

## **Nru. 106**

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15. 11. 2019

### **MALTA**

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#### **KAMRA TAD-DEPUTATI**

#### **HOUSE OF REPRESENTATIVES**

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ABBOZZ ta' Liġi mressaq mill-Onorevoli Joe Mizzi, M.P., Ministru għall-Energija u l-Immaniggar tal-Ilma u moqri għall-Ewwel darba fis-Seduta tas-7 ta' Ottubru, 2019.

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A BILL introduced by the Honourable Joe Mizzi, M.P., Minister for Energy and Water Management, and read the First time at the Sitting of the 7th October, 2019.

**ATT biex jiġu stabbiliti setgħat ta' infurzar u ta' sanzjoni kif meħtieġ bl-artikoli 13, 14 u 18 tar-Regolament (UE) Nru 1227/2011 tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Ottubru 2011 dwar l-integrità u t-trasparenza tas-swieq tal-enerġija bl-ingrossa.**

**AN ACT to establish enforcement powers as required by articles 13, 14 and 18 of Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency.**

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RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

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RAYMOND SCICLUNA  
*Clerk of the House of Representatives*



### **Abbozz ta' Liġi msejjah**

*ATT biex jiġu stabbiliti setgħat ta' infurzar u ta' sanzjoni kif meħtieġ bl-artikoli 13, 14 u 18 tar-Regolament (UE) Nru 1227/2011 tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Ottubru 2011 dwar l-integrità u t-trasparenza tas-swieq tal-enerġija bl-ingrossa.*

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-2019 dwar l-Integrità u t-Trasparenza tas-Swieq tal-Enerġija bl-Ingrossa (Setgħat ta' Nfurzar). Titolu fil-qosor.

**2.** F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'oħra: Tifsir.

"Aġenzija" tfisser l-Aġenzija għall-Koperazzjoni tar-Regolaturi tal-Enerġija stabbilita bir-Regolament (KE) Nru 713/2009 tal-Parlament Ewropew u tal-Kunsill (EC) tat-13 ta' Lulju 2009 li stabbilixxa Aġenzija għall-Koperazzjoni tar-Regolaturi tal-Enerġija;

"informazzjoni privileġġjata" tfisser informazzjoni ta' natura preċiża li ma saritx pubblika, li tirrelata, direttament jew indirettament, ma' prodott tal-enerġija bl-ingrossa wieħed jew iktar u, li kieku ssir pubblika, x'aktarx li taffettwa b'mod sinifikanti dawk il-prezzijiet ta' prodotti tal-enerġija bl-ingrossa.

Għall-finijiet ta' din it-tifsira, "informazzjoni" tfisser:

(a) informazzjoni li għandha ssir pubblika skont ir-Regolamenti (KE) Nru 714/2009 u (KE) Nru 715/2009, inklużi l-linji gwida u l-kodiċijiet tan-netwerk adottati skont dawk ir-Regolamenti;

(b) informazzjoni relatata mal-kapaċità u l-użu tal-faċilitajiet għall-produzzjoni, għall-ħżin, għall-konsum jew għat-trasmissjoni tal-elettriku jew tal-gass naturali jew relatata mal-kapaċità u l-użu tal-faċilitajiet LNG, inkluż nuqqas ta' disponibiltà ppjanat jew mhux ippjanat ta' dawn il-faċilitajiet;

(ċ) informazzjoni li għandha tiġi żvelata skont id-dispożizzjonijiet legali jew regolatorji fil-livell tal-Unjoni jew fil-livell nazzjonali, ir-regoli tas-suq, u l-kuntratti jew l-użanzi fis-swieq tal-enerġija bl-ingrossa rilevanti, sakemm din l-informazzjoni x'aktarx li jkollha effett sinifikanti fuq il-prezzijiet tal-prodotti tal-enerġija bl-ingrossa; kif ukoll

(d) informazzjoni oħra li partecipant raġonevoli fis-suq x'aktarx juża bħala parti mill-baži tad-deċiżjoni tiegħu li jidhol fi transazzjoni relatata ma', jew li jorħroġ ordni biex jinnegozja fi, prodott tal-enerġija bl-ingrossa.

L-informazzjoni għandha titqies li hija ta' natura preċiża jekk turi sett ta' ċirkostanzi li jeżisti jew li jista', b'mod raġonevoli, ikun mistenni li jsir eżistenti, jew avveniment li jkun sar jew li jista', b'mod raġonevoli, ikun mistenni li jsir, u jekk tkun speċifika biżżejjed biex tippermetti li wieħed jasal għal konklużjoni fir-rigward tal-effett possibbli ta' dak is-sett ta' ċirkostanzi jew ta' dak l-avveniment fuq il-prezzijiet tal-prodotti tal-enerġija bl-ingrossa;

"manipulazzjoni tas-suq" tfisser:

(a) il-partecipazzjoni fi kwalunkwe transazzjoni jew il-ħruġ ta' kwalunkwe ordni sabiex isir negozjar ta' prodotti tal-enerġija bl-ingrossa, li:

(i) tagħti, jew huwa probabbli li tagħti, sinjali foloz jew qarrieqa rigward il-provvista ta', id-domanda għal jew il-prezz ta' prodotti tal-enerġija bl-ingrossa;

(ii) tiżgura jew tipprova tiżgura, minn persuna jew persuni li jaġixxu f'kollaborazzjoni, il-prezz ta' prodott jew ta' diversi prodotti tal-enerġija bl-ingrossa f'livell artifiċjali, sakemm il-persuna li tkun ippartecipat fit-transazzjoni jew ħarġet l-ordni sabiex isir in-negozju ma tistabilixxix li r-raġunijiet tagħha biex tagħmel dan

huma legittimi u li dik it-transazzjoni jew dik l-ordni biex isir negozju huma konformi mal-prattici accettati tas-suq fis-suq tal-enerġija bl-ingrossa konċernat; jew

(iii) tagħmel użu jew tipprowa tagħmel użu minn mezz fittizju jew minn kwalunkwe forma oħra ta' qerq jew ta' stratagemma li tagħti jew li tista' tagħti, sinjali foloz jew qarrieqa rigward il-provvista ta', id-domanda għal, jew il-prezz ta', prodotti tal-enerġija bl-ingrossa; jew

(b) tixrid ta' informazzjoni permezz tal-*media*, inkluż l-internet, jew bi kwalunkwe mezz ieħor, li jagħti jew huwa probabbli li jagħti, sinjali foloz jew qarrieqa rigward il-provvista ta', id-domanda għal jew il-prezz ta' prodotti tal-enerġija bl-ingrossa, inkluż it-tixrid ta' għajdut u ta' aħbarijiet foloz jew qarrieqa, fejn il-persuna li tkun xerrdet l-informazzjoni kienet taf, jew missha kienet taf, li din kienet falza jew qarrieqa.

Meta informazzjoni tinxtered għall-iskopijiet tal-ġurnalizmu jew l-espressjoni artistika, tixrid ta' informazzjoni ta' din ix-xorta għandu jiġi vvalutat billi jitqiesu r-regoli li jirregolaw il-libertà tal-istampa u l-libertà tal-espressjoni f' *media* oħra, sakemm:

(i) dawk il-persuni ma jiksbox, direttament jew indirettament, vantaġġ jew profitti mit-tixrid tal-informazzjoni inkwistjoni; jew

(ii) l-iżvelar jew it-tixrid isir bl-intenzjoni li s-suq jiġi żgwidat fir-rigward tal-provvista ta', id-domanda għal, jew il-prezz ta' prodotti tal-enerġija bl-ingrossa;

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

"persuna" tfisser kull persuna fiżika jew ġuridika;

"Regolament (UE) Nru 1227/2011" jew "Regolament *Remit*" tfisser ir-Regolament (UE) Nru 1227/2011 tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Ottubru 2011 dwar l-integrità u t-trasparenza tas-swieq tal-enerġija bl-ingrossa;

"Regolatur" tfisser ir-Regolatur għas-Servizzi tal-Enerġija u l-Ilma stabbilit bl-artikolu 3 tal-Att dwar ir-Regolatur għas-Servizzi tal-Enerġija u l-Ilma; Kap. 545.

"rekwiżit tar-Regolament *Remit*" tfisser rekwiżit impost minn xi wieħed mill-artikoli li ġejjin tar-Regolament (UE) Nru 1227/2011:

C 3800

(a) l-Artikolu 3(1) u (5) (projbizzjoni ta' *insider trading*);

(b) l-Artikolu 4(1), (2) u (3) (l-obbligu li tiġi ppubblikata l-informazzjoni privileġġjata);

(ċ) l-Artikolu 5 (projbizzjoni tal-manipulazzjoni tas-suq);

(d) l-Artikolu 8(1) u (5) (ġbir tad-*data*);

(e) l-Artikolu 9(1), (4) u (5) (ir-registrazzjoni tal-partecipanti fis-suq);

(f) l-Artikolu 15 (obbligi ta' persuni li b'mod professjonali jagħmlu arrangamenti għal transazzjonijiet);

(g) l-Artikolu 17 (is-segretezza professjonali);

Kap. 490. "Tribunal" tfisser it-Tribunal ta' Revizzjoni Amministrattiva mwaqqaf bl-artikolu 5 tal-Att dwar il-Ġustizzja Amministrattiva.

