

B 2332

L.N. 332 of 2024

**EMPLOYMENT AND INDUSTRIAL RELATIONS ACT
(CAP. 452)**

Minimum Wage and Collective Bargaining Regulations, 2024

IN EXERCISE of the powers conferred by article 48(2) of the Employment and Industrial Relations Act, the Minister responsible for employment and industrial relations has made the following regulations:-

Citation. **1.** The title of these regulations is the Minimum Wage and Collective Bargaining Regulations, 2024.

Scope and applicability. **2.** (1) The scope of these regulations is to transpose the relevant provisions of Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union.

(2) These regulations apply to all workers who have a contract of employment or employment relationship within the territory of Malta as defined by law, collective agreements, or practice in force, with consideration to the case-law, including that of the Court of Justice of the European Union:

S.L. 234.51. Provided that these regulations shall not apply to the minimum wage of seafarers provided for in rule 51 of the Merchant Shipping (Maritime Labour Convention) Rules.

(3) These regulations shall be without prejudice to the full respect for the autonomy of the social partners, as well as their right to negotiate and conclude collective agreements.

Interpretation. **3.** (1) In these regulations, unless the context otherwise requires:

Cap. 452. "Act" means the Employment and Industrial Relations Act;

"collective agreement" means an agreement entered into between an employer, or one (1) or more organisations of employers, and one (1) or more organisations of workers regarding conditions of employment in accordance with the provisions of the Act and the regulations made thereunder;

"collective bargaining" means all negotiations which take place according to national law and practice between an employer,

a group of employers or one (1) or more employers' organisations on the one hand, and one (1) or more trade unions on the other, for determining working conditions and terms of employment;

"collective bargaining coverage" means the share of workers at national level to whom a collective agreement applies, calculated as the ratio of the number of workers covered by collective agreements to the number of workers whose working conditions may be regulated by collective agreements in accordance with national law and practice;

"Director" shall have the same meaning as assigned to it in the Act;

"employer" shall have the same meaning as assigned to it in the Act;

"minimum wage" means the minimum remuneration established by the laws of Malta or collective agreements that an employer, including in the public sector, is required to pay to the workers for the work performed during a particular period;

"Minister" shall have the same meaning as assigned to it in the Act;

"statutory minimum wage" means a minimum wage established by law or other binding legal provisions, with the exclusion of minimum wages established by collective agreements that have been declared universally applicable without any discretion of the declaring authority as to the content of the applicable provisions;

"trade union" shall have the same meaning as assigned to it in the Act;

"Tribunal" shall have the same meaning as assigned to it in the Act;

"worker" shall have the same meaning as assigned to it in the Act.

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

4. (1) With the aim of increasing collective bargaining coverage and facilitating the exercise of the right to collective bargaining on wage-setting, the Minister, with the involvement of the

Promotion of
collective
bargaining.

B 2334

social partners, in accordance with national law and practice shall:

(a) promote the building and strengthening of the capacity of the social partners to engage in collective bargaining on wage-setting, in particular at sector or cross-industry level;

(b) encourage constructive, meaningful and informed negotiations on wages between the social partners, in an equal manner, where the employers and trade unions have access to appropriate information in order to carry out their functions in respect of collective bargaining on wage-setting;

(c) take measures, as appropriate, to protect the exercise of the right to collective bargaining on wage-setting and to protect workers and trade union representatives from acts that discriminate against them in respect of their employment on the grounds that they participate or intend to participate in collective bargaining on wage-setting;

(d) take measures, as appropriate, to protect trade unions and employers' organisations participating or intending to participate in collective bargaining against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration:

Provided that if the collective bargaining coverage rate is less than a threshold of eighty percent (80%), the Minister shall provide for a framework of enabling conditions for collective bargaining, either by law after consulting the social partners or by agreement with them:

Provided further that an action plan shall be established after consulting the social partners or by agreement with the social partners or, following a joint request by the social partners, as agreed between the social partners:

Provided further that the action plan shall be regularly reviewed at intervals which are not longer than five (5) years:

Provided further that the action plan shall be made public once it is established or updated.

(2) The action plan shall contain a timeline and targets to address the concern of progressively increasing the rate of collective bargaining coverage, in full respect for the autonomy of the social partners.

5. (1) A trade union recognised in accordance with the Recognition of Trade Unions Regulations shall be entitled to request negotiations with an employer for the purpose of entering into, or revising a collective agreement.

Demand for negotiation.
S.L. 452.112.

(2) Any request for negotiation shall be formally submitted in writing.

(3) Upon receiving the request for negotiation, the employer shall within thirty (30) days, communicate in writing the acceptance of the request for negotiation.

(4) Upon acceptance of such negotiation request, the trade union shall promptly communicate a written agenda outlining the main representations to be made in the relevant negotiation meetings, along with the relevant attendees.

