

A.L. 266 ta' l-2007

**ATT DWAR L-IMMIGRAZZJONI
(KAP. 217)**

**Regolamenti ta' l-2007 dwar Bord tal-Viżitaturi ghal
Persuni Detenuti**

BIS-SAHHA tas-setghat moghtija bl-artikolu 36 ta' l-Att dwar l-Immigrazzjoni, il-Viċi Prim Ministru u Ministru tal-Ġustizzja u l-Intern ghamel dawn ir-regolamenti li ġejjin:-

1. It-titolu ta' dawn ir-regolamenti hu Regolamenti ta' l-2007 Titolu.
dwar Bord tal-Viżitaturi ghal Persuni Detenuti.

2. (1) Ghandu jkun hemm Bord tal-Viżitaturi ghal Persuni Bord tal-Viżitaturi
ghal Persuni
Detenuti.
Detenuti, hawn iżjed 'il quddiem imsejjah "il-Bord", li jkun magħmul minn *Chairman*, mill-inqas minn żewġ membri u l-aktar tmien membri u minn Segretarju skond ma jistgħu jiġu mahtura kull sena mill-Ministru responsabbli għall-immigrazzjoni, hawn iżjed 'il quddiem imsejjah "il-Ministru".

(2) Il-Viżitaturi ghandhom jibdew jeżerċitaw il-kariga tagħhom mill-1 ta' Jannar tas-sena li jiġu appuntati għaliha.

(3) Jekk matul is-sena jiġri li jkun hemm xi vakanza fil-Bord, minhabba f'xi mewt, riżenja jew minhabba xi raġuni oħra, il-Ministru ghandu, kemm jista' jkun malajr, jahtar persuna oħra biex timla dik il-vakanza:

Iżda l-Bord u l-membri tiegħu xorta jistgħu jaġixxu minkejja li jkun hemm xi kariga vakanti bhal dik.

3. Il-Bord ghandu jkollu dawn il-funzjonijiet li ġejjin: Funzjonijiet tal-
Bord.

(a) li jissodisfa lill-nnifsu dwar il-mod kif ikunu qegħdin jiġu trattati d-detenuti, l-istat tal-fondi taċ-ċentri ta' detenzjoni u l-amministrazzjoni taċ-ċentri ta' detenzjoni;

(b) li jissorvelja l-amministrazzjoni tas-sistema ta' dixxiplina fiċ-ċentri ta' detenzjoni u jinforma lill-Ministru bir-

riżultanzi li jkollu; dan ikun jinkludi li l-awtorità tista' tattendi għal seduti dixxiplinarji li jirrigwardaw lid-detenuti;

(c) li jagħti parir lill-Ministru dwar dak kollu li jirrigwarda t-trattament tad-detenuti, kif ukoll l-organizzazzjoni u l-ameljorament taċ-ċentri ta' detenzjoni u s-Servizz ta' Detenzjoni, li l-Ministru jista' jirrifertilha jew kull haġa anċillari li l-Bord jista' jqis li jkun opportun li jissottometti l-parir tiegħu dwarha lill-Ministru;

(d) li jagħti parir lill-Ministru dwar kull haġa li jkollha x'taqsam max-xogħol u l-attività li għandu jsir mid-detenuti;

(e) li jinvestiga u jirrapporta dwar kull ma jqis li jkun adatt, jew li l-Ministru jitolbu, li jiġi investigat;

(f) li jaġixxi bħala l-korp ta' persuni responsabbli għall-Mekkaniżmu Preventiv Nazzjonali kontra t-tortura, kif provdut fil-Protokoll Opzjonali tal-Konvenzjoni tan-Nazzjonijiet Uniti kontra t-Tortura; u

(g) li jwettaq dawk il-funzjonijiet l-oħra li jiġu assenjati lilu taht dawn ir-regolamenti.

Laqgħat u proċeduri tal-Bord.

4. (1) Il-Bord għandu jiltaqa' mill-inqas darba fix-xahar f'dak il-post skond ma l-Bord jista' minn żmien għal żmien jistabbilixxi.

(2) Sakemm ma jiġix provdut xort'oħra f'dawn ir-regolamenti, il-*quorum* fil-laqgħat tal-Bord għandu jkun nofs in-numru ta' membri u wiehed ieħor.

