

Department of Industrial and Employment Relations

(Period Covered: 1st January, 2002 to 31st December, 2002)

1. Introduction

a) Functions

The principal functions of the Department of Industrial and Employment Relations are:-

- The protection of interests of workers who are on employment contracts, particularly with regard to conditions of employment.
- The provision of support services for the Industrial Tribunal, Wages Councils, National Employment Authority and co-operatives Board.
- The provision of effective mediation and conciliation in order to reduce industrial actions and trade disputes.
- The promotion of good relationship between employers' and workers' representatives.

b) Employment Protection

The new Employment and Industrial Relations Act, 2002 has been published in the Government Gazette on 25th October, 2002 and the subsidiary legislation on 31st December, 2002 namely

- Parental Leave Entitlement Regulations
- Part-Time Employees Regulations
- Collective Redundancies (Protection of Employment) Regulations
- Contracts of Service for a Fixed Term Regulations
- Posting of Workers in Malta Regulations
- Information to Employees Regulations
- Guarantee Fund Regulations
- Transfer of Business (Protection of Employment) Regulations

The Act transposes most of the provisions of the Labour Acquis. Subsidiary legislation under the

above mentioned Act was drafted by the Department and vetted by the newly appointed Employment Relations Board. Whilst most of the EU Labour Acquis has been prepared as a final draft as at the end of 2002, the Working Time Directive and the European Works Council Directive are in final drafting stage awaiting the consideration of the Employment Relations Board. All technical staff of the Department participated actively with concrete proposals being made and a draft Employment and Industrial Relations Act, supplemented by draft Legal Notices have been prepared.

As part of the Government Policy to join the European Union, The Department's officials contributed to the E.U. accession process by participating in tripartite discussions in the negotiating process at a national level.

The Director, Mr. Frank Pullicino and Mr. Anthony Azzopardi, Assistant Director of the Department of Industrial and Employment Relations participated as members of the Maltese delegation in the study/research visit to Ireland on "social dialogue". They were accompanied by other representatives from the CMTU, GWU, MEA, the Foundation for Human Resources Development, and social scientists from the W.P.D.C.

The Director, Mr. Frank Pullicino, and Dr. Maria Sciriha, Junior Legal Officer, in the Department of Industrial and Employment Relations, attended a seminar at TAIEX Office in Brussels on Working Time Legislation. A paper was presented by the Government side at the seminar, where all candidate countries to the EU were invited to attend, and which was organized in cooperation with the Directorate General Employment and Social Affairs.

Dr. Joseph Bonello, the Legal Officer, also attended a seminar in October at Lyons, France regarding "Employment Enlargement Deepening". He participated in various workshops dealing with Industrial Relations & European collective bargaining together with a representative of the Malta Employers' Association.

Officers of this Department also attended a three day seminar organised by the International Labour Office in collaboration with the Merchant Shipping Directorate of the Malta Maritime Authority with the financial assistance of the European Union.

The former Labour Board was convened and made recommendations to the Minister of Social Policy for the issue of two National Standard Orders to implement the wage increase announced in the budget for 2003. The Wage Increase (Employee) National Standard Order and the National Minimum Wage National Standard Order were published in the Government Gazette of the 6th December, 2002.

The new Employment Relations Board was set up in terms of the Employment and Industrial Relations Act. The Board members were appointed on 2nd December, 2002 following the receipt of nominations of the workers' and employers' representatives from the Malta Council for Economic and Social Development. The functions of the Board are to make recommendations to the Minister as to any minimum national standard conditions of employment for eventual inclusion in a national standard order. Since its inception, the Board met held 5 meetings and approved 8 legal notices.

During the year the Department improved on its performance by engaging qualified personnel. It recruited 1 Economic Officer, 1 Legal Officer and 1 Junior Legal Officer. Whilst interviews for the recruitment of 3 Economics Officers were held, the Public Service Commission also approved the call of application for the filling of posts of 10 Employment Relations Officers as published in the Government Gazette. In-house training vis-à-vis new labour laws is ongoing and officers of the Department are participating in conferences abroad alongside other officials from applicant countries. Also 5 Officers of the Department are presently undergoing a two-year Diploma Course in Industrial relations organised by the Workers' Participation Development Centre at the University of Malta. Moreover, this course will also deal with European Union matters in relation to labour legislation.

