

Sources of Employment Law and Overview of the Employment and Industrial Relations Act – Lecture 1

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Agenda

Award in Employment and Industrial Relations Law

1. Main Sources of Employment Law;
2. The EU influence;
3. Local case law;
4. Transfer of Business;
5. Certificate of Service;
6. Article 42 – Conditions Less Favourable;
7. Enforcement;
8. Penalties;
9. Alternative Dispute Resolution;
10. Trade Unions and Employers Association;
11. The Industrial Tribunal;



A stack of three books is positioned on the left side of the frame. The top book is a small, dark-colored notebook with a light-colored bookmark. The middle book is a larger, light-colored book with a small yellow bookmark. The bottom book is a thick, dark-colored book. To the right of the books, a white pen lies horizontally. The entire scene is set against a dark blue background.

Main sources of employment law

Main sources of employment law

- The Constitution of Malta: Right to work (Art. 7), Safeguarding labour of minors (Art. 16), Protection from forced labour (Art. 35);
- The Employment and Industrial Relations Act (EIRA) & Subsidiary Legislation;
- Wage Regulation Orders (WROs);
- Collective agreements;
- Contracts of employment;
- Company policies.



The EU Influence

- EU directives: Major Source of Employment Law in Malta.
 - Equal Treatment in Employment Regulations (Council Directives 76/207/EEC, 2000/78/EC, 2000/43/EC, 2002/73/EC and 2006/54/EC);
 - Transparent and Predictable Working Conditions Regulations (Directive (EU) 2019/1152);
 - Temporary Agency Workers Regulations (Directive 2008/104/EC);
- EU Regulations: Give preferential treatment to the Employee as the weaker party in the Employment Relationship.
 - Preface to Brussels I Regulation on Jurisdiction and Enforcement of Judgements: *'In relation to insurance, consumer and employment contracts, the weaker party should be protected by rules of jurisdiction more favourable to his interests than the general rules.'*



Local Case-Law

- The Industrial Tribunal, the First Hall of the Civil Court, and the Court of Appeal.
- Cater for gaps in the law (*lacunae*), such as:
 - Constructive Dismissal;
 - Disciplinary Procedure;
 - Compensation for Unfair Termination.



Local Case-Law: Constructive Dismissal

- **Carmel Mallia vs Ilona Galea et (CA) (23.10.2018):** *‘Maltese law does not give a definition of constructive dismissal. However, the Courts and the Industrial Tribunal, in their interpretation, have based themselves on English law to give a definition to this concept.’*
- **Carmel sive Lino Farrugia vs Alexandra Pace Hotel (FH) (7.7.2003):** *‘Resignation from employment for reasons for which the employer is responsible is considered by interpretation as a dismissal.’*
- For example, in **Charichelon Company Ltd vs Amanda Greaves (COM) (17.5.2016)**, the employee was held to have been constructively dismissed, as the reason for her resignation were the unfair working conditions created by the employer, namely excessive work pressure leading to acute anxiety and regular depressive moods in the employee.



Local Case-Law: Disciplinary Procedure

- **James Buhagiar vs Jani Limited (CA) (27.06.2018):** *‘Although in Malta we do not have a code of practice or regulations about the principle of procedural fairness before the employer fires an employee, and this is a serious lacuna in this sector, in our jurisprudence it is accepted that before an employee is dismissed, he is to be given an opportunity to be heard and present his position to his employer, irrespective of what is provided in his contract of employment.’*
- **Maria Rosaria Farrugia vs Catherine Schembri (IT) (6.2.2024):** Even in the case of a grocery shop, before terminating an employee, the employer is bound to issue a charge letter informing the employee of his shortcomings and giving him an opportunity to defend the allegations made.



Local Case-Law: Compensation for Unfair Termination.

