

## **ATT DWAR IL-LIBERTÀ TA' L-INFORMAZZJONI**

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32. Dokumenti li għandhom x'jaqsmu ma' affarijiet ta' negozju, l-ekonomija u r-riċerka.
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**SKEDA – REGOLAMENTI TA' L-2008 LI JEMENDAW IR-REGOLAMENTI DWAR LIBERTÀ TA' AĊĊESS GĦAL INFORMAZZJONI DWAR L-AMBJENT**

Naghti l-kunsens tiegħi.

(L.S.)

EDWARD FENECH ADAMI  
President

19 ta' Diċembru, 2008

### ATT Nru. XVI ta' l-2008

*ATT biex jistabbilixxi jedd għal informazzjoni miżmuma għand awtoritajiet pubbliċi sabiex b'hekk jippromwovi żjieda fit-trasparenza u l-kontabilità governattiva.*

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

### TAQSIMA I

#### PRELIMINARI U DIKJARAZZJONI TA' PRINĊIPJI

1. (1) Dan l-Att jista' jissejjaħ l-Att ta' l-2008 dwar il-Libertà ta' l-Infommazzjoni. Titolu fil-qosor u bidu fis-sehħ.

(2) Dan l-Att għandu jidhol fis-sehħ f'dik id-data li l-Ministru jista' jistabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti jew għanijiet differenti ta' dan l-Att.

2. F'dan l-Att, sakemm ir-rabta tal-kliem ma titlobx mod ieħor: Interpretazzjoni.

“applikant” tfisser, fir-rigward ta' talba għal żvelar ta' dokument skond l-artikolu 3, il-persuna li tkun għamlet dik it-talba;

“avviż ta' deċiżjoni” għandha t-tifsira mogħtija mill-artikolu 23;

“avviż ta' informazzjoni” għandha t-tifsira mogħtija mill-artikolu 24;

“avviż ta’ infurzar” ghandha t-tifsira moghtija mill-artikolu 25;

“awtorità pubblika” tfisser:

(a) il-Gvern, inklużi kull ministeru u dipartiment tiegħu;

(b) aġenzija tal-Gvern stabbilita skond l-Att dwar l-Amministrazzjoni Pubblika jew kwalunkwe ligi oħra; u

(ċ) kull korp stabbilit taħt il-ligi, jew kull soċjetà jew korp ieħor li fih il-Gvern ta’ Malta, aġenzija tal-Gvern jew korp tali kif intqal qabel għandu sehem biżżejjed biex jikkontrolla jew li fuqu għandu kontroll effettiv;

“awtorità pubblika rilevanti” tfisser awtorità pubblika minbarra dawk imsemmija fl-artikolu 5;

“dokument” tfisser kull oġġett miżmum għand awtorità pubblika u li fuqu kienet irreġistrata informazzjoni fi kwalunkwe forma, inklużi *data* elettronika, immagni, mudelli skond skala u rappreżentazzjonijiet viżwali oħrajn, u reġistrazzjonijiet awdjo jew vidjow, irrispettivament jekk l-informazzjoni tistax tingħara, tidher, tinstama’ jew tingieb lura bl-għajnuna ta’ xi oġġett jew apparat ieħor jew mingħajr din l-għajnuna;

“dokument eżentat” tfisser dokument li m’hux suġġett għall-iżvelar taħt dan l-Att skond it-Taqsimiet V u VI;

“materjal eżentat” tfisser materjal li d-dhul tiegħu f’dokument iwassal biex dak id-dokument ikun dokument eżentat;

“Kummissarju” tfisser il-Kummissarju għall-Infurmazzjoni u l-Protezzjoni tad-*Data* maħtur skond it-termini ta’ l-artikolu 36 ta’ l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*;

“Ministru” tfisser il-Ministru responsabbli mil-libertà ta’ l-informazzjoni u l-protezzjoni tad-*data*;

