CHAPTER 343

EMPLOYMENT AND TRAINING SERVICES ACT*

To provide for a National Employment Authority, for the establishment of an employment and training corporation and for the regulation of employment and training services, and for matters connected therewith or ancillary thereto.

7th August, 1990
5th November, 1990
1st January, 1996

ACT XXVIII of 1990, as amended by Acts XV of 1995, XVI of 1997, II of 2005, VII of 2006 and XXXII of 2007*; Legal Notice 424 of 2007; and Acts XXIII of 2009, VII of 2015 and XXVII of 2016.*

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SCHEDULE

*Repealed by Act *XXXIX of 2018*.

PART I

PRELIMINARY

Short title.

1. The short title of this Act is the Employment and Training Services Act.

Interpretation.
Amended by: XXXII. 2007.11; XXIII. 2009.75; XXVII. 2016.3.

2. In this Act unless the context otherwise requires -

"Authority" means the National Employment Authority established by article 3;

"Board" means the Board of the Corporation;

"Corporation" means Jobsplus established by article 5 and, to the extent of the authority given, includes any officer of the Corporation duly authorized by it in that behalf;

"dependants" means individuals wholly or mainly dependant for their maintenance on an individual and being in relation to such individual -

(i) if married - his wife, her husband, his or her children or stepchildren, his or her grandchildren if the parents are dead;

(ii) if unmarried - his or her children, his or her father, or his or her mother, his or her unmarried brothers or sisters;

(iii) if a widower or widow - his or her children or stepchildren, his or her grandchildren, if their parents are dead;

"Director" means the Director of Industrial and Employment Relations and includes any officer of the Department of Industrial and Employment Relations who is authorized by the Director to act on his behalf;

"employment agency" or "employment business" means any activity carried out in Malta for the recruitment of persons for employment in Malta or outside Malta;

"financial year" means the period of twelve months ending on the 31st December of any year:

Provided that the financial year which commenced on the 1st October, 2007 shall be for a period of fifteen months and shall terminate on the 31st December, 2008;

"Member State" means a member state of the European Economic Area;

"Minister" means the Minister responsible for labour and includes, to the extent of the authority given, any person authorised by the said Minister in that behalf for any purpose of this Act;

"person" includes a body of persons and any body corporate established by law;

"prescribe" means prescribe by regulations made under this Act;

"Register" means the Register referred to in article 11.

PART II

THE NATIONAL EMPLOYMENT AUTHORITY

National Employment Authority.

3. (1) The President of Malta shall appoint a National Employment Authority composed of three independent persons, two other persons appearing to the President to represent the interests of employers and two other persons appearing to the President to represent the interests of employees. In this article "independent persons" means persons who are neither Government employees nor officials of any organization representing employers or employees.

(2) The President shall also appoint a secretary to the Authority.

(3) One of the independent members of the Authority shall be appointed by the President to be chairman and another deputy chairman.

(4) Every member of the Authority shall, before entering upon his duties, take an oath of office before the Attorney General in the form set out in the Schedule to this Act.

(5) Every member of the Authority shall hold office for a term of two years and if otherwise qualified may be re-appointed at the end of his term of office.

(6) The President may determine the remuneration payable to the members of the Authority.

(7) No member of the Authority may be removed from office before the expiration of his appointment except by the President upon a resolution of the House of Representatives praying for such removal on the ground of proven misbehaviour or inability to perform the functions of his office:

Provided that if the House of Representatives stands dissolved or prorogued or adjourned for more than fourteen days, it shall be lawful for the President to suspend any member from his office on the ground of misbehaviour or inability to perform the functions of his office, so however, that such suspensions shall not extend beyond the first three sittings of the House of Representatives immediately following the date of such suspensions.

(8) The quorum of the Authority shall be of three members, one of whom shall be the chairman or the deputy chairman.

(9) Subject to the provisions of subarticle (8), the Authority shall not be disqualified from the transaction of business on account of any vacancy among its members.

(10) The Director and/or any person deputed by him shall have the right to be present at all meetings of the Authority and to be

heard on any matter.

(11) The proceedings of the Authority may, if the Authority so considers expedient, be conducted *in camera*.

(12) Decisions of the Authority shall be taken by majority of the votes of the members present. The chairman or, in his absence, the deputy chairman, shall have only a casting vote.

(13) Subject to the provisions of this Act and of any regulations made thereunder, the Authority may regulate its own proceedings.

Cap. 9.

(14) For the purposes of the following articles of the Criminal Code, that is to say, article 91, articles 115, 119 and 120, articles 124 and 125, article 133 and article 138, the members of the Authority shall be deemed to be public officers.

Functions of the Authority.

4. (1) The functions of the Authority shall be:

(*a*) to monitor employment and to investigate and adjudicate, in such manner as it may determine, any complaints which any interested party may bring before it regarding employment and training services provided by the Corporation;

(*b*) to hear appeals as provided for in this Act;

(*c*) to tender advice to the Minister on any matter relating to the employment or training of workers, either at the request of the Minister or on its own initiative, including proposals for regulations for such purposes or in such circumstances as in the opinion of the Minister or of the Authority it is necessary or expedient to make provision by regulation;

(*d*) to make rules subject to the provisions of this Act:

(i) regarding the circumstances under which a person registered for employment may lose his priority for referral for employment; and

(ii) providing for special consideration to be given to determinate classes of applicants being applicants with dependants, applicants who are disabled, infirm or incapacitated or applicants requiring physical or social rehabilitation;

(*e*) such other functions as are or may be assigned to it by this Act or any other law.

(2) Where the Authority acts as a tribunal to hear appeals as provided in paragraph (*b*) of the foregoing subarticle, the following provisions shall, without prejudice to the provisions of any regulations made under article 54, apply:

(*a*) the Authority shall reject any appeal which is not made in writing within the time specified in the provision of this Act allowing such appeal;

(*b*) the chairman of the Authority or in his absence the

deputy chairman shall have the powers to summon witnesses and to administer an oath to any witness and to require him to give evidence or to produce books or other documents before it;

(*c*) summons for attendance of witnesses shall be signed by the chairman or, in his absence, the deputy chairman, and may be served either personally or by registered post, and in the latter case, in proving service, it shall be sufficient to prove that the summons was properly addressed and posted;

(*d*) all persons summoned to attend and give evidence at any sitting of the Authority shall be bound to obey the summons served on them; and any person refusing or omitting without sufficient cause to attend at the day, time and place mentioned in the summons served on him or to answer, to the best of his knowledge and belief, all questions put to him by or with the concurrence of the Authority, or to produce books or other documents required by the Authority to be produced before it, shall be guilty of an offence against this Act:

Provided that no person giving evidence before the Authority shall be compelled to incriminate himself and every such person shall, in respect of any evidence given by him before the Authority, be entitled to all the privileges to which a person giving evidence before a court of law is entitled in respect of evidence given by him before such court;

(*e*) the decisions of the Authority on any appeal made under this Act shall be final.