(3) Il-laqgħat tal-Bord għandhom jiġu presjeduti miċ-*Chairman* jew, meta jkun assenti, mill-Viċi *Chairman* jew minn membru li jiġi mahtur mill-Bord biex jipresjedi l-laqgħa.

(4) Il-Kap (Servizzi ta' Detenzjoni), hawn iżjed 'il quddiem imsejjah "il-Kap", jista' jattendi għal laqgħa shiha jew parti minnha tal-Bord jekk jiġi mistieden għaldaqstant mill-Bord u għandu jagħti lill-Bord kull informazzjoni li dan jista' jkun jehtieg fil-qadi tal-funzjonijiet tiegħu kif imiss.

(5) Il-minuti tal-proċedimenti u d-diskussjonijiet tal-Bord għandhom jitniżzlu mis-Segretarju tal-Bord u r-Registru tal-Minuti relattiv għandu jinżamm minnu. Dawk il-minuti għandhom jinqraw u jkunu konfermati fl-ewwel laqgħa li taħbat wara l-laqgħa li dawn ikunu jirrigwardaw, jew xi laqgħa sussegwenti, u għandhom ikunu iffirmati

miċ-*Chairman* jew minn xi membru ieħor li jkun jippresjedi l-laqgħa li fiħ dawn jiġu konfermati u mis-Segretarju.

(6) Il-provi li jingħataw bil-ġurament, dwar xi lment jew inkjesta li ssir taħt dawn ir-regolamenti, jistgħu jinstemgħu minn xi wieħed jew aktar mill-membri tal-Bord skond ma dawn jistgħu jiġu nominati għaldaqstant mill-Bord li għandu wkoll jinnomina lill-membri li jkun jista' jagħti l-ġurament.

5. (1) Il-Bord għandu jagħmel viżti u jispezzjona ċentri ta' Detenzjoni mhux inqas minn darba fix-xahar b'tali manjiera skond ma l-Bord iqis li jkun konvenjenti. Viżti u spezzjonijiet mill-Bord.

(2) Meta l-Bord ikun hekk jeħtieġ, għal dawk il-viżti u spezzjonijiet għandu jattendi wkoll il-Kap u kull uffiċjal ieħor li jiġi nominat mill-Kap.

(3) Il-persuni detenuti għandhom jiġu mistoqsija jekk ikollhomx ilmenti xi jressqu dwar il-mod kif ikunu qegħdin jiġu ittrattati fiċ-ċentri ta' Detenzjoni u meta persuna detenuta tkun tixtieq tressaq xi lment għandh tinstama' f'dik it-taqsimha taċ-ċentru skond ma l-Bord iqis li jkun adatt:

Izda ebda sanzjoni bħal dik m'għandha tiġi ordnata, applikata, permessa jew tollerata kontra xi persuna jew organizzazzjoni tali din tkun wasslet lill-Bord xi informazzjoni, kemm vera jew falza, u ebda tali persuna jew organizzazzjoni m'għandha altrimenti tiġi b'xi mod preġudikata.

(4) La l-Kap lanqas ebda uffiċjal ieħor m'għandu jkun preżenti waqt li persuna detenuta tkun qegħda tressaq xi lment quddiem il-Bord. Il-Kap, madankollu, għandu jinstama' dwar dak l-ilment.

(5) Il-Bord għandu jzomm *record* ta' kull ilment li jitressaq quddiemu minn persuni detenuti u dwar id-deċiżjonijiet tiegħu fuqhom, u għandu, jekk iqis li jkun hekk meħtieġ, jgħaddi biex jirċievi x-xieħda bil-ġurament tal-persuna li tkun qegħda tressaq l-ilment u ta' dawk l-uffiċjali u ta' persuni detenuti oħra jew ta' persuni oħra li l-Bord jista' jqis li jkunu rilevanti. Il-ġurament għandu jingħata miċ-*Chairman* jew minn xi membru ieħor li jkun qieghed jippresjedi.

(6) Kemm-il darba ma jkunx manifestament frivolu jew mingħajr ebda bażi, kull talba jew ilment għandha tiġi trattata u tingħata risposta mingħajr ebda dewmien.

