

QUERIES: *reference to the new Act*

Abbozz ta' Liġi msejjah

ATT biex jipprovdi għar-regolamentazzjoni ta' Care Workers u li jaħdmu fl-oqsma residenzjali, fi sptarijiet jew fil-komunità, u biex jipprovdi għal hwejjeġ konnessi ma' dan jew anċillari għalih.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, harget b'liġi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2018 dwar *Care Workers*. Titolu fil-qosor u bidu fis-sehħ.

(2) Dan l-Att għandu jidhol fis-sehħ fid-data li l-Ministru għall-Familja u Solidarjetà Soċjali jistabbilixxi permezz ta' avviż fil-Gazzetta u dati differenti jistgħu jigu stabbiliti għal dispożizzjonijiet differenti u għanijiet differenti ta' dan l-Att.

2. F'dan l-Att, u fi kwalunkwe regolamenti oħra magħmula taht dan l-Att, sakemm il-kuntest ma jkunx jehtieġ xort'oħra - Tifsir.

"Awtorità" tfisser l-Awtorità għal Djar ta' Persuni Anzjani (Standards ta' Kwalità fil-Kura) kif stabbilita bl-artikolu 6 tal-Att tal-2018 dwar l-Awtorità għal Djar ta' Persuni Anzjani (Standards ta' Kwalità fil-Kura); **reference to be inserted**

"*care work*" tfisser il-provdiment ta' servizzi ta' ħarsien personali u prattici għal persuni b'firxa wiesgħa ta' mard u diżabilitajiet inkluża primarjament l-assistenza għall-utenti tas-servizz inkluži kemm residenti anzjani jew pazjenti u, jew il-qraba tagħhom b'attivitatiet ta' għixien ta' kuljum;

"*care worker* registrat" jew "*care worker*" tfisser persuna li hija registrata fir-registru ufficjali tal-*care workers* miżmum mill-Awtorità u li jkun ingħata d-dritt li jahdem bhala *care worker* registrat, skont l-artikolu 5;

"Ministru" tfisser il-Ministru responsabbli għall-familja;

"prattika", fir-rigward ta' xogħol bhala *care worker* fil-qasam soċjali jew tas-saħħa tinkludi:

(a) xogħol fi sptarijiet ta' mard akut u, jew faċilitajiet residenzjali għal żmien fit-tul jew f'qasam komunitarju; u

(b) l-użu tat-titolu *Care Worker* Registrat jew l-ittri ta' deskrizzjoni "RCW";

"preskritt" tfisser preskritt b'regolamenti magħmula mill-Ministru taħt dan l-Att;

"registrazzjoni" tfisser status ta' registrazzjoni taħt l-artikolu 5;

"*senior care worker* anzjan" tfisser individwu li għandu grad mill-università, ikun temm tliet snin esperjenza ta' xogħol f'*care work* u huwa registrat fir-Registru ta' *Care Workers* miżmum mill-Awtorità;

"test tal-proficjenza" tfisser test bil-għan li tkun ivvalutata l-abbiltà ta' persuna li twettaq xogħol ta' *care worker* f'Malta, kif jista' jkun meħtieg mill-Awtorità skont id-dispożizzjonijiet ta' dan l-Att;

"żmien ta' adattament" tfisser żmien li matulu persuna tista' teżerċita xogħolha bhala *care worker* f'Malta taħt is-superviżjoni ta' professjonist fil-kura medika kif imfisser fl-Att dwar il-Professjonijiet tas-Saħħa, liema żmien jista' jkopri dak iż-żmien fejn jiġi pprovdut aktar taħriġ lil dik il-persuna, skont kif ikun jeħtieg mill-Awtorità, li fi tmiem tiegħu ssir valutazzjoni.

Kap. 464.

Kondizzjonijiet
biex tipprattika
bhala *care
worker*.

3. (1) Ebda persuna m'għandha taġixxi bhala *care worker* jew twettaq *care work* bi hlas jew taġixxi bhala *care worker* kwalifikat jew tassumi titolu jew nomina ta' *care worker* sakemm ma tkunx detentrici ta' titolu registrat maħruġ taħt dan l-Att.

(2) Persuna tikkwalifika għal registrazzjoni sabiex tipprattika bhala *care worker* jekk dik il-persuna -

(a) tkun ċittadina ta' Malta jew ta' Stat Membru, jew hija legalment intitolata jew awtorizzata biex taħdem f'Malta; u

(b) hija ta' mgħiba tajba; u

(ċ) hija fil-pussess ta' kwalifika waħda jew aktar kif stipulat fis-subartikolu (4)(a) u (b):

Iżda fin-nuqqas ta' kwalifika skont is-subartikolu (4)(a) u (b), jekk l-Awtorità tkun sodisfatta, wara li l-persuna tkun qagħdet għal test ta' abbiltà u ħila, li għandha l-esperjenza adegwata fil-prattika ta' *care work* għal perjodu aggregat għall-inqas ta' ħames snin *full-time* jew l-ekwivalenti tiegħu f'xogħol *part-time* taħt is-superviżjoni ta' professjonist reġistrat fil-kura tas-saħħa, dik il-persuna tkun meqjusa li hija fil-pussess tal-kwalifiki neċessarji. L-Awtorità tista tesigi akkreditazzjoni ta' tagħlim esperjenzali ta' aktar minn ħames snin u tikkonverti dik l-esperjenza fi krediti li jikkontribwixxu għal-livell ta' kwalifika li tkun rikonoxxuta mill-Awtorità jew skont is-subartikolu (4)(a) u (b).

(3) L-Awtorità għandha żżomm reġistru skont l-artikolu 8(1)(u) tal-Att tal-2018 dwar Awtorità għal Djar ta' Persuni Anzjani (Standards ta' Kwalità fil-Kura), imsejjaħ "ir-Reġistru tal-*Care Workers*", li għandu jikkonsisti f'żewġ partijiet separati, l-Ewwel Parti fir-rigward ta' *care workers* reġistrati fl-ewwel livell u t-Tieni Parti fir-rigward ta' *care workers* reġistrati fit-tieni livell.

