

L.N. 428 of 2002

**EMPLOYMENT AND INDUSTRIAL RELATIONS ACT, 2002
(ACT NO. XXII OF 2002)**

**Collective Redundancies (Protection of Employment)
Regulations, 2002**

IN exercise of the powers conferred by article 37 of the Employment and Industrial Relations Act, 2002, the Deputy Prime Minister and Minister for Social Policy has made the following regulations:-

1. The title of these regulations is the Collective Redundancies Title.
(Protection of Employment) Regulations, 2002.

2. (1) For purposes of these regulations -

Definition.

“Act” means the Employment and Industrial Relations Act, 2002;

“collective redundancy” means the termination of the employment by an employer on grounds of redundancy, over a period of 30 days, of:

(a) ten or more employees in establishments normally employing more than 20 employees but less than 100 employees;

(b) 10% or more of the number of employees in establishments employing 100 or more but less than 300 employees; and

(c) 30 employees or more in establishments employing more than 300 employees:

Provided that for the purposes of calculating the number of redundancies, termination of an employment contract which occurs on the employer's initiative for one or more reasons which are beyond the control of the individual employees, shall be assimilated to redundancies, provided that there are at least five redundancies.

(2) Subject to the provisions of subregulation (1), terms and expressions used in these regulations shall, unless the context otherwise requires, have the meaning assigned to them in the Act.

Exclusion.

3. Article 37 of the Act and these regulations shall not apply to :

(a) terminations of employment effected under contracts of employment concluded for limited periods of time or for specific tasks, except where such terminations take place prior to the date of expiry or the completion of such tasks and the reason for such prior termination is the redundancy of the employees so terminated;

(b) the crews of sea-going vessels.

Duty to consult employees' representative.

4. In all cases of collective redundancies, the employer proposing to declare the redundancies, shall not terminate the employment of such employees before he has notified in writing the employees' representatives, of the termination of employment contemplated by him and has provided the said representatives with an opportunity to consult with the employer as specified in regulations 5 and 6 of these regulations.

Beginning of consultations.

5. The consultations between the employer and the employees' representative shall begin within seven working days from the day on which the employees' representatives have been notified of the intended collective redundancies and such consultations shall cover ways and means of avoiding the collective redundancies or reducing the number of employees affected by such redundancies or for mitigating the consequences thereof.

Duty of employer to inform employees' representatives.

6. Within the period of seven days mentioned in the preceding regulation, the employer shall be bound to supply the employee's representatives with a statement in writing giving all relevant information and shall in any event give such employees' representatives the reasons for the redundancies, the number of employees he intends to make redundant, the number of employees normally employed by him, the criteria proposed for the selection of the employees to be made redundant, details regarding any redundancy payments which are due and the period over which redundancies are to be effected.

7. The obligations laid down in regulations 4, 5 and 6 shall apply irrespective of whether the decision regarding collective redundancies is taken by the employer or the undertaking controlling the employer:

Provided that in the event of the alleged breaches of the information, consultation and notification of requirements of these regulations, account shall not be taken of any defence on the part of the employer

that the necessary information had not been provided to the employer by the undertaking which took the decision leading to the collective redundancies.

8. The employer shall also forward to the Director responsible for Employment and Industrial Relations, a copy of the written notification mentioned in regulation 4 of these regulations and a copy of the written statement mentioned in regulation 6 of these regulations on the same day that these are notified to the employees' representatives.

Duty of employer to inform the Director responsible for Employment and Industrial Relations.

9. (1) Saving the right of employees regarding notice of dismissal, any projected collective redundancies notified to the Director responsible for Employment and Industrial Relations in accordance with regulation 7 of these regulations shall only take effect on the lapse of thirty days after the said notification:

When redundancies are to take effect.

Provided that, the Director responsible for Employment and Industrial Relations may, in exceptional circumstances, grant the employer a shorter period of notification:

Provided further that the Director responsible for Employment and Industrial Relations may also extend the said period by a second period of thirty days if it appears to him that such extension may provide further opportunity for the resolution of the reasons for the redundancies or for the identification of solutions to the benefit of those employees who are being declared redundant.

(2) In the event that the Director responsible for Employment and Industrial Relations decides to extend the time limit of thirty days as provided in the second proviso of subregulation (1) of this regulation, the employer shall be informed of such extension by notice in writing which is to reach him prior to the lapse of the initial period.

10. Regulation 7 and Regulation 8 of these regulations shall not apply in those cases where the collective redundancy is the result of a judicial decision.

Redundancies as a result of judicial decisions.

11. Any person contravening the provisions of these Regulations shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than five hundred liri (Lm 500) for every employee that is declared redundant.

Offences