

CHAPTER 171

PORT WORKERS ORDINANCE

To regulate the employment of port workers and to make other provisions connected therewith.

4th August, 1966

ORDINANCE XIV of 1962, as amended by Legal Notices 4 of 1963 and 46 of 1965; Acts XLIV of 1965, XV of 1966, XXVIII of 1968, IX of 1971, IX of 1973, LVIII of 1974, XXVIII of 1975; Legal Notice 148 of 1975; Acts XI and XXIV of 1977, [XIII of 1983](#), [XVII of 1991](#) and [XVI of 2007](#); Legal Notice [410 of 2007](#); and Act [XV of 2009](#).

1. The short title of this Ordinance is the Port Workers Ordinance.

Short title.
Amended by:
L.N. 4 of 1963.

2. In this Ordinance, unless the context otherwise requires -

"Act" means the [Employment and Industrial Relations Act](#);

Interpretation.
Amended by:
*L.N. 4 of 1963;
XLIV. 1965.3;
XV. 1966.2, 3;
XXVIII. 1968.2;
IX. 1971.3, 6;
IX. 1973.2;
XXVIII. 1975.2;
XXIV. 1977.2;
XVII. 1991.82;
XVI. 2007.2;
XV. 2009.49, 52.
Cap. 452.
Cap. 499.*

"Authority" means the Authority for Transport in Malta established under the [Authority for Transport in Malta Act](#);

"Board" means the Port Workers Board established under article 10;

"conditions of employment" means wages, the period of employment, the hours of work and leave;

"contractor" has the same meaning as is assigned to it by article 2 of the [Authority for Transport in Malta Act](#);

"employer of port workers" means a person so authorized or licensed by the Authority in accordance with the provisions of the [Authority for Transport in Malta Act](#) to provide services including the loading, unloading, transshipment, storage and the movement of general cargoes and other materials in a port and includes a terminal operator;

Cap. 499.

"foreman" means any person who, on his own behalf or on behalf of another person, employs port workers;

"Minister" means the Minister responsible for ports, and includes any person acting under his authority;

"person" includes a body of persons being a partnership, company or society of persons, whether corporate or unincorporate and whether vested with legal personality or not;

"port" means a port for the purposes of the [Authority for Transport in Malta Act](#), and includes a warehouse and any such inland depot and any such other area where goods are handled to form or to dismantle unitised cargo as may be declared by order of the Minister;

Cap. 499.

"port worker" means a person employed in a port in the provision of services of a temporary nature involving the handling of cargo in the process of loading or unloading cargo on or from a ship, from

or to any place on shore, a person so employed or authorized by the Authority or so employed by an employer of port workers to handle cargo in a warehouse and a person employed in the handling of cargo, as the Minister may from time to time prescribe, from a transit shed or stack or open quay to vehicle or in the consolidation, groupage or dismantling of goods in or from a unit load in a port, and "port work" for the purposes of this Act shall be construed accordingly;

"prescribed" means prescribed by regulations made under article 17;

"the provisions of this Ordinance" includes the provisions of any regulations made under this Ordinance;

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

"unit load" or "unitised cargo" means -

- (a) a quantity of cargo unitised to form a single load in or on -
 - (i) roll on/roll off units which may be on wheels integral to the transport unit or which may be towed or pushed or otherwise moved by other mechanical equipment;
 - (ii) vehicles or trailers rolled on or off a ship;
 - (iii) Lancashire flats, that is, platforms, with or without ends, on which the goods are stacked;
 - (iv) freight containers being articles of equipment having an overall volume of not less than 8 cubic metres either rigid or collapsible, suitable for repeated use in the carriage of goods in bulk or package form and capable of transfer to or from one or more forms of transport;
- (b) liquid in bulk in containers with a minimum capacity of 2273 litres integrated in vehicles to form bowzers;
- (c) vehicles and empty trailers of all kinds rolled on or off a ship;
- (d) any other goods on wheels rolled on or off a ship;
- (e) cargo on expendable or returnable pallets, provided such cargo is handled between ship and shore or *vice-versa* entirely by mechanical means through points of access to or from a ship other than conventional hatchways;
- (f) empty containers;
- (g) empty road transport vehicles and bowzers rolled off a ship to load cargo for eventual shipment as unitised cargo or rolled on a ship after having brought into Malta unitised cargo by means of the roll on/roll off method;
- (h) seacraft or floating objects which are loaded on or