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(4) Fir-Reġistru tal-*Care Workers*, meta ssir applikazzjoni għal dak il-għan mill-persuna kkonċernata -

(a) għandu jiddaħħal fl-Ewwel Parti tiegħu, l-isem ta' kwalunkwe ċittadin ta' Malta jew ta' Stat Membru jew ta' min huwa mod ieħor legalment intitolat jew awtorizzat biex jaħdem f'Malta u li għandu -

(i) il-grad jew diploma fis-saħħa jew kura soċjali mogħtija mill-Kulleġġ Malti għall-Arti, Xjenza u Teknologija, jew il-kwalifika ekwivalenti għas-saħħa u kura soċjali mill-Qasam Malti tal-Kwalifiki Livell 6 jew 5 mogħti minn istituzzjoni rilevanti ta' taħriġ; jew

(ii) kwalifika ta' *care work*, skont il-Qasam Malti tal-Kwalifiki Livell 4 jew 3 miksuba minn xi kulleġġ ieħor, skola jew istituzzjoni ta' taħriġ oħra rikonoxxuti mill-Awtorità:

Iżda dik l-Awtorità tista', fir-rigward ta' dik il-kwalifika, teħtieġ lill-applikant biex joqgħod u jgħaddi minn test tal-proficjenza professjonali u, jew teħtieġ lill-applikant biex jgħaddi minn żmien ta' adattament;

Qasam Malti
tal-Kwalifiki

(b) għandu jiddaħħal fit-Tieni Parti tiegħu l-isem ta' kull ċittadin ta' Malta, jew ta' Stat Membru, jew li huwa mod ieħor

legalment intitolat jew awtorizzat biex jaħdem f'Malta u li għandu ċertifikat fis-Saħħa u l-Ħidma Soċjali fil-Qasam Malti tal-Kwalifiki f'livell 2 jew 1 mogħti mill-Kulleġġ Malti għall-Arti, Xjenza u Teknoloġija jew kwalifika ekwivalenti ta' *care worker* mogħtija minn xi kulleġġ ieħor, skola jew istituzzjoni ta' taħriġ oħra rikonoxxuti mill-Awtorità:

Izda dik l-Awtorità għandha, fir-rigward ta' dik il-kwalifika, teħtieġ lill-applikant biex joqgħod u jgħaddi minn test ta' profiċjenza professjonali u, jew jagħmel żmien ta' adattament.

(5) Sad-data tad-dhul fis-seħħ ta' dan l-Att, applikanti li huma fil-pussess ta' ċertifikat fis-Saħħa u Ħidma Soċjali skont il-Qasam Malti tal-Kwalifiki fil-livell 1 u li, fl-assenza ta' kwalifika, għandhom tal-inqas tmien snin esperjenza fil-kura u akkwistaw abbiltà favorevoli u test tal-profiċjenza professjonali, għandhom jiġu meqjusa bhala elegibbli għall-Ewwel Parti tar-Registru tal-*Care Workers*. Applikanti li għandhom ċertifikat fis-Saħħa u Ħidma Soċjali fil-Qasam Malti tal-Kwalifiki f'livell 2 u li għandhom tal-inqas ħames snin esperjenza fil-kura għandhom ikunu kkunsidrati bhala elegibbli għall-Ewwel Parti tar-Registru tal-*Care Workers*.

(6) Applikanti m'għandhomx ikunu jistgħu jirreġistraw taħt it-termini tas-subartikolu (5) wara sentejn mid-data tad-dhul fis-seħħ ta' dan l-Att.

(7) L-impjegati kollha tas-servizz pubbliku u tas-settur pubbliku ikunu reġistrati mid-dipartiment, direttorat jew entità rispettiva tagħhom, skont l-eligibilità tagħhom.

(8) Ir-Registru tal-*Care Workers* għandu jkollu sezzjoni separata għar-reġistrazzjoni ta' *Senior Care Workers* anzjani li jikkwalifikaw bhala tali skont it-termini ta' dan l-Att.

(9) Il-Ministru jista' b'regolament jemenda u, jew jissostitwixxi r-rekwiżiti minimi stabbiliti taħt id-dispożizzjonijiet preċedenti ta' dan l-artikolu, rekwiżiti minimi oħra skont kull trattat jew ftehim internazzjonali jew multinazzjonali li jkun tkun daħlet fih Malta jew mad-dispożizzjonijiet ta' kwalunkwe leġislazzjoni li l-infurzar tagħha gejj minn xi trattat jew ftehim.

Regolamentazzjoni u kontroll mill-Awtorità.

reference to be inserted

4. (1) Mingħajr preġudizzju għas-setgħat u l-funzjonijiet l-oħra mogħtija bl-Att tal-2018 dwar l-Awtorità għal Djar ta' Persuni Anzjani (Standards ta' Kwalità fil-Kura), u addizzjonalment ma' daww is-setgħat u funzjonijiet, l-Awtorità għandu jkollha s-setgħa li tirregola l-prattika u l-elegibbiltà ta' persuna biex taħdem bhala *care*

worker f'Malta, u b'mod partikolari sabiex -

(a) tistabilixxi u, fejn neċessarju, tivvaluta l-istandards tal-*care work* eżistenti u tiżviluppa żvilupp professjonali kontinwu ġdid ta' *care work* u *standards* oħra, u tirrakkomanda lill-Ministru, fir-rigward ta' *care work* inizjali u kontinwu, l-edukazzjoni, il-profiċjenza, l-esperjenza u l-kwalifiki oħra mitluba biex tinżamm ir-registrazzjoni taħt dan l-Att;

(b) tikkonsidra, tipproċessa u tagħmel rakkomandazzjonijiet lill-Ministru fir-rigward ta' applikazzjonijiet għall-ekwivalenza u r-rikonoxximent ta' kwalifiki f'*care work*;

(c) teżamina applikazzjonijiet għar-registrazzjoni biex wieħed jaħdem f'Malta u tagħmel rakkomandazzjonijiet lill-Ministru fuq l-għoti jew rifjut tal-applikazzjoni;

(d) iżżomm registru uffiċjali tal-*care workers* registrati kollha;

