiltà' tal-Laboratorju Nazzjonali ta' Malta.

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz ta' Ligi hu biex jipprovdi għat-twaqqif ta' Awtorità biex tippromwovi, izzomm u tinkoraġġixxi kompetizzjoni, biex tissalvagwardja l-interessi tal-konsumatur u ttejjeb l-harsien tiegħu u biex tippromwovi prattiċi ta' negozju tajba.

Malta Competition and Consumer Affairs Authority Act 2010

ARRANGEMENT OF ACT

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**A BILL
entitled**

An Act to provide for the establishment of an Authority to promote, maintain and encourage competition, to safeguard the interests of consumers and enhance their welfare, to promote sound business practices, to adopt and co-ordinate standards in relation to products or services, to regulate such activities and to provide for such matters ancillary or incidental thereto or connected therewith, to provide for the establishment, jurisdiction and procedure of an appeals tribunal and to make amendments to other laws.

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:-

**PART I
PRELIMINARY**

1. (1) The short title of this Act is the Malta Competition and Consumer Affairs Authority Act 2010. Short title and commencement.

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

2. In this Act, unless the context otherwise requires:- Interpretation.

"Appeals Tribunal" means the Competition and Consumer Appeals Tribunal established by article 31;

"approved university" shall have the same meaning as the term "competent authority" in terms of article 2 of the Mutual Recognition of Qualifications Act; Cap. 451.

"association of undertakings" shall have the same meaning assigned to it in article 2 of the Competition Act;

"Authority" means the Malta Competition and Consumer Affairs Authority established by article 3;

"Board" means the Board of Governors established by article 8;

"Chairman" means the Chairman of the Board who shall be the Chairman of the Authority appointed in terms of Article 9(1);

S.L. 379.08. "concentration" shall have the same meaning assigned to it in regulation 2(d) of the Control of Concentrations Regulations;

"conflict of interest" means that situation in which members of the Board, officers and employees of the Authority and advisors, consultants and other persons engaged with the Authority have private or personal interests sufficient to influence or appear to influence the exercise of their duties;

"conformity mark" means a mark, issued in accordance with regulations made under article 24, showing compliance with an applicable standard;

Cap. 378. "consumer association" or "registered consumer association" means an association registered in terms of Part IV of the Consumer Affairs Act;

"Consumer Protection Co-operation Regulation" means Regulation (EC) No. 2006/2004 of the European Parliament and of the Council of 27 October 2004 on co-operation between national authorities responsible for the enforcement of consumer protection laws (text with EEA relevance);

Cap. 378. "Council" means the Consumer Affairs Council as established under article 4 of the Consumer Affairs Act;

"Director General (Office for Competition)" means the person so appointed by virtue of article 13(2);

"Director General (Office for Consumer Affairs)" means the person so appointed by virtue of article 16(2);

"Director General (Standards and Metrology)" means the person so appointed by virtue of article 21(2);

"Director General (Technical Regulations)" means the person so appointed by virtue of article 19(2);

"draft standard" means a document containing the text of the technical specifications concerning a given subject, which is being considered for adoption and as circulated for public comment or scrutiny;

"entities" means the Office for Competition, Office for

Consumer Affairs, Technical Regulations Division and the Standards and Metrology Institute, and "entity" shall be construed accordingly as the context requires;

"European standardization body" means the following bodies:

- CEN - European Committee for Standardization;
- CENELEC - European Committee for Electrotechnical Standardization;
- ETSI - European Telecommunications Standards Institute;

"TFEU" means the Treaty on the Functioning of the European Union;

"financial year" means any period of twelve months ending on the 31st December; provided that the first financial year shall start on the coming into force of this Act and shall end on the 31st December of the following year;

"functions" includes powers and duties;

"Gazette" means the Government Gazette;

"Management Committee" means the committee established by article 5;

"Minister" means the Minister responsible for competition, consumer affairs, standardization, metrology and technical regulations;

"Ministry" means the Ministry responsible for competition, consumer affairs, standardization, metrology and technical regulations;

"national competent authority" shall have the same meaning assigned to "competent authority" in article 3(c) of the Consumer Protection Co-operation Regulation;

"officer" and "employee" includes a public officer detailed for duty in any of the entities established under this Act;

"permanent secretary" means the person appointed to supervise the Authority in terms of the Public Administration Act;

Cap. 497.

"permit" means an authorisation granted by the Standards and Metrology Institute under article 24 for the use of a conformity mark;

"person" includes individuals, any body corporate and any body of persons whether it has a distinct legal personality or not;

"prescribed" means prescribed under this Act unless otherwise stated;

"President" means the President of the Appeals Tribunal as established under article 31;

Cap. 497.

"principal permanent secretary" means the person appointed in terms of article 14 of the Public Administration Act;

"product" means any industrially manufactured product and any agricultural product, including fish products;

"public officer" shall have the same meaning as assigned to it in article 124 of the Constitution of Malta but does not include a judge of the superior courts or a magistrate of the inferior courts;

"public sector" for the purposes of this Act includes ministries, government departments, public entities, public corporations, governmental agencies and local councils;

Cap. 379.

"restrictive practice" shall have the same meaning as assigned to it in article 2 of the Competition Act;

"single liaison office" shall have the same meaning as assigned to "single liaison office" in article 3(d) of the Consumer Protection Co-operation Regulation;

"standard" means a technical specification approved by a recognised standardization body for repeated or continuous application, with which compliance is not compulsory, whether or not including other requirements, and which is one of the following:

- International Standard: a standard adopted by an international standardization organisation, other than a European standardization body, and made available to the public;

- European Standard: a standard adopted by a European standardization body and made available to the public;

- National Standard: a standard adopted by the Authority and made available to the public;

"standards programme" means a work programme listing the

subjects on which standardization work is being carried out;

"technical specification" means a specification contained in a document which lays down the characteristics required of a product and, or, service such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product and, or, service as regards the name under which the product and, or, service is sold, terminology, symbols, testing and test methods, packaging, marking or labelling used and the conformity assessment procedures. This term also covers production methods and processes used in respect of agricultural products, products intended for human and animal consumption, and medicinal products, as well as production methods and processes relating to other products, where these have an effect on their characteristics.

For the purposes of this definition, "conformity assessment procedures" means any procedure used, directly and indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled, including, *inter alia*, procedures for sampling, testing and inspection; evaluation, verification and assurance of conformity, registration, accreditation and approval as well as their combinations;

"trader" shall have the same meaning as assigned to it in article 2 of the Consumer Affairs Act; and Cap. 378.

"undertaking" shall have the same meaning as assigned to it in article 2 of the Competition Act. Cap. 379.

PART II ESTABLISHMENT, FUNCTIONS AND CONDUCT OF AFFAIRS OF THE AUTHORITY

3. (1) There shall be a body to be known as the Malta Competition and Consumer Affairs Authority, the functions of which are assigned by this Act or by any other law. Establishment of the Authority.

(2) The Authority shall be a body corporate having a separate and distinct legal personality and may, in pursuance of its functions enter into contracts, acquire, hold or dispose of real and personal property, sue and be sued and do all such things as are incidental or conducive to the fulfilment of its functions, including the lending and borrowing of money.

(3) (a) The legal and judicial representation of the Authority shall be vested in the Chairman:

Provided that the Authority may appoint any one or more

of its officers or employees to appear in the name and on behalf of the Authority in any proceedings and in any act, contract, instrument or other document whatsoever, or in the case of a vacancy in the post of Chairman;

Provided further that in matters relating exclusively to the responsibilities of an entity forming part of the Authority as established in Parts IV to VII of this Act, the legal and judicial representation of the Authority in those matters shall vest in the Director General heading the entity;

(b) Any document purporting to be an instrument made or issued by the Authority and signed by the Chairman or by the Directors General in relation to any matter delegated to them on behalf of the Authority shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Authority.

Organs of the Authority.

(4) The main organs of the Authority are the Board of Governors, the Management Committee and the four respective entities.

(5) Where in this Act anything is to be done by or against or with respect to the Authority, or any notice is to be or may be given to or by the Authority, any such thing or notice may also be done by or against or with respect to or be given to or by the entity under whose jurisdiction the matter falls; and for the purposes aforesaid any reference in this Act to the Authority includes a reference to the appropriate entity.

(6) The Authority shall assume the persona previously vested in the Office for Fair Competition, Department of Consumer Affairs and Malta Standards Authority and, from the entry into force of this Act, shall assume responsibility for all assets, liabilities and obligations previously entered into by the said Office, Department and Authority or by other bodies on their behalf.

Functions of the Authority.

4. The functions of the Authority shall be the following:

- (a) to promote and enhance competition policy;
- (b) to promote and enhance consumer policy;
- (c) to promote voluntary standards and provide standardization related services;
- (d) to promote the national metrology strategy;

(e) to promote the smooth transposition and adoption of technical regulations; and

(f) to perform such other function that may be assigned to it under this or any other law or regulations.

5. (1) There shall be established a Management Committee, composed of the Chairman and the Directors General of the four respective entities.

Establishment
of the
Management
Committee.

(2) Subject to the other provisions of this Act, the management of the Authority, its administration and organisation and the administrative control of its officers and employees, shall be the responsibility of the Management Committee of the Authority, which shall also have such other powers as may from time to time be delegated to it by the Board.

(3) The Chairman shall preside over the Management Committee.

(4) The Chairman shall be responsible for the corporate services and the general co-ordination of the Authority's administrative affairs.

6. (1) The Authority shall also appoint one of its officers as the Internal Auditor, who shall:

Establishment
of the Internal
Audit function.

(a) provide oversight of the systems of internal control and risk management of the Authority and to assist and support the Authority in discharging its responsibilities in relation thereto;

(b) provide the communication link with external auditors and evaluate and coordinate the audit and financial reporting progress of the Authority;

(c) scrutinize and evaluate any transaction to be entered into by the Authority with a value exceeding one thousand euro (€1,000); and

(d) review and assess the effectiveness of the management of the Authority in its compliance with policies and in the discharge of its regulatory and compliance functions.

(2) The Internal Auditor shall report directly and exclusively to the Board in accordance with the procedures established by the Authority.

Responsibilities
of the entities.
Cap. 379.
Cap. 378.
Cap. 427.

7. (1) The four entities established in Parts IV to VII, shall have the responsibilities provided for under this Act, the Competition Act, the Consumer Affairs Act, the Product Safety Act respectively and any other law or regulations.

(2) The Authority shall achieve the functions set out in article 4 through the responsibilities vested in the respective entities, as provided under sub-article (1).

(3) The responsibilities vested in each entity and its day-to-day operations shall be exercised by the Director General heading the respective entity and in doing so each Director General shall act independently and autonomously, free from the direction or control of any person or authority without prejudice to article 12:

Provided that in the exercise of the responsibilities vested in the entities, the Directors General shall ensure that they implement the policies set by the Authority and give effect to government policy and for this purpose, they shall be subject to the overall supervision and control of the Authority.

PART III

ESTABLISHMENT, DUTIES AND CONDUCT OF AFFAIRS OF THE BOARD OF GOVERNORS

Establishment
of the Board of
Governors.

8. There shall be established a Board of Governors within the Authority, hereinafter referred to as the "Board".

Composition of
the Board.

9. (1) The Board shall be composed as follows:

(a) the Chairman, who shall be appointed by the Minister, on being satisfied that the person has the requisite qualifications and experience and who may also occupy any other post within the Authority;

(b) seven other members who shall have the necessary technical competence in consumer issues, competition issues, matters related to technical harmonization, metrology and standards and the regulation of medicinal products and pharmaceutical activities, to be appointed by the Minister, being:-

(i) one member holding the warrant to practise as advocate with seven years experience and specialisation in competition law and, or in consumer law;

(ii) one member holding an economics degree from an approved university with seven years experience

and qualifications, preferably in industrial organisation and, or behavioural economics;

(iii) one member holding a warrant, issued in accordance with the Engineering Profession Act, to practise the profession of engineer, with seven years experience; Cap. 321.

(iv) one member holding a warrant to practise as pharmacist with seven years experience in the regulation of medicinal products and pharmaceutical activities;

(v) one member, holding the warrant to practise as a certified public accountant with seven years experience;

(vi) one member, after consultation with the business community, as represented in the Malta Council for Economic and Social Development; and

(vii) one member, after consultation with recognised national consumer associations, if any:

Provided that in the eventuality that there should be no such association the Minister may appoint a temporary member until such time wherein a member representing a national consumer association is nominated; and

(c) one of the members as appointed in sub-paragraphs (b)(i) to (v) shall be nominated as Deputy Chairman.

(2) The Deputy Chairman shall have all the powers and perform all the functions of the Chairman during the latter's absence or inability to act as Chairman or while the Chairman is on vacation or during any vacancy in the office of Chairman, or alternatively the Minister may also, in any circumstances aforesaid, appoint another person to act as Chairman.

(3) The members of the Board shall be appointed by the Minister for a term of one year or for such longer period as may be specified in the instrument of appointment, subject to a maximum of three years and shall be eligible for reappointment.

(4) (a) The Board shall designate one of the officers of the Authority to act as secretary for such period as it shall deem appropriate. Duties of the Secretary.

(b) It shall be the duty of the secretary to make the

necessary preparations for the meetings of the Board and to keep minutes of those meetings.

Persons not eligible to hold office.

(5) (a) A person shall not be eligible to be appointed or to continue to hold office as Chairman or as a member of the Board if that person:-

(i) is a Minister, Parliamentary Secretary, a member of the House of Representatives, a member of any Local Council or a member of the European Parliament; or

(ii) is a Judge or a Magistrate; or

(iii) is legally incapacitated; or

(iv) has been declared bankrupt or has made a composition or arrangement with his creditors, so long as he has not been rehabilitated to trade in terms of the Commercial Code; or

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(v) has been found guilty by any competent court of any offence involving fraud or other dishonesty, or has contravened any provision of law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons involved in business activities or in carrying on a profession, or has engaged in any business practice appearing to the Minister to be deceitful or oppressive or otherwise improper (whether unlawful or not) or which otherwise reflects discredit on his method of conducting business or his profession, or has been found guilty of any offence against this Act or any other Act that the Authority administers or any regulations made thereunder; or

(vi) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of his functions:

Provided that the Minister may determine that the person's interest is not likely to affect the discharge of his functions and upon such determination that person shall be qualified to hold the office of member of the Authority provided that the declared interest and the Minister's determination are published in the Gazette; or

(vii) is otherwise not a fit and proper person to hold that office in accordance with paragraph (b).

(b) In determining whether a person is a fit and proper person, the Minister shall have regard to that person's probity, competence and soundness of judgment for fulfilling the responsibilities of that office, to the diligence with which he is fulfilling or is likely to fulfil those responsibilities and to whether the interests of any person are, or are likely to be in any way threatened, by his holding that office;

(c) Any person whom the Minister has appointed or proposes to appoint as a member of the Board shall, whenever requested by the Minister to do so, furnish to him such information as the Minister considers necessary for the performance of the Minister's duties under paragraphs (a) and (b);

(d) A member of the Board may be relieved from office by the Minister on the ground of inability to perform the functions of his office, whether due to infirmity of mind or of body, or to any other cause, or of misbehaviour; and for the purposes of this paragraph, repeated and unjustified non-attendance at meetings may be deemed to amount to misbehaviour;

(e) The names of all the members of the Board and any change in such membership shall be published in the Gazette; and

(f) Any member of the Board may resign from office by a letter addressed to the Minister.

(6) The Chairman and members of the Board may be paid such *honoraria* as the Minister may determine.

(7) Any member of the Board who has any direct or indirect interest in any matter made or proposed to be made by the Board, not being an interest which disqualifies such member from remaining a member, shall, not later than the first meeting held after the relevant circumstances have come to his knowledge, disclose the nature of his interest to the Board, and the member having an interest as aforesaid shall withdraw from any meetings at which such matter is discussed. Any such disclosure shall be communicated to the Minister without delay. Where the interest of the member is such as to disqualify him from remaining a member, he shall report the fact immediately to the Minister and tender his resignation.

(8) If a member resigns or if the office of a member of the Board is otherwise vacant or if a member is for any reason unable to perform the functions of his office, the Minister may appoint a person who is qualified to be appointed to be a member, to be a temporary member of the Board; and any person so appointed shall, subject to

the provisions of sub-article (3), cease to be such a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

Conduct of the
affairs of the
Board.

10. (1) Subject to any other provisions of this Act, the Board may regulate its own procedure.

(2) The Board shall meet as often as may be necessary but in no case less frequently than once every calendar month.

(3) The Board may exercise its functions notwithstanding any vacancy in its membership, as long as such vacancies do not exceed two in number.

(4) Meetings of the Board shall be convened by the Chairman, or by the Deputy Chairman, in the absence of the Chairman, either on his own initiative or at the written request of any three of the other members of the Board.

(5) (a) Decisions shall be taken by a simple majority of votes of the members present and voting;

(b) The Chairman or, in his absence, the Deputy Chairman, or other person appointed to act as Chairman, shall have an initial vote and, in the event of an equality of votes, a casting vote; and

(c) Without prejudice to the other requirements of this Act, no decision shall be valid unless it is supported by at least three members of the Board.

(6) Subject to the foregoing provisions of this article, no act or proceeding of the Board shall be invalidated merely by reason of the existence of any one vacancy among the members.

(7) All acts done by any person acting in good faith, as a member of the Board, shall be valid as if he were a member notwithstanding that some defect in his appointment or qualification be afterwards discovered.

(8) No act or proceeding of the Board shall be questioned on the ground of the contravention by a member of the provisions of article 10.

Duties of the
Board.

11. (1) Without prejudice to any other duty assigned to it by this Act or any other law or regulations, the Board shall have the following duties:

(a) to determine the policies to be pursued by the Authority within the context of the policies established by Government and in line with the functions set out in article 4 and to ensure their proper and effective implementation by the entities;

(b) to ensure that the entities execute their responsibilities under this Act in line with government policies relating to consumer and competition matters, standards, metrology and technical regulations;

(c) to guarantee the functional independence of the entities;

(d) to publish the business plan after its approval by the Minister following consultation with the Minister responsible for Finance;

(e) to publish the annual report;

(f) to approve any Memorandum of Understanding, bilateral or multilateral agreements proposed;

(g) to advise, make proposals and recommendations to the Minister on any matter connected with its functions; and

(h) to monitor the National Accreditation body in order to ensure that it fulfils the requirements laid down in article 8 of Council Regulation (EC) No 765/2008 of the European Parliament and of the Council.

(2) The entities shall provide the Board with all such information as may be required for the proper performance of its duties:

Provided that the members of the Board shall not have access to confidential information pertaining to any individual person, household or undertaking obtained by the entities in the performance of their responsibilities.

12. (1) It shall be the Minister's function to ensure that the Authority is fully informed of Government policies relative to consumer and competition matters, standards, metrology and technical regulations and to monitor the proper execution of such policies.

Relations between the Minister and the Authority and supervision by Permanent Secretary.

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Cap. 449.
Cap. 430.

(2) Save as otherwise provided in this Act, the Consumer Affairs Act, the Competition Act, the Product Safety Act, the Metrology Act, the Food Safety Act, the Pesticides Control Act and any other Act or regulations administered by the Authority, the Authority shall be under the general direction and control of the Minister and, subject to such direction and control, under the supervision of the Permanent Secretary responsible for the Ministry.