“persuna eliġibbli” tfisser persuna li hija residenti f’Malta u li ilha hekk residenti f’Malta għal perjodu ta’ mhux anqas minn ħames snin, u li hija ċittadin jew ta’ Malta jew ta’ stat ieħor membru ta’ l-Unjoni Ewropea, jew ċittadin ta’ kull stat ieħor li ċ-ċittadini tiegħu għandhom dritt, bis-saħħa ta’ trattat bejn dak l-istat u l-Unjoni Ewropea, li f’Malta jiġu trattati bl-istess mod bħal ċittadini ta’ stati membri ta’ l-Unjoni Ewropea;

“Segretarju Permanenti Ewlieni” tfisser l-uffiċjal maħtur skond it-termini ta’ l-artikolu 14 ta’ l-Att dwar l-Amministrazzjoni Pubblika;

“Tribunal” tfisser it-Tribunal ta’ l-Appelli dwar l-Infurmazzjoni u l-Protezzjoni tad-*Data* mwaqqaf taħt l-artikolu 48 ta’ l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*;

“Unjoni Ewropea” għandha t-tifsira mogħtija mill-Att dwar l-Unjoni Ewropea.

3. Kull persuna eliġibbli għandha dritt ta' aċċess għal dokumenti miżmumin minn awtoritajiet pubbliċi skond id-dispożizzjonijiet ta' dan l-Att u bla ħsara għalihom.

Dritt ta' aċċess għal dokumenti uffiċjali.

4. Xejn f'dan l-Att m'għandu jiftiehem li jimpedixxi awtoritajiet pubbliċi milli jipubblikaw dokumenti (inklużi dokumenti eżentati) jew jagħtu aċċess għalihom b'mod ieħor minn kif preskritt minn dan l-att.

Aċċess għal dokumenti b'modi oħra li m'humiex f'dan l-Att.

5. (1) Bla ħsara għas-subartikolu (2), dan l-Att m'għandux japplika għal dokumenti li –

Applikazzjoni ta' dan l-Att.

(a) huma miżmumin minn Kunsill Lokali u għalhekk huma suġġetti għall-artikolu 45 ta' l-Att dwar Kunsilli Lokali;

(b) huma suġġetti għar-Regolamenti ta' l-2005 dwar il-Libertà ta' Aċċess għal Informazzjoni dwar l-Ambjent, jew għal xi regolamenti oħra magħmula taħt l-Att dwar il-Ħarsien ta' l-Ambjent u li jipprovdu għal-libertà ta' aċċess għal informazzjoni;

(ċ) kienu trasferiti għall-Arkivji Nazzjonali skond l-Att dwar Arkivji Nazzjonali;

(d) huma aċċessibbli għall-pubbliku taħt kwalunkwe liġi oħra;

(e) jistgħu jinxtraw mill-pubbliku skond arranġamenti magħmulin minn awtorità pubblika; jew

(f) huma miżmumin minn soċjetà kummerċjali li fiha l-Gvern jew xi awtorità pubblika oħra għandhom interess li jagħtihom kontroll, safejn id-dokumenti in kwestjoni għandhom x'jaqsmu ma' l-attivitajiet kummerċjali tas-soċjetà kummerċjali.

(2) Dan l-Att għandu japplika għal dokumenti li jirreferi għalihom is-subartikolu (1) safejn biss jista' jkun dispost minn xi liġi li tirregola l-aċċess għal dawn id-dokumenti.

(3) Dan l-Att m'għandux japplika għal dokumenti safejn tali dokumenti jkun fihom –

(a) *data* personali suġġetta għall-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*; jew

(b) informazzjoni li l-iżvelar tagħha hu pprojbit minn xi liġi oħra:

Iżda fejn ikun possibbli li jiġi żvelat dokument b'din id-*data* jew informazzjoni mneħħija, dan għandu jsir skond is-subartikoli (1) u (2) ta' l-artikolu 13.

