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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
OF THE COUNCIL OF EUROPE
(VENICE COMMISSION)

MALTA

ADMINISTRATIVE JUSTICE ACT
(CONSOLIDATED VERSION) *

This consolidated version includes the sections contained in the draft amendments submitted to the Venice Commission by the Ministry of Justice. These sections are identified in **bold.*

CHAPTER 490**ADMINISTRATIVE JUSTICE ACT**

To provide for Administrative Justice in Malta.

15th June, 2007;
1st January, 2009

ACT V of 2007, as amended by Legal Notices 246, 334 of 2009, 337 of 2010; Act VI of 2011; Legal Notices 326 of 2011, 402 of 2012, 163, 443 of 2013; Act IV of 2016 and Legal Notices 5 of 2018, 9 of 2019 and Acts VII and XVII of 2022 and XXXIII of 2023 and XVII, XVI and XIX of 2024 and Legal Notices 191, 266, 282, 313, 314, 315, 316, 335, 336 and 375 of 2024 and 81, 83, 94, 191, 208, 222, 226 and 271 of 2025, Act XXXVIII of 2025 and Legal Notice 5, and 104 of 2026.

1. The short title of this Act is the Administrative Justice Act.

Short title.

PART I**Preliminary Provisions**

2. In this Act, unless the context otherwise requires -

Interpretation.

"administrative act" includes the issuing by the public administration of any order, licence, permit, warrant, authorisation, concession, decision or a refusal to any demand of a member of the public, but does not include any measure intended for internal organisation or administration within the said public administration;

"Administrative Review Tribunal" means the Administrative Review Tribunal established by article 5(1);

"administrative tribunal" means a tribunal listed in the First Schedule;

"the Minister" means the Minister responsible for justice;

"principles of good administrative behaviour" means the principles of good administrative behaviour listed in Part II of this Act;

"public administration" means the Government of Malta, including its Ministries and departments, local authorities and any body corporate established by law;

"the Secretary" means the Secretary of the Administrative Review Tribunal.

PART II

Administrative Tribunals

3. (1) In their relations with the public, administrative tribunals shall respect and apply the principles of good administrative behaviour laid down in this Part of this Act.

General provision applicable to administrative tribunals.

(2) The principles of good administrative behaviour include the following:

(a) an administrative tribunal shall respect the parties' right to a fair hearing, including the principles of natural justice, namely:

(i) *nemo judex in causa sua*, and

(ii) *audi et alteram partem*;

(b) the time within which an administrative tribunal shall take its decision shall be reasonable in the light of the circumstances of each case. The decision shall be delivered as soon as possible and for this purpose the tribunal shall deliver one decision about all matters involved in the cause whether they are of a preliminary, procedural or of a substantive nature;

(c) an administrative tribunal shall ensure that there shall be procedural equality between the parties to the proceedings. Each party shall be given an opportunity to present its case, whether in writing or orally or both, without being placed at a disadvantage;

(d) an administrative tribunal shall ensure that the public administration makes available the documents and information relevant to the case and that the other party or parties to the proceedings have access to these documents and information;

(e) proceedings before an administrative tribunal shall be adversarial in nature. All evidence admitted by such a tribunal shall, in principle, be made available to the parties with a view to adversarial argument;

(f) an administrative tribunal shall be in a position to examine all of the factual and legal issues relevant to the case presented by the parties in terms of the applicable law;

(g) save as otherwise provided by law, the proceedings before an administrative tribunal shall be conducted in public;

Power of
Minister to
make
regulations
to
implement
provisions
of this
Part.

(h) reasons shall be given for the judgment. An administrative tribunal shall indicate, with sufficient clarity, the grounds on which it bases its decisions. Although it shall not be necessary for a tribunal to deal with every point raised in argument, a submission that would, if accepted, be decisive for the outcome of the case, shall require a specific and express response.

4. The Minister may make regulations to implement and to give better effect to the provisions of this Part of this Act and may, without prejudice to the generality of the foregoing:

(a) establish the date of entry into force of the provisions of this Part with regard to any administrative tribunals referred to in the First Schedule that the Minister may by regulations specify;

(b) make such amendments, alterations, deletions, repeals, corrections, changes and modifications to any primary law or subsidiary law for the purpose of bringing such primary law or subsidiary law in conformity with the provisions of this Part of this Act and may from time to time update the list of administrative tribunals listed in the First Schedule.