(5) Throughout all stages of negotiations, detailed minutes shall be duly recorded and circulated amongst all attendees:

Provided that when an agreement is reached, the minutes registering such agreement shall be duly approved and signed.

6. (1) The Director shall take the appropriate measures to ensure that the necessary data to determine the rate of collective bargaining coverage shall be gathered at all times.

Monitoring and data collection.

(2) Without prejudice to articles 56 to 59 of the Act, both inclusive, every trade union and employers' association shall keep an up-to-date record of the following:

(a) number of members of the trade union or employers' association;

(b) copies of collective agreements;

(c) information on the industries or sectors covered by the collective agreements provided for in paragraph (b);

(d) the duration and the expiration dates of the collective agreements provided for in paragraph (b);

(e) the percentage of workers represented by the trade union or employers by an employer's association, for every company and, or entity; and

(f) records of any disputes related to collective bargaining.

B 2336

(3) If a trade union or an employers' association refuses or wilfully neglects to perform a duty imposed on it by, or under regulation 6(2), the trade union or employers' association shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69).

(4) Whenever requested by the Director, a trade union or an employers' association shall transmit within the timeframe as prescribed by the Director from date of request, any data or combinations of data listed in regulation 6(2) in the manner as prescribed by the Director.

(5) Any trade union or employers' association may request an extension of the period within which to submit data as requested by the Director under sub-regulation (4). The Director, upon receipt of this request for such an extension, at his discretion and after evaluating the reasons submitted by the trade union or employers' association for such an extension, may extend the time as is reasonably necessary. The trade union or employers' association requested to give data mentioned in sub-regulation (4) shall submit the information requested within the extended timeframe.

(6) (a) The Director or any authorized inspector appointed in accordance with article 43(1) of the Act, or any other person authorized by the Director, shall have the right to request and obtain from any person, natural or legal, including employers, trade unions, associations or other entities established by law, any data or information pertaining to the employment status of a worker, as necessary for the purpose of ensuring compliance with these regulations, the Act and any other subsidiary legislation made thereunder.

(b) Any person in receipt of a request under this regulation shall promptly provide the requested data or information to the Director, authorized inspector, or any other officer authorised by the Director within the specified timeframe, in the manner prescribed by the Director:

Provided that upon receipt of request for data in pursuance of paragraph (a), sub-regulation (5) shall apply *mutatis mutandis*.

(7) In all data requests made in accordance with regulation 6(4) and (6), the Director shall ensure the confidentiality and appropriate use of all employment-related data obtained under this regulation, in accordance with data protection laws and regulations.

7. (1) The Director, any inspector appointed in accordance with article 43(1) of the Act and any officer duly authorised by the Director, shall be empowered with the right to examine the books and records, including itemised payslips, at any time, in accordance with the Act and the regulations made thereunder, or to request any information which in the opinion of the Director or inspector is reasonably required for ensuring that these regulations are being complied with.

The powers of the Director.

(2) Without prejudice to articles 45 to 47A of the Act, both inclusive, a worker who has been paid wages less than the rate applicable according to the National Minimum Wage Standard Order and Wage Regulation Orders in force shall have the right to submit a complaint to the Director who shall investigate the matter and order the employer to pay the worker wages in conformity with the National Minimum Wage Standard Order and Wage Regulation Orders in force.

(3) The employer found to be in breach of sub-regulation (2) shall be liable to the punishments provided for in article 45 of the Act.

(4) The burden of proof to prove the subsistence of any of the material facts referred to in these regulations shall, in all cases, be borne by the employer allegedly in breach of the provisions of sub-regulation (2).

8. It shall be unlawful to victimise or to subject any worker or any workers' representative to any adverse treatment or for any worker or any workers' representative to suffer any adverse consequences resulting from a complaint lodged with the employer, or resulting from any proceedings initiated with the aim of enforcing compliance with the rights provided for in these regulations.

Protection from adverse treatment or consequences.

9. (1) A worker who is dismissed shall be regarded for the purposes of these regulations as having been unfairly dismissed if the reason for the dismissal of the worker is that the worker refused or proposed to refuse to comply with an order which the employer imposed or proposed to impose, in contravention of these regulations, or refused or proposed to refuse to renounce to a right conferred on him by these regulations or, in any other manner, exercised his rights provided for in these regulations.

Protection from dismissal and burden of proof.

(2) A worker who considers that he has been dismissed, or has been subjected to measures with equivalent effect, on the grounds that he has exercised the rights provided for in these regulations, may request the employer to provide duly substantiated grounds for the dismissal or the equivalent measures. The employer shall provide such reasons in writing.

B 2338

(3) When a worker establishes before the Tribunal facts from which it may be presumed that there has been such an unfair dismissal or an equivalent measure, the employer shall provide evidence that the dismissal was based on grounds other than those referred to in sub-regulation (1).

(4) In cases referred to in sub-regulations (1) and (2), a worker may submit a complaint to the Tribunal established in terms of article 73 of the Act.