Għan.

**3.** Ir-Regolatur għandu jeżerċita s-setgħat ta' investigazzjoni u nfużzar stabbiliti f'dan l-Att bil-għan li tiġi żgurata l-applikazzjoni u l-implimentazzjoni tar-Regolament (UE) Nru 1227/2011 u b'mod partikolari l-Artikoli 3, 4, 5 13 u 15 tiegħu.

Setgħa li jintalab aċċess għal dokumenti u għal registri ta' telefonati.

**4.** (1) Mingħajr preġudizzju għas-setgħat tar-Regolatur mogħtija lillu taht xi liġi oħra, fit-tweqqif tal-funzjonijiet tiegħu taht dan l-Att, ir-Regolatur għandu jkollu s-setgħa li jkollu aċċess għal kull dokumentazzjoni f'kull forma u li jirċievi kopja tagħha u li jitlob dawn id-dokumenti msemmija mingħand kull persuna, inklużi:

(a) kull persuna li qed twettaq, wettqet jew li tidher li qed twettaq jew li wettqet operazzjoni jew attività regolata jew projbita minn xi dispożizzjoni ta' dan l-Att;

(b) kull persuna li tidher li għandha xi informazzjoni jew dokumentazzjoni rilevanti; jew

(ċ) kull persuna li suċċessivament tkun involuta fl-għoti ta' ordnijiet jew f'azzjonijiet tal-operazzjonijiet rilevanti, kif ukoll il-prinċipali tagħhom.

(2) Ir-Regolatur jista', b'avviż bil-miktub, jeħtieġ li persuna msemmija fis-subartikolu (1) -

(a) tagħti lir-Regolatur, fil-ħin u fil-post u fil-forma speċifikati minnu, id-dokumentazzjoni kollha li jista' jeħtieġ

inklużi registri li jkun hemm ta' telefonati u registri li jkun hemm ta' traffiku tad-*data*; u

(b) tagħti lir-Regolatur id-dokumentazzjoni kollha hawn qabel imsemmija verifikata bil-mod kif jispeċifika.

F'dawn iż-żewġ każijiet, il-persuna indirizzata għandha thares minnufih it-talba tar-Regolatur billi tagħti lir-Regolatur id-dokumentazzjoni kollha li jkollha.

(3) Ir-Regolatur jista' jagħmel kopji tad-dokumentazzjoni kollha mogħtija lill jew li għandu aċċess għaliha taħt dan l-artikolu.

(4) Meta l-persuna meħtieġa li tagħti d-dokumentazzjoni taħt dan l-artikolu ma jkollhiex id-dokumentazzjoni rilevanti, għandha l-obbligu li tavża mill-ewwel lir-Regolatur fejn, safejn taf hi, tista' tinstab dik id-dokumentazzjoni, u r-Regolatur jista' jeħtieġ lil kull persuna, kemm jekk indikata kif imsemmi hawn qabel kemm jekk le, li tidher li għandha dik id-dokumentazzjoni, li tipprovdli dik id-dokumentazzjoni.

(5) Kull persuna mitluba li tagħti informazzjoni permezz tas-subartikolu (2), b'mod partikolari d-diretturi u l-*managers*, b'kull isem li jkollhom, jew kull persuna oħra li jkunu, jew li kienu, responsabbli mill-operazzjonijiet jew attivitajiet rilevanti għandha tgħin u tikkollabora minnufih mar-Regolatur biex tgħinu jwettaq il-funzjonijiet tiegħu, u għandha tiġbor u tibgħat mingħajr dewmien l-informazzjoni li r-Regolatur raġonevolment jista' jitlob minn żmien għal żmien.

5. (1) Mingħajr preġudizzju għas-setgħat tar-Regolatur mogħtija lill taħt xi liġi oħra, fit-twettiq tal-funzjonijiet u s-setgħat tiegħu taħt dan l-Att, ir-Regolatur għandu jkollu s-setgħat li jitlob informazzjoni dettaljata f'kull forma u li jirċievi dikjarazzjonijiet bil-miktub tagħha u li jitlob bil-miktub dik l-informazzjoni mingħand kull persuna minnufih. B'mod partikolari, ir-Regolatur jista' jeħtieġ li kull persuna msemmija fl-artikolu 4(1):

Setgħa li tintalab informazzjoni u għajnuna u li jiġu mharrka persuni għal smiġh.

(a) tagħti lir-Regolatur, fil-ħin u fil-post u fil-forma speċifikati minnu, l-informazzjoni li jeħtieġ;

(b) tagħti lir-Regolatur kull informazzjoni fil-forma ta' dikjarazzjoni bil-miktub jew kull informazzjoni verifikata b'mod kif dan jista' jispeċifika;

(c) tiġi quddiem ir-Regolatur, fil-ħin u fil-post speċifikati minnu, biex twieġeb mistoqsijiet u tagħti informazzjoni u dokumentazzjoni; u

(d) tagħti lir-Regolatur kull għajnuna li jeħtieg u li dik il-persuna tista', raġonevolment, tagħti.

(2) Kull persuna mitluba li tagħti informazzjoni permezz tas-subartikolu (1), b'mod partikolari d-diretturi u l-*managers*, b'kull isem li jkollhom, jew kull persuna oħra li jkunu, jew li kienu, responsabbli mill-operazzjonijiet jew attivitajiet rilevanti għandha tgħin u tikkollabora minnufih mar-Regolatur biex tgħinu jwettaq il-funzjonijiet tiegħu, u għandha tiġbor u tibgħat mingħajr dewmien l-informazzjoni li r-Regolatur jista' raġonevolment jitlob minn żmien għal żmien.

(3) Meta l-persuna meħtieġa li tagħti informazzjoni taht dan l-artikolu ma jkollhiex id-dokumentazzjoni mitluba jew informazzjoni rilevanti, għandha tavża minnufih lir-Regolatur fejn, sa fejn taf hi, dik id-dokumentazzjoni tista' tinsab, u r-Regolatur jista' jeħtieg li kull persuna, kemm jekk indikata kif imsemmi hawn u kemm jekk le, li jista' jkollha dik l-informazzjoni, li tipprovdi din l-informazzjoni.

Setgħa li  
jinhatru spetturi  
u li jitwettqu  
spezzjonijiet fil-  
post.  
Kap. 545.

6. (1) Mingħajr preġudizzju għas-setgħat tar-Regolatur mogħtija lilu taht l-Att dwar ir-Regolatur għas-Servizzi tal-Energija u l-Ilma u taht xi liġi oħra, fit-twettiq tas-setgħat taht dan l-Att, ir-Regolatur jista' jaġixxi direttament jew inkella indirettament billi jahtar spettur jew spetturi li jkunu ufficjali jew impjegati tar-Regolatur jew persuna oħra li r-Regolatur iqis kompetenti għal dan l-iskop, biex jinvestigaw u jirrappurtaw l-affarijiet ta' kull persuna li l-affarijiet jew l-azzjonijiet tagħha jkunu qed jiġu investigati fir-rigward ta' vjolazzjoni possibbli ta' dan l-Att.

(2) Fil-ħatra ta' spettur, ir-Regolatur jista' jistipula li l-investigazzjoni għandha titwettaq fi żmien speċifiku u għandha tkun ristretta għall-kwistjonijiet speċifiċi jew ġenerali li r-Regolatur jista' jqis xierqa.

(3) Fit-twettiq tal-funzjonijiet tiegħu, l-ispettur, wara l-preżentazzjoni tal-provi tal-awtorità tiegħu, jekk meħtieġa, għandu jkollu s-setgħa -

(a) li jinvestiga l-affarijiet ta' xi persuna msemmija fl-artikoli 4 u 5 jekk jaħseb li tkun meħtieġa jew espedjenti għall-iskopijiet ta' investigazzjoni taht dan l-Att;

(b) li jeżerċita s-setgħat kollha mogħtija lir-Regolatur bl-artikoli 4 u 5;

(ċ) li jwettaq spezzjonijiet fuq il-post u għandu jkollu d-dritt ta' aċċess u dħul raġonevoli fl-istabbilimenti tal-impriża, fl-uffiċċji, fid-dokumentazzjoni u kull informazzjoni meħtieġa



jew espedjenti għall-iskop ta' investigazzjoni taht dan l-Att;

(d) li jidhol fi stabbilimenti okkupati minn persuna bl-iskop li jikseb minn hemm informazzjoni jew dokumenti mehtiega bl-avviz skont l-artikoli 4 jew 5, jew għall-iskop tal-investigazzjoni, u tal-eżercizzju ta' xi setgħa mogħtija lilu bl-artikoli msemmija:

Iżda meta l-ispettur għandu raġuni biżżejjed li jaħseb li jekk jingħata avviz kif imsemmi fl-artikoli 4 jew 5 ma jitharisx jew li xi dokumenti msemmija fl-avviz jistgħu jitneħħew, jitbagħhsu jew jinqerdu, l-ispettur jista' jidhol f'xi stabbiliment imsemmi fis-subartikolu (2) bl-iskop li jikseb minn hemm kull informazzjoni jew dokumenti li jkunu setgħu ġew mitluba taht l-avviz kif imsemmi fl-artikoli 4 jew 5.