PART III

The Administrative Review Tribunal

5. (1) There shall be set up in accordance with the provisions of this Part of this Act, an independent and impartial tribunal, to be known as the Administrative Review Tribunal, for the purpose of reviewing administrative acts referred to it in accordance with this Act or any other law, and for the purpose of exercising any other jurisdiction conferred on the Administrative Review Tribunal by or under this or any other law, whether before or after the coming into force of this Act.

Administrative
Review Tribunal
Amended by:
IV.2016.30

(2) The Administrative Review Tribunal shall not have a general jurisdiction to review administrative acts which are reviewable under article 469A of the Code of Organization and Civil Procedure but it shall have jurisdiction to review those administrative acts as may be prescribed in or under this Act or any other law granting jurisdiction to the Administrative Review Tribunal over any class of administrative acts.

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6. The Administrative Review Tribunal shall comply with the principles of good administrative behaviour laid down in article 3.

Principles which shall
guide the Administrative
Review Tribunal

7. (1) The Administrative Review Tribunal shall be competent to review administrative acts of the public administration on points of law and points of fact.

Review of
administrative
acts
Substituted by:
IV.2016.31

(2) Subject to the provisions of article 5 and where a special law confers jurisdiction to the Administrative Review Tribunal and unless any provision of the law does not provide for any time limit for the filing of an action for review by the Administrative Review Tribunal, an action to review administrative acts of the public administration under this Act shall be filed within a period of six months from the date when the interested person becomes aware or could have become aware of such an administrative act, whichever is the earlier.

8. (1) The Administrative Review Tribunal shall consist of a Chairperson who shall preside over the Tribunal.

Constitution of the
Administrative Review
Tribunal.

(2) The President of Malta, acting on the advice of the Prime Minister, may appoint more than one Chairperson to sit on the Administrative Review Tribunal, but only one Chairperson shall sit in any one case.

(3) A Chairperson who is an ex-Judge or an ex-Magistrate shall be appointed for a term of four years and shall vacate his or her office at the expiration of the term of the said appointment.

(4) A Chairperson shall be a person who holds, or has held, the office of a judge or of a magistrate in Malta.

(5) During the tenure of office, a Chairperson may not be removed except in the same manner and on the same grounds as a magistrate may be removed.

(6) In the exercise of his or her function, a Chairperson shall not be subject to the direction or control of any other person or authority.

(7) Upon his or her appointment, a Chairperson shall take an oath to examine and decide the cases brought before him or her with impartiality, fairness and according to law. The oath shall be taken before the Court of Appeal.

(8) The warrants or orders of the Administrative Review Tribunal shall be signed by the Chairperson.

(9) The oath to the witnesses shall be administered by the Chairperson or by the Secretary of the Administrative Review Tribunal or such other person as the Chairperson may by order in writing appoint.

(10) A Chairperson shall receive such remuneration as the President of Malta, acting on the advice of the Prime Minister, may by order to be published in the Gazette from time to time prescribe. Such remuneration may not be altered to the disadvantage of a Chairperson during his or her period of office.

9. (1) The President of Malta, acting on the advice of the Prime Minister, may by order establish sections of the Administrative Review Tribunal and may designate the categories of cases to be assigned to each section; and may by subsequent order amend, revoke or substitute such order.

(2) The President of Malta, acting on the advice of the Prime Minister, shall assign a Chairperson or such Chairpersons to sit in the Administrative Review Tribunal or in a section or such number of sections of the Administrative Review Tribunal and may transfer a Chairperson from one section of the Administrative Review Tribunal to another.

(3) The provisions of the Code of Organization and Civil Procedure regarding the abstention and challenge of magistrates shall apply to the abstention and challenge of a Chairperson.

(4) When a Chairperson has been objected to or has abstained from sitting, or is otherwise unable to act, another Chairperson shall be surrogated in his or her stead by the President.