(4) Dan l-Att m'għandux japplika għal dokumenti miżmumin minn dawn li ġejjin:

- (a) il-Kummissjoni Elettorali;
- (b) il-Kummissjoni dwar l-Impjiegi;
- (ċ) il-Kummissjoni dwar is-Servizz Pubbliku;
- (d) l-Uffiċċju ta' l-Avukat Ġenerali;
- (e) l-Uffiċċju Nazzjonali tal-Verifika;
- (f) is-Servizz tas-Sigurtà;
- (g) l-Awtorità tax-Xandir, safejn daww id-dokumenti għandhom x'jaqsmu mal-funzjonijiet tagħha taht is-subartikolu (1) ta' l-artikolu 119 tal-Kostituzzjoni; jew
- (h) l-Ombudsman.

## TAQSIMA II

### SOTTOMISSJONI U TRATTAMENT TA' TALBIET GĦAL INFORMAZZJONI

Mod kif għandhom isiru talbiet għal aċċess.

**6.** (1) Talba ta' applikant lil awtorità pubblika skond l-artikolu 3 għandha –

(a) tintbagħat bil-miktub, inklużi bil-posta jew elettronikament, bla ħsara għall-paragrafu (e), lill-uffiċċju ta' l-awtorità pubblika; u

(b) tagħti dik l-informazzjoni dwar id-dokument kif hu raġonevolment meħtieġ biex uffiċjal responsabbli ta' l-awtorità pubblika jidentifikaha; u

(ċ) tinkludi kopja tal-karta ta' l-identità jew permess għal residenza, jew tagħmel riferenza għall-karta ta' l-identità jew il-permess għal residenza b'dak il-mod li jista' jiġi speċifikat b'regolamenti maħruġin taht il-paragrafu (a) ta' l-artikolu 42;

(d) tispeċifika indirizz postali li fih avvizi maħruġin taht dan l-Att jistgħu, jekk ikun meħtieġ, jintbagħtu lill-applikant; u

(e) jkollha magħha il-ħlas pagabbli skond is- subartikolu (3) ta' l-artikolu 9.

(2) Ebda applikant m'għandu jintalab li jiġġustifika talba magħmula taht dan l-Att jew jagħti raġuni għaliha, u kull twemmin li awtoritajiet pubbliċi jista' jkollhom fuq x'inhuma r-raġunijiet ta' l-applikant li jkun qed ifittex aċċess m'għandux jolqot it-talba ta' l-applikant.

Dmir ta' awtorità pubblika li tgħin applikanti.

**7.** Meta persuna eligibbli –

(a) tixtieq tagħmel talba lil awtorità pubblika; jew

(b) tkun għamlet lil awtorità pubblika talba li ma tikkonformax ma' l-artikolu 6,

hu d-dmir ta' l-awtorità pubblika li tiegħu passi raġonevoli biex tgħin lill-persuna tagħmel it-talba b'mod li tikkonforma ma' l-artikolu 6, u l-awtorità pubblika għandha tagħmel dan b'xejn.

**8.** Meta ssir talba skond l-artikolu 6 lil awtorità pubblika, u d-dokument relatat mat-talba ma jkunx għand l-awtorità iżda l-persuna li tkun qed tittratta t-talba jidhrilha li jkun qiegħed għand awtorità pubblika oħra, l-awtorità pubblika li sarilha t-talba għandha fil-pront, u f'kull każ mhux aktar tard minn 10 ġranet tax-xogħol mill-ġurnata meta daħlet it-talba, tittrasferixxi t-talba lill-awtorità pubblika l-oħra u tinforma b'dan lill-applikant.

Trasferiment ta' talbiet.

**9.** (1) Bla ħsara għas-subartikolu (2) u għar-regolamenti li jistgħu jinħarġu taħt dan l-Att, awtorità pubblika tista' titlob ħlas minn applikant għal aċċess għal dokument skond dan l-Att.

Ħlasijiet.