(4) Spettur mahtur skont dan l-artikolu għandu -

(a) jkollu s-setgħa li jagħmel rapporti interim u mal-konkluzjoni tal-investigazzjoni tiegħu huwa għandu jagħmel rapport finali lir-Regolatur jekk hekk mehtieg mir-Regolatur; u

(b) josserva l-obbligu tas-segretezza professjonali.

(5) Meta r-Regolatur jahtar persuna bhala spettur taht dan l-artikolu, din il-persuna, għall-iskop tat-twettiq tal-funzjonijiet tagħha taht il-ħatra tagħha, għandu jkollha s-setgħat kollha mogħtija lir-Regolatur b'dan l-artikolu u talba tiegħu għandha titqies bhala rekwiżit tar-Regolatur u din għandu jkollha l-istess effett.

(6) Għall-iskop ta' kull azzjoni mehuda taht id-dispożizzjonijiet ta' dan l-artikolu, ir-Regolatur jista' jitlob l-għajnuna tal-Kummissarju tal-Pulizija, li għal dan l-iskop jista' jeżercita s-setgħat mogħtija lilu bil-liġi fejn tidhol investigazzjoni ta' reati kriminali.

(7) Fil-każ li jirriżulta li l-persuna investigata kisret d-dispożizzjonijiet ta' dan l-Att, ir-Regolatur għandu jkollu s-setgħa li jordna li l-ispejjeż kollha raġonevoli li jintnefqu f'investigazzjoni skont dan l-artikolu jithallsu minn dik il-persuna. Kull ordni bħal dan, li għandu jiġi notifikat lill-persuna koncernata b'avviz għall-ħlas, għandu:

(a) ikun bil-miktub; u

(b) jehtieg lill-persuna indirizzata biex thallas l-ispejjeż tal-investigazzjoni u l-ispejjeż incidentalijiet għaliha qabel it-tmiem ta' dak il-perijodu, li ma jkunx inqas minn erbatax-il jum

mid-data tan-notifika tal-avviż, kif jista' jiġi speċifikat fl-avviż:

Iżda kull persuna li tħosha aggravata b'ordni notifikata lilha skont dan is-subartikolu tista' tappella lit-Tribunal kontra d-deċiżjoni tar-Regolatur skont l-artikolu 11.

Setgħat li jingħataw xi ordnijiet u li tintalab projbizzjoni temporanja tal-attività professjonali.

7. (1) Mingħajr preġudizzju għas-setgħat tar-Regolatur mogħtija lilu taħt xi liġi oħra, fl-eżercizzju u għall-iskop tal-funzjonijiet tiegħu taħt dan l-Att, u għall-implimentazzjoni aħjar tiegħu, ir-Regolatur għandu jkollu s-setgħa li joħroġ dawk l-ordnijiet b'avviż bil-miktub li għandu jieħu forma ta' deċiżjoni kif dan iqis adatt, u kull persuna li tircievi l-ordni għandha tħarisha u tirrendiha effettiva minnufih jew fiż-żmien u fil-mod stipulat fl-ordni.

Kap. 545.

(2) Deċiżjoni mir-Regolatur taħt dan l-artikolu tista' teħtieġ li haġa ssir jew li ma ssirx, tista' timponi projbizzjoni, restrizzjoni jew limitazzjoni, jew rekwiżit ieħor, u tagħti setgħat, fir-rigward ta' kull operazzjoni jew att ieħor, jew fuq kull assi, jew fuq kull haġa oħra. Mingħajr preġudizzju għall-ġeneralità ta' dak hawn qabel imsemmi, ordni tista' teħtieġ it-twaqqif ta' kull Prattika li hija kontra d-dispożizzjonijiet tar-Regolament (UE) No 1227/2011, l-Att dwar ir-Regolatur għas-Servizzi tal-Energija u l-Ilma u ta' dan l-Att.

(3) Is-setgħa li r-Regolatur joħroġ deċiżjonijiet taħt dan l-artikolu għandha tinkludi s-setgħa li jvarja, ibiddel, iżid jew inaqqas minn din l-ordni, kif ukoll is-setgħa li joħroġ aktar ordnijiet godda.

(4) Bla ħsara għall-ġeneralità ta' dak li ngħad qabel, ir-Regolatur jista' jitlob lill-Qorti tal-Maġistrati permezz ta' rikors biex toħroġ ordni li jimponi fuq persuna projbizzjoni temporanja tal-attività professjonali. Ir-rikors tar-Regolatur għandu jintlaqa', jekk il-Qorti tkun sodisfatta li -

(a) hemm probabbiltà raġonevoli li kwalunkwe persuna se tonqos milli tikkonforma ma' xi rekwiżit tar-Regolament *Remit*; jew

(b) li xi persuna tkun qed tonqos jew naqset li tikkonforma ma' xi rekwiżit tar-Regolament *Remit* u li hemm probabbiltà raġonevoli li l-inosservanza se tkompli jew li tiġi ripetuta; jew

(c) li hemm probabbiltà raġonevoli li xi persuna se tonqos milli tikkonforma ma' hteġa imposta minn jew taħt dan l-Att; jew

(d) li xi persuna tkun qed tonqos jew naqset li tikkonforma ma' xi hteġa imposta minn jew taħt dan l-Att u li

hemm probabbiltà raġonevoli li l-inosservanza se tkompli jew li tiġi ripetuta.

(5) Meta taht xi dispożizzjonijiet ta' xi deċiżjoni jew ordni maħruġa skont dan l-artikolu, persuna tkun projbita li twettaq att, din il-persuna għandha tkun projbita wkoll milli twettaq dan l-att direttament jew indirettament, personalment kif ukoll permezz tal-użu tal-intermedjazzjoni ta' persuna oħra.

(6) Għall-informazzjoni aħjar għall-pubbliku, meta r-Regolatur ikun sodisfatt li ċ-ċirkostanzi hekk jeħtieġu, hu jista', f'kull waqt -

(a) jagħmel pubbliku kull ordni li jkun ta taht xi dispożizzjonijiet ta' dan l-artikolu; u, jew

(b) joħroġ dikjarazzjoni pubblika dwar kull kwistjoni li taqa' fil-funzjonijiet jew fis-setgħat tiegħu taht dan l-Att.

(7) Persuna li tiossha aggravata b'ordni notifikata lilha skont dan l-artikolu tista' tappella quddiem it-Tribunal u fil-każ ta' ordni maħruġa taht is-subartikolu (4) quddiem il-Qorti tal-Appell (Ġurisdizzjoni Inferjuri).

**8.** (1) Meta, waqt investigazzjoni taht dan l-Att, fuq informazzjoni li jkun irċieva mir-Regolatur, l-Avukat Ġenerali jkollu raġuni tajba sabiex jissuspetta li persuna (minn hawn 'il quddiem imsejha "is-suspettat") tista' tkun responsabbli ta' ksur ta' dan l-Att, l-Avukat Ġenerali jista' jagħmel rikors fil-Qorti Kriminali sabiex din toħroġ ordni (minn hawn 'il quddiem imsejha "ordni ta' sekwestru") -

Ordni ta' sekwestru.

(a) li tissekwestra f'idejn daww il-persuni (minn hawn 'il quddiem imsejha "s-sekwestratarji") li jkunu msemminjin fit-talba l-flus u l-proprjetà mobbli oħra kollha li jkunu dovuti lil jew jgħajtu lil jew jappartjenu lis-suspettat;

(b) li tordna lis-sekwestratarju biex jiddikjara bil-miktub lill-Avukat Ġenerali, mhux aktar tard minn erbgħa u għoxrin siegħa mill-waqt tan-notifika tal-ordni, ix-xorta u l-provenjenza tal-flus u l-proprjetà mobbli oħra kollha hekk sekwestrati, u

(ċ) li tipprojbixxi lill-persuna suspettata milli tittrasferixxi jew b'xi mod ieħor tiddisponi minn xi proprjetà mobbli jew immobbli.