10. (1) In proceedings before it, the Administrative Review Tribunal shall be assisted by two assistants, appointed under this article, whom the Administrative Review Tribunal may consult in any case for its decision.

(2) Such consultation shall take place in open court or in camera and the Administrative Review Tribunal shall not be bound to abide by the opinion of the assistants.

(3) The two assistants shall be appointed by the President of Malta, acting on the advice of the Prime Minister from amongst persons who, in the Prime Minister's opinion, have previous experience and special qualifications in a particular field of expertise falling within the competence of the Administrative Review Tribunal.

(4) The President of Malta, acting on the advice of the Prime Minister, may appoint panels of assistants depending on the subject matter of the dispute and the Secretary shall select two assistants from each panel for each case.

Sections of the
Administrative
Review Tribunal.

Cap. 12.

Panels of
assistants

(5) The President of Malta, acting on the advice of the Prime Minister may, from time to time, add to or vary such order to include, remove, fuse together or change existing panels as the case may be.

(6) The President of Malta, acting on the advice of the Prime Minister, may at any time, appoint more than two persons on each panel as assistants of the Administrative Review Tribunal, but only two such persons from each panel shall assist the said Tribunal in any one case.

(7) The office of an assistant of the Administrative Review Tribunal shall become vacant:

(a) at the expiration of four years from the date of appointment unless such appointment is renewed for a period or further periods of four years; or

(b) following removal from office in the same manner and on the same grounds as a magistrate may be removed from office; or

(c) following a written request addressed to the Prime Minister to that effect by such assistant.

(8) The assistants of the Administrative Review Tribunal may abstain or be challenged in the same manner and on the same grounds as, according to law, a magistrate may abstain or be challenged. Any question regarding any cause of abstention or challenge shall be decided by the Chairperson.

(9) In the exercise of his or her function, an assistant of the Administrative Review Tribunal shall not be subject to the direction or control of any other person or authority other than the Chairperson of the Administrative Review Tribunal.

(10) Upon appointment, an assistant of the Administrative Review Tribunal shall take an oath of office. The oath shall be taken before the Chairperson.

(11) An assistant of the Administrative Review Tribunal shall receive such remuneration as the President of Malta, acting on the advice of the Prime Minister, may by order to be published in the Gazette from time to time prescribe. Such remuneration may not be altered to the disadvantage of an assistant during his or her period of office.

11. (1) The Administrative Review Tribunal shall hold sittings in Malta and in Gozo at such regular intervals as may be necessary to expedite its

Sittings of the
Administrative
Appeals Tribunal.

business. The day and time of each sitting shall be determined by the Chairperson.

(2) The Minister shall, by notice in the Gazette, determine the 6 buildings where the Administrative Review Tribunal shall sit in Malta and in Gozo.

(3) Unless otherwise exempted by the Chairperson, assistants of the Administrative Review Tribunal shall attend for all sittings of the said Tribunal.

12. (1) The Minister may by regulations establish the Registry of the Administrative Review Tribunal and the functions thereof, and by the same regulations may also appoint such officers as may be necessary for the operation of the said Tribunal. All the records of the Administrative Review Tribunal shall be filed in the Registry referred to in this subarticle.

(2) The records of the Administrative Review Tribunal shall be accessible to all persons, and copies thereof shall be given on payment of the prescribed fee to any person on request.

(3) The records of the Administrative Review Tribunal shall be deposited and kept in such archives as may be designated by the Minister by regulations made under this article.

13. (1) The Secretary to the Administrative Review Tribunal shall be responsible for the running of the Registry. The Secretary shall also perform any other duty which may be incumbent upon him or her under this Act or any rules made thereunder.

(2) The duties of the Secretary shall be carried out in accordance with the provisions of the Code of Organization and Civil Procedure.

14. (1) The parties may appear before the Administrative Review Tribunal in person or be represented through an advocate, a legal procurator or another person.

(2) The parties may be assisted by an advocate, a legal procurator or by another person.

15. (1) The provisions of articles 21, 22 and 23 of the Code of Organization and Civil Procedure shall apply before the Administrative Review Tribunal.

