
Chapter 9

Labour Relations and Social Security

Labour relations

Availability of labour

Malta's labour force is about 164,347, the majority of which are male. Malta's long-standing educational system includes free education up to tertiary level and provides for a number of vocational and training schemes, ensuring the availability of graduates and a skilled labour force. The Maltese work force is accustomed to working for foreign employers and has a marked ability to learn and adapt itself to new techniques. Because of the size of the country, mobility of labour presents no difficulties.

Employer/employee relations

The main law regulating employer/employee relations is the Employment and Industrial Relations Act. This Act deals with, several matters, including conditions of employment, termination of contracts of service and the organisation of workers and employers. A basic feature of this law is that it prohibits discrimination, whether on sexual, social or other considerations, in connection with recruitment, pay, or dismissal.

Furthermore, the Occupational Health and Safety Authority Act places obligations on employers to grant protection against risks and accidents at work and its provisions are deemed to form part of the conditions of service of all employees. Other laws may apply to certain categories of workers, such as port workers and seamen.

Moreover, training schemes and apprenticeships are regulated by the Employment and Training Services Act.

Unions

Workers are not required to join a trade union, and the closed shop is not practiced in Malta.

Unions enjoy a wide degree of legal immunity for industrial action carried out in contemplation or furtherance of a trade dispute

When the majority of a company's workers join a union, the company is considered to be unionised, and the union should be recognised by management as a bargaining partner and as representative of the workers. Inter-union rivalry is not an important factor in pay bargaining or otherwise, and few disputes arise over demarcation. Collective bargaining is common and agreements reached between employers and unions are binding at law. Collective agreements are normally drawn up for a period of three years. Employment in professional and managerial grades is usually regulated by individual contracts of service.

Trade disputes can be referred to the Arbitration Tribunal.

Employers' organisations

Employers are organised into employers' associations, one of the main ones being the Association of General Retailers and Traders Union (GRTU) and the Employers' Association.

Employee training programmes

Considerable emphasis is placed on human resource development. The Employment and Training Corporation, a government agency, provides coherent training and retraining of labour to meet the requirements of industry. This agency provides other services, including the registration and placement of employees, the maintenance of job vacancies records and the administration of the government's training grants schemes.

Workers' representatives

Maltese law does provide for the setting up of employee representatives in certain circumstances. Consultation with workers' representatives is mandatory in the case of collective redundancies and transfers of business in establishments that employ more than 20 employees. The notion of labour participation in management has not gained ground, but the statute of certain public corporations requires the election of a worker-director.

Profit sharing

There is no specific legislative provision regarding profit sharing.

Wages and salaries

The national minimum wage per week in respect of a person who is 18 years old and over is € 158.11 (as from 1 January 2012). Additionally, every employer must pay statutory bonuses totalling around €512 per annum. Employers must grant annual wage increases equivalent, as a minimum, to the cost of living adjustment determined by the government for the respective year. There is no specific published official information on salaries in the private sector.

Fringe benefits

The most common fringe benefits are free or subsidised meals, transport and health insurance. Employees in managerial grades may also typically be entitled to subsidies on telephone bills and a company car.

Private pensions are not common. The main reason is that employees qualify for a retirement pension under the Social Security Act in terms of their social security contributions. It is worth noting that a reform of the Maltese pensions system has been undertaken in recent years (see below) and such reform is still ongoing.

As a rule, all fringe benefits and other perks are subject to income tax on their value. The Fringe Benefits Rules contain detailed provisions for determining the value of the taxable amount and also provide for certain exemptions.

Hours worked

The normal workweek is, generally, 40 hours. In certain sectors of employment, as a rule, overtime is paid at time-and-a-half on weekdays and Saturdays and at double time for Sundays and public holidays.

Paid holidays and vacations

In general terms, the minimum statutory period of vacation leave is 24 days.

As from 2012 the period of paid maternity leave has increased to sixteen weeks and should be increasing further to 18 weeks in 2013. The law also provides for a three-month unpaid parental leave on the occasion of the birth, adoption or legal custody of a child. A shorter or longer period may be agreed upon in the collective agreement or contract of service. Collective agreements and contracts of service usually provide also for paid marriage, birth and bereavement leave. There are 14 public holidays in Malta.