(e) iżżomm dik l-informazzjoni kif jista' jkun mitlub fir-rigward ta' assoċjazzjonijiet li jirrappreżentaw lil *care workers* f'Malta, registrati taħt id-dispożizzjonijiet ta' dan l-Att;

(f) tagħmel rakkomandazzjonijiet lill-Ministru fuq prattiċi speċjalizzati ta' *care work*, u l-kwalifiki neċessarji biex wieħed jipprattika f'*care work* speċjalizzati, u biex tirrakkomanda lill-Ministru l-għoti ta' registrazzjoni għal dan il-ghan;

(g) tagħmel rakkomandazzjonijiet lill-Ministru, wara li tkun saret konsultazzjoni mal-assoċjazzjonijiet registrati taħt id-dispożizzjonijiet ta' dan l-Att, fuq il-Kodiċi ta' Etika li għandu jkun preskritt għall-imġiba professjonali ta' *care workers*;

(h) tinvestiga kull allegazzjoni ta' mġiba mhux xierqa, negliġenza kbira jew inkompetenza minn *care worker*;

(i) tagħti parir, jew tagħmel rakkomandazzjonijiet jew mod ieħor tesprimi l-pożizzjoni tagħha lill-Ministru fuq kwalunkwe materja li l-Ministru jkun irid jikkonsulta mal-Awtorità jew li dwarha l-Awtorità għandha tagħmel rakkomandazzjonijiet lill-Ministru jew li dwarha l-opinjoni u rakkomandazzjoni tal-Awtorità hija mitluba mill-Ministru; u

(j) twettaq funzjonijiet oħra li jistgħu jkunu mitluba fir-rigward ta' dan l-Att, jew kif jista' jkun assenjat lilha mill-Ministru.

(2) L-Awtorità għandha, mhux aktar tard minn tlett xhur wara t-tmiem ta' kull sena, tippubblika fil-Gazzetta lista ta' persuni li fil-31 ta' Diċembru ta' dik is-sena, kienu reġistrati fir-Reġistru tal-*Care Workers*.

Applikazzjonijiet għal reġistrazzjoni.

5. (1) Persuna għandha tissottometti applikazzjoni fil-forma preskritta lill-Awtorità sabiex tikseb reġistrazzjoni biex taħdem bħala *care worker*.

Iżda l-applikazzjonijiet kollha għandhom ikunu akkumpanjati bid-dokumenti li jikkonfermaw il-ħtiġiet imsemmija fl-artikolu 3(2).

(2) Jekk l-Awtorità hija sodisfatta li l-applikant jissodisfa l-ħtiġiet minimi stabbiliti taħt dan l-Att, l-Awtorità għandha tagħti lill-applikant ċertifikat ta' reġistrazzjoni u ismu għandu jiddaħhal fir-Reġistru tal-*Care Workers*.

(3) Meta tiġi pproċessata applikazzjoni minn persuna biex taħdem f'qasam ta' *care work* speċjalizzat, l-Awtorità tista' tordna li dik il-persuna għandha, b'żieda tas-sottomissjoni ta' dawk il-kwalifiki kif jista' jkun preskritt, tiegħu u ttemm b'suċċess żmien ta' taħriġ jew ta' adattament kif l-Awtorità tista' tindika.

(4) Fejn, wara ż-żmien ta' adattament, l-Awtorità hija sodisfatta li l-applikant temm b'suċċess it-taħriġ u, jew għadda minn test ta' profiċjenza professjonali, l-Awtorità għandha tagħti lill-applikant ċertifikat ta' reġistrazzjoni u ismu għandu jiddaħhal fir-Reġistru tal-*Care Workers*.

(5) Ċertifikat ta' reġistrazzjoni maħruġ mill-Awtorità taħt dan l-Att jista' jinħareġ soġġett għal dawk il-limitazzjonijiet jew kondizzjonijiet li l-Awtorità tista' tirrakkomanda f'xi każ partikolari. Dik ir-reġistrazzjoni tista' tinkludi dawk il-kundizzjonijiet speċjali u dik l-awtorizzazzjoni biex wieħed jipprattika f'*care work* speċjalizzat u għal dawk il-perjodi speċifiċi kif l-Awtorità tista' tirrakkomanda skont id-dispożizzjonijiet ta' dan l-Att u kwalunkwe regolamenti li jsiru taħtu.

(6) Ċertifikat ta' reġistrazzjoni maħruġ taħt dan l-Att għandu jkompli jkollu effett sakemm l-applikant juri għas-sodisfazzjon tal-Awtorità li huwa wettaq dak il-programm jew programmi ta' żvilupp kontinwu professjonali kif jista' jkun preskritt:

Iżda meta l-applikant jonqos milli juri għas-sodisfazzjon tal-Awtorità li wettaq dak il-programm jew programmi ta' żvilupp kontinwu professjonali, ir-reġistrazzjoni tiegħu għandha tkun ikkunsidrata sospiża sakemm huwa juri għas-sodisfazzjon tal-Awtorità li huwa ssodisfa l-ħtiġiet ta' żvilupp kontinwu professjonali li jistgħu

jkunu preskritti.

6. L-Awtorità għandha tikkunsidra applikazzjonijiet sottomessi skont l-artikolu 5 minnufih malli jkun raġjonevolment prattikabbli imma mhux aktar tard minn erba' xhur minn meta tkun irċeviet l-applikazzjoni flimkien mal-informazzjoni u dokumentazzjoni rilevanti b'appoġġ tal-applikazzjoni. Id-deċiżjoni tal-Awtorità għandha tiġi notifikata lill-applikant:

Deciżjonijiet tal-Awtorità.

Iżda f'każ ta' deċiżjoni ta' ċaħda ta' dik l-applikazzjoni, l-Awtorità għandha tipprovdi raġunijiet għal dik iċ-ċaħda.

7. (1) Persuna m'għandhiex tkun kwalifikata biex tikseb jew iżżomm reġistrazzjoni skont dan l-Att jekk ma tkun instabet haġja minn qorti kompetenti għal kwalunkwe reat kkontemplat taħt dan l-Att.

Skwalifika jew tħassir mir-Reġistru tal-Care Workers.