(3) The Minister may, in relation to matters that appear to him to affect the public interest, from time to time give to the Authority directions in writing of a general character not inconsistent with the provisions of this Act, the Consumer Affairs Act, the Competition Act, the Product Safety Act, the Metrology Act, the Food Safety Act, the Pesticides Control Act and any other Act or regulations administered by the Authority, on the policy to be followed by the Authority in the carrying out of its functions, by or under this Act, and the Authority shall, as soon as possible, give effect to all such directions.

(4) Subarticles (2) and (3) shall not apply in respect of the powers exercised by the Directors General of the Office for Competition and Office for Consumer Affairs under this Act, the Competition Act and the Consumer Affairs Act respectively or any other law or regulations with respect to the prioritisation, investigation, and determination of cases and enforcement.

(5) The Authority shall afford to the Minister facilities for obtaining information with respect to its property and financial activities and furnish him with returns, accounts and other information with respect thereto, and shall afford to him facilities for the verification of information furnished, in such manner and at such times as he may reasonably require.

(6) If the Authority fails to comply with any directions issued under this article, the Prime Minister may make an order transferring to the Minister in whole or in part any its functions.

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(7) The operations of the Authority shall follow an Authority performance agreement which is to be agreed to between the Permanent Secretary and the Authority and for this purpose Article 40 of the Public Administration Act shall *mutatis mutandis* apply.

(8) Save as otherwise provided in this Act, the Consumer Affairs Act, the Competition Act, the Product Safety Act, the Metrology Act, the Food Safety Act, the Pesticides Control Act and any other Act or regulations administered by the Authority, Article 38 of the Public Administration Act shall *mutatis mutandis* apply.

PART IV
ESTABLISHMENT OF THE OFFICE FOR
COMPETITION

13. (1) There shall be established an office to be designated as the Office for Competition which shall be headed by the Director General (Office for Competition). Establishment of the Office for Competition.

(2) The Director General (Office for Competition) shall be a person with professional qualifications, recognised competence, experience and specialisation in the domain of competition law and, or industrial organisation economics and, preferably, with knowledge of consumer matters, and shall be appointed by the Authority, following consultation with the Minister, for a period of three years and such period may be extended for further periods of three years each:

Provided that the first Director General (Office for Competition) shall be appointed by the Minister.

14. The responsibilities of the Office for Competition shall be the following:- Responsibilities of the Office.

(a) to investigate, determine and suppress restrictive practices;

(b) to examine and control concentrations between undertakings in terms of their effect on the structure of competition on the market;

(c) to act as the national competition authority in Malta as designated by virtue of article 35(1) of Council Regulation (EC) No 1/2003;

(d) to keep under review markets and commercial activities relating to the supply of goods and services and to collect information and evidence for the purpose of ascertaining whether such markets and activities may adversely affect the interests of consumers;

(e) to study markets and recommend action where required;

(f) to encourage undertakings and associations of undertakings to comply with competition law and promote sound trading practices;

(g) to provide advice to the public sector about the competition implications of proposals for legislation;

(h) to provide advice to the public sector on the competition issues which may arise in the performance of its functions;

(i) to provide advice on the competition constraints imposed either by legislation, policy or administrative practices;

(j) to assist in the drawing up of the Authority's business plan;

(k) to participate in meetings organised by international agencies and organisations;

(l) to provide advice to the Board on competition matters;

(m) to submit an annual report on its work to the Board;
and

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(n) generally to exercise the powers conferred upon it under this Act and under the Competition Act and any regulations made thereunder.

(2) In the exercise of the responsibilities mentioned in sub-articles (1)(d) and (e), the Director General (Office for Competition) shall liaise with the Director General (Office for Consumer Affairs) if the latter is carrying out a review or study in respect of the same market.

(3) Nothing in this Act shall be construed as to give any person, consumer or undertaking a right to require the Director General (Office for Competition) to act on his behalf and in his interest in any particular matter or dispute with any trader, supplier of services or undertaking before any court, tribunal or elsewhere.

Different
degrees of
priority.

15. (1) The Director General (Office for Competition) may allocate different degrees of priority to the cases brought or pending before him and in doing so he shall take into consideration, *inter alia*, the following factors:

(a) the degree of consumer harm resulting from the alleged or suspected infringement;

(b) the extent of consumer benefit resulting from the intervention of the Office for Competition;

(c) the nature and gravity of the alleged or suspected infringement;

(d) the stage of investigation;

(e) whether the alleged practices are still ongoing or whether harmful effects persist; and

(f) whether the alleged unlawful conduct is being examined or can be better examined by another authority under its regulatory regime.

(2) The Director General (Office for Competition) may from time to time issue guidelines under this article.

PART V ESTABLISHMENT OF THE OFFICE FOR CONSUMER AFFAIRS

16. (1) There shall be established an office to be designated as the Office for Consumer Affairs within the Authority which shall be headed by the Director General (Office for Consumer Affairs). Establishment of the Office for Consumer Affairs.

(2) The Director General (Office for Consumer Affairs) shall be a person with professional qualifications, recognised competence, experience and specialisation in the domain of consumer law, and, or behavioural economics and shall be appointed by the Authority, following consultation with the Minister, for a period of three years and such period may be extended for further periods of three years each:

Provided that the first Director General (Office for Consumer Affairs) shall be appointed by the Minister.

17. (1) The responsibilities of the Office for Consumer Affairs shall be the following: Responsibilities of the Office for Consumer Affairs.

(a) to provide information, advice and guidelines to the public relating to consumer issues;

(b) to monitor trading practices relating to the provision of goods and services to consumers, and to take measures for the suppression and prevention of any practices which may be detrimental to the interests of consumers;

(c) to receive and investigate complaints from consumers relative to the supply of goods and services and to

take such action as in its power to redress any justified grievance that may come to its notice;

(d) to provide consumers with ongoing advice concerning their rights;

(e) to direct consumers to the appropriate organisation which is best placed to assist them with specific complaints;

(f) to encourage traders to comply with consumer law and to promote good trading practices in the carrying out of activities which may affect the economic interests of consumers in Malta;

(g) to provide traders with advice on matters relating to consumer affairs;

(h) to provide mediation between consumers and traders;

(i) to keep under review markets and commercial activities relating to the supply of goods and services and to collect information and evidence for the purpose of ascertaining whether such markets and activities may adversely affect the interests of consumers;

(j) to study markets and recommend remedial action where required;

(k) to assist the Council in the performance of its functions and duties and to furnish such information as may be required by the Council in relation to the exercise of its duties;

(l) to advise the public sector about the implications for consumers arising from proposals for legislation;

(m) to advise the public sector on the consumer issues which may arise in the performance of its functions;

(n) to advise on the impact on consumer interests that legislation, policy or administrative practices may have;

(o) to serve as and perform the functions of a competent authority in terms of the Consumer Protection Co-operation Regulation;

(p) to serve as and perform the functions of the single liaison office in Malta responsible for co-ordinating the

application of the Consumer Protection Co-operation Regulation;

(q) to develop the necessary strategies for the performance of its responsibilities;

(r) to assist in the drawing up of the Authority's business plan;

(s) to advise the Board on matters of consumer interest;

(t) to submit an annual report on its work to the Board; and

(u) generally to exercise the powers conferred upon it under this Act, the Consumer Affairs Act or any other law or regulations in relation to consumer affairs.

(2) In exercise of the responsibilities mentioned in articles 17(1)(i) and (j), article 14(2) shall *mutatis mutandis* apply to the Director General (Office for Consumer Affairs).

(3) Nothing in this Act or in any other law shall be construed to give any consumer a right to require the Director General (Office for Consumer Affairs) to act on his behalf and in his interest in any particular matter or dispute with any trader or supplier of services before any court, tribunal or arbiter.

18. (1) For the purposes of article 17(1)(o) and (p), the Office for Consumer Affairs shall be the national competent authority in respect of the EU legislative acts listed in the Third Schedule. Obtaining information.

(2) The Minister may by order amend the Third Schedule.

PART VI ESTABLISHMENT OF THE TECHNICAL REGULATIONS DIVISION

19. (1) There shall be established a division within the Authority to be designated as Technical Regulations Division which shall be headed by the Director General (Technical Regulations). Establishment of Technical Regulations Division.

(2) The Director General (Technical Regulations) shall be a person with professional qualifications, recognised competence, experience and specialisation in technical harmonization and matters relating to conformity assessment, and shall be appointed by the Authority, following consultation with the Minister, for a period of

three years and such period may be extended for further periods of three years each:

Provided that the first Director General (Technical Regulations) shall be appointed by the Minister.

Responsibilities
of the Technical
Regulations
Division.

20. (1) The responsibilities of the Technical Regulations Division shall be the following:

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(a) to draft legislation in relation to its areas of competence and issued by virtue of article 38 of the Product Safety Act, article 10 of the Food Safety Act and article 5 of the Pesticides Control Act and by any other law;

(b) to advise the Board and other Government agencies and the private sector;

(c) to assist all sectors of industry to understand and meet the essential requirements imposed by technical regulations, issued by virtue of the Product Safety Act, the Food Safety Act and the Pesticides Control Act and by any other law, and the technical, quality and safety requirements of harmonised European and international standards;

(d) to co-ordinate and implement its regulatory programme in the areas falling under its remit and, in particular, to exercise the advisory functions assigned to it by article 38 of the Product Safety Act, article 9(1) of the Food Safety Act and by any other law;

(e) to establish, with the consent of the Minister and of the Chairman of the Authority, technical committees for the areas falling under its competence and to chair and co-ordinate the work of such committees;

(f) to act as the Product Contact Point and provide support to the focal point for any Notification requirements for ensuring the free movement of goods as laid down in article 9 of Council Regulation (EC) No 764/2008;

(g) to formulate and give effect to programmes of technical assistance aimed at business operators for the purpose of facilitating their compliance with relevant technical regulations and standards:

For the purpose of this paragraph, "programmes of technical assistance" includes the setting up and maintenance of

an accreditation programme;

(h) to communicate to the general public and to interested parties any information regarding the regulatory programmes in its areas of competence;

(i) to provide training and information on technical regulations in its areas of competence;

(j) to participate in relevant national and international activities;

(k) to perform risk assessment and to co-ordinate market surveillance activities as prescribed in article 27 of the Product Safety Act;

(l) to assist in the drawing up of the Authority's business plan;

(m) to submit an annual report on its work to the Board;

(n) to develop the necessary strategies for the implementation of its responsibilities;

(o) to generally exercise the responsibilities conferred upon it under this Act, the Product Safety Act, the Food Safety Act, the Pesticides Control Act and any other Act and regulations made thereunder; and

(p) to monitor the implementation of legislation under the Services (Internal Market) Act and its subsequent application. Cap. 500.

(2) The Technical Regulations Division shall be the authority in Malta entrusted with the implementation of:

(a) Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down the procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State;

(b) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products;

(c) Decision No 768/2008/EC of the European

Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products; and

(d) related activities.

PART VII
ESTABLISHMENT OF THE STANDARDS AND METROLOGY
INSTITUTE

Establishment
of the Standards
and Metrology
Institute.

21. (1) There shall be established an institute within the Authority to be designated as the Standards and Metrology Institute, which shall be headed by the Director General (Standards and Metrology).

(2) The Director General (Standards and Metrology) shall be a person with professional qualifications, recognised competence, experience and specialisation in the domain of standards and in matters relating to metrology, calibration and testing, and shall be appointed by the Authority, following consultation with the Minister, for a period of three years and such period may be extended for further periods of three years each:

Provided that the first Director General (Standards and Metrology) shall be appointed by the Minister.

Responsibilities
of the Standards
and Metrology
and Metrology
Institute.

22. (1) The responsibilities of the Standards and Metrology Institute shall be the following:-

(a) to make, adopt and publish standards, in relation to any class, category or type of products and, or services;

(b) to co-ordinate, monitor and promote standardization and related activities at the various corporate, national, regional and international levels, and to supply and, or ensure the existence of adequate supporting related services:

For the purpose of this paragraph, "supporting related services" include:

(i) the promotion of adoption and application of all aspects of metrology as a necessary adjunct to standardization;

(ii) the availability or assurance of availability of testing services;

(iii) the offer of certification services;

(c) to publish lists of standardization bodies that are recognised by the Standards and Metrology Institute for the purposes of this Act;

(d) to consider all applications for a permit to use a conformity mark and to grant permits for such purpose;

(e) to inform the public of new subjects included in its standards programme and of preparation or amendment of a standard, unless such standard is an identical or equivalent transposition of an International or European Standard. This information shall indicate, in particular, whether the standard concerned:

- will transpose an international standard without being the equivalent;
- will be a new national standard; or
- will amend a national standard;

(f) to co-operate with National, European, Regional or other international bodies in the field of standardization and to exchange information therewith generally, and in particular to such extent as may be provided for in any international obligation entered into by Malta or as may be prescribed;

(g) to be responsible for the execution, upkeep and conservation of National Measurement Standards and to maintain their accuracy by comparison with international measurement standards;

(h) to provide Working Measurement Standards of suitable accuracy for use in Malta, by comparison with the National Measurement Standards;

(i) to be responsible for the National Measurement Standards and their traceability;

(j) to provide calibration services;

(k) to carry out scientific and technical work in all fields of metrology and measuring methods;

(l) to take part in the work of other national organisations interested in metrology;

(m) to disseminate information relevant to metrology;

(n) to be responsible for the enforcement of all metrology regulations drawn up by virtue of the Metrology Act and other regulations;

(o) to be responsible for the execution and calibration of Measurement Standards and verification equipment;

(p) to oversee, monitor and supervise the manufacture and repair of measuring instruments;

(q) to bring to the attention of the authorities any fraud in relation to measurements in the provision of goods and services;

(r) to provide for the holding of examinations for the purpose of ascertaining whether persons possess sufficient skill, knowledge and professional integrity for the proper performance of their functions to be performed by virtue of the Metrology Act;

(s) to collaborate with the relevant inspection bodies in the fields of measuring instruments and pre-packaged products;

(t) to liaise with other foreign national institutions having similar aims and to represent Malta in international metrological institutions;

(u) to submit an annual report on its work to the Board;

(v) to develop the necessary strategies for the implementation of its responsibilities;

(w) to assist in the drawing up of the Authority's business plan; and

(x) to generally exercise the responsibilities conferred upon it under this Act, and under the Metrology Act and any other Act and regulations made thereunder.

(2) The Standards and Metrology Institute shall be the national body entrusted with the co-ordination of standardization and related activities and shall be responsible for matters related to metrology and legal metrology.

(3) The Standards and Metrology Institute shall also facilitate testing requirements for industry.

(4) The power conferred on the Standards and Metrology Institute to make, adopt and publish standards shall be construed as including the power, exercisable in like manner, to vary, substitute or revoke any such standard.

Variation,
Substitution or
Revocation of
Standards.

23. (1) The Standards and Metrology Institute shall publish in the Gazette a list of standards made, adopted or transposed by it together with their international equivalence, if applicable, and shall in such notices also indicate where a copy of such standards may be obtained.

List of
Standards to be
published.

(2) Notwithstanding the other provisions of this Act or of any other law, the list of standards afore-mentioned and any standard made, adopted or transposed by the Standards and Metrology Institute may be made, published, prescribed or made available to the public either in the Maltese or English language.

24. (1) The Standards and Metrology Institute shall grant a permit for the use of a conformity mark in relation to any product and, or, services which satisfy the standards and technical regulations and fulfil the conditions prescribed therein, conformity to which is being declared.

Conformity
Mark.

(2) The Standards and Metrology Institute shall not grant a permit unless it is furnished with such proof and it is given such opportunities and facilities as may be reasonably necessary in order that it may satisfy itself that the product and, or, services in relation to which the application has been made qualify for such permit.

(3) In any permit granted in relation to any product and, or service, the Standards and Metrology Institute besides describing such product and, or service shall also:-

- (a) name the person to whom the permit is granted;
- (b) state the country where the said goods are produced, manufactured or processed; and
- (c) specify the standards applicable to the said product and, or, services:

Provided that when there have been no changes in the other circumstances which justified the grant of a permit, the Standards and Metrology Institute shall in regard to any such permit authorize, on application, the substitution of the person named therein as will be proved to be necessary.

(4) For the purpose of this Part the particulars referred to in paragraphs (a) and (b) shall be deemed to form part of the description of the product and, or, service to which they refer.

Powers of the Standards and Metrology Institute to inspect premises and obtain information.

25. (1) Officers authorized in writing to that effect by the Standards and Metrology Institute shall at all reasonable times have access for the purposes of this Act to any place where goods and, or services in respect of which there is in force a permit are produced, manufactured or processed, and they shall be entitled to inspect such place, to examine such goods and to take samples thereof in the manner prescribed by the Minister.

(2) Any person who denies the said right of access in any such place to an officer authorized as aforesaid or in any such place hinders or obstructs him in the discharge of his duties shall be guilty of an offence and shall be liable on conviction by the Court of Magistrates to a fine (*multa*) of not less than one hundred and twenty euro (€120) and not exceeding five hundred euro (€500) or to imprisonment for a term from one to three months or to both such fine and imprisonment.

PART VIII

ACQUISITION AND PROVISION OF INFORMATION

Provision of Information.

26. In this Part, unless otherwise specified, any reference to the "Offices" shall be construed as referring to both the "Office for Competition" and the "Office for Consumer Affairs" and the words "Director General" and "Directors General" shall refer to both the "Director General (Office for Competition)" and "Director General (Office for Consumer Affairs)".

27. (1) The Offices may consult with the public sector in the application of this Act, the Competition Act, the Consumer Affairs Act and any other Act, or regulations made thereunder which they are empowered to enforce.

(2) The Offices may request information from the public sector or any body carrying out a regulatory function as they consider necessary for the application of this Act, the Competition Act, the Consumer Affairs Act and any other Act, or regulations made thereunder which they are empowered to enforce.

(3) The Offices may enter into agreements for the exchange of information and other forms of collaboration with bodies having regulatory functions.

(4) Any agreement entered into by the Office for Competition in terms of sub-article (3) shall not apply to investigations initiated by

it concerning alleged breaches of Articles 101 and, or 102 of the TFEU.

28. (1) Except where otherwise provided by law, a person shall not knowingly disclose confidential information and internal documents obtained by him while performing the duties of a member, officer or employee of the Authority and of an adviser, consultant or other person engaged with the Authority.

Disclosure of confidential information.

(2) Any person who contravenes the provisions of sub-article (1) shall be guilty of an offence against this Act and shall, on conviction, be liable to a fine (multa) of not less than two thousand euro (€2,000) and not exceeding ten thousand euro (€10,000).

29. (1) Except where otherwise provided by law, the Directors General shall not communicate or make accessible any information, including documents, which they deem to be internal or which contains business secrets or other confidential information.

Identification and protection of confidential information.

(2) Any person, undertaking or association of undertakings or any other body which submits information or comments in one of the situations listed hereunder or subsequently submits further information to the Director General in the course of an investigation, shall clearly identify any material which it considers to be confidential, giving reasons therefor, and provide a separate non-confidential version by the date set by the Director General for making its submissions known:

- a complainant lodging a complaint under the Competition Act or under the Consumer Affairs Act;

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- a person, undertaking or association of undertakings or any other body complying with a request for the provision of information under the Competition Act or under the Consumer Affairs Act;

- an addressee of the statement of objections made under article 12A of the Competition Act making known his views on the objection;

- a complainant making known his views on the statement of objections under article 12A of the Competition Act;

- a complainant making known his views on the letter of the Director General (Office for Competition) informing him of the Office's intention to reject the complaint made under article 14(2) of the Competition

Act;

- the addressee of an invitation by the Director General to engage in settlement discussions under article 12B of the Competition Act.