unloaded from a ship directly from or to the waters of a port:

but does not include -

- (i) unit loads of any description handled between ship and shore or *vice-versa* by conventional means, other than containers lifted on or off a ship; or
- (ii) heavy indivisible loads, except when carried on a vehicle or trailer which is rolled on or off a ship;

"warehouse" means a warehouse as defined in article 2 of the [Authority for Transport in Malta Act](#).

Cap. 499.

3. (1) No person shall act as port worker unless he is registered as such with the Authority, for which purpose the Authority shall keep a register.

Registration of port workers.
Amended by:
XV. 1966.4;
XXVIII. 1975.3;
XXIV. 1977.3;
XVII. 1991.82;
XVI. 2007.3;
XV. 2009.52.

(2) Subject to the provisions of this Ordinance, registration shall be for a period of one year starting on the first day of January and ending on the thirty-first day of December of the same year:

Provided that, at the end of such period, registration may be renewed.

(3) No person shall employ another person to act as port worker except in accordance with the provisions of this Ordinance:

Provided that in respect of port work involving the handling of cargo in a warehouse, or from or to any place on shore, other than the handling of cargo in the process of loading or unloading cargo on or from a ship, the Minister may authorize the Authority or a contractor to employ persons who are not registered as required by the provisions of this Ordinance.

(4) No port worker shall cause or allow a person to act as a port worker in his stead.

4. (1) Every port worker shall, on registration, be conclusively deemed to have accepted to abide by the conditions of employment and by the determinations made under the provisions of article 8 in force from time to time under the provisions of this Ordinance.

Obligations of port workers.
Amended by:
XV. 1966.2;
XVII. 1991.82;
XVI. 2007.4.

(2) Every port worker shall report for work at such time and such places as he may be required by the employer or the Authority on the employer's behalf.

(3) Every port worker shall abide by all such laws and regulations as may apply to the place or to the type of work on which he is engaged.

(4) Every port worker shall notify the Authority of his absence from work on any day on which he absents himself from work due to injury or sickness and shall forward to the Authority a medical certificate issued by a medical doctor.

(5) A port worker shall, saving cases of incapacity through injury or sickness, be at all times available for port work and may

not engage in any work or employment which may interfere with this obligation.

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

Foremen.
Amended by:
IX. 1973.3;
XXIV. 1977.4;
XVII. 1991.82;
XV. 2009.52.

5. (1) No person shall act as foreman -

- (a) if he is a port worker;
- (b) unless he is licensed as such by the Authority.

(2) The licence shall be subject to such conditions as may be contained therein or in any renewal thereof and shall expire on the thirty-first day of December in each year but may be renewed from year to year:

Provided that the licence shall automatically expire if the foreman is convicted of theft committed during or in connection with port work.

(3) If any foreman contravenes or fails to comply with the provisions of this Ordinance, or grossly misbehaves or misconducts himself in the course of or in connection with his work, then, without prejudice to the provisions of article 18, the Authority may -

- (a) reprimand him; or
- (b) suspend his licence for such period as the Authority may deem appropriate; or
- (c) cancel his licence.

(4) Before reaching any decision under the provisions of the last preceding subarticle, the Authority shall give the foreman concerned full opportunity of presenting his case.

(5) During any proceedings under the provisions of subarticle (3) a foreman may be assisted by such person as he deems proper.

(6) Nothing in this article shall apply to a contractor.

Payment of port
workers.
Amended by:
IX. 1973.4.

6. (1) Responsibility for the payment of fees due for the employment of port workers shall vest in the person by whom or on whose behalf such port workers are employed.