(2) Meta persuna titlef ir-reġistrazzjoni wara li tkun instabet haġja kif imsemmi fis-subartikolu (1), notifika ta' dik it-telfa għandha tkun ippubblikata fil-Gazzetta u għandha tiġi komunikata mill-Awtorità lill-persuna li ġiet skwalifikata sakemm dik il-persuna ma tkunx ġiet interdetta bid-deċiżjoni nfisha tal-qorti kompetenti.

(3) L-Awtorità tista' terġa tirreġistra mill-ġdid persuna li tkun tilfet ir-reġistrazzjoni tagħti reġistrazzjoni lil persuna li kienet skwalifikata skont is-subartikolu (1).

8. (1) Mingħajr preġudizzju għal kull dispożizzjoni ta' kwalunkwe liġi oħra, l-Awtorità tista' tinvestiga kwalunkwe allegazzjoni ta' mġiba mhux xierqa, negligenza kbira jew inkompetenza fir-rigward ta' *care worker*.

Skwalifika jew tħassir mir-Reġistru tal-Care Workers.

(2) Għall-finijiet ta' dan l-artikolu, it-termini "imġiba hażina",

"negligenza kbira", jew "inkompetenza", jinkludu dawn li ġejjin:

(a) il-ksib ta' reġistrazzjoni b'mod qarrieqi jew frodulenti;

(b) kontravvenzjoni kontra l-Kodiċi ta' Etika stabbilit taħt dan l-Att;

(ċ) nuqqas ta' osservanza tar-regolamenti fir-rigward ta' standards jew Prattika okkupazzjonali;

(d) nuqqas ta' osservanza ta' xi kundizzjoni annessa mar-reġistrazzjoni maħruġa taħt dan l-Att;

(e) użu ta' interventi terapewtiċi u assunzjoni ta' kompetenza professjonali li għalihom persuna mhijiex

kwalifikata jew il-persuna kkoncernata mhijiex awtorizzata biex tipprattika skont ir-reġistrazzjoni tagħha;

(f) aġir b'mod li jista' jkun ta' detriment għal *care work*; u

(g) turija ta' nuqqas ta' għarfien, hila jew ġudizzju fil-prattika ta' *care work* jew fit-twettiq ta' dover jew obbligu li jittieħed waqt *care work*.

(3) Kull *care worker* li huwa soġġett għal xi inkjesta li ssir mill-Awtorità għandu jingħata l-opportunità kollha li jagħmel id-difiża tiegħu u jgħib evidenza favur tiegħu u għal dak il-għan ikun intitolat għal rappreżentanza legali.

(4) Meta tkun finalizzata l-inkjesta l-Awtorità għandha -

(a) jekk issib favur il-*care worker*, tiċhad il-każ; jew

(b) jekk issib il-*care worker* ħati tal-allegata mgħiba ħażina, negligenza kbira jew inkompetenza, tagħmel rapport tas-sejbiet tagħha u timponi xi penali minn dawn li ġejjin:

(i) sospensjoni jew kancellament tar-reġistrazzjoni għal dawk il-kundizzjonijiet li jistgħu jkunu rakkomandati;

(ii) impożizzjoni ta' kundizzjonijiet li għandhom jiġu annessi mar-reġistrazzjoni;

(iii) twiddiba;

(iv) ħlas li jkopri l-ispejjeż tal-inkjesta;

(v) tordna rinunzja, tnaqqis jew rifiżjoni ta' kull miżata li għet imposta għas-servizzi li ngħataw; jew

(vi) kwalunkwe penali oħra li tista' tkun preskritta.

(5) Mat-ħassir tar-reġistrazzjoni ta' *care worker* l-Awtorità għandha tħassar isem dik il-persuna mir-Registru tal-*Care Workers*.

(6) Għall-finijiet ta' dan l-artikolu, il-membri tal-Awtorità għandhom l-istess setgħat li jingħataw jew li jistgħu jingħataw taħt l-Att dwar l-Inkjesti, u għandhom iwettqu l-inkjesta tagħhom l-istess kif hu previst fl-istess Att.

9. Deċiżjonijiet li jittiehdu skont l-artikoli 7 u 8 jistgħu jiġu appellati skont l-artikolu 27 tal-Att tal-2018 dwar Awtorità għal Djar ta' Persuni Anzjani (Standards ta' Kwalità fil-Kura).

Appell minn deċiżjonijiet.

**reference
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10. Meta ssir applikazzjoni għal ingaġġ mill-ġdid l-Awtorità tista' tneħhi dik is-sospensjoni jew tħassir, jekk l-applikant jissodisfa dawk ir-rekwiżiti li jistgħu jkunu preskritti. Fejn ir-registrazzjoni tal-*care worker* tkun saret mill-ġdid dak il-*care worker* għandu jerga' jiġi registrat fir-Registru tal-*Care Workers*.

Ingaġġ mill-ġdid.

11. (1) Mingħajr preġudizzju għal xi dispożizzjoni ta' kwalunkwe liġi oħra, kull assoċjazzjoni ta' *care workers* tista' tagħmel applikazzjoni lill-Awtorità sabiex tkun registrata bħala assoċjazzjoni ta' *care workers* għall-finijiet ta' dan l-Att.

Assoċjazzjoni ta' *care workers*.

(2) Assoċjazzjoni għandha tikkwalifika sabiex tkun registrata taht dan l-artikolu jekk turi għas-sodisfazzjoni tal-Awtorità li għandha sħubija ta' mill-inqas għaxar *care workers* registrati u li tikkonforma mal-kondizzjonijiet l-oħra li jistgħu jiġu preskritti. Assoċjazzjoni għandha tissottometti mal-applikazzjoni lista ta' membri u dik l-informazzjoni li l-Awtorità tista' titlob biex tipproċessa l-applikazzjoni.

(3) L-Awtorità għandha jkollha s-setgħa li titlob kull assoċjazzjoni registrata taht dan l-artikolu biex tipproduċi r-rekords u informazzjoni rigward l-assocjazzjoni u l-membri tagħha kif l-Awtorità tista' raġjonevolment teħtieġ minn żmien għal żmien.