(3) The Authority shall, in January of each year, submit a report of its activities to the Minister who shall lay the same on the Table of the House of Representatives not later than the sitting first occurring after thirty days from its receipt.

PART III

JOBSPLUS

Substituted by: XXVII. 2016.4.

Establishment of the Corporation. *Amended by: XXVII. 2016.5.*

5. (1) There shall be a Corporation to be known as Jobsplus.

(2) The Corporation shall be a body corporate having a distinct legal personality and shall be capable of entering into contracts, of acquiring, holding and disposing of any property for the purpose of its functions under this Act, of suing and of being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act.

Conduct of affairs of the Corporation. *Amended by: VII. 2015.7.*

6. (1) The affairs and business of the Corporation shall be the responsibility of and shall be conducted by a board of directors, which shall be known as "the Board". The legal representation of

the Corporation shall be vested in the chairman or in any other director as the Board may by resolution designate. Any such resolution shall be published in the Gazette as soon as may be after its approval and shall not have effect until it is so published.

(2) The Board shall consist of such number of directors, being not less than eight, as the Minister may from time to time appoint. Three of the members of the Board shall be appointed, after due consultation with the ministers concerned, from amongst such persons as best represent the ministries responsible for labour, for education and for industry. One of the members of the Board shall be a person with disability.

(3) The chairman of the Board and a deputy chairman shall be appointed by the Minister from amongst members of the Board.

(4) Where the chairman is absent from Malta or is otherwise temporarily unable to perform the functions of his office, or where the post of chairman is temporarily vacant, the deputy chairman shall act as chairman.

(5) The chairman and the other directors shall be appointed yearly and shall hold office under such terms and conditions as the Minister may deem proper; and they shall be eligible for reappointment.

(6) Subject to the provisions of this Act and to any directions of the Board, the executive conduct of the Corporation, its administration and organisation, and the administrative control of its officers and servants shall be the responsibility of the chief executive of the Corporation who shall also have such other powers as may from time to time be delegated to him by the Board. The chief executive shall have the right to attend and be heard at all meetings of the Board. He shall not, however, have a vote or be counted for the purpose of constituting a quorum.

(7) The provisions of article 3(14) shall *mutatis mutandis* apply to the Corporation, the chief executive and other employees of the Corporation.

Disqualification for appointment, removal and resignation of directors.

7. (1) A person shall not be qualified to be appointed, or to hold office as a member of the Board if he -

(*a*) is a member of the House of Representatives; or

(*b*) is legally incapacitated; or

(*c*) has been declared bankrupt or has made a composition or arrangement with his creditors; or

(*d*) has been convicted of a crime affecting public trust or theft or fraud or of knowingly receiving property obtained by theft or fraud.

(2) A member of the Board may be relieved of 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 on the ground of misbehaviour.

(3) A member of the Board may resign his office by means of a letter to the Minister.

Meetings of the Board of directors.

8. (1) The Board shall meet as often as may be necessary or expedient, but in no case less frequently than once every three months. Meetings shall be called by the chairman either on his own initiative or at the request of any two of the other members.

(2) The Board shall not act unless a quorum consisting of not less than half the number of members is present.

(3) The meetings of the Board shall be chaired by the chairman or, in his absence, by the deputy chairman.

(4) The decisions of the Board shall be taken by a majority of the votes of the members present and voting; and in the case of an equality of votes the chairman, or in his absence the deputy chairman, shall have and exercise a second or casting vote.

(5) Any vacancy among the members of the Board, and any participation therein by a person not entitled so to do, shall not invalidate the proceedings of the said Board.

(6) Subject to the provisions of this Act, the Board may regulate its own proceedings.

Status of the Corporation.

9. (1) The Corporation shall have such functions as are set out in this Act and such other functions as may devolve upon it under any other law, or as may be assigned to it by the Minister.

(2) The Corporation shall consider any matter relating to the formulation of an overall national policy for employment and training, and all matters relating to any of its functions under this Act, and the Corporation may also advise any department of Government on such matters.

(3) The Corporation shall afford the Minister the necessary facilities for obtaining information with respect to the property and activities of the Corporation, and furnish him with returns, accounts and other information with respect thereto, and afford him the necessary facilities for the verification of the information furnished in such manner and at such time as he may require.

(4) The Minister may, after consultation with the Corporation, give to the Corporation such directives in writing as he may deem appropriate, being directives of a general character not inconsistent with the provisions of this Act and the Corporation shall comply with such directives.

(5) In carrying out any of its functions under this Act, or in any other thing or activity, the Corporation shall conform its policies and activities with the aims and objectives of national economic planning from time to time in force.

(6) The Corporation may, with the approval of the Minister, exercise its functions under this Act through the agency of other persons, and may act as agent or otherwise on behalf of other persons.

Functions of the Corporation in relation to the employment service.

10. In relation to employment, the Corporation shall have the following functions:

(*a*) in general to provide and maintain an employment

service to assist persons to find suitable employment and to assist employers to find suitable employees; and

(*b*) in particular -

(i) to register persons seeking employment in the Register, taking note of their qualifications, experience, skills, aptitudes, desires and such other details as may be deemed necessary or expedient;

(ii) to interview such persons and evaluate, if necessary, their physical and vocational capacity;

(iii) to assist persons seeking employment by guidance and advice on the choice of employment, and the training and retraining which may be necessary;

(iv) to obtain from employers information on vacancies and on requirements to be met by the employees they require;

(v) to refer to available employment persons with suitable skills, aptitudes and physical capacity;

(vi) to collect and analyse information about the situation of the labour market and probable changes.

Register of persons seeking employment. *Amended by: II. 2005.22.*

11. (1) The Corporation shall maintain a Register of persons seeking employment.

(2) The Register shall consist of such separate parts: Part One, for the registration of persons who are unemployed; Part Two, for the registration of persons who, without a good and sufficient cause, terminate employment or reject an opportunity of employment or training, or who otherwise refuse or fail to participate in any employment or training measure or scheme of the Corporation; Part Three, for persons in gainful occupation who are seeking alternative employment; such other Part for any category of persons or purposes as may be prescribed after consultation with the Corporation.

(3) Subject to such provisions as may from time to time be otherwise prescribed, for the purpose of determining the length of registration in one part of the Register, no account shall be taken of the period of registration in any other part.

(4) Any person who qualifies to be registered may seek to be registered under the appropriate part of the Register.

Registration for employment.

12. (1) Subject to the provisions of this Act and to any regulation made thereunder, the registration of persons seeking employment shall be made in such manner and shall be subject to such formalities and conditions as the Corporation may deem fit.

(2) At the time of first registration for employment and at any time during the period of validity of registration, the Corporation may require the person seeking employment to furnish information or produce documents in his possession or control relating to his

date of birth, previous employment, dependants, experience, qualifications and other matters relevant to his registration.