(7) Meta ma jitqiesx li jkun prattiku mill-Bord li ssir viżta jew spezzjoni taht id-disposizzjonijiet hawn qabel imsemmija ta' dan ir-regolament mill-membri kollha tal-Bord, viżta li ssir minn mhux inqas minn tliet membri li jiġu nominati għaldaqstant mill-Bord għandha titqies bhala ispezzjoni li ssir mill-Bord, u d-disposizzjonijiet hawn qabel imsemmija għandhom ikunu japplikaw għal viżta jew spezzjoni bħal dik bl-istess mod u bl-istess effett bhallikieku din kienet wahda li saret mill-Bord. Kull *record* li jinżamm mill-membri li jkunu qeghdin jagħmlu dik il-viżta jew spezzjoni u kull ilment li jsir minn dawk il-membri għandu jiġi riferut lill-Bord fil-laqgħa tiegħu li jkun imiss u jiġi wkoll reġistrat fil-minuti, sakemm jekk ikun mehtieg li tinstama' xi xiehda bil-ġurament matul xi viżta jew spezzjoni bħal dik, il-ġurament għandu jingħata minn xi wiehed mill-membri li jkunu qeghdin jagħmlu l-viżta jew l-ispezzjoni.

(8) Il-membri tal-Bord jistgħu wkoll jagħmlu viżti jew spezzjonijiet bħal dawk sew flimkien sew separatament kull meta jridu, kemm bi nhar kemm bil-lejl, kull meta dawn ikunu jqisu li dan ikollu jsir b'dak il-mod. Dawk il-viżti jew spezzjonijiet jistgħu wkoll isiru mingħajr ma jingħata avviż minn qabel lill-Kap. Għandu jsir rapport ta' dawk il-viżti jew spezzjonijiet lill-Bord fil-laqgħa tiegħu li jkun imiss kemm-il darba l-membri li jkunu qeghdin jagħmlu l-viżta jew l-ispezzjoni ma jikkunsidrawx li għandhom jinfurmaw lill-Bord aktar qabel permezz taç-*Chairman*.

Smigh ta' lmenti ohra.

6. Ikun ukoll id-dmir tal-Bord li jisma' u jiddeçiedi, kemm jista' jkun malajr, kull talba jew ilment li jitressqu quddiemu minn persuna detenuta, jew minn xi persuna f'isimha, minbarra dawk li jitressqu quddiemha direttament jew quddiem il-membri tagħha filwaqt li tkun qegħda ssir xi viżta jew spezzjoni.

Deçizjonijiet tal-Bord.

7. (1) Id-deçizjonijiet tal-Bord għandhom jittiehdu minn maġġoranza tal-membri preżenti u li jkollhom il-vot. Fil-każ ta' ugwaljanza ta' voti, iç-*Chairman* ikollu vot deçiziv aktar mill-vot originali tiegħu.

(2) Id-deçizjonijiet tal-Bord ta' Detenzjoni ma jkunux vinkolanti fuq il-Kap iżda jkun id-dmir tal-Kap li jikkunsidra serjament ir-rakkomandazzjonijiet tal-Bord wara li tittiehed deçizjoni skond m'hemm provdut fis-subregolament (1) u li jiddjaloga mal-Bord dwar kif dawn jistgħu jiġu implimentati. Meta l-Kap, jew xi ufficjal iehor li jkun qieghed jaġixxi f'ismu, ikun tal-fehma li r-rakkomandazzjonijiet tal-Bord ma jkunux jistgħu jiġu implimentati minhabba f'xi raġunijiet li jkunu fl-aħjar interess ta' l-amministrazzjoni taç-çentru ta' Detenzjoni, għandha tingħata spjegazzjoni bil-miktub liç-*Chairman* tal-Bord ta' Detenzjoni b'kopja lill-Ministru, jew lil xi persuna li huwa jiddelega,

dwar dawn ir-raġunijiet, u dan fi żmien xahar mid-data minn meta jirċievi r-rakkomandazzjonijiet tal-Bord. Il-Ministru, jew dik il-persuna li tiġi hekk delegata minnu, tista' tikkonferma jew tibdel id-deċiżjoni tal-Kap.