(2) Save as may be prescribed, such payment shall not be deferred beyond three days after the completion of the port work.

Establishment of a
Port Work Appeals
Board.
Amended by:
L.N. 46 of 1965;
IX. 1971.6;
IX. 1973.5;
XXIV. 1977.5;
XVII. 1991.82.
Substituted by:
XVI. 2007.5.
Amended by:
L.N. 410 of 2007.

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

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

(3) The Chairman and members of the Appeals Board shall be

appointed for a period of three years and shall be eligible for reappointment.

(4) The Chairman and members of the Appeals Board shall have no direct financial or other interests in matters concerning the management of ports and may be challenged or abstain for any of the reasons for which a judge may be challenged or abstain in accordance with the [Code of Organization and Civil Procedure](#). In such cases the Minister shall appoint a person, having the qualifications of the Chairman or members challenged or abstaining, to sit in substitution. Cap. 12.

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

(6) The Chairman and members of the Appeals Board shall for a period of one year following the termination for whatever reason of his appointment not engage in any activity which because of conflict of interest would have been incompatible with the exercise of his functions. Any person who acts in breach of this sub-article shall be guilty of an offence against this Ordinance and shall, on conviction, be liable to a fine (*multa*) of not less than two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) and not more than eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87).

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

Provided that any offence provided for in regulations made under this subarticle shall not be liable to a fine (*multa*) of more than two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) or to imprisonment for a period of not more than six months or to both such fine and imprisonment.

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

- (a) to hear appeals by employers of port workers or port workers for a review of any decision or directive taken by the Authority with regards to the tariffs for transshipment operations; and
- (b) to decide upon any dispute as may be referred to it by the Minister regarding transshipment tariffs.

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

Provided that:

Functions of the Port Work Appeals Board.
Amended by:
L.N. 4 of 1963;
XXVIII. 1968.3;
IX. 1971.3;
XXVIII. 1975.4;
XI. 1977.2;
XXIV. 1977.6;
XVII. 1991.82.
Substituted by:
XVI. 2007.6.

- (a) if no appeal as aforesaid is filed during the said period of fifteen days the decision of the Authority shall come into effect immediately after the lapse of the abovementioned period of fifteen days; and
 - (b) if an appeal as aforesaid is filed the decision or directive of the Authority shall not come into force until the appeal is finally determined by the Appeals Board.
- (3) A decision taken by the Appeals Board relative to an appeal made under subarticle (1) shall be final and binding.
- (4) In arriving at a decision on an appeal under subarticle (1), the Appeals Board shall seek to balance the application of the following principles, namely that -
- (a) tariffs charged are based on sound economic and commercial facts, including consideration of the interests of consumers and industry in general and other parties involved in port activity, including, where applicable, the rate of inflation since the charges were last revised, and any other relevant unexpected economic circumstances;
 - (b) tariffs shall be reasonably related to costs, including depreciation and a return on capital employed;
 - (c) port operators, or other persons involved in port activity, are to be encouraged to invest in port facilities to meet demand;
 - (d) tariffs should be comparable to those levied at other ports competing with Malta;
 - (e) the achievement of service standards especially those applicable internationally.

Supply of port workers.
Amended by:
L.N. 4 of 1963;
XLIV. 1965.3;
XV. 1966.2;
XXVIII. 1968.4;
IX. 1973.3,6.
Substituted by:
XVII. 1991.82.
Amended by:
XVI. 2007.7;
XV. 2009.52.

9. (1) The supply of port workers for particular port work or to particular employers shall take place through the Authority.