(2) Kull ħlas iffissat minn awtorità pubblika m'għandux jaqbeż l-ispejjeż li jsiru biex id-dokument jingħata lill-applikant, filwaqt li jekk regolamenti maħruġin kif intqal qabel jippreskrivu medda ta' ħlasijiet komuni, dawn il-ħlasijiet m'għandhomx jaqbzū l-ispiża medja li ssir biex dokumenti jingħataw lill-applikanti.

(3) Regolamenti maħruġin kif intqal qabel jistgħu jiddisponu għall-pagament ta' ħlas speċifikament biex talba għal aċċess għal dokumenti tiġi pproċessata, u għall-pagament tat-tali ħlas mal-prezentazzjoni tat-talba.

(4) Meta awtorità pubblika tiddeciedi li għandha titlob pagament mingħand applikant, hi għandha tgħidlu dan u tinfurmah li hu għandu dritt li jilmonta lill-Kummissarju taħt l-artikolu 23 jekk iħoss li l-ħlas hu eċċessiv:

Izda jekk il-pagament hu ħlas komuni stabbilit b'regolamenti taħt dan l-Att, il-Kummissarju jista' bi twegiba għal dan l-ilment jinwestiga biss jekk ir-regolamenti kinux ġew applikati b'mod korrett.

(5) Awtorità pubblika tista' tirrinunzja għall-ħlasijiet pagabbli fir-rigward ta' xi applikazzjoni partikolari jekk, fl-opinjoni ta' l-awtorità –

(a) il-ħlas pagabbli hu tant żgħir li m'hux ta' min jiġbru;

(b) il-ħlas jikkaġuna piż finanzjarju lill-applikant, meta wieħed iqis il-mezzi u ċ-ċirkustanzi ta' l-applikant; jew

(ċ) l-iżvelar ta' l-informazzjoni mitluba hu fl-interess pubbliku.

(6) Meta awtorità pubblika tonqos milli tissodisfa l-limiti taż-żmien imniżżlin fl-artikolu 10 jew, jekk applikabbli, fl-artikolu 11, m'għandha titlob ebda hlas għal aċċess għal dokument.

Deċiżjonijiet fuq talbiet u twegġibiet għal talbiet.

**10.** Bla h̄sara għad-dispożizzjonijiet ta' dan l-Att, fejn issir talba lil awtorità pubblika skond l-artikolu 6 jew it-talba tiġi trasferita lill-awtorità skond l-artikolu 8, l-awtorità għandha, malajr kemm ikun raġonevolment prattiku, u f'kull każ mhux wara 20 ġurnata tax-xogħol wara l-ġurnata li fiha t-talba tkun waslet għand l-awtorità –

- (a) tiddeċiedi jekk it-talba għandhiex tintlaqa' u, jekk għandha tintlaqa', b'liema mod u b'liema h̄las (jekk jagħti l-kas); u
- (b) tinforma lill-applikant b'dan bil-miktub.

Estensjoni ta' limiti ta' żmien.

**11.** (1) Meta awtorità pubblika tirċievi talba direttament skond l-artikolu 6 jew bi trasferiment skond l-artikolu 8, l-awtorità tista' testendi l-limitu taż-żmien imniżżel fl-artikolu 10 b'sa 40 ġurnata tax-xogħol fir-rigward tat-talba jekk –

- (a) it-talba hija għal numru kbir ta' dokumenti jew titlob tiftix f'numru kbir ta' dokumenti, u biex iżżomm mal-limitu taż-żmien oriġinali l-awtorità pubblika jkollha ssofri tfixkil mhux raġonevoli fl-operat tagħha; jew
- (b) il-konsultazzjonijiet neċessarji biex tittiehed deċiżjoni fuq it-talba huma tali li mhux raġonevoli li tingħata twegġiba xierqa għat-talba fil-limitu taż-żmien oriġinali.

