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European Monitoring Centre on Change

Malta: Effects of non-compliance with dismissal regulations

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Malta

Phase:

Management

Type:

Effects of non-compliance with dismissal regulations

Last modified: 22 September, 2019

Native name:

Legislazzjoni Sussidjarja 452.80 - Regolamenti dwar Sensji Kollektivi (Harsien ta' l-Impjegi) (Avviz Legali 428 ta' l-2002, kif emendat bl-Avvizi Legali 427 u 442 ta' l-2004) u Avviz Legali 281 of 2017; Kap. 452 - Att dwar l-Impjegi u r-Relazzjonijiet Industrijali, 2002

English name:

Subsidiary Legislation 452.80 - Collective Redundancies (Protection of Employment) Regulations (Legal Notice 428 of 2002, as amended by Legal Notices 427 and 442 of 2004 and L.N. 281 of 2017; Cap. 452 - Employment and Industrial Relations Act, 2002

Article

Collective Redundancies (Protection of Employment) Regulations as amended by L. N. 428 of 2002, as amended by Legal Notices 427 and 442 of 2004 and 281 of 2017 - Whole regulation; Employment and Industrial Relations Act, 2002 - Articles 36 and 81

Description

Collective dismissals

In the event of non-compliance with the Collective Redundancies (Protection of Employment) Regulations, the legislation specifies fines of not less than €1,165 for every employee declared redundant.

The Department of Industrial and Employment Relations can take action regardless of whether a collective redundancy (10 dismissals in companies with 21-99 employees, 10% of staff in companies with 100-299 employees, 30 dismissals in larger companies) has been notified or not to the Director General Industrial and Employment Relations. The Department of Industrial and Employment Relations is empowered to pass on the case to the police to take criminal action in the case of a breach of any of the provision of the Collective Redundancies (Protection of Employment) Regulations.

Moreover, the affected party (being the employee or ex-employee) can also institute a claim of alleged unfair dismissal before the industrial tribunal which has exclusive jurisdiction in cases of alleged unfair dismissal.

If the employer fails to give the employee the statutory notice period or does not require the employee to work during the notice period, the employer has to pay the employee a sum equal to the full wages that would be payable in respect of the unexpired period of notice.

Comments

Labour legislation and related amendments are discussed at formulation stage in the tripartite Employment Relations Board (ERB). Members forming this board come from trade unions, employer associations and the government.

Cost covered by

Employer

Involved actors other than national government

Employer organisation
Trade union
Other



Involvement others

Industrial tribunal; Employment Relations Board; Department of Industrial and Employment Relations

Thresholds

No, applicable in all circumstances

Sources

-  EMCC legal framework of restructuring
-  Chapter 452 - Employment and Industrial Relations Act, 2002
-  Subsidiary Legislation 452.80 - Collective Redundancies (Protection of Employment) Regulations, 2002

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