(2) Proceedings before the Administrative Review Tribunal shall be commenced by the filing of an application. The applicant shall file an application in the Registry of the Administrative Review Tribunal. The said application shall contain:

Registry of the
Administrative
Review
Tribunal.

Duties of
Secretary.

Cap. 12.

Appearance
before the
Administrative
Review
Tribunal.

Procedure
before the
Administrative
Review
Tribunal Cap.
12

- (a) a clear and correct statement of the subject-matter and the cause of the claim;
 - (b) the claim or claims;
 - (c) a clear and detailed statement of the facts of the case of which the applicant may be aware;
 - (d) the name of witnesses the applicant intends to produce, including the subpoena of the other party, stating in respect of them the proof the applicant intends to establish by their evidence; and
 - (e) the remedy being requested, with costs against the public administration.
- (3) The application shall be served on the public administration not later than five working days from its date of filing. The provisions of article 3 in so far as they concern the expeditiousness of proceedings shall be observed in so far as the reply is concerned.
- (4) The public administration shall file the reply within twenty days from the date of service of the application, unless it intends to admit the claim.
- (5) When the public administration intends to admit the claim, wholly and unconditionally, it shall file a note to that effect. Once the applicant declares, by means of a note filed within twenty days from service of the public administration's admission of claim, that he is satisfied with the remedy granted by the public administration, the Tribunal shall abstain from taking further cognizance of the case.
- (6) If the applicant is not satisfied with the remedy granted by the respondent, whether in full or in part, or if the public administration intends to contest the claim wholly and unconditionally, the public administration shall file a reply containing:
- (a) any such pleas as would be taken to be waived if not raised before the contestation of the suit;
 - (b) a clear and correct statement of the pleas on the merits of the claim or claims and referring to the provisions of the law in terms of which the decision was taken;
 - (c) a clear and detailed statement of facts of the case of which the public administration is aware, denying, admitting or explaining the circumstances of fact set out in the applicant's application;

(d) the name of the witnesses which the applicant intends to produce, including the subpoena of the other party, stating in respect of each of them the proof he/she intends to establish by their evidence;

(e) a request that the public administration be non-suited with costs against the applicant.

(7) Where the claim is contested, the Tribunal shall appoint the case for hearing.

(8) The Tribunal shall, subject to the provisions of this Act or any other applicable law regulating the Tribunal's procedure, regulate its own procedure.

16. (1) The Minister may make regulations to implement and to give better effect to the provisions of this Part of this Act and may, without prejudice to the generality of the foregoing, establish the date of entry into force of the provisions of this Part of this Act with regard to the public administration and administrative tribunals that the Minister may by regulations specify.

Minister to make regulations to implement provisions of this Part.

(2) The Minister may also make regulations for the better functioning of the Administrative Review Tribunal and may, without prejudice to the generality hereof, make regulations:

(a) setting out the procedure before the Administrative Review Tribunal;

(b) setting out the procedure in appeals from the decisions of the Administrative Review Tribunal;

(c) establishing the forms that are to be used in proceedings before the Administrative Review Tribunal;

(d) establishing the forms that are to be used in proceedings in appeals from the Administrative Review Tribunal;

(e) establishing rates of costs in proceedings before the Administrative Review Tribunal;

(f) establishing the fees that may be due to the Registry of the Administrative Review Tribunal;

(g) establishing the fees that may be due to advocates, legal procurators and other persons representing or appearing before the Administrative Review Tribunal;

(h) setting out the duties of Secretary in relation to the Administrative Review Tribunal;

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(i) establishing which provisions of the Code of Organization and Civil Procedure, if any, not mentioned in this Act, are to apply to the procedure before the Administrative Review Tribunal;

(j) prescribing anything that may or is to be prescribed in accordance with this Part of this Act.

Service of
judicial acts.

Cap. 12.

17. The service of judicial acts in terms of this Part of this Act shall be carried out in such manner as is provided for the service of judicial acts in the Code of Organization and Civil Procedure, unless the Minister shall, by regulations made under this article, otherwise provide.

Benefit of
legal aid.
Cap. 12.