(3) Without prejudice to sub-article (2), the Directors General may require persons, undertakings and an association of undertakings or any other body that submit documents or statements pursuant to this Act to identify the documents or parts of documents which they consider to contain business secrets or other confidential information belonging to them and to identify the undertakings with regard to which such documents are to be considered confidential.

(4) In the case of a statement of objections sent by the Director General (Office for Competition) under the Competition Act and in the case of a decision adopted by the Directors General, persons, undertakings or association of undertakings may be required to identify any part of a statement of objections or a decision which in their view contains business secrets.

(5) The Directors General may set a time-limit within which the complainant, undertakings or association of undertakings or any other body are to:

(a) substantiate their claim for confidentiality with regard to each individual document or part of such document, statement or part of such statement;

(b) provide the Director General with a non-confidential version of the documents or statements, in which the confidential passages are deleted; and

(c) provide a concise description of each part of the deleted information.

(6) In the event that persons, undertakings or an association of undertakings or any other body fail to comply with sub-articles (2) to (4), the Director General may deem that the documents or statements concerned do not contain confidential information.

(7) Where persons, undertakings or an association of undertakings or any other body meet the conditions set out in sub-articles (2) to (4), the Director General shall:

(a) either provisionally accept the claims which appear justified; or

(b) inform the person or undertaking or association of undertakings or any other body that he does not agree with the confidentiality claim in whole or in part, where it is apparent that the claim is unjustified.

(8) The Director General may reverse his provisional acceptance of the confidentiality claim in whole or in part at a later stage.

(9) Where the Director General does not agree with the confidentiality claim from the outset or where he takes the view that the provisional acceptance of the confidentiality claim should be reversed, and thus intends to disclose information, the Director General will inform the person or undertaking or association of undertakings or any other body in writing of his intention to disclose information, give his reasons and set a time-limit within which such person or undertaking or association of undertakings or any other body may inform him in writing of its views. If, following submission of those views, a disagreement on the confidentiality claim persists, the Director General shall take a decision thereon.

(10) In those cases where the person or undertaking or association of undertakings or any other body does not agree with the decision of the Director General in sub-article (9) the person or undertaking or association of undertakings or any other body may appeal to the Appeals Tribunal within ten days from when the decision of the Director General is notified and the decision of the Appeals Tribunal shall be final.

(11) Complainants or undertakings or an association of undertakings or any other body or any person collaborating in an investigation carried out by the Offices shall, should they wish to remain anonymous, make a request to that effect to the Director General. The Director General shall accede to such request for anonymity if he considers the request to be justified. The Director General shall protect anonymity by providing access to a non-confidential version or summary of the documents submitted. Requests for anonymity shall be dealt with according to sub-articles (6) to (8). Where the Director General does not consider the request for anonymity to be justified, sub-articles (9) and (10) shall apply.

30. (1) The Authority shall, subject to the protection of Publication of Information. any information which it considers confidential, publish from time to time such information as would contribute to an open and competitive market or be for the benefit of consumers.

(2) When publishing information as is referred to in sub-

article (1), the Authority shall adhere to the principles of fairness and objectivity.

(3) The members of the Board, the Directors General of all the entities and any officer acting on the instructions or authority of the said Directors General, shall be exempt from any liability for acts done in good faith in pursuance of this article. Such exemption shall extend to all persons publishing, printing, recording, broadcasting or communicating such information by any means whatsoever.

PART IX ESTABLISHMENT OF THE COMPETITION AND CONSUMER APPEALS TRIBUNAL

Establishment
of the
Competition and
Consumer
Appeals
Tribunal.

31. There shall be established a tribunal to be known as the Competition and Consumer Appeals Tribunal, hereinafter referred to as "the Appeals Tribunal", to exercise and perform the functions assigned to it by this Act, the Competition Act and the Consumer Affairs Act and any regulations made thereunder.

Composition.

32. (1) The Appeals Tribunal shall be composed of the President who shall be a Judge, and two other members from a panel of ordinary members selected by the President.

(2) There shall be a panel of six ordinary members, all with at least ten years relevant experience, appointed by the President of Malta on the advice of the Prime Minister consisting of two lawyers, with specialised qualifications and experience, one in competition law and the other in consumer law; two economists, with recognised competence, preferably one in industrial organisation economics and the other in behavioural economics; a certified public accountant and a person with knowledge of industry and commerce.

(3) In selecting the two ordinary members to sit on the Appeals Tribunal under sub-article (1), the President shall take due account of the nature of the case and the market concerned.

(4) The ordinary members of the Appeals Tribunal shall be appointed for a period of three years and shall be eligible for reappointment.

(5) The ordinary members of the Appeals Tribunal may resign their office by a letter addressed to the President of Malta. The resignation shall take effect when the writing signifying the resignation is received by the President of Malta or by any person authorised by him.

(6) An ordinary member of the Appeals Tribunal may not be

removed from office except by the President of Malta acting on the recommendation of the Prime Minister on the ground of proved inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or proved misbehaviour.

(7) Notice of all appointments to the Appeals Tribunal and of all other changes in its membership shall be published in the Gazette.

(8) The Appeals Tribunal shall be independent in the performance of its functions.

(9) (a) The ordinary members of the Appeals Tribunal, shall not be precluded from the exercise of their respective profession.

(b) The remuneration due to the ordinary members of the Appeals Tribunal shall be paid out of the Consolidated Fund without the necessity of any further appropriation.

(10) A person shall not be qualified to be appointed or remain an ordinary member of the Appeals Tribunal if:

(a) he is an undischarged bankrupt; or

(b) he has been sentenced to imprisonment for six months or more by any court; or

(c) he has been found guilty of any offence against this Act, the Consumer Affairs Act or the Competition Act or any regulations made thereunder; or

(d) he is a Member of the House of Representatives or of the European Parliament or a Local Council.

(11) Any ordinary member of the Appeals Tribunal shall, before the commencement of any case, declare any interest he may have in the proceedings and the President may appoint another member from the panel.

(12) Where proceedings have commenced and no final decision has yet been delivered and one of the ordinary members has ceased to be a member or for any other reason has ceased to be available, the President may elect to appoint another member from the panel in his stead and should it be strictly necessary for the proper determination of the case recommence proceedings, or continue to hear the case with only one ordinary member:

Provided that where the term of appointment has expired and the ordinary member has not been reappointed, the ordinary member shall continue to hear the case until its determination.

(13) The ordinary members of the Appeals Tribunal, shall, during and after the term of office, act with integrity and not engage in any activity which, due to knowledge gained from confidential information and business secrets during the tenure of their office, would give rise to conflict of interest and harm the interests of the undertakings concerned. Any person who acts in contravention of this sub-article shall be guilty of an offence against this Act and shall on conviction be liable to a fine (*multa*) of not less than five thousand euro (€5,000) and shall be barred from being appointed to any similar post for a period of not less than ten years.

Registry of the
Appeals
Tribunal.

33. (1) There shall be a registry of the Appeals Tribunal.

(2) The Minister responsible for justice may, by regulations under this Act, establish the Registry of the Appeals Tribunal and the functions thereof.

(3) The Minister responsible for justice may also by regulations under this Act establish:

(a) the fees that may be due to the Registry of the Appeals Tribunal;

(b) the fees that may be due to advocates, legal procurators and other persons representing the parties appearing before the Appeals Tribunal; and

(c) the fees that may be due to experts appearing before the Appeals Tribunal.

(4) The Appeals Tribunal shall keep both a confidential version and a non-confidential version of its records.

(5) The records of the Appeals Tribunal shall be accessible to all persons, and copies shall be given on payment of the prescribed fee to any person on request:

Provided that due regard shall be had to the protection of any confidential information and business secrets.

(6) The records of the Appeals Tribunals shall be deposited and kept in such archives as may be designated by the Minister responsible for justice by regulations under this Act.

34. The Minister shall appoint a public officer as Secretary to the Appeals Tribunal. The Secretary shall *mutatis mutandis* have the same powers and duties of the Registrar of Courts, and shall take instructions from the President in all circumstances that the said Registrar in accordance with the Code of Organization and Civil Procedure is to take from a judge presiding a particular court.

Appointment of Secretary.

Cap. 12.

35. The Minister, on recommendation of the President, shall appoint a lawyer, having a postgraduate degree covering competition and, or consumer law, on a full-time basis to assist the Appeals Tribunal as referendaire in the drafting of decisions, in undertaking research and in the performance of any other task related to the competence of the Appeals Tribunal as assigned to him by the President.

Appointment of lawyer.

36. (1) The Appeals Tribunal, presided by its President, shall have jurisdiction to hear and determine appeals from decisions, orders or measures of the Director General (Office for Competition) and the Director General (Office for Consumer Affairs) as provided in the Competition Act, the Consumer Affairs Act and any regulations made under the said Acts.

Competence of the Appeals Tribunal.
Cap. 379.
Cap. 378.

(2) The determination of any case before the Appeals Tribunal shall be according to the unanimous opinion of the members deciding the case or by majority decision which majority must include the President.

37. (1) Unless otherwise provided, the Appeals Tribunal shall have the powers and shall follow the procedures laid out in the articles of this Act and in the Second Schedule, the Competition Act and the Consumer Affairs Act and any regulations made thereunder.

Procedures of the Appeals Tribunal.

(2) The Minister may make rules not inconsistent with this Act, the Competition Act and the Consumer Affairs Act and any regulations made thereunder, prescribing the procedures and the forms to be followed and used before the Appeals Tribunal.

(3) In the absence of provisions or rules as aforesaid, the Appeals Tribunal shall regulate its own procedures.

PART X OFFICERS AND EMPLOYEES OF THE AUTHORITY

38. The Authority may with the approval of the Minister recruit such officers and employees as it may require for the proper discharge of its functions under this Act. The terms and conditions of employment and appointment shall be determined by the Authority with the concurrence of the Minister.

Staff appointments.

39. The Authority may, with the approval of the Minister given after consultation with the Minister responsible for finance, establish a scheme or schemes, whether by contributory or non-contributory arrangements or partly by one and partly by the other, for the payment of pensions, gratuities and other like benefits to its officers and employees on their retirement, death or injury, or to their dependants.

Detailing of public officers for duty, with the entities.

40. (1) The Principal Permanent Secretary, following the direction of the Prime Minister, may from time to time, direct that any public officer shall be detailed for duty with the Authority in such capacity and under such conditions and with effect from such date as he may prescribe.

(2) The Principal Permanent Secretary, following the direction of the Prime Minister, may at any time revoke any such direction given under sub-article (1).

Status of public officers detailed for duty, with the entities.

41. (1) Where any officer is detailed for duty with the Authority under any of the provisions of article 40, such officer shall, during the time in which such direction has effect in relation to him, be under the administrative authority and control of the Authority but he shall for all other intents and purposes remain and be considered and treated as a public officer.

(2) Without prejudice to the generality of the foregoing, an officer detailed for duty as aforesaid:-

(a) shall not, during the time in respect of which he is so detailed:-

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at a date on which he is so detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Authority; and

(b) shall be entitled to have his service with the Authority considered as service with the Government for the purposes of any law relating to government service pensions to which he would be entitled, and shall be liable to any liability to

which he would be liable, but for the fact of his being detailed for duty with the Authority:

Provided that in assessing the pensionable emoluments of such officer for the purposes of any law relating to government service pensions, no account shall be taken of any allowances, bonuses or gratuities paid to such officer by the Authority in excess of what he is entitled to as a public officer:

Provided further that during the time in respect of which he is so detailed to perform duties with the Authority his terms and conditions of service shall not be less favourable than those which are attached to his appointment with the Government during the period aforesaid. Such terms and conditions shall not be deemed to be less favourable because they are not in all respects identical or superior to those enjoyed by the officer concerned at the date of such detailing, if in the opinion of the Prime Minister such terms and conditions, taken as a whole, offer substantially equivalent or greater benefits.

(3) Where an application is made as provided in sub-article (2)(a)(i), the same consideration shall be given thereto as if the applicant had not been detailed for service with the Authority.

(4) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for Finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Authority as aforesaid during the period in which he is so detailed.

42. (1) The Authority may, with the approval of the Prime Minister, offer to any officer detailed for duty with the Authority under any of the provisions of article 40, permanent employment with it at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

Offer of permanent employment with the Authority to public officers detailed for duty with the Authority.

(2) The terms and conditions comprised in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister, offer substantially equivalent or greater benefits.

(3) The officer shall, within one month from when the offer in sub-article (1) is made, indicate in writing whether he has accepted such offer or not.

(4) Every officer who accepts permanent employment with the Authority offered to him under the provisions of sub-article (1) shall, for all purposes other than those of any law relating to government service pensions and, saving the provisions of article 63, be deemed to have ceased to be in the service of the Government and to have entered into service with the Authority on the date of his acceptance, and for the purposes of the said law, so far as applicable to him, service with the Authority shall be deemed to be service with the Government within the meaning thereof respectively.

Cap. 58.

(5) Every such officer as aforesaid who, immediately before accepting permanent employment with the Authority, was entitled to benefit under the Widows' and Orphans' Pensions Act, shall continue to be so entitled to benefit thereunder to all intents as if his service with the Authority was service with the Government.

(6) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for Finance in respect of the cost of pensions and gratuities earned by an officer who has accepted permanent employment with the Authority as aforesaid during the period commencing on the date of such officer's acceptance.

(7) For the purposes of the Pensions Ordinance, the pensionable emoluments of such public officer on retirement shall be deemed to be the pensionable emoluments payable to an officer in Government service in a grade and at an incremental level corresponding to the post occupied and incremental level on the date on which the officer retires from the Authority.

(8) (a) For the purposes of calculating pensionable emoluments, posts and salary grades with the Authority shall be classified in the most nearly corresponding grades and incremental levels in the service under the Government by reference to job description, skills, responsibilities and other analogous factors;

(b) The classification referred to in paragraph (a) shall be carried out by a board composed of a Chairman appointed by the Minister responsible for Finance and two other members, one appointed by the Minister responsible in general for personnel policies in the public service and one appointed by the Authority. The classification shall be subject to the final approval of the Minister responsible for Finance;

(c) Such classification shall take place within three months of any adjustment of salaries of employees in Government service and, or of employees of the Authority;

(d) No post shall be classified in a grade higher than that of a Grade 3 in the service of the Government or such other grade that the Minister responsible for Finance may from time to time by notice in the Gazette determine; and

(e) Without prejudice to article 113 of the Constitution, no person may, following a classification as aforesaid, be entitled to rights under the Pensions Ordinance less favourable than those to which he would have been entitled prior to such classification. Cap. 93.

43. The Authority may, where it is necessary for the proper exercise of its functions, engage in a consultative capacity, any person whose particular expertise may be essential for the effective carrying out of a particular task: Appointment of temporary persons.

Provided that if the consultant required is a public employee, the Prime Minister may, at the request of the Director General concerned, designate the public employee to assist:

Provided further that such person will also be bound with the same conditions as other officers employed with the Authority.

44. Every person appointed as an officer of the Authority shall, before assuming such duties, take oath that he will faithfully and impartially perform the duties of his office or employment. The form of oath shall be that contained in the First Schedule and shall be administered by the President of the Appeals Tribunal. Oath of secrecy.

45. (1) Where a public officer or an employee of the Authority, or a consultant, an advisor or any other person engaged by the Authority, has any interest in, or material to, any matter which falls to be considered by the Authority, he shall- Disclosure of interest.

(a) disclose to the Authority the nature of his interest at the first meeting of the Authority after such interest is acquired or in advance of any consideration of the matter, whichever is the earlier;

(b) neither influence nor seek to influence a decision in relation to such matter; and

(c) take no part in any consideration of such matter.

(2) Where a question arises as to whether or not a course of conduct, if pursued by a person, would constitute failure by him to comply with the requirements of sub-article (1), the question shall be determined by the Authority and the decision and its motivation shall

be recorded in the minutes of the meeting during which the decision was taken.

(3) Where a disclosure is made to the Authority pursuant to sub-article (1), particulars of the disclosure shall be recorded in the minutes of the relative meeting.

(4) Where a person to whom sub-article (1) applies fails to make the required disclosure, the Authority shall decide the appropriate action to be taken which may include the removal from office or termination of the contract of the person concerned.

Code of Ethics.

46. (1) Public officers and employees of the Authority shall abide by any Code of Ethics applicable to public officers and shall, subject to any law to the contrary, have the same obligations thereunder:

Provided that the Directors General shall, with the approval of the Management Committee, draw up service values and Codes of Ethics in respect of their respective entities to supplement any public service Code of Ethics.

Obligation to act with integrity following termination of office.

(2) (a) The members of the Board, public officers and employees of the Authority and advisors, consultants and other persons engaged with the Authority shall, following the termination of their office, act with integrity and not engage in any activity which, due to knowledge gained from confidential information and business secrets during the tenure of their office would give rise to conflict of interest and harm the interests of any person; and

(b) Any person who acts in contravention of this article shall be guilty of an offence against this Act and shall on conviction be liable to a fine (*multa*) of not less than five thousand euro (€5,000) and shall be barred from being re-appointed with the Authority for a period of not less than ten years.

Exemption from liability.

(3) No action shall lie against the Authority, the organs of the Authority, the members of the Board, public officers and employees of the Authority and advisors, consultants and other persons engaged with the Authority for any act or omission in connection with this Act or any regulations made thereunder unless the act or omission is shown to have been done or omitted to be done, as the case may be, in bad faith.

PART XI
FINANCIAL PROVISIONS

47. The Authority shall be governed by the provisions of the Financial Administration and Audit Act, unless otherwise stated in the Authority performance agreement entered into by the Permanent Secretary and the Authority in terms of article 12(7) in which case the provisions of the latter will prevail.

Provisions of the Financial Administration and Audit Act. Cap. 174.

48. (1) Without prejudice to the following provisions of this article, the Authority shall so conduct its affairs that so much of the expenditure required for the proper performance of its functions shall, as far as practicable, be met out of its revenue.

Authority to meet expenditure out of revenue. Cap. 174.

(2) For the purposes of sub-article (1), the Authority, shall levy all fees, charges and other payments prescribed or deemed to be prescribed by or under this Act or any other law providing for matters falling under its respective powers and functions:

Provided that where the entities are specifically entrusted by law to charge fees or impose administrative fines, those fees and fines shall be levied by the entities concerned.

(3) The Authority shall also be paid by the Government out of the Consolidated Fund such sums as the House of Representatives, hereinafter referred to as the "House", may from time to time authorise to be appropriated to meet any of its expenditure that cannot be met out of its revenue and the costs of specified works to be continued or otherwise carried out by it, being works of infrastructure or of a similar capital nature.

(4) Any excess of revenue over expenditure shall, subject to such directives as the Minister, after consultation with the Minister responsible for Finance, may from time to time give, be applied by the Authority to the formation of reserve funds to be used for its purposes and without prejudice to the generality of the powers given to the Minister by this sub-article, any directive given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the direction, of any part of the fees, charges and other payments levied in accordance with sub-article (2).

(5) Any funds of the Authority not immediately required to meet expenditure may be invested in such manner as may from time to time be approved by the Minister.

49. (1) For the purpose of carrying out any of its functions under this Act, the Authority may, with the approval in writing of the

Power to borrow or raise capital.

Minister, given after consultation with the Minister responsible for Finance, borrow or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister, after consultation as aforesaid, may in writing approve.

(2) The Authority may also, from time to time, borrow, by way of overdraft or otherwise, such sums as it may require for carrying out its functions under this Act:

Provided that for any amount in excess of one hundred and twenty thousand euro (€120,000), there shall be required the written approval of the Minister.

