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Media Release

MEA: Employers will not be treated as Second Class Citizens

The Malta Employers Association expressed serious concerns about the Human Rights and the Equality Commission Act 2015, and the Equality Act 2015. The Association said that while it finds no issue with safeguarding the rights of minorities and vulnerable persons, it cannot agree in principle with measures that will effectively place an employer as a guilty party before being given the opportunity to prove his/her innocence of alleged contraventions. The MEA stated that this goes against natural law and employers cannot be treated as second class citizens and be denied rights which are given to other persons.

The Association also objects to the excessive powers being bestowed upon the Commissioner for Equality, who will investigate and will effectively be judge, jury and executioner on matters related to discrimination. Any person or body accused of discrimination should only be found guilty or otherwise in court after the due legal process, and not by an arbitrarily appointed Commissioner. The fact that the original draft of the legislation, which also gave the Commissioner the power and discretion to send an employer to prison without due process, has been amended is of no consolation to employers. The Association added that the provisions of the legislation and the duties of the Commissioner will overlap with provisions which already exist in employment law.

The MEA added that, unlike government, employers do not have the luxury to employ persons on the basis of a 'position of trust', which frequently is an excuse for blatant cronyism and political discrimination. Is government prepared to apply this legislation to its own employment practices, and reassure the tax payer that all employment on the basis of position of trust has been awarded according to the principle of equal opportunity and meritocracy?

The Association also pointed out to other instances of double standards with respect to employers. An employer can be accused of discrimination on grounds of 'personal beliefs'. For example, the church has to give equal opportunity to a non-believer to teach in church schools. This should only be acceptable if the employee follows the institution's ethos. One has to see whether political parties, for example, are prepared to practice what they preach and offer high positions within their ranks to qualified persons who however sympathize with the opposing party!

The MEA stated that the provisions of this legislation go way beyond measures and directives at EU level, and that a draft EU Directive with similar provisions was shelved following opposition by many member states due to its impracticality. One can only ask, in such circumstances, why are the Maltese authorities so keen to become

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the test market of the EU in such matters? Is this excessive zeal driven by a genuine concern for minority groups, or by electoral convenience and pressure which is being exerted by extremist lobby groups? The Association said that it has voiced these objections months ago when the bills were in draft form, and also made a presentation at the MCESD on the matter. In view of the poor progress made it is reserving the right to take any legitimate action to protect employers' rights.