- The law does not provide a formula for the calculation of compensation to be given by the Tribunal in cases of unfair dismissal.
- EIRA only gives the Tribunal guidelines: it shall consider the real damages and losses incurred by the worker, and other circumstances (ex. worker's age and skills as may affect his employment potential).
- Judgements have established principles not envisaged by the law (i.e. proportionality, reasonableness, motivation, etc.)
- **Mario Farrugia vs Signal 8 Security Services Malta Limited (CA) (10.5.2023):** *'As is evident from the law, there is an element of discretion in the computation of damages, however this discretion is to be used reasonably and proportionately to the circumstances of the case, and in each case there must be a motivated explanation of the liquidated amount.'*



Employment Relationship



The EIRA defines “Employment” as:

...any relationship whereby *one person does work or performs services for another*;

"Employee"

Any person who has entered into or works under a **contract of service**, or a person who has undertaken personally to execute any work or service for, and under the immediate **direction and control** of another person... but **excluding** work or service performed in a personal capacity or as a contractor.



A blue-tinted photograph of a mountain landscape. In the foreground, there is a wooden fence made of horizontal rails and vertical posts, situated in a grassy field. Behind the fence, a dense forest of evergreen trees covers the slopes of a mountain. The sky is hazy, and the overall scene is serene and natural.

Entitlements

Entitlements | *Annual Leave*

Award in Employment and Industrial
Relations Law



- Every employee with a 40-hour working week is entitled to paid annual leave of at least the equivalent in hours of 192 hours. In 2026, full-time employees are entitled to 192 hours (24 days) of vacation leave plus an extra day for each public holiday falling on a weekend, totaling 216 hours (27 days) due to three weekend public holidays (Sette Giugno, Assumption, Republic Day).
- A proportion of leave entitlement not exceeding 50%, may, by mutual agreement, be carried over to the next calendar year.
- Accrual of annual leave continues to accrue during maternity leave, sick leave and injury leave but not during unpaid leave.
- Leave for part-timers is pro-rated on the basis of full-time worker entitlement.

Entitlements | *Public/National Holidays*

Award in Employment and Industrial
Relations Law



Every whole-time employee shall be entitled to the national holidays and to all public holidays with full pay. There are 14 such national/public holidays.

Entitlements | *Sick Leave*

Award in Employment and Industrial
Relations Law



Leave granted to the employee without loss of pay, whenever an employee presents a medical certificate certifying incapacity for work.

In terms of general provisions of law = **10 days** of sick leave **unless** ... a specific WRO applies.

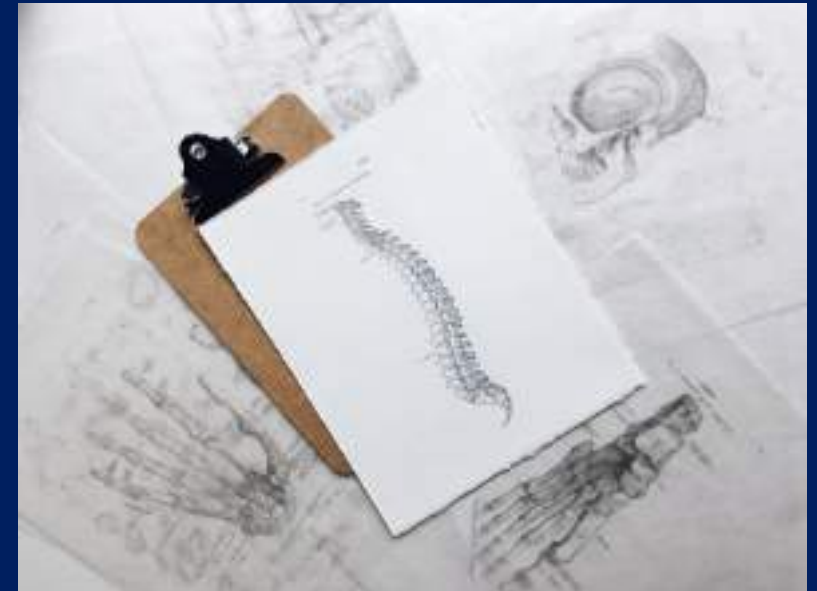
E.g.

- Professional Offices: 20 days on full pay, 20 days on half pay
- Wholesale & Retail: 15 days on full pay, 36 days on half pay;
- Hotels and Clubs (including catering establishments within them): 18 days on full pay;
- Food Manufacture: 12 days on full pay.