Advances from
Government.

50. The Minister responsible for Finance may, after consultation with the Minister, as the case may be, make advances to the Authority of such sums as he may agree to be required by the Authority for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as he may, after consultation as aforesaid, deem appropriate. Any such advance may be made by the Minister responsible for Finance out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorising the Accountant General to make such advance.

Borrowing from
Government.

51. (1) The Minister responsible for Finance may, for any requirements of the Authority of a capital nature, contract or raise loans, or incur liabilities, for such periods and on such terms and conditions as he may deem appropriate and any sums due in respect of or in connection with any such loan or liability shall be a charge on the Consolidated Fund.

(2) Notice of any loans, liabilities or advances made or incurred under the foregoing provisions of this article shall be given to the House as soon as practicable.

(3) Pending the raising of any such loan as is mentioned in sub-article (1), or for the purpose of providing the Authority with working capital, the Minister responsible for Finance may, by warrant under his hand, and without further appropriation other than this Act, authorise the Accountant General to make advances to it out of the Treasury Clearance Fund under such terms as may be specified by the Minister upon the making thereof.

(4) The proceeds of any loan raised for the purposes of making advances to the Authority and any other monies to be advanced to the Authority under this article, shall be paid into a fund specially established for the purpose and which shall be known as the "Malta Competition and Consumer Affairs Authority Loan Fund".

(5) Sums received by the Accountant General from the Authority by way of repayment of advances made to the Authority under sub-article (3) shall be paid into the Treasury Clearance Fund and sums received by the Accountant General by way of interest on such advances shall be paid into the Consolidated Fund.

52. (1) The Authority shall cause to be prepared in every financial year, and shall not later than four weeks before the end of such year adopt, estimates of the income and expenditure of the Authority for the following financial year distinguishing, in particular, between each of such entities and Directorates as may be established under the provisions of this Act:

Estimates of the Authority.

Provided that the estimates for the first financial year of the Authority shall be prepared and adopted within such time as the Minister may by notice in writing to the Authority specify.

(2) In the preparation of such estimates, the Authority shall take account of any funds and other monies that may be due to be paid to it out of the Consolidated Fund during the relevant financial year, whether by virtue of this Act or of an appropriation Act or of any other law and it shall so prepare the said estimates as to ensure that its total revenues are at least sufficient to meet all sums properly chargeable to its revenue account including, but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form and shall contain such information and such comparison with previous estimates as the Minister responsible for Finance may direct.

(4) A copy of the estimates shall, upon their adoption by the Authority, be sent forthwith to the Minister and to the Minister responsible for Finance.

(5) The Minister shall, at the earliest opportunity and not later than six weeks after he has received a copy of the estimates from the Authority, approve the same with or without amendment after consultation with the Minister responsible for Finance.

53. (1) No expenditure shall be made or incurred by the Authority unless provision therefor has been made in the estimates approved as provided in article 52.

Expenditure to be according to approved estimates.

(2) Notwithstanding the provisions of sub-article (1):-

(a) until the expiration of six months from the beginning of a financial year, or until the approval of the estimates for that year, whichever is the earlier date, the

Authority may make or incur expenditure for carrying on its functions under this Act not exceeding in the aggregate one half of the amount approved for the preceding financial year;

(b) expenditure approved in respect of a head or sub-head of the estimates may, with the approval of the Minister, given after consultation with the Minister responsible for Finance, be made or incurred in respect of another head or sub-head of the estimates;

(c) in respect of the first financial year, the Authority may make or incur expenditure until the approval of the estimates for that year not exceeding in the aggregate such amounts as the Minister responsible for Finance may, after consultation with the Minister allow; and

(d) if in respect of any financial year it is found that the amount approved in the estimates is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Authority may adopt supplementary estimates for approval by the Minister, and in any such case the provisions of this Act applicable to the estimates shall as near as practicable apply to the supplementary estimates.

Publication of approved estimates.

54. The Minister shall, at the earliest opportunity and not later than eight weeks after he has received a copy of the estimates and supplementary estimates of the Authority, or if at any time during that period the House is not in session, within eight weeks from the beginning of the next following session, cause such estimates to be laid on the Table of the House.

Accounts and audit.

55. (1) The Authority shall cause to be kept proper accounts and other records in respect of its operations, and shall cause to be prepared a statement of accounts in respect of each financial year.

(2) The accounts of the Authority shall be audited by an auditor or auditors to be appointed by the Authority with the concurrence of the Minister responsible for finance and shall moreover be subject to scrutiny by the Financial Management Monitoring Unit, and audit by the Internal Audit and Investigations Directorate and the Auditor General as the case may be.

(3) The Authority shall not later than six weeks after the end of each financial year present to the Minister through the Permanent Secretary an audited statement of accounts together with a copy of any report made by the auditors on that statement or on the accounts of the Authority.

(4) The Minister shall cause a copy of such statement and report to be laid before the House not later than six weeks after its receipt or, where the House is not in session, not later than the second week after the House resumes its sittings.

56. (1) All monies accruing to the Authority shall be paid into a bank or banks appointed as bankers of the Authority by resolution of the Authority. Such monies shall, as far as practicable, be paid into any such bank from day to day, except such sum as the Authority may authorise to be retained to meet petty disbursements and immediate cash payments.

Deposit of
revenues and
payments by the
Authority.

(2) All payments out of the funds of the Authority, other than petty disbursements not exceeding a sum fixed by the Authority, shall be made by such officer or officers of that entity as shall be appointed or designated for that purpose.

(3) Cheques against and withdrawals from any bank account of the Authority shall be signed by such officer of the Authority as may be appointed or designated by the Authority for that purpose and shall be countersigned by the Chairman or such other member or officer as may be authorised by the Authority for that purpose.

(4) The Authority shall also make provision with respect to:-

(a) the manner in which and the officer or officers by whom payments are to be authorised or approved;

(b) the title of any account held with the bank or banks into which its monies are to be paid, and the transfer of funds from one account to the other; and

(c) the method to be adopted in making payments out of its funds, and generally with respect to any matter which is relevant to the proper keeping and control of the accounts and books and the control of its finances.

57. The Authority shall not award or enter into any contract for the supply of goods or materials or for the execution of works, or for the rendering of services, to or for the benefit of the Authority, except in accordance with regulations in force regulating the procurement of all goods and services in the public sector.

Contracts of
supply or works.

58. (1) The Authority shall, not later than six weeks after the end of each financial year, present to the Minister through the Permanent Secretary a report dealing generally with the activities of the Authority during that financial year, distinguishing, in particular, between each of such entities and Directorates as may be established

Annual Report.

under the provisions of this Act and containing such information relating to the proceedings and policy of the Authority as the Minister may from time to time require.

(2) The Minister shall cause a copy of such report to be laid before the House not later than six weeks after its receipt or, where the House is not in session, not later than the second week after the House resumes its sittings

Exemption from taxes.

59. The Authority shall be exempt from any liability for the payment of any tax on income or duty on documents under any law for the time being in force in Malta.

PART XII

TRANSFER OF CERTAIN ASSETS TO THE AUTHORITY

Transfer of assets to the Authority.

60. (1) (a) The property and undertakings owned by the Government and used by it, immediately before the date of the coming into force of this Part, where used by it for the operation of any of the functions which by this Act are being transferred to or vested in the Authority shall, on the date aforesaid, by virtue of this Act and without further assurance, be transferred to and be vested in the Authority under the same title by which they were held by the Government immediately before the said date. The provisions of this paragraph shall not apply to immovable property; and

(b) The immovable assets from time to time specified in an order made by the President of Malta and published in the Gazette, hereinafter referred to as "the immovable assets", being immovable assets which, immediately before the coming into force of this Part, were owned by the Government and used by it for the exercise of any of the functions which by this Act are being transferred to or vested in the Authority shall, with effect from such day as may be specified in any such order, and by virtue of this Act and without any further assurance, be transferred to and vested in the Authority under the same title by which they were held by the Government before such day.

(2) The transfer and vesting aforesaid shall extend to the whole of such property and undertakings and, without prejudice to the generality of the aforesaid, shall include all plant, equipment, apparatus, instruments, vehicles, crafts, buildings, structures, installations, land, roads, works, stocks and other property, movable or immovable, assets, powers, rights and privileges and all things necessary or ancillary thereto which are held or enjoyed in connection therewith or appertaining thereto, as well as all obligations affecting or relating to any of the aforesaid property or undertakings or other

thing included therein as aforesaid.

61. (1) Subject to the provisions of this Act, all laws, rules, regulations, orders, judgments, decrees, awards, deeds, bonds, contracts, agreements, instruments, documents, warrants and other arrangements, subsisting immediately before the date of the coming into force of this Part, affecting or relating to any of the properties or undertakings transferred to the Authority by or under this Act, shall have full force and effect against or in favour of the Authority, and shall be enforceable freely and effectually, as if instead of the Government or governmental authority the Authority had been named therein or had been a party thereto, and otherwise in substitution of the Government or governmental authority.

Construction of laws and related matters.

(2) Any reference in any law to the Office for Fair Competition, Department of Consumer Affairs, Consumer and Competition Division and Malta Standards Authority shall be read and construed as a reference to the Authority and, or to any of its entities.

62. (1) When anything has been commenced by or under the authority of the Government prior to the date of the coming into force of this Part, and such thing relates to any of the properties or undertakings or any right or liability transferred to the Authority by or under this Act, such thing may be carried on and completed by or as authorised by the Authority.

Transitory provisions.

(2) Where, immediately before the coming into force of this Part, any legal proceedings are pending to which the Government is or is entitled to be a party, and such proceedings are related to any of the properties or undertakings, or any right or liability transferred by or under this Act, the Authority shall, as from the date aforesaid, be substituted in such proceedings for the Government, or shall be made a party thereto in like manner as the Government could have become, and such proceedings shall not abate by reason of the substitution.

(3) The Minister may, by order, make such incidental, consequential and supplemental provisions as he may deem necessary or expedient for the purpose of determining, as appropriate, the assets transferred to the Authority by this Act and securing and giving full effect to the transfer of any property or undertaking or any right or liability to the Authority by this Act and make such orders as may be necessary to make any powers and duties exercisable by the Government in relation to any of the transferred property or undertakings exercisable by or on behalf of the Authority.

**PART XIII
MISCELLANEOUS**

Persons deemed
public officers.
Cap. 9.

63. For the purposes of the Criminal Code and of any provision of a penal nature in any other law, the members of the Board, officers and employees of the Authority, shall be deemed to be public officers.

Service of acts
of the Authority.

64. (1) For the purposes of this article "acts" means any measure, order, direction, statement, decision or other forms of communication issued by the Authority.

Cap. 378.
Cap. 379.

(2) The Authority shall notify its acts under this Act, the Competition Act, the Consumer Affairs Act or under any other Acts, or regulations made thereunder administered by the Authority, to the addressee in any of the following ways:

(a) by delivering it to the person or by leaving it at the address at which the person ordinarily resides or carries on business or place of work or postal address of such person with a member of his family or household or with a person in his service or his attorney or person authorised to receive his mail:

Provided that it shall not be lawful to leave such copy with any person under the age of fourteen years, or with any person who, on account of infirmity of mind, is unable to give evidence of such service. A person shall be presumed to be able to give such evidence unless the contrary is proved; and no objection may be raised on the ground of irregularity of the service for any of those reasons, if it is shown that the copy has actually reached the person to be served therewith:

Provided further that where a person to whom a notice is addressed refuses to receive it personally from an officer of the Authority, the Appeals Tribunal may upon an application by the Authority and after hearing the officer of the Authority and considering all the circumstances of the incident, declare that such service shall have been effected on the day and time of the refusal and such declaration shall be considered as a proof of service for all purposes of law.

(b) by sending it by registered post to the person at the address at which the person ordinarily resides or carries on business; or

(c) if an address for the service of notices has been provided by the person, by leaving it at, or sending it by registered post addressed to the person to that address; or

(d) in any case where the Authority considers that the immediate delivery of the act is required, by sending it, by means of a facsimile machine or by electronic mail, to a device or facility for the reception of facsimiles or electronic mail located at the address at which the person ordinarily resides or carries on business or, if an address for the service of acts has been furnished by the person, that address, provided that the facsimile machine of the Authority generates a message confirming successful transmission of the total number of pages of the notice or the facility of the Authority for the reception of electronic mail generates a message confirming receipt of the electronic mail:

Provided that the provisions of paragraph (d) shall not apply to the notification of documents filed before the Appeals Tribunal or any court.

(3) If it appears from the employee charged with the service of an act that, although it does not result that the person upon whom such an act is to be served, is abroad, access to his place of residence cannot be obtained, or his place of residence is not known, the Appeals Tribunal, upon an application by the Authority, may direct service to be effected by the posting of a copy of the act at the place, in the town or district in which official acts are usually posted up, and by publishing a summary of such act in the Gazette and in one or more daily newspapers as the Appeals Tribunal may direct, and where possible, when the residence is known, by posting up a copy of the act on the door leading to such residence. The Appeals Tribunal may also adopt such other measures as it may deem fit to bring the act to the attention of the person upon whom the same is to be served. In such cases, service shall be deemed to have been made on the third working day after the date of last publication or after the date of such posting, whichever is the later. In cases where service has been ordered with urgency, service shall be deemed to have been made at such time, after posting or publication as the Appeals Tribunal may determine, which time is to be stated in the publication or posting.

(4) In the case of a body having distinct legal personality, service on such body shall be effected by leaving a copy of the act:

(a) at its registered office, principal office, or place of business or postal address of the person or persons vested with the legal or judicial representation thereof or by any company secretary or with an employee of such body; or

(b) with the person or persons vested with the legal or judicial representation thereof or by any company secretary in

the manner provided for in sub-article (1).

(5) The provisions of this article shall also apply with respect to the notification of acts issued by the entities of the Authority under this Act or any other law enforced by them.

Power of
Minister to
make
regulations.

65. (1) The Minister, after consultation with the Board, as the case may be, may from time to time make regulations:

(a) prescribing fees that may be charged by the Authority under this Act;

(b) providing for additional methods of effecting service of acts of the Authority or altering or removing any of the methods prescribed under article 64;

(c) prescribing for other matters that are or may be prescribed under this Act, or any other Act which is administered by the Authority; and

(d) generally for the better carrying out of the objects and purposes of this Act, or any other Act which is administered by the Authority.

(2) Furthermore, after consultation with the Board, the Minister may from time to time make regulations:

(a) prescribing the mark or symbol that is to be used to indicate conformity with any standard;

(b) prescribing the manner and form in which any application for a conformity mark shall be made, the information which such application is to contain, and the fees payable in respect thereof;

(c) prescribing the manner and form in which permits shall be issued by the Authority and the fees payable in respect thereof;

(d) prescribing the manner of registration of permits issued under this Act;

(e) prescribing the manner in which samples of products shall be taken;

(f) providing for the publication of draft standards and the manner in which the public can make representations thereon to the Authority;

(g) prescribing the fees or charges that may be charged in respect of any service provided by the Authority under this Act; and

(h) prescribing anything that is or may be prescribed under this Act.

66. (1) There shall be established the Directorates as listed in the Fourth Schedule, which shall have the responsibilities as described therein. The Minister may, after consulting the Authority, by Order in the Gazette, abolish any one or more of the said Directorates, vary their responsibilities and establish such other Directorate as he may from time to time deem appropriate: Establishment of Directorates.

Provided that the Authority may, temporarily or for a specific purpose, authorise the Director General heading the entity concerned, to allow that a particular function of one Directorate be performed by another Directorate within the same entity, should this be expedient for the proper exercise of that function or for that specific purpose.

(2) Each Directorate, so established, shall be headed by a person who shall be in possession of recognised professional qualifications and experience in relation to the area of operation of such Directorate:

Provided that the first head of each Directorate shall be appointed by the Minister.

(3) The Director General of each respective entity shall-

(a) assume full responsibility for the overall supervision and control of the Directorates within that entity;

(b) assign to each Directorate within that entity such duties which are by, or in accordance with, the provisions of this Act vested in each Directorate; and

(c) co-ordinate the workings of the Directorates within that entity.

67. In carrying out their responsibilities, the Directorates shall assist the Director General of the entity concerned to discharge effectively and efficiently the responsibilities of that entity in their respective area of operation. Responsibilities of Directorates.

68. Regulations which are required to be issued by the Minister upon the advice of the Board or after consultation therewith Language of regulations.

under any Act in respect of which any of the entities, as the case may be, have been appointed as the competent authority, may be made in the English language only.

Administrative fines.

69. Any administrative fine payable to the Authority shall be recoverable as a civil debt by it and shall constitute an executive title for all effects and purposes of Title VII of Part I of Book II of the Code of Organization and Civil Procedure.

Cap. 12.

Transitory Provisions in relation to the Competition Act and the Consumer Affairs Act. Cap. 379. Cap. 378.

70. (1) The provisions of the Competition Act and of the Consumer Affairs Act existing prior to the coming into force of this Act shall continue to apply, as the case may be, to all:

(a) investigations pending at the time of coming into force of this Act before the Director of the Office for Fair Competition and the Director of Consumer Affairs, both as substituted by the Director General (Office for Competition) and Director General (Office for Consumer Affairs) by this Act;

(b) proceedings pending at the time of coming into force of this Act before the Commission for Fair Trading and the Consumer Affairs Appeals Board, both as substituted by the Appeals Tribunal, the Consumer Claims Tribunal and the courts; and

(c) decisions and judgments which are not yet *res judicata*, at the time of coming into force of this Act.

(2) Without prejudice to article 27A(10)(c) of the Competition Act, in the case of an infringement of the Competition Act, of Articles 101 and, or 102 of the TFEU or of the Consumer Affairs Act, which took place before the coming into force of this Act but in respect of which no investigation by the Director of the Office for Fair Competition, the European Commission, national competition authority and the Director for Consumer Affairs was initiated and no proceedings were instituted before the ordinary courts or the Consumer Claims Tribunal, the provisions of this Act and the provisions of the Competition Act and the Consumer Affairs Act as amended by this Act, shall apply:

Provided that in respect of the application of measures of a punitive nature under the Competition Act, the undertaking concerned shall have the option of choosing whether the measures in force prior to the coming into force of this Act or the measures provided for in this Act shall apply.

Provided further that once the undertaking concerned has communicated its choice, its decision shall be final.

(3) For the purposes of sub-article (1)(b) the Appeals Tribunal shall be vested with the powers of:

(a) the Commission for Fair Trading as provided in the Competition Act prior to the coming into force of this Act; and

(b) the Consumer Affairs Appeals Board as provided under the Consumer Affairs Act prior to the coming into force of this Act.

(4) For the purposes of sub-article (1)(a) the Director General (Office for Competition) shall be vested with the powers of the Director of the Office for Fair Competition as provided in the Competition Act prior to the coming into force of this Act.

(5) For the purposes of sub-article (1)(a) the Director General (Office for Consumer Affairs) shall be vested with the powers of the Director of Consumer Affairs as provided in the Consumer Affairs Act prior to the coming into force of this Act.

71. Regulations made under the Malta Standards Authority Act shall continue to be in force as if made under the provisions of this Act and may be amended and revoked accordingly. Regulations. Cap. 419.

72. National standards shall be designated as MS XXX:YYYY, where XXX is an integer number and YYYY the year of adoption. National standards.

