

L.N. 224 of 2023

**EMPLOYMENT AND INDUSTRIAL RELATIONS ACT
(CAP. 452)**

Posting of Workers in Malta (Amendment) Regulations, 2023

IN EXERCISE of the powers conferred by article 48 of the Employment and Industrial Relations Act, the Minister responsible for employment and industrial relations, has made the following regulations:-

1. (1) The title of these regulations is the Posting of Workers in Malta (Amendment) Regulations, 2023 and these regulations shall be read and construed as one with the Posting of Workers in Malta Regulations, hereinafter referred to as the "principal regulations".

Citation and scope.

S.L. 452.82.

(2) The scope of these regulations is to better transpose certain provisions of the Directives brought into force by virtue of the principal regulations.

2. Regulation 10 of the principal regulations shall be substituted by the following new regulation:

Substitutes regulation 10 of the principal regulations.

"10. (1) This regulation shall only apply in respect of a subcontracting chain operating in one or more of the activities listed in the Schedule.

(2) In any civil proceedings instituted by the posted worker where there is a subcontracting chain, the posted worker may hold the contractor of which the employer is a direct subcontractor and the direct subcontractor jointly and severally liable with respect to those rights granted by regulation 5(1)(c):

Provided that the liability shall be limited to the posted worker's rights acquired under the contractual relationship between the contractor and his direct subcontractor:

Provided further that the contractor shall not be liable in terms of the foregoing if he has undertaken a proper due diligence exercise as to the solvency and the compliance of its direct subcontractor with laws regulating its operations:

Provided further that the provisions of this regulation shall apply *mutatis mutandis* to any employee in relation to the activities listed in the Schedule."

Addition of
Schedule to the
principal
regulations.

3. Immediately after regulation 12 of the principal regulations there shall be added the following new Schedule:

**"SCHEDULE
(regulation 10)**

The activities mentioned in regulation 10 include all building work relating to the construction, repair, upkeep, alteration or demolition of buildings, and in particular the following work:

1. excavation
2. earthmoving
3. actual building work
4. assembly and dismantling of prefabricated elements
5. fitting out or installation
6. alterations
7. renovation
8. repairs
9. dismantling
10. demolition
11. maintenance
12. upkeep, painting and cleaning work
13. improvements".