Entitlements | *Injury Leave*

Award in Employment and Industrial Relations Law

- Leave entitlement if an employee suffers personal injury *caused by accident arising out of and in the course of his employment, or by any of the diseases specified in the Social Security Act (being a disease due to the nature of his work)* not due to any contributory negligence on his part or to any contravention of safety rules laid down by management.
- Up to 1 year on full pay less the full amount of any injury benefit to which the employee may be entitled under the Social Security Act.
- In cases of *contributory negligence* the absence from the place of work shall be considered as sick leave not injury leave.
- **Saviour Farrugia vs Korporazzjoni Enemalta (FH) (20.5.2016):** employee not entitled to injury leave – the employer provided a reasonably safe work environment, and the cause of the injury was the result of the employee's own negligence (i.e. failing to take the necessary precautions that a reasonable employee would have taken).



Entitlements | *Quarantine Leave*

Award in Employment and Industrial
Relations Law



Leave to be granted to the employee without loss of wages in such cases where the employee is legally obliged to abide by **a quarantine order** confining the employee to a certain area or to certain premises as determined by the Superintendent of Public Health under the Public Health Act or by any public authority under any other law.

Any period of quarantine as may be determined by the Superintendent of Public Health or by any other public authority.



Entitlements | *Maternity Leave*

Award in Employment and Industrial Relations Law

- Pregnant employees are entitled to maternity leave amounting to an uninterrupted period of 14 weeks with full pay, which may be extended to 18 weeks. However, for any period of leave exceeding 14 weeks, the employer will not be bound to pay any wages for such period;
- Once an employee's maternity leave has been availed of, such employee has the right to resume work in the **same post** she was in prior to the commencement of maternity leave or a related post, if the former is no longer available.
- These Regulations also deal with the way in which maternity leave is to be availed of.
 - I. 6 weeks immediately after the date of confinement;
 - II. 4 weeks before the expected date of confinement unless otherwise agreed, in which case the remainder would be availed of after confinement;
 - III. Remaining balance as the employee wishes.



Entitlements | *Special Maternity Leave*

Award in Employment and Industrial
Relations Law



- Employees who are pregnant, breastfeeding or who have recently given birth, who could be exposed to a risk or be conducting work that could jeopardise their health and safety and/or the pregnancy/child will be entitled to ***special maternity leave*** for as long as such risk exists.

What should the employer do in the case that a pregnant employee may be exposed to risk at work?

- Temporary adjustment of work environment (as much as possible)/ hours of work;
- Or assign the employee to more suitable work.

Entitlements | *Adoption Leave*

Award in Employment and Industrial
Relations Law

- Applies to employees who have adopted a child – does NOT apply where the person adopted is the natural offspring of either parent.
- Consists of an uninterrupted period of **18 weeks**. Similarly to maternity leave, the first 14 weeks are paid in full, and the employer shall not be obliged to pay for any longer period.
- Commences when the child passes into the care/custody of the adoptive parent/s by means of a judgment in the country of origin.
- A single parent may avail of the full period of adoption leave.
- When more than 1 parent: it may be enjoyed by the parent who is in employment on the date of adoption of the child.
- If both parents are in employment (whether with different or the same employer), on the date of adoption, each parent is entitled to such part of the adoption leave as they may agree in writing.



Entitlements | *Medically Assisted Procreation*

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Leave for Medically Assisted Procreation (SL 452.114)

Who is eligible for this: two persons who are united in marriage, civil union, cohabitation or who have attained the age of majority and are in a stable relationship with each other.

Eligibility: Total of **100 hours** of leave, with full pay, between the prospective parents... per process (up to 3 processes).

How are the 100hrs divided between both parents?
60 hours for the receiving parent and 40 hours for the other prospective parent.

This also applies if only one prospective parent is in employment during the process (same break down). If both parents are in employment (same or different employer) leave may be enjoyed concurrently by both prospective parents.

The employee is to notify the employer in writing of intended dates of leave.