18. The provisions of the Code of Organization and Civil Procedure relating to the benefit of legal aid shall apply to parties to proceedings before the Administrative Review Tribunal, being persons entitled to such benefit within the meaning of those provisions.

Administrative
expenses of the
Administrative
Review Tribunal

19. The expenses in connection with the administration of the Administrative Review Tribunal and the remuneration due to the Chairperson and the assistants of the panel, shall be paid out of the Consolidated Fund without the necessity of any further appropriation.

Powers of the
Administrative
Review
Tribunal

Cap. 12.

20. (1) The Administrative Review Tribunal shall have all such powers as are, by the Code of Organization and Civil Procedure, vested in the First Hall of the Civil Court.

(2) The enforcement of the decisions of the Administrative Review Tribunal in the manner provided for in the Code of Organization and Civil Procedure, shall vest in the Administrative Review Tribunal itself.

(3) The Administrative Review Tribunal may, through its Chairperson, summon any person to appear before it and give evidence and produce documents, and the Chairperson shall have the power to administer the oath.

Minister to
make
regulations to
implement
provisions of
this Part of this
Act

21. The Minister may make regulations to implement and to give better effect to the provisions of this Part of this Act and may, without prejudice to the generality of the foregoing make such amendments, alterations, deletions, repeals, corrections, changes and modifications to any law or regulation for the purpose of bringing such law or regulation in conformity with the provisions of this Part of this Act.

PART IV

Appeals from decisions of the Administrative Review Tribunal

Right
Appeal

of

22. (1) Any party to the proceedings before the Administrative Review Tribunal who feels aggrieved by a decision of the said Tribunal, may appeal to the Court of Appeal sitting either in its superior or in its inferior jurisdiction.

(2) The Court of Appeal competent to hear and determine an appeal from a decision of the Administrative Appeals Tribunal shall be that established in the Second Schedule:

Provided that the Minister may make regulations to implement and to give better effect to these provisions of this Part of this Act and may, without prejudice to the generality of the foregoing, make such amendments, alterations, deletions, repeals, corrections, changes and modifications to the Second Schedule and to any primary law or subsidiary law for the purpose of bringing such Schedule or primary or subsidiary law in conformity with the provisions of this Part of this Act and may from time to time add any other reference to legislation to the Second Schedule which is not mentioned in the said Second Schedule.

(3) Such appeal shall be brought before the Court of Appeal by means of an application filed in the Registry of that court within twenty days from the day on which the decision of the court was delivered.

(4) The said application of appeal shall be accompanied together with the payment of an all-inclusive Registry appeal fee as may be prescribed by the Minister responsible for justice in consultation with the Minister responsible for finance. Such fee shall cover all Registry fees, including those taxed by the Registrar, Civil Courts and Tribunals, when final judgement is read out in open court.

(5) When there are two parties, the appeal shall be lodged in duplicate by means of an application. Where there are more than two parties to an appeal before the Administrative Review Tribunal, the application of appeal shall be lodged in such number of copies as there are parties to that appeal.

(6) The application of appeal shall be filed in the competent Registry in terms of the Code of Organization and Civil Procedure.

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(7) The Registrar, Civil Courts and Tribunals, shall, on receipt of the application of appeal, serve a copy of the said application of appeal on the other party or parties.

(8) The respondent or respondents shall file their reply to the appeal within twenty days of service of the appeal. Such replies shall be accompanied together with the payment of an all inclusive Registry fee as may be prescribed by the Minister responsible for justice in consultation with the Minister responsible for finance. Such fee shall cover all Registry fees, including those taxed by the Registrar, Civil Courts and Tribunals, when final judgement is read out in open court.

(9) When an appeal is lodged to the Court of Appeal as aforesaid, that appeal and the reply or replies thereto shall be referred by the Registrar, Civil Courts and Tribunals, to the Court of Appeal.

Powers of
the Court of
Appeal

23. (1) The Court of Appeal shall have the power, in its judgement, to confirm, revoke or alter the decision appealed against and to give such directions as it may deem appropriate.

Cap. 12.

(2) The provisions regulating the Court of Appeal in the Code of Organization and Civil Procedure shall apply to the Court of Appeal when hearing appeals from decisions of the Administrative Appeals Tribunal.