(3) If any person fails to provide any information requested from him under subarticle (2), such person shall forfeit his right to registration under this article or to referral for employment under article 13, and shall be notified accordingly in writing.

(4) Any person aggrieved by a decision of the Corporation under this article may, within fifteen days from the notification of such decision, appeal to the Authority.

Referral of persons for employment. *Amended by: II. 2005.23.*

13. (1) Without prejudice to the other provisions of this Act, and subject to any regulations made thereunder, in selecting persons for referral to employers, the Corporation shall be guided by the following principles, namely:

(*a*) where employees with no special skill, knowledge or experience are required, regard shall be had to -

(i) the employer's requirements as to former employment and other factors relevant to the type of employment offered;

(ii) the length of registration for employment;

(*b*) where employees with special skill, knowledge, experience or qualifications are required, regard shall be had to -

(i) the persons who best satisfy the requirements of the employer;

(ii) as between persons who are equally considered to be the best available, length of registration for employment:

Provided that, in referring any person for employment, the Corporation shall, unless otherwise prescribed, give preference to persons registered in Part One over those registered in any other Part of the Register.

(2) When a person who is registered for employment refuses, without a good and sufficient cause, to avail himself of any suitable opportunity for employment or training or of any other assistance or service offered to him by the Corporation, he shall lose his priority for referral for employment and shall be notified accordingly in writing.

(3) Any person who, whilst registered in Part One or Part Two of the Register, is engaged in a gainful occupation or who, without the prior permission of the Corporation, is engaged in any occupation consisting in the provision to any person of services that are normally remunerated, shall forfeit his right to registration under article 12 or to referral for employment under this article.

(4) Any person who forfeits his right to registration or to referral under article 12 or this article shall not be entitled to be registered in Part One or Part Two of the Register or to referral for employment unless such person proves to the satisfaction of the

Corporation that after having forfeited such rights as aforesaid he had been gainfully occupied for a continuous period of six months and has ceased to be gainfully occupied for reasons that are deemed to be good and sufficient.

(5) Any person aggrieved by a decision of the Corporation under this article may, within fifteen days from the notification of such decision, appeal to the Authority.

Notification and filling of vacancies.

14. (1) In making a request to the Corporation for the referral of employees, an employer shall specify the skill, experience and other qualifications, if any, of the employees he requires, the conditions of employment he offers and the number of persons to be referred to him for possible employment, so however that the employer shall have no right to indicate individual persons when making his request to the Corporation.

(2) In referring persons for employment, the Corporation shall seek to satisfy the needs of the employer as expeditiously as possible. The employer shall be entitled to reject any person submitted by the Corporation.

Engagement of employees by Government and Government owned or controlled bodies and companies. *Amended by: II. 2005.24.*

15. (1) All employees required by the Government of Malta from outside its service or by any body corporate or company referred to in article 110(6) of the Constitution whether these are, in each case, employed on a contract for a specified time or for an indefinite period, shall, save as provided in the Constitution and in subarticles (2) and (3) of this article, be recruited through the employment service provided by the Corporation.

(2) Where the recruitment of employees by the Government or any other employer to which subarticle (1) refers is in connection with the employment of -

(i) persons required to fill posts, on the basis of a contract for a definite time requiring a special trust or posts for which academic or professional qualifications are necessary; or

(ii) persons engaged from outside Malta,

the Corporation may cause or authorise recruitment, whether through referral by it or otherwise, under such conditions or in such manner as the Corporation may deem appropriate:

Provided that any employee who is employed by the Government of Malta or by any body corporate or company referred to in article 110(6) of the Constitution from amongst persons who already are public officers or are employees of any other body corporate or company referred to in article 110(6) of the Constitution, then such employee shall be deemed to have been employed through the recruitment service provided by the Corporation.

(3) Under such circumstances, and in respect of such vacancies, as may be prescribed, the Corporation shall refer for employment with any employer as is referred to in subarticle (1), in preference to any other person, persons who, within the three

months immediately preceding such referral, have been discharged as redundant from such employment as may be prescribed.

(4) If upon a request for employees made to the Corporation by a Government department or any other employer as is referred to in subarticle (1), the Corporation is unable to submit suitable applicants, the department or other employer may recruit the employees required in virtue of such other arrangements as the Corporation may authorise in any case or class of cases.

(5) A Government department or other employer as is referred to in subarticle (1), rejecting an applicant submitted by the Corporation shall specify in writing the reasons for rejection. Where in any case the Corporation, after due investigation, is satisfied that the department or employer has rejected an applicant without just cause, it may order the department or employer concerned to give employment to the applicant concerned in the occupation for which he was originally submitted by the Corporation.

(6) Any person who -

(*a*) contravenes any of the foregoing provisions of this article; or

(*b*) shows favour to, or uses discrimination against, any person for employment with any employer referred to in subarticle (1) on the grounds of race, colour, sex, creed or on the grounds of his party or other political beliefs or associations,

shall be guilty of an offence against this Act.

Redeployment of employees within the public sector. *Added by: VII. 2006.2.*

15A. (1) Where the Prime Minister considers that an employee, of a body or partnership referred to in article 110(6) of the Constitution who by reason of the reorganisation or restructuring of any said body or partnership may lose his employment or who has otherwise become redundant, may be redeployed in the public sector in another employment with another body or partnership as above mentioned, he may issue an order which shall order such redeployment and such order shall have effect and for the purpose of the said redeployment any employment made by the employment service provided by the Corporation shall be made in accordance with the said order.

(2) An order issued under subarticle (1) may include such terms, conditions, provisions and time limits as the Prime Minister may consider it appropriate to include for the purpose of regulating the said redeployment or for the purpose of avoiding any undue burden, anomaly and hardship upon the employer or upon the employee or upon other employees of the body or partnership where the said employee shall have been or shall be about to be redeployed.

Functions of the Corporation in relation to training.

16. (1) In relation to training, the Corporation shall have the following functions:

(*a*) to provide training courses or other schemes for the purpose of assisting persons desiring to fit themselves

for gainful occupation, or desiring to improve or update the quality of their knowledge and skills for the same purpose;

(*b*) to obtain information from employers regarding the number, educational level, skills and aptitudes of persons they may require for employment both in the short term and in the long term;

(*c*) to enter into arrangements with the said employers, or any other person, for the provision of training courses or other schemes contemplated by this article.

(2) The reference in this article to the provision of training courses or other schemes shall be construed as including a reference to the making of payments to persons who attend any such course or scheme, locally or abroad in respect of their travelling expenses, the provision of residential accommodation and to the provision of any other facility or service incidental thereto.

Powers of the Corporation in relation to training.