Entitlements | *Other forms of leave*

Award in Employment and Industrial
Relations Law

<i>Marriage Leave</i>	2 working days
<i>Bereavement Leave</i>	1 working day
<i>Jury Services Leave</i>	As long as necessary on full pay
<i>Urgent family Leave</i>	32 hours with full pay (deducted from both sick leave and vacation leave)



Entitlements | *Other forms of leave*

Award in Employment and Industrial
Relations Law

When is urgent family leave applicable?

Urgent family reasons:

- Accidents to immediate family members of the employee;
- Sudden illness of immediate family member requiring the assistance and presence of the employee;
- Presence during deaths/births of immediate family members of the employee;

The Entitlement:

- No advance notice is required except where possible to give 24 hours notice;
- All Employees shall have the right to be provided with a minimum of thirty-two (32) hours with pay per year as time off from work for urgent family reasons. The first sixteen (16) hours availed of by the employee for urgent family reasons shall be deducted from the annual leave entitlement of the employee. Whilst the remaining sixteen (16) hours availed of shall be deducted from the annual sick leave entitlement of the employee, subject to the availability of the respective balances of the employee.



Miscarriage Leave Regulations

- The Regulations introduce a period of paid leave to all workers in the unfortunate event of a miscarriage.
- The loss or termination must occur before the twenty second (22nd) week of pregnancy, reason being that loss or termination occurring after the 22nd week falls under the scope of maternity leave in terms of the applicable law.
- The core provision of the new regulations states that every worker is entitled to seven (7) working days of miscarriage leave without loss of wages, which shall be availed of immediately after the occurrence of a miscarriage.
- It must be noted that this entitlement applies on an individual basis to both the worker who suffers the miscarriage and to the other prospective parent.
- The employer shall have a right to get a refund of the payment related to miscarriage leave from the Department of Social Security.



Entitlements | *New Entitlements 01/01/2026*

Award in Employment and Industrial
Relations Law

Special Parental Bereavement Leave –

- Legal Notice 275 of 2025 amends the Minimum Special Leave Entitlements Regulations (S.L. 452.101)
- Employees are eligible for special parental bereavement leave, that is, leave granted to the employee without loss of wages on the occurrence of the death of a child under the age of eighteen (18) years, without prejudice to bereavement leave granted by law.
- This entitlement is cumulatively of seven (7) working days.
- The employer shall pay for the special parental bereavement leave granted by the WRO or by the Minimum Special leave Entitlement Regulations and can claim the remainder from the Social Security Department if the application is made within three (3) months from the utilisation of special parental bereavement leave.



Work-Life Balance for Parents and Carers Regulations



Work-Life Balance for Parents and Carers Regulations (S.L. 452.125)

Transposing EU Directive 2019/1158 on Work-Life Balance for Parents and Carers and repealing Council Directive 2010/18/EU.

Transposed in Malta in July 2022.

Aim: designed to achieve equality between men and women with regard to labour market opportunities and treatment at work, by facilitating the reconciliation of work and family life for workers who are parents, or carers.

What are the main updates?

- paternity leave
- updates to parental leave
- carers leave
- flexible working arrangements



Paternity Leave

Leave from work for fathers or, equivalent second parents, on the occasion of the birth or the adoption of a child for the purposes of providing care.

- 10 working days paid leave, immediately after the birth or adoption of the child
- Irrespective of:
 - Length of service
 - Marital/family status





Parental Leave

- Entitlement available to all employees – birth, custody, adoption, fostering of child until they reach 8 years of age;
- 12 months continuous service, whether indefinite or definite (including successive fixed term contracts);
- Agreed dates of leave must be respected by both parties.
- Under the new law, 2 months may be transferred from one parent to another.
- Worker bound to give minimum of 2 weeks notice in writing, specifying beginning and end of parental leave

Parental Leave (contd.)

A period of 4 months, which is paid by the employer for a period of 2 months at the sickness benefit rates, in the following manner:

- (a) 50% of entitlement will be paid, where the child /children has / have not attained 4 years of age;
- (b) 25% of entitlement will be paid, where the child / children has / have attained the age of 4 years but has / have not yet attained the age of 6 years; and
- (c) 25% of entitlement will be paid, where the child / children has / have attained the age of 6 years but has / have not yet attained the age of 8 years.