8. (1) Il-membri tal-Bord għandhom inizzlu nota fir-Registru tal-Viżitaturi uffiċjali dwar kull viżta jew spezzjoni li huma jagħmlu, flimkien ma' kull rimarka li huma jqisu li tkun adatta dwar iċ-ċentri ta' Detenzjoni u l-persuni detenuti. Record uffiċjali ta' viżti li jsiru mill-Bord jew mill-membri tiegħu.

(2) Ir-Registru tal-Viżitaturi uffiċjali għandu jinġieb quddiem il-Bord waqt kull laqgħa ta' kull xahar u kull meta l-Bord jista' jkun jehtieg.

(3) Il-Ministru jista' jitlob li jeżamina r-Registru tal-Viżitaturi uffiċjali u r-registru tal-minuti tal-Bord.

9. (1) Ebda persuna li jkollha interess f'xi kuntratt għall-provvista ta' oġġetti jew servizzi lil ċentri ta' Detenzjoni m'għandha tkun membru tal-Bord. Skwalifika u astensjoni ta' Membri.

(2) Jekk xi membru tal-Bord ikollu qrubija bil-konsangwinità jew affinità, sar-raba' grad inklużiv, ma' xi persuna detenuta jew ikollu xi interess professjonali f'xi persuna detenuta, li ma tkunx dik ta' membru tal-Bord, huwa għandu minnufih jagħmel dikjarazzjoni dwar dik il-qrubija jew dak l-interess lill-Bord u dik id-dikjarazzjoni għandha tiġi reġistrata fil-minuti. Dak il-membru għandu wara dan jastjeni milli jiehu sehem fil-proċediment u d-diskussjonijiet tal-Bord dwar kull haġa li jkollha x'taqsam ma' dik il-persuna detenuta u milli jivvota dwarha.

(3) Meta membru jkun assenti mingħajr ebda raġuni valida għal aktar minn erba' laqgħat konsekuttivi, dan għandu jitqies li jkun irriżenja mill-kariga tiegħu.

10. Il-Bord għandu jiġbed l-attenzjoni tal-persuna detenuta dwar kull haġa li tkun tirrigwardah u għandu jagħmel rapport lill-Ministru dwar kull ma jqis li jkun spedjenti li jirrapportalu. Kwistjonijiet li għandhom jinġiebu għall-attenzjoni tal-Kap.

11. Il-Bord għandu jinforma lill-Ministru minnufih b'kull abbuż li jsir jaf bih u jkollu s-setgħa li jirrakkomanda lill-awtorità xierqa li tkun ser tittiehed azzjoni dixxiplinari kontra xi uffiċjal. Abbużi f'ċentri ta' Detenzjoni.

12. Il-Bord għandu jiehu hsieb li l-ikel ta' persuni detenuti jiġi spezzjonat minn membru tal-Bord f'intervalli spissi. Spezzjoni ta' l-ikel.

Rapporti fuq is-sahha ta' detentur.

13. Il-Bord ghandu jinvestiga dwar kull rapport li jsirli, dwar kull informazzjoni li xort'ohra jsir jaf biha, li s-sahha ta' persuna detenuta, mentali jew fizika, tkun giet jew aktarx li tigi affettwata hazin bil-kundizzjonijiet tad-detenzjoni tieghu.

Access ghall-fond u records.

14. (1) Il-Bord u kull membru tieghu ghandu jkollu access f'kull waqt ghal kull parti ta'-centri ta' Detenzjoni u ghal kull persuna detenuta u jista' jintervista lil kull persuna detenuta minghajr ma ebda ufficjal ma jkun jista' jara jew jisma' dak li jkun ghaddej.

(2) Il-Bord u kull membru tieghu ghandu jkollhom access ghar-records ta'-centri ta' Detenzjoni.

Rapport annwali.

15. (1) Il-Bord ghandu jaghmel rapport annwali lill-Ministru fi tmiem kull sena dwar l-istat ta'-centri ta' Detenzjoni u l-amministrazzjoni taghhom, u b'mod generali, dwar il-qadi tal-funzjonijiet tieghu.