(2) Kull estensjoni taht is-subartikolu (1) għandha tingħata għal perjodu ta' żmien raġonevoli skond iċ-ċirkustanzi.

(3) L-estensjoni għandha ssir billi jintbagħat avviz lill-persuna li għamlet it-talba fi żmien 20 ġurnata tax-xogħol mill-ġurnata meta waslet it-talba, u l-avviz għandu –

- (a) jispeċifika l-perjodu ta' l-estensjoni;
- (b) jagħti r-raġunijiet għall-estensjoni;
- (ċ) jiddikjara li l-applikant għandu d-dritt taht l-artikolu 23 li jressaq ilment lill-Kummissarju dwar l-estensjoni; u
- (d) jkun fih tali informazzjoni oħra li tkun neċessarja.

Mod ta' kif jista' jingħata aċċess.

**12.** (1) Awtorità pubblika tista' tagħti lil applikant aċċess għal dokument b'wiehed jew aktar mill-modi li ġejjin:

- (a) billi tagħti opportunità raġonevoli lill-applikant li jispezzjona d-dokument; jew
- (b) billi tagħti kopja tad-dokument lill-applikant; jew



(c) fil-każ ta' dokument li hu reġistrazzjoni ta' hsejjes jew immaġni viżivi, billi tagħmel arrangamenti biex l-applikant jisma' dawk il-hsejjes jew jara l-immaġni viżivi; jew

(d) fil-każ ta' dokument li fih kliem reġistrat b'mod li jkun jista' jiġi riprodott f'forma ta' hsejjes, jew li fih kliem f'forma stenografika jew f'forma kodifikata, billi tagħti lill-applikant traskrizzjoni miktuba tal-kliem irreġistrat jew li qiegħed fid-dokument; jew

(e) billi tagħti silta jew sommarju tal-kontenut.

(2) Bla h̄sara għall-artikolu 13, l-awtorità pubblika għandha tagħti aċċess għad-dokument lill-applikant bil-mod preferit mill-applikant h̄lief jekk biex tagħmel dan ikollha –

(a) tagħmel h̄sara lill-amministrazzjoni effiċjenti; jew

(b) tmur kontra xi dmir legali ta' l-awtorità pubblika fir-rigward tad-dokument; jew

(c) tippregudika l-interess protetti mit-Taqsima V u t-Taqsima VI u (fil-każ ta' interessi protetti mit-Taqsima VI) m'h̄emmx interess pubbliku kuntrarju li għandu aktar importanza minn dawk l-interessi.

(3) Meta applicant ma jingħatax aċċess bil-mod preferut minnu, l-awtorità pubblika għandha tagħti lill-applikant ir-raġuni għaliex ma tatx l-informazzjoni b'dak il-mod u tiddikjara li l-applikant għandu d-dritt taht l-artikolu 23 li jressaq ilment fuq hekk lill-Kummissarju.

**13.** (1) Meta ssir talba lil awtorità pubblika għal dokument li hu dokument eżentat, iżda –

Thassir ta' materjal eżentat jew irrelevanti.

(a) hu possibbli għall-awtorità pubblika li tagħmel kopja tad-dokument bil-materjal eżentat imh̄assar; u

(b) hu raġonevolment prattiku għall-awtorità pubblika, meta jitqiesu n-natura u l-ammont tax-xogħol involut biex tittiehed deċiżjoni u jsir dak it-thassir u r-rizorsi aċċessibbli għal dak ix-xogħol, li tagħmel dik il-kopja,

l-awtorità pubblika għandha tagħti dik il-kopja lill-applikant.

(2) Meta jingħata aċċess għal kopja ta' dokument skond is-subartikolu (1), l-applikant għandu jkun infurmat –

(a) li dik hija kopja;

(b) bir-raġunijiet tat-thassir; u

(c) li l-applikant għandu d-dritt taht l-artikolu 23 li jressaq ilment fuq it-thassir lill-Kummissarju.