(2) Qabel ma tagħmel ordni ta' sekwestru, il-Qorti Kriminali tista' teħtieġ li tisma' lill-Avukat Ġenerali fis-sigrieta u ma għandhiex

toħroġ din l-ordni sakemm taqbel mal-Avukat Ġenerali li hemm raġuni biżżejjed kif previst fis-subartikolu (1).

Kap. 12. (3) Id-dispożizzjonijiet tal-artikolu 381(1)(a), (b) u (e) u tal-artikolu 382(1) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw, *mutatis mutandis*, għall-ordni ta' sekwestru.

(4) Ordni ta' sekwestru għandu jiġi notifikat lis-sekwestrat u lis-suspettat minn uffiċjali tal-Pulizija Eżekuttiva mhux taħt il-grad ta' spettur.

(5) Ordni ta' sekwestru ma għandux jibqa' fis-seħh, kemm-il darba ma jiġix imħassar qabel mill-Avukat Ġenerali permezz ta' avviż bil-miktub notifikat lis-suspettat u lis-sekwestrat kif stipulat fis-subartikolu (4), wara tletin jum mid-data li jinħareġ, u l-Qorti ma għandhiex toħroġ ordni ta' sekwestru ieħor fir-rigward ta' dak is-suspettat ħlief jekk tkun sodisfatta li saret disponibbli informazzjoni sostanzjalment ġdida dwar il-vjolazzjoni ta' dan l-Att:

Iżda l-perjodu msemmi ta' tletin jum għandu jitwaqqaf matul iż-żmien li s-suspettat ma jkunx jinsab f'Malta u l-Avukat Ġenerali javża lis-sekwestrat dwar dan permezz ta' avviż bil-miktub notifikat kif stipulat fis-subartikolu (4).

(6) Tul xi investigazzjoni ta' reat skont l-artikolu 13, il-Pulizija Eżekuttiva tista' titlob li tisma' taħt ġurament kull persuna li jaħsbu li jista' jkollha informazzjoni dwar dan ir-reat u l-Maġistrat għandu minnufih jisma' lil dik il-persuna taħt ġurament.

Kap. 9. (7) Għall-iskop tas-smiġħ ta' persuna taħt ġurament kif previst fis-subartikolu (6), il-Maġistrat għandu jkollu l-istess setgħat mogħtija mil-liġi lill-Qorti tal-Maġistrati (Malta) jew lill-Qorti tal-Maġistrati (Għawdex) bħala qorti istrutturja kif ukoll is-setgħat imsemmija fl-artikolu 554 tal-Kodiċi Kriminali:

Iżda dan is-smiġħ isir dejjem bil-magħluq.

Iffriżar ta' fondi.

9. (1) Meta persuna tkun ġiet akkużata kriminalment bi ksur ta' xi dispożizzjoni ta' dan l-Att (minn hawn 'il quddiem imsejha "il-persuna akkużata") u, wara li jkun irċieva informazzjoni mir-Regolatur, l-Avukat Ġenerali jista' fejn jidhirlu xieraq jitlob lill-Qorti Kriminali toħroġ ordni bil-miktub lil kull persuna (minn hawn 'il quddiem imsejha "ordni tal-iffriżar") li -

(a) taqbad f'idejn terzi persuni kull flejjes u kull proprjetà mobbli dovuti jew li jappartjenu lill-persuna akkużata; u

(b) tipprojbixxi lil-persuna akkużata milli titrasferixxi, tagħti bi plegg, tipoteka jew tiddisponi b'mod ieħor minn kull proprjetà mobbli jew immobbli:

Iżda l-Qorti Kriminali għandha tistabbilixxi f'din l-ordni xi flejjes jistgħu jithallsu jew jiġu riċevuti mill-persuna akkużata tul l-applikazzjoni ta' din l-ordni, bi speċifikazzjoni tas-sorsi, mod u modalitajiet oħrajn tal-ħlas, inklużi l-paga, pensjoni u benefiċċji tas-sigurtà soċjali pagabbli lill-persuna akkużata, biex hi u l-familja tagħha jkunu jistgħu jgħixu ħajja deċenti fl-ammont ta' erbatax-il elf euro (€14,000) fis-sena, jew f'ammont akbar skont kif jista' jistabbilixxi l-Ministru għall-Finanzi minn żmien għal żmien b'Avviż Legali maħruġ bis-setgħa ta' dan l-Att fejn il-mezzi jippermettu:

Iżda wkoll il-Qorti Kriminali tista' barra dan -

(a) tawtorizza l-ħlas tad-djun li għandhom jithallsu mill-persuna akkużata lil kredituri bona fide u li nholqu qabel ma saret l-ordni; u

(b) għal raġunijiet tajbin tawtorizza lill-persuna akkużata li tittrasferixxi proprjetà mobbli jew immobbli.

Kull persuna indirizzata għandha tħares fil-pront kull ordni miktuba maħruġa mill-Qorti Kriminali skont id-dispożizzjonijiet ta' dan l-artikolu fir-rigward ta' dawk il-fondi u assi.

(2) Ordni tal-iffriżar għandha -

(a) tibda topera u torbot lill-terzi persuni immedjatament malli ssir, u r-Registatur tal-Qorti għandu jieħu ħsieb li avviż tagħha jiġi pubblikat mingħajr dewmien fil-Gazzetta, u għandu jieħu ħsieb ukoll li kopja tagħha tiġi reġistrata fir-Registru Pubbliku fir-rigward ta' proprjetà immobbli; u

(b) tibqa' fis-seħħ sa l-aħħar eżitu tal-proċedimenti amministrattivi jew kriminali kontra l-persuna akkużata, skont il-każ.

(3) Il-Qorti Kriminali tista', għal ċirkostanzi partikolari, tvarja l-ordni tal-iffriżar, u d-dispożizzjonijiet tas-subartikoli ta' qabel għandhom japplikaw għall-ordni hekk varjat.

(4) L-ordni tal-iffriżar għandu jkollu l-isem u l-kunjom tal-persuna akkużata, il-professjoni, sengħa jew stat ieħor, l-isem tal-missier, l-isem tal-omm u kunjomha ta' xebba, fejn twieldet u fejn toqgħod u numru ta' dokument ta' identifikazzjoni legalment validu

tagħha, jekk ikun hemm.

(5) Meta xi flejjes ikunu dovuti, jew isiru dovuti lill-persuna akkużata, korp ta' persuni jew entità li fir-rigward tagħha ssir ordni minn xi persuna waqt li tkun fis-seħħ ordni tal-iffriżar, dawn il-flejjes għandhom jiġu depożitati f'bank fuq kreditu tal-persuna akkużata.

(6) Meta din l-ordni tal-iffriżar ma tibqax fis-seħħ kif previst fis-subartikolu (2)(b), ir-Registratur tal-Qorti għandu jieħu hsieb li avviz b'dan jiġi publikat fil-Gazzetta, u għandu jirreġistra nota ta' thassir tar-reġistrazzjoni ta' dak l-ordni fir-Registru Pubbliku.

(7) Ir-Regolatur għandu jikkommunika mal-Avukat Ġenerali dwar kwistjonijiet taht dan l-artikolu u taht l-artikolu 7, u jista' jiskambja informazzjoni, soġġetta għall-obbligu tas-segretezza professjonali.

Kordinazzjoni  
ma' awtoritajiet  
ohrajn.

**10.** (1) Biex jiġi żgurat il-harsien ta' dan l-Att, ir-Regolatur jista' jikkordina il-hidmiet tiegħu u jiskambja informazzjoni ma', u jikkollabora b'mod ieħor ma' -

(a) kull korp jew awtorità ffurmat jew imwaqqaf taht il-liġi Maltija għal kwistjonijiet li fir-rigward tagħhom dan il-korp jew awtorità jista' jkollu funzjoni regolatorja, superviżorja, ġudizzjarja jew ta' licenzjar skont il-liġi;

(b) kull awtorità, awtorità barranija jew korp li twettaq funzjonijiet simili jew l-istess jew li għandha d-dmir li tgħin fis-sorveljanza tas-suq jew li taħdem għall-iskop tal-kxif, il-prevenzjoni jew il-prosekuzzjoni ta' atti relatati mal-abbuż fis-suq; u

(c) kull awtorità lokali jew barranija superviżorja, ta' nfużar jew ġudizzjarja li l-funzjonijiet tagħha jinkludu l-kxif, il-prevenzjoni jew il-prosekuzzjoni ta' atti relatati mal-abbuż fis-suq, *insider dealing*, manipulazzjoni tas-suq u, jew ir-Regolament *Remit*.