During the period under review, the Department also invested in I.T. and upgraded its Customer Care Service leading to the fulfillment of the obligations enabling it to satisfy the Civil Service Quality Service Charter. Major structural alterations have been carried out to create more space to cater for future recruitment of personnel with the Department. Refurbishing and the installation of new lighting system and wall redecoration were carried out. New desks and other furniture were also bought.

2. Settlement of Trade Disputes

The Department took a more proactive approach towards the settlement of trade disputes and this has contributed positively to a more stable industrial action climate. Mediation and conciliation efforts by high officials of this Department avoided strikes and brought litigants to amicable settlements on various occasions.

In fact, during the year 2002, the Department was requested to intervene through conciliation on 102 occasions in an effort to bring an amicable settlement of trade disputes between employers and trade unions. Whilst agreement was successfully reached in 85 cases, only on 2 occasions were the trade disputes referred to the Industrial Tribunal. It should be noted that most of the conciliation meetings were convened on the initiative of the Department in an effort to settle disputes at the earliest stages of conflict, thus avoiding escalation of industrial unrest.

3. Industrial Tribunal

The Industrial Tribunal is an independent tribunal made up of a Chairman who is selected from a panel of chairmen, members who are selected from a panel of persons representing employers' interests and members who are selected from a panel of persons representing the trade unions. The Tribunal hears and decides trade disputes referred to it by the Minister at the request of one or both parties in dispute. It also decides cases of alleged unfair dismissal. Sessions of the Industrial Tribunal are held at the Law Courts, Republic Street, Valletta. The Department

provides support services for the Industrial Tribunal in the form of providing secretaries for each Chairman and all the clerical and office facilities to operate this service.

During the period of January – December 2002 the Industrial Tribunal received 117 new cases of alleged unfair dismissals, 19 new cases of trade disputes and 1 new case for interpretation.

The Industrial Tribunal dealt with 105 cases of alleged unfair dismissals and 13 cases of trade disputes. It also gave advice on 1 case, 1 interpretation, 6 preliminary decisions and delivered 12 decrees.

The Industrial Tribunal held 394 sittings during which it heard 965 cases.

4. Industrial Actions

During the year 2002 there were 5 industrial actions which resulted in a total of 744 man-days lost. These actions involved 678 workers. The Department of Industrial and Employment Relations took an active part to conciliate both parties during industrial actions. On various occasions, the Department was instrumental to the achievement of an amicable settlement and consequently the termination of the industrial action.

The following table shows the number of industrial actions by sectors.

	No. of Strikes	Workers Involved	Man-Days Lost
Public Sector	2	400	63
Independent Statutory Bodies	0	0	0
Banking Sector	0	0	0
Private Sector	3	278	681
Total	5	678	744

5. Collective Agreements

A total of 42 Collective Agreements entered into by industrial establishments and trade unions were

registered during the year in terms of Section 10(2) of the Conditions of Employment (Regulation) Act.

6. Inspectorate

7.

a. Malta

The Inspectorate Section caters for those employees who require assistance whilst still in employment. The Section carried out 4,628 inspections. These inspections covered 14,221 employees of whom 5,599 were interviewed.

608 irregularities were detected. 61 claims were issued and these amounted to Lm94,137.91.

Officials in this Section dealt with an average of 16,394 enquiries regarding conditions of employment on the phone and personal calls at the Office. In most cases of arrears of wages and other irregularities concerning contract of service, rectification was effected through the Section personnel's direct efforts. Other cases were followed up through court action. The section also updated and printed 31 Wage Regulation Orders, the Employment and Industrial Relations Act and the National Standard Orders. This updated legislation is offered for sale to the public at a minimal price. The revenue from the sales of this printed material amounted to Lm30.

b. Gozo

During the year under review this Section carried out 173 routine inspection which covered 480 employees. During these inspections 239 employees were interviewed and 19 irregularities were detected. Action from this end was taken to rectify these irregularities. 115 follow ups/special visits were undertaken.

13 claims amounting to Lm9,320 were issued in respect of arrears of wages, wages below the Wage Regulation Orders/National Standard Orders, vacation leave, bonuses, overtime remuneration and weekly allowance not granted.

Two officers from this section attended 26 court sittings/perizias.

2 applications for new or transfer of licenses were received from the Police. These were all inspected and reports sent to Gozo Police.