Parental leave can be postponed via request:

- Seasonal work;
- No replacement;
- Employment is strategic;
- Small businesses (10 persons) (alternatives may need to be discussed);
- If many apply for parental leave at once;
- Written justification to be given within 2 weeks from request if denied;
- Other flexible arrangements must be considered prior to postponement.

Start of Parental Leave

Once the employee provides:

- Birth certificate; or
- Proof of foster placement in the case of foster parents;
- Proof of start of adoption proceedings AND proof of a positive home study report / certified evidence that the couple have legal custody of the child.

Termination during Parental Leave

Notice of termination may be given during parental leave, in which case parental leave is automatically suspended.



Carers' Leave

Carer: any worker providing personal care or support to a relative, or to a person who lives in the same household as the worker, and who is in need of care or support for a serious medical reason.

Relative: a worker's son, daughter, mother, father, spouse or, partner in civil partnership.

Consists of:

- 5 working days;
- Unpaid;
- Evidence of individual's illness and requirement of care and support shall be requested.



*Transparent and Predictable Working
Conditions*

Transparent and Predictable Working Conditions (S.L. 452.126)

Ensure minimum requirements relating to working conditions applicable to every worker in the EU.
'Directive on transparent and predictable working conditions (EU/2019/1152)';

Replaces the Information to Employees Regulations of 2003 which had implemented the Written
Statement Directive (91/553/EEC);

Partial Transposition of the Pay Transparency Directive;

Provision of information by the employer to the employee –**in writing** –on paper or if it can be
accessible to the worker, that it can be stored and printed and employer retains proof of transmission or
receipt, in electronic form;

**Employers must provide information to employees of the essential aspects of the
employment relationship.**

Information to be provided

Timing

- Information from (a) to (e) and (g), (k), (l) and (m) – to be provided between the **1st working day and not later than the 7th calendar day**;
- This includes crucial information such as parties' details, place of works, job description, remuneration.
- Other information mentioned – **within one month** of the first working day.



- information referred to in sub-regulation 1(g) to (l) and (o) may, where appropriate, be given in the form of a reference to the laws or collective agreements governing that information.
- Covers, amongst others, probation, training, leave, termination procedure and notice, and remuneration.

Information to be provided

- A. The name, registration number and registered place of business of the **employer** and a legally valid identification document number, gender, and address of the **employee** and the **place of work**;
- B. The **place of work**. Where there is no fixed or main place of work, the **principle that the worker is employed at various places** or is **free to determine his place of work**, and the registered place of business or, where appropriate, is the domicile of the employer;
- C. The **title, grade, nature or category** of work of the employee;
- D. Brief specification /**description of the work**;
- E. The date of **commencement** of the employment relationship;
- F. In the case of a fixed-term contract, the **end date/expected duration** thereof;
- G. In the case of temporary agency workers, the identity of the **user undertakings**, when and as soon as known;
- H. The duration and conditions of the **probationary period**;
- I. The **training entitlement** provided by the employer, if any;
- J. The amount of **paid leave** to which the worker is entitled: where this cannot be indicated when the information is given, the procedures for allocating and determining such leave;



Information to be provided

- K. The procedure and notice period to be observed where employment relationship is **terminated**;
- L. The **remuneration** including the initial basic amount, any other component elements, the frequency and method of payment and the conditions under which fines may be imposed by the employer and their quantum;
- M. If the work pattern is entirely or mostly predictable, the **length of the worker's standard working day or week** and any arrangements for **overtime** and its remuneration and, where applicable, any arrangements for **shift changes**;
- N. If the work **pattern is entirely or mostly unpredictable**, the employer shall inform the worker of:
 - i. the principle that the work schedule is **variable**, the number of **guaranteed paid hours** and the remuneration for work performed in addition to those guaranteed hours;
 - ii. the **reference hours and days** within which the worker may be required to work;
 - iii. the **minimum notice period** to which the worker is entitled before the start of a work assignment and, where applicable, the deadline for cancellation of the work assignment;

Information to be provided

- O. Any **collective agreements** governing the worker's conditions of work or in the case of collective agreements concluded outside the business by special joint bodies or institutions, the name of such bodies or institutions within which the agreements were concluded;
- P. Where it is the responsibility of the employer, the identity of the **social security institutions** receiving the social contributions attached to the employment relationship and any protection relating to social security provided by the employer;
- Q. Any **other relevant or applicable condition of employment**.