17. (1) For the purpose of encouraging adequate training through courses or other schemes contemplated by article 16, the Corporation may -

(*a*) provide or secure the provision of such courses and other schemes as it may consider adequate, having regard to any courses or schemes otherwise available;

(*b*) approve such courses and schemes provided by other persons;

(*c*) from time to time consider such employments as appear to require consideration and publish recommendations with regard to the nature and length of the training for any such employment, the further education to be required with the training, the persons by and to whom the training ought to be given, the standards to be attained as a result of the training and the methods of ascertaining whether those standards have been attained;

(*d*) make arrangements for the application of selection tests and of tests or other methods for ascertaining the attainment of any standards recommended by it and may award certificates of the attainment of those standards;

(*e*) assist any person in finding facilities for being trained where it cannot provide such training;

(*f*) carry on or assist other persons in carrying on research into any matter relating to training.

(2) The Corporation may enter into contracts of service or of apprenticeship with any person who intends to attend courses or avail himself of any other scheme it has provided.

(3) The Corporation may -

(*a*) at the request of the Authority provide such other

advice, and such other courses and schemes for training, as are mentioned in the request;

(*b*) at the request of any employer provide advice about training connected with his activities;

(*c*) enter into agreements with employers relative to payments by them to the Corporation in respect of the exercise by the Corporation of any of its functions.

(4) The Corporation may -

(*a*) make grants or loans to persons providing courses or other schemes approved by the Corporation;

(*b*) pay fees to persons providing further education in respect of persons who receive it in association with their training in courses or other schemes provided or approved by the Corporation;

(*c*) make payments to persons in connection with arrangements under which they or their employees make use of courses or other schemes provided or approved by the Corporation.

PART IV

ADMINISTRATIVE AND FINANCIAL PROVISIONS RELATING TO THE CORPORATION

Personnel of the Corporation.

18. (1) Subject to the provisions of the Constitution of Malta and of any other enactment applicable thereto, including this Act, the Corporation, acting with the concurrence of the Minister, may appoint such officials and other employees on such terms and conditions of employment as the Corporation may, from time to time, determine.

(2) Public officers seconded for duty with the Corporation shall be under the administrative authority and control of the Corporation, but shall for all other intents and purposes remain and be considered and treated as public officers.

Capital and revenue of the Corporation. *Amended by: L.N. 424 of 2007.*

19. (1) The Corporation shall be endowed with an initial capital of five hundred and eighty-two thousand and three hundred and forty-three euro and thirty-five cents (582,343.35) which shall be paid by the Government out of the Consolidated Fund, without further appropriation other than this Act, by warrant under the hand of the Minister responsible for finance authorising the Accountant General to make the payment.

(2) Thereafter the Corporation shall be paid out of the Consolidated Fund such sums as the House may approve in accordance with the following articles:

Provided that in relation to its function, other than those in connection with its function as an employment service for the purposes of article 110 of the Constitution, nothing in this Act shall prevent the Corporation from entering into arrangements for

securing part of its funds from sources other than the public revenue.

(3) The Corporation shall cause to be prepared in every financial year, and shall not later than six weeks before the end of each financial year adopt, estimates of the income and expenditure of the Corporation for the next following financial year.

(4) The estimates shall be made in such form and shall contain such information and such comparisons with previous estimates as the Minister may direct.

(5) The Corporation shall within the same time mentioned in subarticle (3), make a report of its activities during that year containing such information relating to the functions and activities of the Corporation as the Minister may from time to time require.

(6) A copy of the estimates of the Corporation, together with a copy of the report, shall, upon their adoption by the Board, be sent forthwith to the Minister.

(7) The Minister shall, at the earliest opportunity and not later than four weeks after he has received a copy of the estimates and of the report of the Corporation, or, if at any time the House is not in session, within four weeks from the beginning of the next following session, cause such estimates and such report to be laid before the House together with a motion that the House approve the said estimates. Not less than one sitting shall be allotted for the debate in the House on such motion; and both the motion and the approval of the estimates by the House may be with or without amendment to the estimates.

(8) No expenditure shall be incurred by the Corporation that has not been approved by the House:

Provided that -

(*a*) until the expiration of six months from the beginning of a financial year or until the approval of the estimates for that year, the Corporation may make or incur expenditure for carrying out 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, be incurred in respect of another head or sub-head of the estimates;

(*c*) if in respect of any financial year it is found that the amount approved by the House is not sufficient, or if a need has arisen for expenditure for a purpose not provided for in the estimates, the Corporation may adopt supplementary estimates for approval by the House and, pending such approval, but subject to its being given, the Corporation may in special circumstances and with the approval of the Minister, incur the relative expenditure; and the provisions of this Act applicable to the estimates shall, as near as

practicable, apply to the supplementary estimates:

Provided further that in respect of the first financial year of the Corporation, this article shall apply as if it required the Corporation to adopt estimates for that year not later than twelve weeks from the coming into force of this article and as if the total expenditure that may be made or incurred by the Corporation until the approval of the estimates for that year by the House may not exceed one half of the amount shown in such estimates.

(9) All estimates and supplementary estimates approved by the House shall, as soon as practicable, be published in the Gazette.

Accounts and audit. *Amended by: XVI.1997.8.*

20. (1) The Corporation shall cause to be kept proper books of 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 Corporation shall be audited by an auditor or auditors to be appointed by it and approved by the Minister:

Provided that the Minister responsible for finance may require the books and other records of the Corporation to be audited or examined by the Auditor General who shall for this purpose have power to carry out such physical checking and other verifications, and may require such information, as he may deem necessary.

(3) After the end of each financial year, at the same time as a copy of the estimates of the Corporation is forwarded to the Minister under article 19, the Corporation shall cause a copy of the statement of accounts duly audited to be transmitted to the Minister together with a copy of any report made by the auditor or auditors on that statement or on the accounts of the Corporation.

(4) The Minister shall cause a copy of every such statement and report to be laid before the House of Representatives together with the motion laid before the House under article 19.

Power to borrow capital. *Amended by: L.N. 424 of 2007.*

21. (1) The Corporation may, with the approval in writing of the Minister given after consultation with the Minister responsible for finance, borrow or raise money in such manner, from such person, body or authority, under such terms and conditions and against such security as it may deem appropriate, for any one or more of the following purposes:

(*a*) the carrying out of functions of the Corporation under this Act;

(*b*) any other expenditure properly chargeable to capital account.

(2) The Corporation may also from time to time borrow, by way of overdraft or otherwise, for periods not exceeding twelve months, such sums as it may require for carrying out its functions under this Act:

Provided that for any amount in excess of four hundred and sixty-five thousand and eight hundred and seventy-four euro and

sixty-eight cents (465,874.68), there shall be required the approval of the Minister in writing.