PART XIV

AMENDMENTS TO THE CONSUMER AFFAIRS ACT

(CAP. 378)

73. (1) This Part amends the Consumer Affairs Act, and it shall be read and construed as one with the Consumer Affairs Act, hereinafter in this Part referred to as "the principal Act". Amendment to the Consumer Affairs Act. Cap. 378.

(2) The long title of the principal Act shall be substituted by the following:- Amendment to the long title of the principal Act.

"To provide for the powers of the Director General (Office for Consumer Affairs), for the establishment and functions of a Consumer Affairs Council and for the establishment and jurisdiction of the Consumer Claims Tribunal and for other matters ancillary or consequent thereto."

74. The title to Part II of the arrangement of the principal Act shall be substituted by the following:- Amendment to Parts II and XII of the Arrangement of the principal Act.

"PART II. Director General (Office for Consumer Affairs)

and the Consumer Affairs Council".

Amendment to article 2 of the principal Act.

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

(a) the definition "Appeals Board" shall be repealed;

(b) the definition "Department" shall be repealed;

(c) the definition "Director" shall be substituted by the following:

" "Director General" means the Director General (Office for Consumer Affairs) as appointed by article 16 of the Malta Competition and Consumer Affairs Authority Act 2010;" and wherever the word "Director" occurs in the principal Act it shall be substituted by the word "Director General";

(d) immediately after the definition "advertisement" there shall be inserted the following new definition:

" "Appeals Tribunal" means the Competition and Consumer Appeals Tribunal as established by article 31 of the Malta Competition and Consumer Affairs Authority Act 2010;"; and

(e) immediately after the definition "Minister" there shall be inserted the following new definition:

" "Office" means the Office for Consumer Affairs as established under article 16(1) of the Malta Competition and Consumer Affairs Authority Act 2010;".

Amendment to the Title of Part II of the principal Act.

76. The title to Part II of the principal Act shall be substituted by the following:-

"Director General (Office for Consumer Affairs) and the Consumer Affairs Council"

Substitution of article 3 of the principal Act.

77. Article 3 of the principal Act shall be amended as follows:

(a) the marginal note to article 3 thereof shall be substituted by the words "Responsibility of the Director General."; and

(b) article 3 thereof shall be substituted by the following:

"(1) The Director General shall be responsible for the administration and enforcement of this Act and for this purpose he shall exercise the responsibilities vested in the Office for Consumer Affairs by article 17 of the Malta Competition and

Consumer Affairs Authority Act 2010 and this Act."

78. In sub-article (3) of article 7 of the principal Act, the words "forty-six thousand and five hundred and eighty-seven euro and forty-seven cents (€46,587.47)" wherever they appear shall be substituted by the words "forty-seven thousand euro (€47,000)".

Amendment to article 7 of the principal Act.

79. Article 9 of the principal Act shall be amended as follows:

Amendment to article 9 of the principal Act.

(a) the word "Department" in the marginal note thereof shall be substituted by the word "Office."; and

(b) sub-article (3) thereof shall be amended as follows:

"(3) A trader convicted under this article shall be liable to a fine (*multa*) of not less than one hundred and twenty euro (€120) and not more than two thousand three hundred and fifty euro (€2,350)."

80. Immediately after article 9 of the principal Act, there shall be inserted the following new article:

Addition of article 9A of the principal Act.

"Approval of codes of conduct by the Director General and use of official symbol.

9A. (1) In promoting good trading practices, the Director General may make arrangements for approving codes of conduct and may, in accordance with these arrangements, give his approval to or withdraw his approval from any code of conduct.

(2) Any such arrangements must specify the criteria to be applied by the Director General in determining whether to give approval to or withdraw approval from a code of conduct.

(3) Any such arrangements may in particular:-

(a) specify the type of code of conduct that may be the subject of an application to the Director General for approval indicating the requisite features of the code of conduct, including the persons who are, or are to be subject to the code of conduct, the manner in which it is, or is to be operated and the persons responsible for its operation; and

(b) provide for the use in accordance with the arrangements of an official symbol intended to signify that a code of conduct is approved by the Director General.

(4) The Director General shall publish any arrangements under sub-article (1) in such manner as he considers appropriate.

(5) For the purposes of this article "code of conduct" shall have the same meaning assigned to it in article 51A."

Amendment to article 11 of the principal Act.

81. Article 11 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the words "the Director, or a public officer with the Department" shall be deleted;

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

(c) in sub-article (3) thereof, the words "a fine (*multa*) of not less than one hundred and sixteen euro and forty-seven cents (€116.47) and not more than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37)" shall be substituted by the words "a fine (*multa*) of not less than one hundred and twenty euro (€120) and not more than two thousand and three hundred fifty euro (€2,350)."; and

(d) sub-article (3) thereof shall be renumbered as sub-article (2).

Amendment to article 12 of the principal Act.

82. In sub-article (3) of article 12 of the principal Act, the word "Department" shall be substituted by the word "Office".

Addition of article 12B of the principal Act.

83. Immediately after article 12A of the principal Act, there shall be inserted the following new article:

"Complaints of general interest.

12B.(1) Without prejudice to article 12A, a qualified entity may also make a complaint to the Director General that with respect to goods and services:

(a) the structure of the market concerned or any aspect of that structure;

(b) any conduct, whether or not in the market concerned, of one or more than one person who supplies or acquires goods or services in the market concerned; or

(c) any conduct relating to the market concerned of customers of any person who supplies or acquires goods or services, is or appears to be significantly harming the interests of consumers.

(2) The Director General must, within 45 days after the day on which he receives the complaint, publish a response stating how he proposes to deal with the complaint, and in particular:

(a) whether he has decided to take any action, or to take no action, in response to the complaint; and

(b) if he has decided to take action, what action he proposes to take.

(3) The response must state the reasons of the Director General for his proposals.

(4) The Director General-

(a) shall issue guidance as to the presentation by the qualified entity of a reasoned case for the complaint; and

(b) may issue such other guidance as appears appropriate for the purposes of this article.

84. In sub-article (2) of article 13 of the principal Act, the word "Department" shall be substituted by the word "Office".

Amendment to article 13 of the principal Act.

85. Sub-article (1) of article 14 of the principal Act shall be amended as follows:

Amendment to article 14 of the principal Act.

(a) paragraph (a) thereof shall be substituted by the words "a sum not in excess of six hundred euro (€600) for any pecuniary loss, and"; and

(b) paragraph (b) thereof shall be substituted by the words "a sum of not less than thirty five euro (€35) and not more than seven hundred and fifty euro (€750) as moral damages for any pain, distress, anxiety and inconvenience."

86. In article 14B of the principal Act, the words "Appeals Board" wherever they appear and the word "Board" in sub-article (7) thereof shall be substituted by the words "Appeals Tribunal".

Amendment to article 14B of the principal Act.

87. In article 20 of the principal Act, the words "three thousand and four hundred and ninety-four euro and six cents (3,494.06)", wherever they appear, shall be substituted by the words "three thousand five hundred euro (€3,500)".

Amendment to article 20 of the principal Act.

Amendment to article 21 of the principal Act.

88. In article 21 of the principal Act, the words "a sum of not less than thirty-four euro and ninety-four cents (34.94) and not more than two hundred and thirty-two euro and ninety-four cents (232.94)" shall be substituted by the words "a sum of not less than thirty-five euro (€35) and not more than five hundred euro (€500)".

Amendment to article 22 of the principal Act.

89. Article 22 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, immediately before the words "shall lie from a decision of a Tribunal" there shall be inserted the words "made under sub-articles (2) and (3)"; and

(b) in sub-article (2) thereof, the words "Independently of the amount of the claim, an appeal shall always lie in the following cases" shall be substituted by the words "An appeal shall lie in the following cases".

Amendment to article 25 of the principal Act.

90. In the proviso to sub-article (1) of article 25 of the principal Act, the words "one hundred and sixteen euro and forty-seven cents (€116.47)" shall be substituted by the words "one hundred and twenty euro (€120)".

Amendment to article 25A of the principal Act.

91. Article 25A of the principal Act shall be substituted by the following:

"25A. "A decision of the Tribunal which has become *res judicata* may be enforced, depending on the residence of the person against whom enforcement is sought, by the Court of Magistrates (Malta) or by the Court of Magistrates (Gozo), as an executive title under the Code of Organisation and Civil Procedure:

Provided that the Court fees payable in respect of any warrant issued for the purpose of enforcing a decision of the Tribunal shall amount to one-half of the Court fees applicable in respect of warrants issued for the purpose of enforcement of judgments of the Court of Magistrates referred to above."

Amendment to article 26 of the principal Act.

92. In sub-articles (4) and (6) of article 26 of the principal Act, the words "from among public officers serving with the Department", shall be deleted.

Amendment to article 34 of the principal Act.

93. In article 34 of the principal Act, the words "two thousand and three hundred and twenty-nine euro and thirty seven cents (€2,329.37)" shall be substituted by the words "two thousand three hundred and fifty euro (€2,350)".

94. In article 61 of the principal Act, the words "four hundred and sixty-five euro and eighty-seven cents (€465.87)" shall be substituted by the words "five hundred euro (€500)".

Amendment to article 61 of the principal Act.

95. In article 67 of the principal Act, the words "Limitation of action" in the marginal note shall be substituted by the words "Prescription".

Amendment to article 67 of the principal Act.

96. Article 78 of the principal Act shall be amended as follows:

Amendment to article 78 of the principal Act.

(a) the word "prescription" in the marginal note thereof shall be substituted by the words "limitation of action"; and

(b) the words "of prescription" shall be deleted.

97. In article 91 of the principal Act, the words "one hundred and sixteen euro and forty-seven cents (€116.47)" shall be substituted by the words "one hundred and twenty euro (€120)".

Amendment to article 91 of the principal Act.

98. In paragraph (b) of sub-article (5) of article 94 of the principal Act, the words "Appeals Board" shall be substituted by the words "Appeals Tribunal".

Amendment to article 94 of the principal Act.

99. In sub-article (3) of article 95 of the principal Act, the words "Appeals Board" shall be substituted by the words "Appeals Tribunal".

Amendment to article 95 of the principal Act.

100. Article 97 of the principal Act shall be amended as follows:

Amendment to article 97 of the principal Act.

(a) the words "the Appeals Board" and "the Board", wherever they appear, shall be substituted by the words "the Appeals Tribunal";

(b) sub-article (3) thereof shall be repealed; and

(c) sub-article (4) thereof shall be renumbered as sub-article (3).

101. In article 98 of the principal Act, the words "the Appeals Board" shall be substituted by the words "the Appeals Tribunal".

Amendment to article 98 of the principal Act.

102. In article 106 of the principal Act, the words "not less than four hundred and sixty-five euro and eighty-seven cents (€465.87) and not more than forty-six thousand five hundred and eighty-seven euro and forty-seven cents (€46,587.47)" shall be substituted by the words "not less than four hundred and seventy euro (€470) and not more than forty-seven thousand euro (€47,000)".

Amendment to article 106 of the principal Act.

Amendment to article 106A of the principal Act.

103. Article 106A of the principal Act shall be amended as follows:

(a) sub-article (2) thereof shall be substituted by the following:

"(2) An administrative fine imposed for an infringement under sub-article (1) shall not be less than four hundred and seventy euro (€470) and more than forty-seven thousand euro (€47,000)."; and

(b) in the proviso to sub-article (2) thereof the words "not more than two hundred and thirty-two euro and ninety-four cents (€232.94)" shall be substituted by the words "not more than two hundred and thirty euro (€230).".

Substitution of article 109 of the principal Act.

104. Article 109 of the principal Act shall be substituted by the following:

"No action shall lie against the Director General, or any of his officers or any authorised person acting under his direction or control or any member of the Council for any act or omission in connection with this Act, or any regulations made thereunder, unless such act or omission were done in bad faith."

Deletion of article 110 of the principal Act.

105. Article 110 of the principal Act shall be deleted.

Deletion of heading and title of the principal Act.

106. The heading "Part XII" and title thereto of the principal Act, immediately after the deleted article 110 of the principal Act, shall be deleted.

Deletion of article 110A of the principal Act.

107. Article 110A of the principal Act shall be deleted.

Amendment to article 110B of the principal Act.

108. In article 110B of the principal Act, the words "Appeals Board", wherever they appear, shall be substituted by the words "Appeals Tribunals".

Amendment to article 110C of the principal Act.

109. In article 110C of the principal Act, the words "Appeals Board", wherever they appear, shall be substituted by the words "Appeals Tribunals".

Amendment to article 110D of the principal Act.

110. In article 110D of the principal Act, the words "Appeals Board" in the marginal note thereof and wherever they appear shall be substituted by the words "Appeals Tribunals".

111. In Article 110E of the principal Act, the words "Appeals Board" in the marginal note thereof and wherever they appear shall be substituted by the words "Appeals Tribunals".

Amendment to article 110E of the principal Act.

112. In Article 110F of the principal Act, the words "Appeals Board" wherever they appear shall be substituted by the words "Appeals Tribunal".

Amendment to article 110F of the principal Act.

113. Article 110G of the principal Act shall be amended as follows:

Amendment to article 110G of the principal Act.

(a) the words "Appeals Board" in the marginal note thereof and wherever they appear shall be substituted by the words "Appeals Tribunal"; and

(b) in sub-article (1) thereof, the words "without prejudice to article 97(3)" shall be deleted; and

(c) immediately after sub-article (2) thereof, the following proviso shall be inserted:

"Provided that in the case of a compliance order, the Appeals Tribunal or the Court of Appeal may, pending the outcome of the case, modify the compliance order as it deems necessary instead of suspending it."

114. Immediately after article 110G of the principal Act, there shall be inserted the following new article:

Addition of new article 110H to the principal Act.

"Notification and publication of decisions.

"110H.(1) Any decision or order of the Director General delivered in accordance with the provisions of this Act shall be notified to the parties concerned and to the complainant in accordance with article 64 of the Malta Competition and Consumer Affairs Authority Act 2010 due regard being had to confidential information and business secrets.

(2) The Appeals Tribunal and the Director General shall publish without undue delay the decisions taken under this Act and in doing so the Appeals Tribunal and the Director General shall have regard to the legitimate interest of the parties concerned in the protection of their business secrets.

(3) Any decision delivered by the Appeals Tribunal in proceedings held before it shall be deemed to be notified to the parties on the date on which it is pronounced.

(4) The Appeals Tribunal shall provide:

(a) both a complete version and a non-confidential version of its decision on paper or on any other durable medium to the Director General; and

(b) a copy of its decision, upon request, to the parties to the case, ensuring in so doing the protection of confidential information and business secrets."

Amendment to the Second Schedule to the principal Act.

115. The Second Schedule to the principal Act shall be amended as follows:

(a) in paragraph (2) thereof, the words "the fine shall be two thousand, three hundred and twenty-nine euro and thirty-seven cents (€2,329.37)" shall be substituted by the words "the fine shall be two thousand three hundred and fifty euro (€2,350)";

(b) paragraph (4) thereof shall be substituted by the following:

"4. Without prejudice to the generality of rule 3, the following shall in all cases be deemed as aggravating circumstances:

- where the infringement is an unfair commercial practice listed in the First Schedule, the basic amount shall be increased by a sum not less than one thousand, seven hundred and fifty euro (€1,750) and not more than four thousand, six hundred and fifty euro (€4,650);

- in the case of a second or subsequent infringement, the basic amount shall be increased by two thousand, three hundred and fifty euro (€2,350) for each and every subsequent infringement;

- where the practice or scheme constituting the infringement is the principal means by which the trader runs or operates his business, the basic amount shall be increased by a sum not less than one thousand, seven hundred and fifty euro (€1,750) and not more than four thousand, six hundred and fifty euro (€4,650);

- where the practice or scheme constituting the infringement is specifically targeting vulnerable consumers, the basic amount shall be increased by two thousand, three hundred and fifty euro (€2,350);

- where the unfair commercial practice is accompanied by any of the factors listed in article 51E(2) of the Act, the basic amount shall be increased by a sum not less than one thousand, seven hundred and fifty euro (€1,750) and not more than four thousand, six hundred and fifty euro (€4,650).";

(c) paragraph (6) thereof shall be substituted by the following:

"6. The final amount of the administrative fine shall not, in any event, exceed forty-seven thousand euro (€47,000) or be lower than four hundred and seventy euro (€470).".

(d) paragraph (8) thereof shall be substituted by the following:

"8. For the infringement referred to in article 12, the amount of the fine shall not be less than four thousand six hundred and fifty euro (€4,650) and not more than eleven thousand six hundred and fifty euro (€11,650).";

(e) paragraph (9) thereof shall be substituted by the following:

"9. For the infringement referred to in article 14B, the amount of the fine shall not be less than four thousand six hundred and fifty euro (€4,650) and not more than eleven thousand six hundred and fifty euro (€11,650).";

(f) paragraph (10) thereof shall be substituted by the following:

"10. For the infringement referred to in article 94, the amount of the fine shall not be less than four thousand six hundred and fifty euro (€4,650) and not more than twenty-three thousand three hundred euro (€23,300):

Provided that in the case of non-compliance, the Director General may also impose a daily fine of not less than one hundred and twenty euro (€120) and not more than two hundred and thirty euro (€230) for each day of non-compliance.".

PART XV
AMENDMENTS TO THE COMPETITION ACT
(CAP. 379.)

116. This Part amends the Competition Act, and it shall be read and construed as one with the Competition Act, hereinafter in this Part referred to as "the principal Act".

Amendment to
the Competition
Act.
Cap. 379.

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

(a) immediately before the definition "association of undertakings" there shall be inserted the following new definition:

" "Appeals Tribunal" means the Competition and Consumer Appeals Tribunal as established by article 31 of the Malta Competition and Consumer Affairs Authority Act 2010;"

(b) the definition "chairman" shall be deleted;

(c) the definition "Commission" shall be deleted;

(d) the definition "Director" shall be substituted by the following:

" "Director General" means the Director General (Office for Competition) as appointed by article 13 of the Malta Competition and Consumer Affairs Authority Act 2010;"

(e) the definition "EC Treaty" shall be substituted by the following:

" "TFEU" means the Treaty on the Functioning of the European Union;"

(f) the definition "European Commission" shall be substituted by the following:

" "European Commission" means the European Commission as established by article 13 of the Treaty on European Union;"

(g) the definition "Minister" shall be substituted by the following:

" "Minister" means the Minister responsible for competition matters;"

(h) the definition "office" shall be substituted by the following:

" "Office" means the Office for Competition as established by article 13 of the Malta Competition and Consumer Affairs Authority Act 2010;"

(i) immediately after the definition "office" there shall be inserted the following new definition:

" "President" means the President of the Appeals Tribunal;";

(j) immediately after the definition "product" there shall be inserted the following new definition:

" "qualified entity" shall have the same meaning assigned to it under article 2 of the Consumer Affairs Act;"; and

(k) in the definition "restrictive practice" the words "Article 81 of the EC Treaty" and "Article 82 of the EC Treaty" shall be substituted by the words "Article 101 of the TFEU" and "Article 102 of the TFEU" respectively.

118. Article 3 of the principal Act shall be amended as follows: Amendment to article 3 of the principal Act.

(a) the marginal note thereof shall be substituted by the words "Responsibility of the Director General"; and

(b) article 3 thereof shall be substituted by the following:

"The Director General shall have the exclusive competence to apply the provisions of this Act and for this purpose he shall exercise the responsibilities vested in the Office for Competition under article 14 of the Malta Competition and Consumer Affairs Authority Act 2010 and under this Act."