(2) Informazzjoni kunfidenzjali li tingabar mill-Bord ghandha tkun privileggata u m'ghandha tigi pubblikata ebda data personali minghajr il-kunsens espress tal-persuna li tkun involuta.

L.N. 266 of 2007

IMMIGRATION ACT
(CAP. 217)

Board of Visitors for Detained Persons Regulations, 2007

BY virtue of the powers conferred by article 36 of the Immigration Act, the Deputy Prime Minister and Minister for Justice and Home Affairs has made the following regulations:-

1. The title of these regulations is the Board of Visitors for Detained Persons Regulations, 2007. Title.

2. (1) There shall be a Board of Visitors for Detained Persons, hereinafter referred to as “the Board”, composed of a Chairman, a minimum of two and maximum of eight members and a Secretary as shall be appointed annually by the Minister responsible for immigration, hereinafter referred to as “the Minister”. Board of Visitors.

(2) The Visitors shall hold office from the 1st January of the year for which they shall be appointed.

(3) If any vacancy in the Board occurs during the year, on account of death, resignation or for any other cause, the Minister shall, as soon as practicable, appoint another person to fill the vacancy:

Provided that the Board and the members thereof may act notwithstanding any such vacancy.

3. The Board shall have the following functions:

Functions of the Board.

(a) to satisfy itself as to the treatment of detainees, the state of detention centres premises and the administration of the detention centres;

(b) monitor the administration of the detention centres’ disciplinary system and inform the Minister of its findings; this includes the authority to attend disciplinary hearings of detainees;

(c) to advise the Minister on any matter relating to the care of detainees, as well as to the organisation and improvement of

the detention centres and the Detention Service, which the Minister may refer to it or any ancillary matter on which the Board deems it opportune to tender its advice to the Minister;

(d) to advise the Minister on matters relating to work and activity to be performed by detainees;

(e) to inquire into and report upon any matter which it deems proper, or the Minister requests it, to enquire into;

(f) to act as the body of persons responsible for a National Preventive Mechanism for the prevention of torture, as provided for in the Optional Protocol to the United Nations Convention against Torture; and

(g) to perform such other functions as are assigned to it under these regulations.

Meetings and
proceedings of the
Board.

4. (1) The Board shall meet at least once a month at such place as the Board may from time to time determine.

(2) Except where otherwise provided in these regulations, the quorum for meetings of the Board shall be of half the number of members plus one.

(3) The meetings of the Board shall be presided by the Chairman or, in his absence, the Deputy Chairman or a member appointed by the Board to preside the meeting.

(4) The Head (Detention Services), hereinafter referred to as “the Head”, may attend the whole or any part of a meeting of the Board if so invited by the Board and shall give to the Board any information it may require for the due exercise of its functions.

(5) Minutes of the proceedings and deliberations of the Board shall be drawn up by the Secretary of the Board and the relative Minutes Book shall be kept in his custody. Such minutes shall be read and confirmed at the first meeting after the meeting to which they relate, or any subsequent meeting, and shall be signed by the Chairman or other member presiding the meeting at which they are confirmed and by the Secretary.

(6) Evidence on oath, in connection with a complaint or an enquiry under these regulations, may be heard by one or more of the Board's members as may be designated for that purpose by the Board which shall also designate the member who will administer the oath.

5. (1) The Board shall visit and inspect Detention Centres not less than once a month in such manner as the Board deems convenient. Visits and inspections by the Board.

(2) If the Board so requests, such visits and inspections shall be attended by the Head and any other officer designated by the Head.

(3) The detainees shall be asked if they have any complaints to make with regard to their treatment in the Detention Centres and any detainee wishing to make a complaint shall be heard in such part of the Centre as the Board may deem fit:

Provided that no sanction shall be ordered, applied, permitted or tolerated against any person or organization for having communicated to the Board any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

(4) Neither the Head nor any other officer shall be present while a detainee is making a complaint before the Board. The Head, however, shall be heard on any such complaint.

(5) The Board shall keep a record of all complaints made to it by detainees and its decision thereon, and shall, if it deems necessary, take the sworn evidence of the complainant and of such officers and other detainees or other persons as the Board may deem relevant. The oath shall be administered by the Chairman or other member presiding.

(6) Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.