(2) The Authority shall -

- (a) except where otherwise provided in a Service Level Agreement, supply, in accordance with such system as is established in an order which is in force under article 11, and subject to such conditions as may be prescribed, port workers to any port work authorized by the Authority in such numbers, order and priority as may be determined by the Authority;
- (b) ascertain the amount of fees due by employers of port workers in accordance with such tariff as may be made under the provisions of this Ordinance, collect such fees from the person responsible for their payment and pay to the port workers concerned such fees as shall be due to them in accordance with the provisions of this Ordinance;
- (c) notwithstanding the provisions of the Social Security Act, collect from employers of port workers and from

port workers any contributions which may be due by them for the purposes of the Social Security Act, and pay in arrears at monthly intervals all contributions so collected in such form and manner as the Minister responsible for social security may, with the concurrence of the Minister responsible for finance, from time to time determine, and be responsible for the custody of the relative insurance cards;

- (d) maintain and supply records of employment and earnings;
- (e) record attendances and absences of port workers;
- (f) furnish such returns and statistics in connection with the employment of port workers as may be required;
- (g) ascertain and collect the administrative surcharge specified in subarticle (3) and keep an account of all receipts and expenditure connected therewith separately from an account of all receipts and expenditure connected with any other monies:

Provided that all such accounts shall:

- (i) be maintained in such form as the Board may determine; and
 - (ii) be subject to inspection by the Board;
- (h) carry out such other functions as may be prescribed.

(3) The Authority, after consultation with the Board, and with the approval of the Minister, shall levy on employers of port workers an administration surcharge calculated at such percentage of the gross wages of port workers, as may be prescribed from time to time.

(4) For the purpose of performing its functions under subarticle (2) the Authority shall have power to request an employer of port workers to produce such information including documents at such time and at such place as it may require.

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

Constitution of
Port Workers
Board.
Amended by:
L.N. 46 of 1965;
IX.1971.6;
IX.1973.7;
XVII. 1991.82.
Substituted by:
XVI. 2007.8.

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

- (a) a Chairman of experience in, amongst other matters, port matters appointed by the Minister;
- (b) two members nominated by the employers of port workers;

^{*}Article 18(2) of Act XVI of 2007: The Port Workers Board as established prior to the coming into force of the amendments enacted by virtue of [Act XVI of 2007](#) may continue to carry out the functions, as assigned to it under the Port Workers Ordinance as in force prior to the coming into force of Act XVI of 2007 until such time when the Port Workers Board is established in terms of article 10 of the Port Workers Ordinance as amended by Act XVI of 2007 and nothing done by the said Board shall be deemed to be invalid due to the fact that it was done after the coming into force of Act XVI of 2007.

- (c) two members nominated by the port workers;
- (d) a secretary with no voting powers to be appointed by the Minister.

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

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

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

Functions of the
Port Workers
Board.

Amended by:
XXVIII. 1968.5;
IX. 1973.8;
XVII. 1991.82.
Substituted by:
XVI. 2007.9.
Amended by:
XV. 2009.52.

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

- (a) the discipline of port workers other than disciplinary measures contemplated in the relative Service Level Agreements;
- (b) the review from time to time as provided by regulations issued under the Ordinance of the complement of port workers required by employers of port workers to satisfy the demands of industry;
- (c) the selection of persons eligible to fill a vacancy for a port worker in accordance with regulations issued under the Ordinance;
- (d) to determine -
 - (i) the conditions of employment of port workers including tariffs related thereto;
 - (ii) the system under which port workers shall be supplied to employers of port workers for any port work;
 - (iii) the organization of port workers:

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

- (e) to advise the Authority on such matters relating to labour in the port as may be referred to the Board from time to time;
- (f) to make recommendations to the Authority concerning the deregistration from the Port Workers Register of persons working at a port in accordance with article

14(1)(b), (c) and (d); and

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

(2) Without prejudice to the provisions of any other law, in cases falling under subarticle(1)(a), in the event that a person is convicted of theft committed during or in connection with port work or contravenes or fails to comply with the provisions of this Ordinance, or grossly misbehaves or misconducts himself in the course of or in connection with his port work, then, without prejudice to the provisions of article 18, or to the provisions of any other law, the Board may -

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

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

(c) cancel his registration forthwith.