Period of probation

The first 6 months of every contract of service is deemed to be a probationary period unless a shorter period is agreed. In the case of contracts of service of employees holding technical, executive, administrative or managerial grades and whose wages are at least double the minimum wage, the period of probation is 12 months unless otherwise agreed.

Part-time employment

As a rule, employers are bound to ensure that part-time employees are not less favourably treated than comparable full time employees except where a different treatment is justified by objective criteria. Full-time employees working reduced hours are to be paid pro rata the wage applicable to a full time employee in similar employment, including amongst others pro rata entitlement to public holidays, vacation leave, statutory bonus, maternity leave, and parental leave.

Equal opportunities

Public offices promote the introduction of disabled persons and persons with special needs in their organisation structure. In addition, financial incentives are offered to the private sector to encourage employment of disadvantaged persons.

Termination of employment

Employment under a contract of service for an indefinite period may be terminated by the employer either during the period of probation, in which case the employer is not required to state any reason for the termination, or on grounds of redundancy or for a good and sufficient cause.

If the employment is terminated during the period of probation and if the employee has been in employment for more than one month, the employer must give a week's termination notice. An employer terminating a contract on grounds of redundancy must give a notice of termination of a period ranging from 1 to 12 weeks, depending on the time for which the employee had been employed with that employer unless a longer period was agreed with an employee holding a managerial position. If the employer fails to give the statutory notice he will be liable to pay the employee the full wages for the notice period.

A dismissal on grounds of redundancy may only be made on a last in first out basis, and the employee will have the right to re-employment at the same terms and conditions if a vacancy in the same post arises within one year from the termination. Certain procedures, including consultation with employees' representatives, must be followed in the case of collective redundancies.

The law specifies certain situations that may not be regarded as a "good and sufficient cause" for the termination of the employment, such as membership in a trade union or pregnancy of the employee. When an employer transfers his business, his employees continue in their employment and become employees of the new owner under the same terms and conditions. The transfer of the business may not be regarded as a good and sufficient cause unless the employer proves that the termination is necessary for economic, technical or organisational reasons entailing a change in the workforce. If the employee considers that employment has been terminated for unfair reasons, he/ she can appeal to the Industrial Tribunal, which may either order reinstatement or award an amount of compensation. Reinstatement or reengagement of the complainant is not allowed for persons holding positions of managerial or executive posts which posts require a special trust within the company or in ones ability to perform such duties.

An employee may at any time terminate a contract for an indefinite period without assigning any reason. If he has been employed for more than one month he is required to give a notice of termination of a period generally ranging from 1 to 12 weeks, depending on the time for which he has been employed.

If any of the parties to a contract for a definite period terminates the contract before the expiration of that period without a good and sufficient cause, he/ she becomes liable to pay to the other party half of the wages that would have been payable for the unexpired period.

Social security

Social security system

The Social Security Act provides for a number of benefits, including retirement and disability pensions, sickness, injury and unemployment benefits, medical assistance and other social allowances and benefits. Entitlement to certain assistance arises regardless of contributions while other benefits can be claimed on the basis of the contributions paid, or deemed paid, by the beneficiary. Maltese law also provides for free hospitalisation for all Maltese citizens.

Coverage

For the purpose of contribution obligations the Social Security Act categorises persons into persons in insurable employment, self-occupied persons and self-employed persons.

Generally speaking, persons in insurable employment are all persons employed in Malta saving certain exceptions. Foreign (non-EU) workers who are not ordinarily resident in Malta should not be deemed to be in an insurable employment if their employer is already paying or has opted to pay contributions in their respect under a scheme of social insurance in another country. Self-occupied persons are persons who are ordinarily resident in Malta and who derive income from a gainful occupation, other than an employment. Persons who are ordinarily resident in Malta and who are not in an insurable employment or self-occupied are categorised as self-employed persons.

EU Council Regulation (EEC) No. 883/2004 governing social security schemes in the European Union must be observed. Consequently, EU residents/ nationals that are employed or self-employed in Malta should generally be subject to Maltese social security legislation subject to certain exceptions. Persons employed or self-employed in one Member State posted to another EU Member State, where the anticipated duration of the assignment does not exceed 24 months and he/ she is not sent to replace another person, may continue to be subject to the social security legislation of the first mentioned State.