119. Article 4 of the principal Act shall be deleted. Deletion of article 4 of the principal Act.

120. Article 5 of the principal Act shall be amended as follows: Amendment to article 5 of the principal Act.

(a) in sub-article (5) thereof, the words "Article 81 of the EC Treaty" shall be substituted by the words "Article 101 of the TFEU"; and

(b) in sub-article (6) thereof, the words "Article 81(1) of the EC Treaty" and "Article 81(3) of the EC Treaty" shall be substituted by the words "Article 101(1) of the TFEU" and "Article 101(3) of the TFEU" respectively.

121. Article 9 of the principal Act shall be amended as follows: Amendment to article 9 of the principal Act.

(a) in sub-article (2) thereof, paragraphs (b) and (d) shall be deleted and paragraphs (c), (e) and (f) shall be renumbered as (b), (c) and (d) respectively;

(b) sub-article (3) thereof shall be deleted; and

(c) in sub-article (5) thereof, the words "Article 82 of the EC Treaty" shall be substituted by the words "Article 102 of the TFEU".

Substitution of article 11 of the principal Act.

122. Immediately after article 11 of the principal Act, there shall be inserted the following new article:

"Inquiries into sectors of the economy and into types of agreements.

11A.(1) Where the trend of trade, the rigidity of prices or other circumstances suggest that competition may be restricted or distorted within the Maltese market, the Director General may conduct an inquiry into a particular sector of the economy or into a particular type of agreements across various sectors. In the course of that inquiry, the Director General may request the undertakings or association of undertakings concerned to supply the information necessary for the application of articles 5 and 9 of the Act and articles 101 and 102 of the TFEU and may carry out any inspections necessary for that purpose.

(2) The Director General may in particular request the undertakings or association of undertakings concerned to communicate to him all agreements, decisions and concerted practices.

(3) The Director General may publish a report on the results of the inquiry into particular sectors of the economy or particular types of agreements across various sectors and invite comments from interested parties.

(4) Any person, undertaking or association of undertakings that does not comply with the request of the Director General in terms of sub-articles (1) and (2), within the time-limits imposed by the Director General shall, without prejudice to any other liability under this Act or any other law, commit an infringement of this Act."

Amendment to article 12 of the principal Act.

123. Article 12 of the principal Act shall be amended as follows:

(a) the words "or the Commission to carry out their functions" in sub-article (1) thereof shall be substituted by the words "to carry out his functions"; and

(b) sub-articles (2) to (10) thereof shall be substituted by the following sub-articles (2) to (14):-

"(2) During the course of any investigation carried out by the Office in accordance with sub-article (1), the Director General may request any undertaking or association of undertakings to furnish him with any information or document in his possession which the Director General has reason to believe is relevant to the matter under investigation, within such time as in the circumstances of the investigation the Director General may consider reasonable:

Provided that nothing in this sub-article may be construed as authorising the Director General to order the production of any document or the disclosure of any information which may be subject to the duty of professional secrecy.

(3) When sending a request for information to an undertaking or association of undertakings, the Director General shall state the legal basis and the purpose of the request, specify what information is required and fix a time-limit within which the information is to be provided and indicate the administrative fines provided for in articles 21(4) and (5).

(4) Where undertakings and associations of undertakings submit information which they consider as confidential, article 29 of the Malta Competition and Consumer Affairs Authority Act 2010 shall apply.

(5) Any undertaking that shows that its operations are directly affected by the investigation being carried out by the Director General, any association of undertakings, any person or any registered consumers' association claiming that it or its members are being adversely affected by, any breach of the provisions of this Act constituting the subject-matter of those investigations, may request in writing to make submissions before the Director General at any stage thereof and the Director General shall accede to the request if he considers it justified and determine the manner in which such submissions shall be made.

(6) In the course of any investigation the Director General may receive written or verbal statements from any person, as well as make copies of any document produced to him, and the record of such statements and such copies duly attested by the Director General shall be producible as evidence before the Appeals Tribunal and before any court of law:

Provided that in the case of natural persons not being an undertaking, statements may be taken only with their prior consent.

(7) (a) The Director General may, for the purpose of any investigation under this article, enter into and search any premises, land and means of transport of undertakings and associations of undertakings, where he has reason to believe that information relevant to the investigation may be found, and in the course of any such search may seize any object or document, or take extracts or copies of documents, or order the non-removal of any object from any such premises, land and means of transport, and in connection with any such order may close and seal any or all parts of such premises, land or means of transport, or put any object under seal and, or ask any representative or member of staff of the undertaking or association of undertakings concerned for an explanation of facts or documents relating to the subject matter and purpose of the inspection and record the answers.

(b) The officials carrying out an inspection under paragraph (a) shall exercise their powers upon production of a written authorisation signed by the Director General specifying the subject-matter and purpose of the inspection and the penalties provided in article 21.

(8) (a) If a reasonable suspicion exists that books or other records related to the business and to the subject-matter of the inspection, which may be relevant to prove a breach of articles 5 and, or 9, and, or articles 101 and, or 102 of the TFEU, are being kept in any other premises, land or means of transport, including the homes of directors, managers and other members of staff of the undertakings and associations of undertakings concerned, the Director General may, duly authorised by a warrant issued by a Magistrate, order an inspection to be conducted in any such other premises, land and means of transport;

(b) The Magistrate, in deciding whether to issue a warrant under paragraph (a) shall ensure that the coercive measures envisaged are neither arbitrary nor excessive, having regard, in particular, to the gravity of the suspected infringement, to the importance of the evidence sought, to the involvement of the undertaking or association of undertakings concerned and to the reasonable likelihood that business books and records relating to the subject-matter of the inspection are kept in the premises for which the warrant is requested;

(c) The warrant mentioned in paragraph (a) shall specify the subject-matter, purpose of the inspection, the date on which the inspection is to begin and the penalties provided in article 21(4); and

(d) The officials carrying out an inspection under this article shall exercise their powers upon production of the warrant mentioned in paragraph (a) and shall for the purposes of this article be empowered to enter into and search any such premises, land and means of transport and in the course of any such search, may seize any object or document, or take extracts or copies of documents, or order the non-removal of any object from any such premises, land and means of transport.

(9) (a) In the course of any search as is referred to in sub-articles (7) and (8), the Director General may request the assistance of the Police and in such case the Police shall require a warrant from a Magistrate to assist the Director General in the search; and

(b) Where police assistance is sought by the European Commission in terms of article 20(6) of Council Regulation (EC) No 1/2003, a warrant from a Magistrate shall be required.

(10) In issuing a warrant enabling the European Commission to carry out an inspection in terms of article 21 of Council Regulation (EC) No 1/2003 the Magistrate shall follow the provisions of paragraph (3) thereof.

(11) In the course of an inspection under this article, the undertakings or association of undertakings or persons subject to the inspection may be assisted by legal counsel or other advisers of their choice:

Provided that the right to such assistance shall not have the effect of suspending or delaying the inspection.

(12) The Director General shall always issue a receipt to the person on the premises or in control of any object that has been seized. Anything which has been lawfully seized by the Director General and any order given by the Director General in accordance with sub-article (7) may be retained or shall remain in force as long as it is considered necessary by the Director General.

(13) No search may be commenced on any premises after seven o'clock in the evening and before seven o'clock on the next following morning, unless there is reason to believe that delay could cause the loss of information and the search is expressly authorized by the Director General or the Magistrate, as the case may be, to take place between the said times.

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(14) Nothing in this article shall be deemed to detract from the powers of the Police under the Criminal Code or under any other law."

Substitution of article 12A of the principal Act.

124. Article 12A of the principal Act shall be substituted by the following:

"Finding of an infringement by the Director General.

12A. (1) Where the Director General considers that an infringement of articles 5 and, or 9 of this Act and, or an infringement of articles 101 and, or 102 of the TFEU may have occurred, he shall notify each of the parties concerned in writing of the objections raised against them in accordance with the provisions of article 64 of the Malta Competition and Consumer Affairs Authority Act 2010 and shall set a time-limit within which they may inform him in writing of their submissions, and the parties concerned may in their written submissions set out all facts known to them which are relevant to their defence against the objections raised by the Director General and shall attach any relevant documents as evidence thereof.

(2) (a) Where the Director General issues a statement of objections relating to a matter in respect of which he has received a complaint, he shall provide the complainant with a copy of the non-confidential version of the statement of objections;

(b) Paragraph (a) shall not apply where the settlement procedure under article 12B is underway, so however that the Director General shall inform the complainant in writing of the nature and subject-matter of the procedure; and

(c) Under paragraphs (a) and (b), the Director General shall set a time-limit within which the complainant may make known his views in writing.

(3) (a) The Director General shall give the parties to which he has issued a statement of objections as referred to in sub-article (1) and the complainant the opportunity to develop their arguments verbally, if they so request in their written submissions.

(b) The Director General may, where appropriate, invite any other person to express his views in writing, and may give any such other person the opportunity to submit his views verbally if he so requests in his written submissions.

(4) Without prejudice to the right of the persons mentioned in sub-article (3) to request a separate and individual meeting, the Director General may also, on his own initiative, and, as he considers appropriate, invite some or all of the parties who have submitted written observations in terms of sub-article (3), to a meeting whereby they may develop their arguments and make counter-submissions in each other's presence and reply to questions posed by the Director General:

Provided that during such meeting, the Director General shall ensure that due regard is given to the protection of business secrets and confidential information.

(5) The parties notified with a statement of objections as referred to in sub-article (1) shall be entitled to have access to the file concerning their case following such notification, without prejudice to the non-disclosure of information or documents identified by the Director General as containing business secrets or other confidential information, or of internal documents of the Director General or of the Competition Authorities of other Member States.

(6) Where, upon the conclusion of an investigation, it results to the Director General that the agreement, decision, concerted practice or conduct investigated is in breach of the provisions of articles 5 and, or 9 of this Act and, or in breach of articles 101 and, or 102 of the TFEU, he shall issue a decision finding an infringement, giving his reasons therefor:

Provided that the Director General shall base his decisions under this sub-article only on objections contained in the statement of objections referred to in sub-article (1).

(7) In the interpretation of this Act and in the exercise of his responsibilities, in particular in the formulation of his decisions, orders and reports, the Director General shall have recourse to the judgements of the Court of Justice of the European Union, and to relevant decisions and statements of the European Commission including interpretative notices on the relevant provisions of the TFEU and secondary legislation relative to competition and may refer to his decisions and those of the Appeals Tribunal.

(8) Upon notification of a decision of the Director General as referred to in sub-article (6) such decision shall, without prejudice to the right of appeal under article 13A, constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure:

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Provided so however that, notwithstanding the provisions of article 256(2) of the Code of Organization and Civil Procedure, the executive title referred to in this sub-article shall not be enforceable before the lapse of twenty days from notification of the decision to the undertaking or association of undertakings concerned in accordance with article 19(1).

(9) Any decision of the Director General may be revised or altered by the Director General where it results that:

(a) the information upon which it was based had been false, misleading or incomplete; or

(b) market conditions have changed significantly."

125. Immediately after article 12A of the principal Act there shall be inserted the following new articles:-

Addition of new articles 12B, 12C and 12D to the principal Act.

"Settlement procedure in cartel cases.

12B. (1) In the course of an investigation concerning an agreement or a concerted practice between undertakings operating on the same level of the market and within the same relevant market or a decision of an association of undertakings having the object of preventing, restricting or distorting competition in terms of article 5 and, or article 101 of the TFEU, the Director General may, prior to issuing a statement of objections, invite all or some of the undertakings concerned or the association of undertakings concerned to indicate in writing, within the time-limit set by him, whether they are prepared to engage in settlement discussions with a view to possibly introducing settlement submissions:

Provided that the Director General shall not be obliged to take into account replies received after the expiry of that time-limit.

(2) Where two or more undertakings within the same economic entity indicate their willingness to engage in settlement discussions pursuant to sub-article (1), they shall, by the end of the time-limit set by the Director General appoint a joint representative to engage in discussions with the Director General on their behalf:

Provided that when setting the time-limit pursuant to sub-article (1), the Director General shall indicate to the relevant undertakings forming part of the same economic entity that the appointment of a joint representative shall be made for the sole purpose of fulfilling the requirement prescribed by this sub-article and that it shall have no bearing on the allocation of liability for the infringement amongst the different undertakings within the said economic entity.

(3) Undertakings or association of undertakings taking part in settlement discussions may be informed by the Director General of:

(a) the objections he envisages to raise against them;

(b) the evidence used to determine the envisaged objections;

(c) non-confidential versions of any specified accessible document listed in the case file at that point in time; and

(d) the range of potential fines:

Provided that in the case of paragraph (c) access may only be granted upon request by the undertaking or association of undertakings concerned and where such request is necessary to enable the party to ascertain its position regarding a time period or any other particular aspect of the cartel.

(4) When introducing their settlement submissions the undertakings or associations of undertakings taking part in settlement discussions shall confirm to the Director General that they will only request access to the file and leave to submit their views verbally after the receipt of the statement of objections, if the statement of objections does not reflect the contents of their settlement submissions.

(5) The information given pursuant to sub-article (3) shall be confidential vis-à-vis third parties, save where the Director General has given a prior explicit authorization for disclosure.

(6) Should settlement discussions progress, the Director General may set a time-limit within which the parties may commit to follow the settlement procedure by introducing settlement submissions reflecting the results of the settlement discussions and acknowledging their participation in an infringement of article 5, and, or article 101 of the TFEU as well as their liability:

Provided that, before the Director General sets a time-limit to introduce their settlement submissions, the parties concerned shall be entitled to have the information specified in sub-article (3) disclosed to them, upon request, in a timely manner:

Provided further that the Director General shall not be obliged to take into account settlement submissions received after the expiry of that time-limit.

(7) When the statement of objections notified to the parties reflects the contents of their settlement submissions, the written reply to the statement of objections by the undertakings or association of undertakings concerned shall, within a time-limit set by the Director General, confirm that the statement of objections addressed to them reflects the contents of their settlement submissions.

(8) Subject to the provisions of sub-article (7), the Director General may then proceed to the adoption of a decision pursuant to article 12A:

Provided that the Director General may reward the undertakings or association of undertakings concerned for the settlement by reducing by 10% the amount of the fine to be imposed.

(9) The fact that an undertaking cooperated with the Director General under this settlement procedure shall be indicated in the final decision, so as to explain the reason for the level of the fine.

(10) The Director General may decide at any time during the procedure to discontinue settlement discussions altogether in a specific case or with respect to one or more of the parties involved, if he considers that procedural efficiencies are not likely to be achieved.

Commitments.

12C.(1) Where the Director General intends to adopt a decision requiring that an infringement be brought to an end and the undertaking or association of undertakings concerned offers commitments to meet the concerns expressed to it by the Director General in a preliminary assessment of the case, the Director General may by decision make those commitments binding on the undertaking or association of undertakings. Such decision may be for a specified period and shall conclude that there are no longer grounds for action by the Director General:

Provided that the Director General may re-open the proceedings where it results to him that:

(a) there has been a material change in any of the facts on which the decision was based; or

(b) the undertaking or association of undertakings concerned acted contrary to its commitments; or

(c) the decision was based on incomplete, incorrect or misleading information provided by the parties.

(2) (a) Where the Director General intends to adopt a decision under sub-article (1), he shall publish a concise summary of the case and the main contents of the commitments or of the proposed course of action.

(b) Interested third parties may submit their observations within the time-limit fixed by the Director General in the publication.

(c) The time-limit mentioned in paragraph (b) may not be less than one month.

(d) In the publication mentioned in paragraph (a) the Director General shall have regard to the legitimate interest of undertakings in the protection of confidential information and business secrets.

(3) Where any undertaking or association of undertakings fails to comply with or acts contrary to a commitment made binding by a decision pursuant to sub-article (1), it shall without prejudice to any other liability under this Act or any other law, commit an infringement of this Act and the provisions of article 12A *shall mutatis mutandis* apply.

Finding of a non-infringement by the Director General.

12D.(1) Where it results to the Director General following an investigation that the examined conduct does not constitute a breach of the provisions of articles 5 and, or 9 of this Act, and, or articles 101 and, or 102 of the TFEU, he may issue a decision to that effect.

(2) Where the Director General intends to adopt a decision under sub-article (1), the provisions of article 12C(2) shall apply *mutatis mutandis*."

126. Article 13 of the principal Act shall be amended as follows:

Amendment to article 13 of the principal Act.

(a) sub-article (1) thereof shall be substituted by the following:

"On issuing a decision finding an infringement under article 12A, the Director General may together with such decision issue a cease and desist order whereby he orders the undertaking or association of undertakings concerned, as the case may be, to cease and desist from participating in such agreement, decision, practice, or conduct, and, or a compliance order setting behavioural or structural remedies addressed to the undertaking or association of undertakings concerned for the

purpose of bringing the infringement to an immediate and effective end."; and

(b) sub-article (2) thereof shall be deleted and sub-articles (3) and (4) thereof shall be renumbered as sub-articles (2) and (3) respectively.

Substitution of articles 13A and 14 of the principal Act.

127. Articles 13A and 14 of the principal Act shall be substituted by the following articles:

"Appeals before the Appeals Tribunal.

13A.(1) The undertaking or association of undertakings concerned may appeal by application filed before the Appeals Tribunal from any infringement decision, cease and desist or compliance order, administrative fine and, or daily penalty payment adopted or imposed by the Director General in accordance with the provisions of this Act within twenty days of notification thereof in accordance with article 19(1).

(2) The appeal shall be notified to the Director General and the Director General shall file his reply thereto within twenty days from the date of notification of the appeal.

(3) An appeal filed in accordance with sub-article (1) shall not have the effect of suspending the order, administrative fine and, or daily penalty payment appealed from unless the Appeals Tribunal, upon a reasoned request by a party to the appeal, and after considering the submissions of the Director General, suspends the order, administrative fine and, or daily penalty payment under such conditions as it may deem fit, stating its reasons therefor, pending the final determination of the appeal.

(4) The Appeals Tribunal may either confirm in whole or in part or quash the decision and, or order of the Director General and may confirm, revoke or vary the administrative fine and, or daily penalty payment imposed by the Director General within the limits set in article 21, taking into account the gravity and duration of the infringement as well as any aggravating or attenuating circumstances.

(5) The Director General and any party to an appeal before the Appeals Tribunal who feels aggrieved by a decision of the Appeals Tribunal may appeal on a question of law to the Court of Appeal by means of an application filed in the registry of that court within twenty days from the date of the decision of the Appeals Tribunal.

Handling of
complaints
and the right
of appeal.

14. (1) Complaints are to be received by the Director General in writing, who shall set out the general requirements for information to be provided by the complainant.

Provided that the complainant shall request in his complaint that an investigation be carried out on the alleged restricted practices.

(2) Where the Director General considers that on the basis of the information in his possession there are insufficient grounds for acting on a complaint, he shall inform the complainant of his reasons and set a time-limit within which the complainant may make known his views in writing. The Director General shall not be obliged to take into account any further written submission received after the expiry of that time-limit.

(3) If the complainant makes known his views within the time-limit set by the Director General and the written submissions made by the complainant do not lead to a different assessment of the complaint, the Director General shall reject the complaint by decision.

(4) If the complainant fails to make known his views within the time-limit set by the Director General, the complaint shall be deemed to have been withdrawn.

(5) Where the complainant does not agree with the decision of the Director General according to sub-article (3) or with the Director General's finding of a non-infringement according to article 12D, he may appeal by application filed before the Appeals Tribunal within twenty days of notification thereof in accordance with article 19(1).

(6) Where, upon appeal by the complainant, the Appeals Tribunal does not uphold the decision of the Director General rejecting a complaint according to sub-article (3), it shall inform the Director General accordingly who shall thereupon commence the investigation.