(2) Ir-Regolatur għandu jeżercita s-setgħat bis-saħħa ta' dan l-artikolu -

(a) għall-prevenzjoni, investigazzjoni jew kxif ta' attivitajiet li huma jew li aktarx huma abbuż mis-suq, *insider dealing*, manipulazzjoni tas-suq taht dan l-Att jew liġi barranija;

(b) fejn awtorità barranija talbet l-għajjnuna għall-iskopijiet tal-eżercizzju ta' funzjoni regolatorji waħda, jew aktar, tagħha, taht ir-Regolament *Remit*;

(ċ) meta jkun hekk meħtieġ skont ir-rabtiet internazzjonali ta' Malta; jew

(d) meta jkun hekk meħtieġ fil-parametri tar-rabtiet ta' qbil li jiġu assunti f'pattijiet ta' ftehim bilaterali jew multilaterali għall-iskambju ta' informazzjoni u forom oħrajn ta' kollaborazzjoni ma' awtoritajiet regolatorji barranin inkluża talba li toriġina taħt memorandum of understanding li jsir mar-Regolatur.

(3) Malli jirċievi talba minn awtorità barranija għal skop ta' twettiq tad-dmirijiet tagħha fl-investigazzjoni u kxif skont ir-Regolament *Remit*, inkluża talba mill-awtorità barranija għall-akkumpanjament ta' uffiċjali, impjegati jew aġenti oħra tal-awtorità matul xi investigazzjoni, ir-Regolatur għandu mill-ewwel jiehu l-miżuri meħtieġa biex jiġbor l-informazzjoni meħtieġa mill-awtorità barranija. Jekk ir-Regolatur ma jistax iforni l-informazzjoni meħtieġa minnufih, għandu javża lill-awtorità barranija li tkun qed tagħmel it-talba dwar ir-raġunijiet.

(4) Ir-Regolatur jista' jirrifjuta li jaġixxi fuq talba għal informazzjoni meta:

(a) komunikazzjoni tista' tolqot negattivament is-sovranità, is-sigurtà jew l-ordni pubbliku ta' Malta;

(b) jkunu diġà nbdew proċedimenti ġudizzjarji quddiem il-qrati ta' Malta fir-rigward tal-azzjonijiet imsemmija u kontra l-istess persuni; jew

(ċ) tkun diġà nġatat sentenza finali f'Malta fir-rigward ta' dawk il-persuni għall-istess azzjonijiet.

F'kull każ imsemmi hawn qabel, ir-Regolatur għandu javża lill-awtorità barranija li tkun qed tagħmel it-talba kif adatt, billi jagħtiha l-informazzjoni, bl-aktar dettall possibbli, ta' dawk il-proċedimenti jew ta' dik is-sentenza.

(5) Meta r-Regolatur ikun konvint li qed isiru, jew saru atti kontra d-dispożizzjonijiet tar-Regolament *Remit* fit-territorju ta' Stat Membru ieħor jew Stat taż-ŻEE, dan għandu javża b'dan lill-awtorità barranija rilevanti bl-aktar mod speċifiku possibbli.

(6) Kull persuna, korp jew awtorità li tirċievi informazzjoni skambjata konformament ma' dan l-artikolu għandha tkun soġġetta għall-obbligu tas-segretezza professjonali. Mingħajr preġudizzju għall-obbligi tagħhom fi proċedimenti ġudizzjarji taħt il-liġi

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kriminali, meta il-persuna, l-korp, jew l-awtorità rilevanti tirċievi informazzjoni skont dan l-artikolu, din tista' tużaha biss għall-eżerċizzju tal-funzjonijiet tagħha fl-ambitu ta' dan l-Att u fil-kuntest ta' proċedimenti amministrattivi jew għidizzjarji relatati speċifikament mal-eżerċizzju ta' dawk il-funzjonijiet:

Iżda meta l-awtorità barranija li tkun qed tikkommunika l-informazzjoni tagħti l-kunsens tagħha, l-awtorità li tkun qed tirċievi l-informazzjoni tista' tużaha għal skopijiet oħrajn jew terġa' tibgħatha lil xi awtorità barranija oħra.

Appelli.  
Kap. 545.

**11.** (1) Id-dispożizzjonijiet tal-artikoli 32, 33 u 34 tal-Att dwar ir-Regolatur għas-Servizzi tal-Energija u l-Ilma għandhom japplikaw *mutatis mutandis* għal appelli li jistgħu jingiebu quddiem it-Tribunal taħt dan l-Att.

(2) Jista' jsir appell quddiem it-Tribunal kontra kull deċiżjoni jew azzjoni meħuda mir-Regolatur fir-rigward ta':

(a) kwalunkwe penali amministrattiva imposta taħt l-artikolu 12; jew

(b) kull ordni bil-miktub maħruġa skond l-artikoli 6(7) jew 7.

Penali  
amministrattivi.

**12.** Ir-Regolatur jista' jimponi penali amministrattiva fuq kull persuna li tikser xi rekwiżit tar-Regolament *Remit*, xi dispożizzjoni ta' dan l-Att jew regolamenti magħmulin taħtu jew li tonqos li tikkonforma ma' kull deċiżjoni mogħtija mir-Regolatur biex jiżgura l-konformità ma' dan l-Att, skont l-artikoli 12, 13 u 14 tal-Att dwar ir-Regolatur għas-Servizzi tal-Energija u l-Ilma, li għandhom japplikaw *mutatis mutandis* għal dan l-Att.

Kap. 545.

Reati u pjeni.

**13.** (1) Kull persuna li -

(a) xjentement jew b'negligenza taġixxi bi ksur ta' xi rekwiżit tar-Regolament *Remit*, xi dispożizzjoni ta' dan l-Att jew ta' xi regolamenti magħmulin taħtu;

(b) xjentement jew b'negligenza tikser xi deċiżjoni jew ordni magħmulin taħt dan l-Att jew ta' xi regolamenti magħmulin taħtu;

(ċ) tonqos milli tosserva xi deċiżjoni jew ordni magħmulin taħt dan l-Att jew ta' xi regolamenti magħmulin taħtu;

(d) tfixkel, tostakola, timmolesta jew tindaħal jew



tipprowa tfixxkel, tostakola, timmolesta jew tindaħal fit-twettiq tad-dmirijiet ta' xi spettur, xi impjegat jew uffiċjal tar-Regolatur; jew

(e) tagħmel dikjarazzjoni għal xi wiehed mill-għanijiet ta' dan l-Att jew ta' xi regolamenti magħmulin tahtu li tkun falza, li tfixxkel jew li mhix korretta f'xi dettall materjali,

tkun hatja ta' reat kontra dawn ir-regolamenti u tehel, meta tinsab hatja, perjodu ta' prigunerija ta' mhux iżjed minn tmintax-il xahar, jew multa ta' mhux iżjed minn mitt elf euro (€100,000) jew ta' elf u tliet mitt euro (€1,300) għal kull gurnata li matulha jkompli r-reat, jew dik il-multa u prigunerija flimkien.

(2) Kull persuna li bil-ħsieb li ma tinqabadx li tkun għamlet reat taht dan l-Att tneħhi, teqred, taħbi jew b'mod qarrieqi tiddel xi ktieb, dokument jew xi karta oħra, tkun hatja ta' reat.

**14.** (1) Il-Ministru jista', wara konsultazzjoni mar-Regolatur, jagħmel regolamenti għall-għanijiet ta':

Setgħa tal-Ministru li jagħmel regolamenti.

(a) l-aħjar implimentazzjoni tad-dispożizzjonijiet ta' dan l-Att, xi rekwiżit tar-Regolament *Remit* u xi mizuri oħra ta' implimentazzjoni;

(b) l-applikazzjoni xierqa tal-projbizzjonijiet stabbiliti taht dan l-Att;

(ċ) l-impożizzjoni ta' penali amministrattivi mir-Regolatur skont l-artikolu 12;

(d) fir-rigward tal-poteri ta' infurzar meħtieġa mir-Regolatur biex iwettaq il-funzjonijiet tiegħu taht dan l-Att;

(e) għal kwalunkwe aspekk relatat mal-proċedura u l-kundizzjonijiet li jistgħu jiġu imposti fir-rigward ta' xi awtorizzazzjoni, ir-registrazzjoni jew notifika skont dan l-Att inkluż fejn applikabbli l-għotja, it-tiġdid, it-trasferiment, is-sospensjoni, it-tħassir u t-tul ta' xi awtorizzazzjoni, tal-mod li bih ir-registrazzjoni jew notifika tal-applikazzjonijiet għal awtorizzazzjoni għandha ssir, il-kontenut u l-forma ta' tali applikazzjonijiet u kif dawn jistgħu jingħataw, jiġġeddu jew jiġu trasferiti, il-mizati pagabbli, u l-mod li bih it-tiġdid jew trasferimenti tagħha għandu jkun indikat;

(f) biex jagħti effett lil xi obbligu internazzjonali li jintrabat bih il-Gvern b'rabta mar-Regolament *Remit* u ma' dan l-Att;

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(g) biex jippreskrivi l-informazzjoni li għandha tinżamm minn xi persuna taħt dan l-Att u l-forniment ta' *data* ta' statistika minn dawn il-persuni, u fuq kull materja oħra relatata mal-forniment ta' informazzjoni minn xi persuna lir-Regolatur;

(h) biex jippreskrivi kull haġa li tista' tkun jew ikun meħtieġ li tiġi preskritta b'dan l-Att u skont xi rekwiżit tar-Regolament *Remit*.