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

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

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

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

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

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

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

(8) A memorandum of the terms of a settlement of a trade dispute made in accordance with the provisions of the Act, and, or such other relevant law, shall, for the purposes of this Ordinance,

be deemed to be an order made and published under subarticle (6), and, notwithstanding the provisions of the Act, and, or such other relevant law, such memorandum, award or decision may be superseded by an order made by the Minister publishing an approval by him of a determination or decision arrived at in accordance with the provisions of subarticles (3), (4) or (5).

Board to decide
work disputes.
Substituted by:
XVI. 2007.10.

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

- (a) conditions of employment established in an order which is in force under the provisions of article 11(1)(d) and (e); or
- (b) such standards as may seem reasonable to the Board, where no such conditions of employment are applicable to a particular dispute:

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

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

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

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

Procedures of the
Port Workers
Board.
Substituted by:
XVI. 2007.11.

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

Deregistration and
discipline of port
workers.
Amended by:
L.N. 46 of 1965;
IX. 1973.9;
LVIII. 1974.68;
XXVIII. 1975.5;
XXIV. 1977.7;
XVI. 2007.12;
Xv. 2009.52.

14. (1) The registration of a person in the Port Workers Register shall be cancelled by the Authority if -

- (a) he attains the age of sixty-three or such lower age as may be prescribed from time to time; or
- (b) in the opinion of the Board, he is no longer a fit and proper person to be a port worker for any cause whatsoever; or
- (c) in the opinion of the Board, he has absented himself from port work without reasonable cause for such number of days and within such period as may be

determined from time to time in the approved conditions of employment; or

- (d) in the opinion of the Board, he has contravened the provisions of article 3(5).

(2) Where a decision under the provisions of subarticle (1)(b) is reached on grounds of ill health, the port worker shall have a right of appeal to a medical board appointed by the President of Malta.

15. (1) Any decision of the Board under the provisions of article 14 shall, subject to the provisions of subarticle (2) of that article, be final.

Review of
decisions.
Amended by:
XVI. 2007.13.

(2) Notwithstanding the provisions of subarticle (1), the Board may, on new facts being brought to its notice, review a decision given by it:

Provided that -

- (a) application for review is lodged in writing with the Chairman of the Board within twenty-one days from the date on which the decision is communicated to the port worker concerned; and
- (b) a review of the decision shall in no case involve the Board in any liability for any damages which may have been sustained in consequence of the first decision.

16. (1) The Minister may prescribe a scheme or schemes for the payment of superannuation allowances, pensions or gratuities or any other form of benefit to port workers and to persons who have served as port workers.

Pension schemes,
etc.
Added by:
IX. 1973.10.
Amended by:
XVII. 1991.82.

(2) For the purpose of such payment, there shall be established a fund to be known as the Pension and Contingency Fund.

17. The Minister may make regulations for carrying the provisions of this Ordinance into effect, and, without prejudice to the generality of the foregoing, for -

Regulations.
Amended by:
L.N. 4 of 1963;
IX. 1973.11;
XXIV. 1977.8;
XIII. 1983.4,5;
XVII. 1991.82;
XVI. 2007.14;
L.N. 410 of 2007;
XV. 2009.52.

- (a) prescribing the tariff of fees payable to foremen;
- (b) providing for the recruitment of foremen, the conditions required for their licensing, the fees payable in respect of such licences, the classification of foremen into groups, the duties of foremen, the determination of the number of foremen to be licensed and the age at which foremen employed by a contractor shall retire from work;
- (c) providing for the recruitment of port workers, the conditions required for their registration and the fees payable in respect of such registration, and for determining the optimum number of port workers to be registered;
- (d) authorizing the Authority to issue to any port worker upon registration and on payment of the prescribed