(7) Where, upon an appeal by the complainant, the Appeals Tribunal does not agree with the finding of the Director General of a non-infringement according to article 12D, and finds that there is an infringement, it shall issue a decision accordingly and remit the decision to the Director General who shall take any measure he may deem fit in accordance with the provisions of this Act in respect of the said infringement.

(8) Any party to an appeal before the Appeals Tribunal, including the Director General, who feels aggrieved by a decision of the Appeals Tribunal issued in terms of sub-article (7) may appeal on a question of law to the Court of Appeal, by means of an application filed in the registry of that court within twenty days from the date of the decision of the Appeals Tribunal, and the provisions of sub-article (7) shall *mutatis mutandis* apply to the Court of Appeal.

(9) Any decision of the Appeals Tribunal concerning an appeal from a decision of the Director General under sub-article (3) shall be final.

(10) An appeal made under this article shall not have the effect of suspending any decision on which an appeal is sought."

Addition of new articles 14A, 14B and 14C of the principal Act.

128. Immediately after article 14 of the principal Act there shall be inserted the following new articles:-

"Complaints of general interest.

14A.(1) Without prejudice to article 12, a qualified entity may also make a complaint to the Director General that with respect to particular goods or services:

(a) the structure of the market concerned or any aspect of that structure;

(b) any conduct, whether or not in the market concerned, of one or more than one person who supplies or acquires goods or services in the market concerned; or

(c) any conduct relating to the market concerned of customers of any person who supplies or acquires goods or services, is or appears to be significantly harming the interests of consumers.

(2) The Director General must, within 90 days after the day on which he receives the complaint, publish a response stating how he proposes to deal with the complaint, and in particular:

(a) whether he has decided to take any action, or to take no action, in response to the complaint; and

(b) if he has decided to take action, what action he proposes to take.

(3) The response must state the reasons of the Director General for his proposals.

(4) The Director General:

(a) shall issue guidance as to the presentation by the qualified entity of a reasoned case for the complaint; and

(b) may issue such other guidance as appears appropriate for the purposes of this article.

Suspension or termination of proceedings.

14B. (1) The Director General may suspend proceedings or reject a complaint in terms of article 13 of Council Regulation (EC) No 1/2003.

(2) Where the Director General rejects or suspends a complaint pursuant to sub-article (1), he shall inform the complainant without delay of the competition authority which is dealing or has already dealt with the case.

Guidance Letters.

14C. (1) Where the Director General considers it appropriate, he may, following a request by an undertaking, provide guidance on novel questions concerning the interpretation of articles 5 and, or 9 and articles 101 and, or 102 of the TFEU in a written statement known as a "guidance letter".

(2) The Director General shall consider it appropriate to issue a guidance letter under sub-article (1) only if the following cumulative conditions are fulfilled:

(a) the informal guidance requested is compatible with the enforcement priorities of the Office;

(b) the substantive assessment of an agreement or practice with regard to articles 5 and, or 9 of this Act and, or articles 101 and, or 102 of the TFEU, poses a question of application of the law for which there is no clarification in the existing Maltese and EU legal framework in publicly available general guidance, in judgments or decisions or in previous guidance letters;

(c) a prima-facie evaluation of the facts of the case suggests that clarification of the novel question through a guidance letter will be useful, taking into account the following elements:

- the economic importance of the goods and services concerned by the agreement or practice from the point of view of the consumer, and/or;

- the extent to which the agreement or practice shall be or is likely to be resorted to in the relevant market or in other markets, and/or;

- the importance of the investments linked to the transaction in relation to the size of the companies concerned and the extent to which the transaction relates to a structural operation such as the creation of a non-full function joint venture; and

(d) it is possible to issue a guidance letter on the basis of the information provided and no further fact-finding measures by the Director General need be undertaken.

(3) The Director General shall not consider a request for a guidance letter where:

(a) he is aware that the questions raised in the request are identical to or similar to issues raised in a case pending before a Maltese Court or the Court of Justice of the European Union; or

(b) the agreement or practice to which the request refers is subject to proceedings pending before the Director General, the Appeals Tribunal, the European Commission, and to the extent that he may be aware, pending before a Maltese Court, the Court of Justice of the European Union or another Member State court or a national competition authority.

(4) The Director General shall not consider hypothetical questions or issue guidance letters on agreements or practices that are no longer being implemented by the applicants:

Provided that undertakings may present a request for a guidance letter to the Director General in relation to questions raised by an agreement or practice before its implementation but following the conclusion of the agreement or practice or where the undertakings are able to show to the satisfaction of the Director General that negotiations have reached a sufficiently advanced stage for a request to be considered.

(5) A request for a guidance letter shall not have the effect of preventing the Director General, where he deems necessary, from initiating an investigation under this Act with regard to the facts presented in the request.

(6) The request shall clearly state:

- the identity of all undertakings concerned or of the association of undertakings, as well as a single address for receipt of the guidance letter;
- the specific questions on which the guidance is sought;
- full and exhaustive information on all points relevant for an informed evaluation of the questions raised, including pertinent documentation;
- detailed reasoning why the request presents a novel question;

- all other information that permits an evaluation of the request in the light of the conditions mentioned in sub-articles (2) to (4), including in particular, a declaration that the agreement or practice to which the request refers is not subject to proceedings pending before the Court of Justice of the European Union, a Maltese or other member state court or before the European Commission or a national competition authority;

- a clear identification of any confidential information or business secrets; and

- any other information or documentation relevant to the individual case.

(7) The Director General shall evaluate the request on the basis of the information provided and, where available, may use additional information at his disposal from public sources, former investigations or any other source and may ask the applicants to provide supplementary information:

Provided that in using the information provided by the applicants or such other additional information, the Director General shall pay due regard to the protection of confidential information and business secrets.

(8) Where the Director General considers that it is not appropriate to issue a guidance letter or that a guidance letter cannot be issued under this article, the Director General shall inform the applicant accordingly stating the reasons therefor.

(9) Where the Director General has not yet issued a guidance letter, the applicant may withdraw its request at any stage:

Provided that where the request for a guidance letter is withdrawn in terms of this sub-article, the information supplied in the context of the request for guidance shall remain with the Director General and may be used in subsequent proceedings under this Act.

(10) A guidance letter shall set out:

- a summary description of the facts on which it is based; and

- the principal legal reasoning underlying the understanding and assessment of the Director General on the novel question relating to articles 5 and, or 9 of this Act, and, or articles 101 and, or 102 of the TFEU raised in the request:

Provided that a guidance letter may be limited to part of the questions raised in the request and may also include aspects additional to those set out in the request.

(11) Guidance letters shall be posted on the Authority's website, having regard to the legitimate interest of undertakings in the protection of confidential information and business secrets:

Provided that, before issuing a guidance letter, the Director General shall agree with the applicants on a public version.

(12) Where an agreement or practice has formed the factual basis for a guidance letter, the Director General shall not be precluded from subsequently examining that same agreement or practice in a procedure under this Act, and in so doing, the Director General shall take the guidance letter into account, subject in particular to changes in the underlying facts, to any new aspects raised by a complaint, to developments in decisions and judgments on the application of articles 5 and, or 9 of this Act and, or articles 101 and, or 102 of the TFEU and to changes in the policies of the Malta Competition and Consumer Affairs Authority as established by the Malta Competition and Consumer Affairs Authority Act 2010.

(13) Guidance letters are not binding on the courts or on the Appeals Tribunal, although they make take them into account should they deem fit.

129. Article 15 of the principal Act shall be substituted by the

Substitution of article 15 of the principal Act.

following:

"Interim
measures.

15. (1) In cases of urgency due to the risk of serious and irreparable damage to competition, the Director General, acting on his own initiative, may by decision, on the basis of a *prima facie* finding of an infringement of articles 5 and, or 9 of this Act and, or articles 101 and, or 102 of the TFEU, order interim measures.

(2) A copy of the decision ordering interim measures in accordance with sub-article (1) shall be notified to the undertaking or association of undertakings under investigation in accordance with article 19(1), and such decision shall apply for a specified period of time and may be renewed in so far as this is necessary and appropriate.

(3) The undertaking or association of undertakings concerned may appeal from a decision of the Director General as described in sub-article (1) by application filed before the Appeals Tribunal within twenty days from the date upon which the decision was notified in accordance with article 19(1), and such appeal shall not have the effect of suspending the interim measure unless the Appeals Tribunal, after hearing the submissions of the undertaking or association of undertakings concerned and the Director General, otherwise directs.

(4) Any decision of the Appeals Tribunal under this article shall be final.

Deletion of
article 16 of the
principal Act.

130. (1) Article 16 of the principal Act shall be deleted.

Substitution of
articles 17, 18
and 19 of the
principal Act.

(2) Articles 17, 18 and 19 of the principal Act shall be substituted by the following articles:

Non-compliance
with a cease and
desist order and a
compliance
order.

17. Any undertaking or association of undertakings which acts contrary to a cease and desist order or a compliance order issued by the Director General in accordance with article 13 shall, without prejudice to any other liability under this Act or any other law, commit an infringement of this Act.

Non-compliance
with an interim
measure.

18. Any undertaking or association of undertakings which acts contrary to an interim measure issued by the Director General in accordance with article 15 shall, without prejudice to any other liability under this Act or any other law, commit an infringement of this Act.

Notification and
Publication.

19. (1) Any decision or order of the Director General delivered in accordance with the provisions of this Act shall be notified to the parties concerned and to the complainant in accordance with article 64 of the Malta Competition and Consumer Affairs Authority Act 2010 due regard being had to the protection of confidential information and business secrets.

(2) The Appeals Tribunal and the Director General shall publish without undue delay the decisions taken under this Act and in doing so the Appeals Tribunal and the Director General shall have regard to the legitimate interest of the undertakings in the protection of their business secrets.

(3) Any decision delivered by the Appeals Tribunal in proceedings held before it shall be deemed to be notified to the undertaking or association of undertakings concerned on the date on which it is pronounced.

(4) The Appeals Tribunal shall provide:

(a) both a complete version and non-confidential version of its decision on paper or on any other durable medium to the Director General; and

(b) a copy of its decision, upon request, to the parties to the case, ensuring in doing so the protection of confidential information and business secrets."

131. Article 21 of the principal Act shall be substituted by the Substitution of article 21 of the principal Act.

following:

"Administrative Fines.

21. (1) Any undertaking or association of undertakings which commits an infringement in terms of articles 12A(6), 12C(3), 17 or 18 may, by decision of the Director General, be held liable to pay an administrative fine of up to ten *per centum* of the annual turnover of the undertaking or association of undertakings concerned:

Provided that where the infringement of an association relates to the activities of its members, the fine shall not exceed ten *per centum* of the sum of the total turnover of each member active on the market affected by the infringement of the association.

(2) (a) Where an administrative fine is imposed upon an association of undertakings, taking account of the annual turnover of its members, and the association is not solvent, the association shall be obliged to call for contributions from its members to cover the amount of the administrative fine due;

(b) Where the contributions referred to in paragraph (a) have not been made to the association within a time-limit fixed by the Director General, the Director General may require payment of the administrative fine directly by any of the undertakings whose representatives were members of the decision-making bodies of the association; and

(c) Where the application of paragraph (b) is not sufficient to ensure the full payment of the fine, the Director General may require payment of the balance by any of the members of the association which were active on the market on which the infringement occurred:

Provided that the Director General shall not require payment from undertakings which show that they have not implemented the unlawful decision of the association and they were not aware of its existence or had actively distanced themselves from it before the Director General started investigating the case:

Provided further that the financial liability of each undertaking in respect to the payment of the fine shall not exceed 10% of its total turnover in the preceding business year.

(3) In fixing the amount of the fine, the Director General shall have regard to the gravity and duration of the infringement and to any aggravating or attenuating circumstances:

Provided that the Director General may from time to time issue guidelines detailing the manner in which such fines are set.

(4) (a) Any undertaking or association of undertakings which fails to comply with a cease and desist order or a compliance order pursuant to article 13, or fails to comply with an interim measure pursuant to article 15, or fails to comply with a commitment made binding pursuant to article 12C, or which fails to supply complete and correct information pursuant to a request for information under articles 11A and 12 or fails to submit to an inspection under article 12 may, at the discretion of the Director General, be liable to a daily penalty payment not exceeding five *per centum* of the average daily turnover of the undertaking or association of undertakings concerned in the preceding business year for each day during which the undertaking fails to comply with its obligations.

(b) The daily penalty payment referred to in paragraph (a) shall be calculated from the day determined in the decision of the Director General.

(c) Where the undertaking or association of undertakings concerned complies with the obligations mentioned in paragraph (a), the Director General may fix the definitive amount of the daily penalty payment at a figure lower than that which would have arisen in terms of the original decision of the Director General.

(d) In the application of this sub-article to an association of undertakings, sub-article (2) shall apply *mutatis mutandis*.

(5) Any person who in the course of any investigation or inquiry conducted under this Act, or in the course of any proceedings before the Appeals Tribunal knowingly or recklessly:

(a) gives any false, inaccurate or misleading information; or

(b) supplies incomplete information; or

(c) prevents or hinders any investigation; or

(d) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in any particular material, shall be liable to the payment of an administrative fine of not less than one thousand euro (€1,000) and not more than ten thousand euro (€10,000), as imposed by the Director General.

(6) Where a person, being an owner, director, officer, administrator or manager of an undertaking fails, without reasonable cause, to supply information requested within the time given, shall be liable to the payment of an administrative fine of two thousand and four hundred euro (€2,400) for each day in default."

Addition of new article 21A of the principal Act.

132. Immediately after article 21 of the principal Act, there shall be inserted the following new article:

"Failure to pay fines.

21A. Without prejudice to article 13A(1), failure to pay any administrative fine and, or daily penalty payment imposed by the Director General, or by the Appeals Tribunal upon appeal from an administrative fine and, or daily penalty payment imposed by the Director General, within the time limit set shall constitute an offence against this Act, and any person being a director, secretary, manager or other principal officer of the undertaking or

association of undertakings concerned shall, without prejudice to the liability of the said undertaking or association of undertakings to pay the administrative fine and, or penalty payment due, be liable on conviction to a fine (*multa*) of not less than one thousand euro (€1,000) and not more than twenty thousand euro (€20,000)."

- 133.** Article 22A of the principal Act shall be deleted. Deletion of article 22A of the principal Act.
- 134.** Article 23 of the principal Act shall be substituted by the following: Amendment to article 23 of the principal Act.
- "(1) Any fine (*multa*) payable in respect of the commission of a criminal offence under this Act shall be recoverable as a civil debt in favour of the Government by the Director General, and the undertaking in the economic interests of which the person so found guilty was acting shall be liable *in solidum* with the person found guilty for the payment of the said fine.
- (2) The provisions of the Probation Act and of article 21 of the Criminal Code shall not apply with respect to criminal offences committed under this Act. Cap. 446.
Cap. 9.
- (3) Any administrative fine payable to the Director General under this Act shall be recoverable as a civil debt by the Director General and shall constitute an executive title for all effects and purposes of Title VII of Part I of Book II of the Code of Organization and Civil Procedure." Cap. 12.
- 135.** Article 26A of the principal Act shall be substituted by the following: Substitution of article 26A of the principal Act.
- "Prescription concerning the imposition of administrative fines. 26A. (1) The prescription period for the imposition of administrative fines under article 21 shall be:
- (a) three years in the case of infringements of the Act concerning requests for information or the conduct of inspections; and
- (b) five years in the case of all other infringements.

(2) The prescription period begins to run on the day on which the infringement is committed. However, in the case of continuing or repeated infringements, this period shall begin to run from the day on which the infringement ceases.

(3) The prescription period for the imposition of fines shall be interrupted by any action of the Director General or, in the case of the application of articles 101 and 102 of the TFEU, of the European Commission or of a competition authority of a Member State with a view to investigating or instituting proceedings for the infringement. The prescription period shall be interrupted with effect from the date on which the action is notified to at least one undertaking or association of undertakings which has participated in the infringement.

(4) Actions which interrupt the running of the period shall include in particular the following:

(i) written requests for information by the Director General, the European Commission or by a national competition authority;

(ii) the issue of a written authorisation signed by the Director General or a warrant issued by a Magistrate under article 12 to conduct an inspection, or a written authorisation by the European Commission in terms of article 20 of Council Regulation (EC) No 1/2003, or an equivalent document issued by a national competition authority;

(iii) the commencement of proceedings by the Director General, the European Commission or by a national competition authority;

(iv) the notification of a statement of objections in accordance with article 12A or the communication of a statement of objections by a competition authority of a Member State;

(v) the notification of the invitation by the Director General to engage in settlement discussions under article 12B.

(5) The interruption of the prescription period shall apply to all undertakings and associations of undertakings which have participated in the infringement.

(6) The prescription period shall start to run again from each interruption.

(7) The prescription period for the imposition of fines shall be suspended for as long as the decision of the Director General is the subject of proceedings pending before the Appeals Tribunal or the Court of Appeal."

136. Article 26B of the principal Act shall be deleted.

Deletion of article 26B of the principal Act.

137. Article 27 of the principal Act shall be substituted by the following:

Substitution of article 27 of the principal Act.

"Proceedings in front of a civil court.

27. (1) Where before any court of civil jurisdiction it is alleged that any agreement or decision is null and unenforceable in accordance with article 5 of this Act and, or article 101 of the TFEU, or where it is alleged that there is an abuse of a dominant position in accordance with article 9 of this Act and, or article 102 of the TFEU, that court shall stay the proceedings and request the Director General to submit a report on the competition questions raised before it and the court shall take into consideration such report, and any submissions thereon made by the parties and the Director General, before deciding the case.

(2) Where the Director General, on his own initiative, becomes cognizant of allegations as mentioned in sub-article (1), in a civil lawsuit, he shall, by means of an application, request the court to apply the procedure referred to in sub-article (1).

(3) For the purposes of drawing up reports under this article the Director General may have resort to the investigatory powers conferred upon him under this Act."

Addition of new article 27A to the principal act.

138. Immediately after article 27 of the principal Act, there shall be inserted the following new article:

"Right to damages.

27A.(1) 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 may institute an action for damages before a court of civil jurisdiction.

(2) For the purposes of this article, a person shall be deemed to have suffered damage even where that person is not the immediate customer of the defendant.

(3) The plaintiff shall be entitled to compensation for actual loss and for loss of profit, together with interest from the time the damage occurred until the capital sum awarded is actually paid.

(4) Prior to establishing the quantum of damages, the Court shall request the Director General to submit a report on the amount of damages suffered by the plaintiff. In calculating the amount of damages, the Director General shall take into account the counterfactual scenario that would have prevailed had the infringement not taken place.

(5) An action under this article may be instituted in the absence of any investigation or proceedings under this Act or under Council Regulation (EC) No 1/2003.

Provided that an action under this article may also be instituted:

(a) where there is a final decision under this Act establishing an infringement of articles 5 and, or 9 of this Act and, or articles 101 and, or 102 of the TFEU;

(b) where there is a final decision of the European Commission establishing an infringement of articles 101 and, or 102 of the TFEU;

(c) pending an investigation or proceedings under this Act or under Council Regulation (EC) No 1/2003;

(d) pending separate proceedings before or following a final decision of the First Hall, Civil Court involving the application of articles 5 and, or 9 and, or articles 101 and, or 102 of the TFEU.

(6) In the circumstances mentioned in paragraphs (a) and (b) of the proviso to sub-article (5), the court shall be bound by the finding of an infringement in the decision and in all other circumstances mentioned in sub-article (5), article 27 shall apply.