7. Enforcement

The Enforcement Unit of the Department is mainly responsible for dealing with cases of termination and the referral of cases to Court. Members of the public, including employees, call at the Department to discuss employment problems, including cases of termination of employment, terminal benefits, and other matters falling within the Employment and Industrial Relations Act. This Unit dealt with an average of 12,405 enquiries regarding conditions of employment.

165 claims were served by Officials of this Section against employers in Malta. These claims amounted to an aggregate of Lm142,838.14. On the other hand Lm18,630.06 were settled by voluntary agreements out of court as a result of the efforts by the Section's Officials.

77 charges were referred to the Police for prosecution. Officers from this section attended 745 court sittings in Malta.

There were no hearings before the Court of Appeals and no cases were heard by Legal Referees. 99 cases were settled out of Court.

The Enforcement Unit issued renewals of licenses as follows:-

Projectionists	6
Engine drivers/Electrical motor drivers	532

The sum of Lm437.25 was collected from the renewal of licenses and another Lm5,770 were collected as miscellaneous revenue. The latter figure was registered due to steps that were taken against defaulters in the Self-Employed (Loan) Scheme. Monitoring of payments continued and defaulters were issued warning letters to effect payments by installments. Furthermore, discussions with the A.G.'s Office are still

ongoing regarding possible legal action for the recovery of the said amounts.

8. Occupational Health and Safety

The Occupational Health and Safety Authority (OHSA) has been set up in January, 2002 and henceforth the Department of Industrial and Employment Relations no longer has any responsibility in so far as is enforced to National Health and Safety Legislation.

9. Expatriates

During the year 2002, the Expatriates Unit dealt with 2,164 new applications for work permits and a further 1,156 for renewal of work permits. In addition, 35 on the spot inspections were carried out by personnel of this Unit.

Applications for work permits/renewal of work permits are processed by an Inter-Departmental Committee, chaired by the Director of Citizenship and Expatriate Affairs. This Committee held 68 meetings where 3,834 applications were discussed during the year under review.

10. Employment Agencies

In terms of the Employment Agencies Regulations, 1995 which came into effect on 1st January, 1996, every person, company, or association, who carries out employment and recruitment services requires a license issued by the Director of Industrial and Employment Relations, except in the case where the services are provided by an employer for his own firm. The exemption applies also to a partnership, of which the person carrying out the services, is an active partner and to a holding Company vis-à-vis employment by any subsidiary in which it has a controlling interest.

The regulations also regulate the publication of advertisement for the filling of vacancies. Any employer may place an advertisement for the filling of any vacancy in his establishment if his identity is clearly shown on the advertisement. Any employer who does not wish to disclose his

identity must resort to a Licensed Employment Agency. The regulations prescribe procedures to be followed for applying for a licence. They also prescribe procedures to be adhered to for ensuring professionalism, protecting the confidentiality of information and for protecting the interests of applicants for employment and other users.

During the period under review, 23 Employment Agencies renewed their licence, 2 Employment Agencies withdrew their licenses, whilst 3 Employment Agencies were issued with a licence to act accordingly. The amount of Lm3,900 was collected as licences' fees.

The number of licensed Employment Agencies at the end of December, 2002, was 34.

This Section also vetted 309 advertisements which appeared in the local press for job vacancies and/or recruitment by Licensed Employment Agencies.

11. Registrar of Trade Unions

During the year 2002, 1 new trade union was registered.

The report by the Registrar of Trade Unions was published in the Government Gazette of the 18th October, 2002. As on the 30th June 2002, there were 35 trade unions with an overall membership of 86,225 and 25 employers' associations with membership strength of 9,165. 3 trade unions and 3 employers' associations have still not submitted to the Registrar complete returns as required by the Industrial Relations Act. These organisations are being called to comply or else steps contemplated by law would eventually be taken against them.

At the end of 2002, there were 60 organisations on the Register, made up of 35 trade unions and 25 employers' associations.

12. ILO Annual Conference

Two officials of the Department took an active part in the 90th Session of the ILO Annual

Conference held in Geneva, Switzerland during June. The other members of the Maltese delegations came from the UHM, GWU, CMTU, MEA, MUT and from the FOI.

This year the major items on the Agenda were:

- Promotion of Co-operatives
- The Informal economy
- Recording and ratification of occupation accidents and diseases

The Malta delegation's visit to Geneva was organised by officials of this Department with the help of the Permanent Mission of Malta in Geneva.

F. PULLICINO
DIRECTOR OF INDUSTRIAL AND
EMPLOYMENT RELATIONS

