No. 874

DEPARTMENT FOR INDUSTRIAL AND EMPLOYMENT RELATIONS

Explanatory Notes[1]

1. Introduction

Title of legislation	An Act to amend the Employment and Industrial Relations Act, hereinafter referred to as the "amending Act"
Regulated activity	Extension of prescription and an increase in the punishments for offences falling under the Employment and Industrial Relations Act, hereinafter referred to as the "principal Act".
Responsible entity	Department for Industrial and Employment Relations

2. Summary and Background

2.1 Purpose and objectives of the amending Act

Currently, the principal Act imposes a relatively short prescriptive period for these offences and allows for fines (multi) with limited impact. This has led to challenges in ensuring that accused employers are brought to court in time and in addressing poor employment practices, particularly in cases of insolvency.

These amendments have two objectives:

1. to amend article 45 of the principal Act to increase the punishments for offences committed by employers under the same Act; and

2. to amend article 47 of the principal Act regarding the prescriptive period of such offences, reflecting the increase in punishments.

These amendments are being proposed within a broader context to increase the responsibility of employers who fail to comply with recognised employment conditions. As a result, the prescriptive period for these offenses will be extended. This extension will grant affected workers more time to seek remedies while imposing higher fines to discourage abuse.

The authorities will have more time to investigate, mediate, and bring cases before the Court. This will address situations where workers tried to seek remedies but found their claims were time-barred, cases where the Police were unable to notify the employer in time due to ongoing investigations, or instances where the employer could not be located or had fled the country.

3. Overview of the structure of the instrument

The amending Act is made up of three (3) articles as follows:

Article 1 – Short title and commencement;

[1]These Explanatory Notes are in accordance with and for the purpose of article 3(2)(c) of the Small Business Act (Chapter 512 of the Laws of Malta).

Article 2 – Amendment of article 45 of the principal Act;

Article 3 – Amendment of article 47 of the principal Act.

4. Commentary

Article 2: The punishments under article 45 of the principal Act will be revised to impose a fine (*multa*) ranging between two thousand euro (€2,000) and five thousand euro (€5,000) for principals found guilty for the first time. If a principal is found guilty a second time or on subsequent occasions of breaching the provisions of the principal Act, the fine (*multa*) shall be no less than five thousand euro (€5,000) and no more than seven thousand euro (€7,000).

Article 3: The prescriptive period under article 47 of the principal Act will be extended from one (1) year to two (2) years. This extension will provide the Authorities with more time to take legal action against employers who breach wage regulations, particularly in cases involving insolvency proceedings or other complications.

5. Concluding sections

The amending Act shall come into force within two (2) months from its date of publication in the Government Gazette and this in accordance with article 3(2)(b) of the Small Business Act (Cap. 512).

For further information please contact:

Department for Industrial and Employment Relations
121, Melita Street,
Valletta - Malta
VLT 1121

Customer Support
109, Melita Street,
Valletta - Malta,
VLT 1121

Telephone:
1575 for Workers
1576 for Employers

Email:
info.dier@gov.mt

N.B: These Explanatory Notes are not intended to be an exhaustive description of the legal instrument nor a substitute for it or a legislative supplement thereto. These Explanatory Notes are not intended as an authoritative decision on the interpretation of the legislation.

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