(3) Whenever it may be necessary for the Corporation to borrow by way of advances from the Government any sums required by it to carry out any of its functions under this Act, the Minister responsible for finance may, after consultation with the Minister, by warrant under his hand and without further appropriation other than this Act, authorise the Accountant General to make advances to the Corporation either out of the proceeds of any loan contracted or raised for the purpose or out of the Consolidated Fund; and such advances shall be made on such terms and conditions as the Minister responsible for finance may direct.

(4) The Minister responsible for finance may, for any requirements of the Corporation of a capital nature, contract or raise money, 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.

(5) Notice of any loans, liabilities or advances made or incurred under the foregoing provisions of this article shall be given by the Minister to the House of Representatives as soon as practicable.

Exemption from certain taxes and duties. *Substituted by: XV.1995.9.*

22. The Corporation shall be exempt from any liability for the payment of income tax and duty on documents under any law for the time being in force.

PART V

EMPLOYMENT AGENCIES

Employment agencies and businesses to be licensed. *Amended by: XXIII. 2009.76.*

23. (1) (1) Without prejudice to the provisions of Part III of this Act, no person shall carry on an employment agency or an employment business unless:

(*a*) he is the holder of a current licence granted by the Director authorizing him to carry on such an agency or business in premises specified in the licence, or

(*b*) he is the holder of a relevant authorization to conduct business as an employment agency by a competent authority in a Member State, and has notified the Director of his intention to provide or that he is providing services of an employment agency in Malta within five working days from the date of the commencement of this activity:

Provided that for the purposes of this article, the term 'relevant authorisation' means the authorization to perform the services of an employment agency issued by a competent authority of a Member State and it shall be read and construed in terms of the Services (Internal Market) Act: Cap. 500.

Provided further that the Director may impose any necessary requirements on holders of relevant authorizations referred to in paragraph (*b*) in terms of the Services (Internal Cap. 500.

Market) Act.

(2) This article shall not apply to the supply of port workers in accordance with the Port Workers Ordinance, and shall be without prejudice to the provisions of the Merchant Shipping Act.

Cap. 171.

Cap. 234.

24. (1) Where the Director intends to refuse to grant or transfer a licence, or to revoke the same, he shall notify the applicant for, or the holder of, the licence or the person to whom it is requested that the licence be transferred, of his intention and the reasons therefor.

Representations on refusal or revocation of a licence. *Amended by: XXIII. 2009.77.*

(2) A person who receives a notification of the intention of the Director as is mentioned in subarticle (1) may make written representations thereon to the Director within thirty days of the receipt of such notification.

(3) If the Director receives such representations within the time specified in subarticle (2), he shall consider them and -

(*a*) if he decides not to proceed with his intentions and accordingly decides to grant or not to revoke or transfer the licence, he shall notify the applicant or holder of his decision;

(*b*) in any other case, the Director shall notify the applicant or holder accordingly, and the latter may, within fifteen days from such notification, appeal to the Authority.

25. The Minister may make regulations to secure the proper conduct of employment agencies and businesses and to protect the interests of persons availing themselves of the services of such agencies whether as persons seeking employment or employers, and such regulations may without prejudice to the generality of the foregoing in particular make provision -

Conduct of employment agencies and businesses.

(*a*) requiring persons running such agencies and businesses to keep records as may be prescribed;

(*b*) prescribing the qualifications required for persons running such agencies and businesses;

(*c*) regulating advertising by persons running such agencies and businesses;

(*d*) regulating the provision of services by persons running such agencies and businesses in respect of persons who seek employment outside Malta.

PART VI

MANPOWER RECORDS

26. (1) The Minister may make regulations under this article prescribing the registration and recording of gainfully occupied persons or persons seeking employment whether by means of work books, identity cards, by means of electronic-related data recording and recovery systems or other documents. Such regulations may in particular provide:

Work Books and other documents.

(*a*) for the use of work or identity cards or other documents for all or any one or more classes of such persons;

(*b*) the method of issue and control of such documents;

(*c*) for the fees to be paid for the issue and replacement thereof;

(*d*) for the conditions under which such documents may be issued;

(*e*) who the persons responsible for the custody of such documents may be; and

(*f*) the particulars to be shown or entered in such documents or records.

(2) Any such regulations may also provide for such documentation as may be prescribed for purposes of registrations for employment or employment training.

(3) The Minister may also make regulations providing for the restriction of the disclosure of any particulars furnished in accordance with regulations under this article, or in accordance with article 27, for prescribing the conditions under which records of any such particulars may be kept and for requiring such records to be destroyed after such period as may be prescribed.

(4) The Minister may delegate any power vested in him by this article to the Corporation.

Particulars concerning persons leaving school.

27. (1) The Corporation may from time to time require any person in charge of a school to furnish in such manner as may be requested and within a reasonable time such particulars as the Corporation may require with respect to pupils leaving school or who, while attending school, attain a stated age.

(2) Without prejudice to the generality of the power conferred in subarticle (1), the particulars which may be required shall include such particulars, relating to age, sex, ability, educational attainments and other particulars of the persons to whom they relate as appear to the Corporation to be necessary or expedient to enable adequate advice to be given on employment prospects and to prepare plans for their training pursuant to the provisions of this Act.

(3) Any person who fails to comply with any request made under this article shall be guilty of an offence against this Act.

Information as to employment and other occupations.

28. (1) The Corporation may, from time to time, request any employer or any gainfully occupied person to furnish, within a reasonable time such information as the Corporation may require in connection with employment and other occupations.

(2) Any such request may be either general or with respect to a class or classes of employers, or to a particular employer or employers, or to a class or classes of gainfully occupied persons.

(3) Where any such request is general or with respect to a class or classes of employers or to a class or classes of gainfully

occupied persons, it shall be made by notice published in the Gazette.

(4) Any person who fails to comply with any request made under this article shall be guilty of an offence against this Act.

PART VII

APPRENTICES AND TRAINEES

Interpretation for the purposes of Part VII.

29. In this Part, unless the context otherwise requires -

"apprentice" means a person over the age of fifteen years who is bound by a written agreement to serve an employer for a determined period with a view to acquiring knowledge, including theory and practice, of a calling in which the employer is reciprocally bound to instruct that person and "apprenticeship" shall be construed accordingly;

"calling" means any skill, trade, craft, or other occupation or section thereof, designated from time to time by a scheme or by the Minister by notice in the Gazette;

"conditions of employment" has the same meaning as assigned to it in article 2 of the Employment and Industrial Relations Act; Cap. 452.

"journeyman" means a person who has served his apprenticeship and has satisfied a Trade Testing Board as to his proficiency in a calling;

"parent" in addition to its ordinary meaning includes any person who has the legal care or custody or the care or custody in fact of another person who has not attained the age of eighteen years;

"prescribed" means prescribed by a scheme or by regulations under this Part;

"scheme" means a scheme under this Part;

"Trade Testing Board" means a board constituted as in article 40;

"trainee" means a person other than an apprentice, who is not of compulsory school age and who is receiving training under an agreement in writing in a calling or part of a calling otherwise than at a recognised educational establishment, provided that a trainee may be required to attend a recognised educational establishment as part of such training and "traineeship" shall be construed accordingly.