(7) Where it is not considered practicable by the Board to carry out a visit or an inspection under the foregoing provisions of this regulation by all the members of the Board, a visit or an inspection carried out by not less than three members designated for such purpose by the Board shall be deemed a visit or an inspection carried out by the Board, and the foregoing provisions shall apply to any such visit or inspection in the same manner and to the like effect as to one carried out by the Board. Any record kept by the members carrying out such a visit or inspection and any complaint received by such members shall

be referred to the Board at its next meeting and entered in the minutes, provided that if it is necessary to hear any evidence on oath during any such visit or inspection the oath may be administered by any one of the members conducting the visit or inspection.

(8) The members of the Board may also make such visits or inspections either together or separately at any time, whether by day or night, whenever they consider it desirable to do so. Such visits or inspections may also be made without prior notice to the Head. A report of such visits or inspections shall be made to the Board at its next meeting unless the members carrying out the visit or inspection consider to inform the Board earlier through the Chairman.

Hearing of other complaints.

6. It shall also be the duty of the Board to hear and decide upon, as soon as practicable, any request or complaint made to it by a detainee, or any person on his behalf, other than those made directly to it or to any of its members during the course of a visit or inspection.

Decisions of the Board.

7. (1) The decisions of the Board shall be taken by a majority of the members present and voting. In the case of an equality of votes the Chairman shall have a casting vote in addition to his original vote.

(2) The decisions of the Detention Board shall not be binding upon the Head but it shall be the duty of the Head to take serious cognizance of the recommendations of the Board following a decision taken as provided in subregulation (1) and to enter into a dialogue with the Board on possible implementation measures. When the Head, or any other officer acting on his behalf, is of the opinion that the recommendations of the Board cannot be implemented for reasons which are in the best interests of the Detention Centre administration, an explanation in writing of these reasons shall, within one month of the date of receipt of the Board's recommendations, be forwarded to the Chairman of the Detention Board and copied to the Minister, or to a person delegated by him. The Minister, or the person delegated by him, may confirm or vary the decision of the Head.

Official record of visits by Board or its members.

8. (1) The members of the Board shall make a note in the official Visitors' Book of every visit or inspection made by them, with such remark as they deem proper in regard to the Detention Centres and the detainees.

(2) The official Visitors' Book shall be produced to the Board at each monthly meeting and at such other times as the Board may require.

(3) The Minister may request to examine the official Visitors' Book and the minutes book of the Board.

9. (1) No person having any interest in any contract for the supply of goods or services to the Detention Centres shall be a member of the Board. Disqualification and abstention of members.

(2) If any member of the Board is related by consanguinity or affinity, up to the fourth degree inclusive, to any detainee or has any professional interest in any detainee, other than as a member of the Board, he shall forthwith make a declaration of such relationship or interest to the Board and such declaration shall be entered in the minutes. The said member shall thereafter abstain from taking part in the proceedings and deliberations of the Board on any question relating to such detainee and from voting thereon.

(3) A member who absents himself without valid reason for more than four consecutive meetings shall be considered as having resigned his post.

10. The Board shall draw the attention of the detainee to any matter which calls for his attention and shall report to the Minister any matter which it considers expedient to report to him. Matters for Head's attention.

11. The Board shall inform the Minister immediately of any abuse which comes to its knowledge and shall have power to recommend to the appropriate authority the taking of disciplinary action against any officer. Abuses in Detention Centres.

12. The Board shall arrange for the food of the detainees to be inspected by a member of the Board at frequent intervals. Inspection of food.

13. The Board shall inquire into any report made to it, or any information otherwise coming to its knowledge, that a detainee's health, mental or physical, has been or is likely to be injuriously affected by any conditions of his detention. Reports on detainee's health.

14. (1) The Board and every member thereof shall have access at any time to every part of the Detention Centres and to every detainee and may interview any detainee out of the sight and hearing of all officers. Access to premises and records.

(2) The Board and every member thereof shall have access to all Detention Centres' records.

15. (1) The Board shall make an annual report to the Minister at the end of each year concerning the state of the Detention Centres and their administration and, generally, the carrying out of its functions.

(2) Confidential information collected by the Board shall be privileged and no personal data shall be published without the express consent of the person concerned.