(3) Subject to the foregoing provisions and of any applicable law, the Court of Appeal shall regulate its own procedure.

PART IVA

Commission for Appointments and Discipline in Administrative tribunals

Establishment
and functions
of the
Commission

23A. (1) There shall be a commission to be known as the Commission for Appointments and Discipline in Administrative Tribunals, hereinafter in this Part and in Part IVB referred to as “the Commission”, which shall be composed as follows:

A Chairperson being a retired Judge or Magistrate; and

Two members being Permanent Secretaries in office.

Provided that, without prejudice to any other provision of this Act, a person shall not be eligible to be a member of the Commission in relation to any process for the appointment of a chairperson or member of an Administrative Tribunal if that person is the Permanent Secretary in the Ministry responsible for the Administrative Tribunal concerned.

(2) The Chairperson and the members shall be appointed by the President of Malta acting on the advice of the Cabinet of Ministers, and different members may be appointed in different compositions

of the Commission entrusted with appointments to different administrative tribunals.

(3) In the exercise of its functions, the Commission shall act independently and shall not be subject to the orders or direction of any other person or authority.

(4) The remuneration of the Chairperson and of the members of the Commission shall be a charge on the Consolidated Fund.

(5) There shall be a Secretary to the Commission, appointed by the Minister responsible for justice, who shall be responsible only for the administrative functions of the Commission, without having any decision-making power or voting right.

23B. The President, acting on the advice of the Cabinet, may also appoint alternate chairpersons and alternate members of the Commission to act in the event that the Chairperson or any member of the Commission is recused or abstains from exercising any of his functions or, for any other reason, is unable to perform his functions at any particular time.

Alternate
Chairpersons
and Members.

The Chairperson or a member of the Commission shall abstain or be recused from exercising any of his functions for the reasons set out in article 734 of the Code of Organization and Civil Procedure.

23C. (1) Notwithstanding anything contained in any other law, wherever any law or regulation confers power on a Minister to appoint persons to sit on any Administrative Tribunal included in the Fourth Schedule, that power shall, instead of being exercised by the Minister, be exercised by the President of Malta acting on the advice of the Commission.

Appointments to
Administrative
Tribunals

(2) The Commission shall give such advice after it has issued a call for applications and after it has considered, as it may deem appropriate, and satisfied itself as to the suitability and competence of the person nominated for appointment to act independently and impartially as Chairperson or member of an Administrative Tribunal.

(3) The Commission shall not advise in favour of the appointment of a person unless it is satisfied that such person-

(a) enjoys integrity and a good reputation;

(b) has adequate competence and experience in the relevant field;

(c) is capable of acting independently and impartially; and

(d) is free from any conflict of interest which may affect, or appear to affect, the proper exercise of his functions.

Guarantees of independence

23D. (1) A person shall not be qualified to be appointed chairperson or member of an administrative tribunal if that person –

(a) is a member of the House of Representatives; or

(b) is a member of a Local Council; or

(c) is an undischarged bankrupt; or

(d) has been sentenced by any court to imprisonment for any period or has been found guilty by any court of any of the offences in Titles III, V or VI of Part II of Book First of the Criminal Code.

(2) The chairpersons and members of administrative tribunals shall receive such remuneration as the Prime Minister may by notice in the Gazette establish, and such remuneration shall be a charge on the Consolidated Fund. Such remuneration shall not, during the time that the chairperson or member remains in office, be altered to his disadvantage.

(3) During the term of their appointment, the chairpersons and members of administrative tribunals shall be precluded from the exercise of their profession in cases before the Tribunal to which they are appointed.

(4) Unless the law establishing the administrative tribunal to which appointments are made under article 23C provides for a longer period of appointment or for the exclusion of reappointment either immediately after the expiry of an appointment or after the expiry of a reappointment, appointments made under the said article shall be for a period of five (5) years.

Provided that the appointed person may be reappointed for one further term only, provided that he reapplies following a new call for applications issued in accordance with article 23C, and his application is examined by the Commission on the same basis and in accordance with the same criteria applicable to the other applicants.