- fee, a certificate of registration and an identity badge;
- (e) providing for the ownership, keeping, use and production of registration certificates and identity badges;
 - (f) ensuring the proper utilization of the labour of port workers for the purpose of facilitating the rapid and economic turn-round of vessels and the safe and speedy transit of goods through the port, and for enabling the Port Workers Board to investigate any disruption caused by an employer of port workers of a roster in which port workers are organized and to award compensation not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) against such employer in favour of port workers prejudiced by such disruption;
 - (g) prescribing a tariff of fees payable by employers of port workers;
 - (h) providing for the establishment of a Pension and Contingency Fund;
 - (i) prescribing the manner in which the Pension and Contingency Fund shall be administered and the charges that may be made against it;
 - (j) prescribing the manner in which a pension and other financial benefits shall be paid to port workers and to persons who have served as port workers, and the manner in which any pension or other financial benefits so paid under the provisions of this Ordinance may be recovered from any person;
 - (k) providing for a levy on employers of port workers and on port workers towards the Pension and Contingency Fund;
 - (l) prescribing anything that may be prescribed;
 - (m) providing that any person who contravenes or fails to comply with the provisions of any such regulations shall be guilty of an offence and liable, on conviction, to a fine (*multa*) not exceeding one hundred and sixteen euro and forty-seven cents (116.47) and, where the regulations so provide, to the cancellation or suspension of any licence issued to him under this Ordinance; and
 - (n) providing for any other matter incidental or supplementary to any of the foregoing matters.

Offences and penalties.
Amended by:
XV. 1966.2;
XIII. 1983.5;
XVII. 1991.82;
L.N. 410 of 2007.

18. Any person who contravenes or fails to comply with any of the provisions of article 3(1) or (4), article 5(1), article 6 and article 9(1) or (2) and any employer of port workers who neglects or refuses to comply with any request made by the Authority under article 9(5)(a) shall be guilty of an offence and liable, on conviction, to a fine (*multa*) not exceeding one hundred and sixteen euro and forty-seven cents (116.47) and the court may, on the

application of the prosecuting officer, cancel or suspend for any time any licence issued to such person or employer of port workers under this Ordinance.

19. Where an offence under the provisions of this Ordinance is committed by a body of persons, every person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of such body of persons or was purporting to act in any such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

Offences by bodies of persons.

20. This Ordinance shall not apply to such port work as may be prescribed.

Application.

21. The Stevedores and Port Labourers Ordinance (Ordinance XXI of 1939)* shall be repealed without prejudice to anything done or omitted to be done thereunder:

Repeal and saving.
Amended by:
XV. 1966.2, 5;
XVII. 1991.82.

Provided that until varied or revoked under the provisions of this Ordinance the regulations and determinations made under the Ordinance hereby repealed shall remain in force.

22. Until such time as the Council is established under article 7 of this Ordinance the Minister may by order make determinations under the provisions of article 8 without reference to such Council and such determinations shall be published in the Government Gazette and shall remain binding on all employers of port workers and on port workers from the date of publication or such other future date as may be appointed by the Minister until they are varied or revoked by other determinations made in accordance with the provisions of article 8.

Transitory provision.
Amended by:
L.N. 4 of 1963;
XVII. 1991.82.

*This Ordinance was included in the 1942 Revised Edition of the Laws of Malta as Chapter 158.

Substituted by:
XVI. 2007.15.
Amended by:
L.N. 410 of 2007.

FIRST SCHEDULE

[Article 7(7)]

Procedure of the Port Work Appeals Board

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

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

- (a) the details concerning the appeal with relevant supporting documentation annexed as necessary;
- (b) a brief statement of facts, and
- (c) the grounds of the appeal.

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

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

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

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

(6) The Chairman of the Board shall as soon as practicable appoint a day for the hearing of the appeal, which saving as the Chairman may otherwise direct for reasons of commercial confidentiality, be heard in public.

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

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

- (a) be signed by the Chairman and countersigned by the secretary;
- (b) be delivered by registered mail or by any other form that the Chairman may determine.

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

- (a) that the affairs of the Board and its proceedings are carried out in an impartial and transparent manner;
- (b) that the proceedings are concluded within a reasonable time;

- (c) that the final decision is signed by the Chairman, and the original is kept in the registry of the Board with the complete record of the proceedings of the case;
- (d) that the final decision is concurrently submitted by the Chairman of the Board to the Minister and the Chairman of the Authority.