(2) Regolamenti li jsiru taħt dan l-artikolu jistgħu jistabbilixxu reati u jistgħu jimponu sanzjonijiet amministrattivi jew miżuri amministrattivi oħrajn fir-rigward ta' xi ksur tagħhom jew ta' nuqqas ta' ħarsien tagħhom ta' mhux aktar minn:

(a) fil-każ ta' ksur kriminali, multa ta' mitt elf euro (€100,000) jew priġunerija għal żmien mhux iżjed minn sena, jew dik il-multa u priġunerija flimkien, skont il-każ; jew

(b) fil-każ ta' ksur amministrattivi, sanzjoni ta' mitt elf euro (€100,000) għal kull ksur u, jew sitt mitt euro (€600) għal kull jum ta' nuqqas ta' konformità għal kull ksur jew nuqqas ta' konformità, skont il-każ.

(3) Regolamenti li jsiru taħt dan l-artikolu jistgħu wkoll jipprovdu għall-għoti ta' setgħa u ta' awtorità lir-Regolatur biex dan ikun jista' jiżgura li d-dispożizzjonijiet tar-regolamenti jiġu implimentati kif imiss.

Setgħa tar-Regolatur li joħroġ regoli.

**15.** (1) Ir-Regolatur jista', minn żmien għal żmien, joħroġ regoli li għandhom ikunu jorbtu lill-persuni speċifikati hemmhekk u dawn ir-regoli għandhom jiġu ppubblikati fil-Gazzetta.

(2) Mingħajr preġudizzju għall-ġeneralità tas-subartikolu (1), ir-Regolatur jista' joħroġ regoli u jieħu l-miżuri kollha meħtieġa biex jiżgura it-tixrid xieraq ta' informazzjoni f'waqtha u korretta għall-pubbliku.

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### Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz ta' Liġi hu biex jistabbilixxi s-setgħat ta' infurzar lir-Regolatur għas-Servizzi tal-Energija u l-Ilma biex tiġi żgurata l-integrità u t-trasparenza tas-swieq tal-enerġija.

**A Bill  
entitled**

*AN ACT to establish enforcement powers as required by articles 13, 14 and 18 of Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency.*

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. The short title of this Act is the Wholesale Energy Market Integrity and Transparency (Enforcement Powers) Act, 2019. Short title.

2. In this Act, unless the content otherwise requires: Interpretation.

"Agency" means the Agency for the Cooperation of Energy Regulators established by Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators;

"inside information" means information of a precise nature which has not been made public, which relates, directly or indirectly, to one or more wholesale energy products and which, if it were made public, would be likely to significantly affect the prices of those wholesale energy products.

For the purposes of this definition, "information" means:

(a) information which is required to be made public in accordance with Regulations (EC) No 714/2009 and (EC) No 715/2009, including guidelines and network codes adopted

pursuant to those Regulations;

(b) information relating to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas or related to the capacity and use of LNG facilities, including planned or unplanned unavailability of these facilities;

(c) information which is required to be disclosed in accordance with legal or regulatory provisions at Union or national level, market rules, and contracts or customs on the relevant wholesale energy market, in so far as this information is likely to have a significant effect on the prices of wholesale energy products; and

(d) other information that a reasonable market participant would be likely to use as part of the basis of its decision to enter into a transaction relating to, or to issue an order to trade in, a wholesale energy product.

Information shall be deemed to be of a precise nature if it indicates a set of circumstances which exists or may reasonably be expected to come into existence, or an event which has occurred or may reasonably be expected to do so, and if it is specific enough to enable a conclusion to be drawn as to the possible effect of that set of circumstances or event on the prices of wholesale energy products;

"market manipulation" means:

(a) entering into any transaction or issuing any order to trade in wholesale energy products which:

(i) gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of wholesale energy products;

(ii) secures or attempts to secure, by a person, or persons acting in collaboration, the price of one or several wholesale energy products at an artificial level, unless the person who entered into the transaction or issued the order to trade establishes that his reasons for doing so are legitimate and that such transaction or order to trade conforms to accepted market practices on the wholesale energy market concerned; or

(iii) employs or attempts to employ a fictitious device or any other form of deception or contrivance

which gives, or is likely to give, false or misleading signals regarding the supply of, demand for, or price of wholesale energy products; or

(b) disseminating information through the media, including the internet, or by any other means, which gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of wholesale energy products, including the dissemination of rumours and false or misleading news, where the disseminating person knew, or ought to have known, that the information was false or misleading.

When information is disseminated for the purposes of journalism or artistic expression, such dissemination of information shall be assessed taking into account the rules governing the freedom of the press and freedom of expression in other media, unless:

(i) those persons derive, directly or indirectly, an advantage or profits from the dissemination of the information in question; or

(ii) the disclosure or dissemination is made with the intention of misleading the market as to the supply of, demand for, or price of wholesale energy products;

"Minister" means the Minister responsible for Energy;

"person" means any natural or legal person;

"Regulation (EU) No 1227/2011" or "Remit Regulation" means Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency;

"Regulator" means the Regulator for Energy and Water Services established by article 3 of the Regulator for Energy and Water Services Act; Cap. 545.

"Remit Regulation requirement" means a requirement imposed by any of the following Articles of Regulation (EU) No 1227/2011:

- (a) Article 3(1) and (5) (prohibition of insider trading);
- (b) Article 4(1), (2) and (3) (obligation to publish inside information);
- (c) Article 5 (prohibition of market manipulation);

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(d) Article 8(1) and (5) (data collection);

(e) Article 9(1), (4) and (5) (registration of market participants);

(f) Article 15 (obligations of persons professionally arranging transactions);

(g) Article 17 (professional secrecy);

Cap. 490. "Tribunal" means the Administrative Review Tribunal established by article 5 of the Administrative Justice Act.

Purpose. **3.** The Regulator shall exercise the investigation and enforcement powers set out in this Act for the purpose of ensuring the application and implementation of Regulation (EU) No 1227/2011 and in particular of Articles 3, 4, 5, 13 and 15 thereof.

Power to demand access to documents and telephone records. **4.** (1) Without prejudice to any powers of the Regulator arising under any other law, in the exercise of its functions and powers under this Act, the Regulator shall have the power to have access to any documentation in any form whatsoever and to receive a copy of it and to demand the aforesaid documentation from any person, including:

(a) any person who is or was carrying on, or who appears to be or to have been carrying on a transaction or activity regulated or prohibited by any of the provisions of Regulation (EU) No 1227/2011;

(b) any other person who appears to be in possession of relevant information or documentation; or

(c) any persons who are successively involved in the transmission of orders or conduct of the operations concerned, as well as their principals.

(2) The Regulator may, by notice in writing, require any person referred to in sub-article (1):

(a) to furnish to the Regulator, at such time and place and in such form as it may specify, such documentation as it may require including existing telephone and existing data traffic records; and

(b) to furnish to the Regulator any aforesaid documentation verified in such manner as it may specify.

In both of the cases mentioned in paragraphs (a) and (b), the

person addressed shall comply with the request of the Regulator promptly by providing the Regulator with any documentation in his possession.

(3) The Regulator may take copies of any documentation furnished or provided to it or to which it has access under this article.

(4) Where the person required to provide documentation under this article does not have the relevant documentation, he shall be obliged to promptly disclose to the Regulator where, to the best of his knowledge, that documentation may be found and the Regulator may require any person, whether indicated as aforesaid or not, who appears to it to be in possession of it to provide such documentation.

(5) Any person requested to provide information by virtue of sub-article (2), in particular the directors and managers, by whatever name designated, or any other persons who are or have been in charge of the operations or activities at issue shall assist and shall promptly collaborate with the Regulator in order to enable it to discharge its functions, and shall collate and transmit without any undue delay such information as the Regulator may reasonably request from time to time.

5. (1) Without prejudice to any powers of the Regulator arising under any other law, in the exercise of its functions and powers under this Act the Regulator shall have the power to demand information in any form whatsoever and to receive a written statement of it and to demand by notice in writing the aforesaid information promptly from any person. In particular, the Regulator may require any person referred to in article 4(1):

Power to demand information and assistance and to summon persons for hearing.

(a) to furnish to the Regulator, at such time and place and in such form as it may specify, such information as it may require;

(b) to furnish to the Regulator any information in the form of a written statement or any information verified in such manner as it may specify;

(c) to attend before the Regulator, at such time and place as it may specify, to answer questions and provide information and documentation; and

(d) to give the Regulator any assistance which it may require and which that person is reasonably able to give.