Power to make regulations

23E. The Prime Minister may by regulations amend the Fourth Schedule and may also by regulations amend any law mentioned in the Fourth Schedule solely so that the manner and time of appointment and of discipline and removal from office of persons

sitting on any Administrative Tribunal under that law shall conform to the manner and time of appointment and of discipline and removal from office provided for in this Part and in Part IVB.

23F. (1) This Part shall apply to all new appointments made to Administrative Tribunals included in the Fourth Schedule and made after the lapse of four months from the coming into force of this Part.

Application
and
interpretation
of this Part

(2) Nothing in this Part shall be construed as exempting any person having the power to make nominations or appointments of persons to sit on any Administrative Tribunal not included in the Fourth Schedule from the duty, before making any such nomination or appointment, to be satisfied as to the suitability of the person nominated or appointed to act independently and impartially on that tribunal.

(3) Any reference in articles 23C and 23D of this Part to an “administrative tribunal” or to a “chairperson” or “member” of an administrative tribunal shall be construed only as a reference to an administrative tribunal included in the Fourth Schedule and to its chairperson and members.

PART IVB

ETHICS AND DISCIPLINE

23G. (1) Without prejudice to what is provided in Part II, the chairpersons and members of administrative tribunals shall be under a duty to conduct themselves properly and in an ethically correct manner and not to give rise to reasonable doubt as to their independence and impartiality in the performance of their duties.

Duty of proper
conduct

(2) The Minister responsible for justice may by regulations establish a Code of Ethics regulating the ethics and discipline of chairpersons and members of administrative tribunals. Such Code of Ethics shall be included in the Fifth Schedule to this Act and shall be enforceable by the Commission.

23H. There shall be an office within the Ministry responsible for justice which shall provide administrative support to the Commission and advise the Government on matters connected with the work of administrative tribunals.

Administrative
office

23I. (1) Notwithstanding what is provided in any other law, any person appointed chairperson or member of an Administrative Tribunal may be removed from office by the President, acting on the advice of the

Discipline and
removal from
office of a
chairperson or
member of an
Administrative
Tribunal

Commission for Appointments and Discipline in Administrative Tribunals, but such chairperson or member may be removed only on the ground of inability to perform the duties of his office (whether arising from bodily or mental infirmity or any other cause) or for misbehaviour.

(2) The Commission may also, in its discretion, impose disciplinary sanctions on a chairperson or member of an Administrative Tribunal, which sanctions shall be proportionate and shall be imposed only after a process that respects the principles of natural justice.

(3) Decisions of the Commission taken under sub-article (1) or (2) shall be appealable to the Court of Appeal composed in accordance with article 41(9) of the Code of Organization and Civil Procedure, and the applicable procedure shall be that applicable to appeals from judgments of the Court of Magistrates in civil causes.

(4) The Commission shall also be charged with the enforcement of the Code of Ethics for Chairpersons and Members of Administrative Tribunals included in the Fourth Schedule to this Act and shall be authorised to issue such directives and to make such recommendations, whether individual or of a general nature, as it may deem appropriate for that purpose.

PART V

Miscellaneous Provisions

Saving and
transitory
provision

24. (1) On the entry into force of Parts III and IV of this Act, all pending proceedings before those persons, bodies or administrative tribunals which were competent prior to the coming into force of article 25 shall be assigned to the Administrative Review Tribunal for determination and shall be regulated by the provisions of the said Parts III and IV of this Act; and the Minister may establish different dates for the entry into force of Parts III and IV of this Act with regard to the different persons, bodies or administrative tribunals referred to in article 25.

(2) Nothing in subarticle (1) shall invalidate any procedure whether written or oral which may have been made before the coming into force of this Act and which was valid according to the law in force on the date when made.

(3) The Administrative Review Tribunal shall draw up and deliver such decrees which might be necessary to regulate those undecided proceedings which hitherto were pending before the persons, bodies

and administrative tribunals mentioned in subarticle (1) prior to the date of entry into force of this article and which have on the date of the entry into force of this article been assigned to the Administrative Review Tribunal so that the latter may bring these proceedings in line with the provisions of Part III of this Act:

Provided that, notwithstanding the provisions of this article, proceedings pending before the persons, bodies and administrative tribunals mentioned in subarticle (1) which have been put off for judgment or for final oral or written submissions on the date of the entry into force of this article, shall continue to be heard and decided by those persons, bodies and administrative tribunals and not by the Administrative Review Tribunal.

