VERŻJONI ELETTRONIKA

L.N. 273 of 2018

EMPLOYMENT AND INDUSTRIAL RELATIONS ACT (CAP. 452)

Transfer of Business (Protection of Employment) (Amendment) Regulations, 2018

IN EXERCISE of the powers conferred by article 48(2) of the Employment and Industrial Relations Act, the Minister responsible for European Affairs and Equality has made the following regulations -

Title.

1. The title of these regulations is the Transfer of Business (Protection of Employment) (Amendment) Regulations, 2018 and these regulations shall be read and construed as one with the Transfer of Business (Protection of Employment) Regulations, hereinafter referred to as "the principal regulations".

S.L. 452.85

Amends regulation 2 of the principal regulations.

2. In sub-regulation (1) of regulation 2 of the principal regulations:

(a) in the definition "transfer", the words "and shall include a service provision change in accordance with these regulations" shall be deleted;

(b) in the definition "transferee", the words "which includes a service provision change," shall be deleted;

(c) in the definition "transferor", the words "which includes a service provision change," shall be deleted and for the words "undertaking so transferred.", there shall be substituted the words "undertaking so transferred;";

(d) immediately after the definition "transferor" as amended, there shall be added the following new definition:

" "undertaking" shall mean an entity engaged in economic activities whether or not that activity is central or ancillary and whether or not it is operating for gain.".

Amends regulation 3 of the principal regulations.

3. Sub-regulation (1) of regulation 3 of the principal regulations shall be substituted by the following:

"3. (1) Article 38 of the Act and these regulations shall apply in the case of:

(a) a transfer of an undertaking, business, or part of

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an undertaking or business to another employer as a result of a legal transfer or merger;

(b) a service provision change;

(c) a transfer of a seagoing ship that is part of a transfer of an undertaking, business or part of an undertaking or business within the meaning of this regulation as long as:

(i) the transferee is situated, or the transferred undertaking, business, or part of an undertaking or business remains within Malta;

(ii) the object of the transfer does not consist exclusively of one or more seagoing ships:

Provided that in the cases contemplated in paragraphs (a) and (b) above, the undertaking, business or part of the undertaking or business to be transferred is situated in Malta:

Provided further that in all the cases contemplated in paragraphs (a), (b) and (c) above, there must be a transfer only if the economic entity retains its identity, with the objective of pursuing an economic activity.".

Amends regulation 4 of the principal regulations.

4. In the proviso to regulation 4 of the principal regulations, for the words "whichever is the earlier.", there shall be substituted the words "whichever is the earlier:" and immediately thereafter shall be added the following new proviso:

"Provided further that during any kind of negotiations leading to a case of transfer of undertakings in terms of these regulations, the conditions of employment of the employees affected by the transfer shall remain unchanged.".

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