12. (1) Kull persuna li, għall-finijiet li tikseb registrazzjoni taht id-dispożizzjonijiet ta' dan l-Att, tagħti informazzjoni skorretta jew tagixxi b'mod qarrieqi jew frodulent tkun haġta ta' reat u tehel, meta tinstab haġta, multa ta' mhux iżjed minn elfejn u tlett mitt euro (€2,300) jew għal priġunerija għal żmien mhux iżjed minn tmax-il xahar jew dik il-multa u priġunerija flimkien.

Reati u pieni.

(2) Kull persuna li tinstab haġta għal xi reat ieħor kontra xi dispożizzjoni ta' dan l-Att tehel, meta tinstab haġta, multa ta' mhux iżjed minn elf u mitejn euro (€1,200) jew priġunerija għal tlett xhur jew dik il-multa u priġunerija flimkien, u fil-każ ta' reat kontinwat multa ta' tmax-il euro (€12) għal kull jum li matulu r-reat jitkompla, soġġett għal massimu ta' erbat elef u tmien mitt euro (€4,800).

(3) Kull persuna li, waqt li ma tkunx detentur ta' ċertifikat ta' registrazzjoni maħruġ taht dan l-Att, tipprattika bħala *care worker* u tassumi t-tismija ta' *care worker*, jew tagħmilha ta' *care worker* jew twettaq xogħol ta' *care work* bi ksur tad-dispożizzjonijiet ta' dan l-Att

tkun hatja ta' reat kontra dan l-artikolu.

(4) Għall-finijiet tas-subartikoli (2) u (3), l-użu fuq kull karta, karta tal-ittri bl-isem u l-indirizz stampati fuq, tabella, bord, plakka jew reklam jew kliem ieħor stampat jew imnaqqax f'apparat, strument jew dokument, tal-kliem "*Care Worker*", "*Care Worker* Registrat" fir-rigward tal-isem għandu jkun suffiċjenti bħala evidenza ta' għarfien ta' dak l-użu minn kull persuna fir-rigward ta' isimha li għaliha jkun użat dak il-kliem, sakemm dik il-persuna ma tagħtix prova li l-użu ta' dawk il-kliem sar mingħajr l-għarfien tagħha u li malli saret taf dwar dak l-użu ħadet il-passi neċessarji biex twaqqfu.

(5) Għall-finijiet ta' dan l-artikolu, persuna m'għandhiex tkun meqjusa li qed twettaq ksur tad-dispożizzjonijiet ta' dan l-Att jekk dik il-persuna qed twettaq *care work* waqt iż-żmien ta' adattament jew meta tkun f'taħriġ, f'xi każ taħt is-superviżjoni xierqa ta' haddiem tas-saħħa jew soċjali reġistrat u soġġetta għal dawk ir-regolamenti li jistgħu jkunu preskritti.

(6) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (5), ebda persuna jew xi organizzazzjoni oħra m'għandha timpjega xi persuna għajr *care worker* għall-finijiet tal-prattika ta' *care work*.

(7) Id-dispożizzjonijiet ta' dan l-Att li jstabilixxu reati għandhom ikunu mingħajr preġudizzju għad-dispożizzjonijiet ta' kull liġi oħra li tistabilixxi reati u pieni fir-rigward tal-istess atti jew nuqqasijiet u m'għandhomx, b'mod partikolari, jaffettwaw l-applikazzjoni ta' piena oġġla taħt kwalunkwe liġi oħra.

Multi
amministrattivi.

13. Fejn, wara li tkun saret inkjesta taħt id-dispożizzjonijiet tal-artikolu 8, l-Awtorità issib *care worker* ħati ta' ksur ta' mgħiba jew tal-Kodiċi tal-Etika, l-Awtorità tista timponi dawk il-multi amministrattivi li l-Ministru jista' jippreskrivi.

Setgħa biex
isiru
regolamenti.

14. Il-Ministru jista', wara konsultazzjoni mal-Awtorità, jagħmel regolamenti mhux inkonsistenti mad-dispożizzjonijiet ta' dan l-Att, biex jagħti effett aħjar lil xi dispożizzjoni minnhom u ġeneralment biex jirregola l-*care workers*, u, mingħajr preġudizzju għall-ġeneralità ta' dak li ntqal qabel, dawk ir-regolamenti jistgħu b'mod partikolari jinkludu dispożizzjonijiet fir-rigward ta' -

(a) it-twaqqif ta' Prattika ta' *care work*, standards, proċeduri u dmirijiet oħra u prattiċi li għandhom jiġu osservati minn *care workers*, kemm b'mod ġenerali kif ukoll f'oqsma partikolari tal-attività;

(b) il-Kodiċi ta' Mgħiba u Kodiċi ta' Etika ta' *care workers* u l-istandards ta' kompetenza u integrità li għandhom

jinżammu minn *care workers* u haddiema ta' appoġġ;

(c) il-htigiet fir-rigward ta' żvilupp professjonali kontinwu għaž-żamma ta' reġistrazzjoni;

(d) ix-xogħol li jista' jitwettaq u s-servizzi li jistgħu jingħataw skont ir-reġistrazzjoni, u l-pattijiet u kondizzjonijiet li jistgħu jkunu annessi ma' dik ir-reġistrazzjoni, u l-kwalifiki addizzjonali neċessarji għar-reġistrazzjoni li jipprovdu għal prattika ta' *care work* f'qasam speċjalizzat;

(e) il-mizati li jistgħu jiġu imposti mill-Awtorità f'konnessjoni mal-applikazzjoni għall-ħruġ ta' reġistrazzjoni, sabiex issir xi reġistrazzjoni taht dan l-Att, u għal xi operazzjonijiet oħra li jistgħu jitwettqu mill-Awtorità skont id-dispożizzjonijiet ta' dan l-Att;

(f) il-mizati li jistgħu jiġu imposti minn *care workers* għas-servizz tagħhom;

(g) il-proċeduri li għandhom jiġu osservati f'każijiet ta' mgħiba ħażina;

(h) kull proċedura oħra li tista' tiġi adottata mill-Awtorità;