Other provisions of the Transparent and Predictable Working Conditions Regulations



IMPORTANT

No condition of employment can be amended after the commencement of employment, unless such modification or amendment is a result of a change in laws, regulations or a collective agreement.

An employer may not prohibit a worker from taking up employment with other employers, outside the work schedule established with that employer, nor subject a worker to adverse treatment for doing so.

However, an employer may prohibit a worker from taking up employment with other employers on the basis of **objective grounds**, such as **health and safety**, the **protection of business confidentiality**, the **integrity of the public service** or the **avoidance of conflicts of interest**.

Amendments to the Regulations

August 2025 amendments;

- The amendment came about in view of the imminent coming into force of the Pay Transparency Directive (Directive 2023/970) of 10 May 2023, which shall be transposed by all EU Member States by the 7th June 2026 at the latest
- The new amendment first and foremost grants rights to 'applicants for employment' which is a novel concept in this particular legislation, since until now, rights and entitlements have only been afforded to employees.
- An "applicant for employment" is defined as any person seeking employment and who is being considered for engagement with a prospective employer. By virtue of the amendment, applicants for employment now have the right to receive from the prospective employer information about the initial pay, or its range, to be attributed to the position concerned. Where the employer is governed by a collective agreement, the applicant for employment shall also have a right to receive the relevant pay provisions of the collective agreement which apply to the role being filled. It is crucial to note that such information shall be supplied before the actual start of employment.

Amendments to the Regulations

- By means of a new regulation 5A, the law introduces the right of all workers to request their employer, at any time during employment, their individual pay level and the pay levels for categories of workers performing the same work as them. Where there is a collective agreement regulating employment relationships within the company, the assessment of who performs the same work as others might be an easier task than it is in respect of other entities where there is no collective agreement in place and thus where the assessment is possibly carried out internally by the employer.
- Furthermore, the new law defines “pay level” as that referred to in the [new] right to request which the employee now has. The pay level is indeed defined as the gross annual pay and the corresponding gross hourly pay, the latter particularly relevant in the case of part time employees.
- The last insertion of the amendment qualifies the abovementioned right to request. Indeed, when employees avail themselves of the right to request their individual pay level and the pay levels for categories of workers performing the same work as them, the employer is obliged to provide the requested information within a reasonable period of time. As the Directive itself states, the reasonable time means a period of time not exceeding two (2) months from the date on which the request is made.

Article 7 EIRA: Conditions of employment to be brought to notice.

- *‘On engagement of any employee, the employer shall explain to the employee the provisions of any recognized conditions of employment as may be applicable and shall deliver to the employee a written statement about such conditions as may be prescribed.’*
- **Ismael Sammut vs A Falzon Energy Project Ltd (COM) (27.10.2021):**
 - Plaintiff employee sued his former employer for the balance of his unpaid wage;
 - Former employer argued that the amount claimed did not constitute a wage but rather a discretionary performance bonus which it was entitled to retain;
 - There was no written contract of employment between the parties;
 - The Court held that if what the Company is alleging was true and the sum was only a discretionary bonus, it should have honoured its obligations at law and provided a written declaration to the employee with the conditions of employment;
 - The Court held that the employer cannot use its own failure to provide information to its advantage, and opted to believe the employee’s version of events.



Transfer of Business

- Subsidiary Legislation 452.85
- Transfer of Business (Protection of Employment) Regulations

What constitutes a transfer?