(7) The defendant may not plead lack of intention, negligence or lack of fault on his part as a defence in a claim for damages under sub-article (1):

Provided that the defendant may demonstrate that the infringement was the result of a genuinely excusable error. For the purposes of this proviso, an error would be excusable if a reasonable person applying a high standard of care could not have been aware that the conduct restricted competition.

(8) The defendant may raise as a defence the fact that the plaintiff passed on the damage initially suffered by him on to his customers.

(9) (a) The action under this article shall be barred by the lapse of two years commencing from the day the injured party became aware or should reasonably have become aware of the damage, the infringement and the identity of the undertaking or association of undertakings responsible for the infringement.

(b) The period mentioned in paragraph (a) shall be suspended if infringement proceedings are initiated by the Director General under this Act or by the European Commission under Council Regulation (EC) No 1/2003 or where separate proceedings have been instituted before the Civil Court as referred to in paragraph (d) of the proviso to sub-article (5) until any such proceedings are terminated by a decision which has become *res judicata*.

(10) (a) The provisions of this article shall prevail over anything to the contrary contained in the Civil Code;

Cap. 16.

(b) The right to file an action under sub-article (1) shall not affect the right to bring any other proceedings in respect of the same infringement under this Act, or any regulations made thereunder or any other law; and

(c) Sub-article (1) shall only apply to claims relating to infringements occurring after the coming into force of this article."

Amendment to article 29 of the principal Act.

139. Article 29 of the principal Act shall be substituted by the following:

"Co-operation under Regulation 1/2003.

29. The Director General shall co-operate with the European Commission and National Competition Authorities in terms of Council Regulation (EC) No. 1/2003."

Amendment to article 31 of the principal Act.

140. Article 31 of the principal Act shall be substituted by the following:

"No action shall lie against any member of the Appeals Tribunal, the Director General, or any of his officers or any authorised person acting under his direction or control for any act or omission in connection with this Act, or any regulations made thereunder, done or omitted by him unless such act or omission were done in bad faith."

Amendment to article 32 of the principal Act.

141. The words "concentrative joint ventures" in article 32 of the principal Act, shall be substituted by the words "full function joint ventures".

Amendment to article 33 of the principal Act.

142. (1) Sub-article (2) of article 33 of the principal Act shall be amended as follows:

"(2) The Minister may make regulations:

(a) prescribing the procedure to be followed by the office in joint investigations, co-operation and exchange of information with other national competition authorities;

(b) prescribing the procedure for co-operation between the Appeals Tribunal, the European Commission, the national courts and national competition authorities; and

(c) providing for the power to waive or reduce the applicable fine in cartel investigations."

143. The Schedule of the principal Act shall be deleted.

Deletion of the Schedule of the principal Act.

PART XVI
AMENDMENT TO THE PUBLIC ADMINISTRATION ACT
(CAP. 497.)

144. This Part amends the Public Administration Act, and it shall be read and construed as one with the Public Administration Act, hereinafter in this Part referred to as the "principal Act".

Amendment to the Public Administration Act.
Cap. 497

145. The reference to "Consumer and Competition Division" in Part 1 of the Second Schedule of the principal Act shall be deleted.

Amendment to Part 1 of the Second Schedule of the principal Act.

PART XVII
REPEAL OF THE MALTA STANDARDS AUTHORITY ACT
(CAP. 419.)

146. (1) This Part repeals the Malta Standards Authority Act, hereinafter in this Part referred to as "the principal Act".

Repeal of Malta Standards Authority Act.
Cap. 419.

(2) The principal Act is hereby repealed, without prejudice to anything lawfully done or omitted to be done thereunder.

147. Subsidiary legislation 419.01, 419.02, 419.05, 419.06, 419.07, and 419.08 made under the Malta Standards Authority Act are to remain in force as if made under the Malta Competition and Consumer Affairs Authority Act 2010.

Saving subsidiary legislation under the Malta Standards Authority Act.

148. Wherever in any law there is a reference to the Malta Standards Authority, it shall be construed as a reference, as the case may be, to the Technical Regulations Division and, or the Standards and Metrology Institute, as established under the provisions of this Act.

PART XVIII
AMENDMENTS TO THE PRODUCT SAFETY ACT
(CAP. 427.)

149. This Part amends the Product Safety Act, and it shall be read and construed as one with the Product Safety Act, hereinafter in this Part referred to as "the principal Act".

Amendment to the Product Safety Act.
Cap. 427.

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

Amendment to article 2 of the principal Act.

(a) the definition "Director" shall be substituted by the following:

" "Director General" means Director General (Technical Regulations) as appointed by article 19 of the Malta Competition and Consumer Affairs Authority Act 2010;" and wherever the word "Director" occurs in the principal Act it shall be substituted by the word "Director General";

(b) the definition "standard" shall be substituted by the following:

" "standard" shall have the same meaning as assigned to it in the Malta Competition and Consumer Affairs Authority Act 2010;" and

(c) immediately after the definition "standard" there shall be inserted the following new definition:

" "Technical Regulations Division" means the Technical Regulations Division, as established by article 19 of the Malta Competition and Consumer Affairs Authority 2010;".

Amendment to article 9 of the principal Act.

151. The words "Malta Standards Authority Act" in article 9(2) of the principal Act shall be substituted by the words "Malta Competition and Consumer Affairs Authority Act 2010".

Amendment to article 27 of the principal Act.

152. Article 27 of the principal Act shall be amended as follows:

(a) the words "Functions of the Malta Standards Authority" in the marginal note thereof shall be substituted by the words "Responsibilities of the Technical Regulations Division"; and

(b) the words "Malta Standards Authority" in article 27 thereof shall be substituted by the word "Technical Regulations Division".

Amendment to article 28 of the principal Act.

153. Article 28 of the principal Act shall be amended as follows:

(a) the words "with the concurrence of the head of the Regulatory Affairs Directorate established under the Malta Standards Authority Act or such other head of any Directorate as the Minister may by Order designate in his stead" in sub-article (1) of article 28 thereof shall be deleted; and

(b) the words "and the exemption from liability under the said subsection (3) shall extend to the Director of Market Surveillance" in sub-article (3) of article 28 thereof shall be deleted.

154. The words "Malta Standards Authority" in article 38 of the principal Act shall be substituted by the words "Director General (Technical Regulations)".

Amendment to article 38 of the principal Act.

**PART XIX
AMENDMENTS TO THE METROLOGY ACT
(CAP. 454.)**

155. This Part amends the Metrology Act, and it shall be read and construed as one with the Metrology Act, hereinafter in this Part referred to as "the principal Act".

Amendment to the Metrology Act.
Cap. 454.

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

Amendment to article 2 of the principal Act.

(a) the definition "Authority" shall be substituted by the following:

" "Authority" means the Malta Competition and Consumer Affairs Authority as established by the Malta Competition and Consumer Affairs Authority Act 2010;"

(b) the definition "Directorate" shall be deleted and wherever the word "Directorate" occurs in the principal Act it shall be substituted by the word "Institute";

(c) the definition "Head" shall be substituted by the following:

" "Director General" means the person appointed as Director General (Standards and Metrology) by article 21 of the Malta Competition and Consumer Affairs Authority Act 2010;" and wherever the word "Head" occurs in the principal Act it shall be substituted by the word "Director General";

(d) immediately after the definition "inspector" there shall be inserted the following new definition:

" "Institute" means the Standards and Metrology Institute as established by article 21 of the Malta Competition and Consumer Affairs Authority Act 2010;"
and

(e) the definition "Minister" shall be substituted as follows:

" "Minister" means the Minister responsible for standards and metrology and includes, to the extent of the authority given, any person authorised by the Minister to

act in that behalf for any purpose of this Act;".

Substitution of article 3 of the principal Act.

157. (1) The marginal note to sub-article (1) of article 3 of the principal Act, "The Metrology Directorate. Cap. 419." shall be deleted.

(2) Sub-article (1) of article 3 of the principal Act shall be substituted as follows:

"The Director General (Standards and Metrology), as appointed by the Malta Competition and Consumer Affairs Authority Act 2010, shall have the responsibilities as may be assigned to him by this Act, by the Malta Competition and Consumer Affairs Authority Act 2010 and by any other law."

Amendment to article 20 of the principal Act.

158. Article 20 of the principal Act shall be amended as follows:

(a) the words "article 5 of the Malta Standards Authority Act" shall be substituted by the words "article 48 of the Malta Competition and Consumer Affairs Authority Act 2010"; and

(b) the words "Cap. 419." in the marginal note thereof shall be deleted.

PART XX

AMENDMENTS TO THE ADMINISTRATIVE JUSTICE ACT (CAP. 490.)

Amendment to the Administrative Justice Act. Cap. 490.

159. This Part amends the Administrative Justice Act, and it shall be read and construed as one with the Administrative Justice Act, hereinafter in this Part referred to as "the principal Act".

Deletion of items in the First Schedule of the principal Act.

160. The words "378 Consumer Affairs Act 16 Consumer Claims Tribunal" and the words "379 Competition Act 4 Commission for Fair Trading" in Part A of the First Schedule of the principal Act shall be deleted.

PART XXI

AMENDMENTS TO THE DOORSTEP CONTRACTS ACT (CAP. 317.)

Amendment to the Doorstep Contracts Act. Cap. 317.

161. This Part amends the Doorstep Contracts Act and it shall be read and construed as one with the Doorstep Contracts Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 2 of the principal Act.

162. In article 2 of the principal Act the definition "Director" shall be substituted by the following:

"Director General (Office for Consumer Affairs)" means the Director General as appointed by article 16 of the Malta Competition and Consumer Affairs Authority Act 2010;" and wherever the word "Director" appears it shall be substituted by the word "Director General (Office for Consumer Affairs)".

PART XXII
AMENDMENTS TO THE TRADE DESCRIPTIONS ACT
(CAP. 313.)

163. This Part amends the Trade Descriptions Act and it shall be read and construed as one with the Trade Descriptions Act, hereinafter in this Part referred to as "the principal Act".

Amendment to the Trade Descriptions Act. Cap. 313.

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

Amendment of article 2 of the principal Act.

(a) the definition "conformity mark" shall be substituted by the following:

"conformity mark" shall have the same meaning assigned to it in article 2 of the Malta Competition and Consumer Affairs Authority Act 2010;" and

(b) immediately after the definition "Minister" there shall be inserted the following new definition;

"Office" means the Office for Consumer Affairs as established by article 16 of the Malta Competition and Consumer Affairs Authority Act 2010;".

165. The words "Department of Consumer Affairs" in sub-article (1) of article 22 of the principal Act shall be substituted by the word "Office".

Amendment of article 22 of the principal Act.

PART XXIII
AMENDMENTS TO THE FOOD SAFETY ACT
(CAP. 449.)

166. This Part amends the Food Safety Act, and it shall be read and construed as one with the Food Safety Act, hereinafter in this Part referred to as "the principal Act".

Amendment to the Food Safety Act. Cap. 449.

167. Article 5(1) of the principal Act shall be amended as follows:

Amendment of article 5 of the principal Act.

(a) paragraph (d) thereof shall be substituted by the following:

"(d) the senior officer operationally responsible for

foodstuffs within the Malta Competition and Consumer Affairs Authority, designated by the Director General (Technical Regulations);" and

(b) paragraph (e) thereof shall be substituted by the following:

"(e) the senior officer operationally responsible for consumer affairs within the Malta Competition and Consumer Affairs Authority, designated by the Director General (Office for Consumer Affairs);".

Amendment of article 7A of the principal Act.

168. Article 7A of the principal Act shall be amended as follows:

(a) the words "Authority" in the marginal note thereof shall be substituted by the words "Director General (Technical Regulations)";

(b) the words "Malta Standards Authority as established by article 3 of the Malta Standards Authority Act" in sub-article (1) thereof shall be substituted by the words "Director General (Technical Regulations)"; and

(c) the words "Malta Standards Authority" in sub-articles (2), (3) and (4) thereof shall be substituted by the words "Director General (Technical Regulations)".

Amendment of article 9 of the principal Act.

169. In sub-article (1) of article 9 of the principal Act, for the words "the head of the Market Surveillance Directorate of the Malta Standards Authority established under the Malta Standards Authority Act or such other head of any Directorate as the Minister may by Order designate in his stead" there shall be substituted the words "Director General (Technical Regulations) as appointed by article 19 of the Malta Competition and Consumer Affairs Authority Act 2010".

PART XXIV

AMENDMENTS TO THE PESTICIDES CONTROL ACT

(CAP. 430.)

Amendment to the Pesticides Control Act. Cap. 430.

170. This Part amends the Pesticides Control Act, and it shall be read and construed as one with the Pesticides Control Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 2 of the principal Act.

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

(a) the definition "the Authority" shall be substituted by the following:

" "the Authority" means the Malta Competition and Consumer Affairs Authority as established by article 3 of the

Malta Competition and Consumer Affairs Authority Act 2010;"
and

(b) in the definition "Director" the words "head of the Regulatory Affairs Directorate established under the Malta Standards Authority Act or such other head of any Directorate as the Minister may by Order designate in his stead" shall be substituted by the words "Director General (Technical Regulations) as appointed by article 19 of the Malta Competition and Consumer Affairs Authority Act 2010".

PART XXV
AMENDMENT TO THE CODE OF
ORGANIZATION AND CIVIL PROCEDURE
(CAP. 12.)

172. This Part amends the Code of Organization and Civil Procedure, and it shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter in this Part referred to as "the Code".

Amendment to the Code of Organization and Civil Procedure. Cap. 12.

173. In article 253 of the Code, there shall be inserted the following new paragraph:

Amendment of article 253 of the Code.

"(f) decisions of the Consumer Claims Tribunal."

**FIRST SCHEDULE
(ARTICLE 44)
FORM OF OATH**

I, swear/solemnly affirm that I will fully and honestly fulfil my duties as an officer of the Authority in conformity with the requirements of the Malta Competition and Consumer Affairs Authority Act 2010, and any other laws that the Authority administers and of all orders made thereunder, and that I will not, except in the performance of my duties under that Act and such other laws and orders, disclose or make known during my service as an officer within such Authority or at any time thereafter, any matter which comes to my knowledge relating to any person, household or undertaking by reason of my service as an officer within such Authority.

So help me God.

SECOND SCHEDULE
(ARTICLE 37)
RULES OF PROCEDURE RELATIVE TO THE COMPETITION AND
CONSUMER APPEALS TRIBUNAL

1. The Appeals Tribunal shall determine any matter before it with fairness and impartiality and in accordance with the provisions of this Act, the Competition Act, the Consumer Affairs Act and any regulations made thereunder.

2. Before entering upon their functions, the ordinary members of the Appeals Tribunal shall take before the President an oath to perform their functions with fairness and impartiality and in accordance with the provisions of this Act, the Competition Act, the Consumer Affairs Act and any regulations made thereunder.

3. An ordinary member of the Appeals Tribunal shall abstain and may be challenged in the same circumstances, *mutatis mutandis*, as a judge of the superior courts shall abstain or may be challenged in accordance with the Code of Organization and Civil Procedure. Any challenge shall be determined by the President.

4. Decisions of the Appeals Tribunal shall state the reasons therefor and clearly indicate the undertakings or associations of undertakings to which they are addressed.

5. Proceedings before the Appeals Tribunal shall be held in public with due regard being paid to the protection of confidential information or business secrets:

Provided that the undertaking or association of undertakings concerned, or the Director General (Office for Competition) and the Director General (Office for Consumer Affairs), or the complainant may request the President to be heard *in camera* where the submissions to be made or evidence to be produced is of a confidential nature or contains business secrets.

Provided further that the Director General (Office for Competition) and the Director General (Office for Consumer Affairs) and any other officer from the Office for Competition and the Office for Consumer Affairs duly authorised by the said Directors General, shall have the right to be present in all proceedings.

6. In all cases involving the application of Article 101 and, or 102 of the TFEU, the European Commission shall have a right to make submissions on any matter before the Appeals Tribunal;

7. (a) A confidential and a non-confidential version shall be produced of any written observations and documentary evidence submitted before the Appeals Tribunal; and

(b)The Appeals Tribunal shall verify the confidentiality or otherwise of the information submitted.

8. The Appeals Tribunal shall have, exercisable through its President, the powers vested in the Civil Court, First Hall, and in particular the power to summon witnesses, the power to appoint experts and the power to administer the oath.

Where a witness duly summoned fails to appear on the day on which he is summoned, the President may order the Police to arrest such witness and produce him before the Appeals Tribunal to give evidence.

9. In the interpretation of this Act, the Appeals Tribunal shall have recourse to the judgements of the Court of Justice of the European Union, and to relevant decisions and statements of the European Commission, including interpretative notices on the relevant provisions of the TFEU and secondary legislation relative to competition and may also refer to its previous decisions.

THIRD SCHEDULE
(ARTICLE 18)
LIST OF EU LEGISLATIVE ACTS FOR THE PURPOSES OF WHICH THE
OFFICE FOR CONSUMER AFFAIRS IS THE NATIONAL COMPETENT
AUTHORITY

1. Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising.

2. Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises.

3. Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts.

4. Directive 97/7/EC of the European Parliament and the Council of 20 May 1997 on the Protection of Consumers in respect of Distance Contracts.

5. Directive 97/55/EC of the European Parliament and of the Council of 6 October 1997 amending Directive 84/450/EEC concerning misleading advertising so as to include comparative advertising.

6. Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers.

7. Council Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees.

8. Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91.

9. Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council.

10. Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC.

**FOURTH SCHEDULE
(ARTICLE 66)
DIRECTORATES**

Subject to the powers of the Minister under article 66, the Office for Competition, the Office for Consumer Affairs, the Technical Regulations Division and the Standards and Metrology Institute, shall have the following Directorates:

Office for Competition

1. Inspectorate and Cartel Investigations Directorate with the responsibility to detect and curtail cartels and to carry out inspections in terms of the Competition Act.
2. Communications, Energy, Transport and Financial Services Markets Directorate focusing on competition concerns, infringements, and concentrations in regulated markets.
3. Primary, Manufacturing and Retail Markets Directorate focusing on restrictive practices and concentrations in other sectors of the economy.

Office for Consumer Affairs

1. Information, Education and Research Directorate with the responsibility to create awareness of consumer rights, stimulate good trading practices, educate consumers on making well-informed choices in the market and to undertake market studies with a view to identifying and rectifying market failures.
2. Complaints and Conciliation Directorate with the responsibility to offer assistance to consumers and provide mediation between consumers and traders.
3. Enforcement Directorate focusing on public enforcement by investigating unfair trading practices and unfair contract terms, ensuring price transparency and compliance with other information requirements.

Technical Regulations Division

1. Regulatory Affairs Directorate with the responsibility of the transposition and implementation of legislation in the field of free movement of goods.
2. Market Surveillance Directorate with the responsibility to ensure that only goods conforming to regulations are available on the market.

Standards and Metrology Institute

1. Standardization Directorate with the responsibility of the preparation of an annual standards programme, the co-ordination of standardization and related activities.
2. Metrology Directorate with the responsibilities of legal, industrial and scientific metrology.
3. Laboratory Services Directorate with the responsibility of providing advice and testing services in various areas for industry and governmental entities and which prior to the coming into force of this Act were under the responsibility of the Malta National Laboratory.

Objects and Reasons

The objects of this Bill is to provide for the establishment of an Authority to promote, maintain and encourage competition, to safeguard the interests of consumers and enhance their welfare and to promote sound business practices.