(3) Meta dokument (li ma jkunx dokument eżentat) fih materjal li hu irrelevanti għat-talba ta' l-applikant, l-awtorità pubblika tista', jekk hu possibbli u raġonevolment Prattiku u jekk l-applikant jaqbel, tgħaddi lill-applikant kopja tad-dokument bil-materjal irrilevanti mħassar; iżda dokument ma jistax ma jingħatax għar-raġuni li fih materjal irrilevanti li ma jistax jithassar.

Raġunijiet għal  
kaħda ta' talbiet.

**14.** Talba magħmula skond l-artikolu 6 tista' tkun miċħuda biss għal waħda jew aktar mir-raġunijiet li ġejjin:

(a) li d-dokument mitlub hu eskluż mill-fini ta' dan l-Att bis-saħħa ta' l-artikolu 5;

(b) li, bis-saħħa tat-Taqsima V jew it-Taqsima VI, hemm raġuni valida biex id-dokument mitlub ma jingħatax;

(c) li, bis-saħħa ta' l-artikolu 34, l-awtorità pubblika la tikkonferma u lanqas tiċhad l-eżistenza jew in-nuqqas ta' eżistenza tad-dokument mitlub;

(d) li d-dokument mitlub hu aċċessibbli għall-pubbliku jew se jkun ippubblikat fi żmien tliet xhur;

(e) li d-dokument mitlub ma jistax jinsab, u dan hu ċċertifikat bil-miktub mill-kap ta' l-awtorità pubblika;

(f) li r-riżorsi meħtieġa biex –

(i) dokument jew dokumenti jkunu identifikati, jinsab fejn huma jew jingħabru;

(ii) ikun eżaminat dokument jew ikunu kkonsultati persuni jew korpi fir-rigward tal-possibbiltà ta' l-iżvelar tiegħu; jew

(iii) issir kopja, jew kopja editjata, ta' dokument,

iwasslu biex ir-riżorsi ta' awtorità pubblika jkunu indirizzati b'mod sostanzjali u mhux raġonevoli lil hinn mill-operazzjonijiet l-oħra tagħha, u l-applikant ma rnexxilux, bil-parir ta' l-awtorità pubblika, iqiegħed b'mod differenti t-talba tiegħu sabiex jagħmilha aktar faċli li tintlaqa' mill-awtorità;

(g) li d-dokument mitlub mhux għand l-awtorità pubblika u l-persuna li qed tittratta t-talba m'għandha ebda raġuni biex temmen li d-dokument qiegħed għand awtorità pubblika oħra jew hu konness aktar mill-qrib mal-funzjonijiet ta' awtorità pubblika oħra; jew

(h) li t-talba hija frivola jew vessatorja jew li l-informazzjoni mitluba hija trivjali.

Raġunijiet għal  
kaħda għandhom  
jingħataw.

**15.** (1) Meta talba magħmula skond dan l-Att tiġi rifjutata, l-awtorità pubblika għandha –

(a) bla ħsara għall-artikolu 34, tagħti lill-applikant ir-raġunijiet għaċ-ċaħda; u

(b) tiddikjara li l-applikant għandu d-dritt, taħt l-artikolu 23 ta' dan l-Att, li jitlob investigazzjoni u rikonsiderazzjoni mill-Kummissarju taċ-ċaħda.

(2) M'hemm ebda obbligu li avviż taħt dan l-artikolu jkollu fih xi materja ta' natura tali li d-dhul tagħha f'dokument iwassal biex dak id-dokument ikun dokument eżentat.

**16.** (1) Deċiżjoni minn awtorità pubblika fir-rigward ta' talba taħt dan l-Att għandha, bla ħsara għall-paragrafu (ċ) ta' l-artikolu 6 ta' l-Att dwar l-Interpretazzjoni, għandha tittiehed –

Deċiżjonijiet minn awtoritajiet pubbliċi taħt dan l-Att.