(i) kull materja li hija meħtieġa jew awtorizzata biex tkun preskritta minn dan l-Att;

(j) il-pieni, penali u konsegwenzi u effetti oħra li għalihom persuna tista' tkun ħatja jew li jistgħu jseħħu fl-eventwalità ta' xi ksur ta', jew nuqqas ta' konformità ma', xi dispożizzjoni ta' xi regolament taht dan l-artikolu; hekk iżda li ebda piena hekk preskritta m'għandha tkun ta' iżjed minn multa ta' elf u mitejn euro (€1,200), jew prigunerija għal żmien tlett xhur, jew dik il-multu u l-prigunerija flimkien, u, fil-każ ta' reat kontinwat, għal multa ta' mitejn euro (€200) għal kull jum li matulu jkompli jseħħ ir-reat, sugġett għal massimu ta' erbat elef u tmien mitt euro (€4,800);

(k) l-penali amministrattivi li jistgħu jiġu imposti mill-Awtorità, li m'għandhomx jeċċedu l-elf u mitejn euro (€1,200).

Ghanijiet u raġunijiet

L-għanijiet ta' dan l-Abbozz ta' Liġi huma sabiex jiġi provdut qafas legali għall-provviment ta' *care work*. L-Abbozz ta' Liġi jistabbilixxi l-ħtiġiet li għandhom jiġu osservati sabiex individwu jiġi kkunsidrat bħala *care worker* biex jiġi garantit l-aħjar appoġġ possibbli lil persuni vulnerabbli li għandhom bżonn ta' kura.

**A Bill
entitled**

AN ACT to make provision for the regulation of care workers and who work in residential, hospital or community settings and to provide for matters connected therewith or ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

1. (1) The short title of this Act is the Care Workers Act, 2018. Short title and commencement.

(2) This Act shall come into force on such a date as the Minister for the Family, Children's Rights and Social Solidarity may by notice in the Gazette establish and different dates may be so established for different provisions and different purposes of this Act.

2. In this Act, and in any regulations made under this Act, unless the context otherwise requires - Interpretation.

"adaptation period" means a period during which a person may exercise his work as care worker in Malta under the supervision of a registered health professional as defined in the Health Care Professions Act, which period may cover such period where the provision of further training to such person is given, as may be required by the Authority, at the end of which an assessment shall be carried out; Cap. 464.

"Authority" means the Homes for Older Persons (Care Quality Standards) Authority established by article 6 of the Homes for Older Persons (Care Quality Standards) Authority Act, 2018; **reference to be inserted**

"care work" means the provision of personal and practical care services for people with a wide range of illnesses and disabilities

including primarily the assistance to service users including both elderly residents or patients and, or their relatives with activities of daily living;

"Minister" means the Minister responsible for the family;

"practice", in relation to work as a support care worker in the social or health field includes:

(a) work in acute hospitals and, or long-term residential facilities or a community setting; and

(b) the use of title of Registered Care Worker or the designatory letters "RCW";

"prescribed" means prescribed by regulations made by the Minister under this Act;

"proficiency test" means a test having the aim of assessing a person's ability to pursue the work of care worker in Malta, as may be required by the Authority in accordance with the provisions of this Act;

"registered care worker" or "care worker" means a person who is registered in the official register of care workers kept by the Authority and who has been granted a right to work as a registered care worker, in accordance with article 5;

"registration" means a registration status under article 5;

"senior care worker" means an individual who holds a university degree, has completed three years work experience in care work and is registered in the official Register of Care Workers kept by the Authority.

Conditions to
practise as a
care worker.

3. (1) No person shall act as a care worker or perform care work against remuneration or act as a qualified care worker or assume the title or designation of a registered care worker unless he is the holder of the registered title issued under this Act.

(2) No person shall qualify for registration to practice as a care worker unless such person -

(a) is a citizen of Malta or of a Member State, or is otherwise legally entitled or authorised to work in Malta; and

(b) is of good conduct; and

(c) is in possession of one or more qualifications as stipulated in sub-article (4)(a) and (b):

Provided that in the absence of a qualification in terms of sub-article (4)(a) and (b), if the Authority is satisfied, after the person sits for an ability and skill test, that he has adequate experience in the practice of care work for an aggregate period of at least five years full-time or its equivalent in part-time work under the supervision of a registered health care professional, that person shall be deemed to be in possession of the necessary qualifications. The Authority may seek accreditation of experiential learning in excess of five years and convert such experience into credits contributing to the level of qualification to be recognised by the Authority or in accordance with sub-article (4)(a) and (b).

(3) The Authority shall keep a register in accordance with article 8(1)(u) of the Homes for Older Persons (Care Quality Standards) Authority Act, 2018 referred to as "the Register of Care Workers", which shall consist of two separate parts, Part I in respect of first level registered care workers and Part II in respect of second level registered care workers.

reference to
be inserted

(4) In the Register of Care Workers, upon an application to that effect by the person concerned -

(a) there shall be entered in Part I thereof, the name of any citizen of Malta or Member State or who is otherwise legally entitled or authorised to work in Malta and who holds -

(i) the degree or diploma in health and social care granted by the Malta College of Arts, Science and Technology, or the equivalent health and social qualification at Malta Qualification Framework Level 6 or 5 granted by a recognized training institution; or

(ii) a care work qualification, at Malta Qualification level 4 or 3 obtained from any other college, school or training institution recognized by the Authority:

Provided that the said Authority may, in respect of such qualification, require the applicant to sit for and pass a professional proficiency test and, or require the applicant to undergo an adaptation period;

(b) there shall be entered in Part II thereof the name of any citizen of Malta, or Member State, or who is otherwise legally entitled or authorised to work in Malta and who holds

the certificate in Health and Social Work at Malta Qualification Framework at level 2 or 1 granted by the Malta College of Arts, Science and Technology or the equivalent care worker qualification granted by any other college, school or training institution recognised by the Authority:

Provided that the said Authority may, in respect of such qualification, require the applicant to sit for and pass a professional proficiency test and, or undergo an adaptation period.