(4) Without prejudice to the generality of subarticle (1), one or more of the Chairpersons ordinarily sitting in the Administrative Review Tribunal or in a section or sections thereof, shall take cognizance of all proceedings pending before the persons, bodies or administrative tribunals mentioned in that subarticle which are reassigned to the Administrative Review Tribunal. The Secretary of the Administrative Review Tribunal shall ensure that all pending proceedings lodged from decisions of the public administration hitherto being heard by any person, body or administrative tribunal mentioned in subarticle (1) are referred to the section of the Administrative Review Tribunal which would be taking cognizance of the said proceedings.

(5) Appeals lodged to the Court of Appeal from any decision of any person, body or administrative tribunal prior to the entry into force of article 25 shall continue to be heard by the said Court until they are so determined, and the provisions of the Code of Organization and Civil Procedure shall continue to apply thereto.

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25. (1) This provision shall have effect subject to the provisions of article 24.

Jurisdiction.

(2) The Administrative Review Tribunal shall henceforth have jurisdiction in lieu of the persons, bodies and administrative tribunals mentioned in the laws listed in the Third Schedule*

*Omitted under the Statute Law Revision Act, 1980. Amendments therein have been inserted in the relative legislation prior to the entry into force of this article.12

[First Schedule – List of Administrative Tribunals Respecting the Principle of Good Administrative Behaviour (see original Act)]

[Second Schedule – Competence of the Court of Appeal (see original Act)]

[Third Schedule –omitted under the Statute Law Revision Act, 1980]

FOURTH SCHEDULE

(Article 23B)

Administrative Tribunals in respect of which appointments under the laws hereunder listed are to be made by the President of Malta:

FIFTH SCHEDULE

(Article 23G)

Code of Ethics for Chairpersons and Members of Administrative Tribunals

The persons serving as Chairpersons or Members of Administrative Tribunals, in this Code also referred to as “the adjudicators”, shall:

- 1. Observe the law and show professional competence both in their judicial work and in their administrative work;**
- 2. Not neglect their judicial work on account of their other work and do their utmost to give precedence to judicial work over other work;**
- 3. Conduct themselves in a dignified manner and with courtesy towards the parties, witnesses and employees of the tribunal;**
- 4. Perform their duties free from any prejudice, including prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, gender expression, or socio-economic status;**
- 5. Avoid giving expert assignments that are not necessary and not approve payments for such assignments when they exceed the proper value of the service rendered;**
- 6. Abstain from carrying out their functions in circumstances where:**
 - i they have personal prejudice against any party or have a personal dispute with that party’s advocate;**
 - ii they have personal knowledge of facts in issue before them;**

- iii they were involved as advocates in the matter in issue before them;**
- iv they or any of their trustees have an economic interest in the subject-matter of the case or have any economic interest in any entity that is a party to the case;**
- v they know that their spouse, parents or children, or any member of their family residing in the same household, has an economic interest in the subject-matter of the controversy;**
- vi a person related to them or to their spouse up to the third degree, or the spouse of such person, is a party to the proceedings or is an officer, director or trustee of a party to the proceedings, or the adjudicator knows that such person is likely to be a material witness in the proceedings, or the adjudicator knows that such person has an interest greater than a de minimis interest that could be substantially affected by the proceedings.**

Objects and Reasons

The Objects and Reasons of this Bill are to strengthen the procedure for the appointment of members of Administrative Tribunals, and to affirm the principles of integrity of that process by providing that appointments to principal administrative tribunals shall be made by the President of Malta acting on the advice of an independent Commission proposed to be established by this Bill, while increasing the guarantees of independence and impartiality in the operation of the said tribunals. The Bill also provides for the grounds for removal from office of chairpersons and members of Administrative Tribunals and for a right of appeal from removal to the Court of Appeal, as well as for a Code of Ethics for persons occupying the said offices.