L.N. 197 of 1995

# OCCUPATIONAL HEALTH AND SAFETY (PROMOTION) ACT, 1994 (ACT No. VII OF 1994)

## Occupational Health and Safety (Judicial Committee) (Procedure) Regulations, 1995

IN exercise of the powers conferred by sections 6 and 16 of the Occupational Health and Safety (Promotion) Act, the Minister of Education and Human Resources, in consultation with the Commission for the Promotion of Occupational Health and Safety, has made the following regulations:—

Citation.

**1.** These regulations may be cited as the Occupational Health and Safety (Judicial Committee) (Procedure) Regulations, 1995.

Interpretation.

**2.** In these regulations, unless the context otherwise requires —

"Act" means the Occupational Health and Safety (Promotion) Act, 1994;

"Commission" means the Commission for the Promotion of Occupational Health and Safety established by section 3 of the Act;

"inspector" means an inspector appointed under section 10 of the Act, from whose orders an appeal may be made to the Commission;

"Judicial Committee" means the Judicial Committee established by section 5 of the Act;

"members of the Judicial Committee" means such members of the Commission as are appointed on the Judicial Committee in terms of subsection (2) of section 5 of the Act.

Reference of hearing.

**3.** (1) All appeals made to the Commission shall be made in writing and addressed to the President of the Commission through the Secretary of the Commission at the offices of the Commission.

(2) The person making the appeal shall state the grounds on which the appeal is made and shall give the names and addresses of any person he intends to produce as witnesses and an indication of the proof he intends making by the production of each witness.

(3) The offices of the Commission shall be at number 120, Saint Ursola Street, Valletta.

Notification of hearing.

**4.** (1) On receipt of an appeal, the Secretary of the Commission shall advise the President of the Commission who shall fix a date for the hearing.

(2) The President shall direct the Secretary to advise the members of the Judicial Committee, the Secretary of the Committee, the person making the appeal and the Director of Labour of the date fixed for the hearing.

(3) On receiving directives from the President of the Commission, the Secretary of the Judicial Committee shall also transmit a copy of the appeal received by him to the Director of Labour, the members of the Judicial Committee and the Secretary of the Judicial Committee.

Conflict of interest.

**5.** Where any member appointed by the Commission to sit on the Judicial Committee considers that there are sufficient grounds to preclude him from hearing any particular appeal, or where any of the parties objects to his hearing of the case, the member of the Judicial Committee shall inform the President of the Commission, stating the grounds on which he considers that he should be relieved from hearing the appeal, or the grounds of objection against him, as the case may be. The President of the Commission shall then give his decision on the matter.

Intervention by the Director of Labour.

**6.** The Director of Labour may in terms of subsection (4) of section 13 of the Act intervene in any appeal. If and when he intends to intervene, the Director shall advise the Secretary of the Judicial Committee in writing, and if he intends to produce persons as witnesses, he shall submit to the Secretary of the Judicial Committee a list of such persons. A copy of any submissions in writing by the Director and a copy of any list of persons he asks to be produced as witnesses shall be served by the Secretary of the Judicial Committee on the person making the appeal.

Production of witnesses.

**7.** No person, whose name has not been included in the list of witnesses, may be produced to give evidence unless the Judicial Committee is satisfied that the omission of the name of such witness is

justified on the grounds that the person asking to produce such witness did not know of such evidence on the date of the filing of the appeal or that the need to produce such evidence arose after the filing of the appeal, or for any other reason to the satisfaction of the Judicial Committee.

Regulation of procedure.

**8.** (1) Subject to the provisions of the Act and of these regulations, the Judicial Committee shall regulate its own procedure in such manner as to ensure that the appeal is given a fair hearing. The person making the appeal shall open the case and the inspector who had taken the decision from which the appeal is made shall have the right of reply. If the Director of Labour decides to intervene in an appeal, the person making the appeal shall have the right to comment upon the submissions made by the Director.

(2) The case for any party shall be presented by the party itself, which may however choose to be represented or aided by a person of its trust.

Summonses.

**9.** Summonses requiring the attendance of witnesses shall be signed by the President of the Judicial Committee.

Place of hearing.

**10.** (1) The sittings of the Judicial Committee shall be held at the Offices of the Commission as referred to in paragraph (3) of regulation 3 of these regulations, unless the Judicial Committee decides to hold any of its sittings elsewhere.

(2) Sittings shall be held in public, except where the provisions of subsection (3) of section 15 of the Act require that a hearing be held behind closed doors.

Decisions of the Judicial Committee.

**11.** The decisions of the Judicial Committee shall be in writing and they shall be read out in public.

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