(5) By the date of the coming into force of this Act, applicants in possession of the certificate in Health and Social Work at Malta Qualification Framework at level 1 and who, in the absence of a qualification, have at least eight years' experience in care and have obtained a favourable ability and professional proficiency test, shall be considered eligible for Part I of the Register of Care Workers. Applicants who hold a certificate in Health and Social Work at Malta Qualification Framework at level 2 and who have at least five years' experience in care shall also be considered eligible in Part I of the Register of Care Workers.

(6) Applicants shall not be able to register under the terms of sub-article (5) after two years from the date of the coming into force of this Act.

(7) All public service and public sector employees will be registered by their respective department, directorate or entity depending on their eligibility.

(8) The Register of Care Workers shall contain a separate section for the registration of Senior Care Workers who qualify as such in terms of this Act.

(9) The Minister may by regulations amend and, or substitute the minimum requirements established under the foregoing provisions of this article, other minimum requirements in terms of any international or multinational treaty or agreement entered into by Malta or with the provisions of any legislation the binding force of which derives from any such treaty or agreement.

Regulation and control by the Authority.

reference to be inserted

4. (1) Without prejudice to the other powers and functions conferred by the Homes for Older Persons (Care Quality Standards) Authority Act, 2018, and in addition to those powers and functions, the Authority shall have the power to regulate the practice and the eligibility of a person to work as a care worker in Malta, and in particular to -

(a) establish and, where necessary, assess existing care work standards and develop new continuing care work professional development and other standards, and recommend to the Minister in relation to initial and continuing care work education, proficiency, experience and other qualifications required for maintaining registration under this Act;

(b) consider, process and make recommendations to the Minister with regard to applications for equivalence and recognition of qualifications in care work;

(c) examine applications for registration to work in Malta and make recommendations to the Minister on the award or refusal thereof;

(d) keep an official register of all registered care workers;

(e) keep such information as may be required in relation to associations representing care workers in Malta, registered under the provisions of this Act;

(f) make recommendations to the Minister on specialised care work practice and the qualifications necessary to practise in specialised care work, and to recommend to the Minister the granting of registration to this effect;

(g) make recommendations to the Minister, following consultation with the associations registered under the provisions of this Act, on the Code of Ethics to be prescribed for the professional behaviour of care workers;

(h) inquire into any allegation of misconduct, gross negligence or incompetence by a care worker;

(i) advise, or make recommendations or otherwise express its views to the Minister on any matter on which the Minister is to consult with the Authority or on which the Authority is to make recommendations to the Minister or on which the opinion or recommendation of the Authority is sought by the Minister; and

(j) perform such other functions as may be required in relation to this Act, or as may be assigned to it by the Minister.

(2) The Authority shall, not later than three months after the end of each year, publish in the Gazette a list of persons who on the 31st December of the said year, were registered in the Register of

Care Workers.

Applications for registration.

5. (1) A person shall submit an application in the prescribed form to the Authority to obtain registration to work as a care worker in Malta:

Provided that all applications shall be accompanied by documents confirming the requirements referred to in article 3(2).

(2) If the Authority is satisfied that the applicant satisfies the minimum requirements established under this Act, the Authority shall grant to the applicant a certificate of registration and his name shall be entered in the Register of Care Workers.

(3) When processing an application by any person to work in a specialised care work setting, the Authority may direct that such person shall, in addition to the submission of such qualifications as may be prescribed, undertake and successfully complete such training or adaptation period as the Authority may indicate.

(4) Where, following an adaptation period, the Authority is satisfied that the applicant has successfully completed his training and, or passed a professional proficiency test, the Authority shall grant to the applicant a certificate of registration and his name shall be entered in the Register of Care Workers.

(5) A certificate of registration issued by the Authority under this Act may be issued subject to such limitations or conditions as the Authority may recommend in any particular case. Such registration may include such special conditions and such authorisation to practise in specialised care work and for such specific periods as the Authority may recommend in accordance with the provisions of this Act and any regulations made thereunder.

(6) A certificate of registration issued under this Act shall continue to have effect provided that the applicant shall prove to the satisfaction of the Authority that he has carried out such programme or programmes of continuing professional development as may be prescribed:

Provided that when the applicant fails to prove to the satisfaction of the Authority that he has carried out such programme or programmes of continuing professional development, his registration shall be considered suspended until such time as he proves to the satisfaction of the Authority that he meets the requirements of continuing professional development that may be prescribed.

6. The Authority shall consider applications submitted in accordance with article 5 as soon as is reasonably practicable but in no case later than four months from the receipt by the Authority of the application together with all the relevant information and documentation in support of the application. The decision of the Authority shall be notified to the applicant:

Decisions of the Authority.

Provided that in the case of a decision of refusal of the application, the Authority shall provide reasons for such refusal.

7. (1) A person shall not be qualified to obtain or retain registration in terms of this Act if he has been convicted by any competent court for any offence contemplated under this Act.

Disqualification or erasure from the Register of Care Workers.

(2) Where a person loses his registration following a conviction as is referred to in sub-article (1), notice of such loss shall be published in the Gazette and shall be communicated by the Authority to the person disqualified unless the person has been interdicted by the competent court's judgement itself.

(3) The Authority may reinstate a person who has lost his registration or grant a registration to a person who is disqualified in terms of sub-article (1).

8. (1) Without prejudice to any provision of any other law, the Authority shall inquire into any alleged misconduct, gross negligence or incompetence in relation to a care worker.

Disqualification or erasure from the Register of Care Workers.

(2) For the purposes of this article, the terms "misconduct", "gross negligence", or "incompetence", include the following:

(a) obtaining registration in a deceitful or fraudulent manner;

(b) contravention against the Code of Ethics established under this Act;

(c) failure to comply with regulations with respect to occupational standards or practice;

(d) failure to comply with any condition attached to registration issued under this Act;

(e) use of therapeutic interventions or assumption of professional competence for which the person is not qualified or the person concerned is not authorised to practise in terms of his registration;

(f) acting in a manner which may be detrimental to care work; and

(g) displaying lack of knowledge, skill or judgment in the practice of the care work or in carrying out of a duty or obligation undertaken during care work.