(2) Any person requested to provide information by virtue of sub-article (1), in particular the directors and managers, by whatever

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name designated, or any other persons who are or have been in charge of the operations or activities at issue, shall assist and shall promptly collaborate with the Regulator in order to enable it to discharge its functions, and shall collate and transmit without any undue delay such information as the Regulator may reasonably request from time to time.

(3) Where the person required to provide information under this article does not have the requested or relevant information, he shall promptly disclose to the Regulator where, to the best of his knowledge, that information may be found and the Regulator may require any person, whether indicated as aforesaid or not, who may be in possession of it to provide such information.

Power to  
appoint  
inspectors and  
to conduct on-  
site inspections.  
Cap. 545.

6. (1) Without prejudice to any powers of the Regulator arising under the Regulator for Energy and Water Services Act and any other law, in the exercise of its powers under this Act, the Regulator may either act directly or it may act indirectly by appointing an inspector or inspectors being any officer or employee of the Regulator or any other person whom the Regulator deems competent for this purpose to investigate and report on the affairs of any person whose affairs or actions are being investigated in relation to a possible breach of this Act.

(2) When appointing an inspector the Regulator may direct that the investigation shall be carried out within such time and shall be confined to such specific or general matters as the Regulator may deem fit.

(3) In the exercise of his functions, an inspector, upon producing, if required, evidence of his authority shall have the power -

(a) to investigate the affairs of any person mentioned in articles 4 and 5 if he thinks it necessary or expedient for the purposes of an investigation under this Act;

(b) to exercise all the powers, conferred on the Regulator by articles 4 and 5;

(c) to carry out on-site inspections and to have reasonable access and entry to the business premises, offices, documentation and other information necessary or expedient for the purposes of an investigation under this Act;

(d) to enter premises occupied by a person for the purpose of obtaining therefrom the information or documents required by the notice in terms of articles 4 or 5, or otherwise



for the purpose of the investigation, and of exercising any of the powers conferred by the said articles:

Provided that where the inspector has reasonable cause to believe that if any notice as is referred to in articles 4 or 5 were served it would not be complied with or that any documents to which it could relate would be removed, tampered with or destroyed, the inspector may enter any premises referred to in sub-article (2) for the purpose of obtaining therefrom any information or documents that could have been required under such notice referred to in articles 4 or 5.

(4) An inspector appointed in terms of this article shall:

(a) have the power to make interim reports and on the conclusion of his investigation he shall make a final report to the Regulator if so directed by the Regulator; and

(b) be subject to professional secrecy.

(5) Where the Regulator has appointed a person as inspector under this article, such person shall, for the purposes of carrying out his functions under his appointment, have all the powers conferred on the Regulator by this article and a requirement made by him shall be deemed to be and shall have the same force and effect as a requirement of the Regulator.

(6) For the purposes of any action taken under the provisions of this article, the Regulator may request the assistance of the Commissioner of Police, who may for such purpose exercise such powers as are vested in him by law in relation to the investigation of criminal offences.

(7) In the event that it results that the investigated person may have been in breach of this Act, the Regulator shall have power to order that all reasonable expenses incurred as a result of an investigation pursuant to this article be paid by such person. Any such order which shall be communicated to the person concerned by a notice for payment shall:

(a) be in writing; and

(b) require the addressed person to pay the expenses of and incidental to the investigation before the end of such period being not less than fourteen days from the date of service of the notice, as may be specified in the notice:

Provided that any person who feels aggrieved by an order served on him in terms of this sub-article may appeal to the Tribunal

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against the decision of the Regulator in accordance with article 11.

Powers to give certain orders and to request a temporary prohibition of professional activity.

7. (1) Without prejudice to any powers of the Regulator arising under any other law, in the exercise and for the purposes of its functions and powers under this article and for the better implementation thereof, the Regulator shall have the power to issue such orders by notice in writing, which shall take the form of a decision as it may deem appropriate, and any person to whom the order is given shall comply with and otherwise give effect to any such order promptly or within the time and in the manner otherwise stated in the order.

(2) A decision by the Regulator under this article may require anything to be done or be omitted to be done, or impose any prohibition, restriction or limitation, or any other requirement, and confer powers, with respect to any transaction or other act, or to any assets, or to any other thing whatsoever. Without prejudice to the generality of the aforesaid, an order may require the cessation of any practice that is contrary to the provisions of Regulation (EU) No 1227/2011, the Regulator for Energy and Water Services Act and of this Act.

Cap. 545.

(3) The power to issue decisions under this article shall include the power to vary, alter, add to or withdraw any such order, as well as the power to issue new or further orders.

(4) Without prejudice to the generality of the aforesaid, the Regulator may request the Court of Magistrates by means of an application to issue an order imposing on a person a temporary prohibition of professional activity. The application of the Regulator shall be acceded to, if the Court is satisfied -

(a) that there is a reasonable likelihood that any person will fail to comply with the Remit Regulation; or

(b) that any person is failing or has failed to comply with the Remit Regulation and that there is a reasonable likelihood that the failure to comply will continue or be repeated; or

(c) that there is a reasonable likelihood that any person will fail to comply with a requirement imposed by or under this Act; or

(d) that any person is failing or has failed to comply with a requirement imposed by or under this Act and that there is a reasonable likelihood that the failure to comply will continue or be repeated.

(5) Where under any of the provisions of any decision or order issued pursuant to this article, a person is prohibited from carrying out any act, he shall be prohibited from doing any such act directly or indirectly, and whether personally or through the use of intermediation of another person.

(6) For the better information of the public, where the Regulator is satisfied that the circumstances so warrant, it may at any time:

(a) make public any decision it has given under any of the provisions of this article; and, or

(b) issue a public statement regarding any matter falling within its functions or powers under this Act.

(7) A person who feels aggrieved by a decision of the Regulator served on him in terms of this article may appeal to the Tribunal and in the case of an order issued under sub-article (4) to the Court of Appeal (Inferior Jurisdiction).

**8.** (1) Where, in the course of an investigation conducted pursuant to this Act, the Attorney General has, upon information received from the Regulator, reasonable cause to suspect that a person (hereinafter referred to as "the suspect") may be responsible for a breach of this Act, the Attorney General may apply to the Criminal Court for an order (hereinafter referred to as an "attachment order") -

Attachment  
orders.

(a) attaching in the hands of such persons (hereinafter referred to as "the garnishees") as are mentioned in the application all moneys and other movable property due or pertaining or belonging to the suspect;

(b) requiring the garnishee to declare in writing to the Attorney General, not later than twenty-four hours from the time of service of the order, the nature and source of all money and other movable property so attached; and

(c) prohibiting the suspect from transferring or otherwise disposing of any movable or immovable property.

(2) Before making an attachment order, the Criminal Court may require hearing the Attorney General in chambers and shall not make such order unless it concurs with the Attorney General that there is reasonable cause as provided in sub-article (1).

(3) The provisions of article 381(1)(a), (b) and (e) and of article 382(1) of the Code of Organization and Civil Procedure shall, Cap. 12.

*mutatis mutandis*, apply to the attachment order.

(4) An attachment order shall be served on the garnishee and on the suspect by an officer of the Executive Police not below the rank of inspector.

(5) An attachment order shall, unless it is revoked earlier by the Attorney General by notice in writing served on the suspect and on the garnishee in the manner provided for in sub-article (4), cease to be operative on the expiration of thirty days from the date on which it is made, and the court shall not make another attachment order with respect to that suspect unless it is satisfied that substantially new information with regard to the breach of this Act is available:

Provided that the said period of thirty days shall be held in abeyance for such time as the suspect is away from Malta and the Attorney General informs of this fact the garnishee by notice in writing served in the manner provided for in sub-article (4).

(6) In the course of any investigation of an offence in terms of article 13 the Executive Police may request to hear on oath any person who they believe may have information regarding such offence and the Magistrate shall forthwith hear that person on oath.

(7) For the purpose of hearing on oath a person as provided in sub-article (6), the Magistrate shall have the same powers as are by law vested in the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) as a court of criminal inquiry as well as the powers mentioned in article 554 of the Criminal Code:

Cap. 9.

Provided that such hearing shall always take place behind closed doors.

Freezing of funds.

**9.** (1) Where a person (hereinafter referred to as "the person charged") has been charged criminally with being in default of any provision of this Act and upon receiving a request from the Regulator, the Attorney General may where he deems it appropriate request that the Criminal Court issue a written order to any person (hereinafter referred to as a "freezing order") -

(a) attaching in the hands of third parties all moneys and other movable property due or pertaining to the person charged; and

(b) prohibiting the person charged from transferring, pledging, hypothecating or otherwise disposing of any movable or immovable property:

Provided that the Criminal Court shall in such order determine what moneys may be paid to or received by the person charged during the subsistence of such order, specifying the sources, manner and other modalities of payment, including salary, wages, pension and social security benefits payable to the person charged, to allow him and his family a decent living in the amount, where the means permit, of fourteen thousand euro (€14,000) every year or such greater amount as may be determined by the Minister for Finance from time to time by Legal Notice issued by virtue of this Act:

Provided further that the Criminal Court may also -

(a) authorise the payment of debts which are due by the person charged to *bona fide* creditors and which were contracted before such order was made; and

(b) on good grounds authorise the person charged to transfer movable or immovable property;

Any addressee shall promptly comply with any written order issued by the Criminal Court in accordance with the provisions of this article with regard to such funds and assets.