- Article 38 EIRA: When a business or other undertaking is taken over, in whole or in part, by a person (the ‘transferee’) from any employer (the ‘transferor’).
- TUPE Regulations: Article 38 EIRA and these regulations apply to any transfer of an undertaking, business, or part of an undertaking or business, to another employer as a result of a **legal transfer** or **merger**:
- Provided that there is a transfer within the meaning of this regulation whenever there is a transfer of an economic entity which **retains its identity**, with the objective of pursuing an economic activity;

- Article 38 EIRA provides that every employee of the transferor shall be deemed to be an employee of the transferee and the transferee shall take on all of the employee's rights and responsibilities from the date of transfer.
- The Regulations provide that the contract of employment of the previously employed employees by the transferor, shall have effect as if they were done between the employee and the transferee.
- Therefore, transferee must abide by any terms and conditions laid out in the collective agreement on the same terms as applicable to the transferor until the date of transfer.



Written Statement Requirement for Transfers with more than 20 employees

- This requirement applies only when the undertaking being transferred employs more than 20 employees.
- The deadline for providing the statement is at least 15 working days before the transfer or before the employees are directly affected by the transfer (whichever happens first).
- The statement must include the following details:
 - (1) Date and reason of transfer;
 - (2) Legal, economic and social implications for employees; and
 - (3) Measures to be taken concerning the employees as a result of the transfer.
- A copy of the written statement must be sent to the DIER on the same day the employees are notified.
- If there are changes to employment conditions, there is a 7 working day consultation period from the day the employees' representatives are notified of the intended transfer.



Grafe and Pohle v. Sudbrandenburger Nahverkehrs GmbH (2020)

- This is an example of employee protection being extended beyond standard business acquisitions and therefore is not limited to cases involving the sale or takeover of an entire business or undertaking.
- Facts:
 - (1) A public passenger transport company in Germany ceased trading after being unable to submit a viable tender.
 - (2) The company issued termination notices to employees.
 - (3) A separate company won the tender and employed the majority of the previous company's staff.
 - 4) ECJ: the lack of transfer of operating resources does not necessarily exclude the event from being classified as a “transfer of an undertaking”.
 - 5) Relevance: the case did not involve acquisition or sale, but the activity was still considered a transfer under Article 1(1) of Directive 2001/23 (Transfer of Undertakings Directive).



Article 41 EIRA - Certificate of Service

- An employee whose employment is terminated may request a certificate of service indicating the following:
 - (1) The duration of employment;
 - (2) The nature of work carried out;
 - (3) The reason for termination (if requested);
 - (4) Rate of wages paid (if requested).

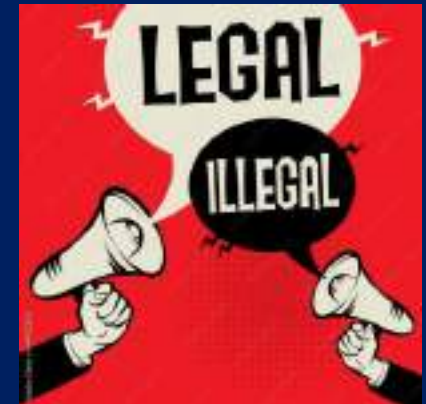


Article 42 EIRA – Conditions Less Favourable

- Employers cannot impose conditions on employees which are less favourable than those provided for in the law.
- In **Il-Pulizija vs Andrew Farrugia et (CA) (15.9.2010)**, the defendants were being accused of failing to pay one of their employees.
- According to the defendants, the employee had agreed that the first few months of her employment were going to be restricted to training and will therefore be unpaid.
- The Court held that according to law, 'hours of work' must be remunerated, and the definition of 'hours of work' included training. Quoting Article 42 EIRA, the Court held that any agreement to the contrary shall be without effect and the law would apply.



- An exception exists where the employer can prove that such action is taken to avoid effecting redundancies (the employees affected must accede to any proposed changes).
- A permit needs to be formally obtained from the DIER, with justifications, which must be renewed every 4 weeks.



Enforcement and Penalties

- Inspectors have the power to:
 - (1) Enter employer premises for inspections; and
 - (2) Carry out any inspection necessary to ensure compliance with the law, including interrogation of employer/employee, and the requirements to present any books, registers or other documents as required by the EIRA.
- Inspectors should give notice, unless it may be prejudicial.
- No person may give false answers, fail to produce required documentation, prevent persons from appearing before the inspectors, or in any way obstruct the inspection.