Permit to employ apprentices or trainees.

30. (1) No person may employ an apprentice or trainee without a written permit from the Corporation which shall specify the maximum number of apprentices or trainees that may be employed:

Provided that no such permit shall be given under this article for the employment of apprentices or trainees unless a draft scheme or agreement which includes provisions respecting the qualifications, training and conditions of employment of an apprentice or trainee has been previously drawn up by the person applying therefor and approved by the Minister on the advice of the Corporation and unless such a person shows to the satisfaction of

the Corporation that his establishment offers reasonable opportunities for the proper training of the number of apprentices or trainees proposed to be employed therein.

(2) Any person who contravenes any of the provisions of subarticle (1) shall be guilty of an offence against this Act.

Written agreement.

31. (1) An employer on engaging an apprentice or trainee shall enter into a written agreement with him.

(2) If such apprentice or trainee is a minor he shall not so bind himself except with the consent of his parent, or if there is no parent, with the consent of the Director.

(3) A minor who binds himself as an apprentice or trainee as provided in subarticle (2), shall be bound by the agreement throughout its currency notwithstanding that he may have in the meantime attained the age of eighteen years.

Registration of agreement.

32. (1) No agreement of apprenticeship in a calling or traineeship shall be binding unless and until it has been registered with the Corporation in accordance with the provisions of this Act.

(2) When registering such agreement, the Corporation shall ensure that:

(*a*) such agreement complies with the provisions of the apprenticeship or traineeship scheme applicable to the trade or calling;

(*b*) the employer and the apprentice or trainee are fit and proper persons to enter into such agreement;

(*c*) the apprentice or trainee has produced to the employer a medical certificate certifying his capability to undertake training in the calling;

(*d*) the apprentice or trainee has the necessary standards of education prescribed by the scheme.

(3) The Corporation shall keep a Register of Apprentices and a Register of Trainees and all agreements shall be registered therein.

(4) The date of registration shall not affect the date of commencement of the agreement, but a refusal to register the agreement shall cause the agreement to be null and void from the date of refusal. The date of commencement of an agreement shall be the date of signing by all the parties or such date as may be stipulated herein.

(5) Any party aggrieved by a decision of the Corporation under this article may within fifteen days from the date of notification in writing of such decision appeal to the Authority.

Transfer of agreement.

33. (1) The rights and obligations of any employer under any agreement of apprenticeship or traineeship may, with the consent of the Corporation, be transferred to another employer.

(2) Subject to the provisions of subarticle (4) no such transfer shall be complete until it has been registered with the Corporation.

(3) The Corporation may refuse to register any transfer which, in its opinion, is not in the interest of the apprentice or trainee.

(4) If any person is engaged as an apprentice or trainee by a partnership, his agreement shall not be terminated by reason of the death or retirement of any partner, if the business of the partnership is continued by another person or partnership; and the rights and obligations of the employer under the agreement shall be deemed to be transferred to the person or partnership continuing the business.

Termination or Rescission of agreement.

34. (1) Subject to the provisions of articles 35 and 41, an agreement of apprenticeship or traineeship may only be rescinded by the Corporation at the written request of the parties thereto on proof of good and sufficient cause.

(2) An appeal from a decision of the Corporation under this article may be made to the Authority within fifteen days from the notification in writing of the decision.

Probationary period.

35. (1) The first three months of an agreement of apprenticeship or traineeship shall be a period of probation during which the agreement may be terminated by either party on three days notice in writing being given, and any agreement to the contrary, whether expressed or implied, shall be null and void without however affecting the validity of any other part of the agreement of which it forms part.

(2) No apprentice or trainee who has completed his probationary period shall attend to any selective interviews, test or examination and no person may interview, test or examine any such apprentice or trainee, with a view of alternative employment, unless such apprentice or trainee has been so authorised by his employer and the Corporation has given its approval; and any person acting in contravention of any of the provisions of this subarticle shall be guilty of an offence against this Act.

Records to be kept by employers.

36. (1) Every employer upon whom an agreement of apprenticeship or traineeship is binding, shall at all times keep in respect of every apprentice or trainee such records as may be prescribed.

(2) Every person who is or has been an employer referred to above shall retain any record made in terms of the preceding subarticle for a period of three years subsequent to the date of the record, and shall on demand by the Corporation made at any time during the said period of three years produce the said records for inspection.

(3) Any person acting in contravention of any of the foregoing provisions of this article, or failing to comply with any demand made thereunder, shall be guilty of an offence against this Act.

Making of schemes.

37. (1) The Minister may, after consulting the Corporation, by regulations under this Part make a scheme or schemes for regulating the conditions of employment and training of apprentices and trainees. Every such scheme may in particular prescribe:

(*a*) the qualifications, including age and educational standard, required for apprentices or for trainees;

(*b*) the period of apprenticeship or traineeship, the variations in such period which may be allowed, and the circumstances under which those variations may be allowed;

(*c*) the rates according to which apprentices and trainees shall be remunerated, the circumstances under which those rates may be reduced or shall be increased, and the extent of the reduction or increase:

Provided that no rate based upon the quantity of work done shall be prescribed except in the last year of apprenticeship or traineeship;

(*d*) the classes of instruction which apprentices or trainees shall attend and the number of hours per week, whether within or outside their ordinary working hours, and the period during which they shall attend such classes;

(*e*) the practical training which employers shall provide for apprentices and trainees in their employ;

(*f*) the proficiency tests or examinations which apprentices or trainees shall undergo from time to time;

(*g*) the maximum number of ordinary working hours which apprentices or trainees may be required or permitted to work during any week or on any day, and the days on which, the hours on any day before or after which and the intervals during which no apprentice or trainee may be required or permitted to work;

(*h*) the maximum period of overtime which apprentices or trainees may be required or permitted to work during any specified period, and the rates according to which they shall be remunerated in respect of overtime;

(*i*) the number of paid holidays to be allowed to apprentices or trainees during any year of apprenticeship or traineeship and the rates according to which they shall be remunerated in respect of such holidays;

(*j*) the circumstances under which an employer shall pay additional remuneration to any apprentice or trainee in his employment and the amount of the additional remuneration or the manner in which it shall be calculated;

(*k*) the remuneration and the other conditions of apprenticeship or traineeship in respect of any period during which an apprentice or trainee is unable by reason of any condition of apprenticeship or traineeship or other specified circumstance to render service to his employer during ordinary working hours.

(2) A scheme may provide for the making of orders for giving effect to the purpose of the scheme.

(3) A scheme may be amended or revoked by a subsequent scheme or by an order made by the Minister, after consultation with the Corporation.