(2) A freezing order shall:

(a) become operative and binding on all third parties immediately after it is made, and the Registrar of the Court shall cause a notice thereof to be published without delay in the Gazette, and shall also cause a copy thereof to be registered in the Public Registry in respect of immovable property; and

(b) remain in force until the final determination of the administrative or criminal proceedings against the person charged, as the case may be.

(3) The Criminal Court may for particular circumstances vary such freezing order, and the provisions of the foregoing sub-articles shall apply to such order as so varied.

(4) A freezing order shall contain the name and surname of the person charged, his profession, trade or other status, father's name, mother's name and maiden surname, place of birth and place of residence and the number of his identity card or other identification document, if any.

(5) Where any money is or becomes due to the person charged from any person while such order is in force, such money shall, unless otherwise directed in the freezing order, be deposited in a bank

to the credit of the person charged.

(6) When such freezing order ceases to be in force as provided

in sub-article (2)(b), the Registrar of the Court shall cause a notice to that effect to be published in the Gazette, and shall enter in the Public Registry a note of cancellation of the registration of that order.

(7) The Regulator shall liaise with the Attorney General on matters arising under this article and article 7 and may exchange information, subject to the obligation of professional secrecy.

Co-ordination  
with other  
authorities.

**10.** (1) For the purpose of securing compliance with this Act, the Regulator may coordinate its efforts and exchange information with and otherwise collaborate with -

(a) any body or authority formed or established under Maltese law on matters in respect of which such body or authority may have a regulatory, supervisory, judicial or licensing function in terms of law;

(b) any authority, foreign authority or body carrying out similar or equivalent functions or which has the responsibility to monitor the market and to detect, prevent or prosecute acts related to market abuse, insider dealing, market manipulation and, or the Remit Regulation; and

(c) any other local or foreign supervisory, enforcement or judicial authorities whose functions include the detection, prevention or prosecution of acts related to market abuse, insider dealing, market manipulation and, or the Remit Regulation.

(2) The Regulator shall exercise powers by virtue of this article:

(a) for preventing, investigating or detecting activities which amount or are likely to amount to market abuse, insider dealing, market manipulation under this Act or foreign law;

(b) where the assistance is requested by a foreign authority for the purposes of the exercise of one or more of its regulatory functions under the Remit Regulation;

(c) where so required within the terms of Malta's international commitments; or

(d) where so required within the terms of undertakings assumed in bilateral or multilateral agreements for the exchange of information and other forms of collaboration with overseas regulatory authorities including a request arising under a memorandum of understanding concluded with the Regulator.

(3) Upon receipt of a request from a foreign authority for the purpose of carrying out its duties in the investigation and detection in terms of the Remit Regulation, the Regulator shall immediately take the necessary measures in order to gather the information required by the foreign authority. If the Regulator is not able to supply the required information immediately, it shall notify the requesting foreign authority of the reasons.

(4) The Regulator may refuse to act on a request for information where:

(a) communication might adversely affect the sovereignty, security or public policy of Malta;

(b) judicial proceedings have already been initiated in respect of the same actions and against the same persons before the courts of Malta; or

(c) where a final judgment has already been delivered in relation to such persons for the same actions in Malta.

In any case above-mentioned, the Regulator shall notify the requesting foreign authority accordingly, providing as detailed information as possible on those proceedings or the judgment.

(5) Where the Regulator is convinced that acts contrary to the provisions of the Remit Regulation are being, or have been, carried out on the territory of another Member State or EEA State, it shall give notice of that fact to the relevant foreign authority in as specific a manner as possible.

(6) Any person, body or authority receiving information exchanged pursuant to this article shall be subject the obligation of professional secrecy. Without prejudice to the obligations to which they are subject in judicial proceedings under criminal law, when the relevant person, body or authority receives information pursuant to this article, it may use it only for the exercise of its functions within the scope of this Act and in the context of administrative or judicial proceedings specifically related to the exercise of those functions:

Provided that where the foreign authority communicating

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information consents thereto, the Regulator receiving the information may use it for other purposes or forward it to any other foreign authority.

Appeals.  
Cap. 545.

**11.** (1) The provisions of articles 32, 33 and 34 of the Regulator for Energy and Water Services Act shall apply *mutatis mutandis* to appeals that may be brought before the Tribunal under this Act.

(2) An appeal shall lie to the Tribunal against any decision or action taken by the Regulator with respect to:

- (a) any administrative fine imposed under article 12; or
- (b) any order in writing issued in terms of articles 6(7) or 7.

Administrative  
fines.

Cap. 545.

**12.** The Regulator may impose an administrative fine upon any person who infringes any Remit Regulation requirement, any provision of this Act or regulations made thereunder or who fails to comply with any decision given by the Regulator in ensuring compliance with this Act, in accordance with articles 12, 13 and 14 of the Regulator for Energy and Water Services Act which shall *mutatis mutandis* apply to this Act.

Offences and  
penalties.

**13.** (1) Any person who -

(a) wilfully or through negligence acts in breach of any Remit Regulation requirement, any provision of this Act or of regulations made thereunder;

(b) wilfully or through negligence breaches any decision or order made under this Act or of regulations made thereunder;

(c) fails to comply with any decision or order made under this Act or of regulations made thereunder;

(d) hinders, obstructs, molests or interferes or attempts to hinder, obstruct, molest or interfere with the performance of the duties of any inspector, any employee or officer of the Regulator; or

(e) makes a declaration for any of the purposes of this Act or of regulations made thereunder which is false, misleading or incorrect in any material particular,

shall be guilty of an offence against this Act and shall, on conviction,



be liable to imprisonment for not more than eighteen months, or to a fine (multa) of not more than seventy thousand euro (€100,000) or to one thousand three hundred euro (€1,300) for each day during which the offence persists, or to both such fine and imprisonment.

(2) Any person who with intent to avoid detection of the commission of an offence under this Act removes, destroys, conceals or fraudulently alters any book, document or other paper, shall be guilty of an offence.

**14.** (1) The Minister may, after consulting the Regulator, make regulations for the purposes of: Minister's power to make regulations.

(a) the better implementation of the provisions of this Act, any Remit Regulation requirement and any other implementing measures;

(b) the proper application of the prohibitions established under this Act;

(c) the imposition of administrative fines by the Regulator in terms of article 12;

(d) in regard to the enforcement powers required by the Regulator to perform its functions under this Act;

(e) for any aspect relating to the procedure and conditions that may be imposed in relation to any authorisation, registration or notification under this Act including where applicable the grant, renewal, transfer, suspension, cancellation and duration of any such authorisation, registration or notification, the manner in which applications for such authorisation, registration or notification is to be made, the content and form of such applications and how they may be granted, renewed or transferred, the fees payable, and the manner in which renewals or transfers thereof is to be indicated;

(f) to give effect to any international obligation entered into by Government in relation to the Remit Regulation and to this Act;

(g) for prescribing the information to be retained by any person under this Act and the provision of statistical data by such persons, and on any other matter relating to provision of information by any person to the Regulator;

(h) for prescribing anything which may be or is required to be prescribed by this Act and in terms of any Remit

Regulation requirement.

(2) Regulations made under this article may establish offences and may impose administrative fines or other administrative measures in respect of any contravention thereof or failure of compliance therewith, not exceeding:

(a) in the case of a criminal infringement, a fine (*multa*) of one hundred thousand euro (€100,000) or imprisonment for a term not exceeding one year, or both such fine and imprisonment, as the case may be; or

(b) in the case of an administrative fine, a fine of one hundred thousand euro (€100,000) for each contravention and, or six hundred euro (€600) for each day of non-compliance for each infringement or failure to comply, as the case may be.

(4) Regulations made under this article may also provide for the assignment of power and authority to the Regulator in order to enable it to ensure that the provisions of the regulations are properly implemented.

Power of  
Regulator to  
issue rules.

**15.** (1) The Regulator may, from time to time, issue rules which shall be binding on persons specified therein and such rules shall be published in the Gazette.

(2) Without prejudice to the generality of sub-article (1), the Regulator may issue rules and take all necessary measures to ensure the proper dissemination of timely and correct information to the public.

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### Objects and Reasons

The object of this Bill is to establish enforcement powers of the Regulator for Energy and Water Services to ensure wholesale energy market integrity and transparency.



# VERŻJONI ELETTRONIKA