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Media Release

The Malta Employers' Association proposes numerous changes to the Employment and Industrial Relations Act

The Malta Employers' Association has presented a document with a set of proposals to amend the Employment and Industrial Relations Act. The main aim of the amendments is that, while the EIRA has served its function since it was enacted in 2002, some aspects of this legislation need to be changed to take stock of the flaws and lacunae found in the existing law, and to reflect developments within the EU in the field of employment and industrial relations.

The salient points of the recommendations are:

1. Insert in the Law a missing definition of a "Union Member".
2. Insert in the Law, simple, concise and clear guidelines on how to establish Union recognition.
3. Employers need to be given three days notice prior to a strike being effected.
4. Employers need to be authorised to deduct from wages:
 - a) when notice period is not worked by employees;
 - b) when service is abandoned before the expiry of a definite period contract;
 - c) when an employee fails to work the full six months following return from maternity leave;
 - d) when a resigning employee would have overutilized the vacation leave entitlement.
5. Employees who do not follow a standard system of Saturdays and Sunday off, like normal Monday to Friday employees, should forfeit Public holidays falling on their days of Rest.
6. The Industrial Tribunal, in all cases, whether dealing with an unfair dismissal or a Trade Dispute, will always be chaired by a lawyer with at least 7 years experience who will be assisted by 2 laypersons representing employers and workers.

7. In giving decisions the Industrial Tribunal should not explicitly condition itself to Government, social or economic policies or national development plans as currently there is an obligation.
8. Industrial Tribunal decisions will be subject to appeal in front of an Employment Appeals Tribunal.
9. A current condition whereby an Industrial Tribunal decision is subject to overriding authority of the House of Representatives must be removed.
10. The maximum compensation awarded by a Tribunal should be capped and should not exceed 18 months salary.
11. An obligation must prevail on the Tribunal to give an award within three months from the date of the last sitting when the case is put off for decision.
12. A Chairperson will enjoy security of tenure for the period of appointment agreed, and will not be subject to dismissal through a current ministerial prerogative to change at will the composition of the panel of Chairpersons.
13. Unless specified in a Wages Council Wage Regulation Order, employers can allocate at least 8 days per year as shutdowns of to bridge public holidays
14. Absenteeism from work due to self-inflicted unfitness for work including, but not limited to, drunkenness, hangover, sunburn, sun-strokes, sports injuries will not render the employee entitled to sick-leave, even if the employee is certified by his own doctor as unfit for work.
15. While acknowledging that each case should be treated on its own merits, the MEA is proposing that employers should not pay for sick leave resulting from purely cosmetic surgery.
16. A revision of the COLA mechanism to factor productivity and efficiency levels.
17. A clarification of the wording regarding termination of employees upon reaching retirement age, or if retained in employment after retirement age.
18. Establishing a compulsory period of notice in case of resignations
19. The MEA is proposing that some jobs are classified as exempt from overtime payment by definition. In practice, this is already being done, and in most administrative, technical, managerial and executive posts yearly salaries are inclusive of any hours worked in excess of forty per week.

The MEA believes that a concise and clear legal framework will ensure that employment matters get adequately covered and regulated and relations between employers, unions and Government will not develop into complex and sometimes confrontational situations.

Finally also, the MEA confirms and emphasizes that it is a firm believer in the validity of “custom and practice” protocols which periodically get amended and evolve with Industrial Tribunal decisions and clarifications.

The Association will submit these recommendations to the MCESD for discussion with the social partners and to the relevant authorities. The full document can be accessed through the following link: <http://www.maltaemployers.com/Portals/22/EIRA%20Proposals%202014.pdf>