August 2025 amendments to EIRA

- Extended the rather short prescriptive period of one year for offences. Since the promulgation of EIRA in 2002, the provision establishing a prescriptive period of one year from the commission of the offence, has never been amended. By means of the amendment, the prescriptive period applicable to proceedings for an offence which falls under EIRA has been extended to two years.
- The punishments under article 45 of the Act are now increased. The range of punishment which can be imposed by the Court of Magistrates hearing cases alleging breaches of the law is a fine between two thousand euro (€2,000) and five thousand euro (€5,000) for principals found guilty for the first time. If a principal is a recidivist, the fine (multa) shall be no less than five thousand euro (€5,000) and no more than seven thousand euro (€7,000). It must be kept in mind that in case of a conviction, the Court does not only award punishments as aforesaid but, at the request of the prosecution, it shall order the offender, on proof of the amount, to refund or pay to the employee or employees concerned, amounts due to him, such as wages which have not been paid.

Dispute Resolution

- Employment tribunals and courts play a vital role in adjudicating on matters related to unfair dismissal, discrimination, wage disputes and other violations of labour law.
- In addition to formal legal proceedings, it is encouraged to use mediation and alternative dispute resolution methods to resolve employment disputes.
- Mediation provides a voluntary and confidential process facilitated by a neutral third party to assist parties in reaching mutually acceptable resolutions.



Trade Unions and Employers Associations

Trade Unions: General

- **Francis X. Sare' vs Salvatore Cacciottolo et (FH) (9.1.1953):** A trade union is what is called a civil society, recognised and permitted by law. Those who subscribe to it enter into a contractual relationship with it, and are bound to observe its statute.



Trade Unions: Recognition

- Trade Unions are entitled to request recognition from the employer in writing, copying the DIER.
- If the requesting union fails to supply any information requested by DIER within 48 hours OR has less than 50% of employees as members, the requesting union shall have no right to be recognised, and no further requests may be made within 1 year.

Trade Unions: Collective Bargaining

- Trade Unions recognised according to law are entitled to request negotiations with an employer for the purpose of entering into, or revising a collective agreement.
- The employer shall, within 30 days of receiving the request, communicate acceptance, and the trade union promptly communicates a written agenda outlining the main representations to be made in the negotiation meetings, along with the attendees.



Employers Associations: The Objectives

- Unite employers by fostering strong relations among members, with employee representatives, and between members and employees, and coordinating policies and activities through collective bargaining or consultation.
- To act as a communication medium with the Government, public authorities, unions and other bodies on industrial relations and members' interests.
- Represent members regulating employer-employee relations.
- Promote negotiation/arbitration for settling industrial disputes.
- To provide a platform for regular consultation on common interests.
- Offer consultative services and expert guidance on employer/employee matters.
- Maintain up to date statistics on wages and employment conditions.
- Represent members in international organisations like ILO and International Organisation of Employers.
- To promote or oppose measure affecting members.
- To assist in organising employers into sector-specific groups

The background image is a monochromatic blue-toned photograph of a person's hands working at a desk. One hand is positioned over a calculator, while the other is near a computer keyboard. The scene is dimly lit, with the primary light source highlighting the hands and the objects they are interacting with. The overall mood is professional and focused.

Industrial Tribunal

The Tribunal's Functions



Industrial Disputes



Unfair Dismissals & other cases
indicated under the EIRA

Jurisdiction

Article 30 EIRA - Industrial Tribunal competent to hear complaints regarding:

- Discrimination;
- Breach of 'equal pay for equal work' principle;
- Harassment;
- Victimisation.

To be filed within 4 months.



Jurisdiction

Article 74 EIRA:

- Trade disputes which are not resolved via amicable settlement may be referred to the Industrial Tribunal if all the parties agree. Such referral is requested to the Minister, who then refers the dispute to the Tribunal.



Article 75 EIRA:

- Cases of alleged unfair dismissals;
- Cases of amounts due (half remaining wages) upon premature termination of fixed-term employment contract;
- Cases falling within the jurisdiction of the Tribunal as per the provisions of the EIRA.

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