(4) Different conditions of apprenticeship or traineeship may be prescribed under subarticle (1) in respect of different classes of employers or apprentices or trainees, and different designated callings, and in prescribing such different conditions the Minister may apply any method of differentiation he may deem advisable.

(5) The Minister may, in any scheme published under subarticle (1) provide that the conditions of apprenticeship or traineeship therein prescribed or such of the said conditions as may be specified therein shall, as from a date so specified, apply in respect of apprentices or trainees who have entered into an agreement of apprenticeship or traineeship upon or after the date on which the calling concerned was designated and before the date upon which the said conditions come into operation, and no such agreement shall cease to be binding upon the parties thereto by reason of the fact that as a result of the scheme, the conditions of apprenticeship or traineeship applicable in respect of those apprentices or trainees have changed.

Power of Corporation to ascertain adequate training.

38. (1) The Corporation shall have power to make such inspection and enquiry as may be necessary for the purpose of ascertaining that apprentices and trainees are receiving adequate training.

(2) If in the opinion of the Corporation any apprentice or trainee is not receiving adequate training, the Corporation may order the employer of the apprentice or trainee to take such action, specified in the order, as the Corporation deems necessary to ensure that the apprentice or trainee will receive adequate training, and may withdraw or vary any such order.

(3) In any such order the Corporation may, subject to the provisions of any scheme applicable in the case, specify the classes of work on which the apprentice or trainee is to be trained, the periods during which, the intervals at which or the dates between which he shall be so trained, the conditions relating to supervision, the method or place of work, and any other matters or conditions relating to the training of the apprentice or trainee.

Loan of services of apprentices or trainees.

39. (1) The Corporation may, on an application from the employer, authorise in writing, for such period and subject to such conditions as it may determine, the loan of the services of an apprentice or trainee to another employer, if in its opinion it is in the interest of the apprentice or trainee to do so.

(2) No loan of the services of an apprentice or trainee to another employer authorized under subarticle (1) shall release the person who is the employer in terms of the agreement of apprenticeship or traineeship from any obligation under the agreement.

Trade Testing Boards and Certification.

40. (1) The Minister may, in consultation with the Corporation, appoint such Trade Testing Boards as he may deem necessary for the purpose of conducting the examination of apprentices or trainees designed to ascertain their proficiency or competence in a calling.

(2) The Corporation shall issue to each apprentice or trainee who has completed his term of apprenticeship or traineeship a journeyman's certificate or a certificate of competence as the case may be, if the apprentice or trainee has satisfied a Trade Testing Board that he has attained the required standard of proficiency or competence:

Provided that the Corporation may with the concurrence of the Minister issue such certificates without reference to a Trade Testing Board if it is satisfied that suitable arrangements exist within any industry or undertaking, whether belonging to Government or not, for the assessment of apprentices or trainees as regards attainment of the required standard of proficiency or competence in the particular calling.

Regulations with respect to standards, certification, etc.

41. The Minister responsible for education may, in consultation with the Corporation, make regulations for the setting up of standards of proficiency or competence in the various callings and the certification of persons who shall have obtained such standards.

Settlement of differences.

42. (1) If any difference arises between an employer and an apprentice or trainee, or if it appears to the Corporation that either the employer or the apprentice or trainee is unable to fulfil any of the conditions of the agreement of apprenticeship or traineeship, or if either fails to observe the convenants thereof or if either is convicted of a serious criminal offence, the Corporation shall, at the request of either party or both, or of its own motion, consider all the circumstances of the case and it shall have power to determine all matters relative thereto including the cancellation of the agreement or the transfer of the apprentice or trainee. An appeal from any such decision of the Corporation may be made within fifteen days from the notification of such decision to the Authority whose decision shall be final.

(2) During the period of any dispute between an employer and an apprentice or trainee, the employer shall be entitled as from the date of reporting the circumstances to the Corporation, to suspend the apprentice or trainee from work without pay, saving the right of the apprentice or trainee to full reinstatement with back-pay if the final decision is in his favour.

Acceptance of premiums.

43. (1) No person shall, directly or indirectly, require or permit any person, other than the Government or the Corporation, to pay or give any consideration in order to employ an apprentice or trainee in a calling or receive any such consideration from any person other than the Government or the Corporation; and any person acting in contravention of the foregoing provisions of this subarticle shall be guilty of an offence against this Act.

(2) Any person who has, in contravention of the provisions of

subarticle (1), paid or given any such consideration, may recover the same in a court of law and any court, before which any person is proved to have committed a contravention of the said subarticle, may on proof of the amount improperly received, order such person, to refund the same and any such order shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted in that court between such person and the person who paid or gave the consideration:

Provided that any such claim for the refund of the money improperly received shall be barred by the lapse of two years from the termination of the apprenticeship or traineeship.

Regulations with respect to apprentices or trainees.

44. (1) The Minister may, in consultation with the Corporation, make regulations prescribing -

(*a*) the certificates, in respect of birth and educational standard, which may be demanded and medical examination which may be required in connection with the registration of an agreement of apprenticeship or traineeship, the forms on which such an agreement and medical certification of apprentices and trainees is to be made;

(*b*) the nature of returns which employers may from time to time be required to furnish and the period within which those returns shall be so furnished;

(*c*) the circumstances and manner in which any amendment may be made in an agreement of apprenticeship or traineeship;

(*d*) all matters which by this Part are required or permitted to be prescribed;

(*e*) generally all matters which he considers necessary or expedient to prescribe in order that the purposes of this Part may be achieved.

(2) Different regulations may be made under subarticle (1) in respect of different classes of employers or apprentices or trainees and of different callings, and in making such regulations the Minister may apply any method of differentiation he may deem advisable.

Civil rights of apprentice or trainee and employer.

45. Nothing contained in this Act shall affect -

(*a*) any right which an apprentice or trainee may have to institute civil proceedings against his employer in respect of any contravention of or failure to comply with any provision of an agreement of apprenticeship or traineeship or any condition thereof;

(*b*) any right which an employer may have to institute civil proceedings against an apprentice or trainee in respect of any contravention of or failure to comply with the provisions of the agreement of apprenticeship or traineeship or any condition thereof.

PART VIII

ENFORCEMENT, OFFENCES AND PENALTIES

Enforcement.
Amended by: II. 2005.25.

46. (1) The Minister may designate in writing specified officers of the department of labour or of the Corporation or any other person to be inspectors for the purposes of this Act.

(2) Inspectors under this Act shall have such functions and duties as may be prescribed.

(3) Inspectors designated as aforesaid shall be empowered -

(*a*) to enter freely and without previous notice at all reasonable times any premises or place liable to inspection under this Act;

(*b*) to carry out in any such premises or place any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the provisions of this Act or of any regulations or orders thereunder as well as any recognised conditions of employment are being observed, and in particular -

(i) to interrogate, alone or in the presence of witnesses, the employer or the employees or the apprentices or trainees on any of the said matters;

(ii) to require the production of any books, registers or other documents the keeping of which is prescribed by this Act or by any order issued under this Act and to copy such documents or make extracts therefrom.