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

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

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

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

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

(14) Any person -

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

shall be guilty of an offence under this Ordinance.

(15) A person who -

- (a) commits an offence under paragraph (14)(a) of this Schedule shall be liable, on conviction, to a fine (*multa*) not exceeding five hundred and eighty-two euro and thirty-four cents (582.34), and, in the case of a second offence or subsequent offence, to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69);
 - (b) commits an offence under paragraph (14)(b) of this Schedule shall be liable, on conviction, to a fine (*multa*) not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.
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Amended by:
L.N. 46 of 1965;
LVIII. 1974.68;
L.N. 148 of 1975;
XVII. 1991.82.
Substituted by:
XVI. 2007.15.

SECOND SCHEDULE

[Articles 12 and 13]

Procedures of the Port Workers Board

PART ONE

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

1. (1) The Board shall hold its sittings in public and have the power to -
 - (a) summon witnesses;
 - (b) take expert advice;
 - (c) administer oaths, which shall be administered by the Chairman of the Board; and
 - (d) require any person who appears to it to have special knowledge of the matter under consideration to furnish orally or in writing such particulars in relation thereto as the Board may require.
- (2) In the exercise of its powers, the Board shall have the powers which are conferred by Law on the First Hall of the Civil Court:

Provided that -

 - (a) the Board shall not in any case be enabled to order the detention of any person; and
 - (b) the duties of a court usher and of a court executive officer respectively shall be performed by members of the Executive Police detailed for the purpose by the Commissioner of Police.
- (3) Any fine inflicted by the Board shall be recoverable by the Authority as a civil debt due to it.
- (4) Every application shall be signed by the Chairman of the Board and may be served either personally or by registered post, and in the latter case, in proving service, it shall be sufficient to prove that the application was properly addressed and posted.
- (5) The meetings of the Board shall be called by the Chairman as often as is necessary.
- (6) The minutes of the meetings shall be kept by the secretary and approved at a meeting of the Board. All approved minutes are to be signed by the Chairman.
- (7) Half the number of members for the time being constituting the Board shall form a quorum. Decisions shall be adopted by a simple majority of the votes of the members present and voting. The Chairman shall have an initial vote and in the event of an equality of votes, a casting vote.
- (8) The Board shall give the person appearing before it the opportunity of presenting his case.
- (9) During the proceedings the person appearing before the Board shall be allowed to be represented by a person of his own choice.
- (10) Subject to the provisions of article 14(2) and the provisions of article 15(2), the decisions of the Board shall otherwise be final.

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

PART TWO

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

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

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

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

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

(5) When delivering the notice referred to in paragraph (4) hereof, the person delivering the notice shall be required to deposit with the secretary a sum of one hundred and sixteen euro forty-seven cents (116.47) representing the fee relative to the meeting of the Board. The Board, may, when delivering its decision, determine which, or in what proportion, are the parties to pay the said costs.

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

- (a) summon witnesses,
- (b) administer oaths, and
- (c) require any person who appears to it to have special knowledge of the matter under consideration to furnish orally or in writing such particulars in relation thereto as the Board may require.

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

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

Provided that -

- (a) the Board shall not in any case be enabled to order the detention of any person, and
- (b) the duties of a court usher and of a court executive officer respectively shall be performed by members of the Executive Police detailed for the purpose by the Commissioner of Police.

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

(10) Every application under article 12 shall be signed by the Chairman and may

be served personally or by registered post, and, in the latter case, in proving service, it shall be sufficient to prove that the application was properly addressed and posted.

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

- (a) be rejected by the Board if the person or persons making such a claim, when duly summoned to appear before the Board, fails or fail to appear before it without any valid reason within one hour of the time fixed for the hearing of the claim;
- (b) be deemed to have been admitted by default if the Board is satisfied that the person or persons against whom the claim is brought had failed to appear before it without any valid reason within one hour of the time fixed for the hearing of the claim.

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

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