(3) Any care worker who is the subject of any inquiry carried out by the Authority shall be given all the opportunity to make his defence and bring any evidence in his favour and for such purpose shall be entitled to legal representation.

(4) On finalising the inquiry the Authority shall -

(a) if it finds in favour of the care worker, dismiss the case; or

(b) if it finds the care worker guilty of the alleged misconduct, gross negligence or incompetence, make a report of its findings and impose any of the following penalties:

(i) suspension or cancellation of the registration to such conditions as may be recommended;

(ii) imposition of conditions to be attached to registration;

(iii) reprimand;

(iv) payment to cover the costs of the inquiry;

(v) order the waiver, reduction or refund of any fees charged for services rendered; or

(vi) any other penalty as may be prescribed.

(5) On the erasure of the registration of a care worker the Authority shall strike off the name of such person from the Register of Care Workers.

Cap. 273.

(6) For the purpose of this article, the members of the Authority have the same powers that are or may be conferred under the Inquiries Act, and shall conduct their inquiry as provided for in the same Act.

Appeals from
decisions.
**reference to
be inserted**

9. Decisions taken in terms of articles 7 and 8 may be appealed in terms of article 27 of the Homes for Older Persons (Care Standards) Authority Act, 2018.

10. Upon application for re-instatement the Authority may remove such suspension or erasure, if the applicant meets such requirements that may be prescribed. Where the registration of the care worker has been reinstated such care worker is to be again registered in the Register of Care Workers.

Reinstatement.

11. (1) Without prejudice to any provision of any other law, any association of care workers may make an application to the Authority to be registered as an association of care workers for the purposes of this Act.

Associations of care workers.

(2) An association shall be qualified to be registered under this article if it proves to the satisfaction of the Authority that it has a membership of at least ten registered care workers and that it conforms with such other conditions as may be prescribed. An association shall submit together with the application a list of members and such other information as the Authority may require to process the application.

(3) The Authority shall have the power to require any association registered under this article to produce such records and information regarding the association and its members as the Authority may reasonably require from time to time.

12. (1) Any person who, for the purpose of obtaining a registration under the provisions of this Act, gives any wrong information or otherwise acts in a deceitful or fraudulent manner shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding two thousand and three hundred euro (€2,300) or to imprisonment not exceeding twelve months or to both such fine and imprisonment.

Offences and penalties.

(2) Any person who is found guilty of any other offence against any provision of this Act shall be liable on conviction to a fine (*multa*) not exceeding one thousand and two hundred euro (€1,200) or to three months imprisonment or to both such fine and imprisonment, and in the case of a continuing offence to a fine (*multa*) of twelve euro (€12) for each day during which the offence continues, subject to a maximum of four thousand and eight hundred euro (€4,800).

(3) Any person who, not being the holder of a registration certificate issued under this Act, practises as a care worker or assumes the designation of, or purports to be, a care worker or carries out any care work in contravention of the provisions of this Act, shall be guilty of an offence against this article.

(4) For the purposes of sub-articles (2) and (3), the use on any card, letterhead, sign, board, plate, advertisement or other written, printed or engraved device, instrument or document, of the words

"Care Worker", "Registered Care Worker" in relation to a name shall be sufficient evidence of the knowledge of such use by any person in relation to whose name the said words are used, unless such person proves that the use of such words was made without his knowledge and that upon becoming aware of the use he took adequate steps to stop it.

(5) For the purpose of this article, a person shall not be deemed to be in contravention of the provisions of this Act if such person is performing care work during an adaptation period or when in training, in any case under the appropriate supervision of a registered health or social worker and subject to such regulations as may be prescribed.

(6) Subject to the provisions of sub-article (5), no person or any other organisation shall employ any person other than a registered care worker for the purpose of practising care work.

(7) The provisions of this Act establishing offences shall be without prejudice to the provisions of any other law establishing offences and punishments in respect of the same acts or omissions and shall not, in particular, affect the application of any higher punishment under any other law.

Administrative fines.

13. Where, following an inquiry under the provisions of article 8, the Authority finds a care worker guilty of any breach of conduct or the Code of Ethics, the Authority may impose such administrative fines as the Minister may prescribe.

Power to make regulations.

14. The Minister may, after consultation with the Authority, make regulations not inconsistent with the provisions of this Act, to give better effect to any of such provisions and generally to regulate the care workers, and, without prejudice to the generality of the foregoing, such regulations may in particular include provisions with respect to -

(a) the establishment of care work practice, standards, procedures and other duties and practices to be followed by care workers, either generally or in particular fields of activity;

(b) the Code of Conduct and Code of Ethics of care workers and the standards of competency and integrity to be kept by support and care workers;

(c) the requirements in relation to continuing professional development for the maintenance of a registration;

(d) the work which can be performed and the services which can be rendered in terms of the registration, and the terms

and conditions which can be attached to such registration, and the additional qualifications necessary for registration providing for the practice of care work in a specialised setting;

(e) the fees that may be charged by the Authority in connection with the application for the issue of registration, for the making of any registration under this Act, and for any other operations that may be carried out by the Authority in accordance with the provisions of this Act;

(f) the fees that may be charged by care workers for their services;

(g) the procedures to be followed in cases of misconduct;

(h) any other procedures that may be adopted by the Authority;

(i) any matter which is required or is authorised by this Act to be prescribed;

(j) the punishments, penalties and other consequences and effects to which a person may become liable or which may take place in the event of any contravention of, or non-compliance with, any provision of any regulation under this article; so however that no punishment so prescribed shall exceed a fine (*multa*) of one thousand and two hundred euro (€1,200), or imprisonment for a term of three months, or both such fine and imprisonment, and, in the case of a continuing offence, to a fine (*multa*) of two hundred euro (€200) for each day during which the offence continues, subject to a maximum of four thousand and eight hundred euro (€4,800);

(k) the administrative penalties that may be imposed by the Authority, which shall not exceed one thousand and two hundred euro (€1,200).

Objects and Reasons

The objects of this Bill are to provide a legal framework for the provision of care work. The Bill establishes the requirements that need to be fulfilled for an individual to be considered as a care worker in order to guarantee the best support possible to vulnerable persons who are in need of care.