Contributions

Contributions in respect of an employed person are payable both by the employee and by his employer. The rate is, in each case, ten percent of the basic wage payable by each of the employee and employer. However, this is subject to a maximum and minimum rate. Currently the minimum weekly contribution stands at € 15.81 (or 10% of basic weekly wage if this is lower but the employer continues to pay the said minimum). On the other hand, the maximum weekly contribution varies depending on the age of the employee. In respect of an employee born before 1/1/1962, the maximum weekly contribution stands at € 33.50 whereas in the case of an employee born on or after 1/1/1962, the maximum weekly contribution stands at € 37.85 - again such minimum and maximum contribution rates are payable by each of the employer and the employee.

The contribution payable by self-occupied and self-employed persons is 15% of their earnings or income but it is, again, subject to a minimum and a maximum amount. For 2012 the minimum rate is € 27.25 per week and the maximum is € 56.78 per week for persons born from 1 January 1962 and € 50.24 per week for persons born up to 31 December 1961. Low income earners qualify for an exemption.

The employees' contributions are paid by means of a deduction from their wages together with and in the same way as tax (FSS). Each employer is responsible for forwarding monthly to the Department of Inland Revenue both the employees' and his share of social security contributions. Contributions due by self-occupied and self-employed persons are payable every 4 months in arrears together with their provisional tax payments. The Department of Inland Revenue acts as the collecting agent for the Department of Social Security.

Benefits

The main benefit under the scheme of social security is the two-thirds retirement pension. Every insured person (subject to a minimum number of paid contributions) becomes entitled, on retirement age, to a retirement pension. The full pension rate is equivalent to two-thirds of the pensionable income. The pensionable income for employees and self-employed/ self-occupied persons is the average annual basic wage calculated by reference to a number of years where the basis of calculation may differ on the basis of the date of birth of the particular individual. The current maximum two-thirds retirement pension is € 220.60 per week. The retirement pension is reduced in cases where the retiree does not have a full contribution record. Persons not entitled to the two-thirds pension or whose two-thirds pension would otherwise be reduced to below the National Minimum Pension, become entitled to the National Minimum Pension which, is € 123.01 weekly for a married person (maintaining the spouse) and € 102.71 weekly for any other person.

The Pensions Reform introduced by Act XIX of 2006 provided for a new pensions system in order to make it more adequate and sustainable for the future. The amending act provided for the establishment of a mandatory second pension and a voluntary third pension.

Living conditions

It is usually not difficult for foreign employees to find suitable accommodation in Malta at reasonable rates and the distance from any location to the place of work is always short. The pay package offered to foreign employees usually enables them to enjoy comfortable, European-style, living standards. Life in Malta can be attractive, considering the mild climate, the tourist attractions, the places of entertainment and the generally friendly population. Foreigners can freely communicate in English with government departments, in business establishments, at their place of work and for all other needs.

Foreign personnel

Work permits and restrictions on employment

Non EU-foreigners desiring to work in Malta require a work permit. These permits must be obtained in advance on an application of the prospective employer. Permission is normally granted when the skills, qualifications or experience involved are not already available in Malta.

Visas and residence permits

Persons entering Malta require a passport but an identity card is sufficient in terms of agreements with certain countries. Following accession to the EU, Malta is bound to the EU rules in respect of immigration. Malta also forms part of the Schengen area and is therefore subject to the Schengen rules.

Nationals travelling into Malta from certain countries may require a visa. Tourists may extend their stay in Malta for more than 90 days subject to the approval of the immigration authorities. Persons wishing to reside regularly in Malta may apply for a residence permit, which will be subject to a number of conditions.

Special arrangements or concessions

Foreign workers who contribute to the Maltese social security scheme may in general be entitled to contributory benefits. Malta has concluded bilateral agreements on social security with a number of countries, including the UK, Australia, and, the Netherlands.

The provisions of EU Regulation (EEC) No. 883/2004 override the provisions of any Social Security agreements concluded by Malta with other Member States prior to joining the EU.