(4) On the occasion of an inspection visit, an inspector shall notify the employer or his representative of his presence, unless he considers that such a notification may be prejudicial to the performance of his duties.

(5) The premises and places liable to inspection under this Act are any premises or places in respect of which any provisions of this Act or of any regulation or order thereunder or any recognised conditions of employment apply or any premises or places in respect of which an inspector has reasonable cause to believe that this Act or any regulations or orders thereunder or any recognised conditions of employment apply.

Improper influence.

47. (1) No person shall improperly influence or attempt to influence directly or indirectly on behalf of himself or on behalf of any other person, the Authority, the Corporation or their members or directors, or persons employed by them, in the exercise of their functions under this Act.

(2) Any person who contravenes any of the foregoing provisions of this article shall be guilty of an offence against this Act.

False information, etc.
Amended by: L.N. 424 of 2007.

48. Any person who, in connection with any matter under this Act -

(*a*) furnishes any information which he knows to be false in a material particular, or recklessly furnishes any information which is false in a material particular; or

(*b*) with intent to deceive produces, furnishes, sends or otherwise makes use of any document which is false in a material particular; or

(*c*) wilfully refuses or without lawful excuse (the proof whereof shall lie on him) withholds any material information,

shall be guilty of an offence against this Act and shall on conviction be liable, to a fine (*multa*) of not less than one hundred and sixteen euro and forty-seven cents (116.47) but not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69), or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

Offences in respect of apprenticeship or traineeship.

49. (1) Any person who -

(*a*) contravenes or fails to comply with any provision of an agreement of apprenticeship or traineeship or any provision of a scheme which is binding upon him; or

(*b*) contravenes or fails to comply with the provisions of article 30, article 35(2), article 36, article 43(1); or

(*c*) knowingly or recklessly makes any incorrect statement or entry in any record or return kept or furnished under this Part or any regulations made thereunder; or

(*d*) refuses or fails to answer to the best of his knowledge any question which the Director or his representative, an officer of the Corporation or an inspector has put to him in the exercise of his functions under this Part; or

(*e*) refuses or fails to comply with any requirements duly provided for under this Act; or

(*f*) hinders the Corporation or the Director or their representatives or an inspector in the performance of their functions under this Act,

shall be guilty of an offence against this Act.

(2) Where any contravention against Part VII of this Act or any regulations made thereunder is committed by a person who is under the authority, control or charge of another person, liability therefor shall be contracted not only by the person committing the contravention but also by such other person if the contravention could have been prevented by the exercise of diligence on the part of such other person.

Offences against articles 15 and 47.
Amended by: L.N. 424 of 2007.

50. Any person guilty of an offence against this Act under article 15 or article 47 thereof shall be liable, on conviction, to a fine (*multa*) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) but not exceeding eleven thousand and six hundred and forty-six euro and eighty-

seven cents (11,646.87).

General penalty. *Amended by: L.N. 424 of 2007.*

51. (1) Any person guilty of an offence against this Act or who fails to comply with any of the provisions of any regulations or orders made thereunder, shall, unless a particular penalty is provided therefor in this Act or in any such regulation or order, be liable, on conviction, to a fine (*multa*) of not less than forty-six euro and fifty-nine cents (46.59) and not more than nine hundred and thirty-one euro and seventy-five cents (931.75).

(2) No proceedings shall be taken against any person for any offence against this Act other than an offence against articles 15 and 47 thereof, where such person, having received an intimation by the Director for the payment of a penalty of thirty-four euro and ninety-four cents (34.94) for having contravened the provisions aforesaid of this Act or of any regulations or orders made thereunder, complies with such provisions and pays such penalty to the Director in either case within fifteen days from the receipt by him of such intimation.

Saving for Criminal Code. Cap. 9.

52. The punishments provided in this Act shall apply unless the fact constitutes a more serious offence under the Criminal Code or any other law, in which case such Code or other law shall apply.

Prescription.

53. Notwithstanding any other law, proceedings for an offence under this Act may be commenced at any time within six years from the commission of the offence.

PART IX

MISCELLANEOUS

Regulations. *Amended by: L.N. 424 of 2007.*

54. (1) The Minister may make regulations generally for giving effect to the provisions of this Act, and the enforcement thereof, and in particular, but without prejudice to the generality of the foregoing -

(*a*) for providing for any matter which is required or authorised by this Act to be prescribed;

(*b*) for prescribing the powers and procedures of the Authority in the hearing and disposal of appeals under this Act.

(2) The powers of the Minister to make regulations under any of the provisions of this Act shall include the power to establish the punishments in respect of any violation or contravention thereof, or failure to comply therewith:

Provided that such punishments shall not exceed a fine (*multa*) of two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) or imprisonment exceeding three months.

Conflict of interest.

55. (1) A director, officer, employee, agent or consultant of the Corporation who is in any way directly or indirectly interested in any contract made or proposed to be made by the Corporation or in any activity or service to be provided for or by the Corporation, shall as soon as possible after the relevant circumstances shall have come to his knowledge, disclose the nature of his interest to the

Board of the Corporation.

(2) Any disclosure made under subarticle (1) by a director shall be recorded in the minutes of the meeting at which it is made, and the director -

(*a*) shall, after the disclosure, withdraw from the meeting while that matter is being discussed or decided by the Board; and

(*b*) shall be disregarded for the purpose of constituting a quorum of the Board for any such discussion or decision.

(3) The Corporation shall without delay inform the Minister of any disclosure made under this article.

Saving.

56. (1) Until such time as they are revoked, repealed or replaced, any scheme made, permit or exemption granted, any agreement entered into and any regulation or order made, under or in virtue of the Employment Service Act* and the Industrial Training Act* shall continue in force and shall be deemed to have been made under and in virtue of this Act.

Cap. 141.
Cap. 134.

(2) The provision of the Employment Service Act* relating to the Auxiliary Workers and Training Scheme, and to workers engaged therein, shall continue to apply until such time as the Minister may by order determine.

(3) Any person registered for employment under the Employment Service Act* shall continue to enjoy the same priority for referral for employment under this Act, to which he was entitled immediately before the coming into force of this Act.

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*Repealed by this Act; but *see* Legal Notices Nos. 124 and 175 of 1990, and 126 of 1995.

SCHEDULE

[ARTICLE 3]

FORM OF OATH TO BE TAKEN BY MEMBERS OF THE AUTHORITY

I,..... having been appointed to be Member of the National Employment Authority constituted under the Employment and Training Services Act, do hereby swear that I will faithfully, fully, impartially and to the best of my ability discharge the trust and perform the duties devolving upon me by virtue of the said appointment.

So help me God.

.....