(a) mill-kap ta' l-awtorità pubblika jew il-bord tat-tmexxija (skond kif applikabbli), kif identifikat jew stabbilit fl-Att dwar l-Amministrazzjoni Pubblika jew f'xi strument ieħor li l-awtorità hija sugġetta għalih; jew

(b) minn uffiċjal ta' l-awtorità pubblika, li jaġixxi fil-limiti tas-setgħat li hu jista' jeżerċita skond l-arranġamenti approvati mill-kap ta' l-awtorità jew mill-bord tat-tmexxija tagħha.

(2) Deċiżjoni li jkun żvelat dokument jew jingħata aċċess għalih skond dan l-Att għandha tikkostitwixxi żvelar awtorizzat għall-fini ta' l-Att dwar is-Sigrieti Uffiċjali.

### TAQSIMA III

#### AĊĊESS GĦAL ĊERTI DOKUMENTI

**17.** (1) Mhux aktar tard minn sena wara d-dhul fis-seħħ ta' dan l-artikolu, kull awtorità pubblika rilevanti għandha tippubblika, skond kull struzzjonijiet maħruġin mill-Kummissarju:

Pubblikazzjoni ta' informazzjoni minn awtoritajiet pubbliċi.

(a) deskrizzjoni ta' l-istruttura, il-funzjonijiet u r-responsabbiltajiet tagħha;

(b) deskrizzjoni ġenerali tal-kategoriji ta' dokumenti li għandha;

(ċ) deskrizzjoni tal-manwali u dokumenti simili kollha li fihom *policies*, prinċipji, regoli u linji gwida li fuqhom jittiehdu deċiżjonijiet jew isiru rakkomandazzjonijiet fir-rigward ta' membri tal-pubbliku (inklużi korpi ġuridiċi u impjegati ta' l-awtorità pubblika fil-kapaċità personali tagħhom); u

(d) dikjarazzjoni ta' l-informazzjoni li jeħtieġ li tkun aċċessibbli għall-membri tal-pubbliku li jkunu jridu jiksbu aċċess għal dokumenti uffiċjali mill-awtorità pubblika, liema dikjarazzjoni għandha tinkludi l-partikolaritajiet ta' l-uffiċjal jew uffiċjali li lilhom għandhom jintbagħtu talbiet għal dan l-aċċess.

(2) Il-Ministru jista', permezz ta' regolamenti maħruġin wara konsultazzjoni mal-Kummissarju, jobbliga awtoritajiet pubbliċi rilevanti li jippubblikaw aktar materjal minn dak imsemmi fis-subartikolu (1).

(3) Kull awtorità pubblika għandha taġġorna l-materjal ippubblikat skond is-subartikoli (1) u (2) mill-inqas kull sena, jew f'intervalli aktar frekwenti kif jista' jkun stabbilit b'regolamenti maħruġin taħt is-subartikolu (2).

(4) Pubblikazzjoni fuq websajt ta' l-internet jew mezz elettroniku ieħor li hu aċċessibbli pubblikament fil-ħinijiet raġonevoli kollha għandha tkun biżżejjed biex tissodisfa r-rekwiżiti ta' dan l-artikolu, sakemm l-informazzjoni ppubblikata b'dan il-mod issir aċċessibbli f'forma stampata għall-membri tal-pubbliku li hekk jeħtiġuha.

(5) Xejn f'dan l-artikolu ma jitlob il-pubblikazzjoni ta' informazzjoni meta hemm raġuni tajba taħt dan l-Att biex din ma tingħatax.

Dritt ta' aċċess għal ċerta informazzjoni uffiċjali.

**18.** (1) Regolamenti jistgħu jinħarġu taħt dan l-Att biex jistabbilixxu dritt għal aċċess għal informazzjoni li hi miżmuma għand korpi jew persuni li m'humieq awtoritajiet pubbliċi jew impjegati ta' awtoritajiet pubbliċi, u li tappartjeni għal:

(a) servizzi mogħtija lill-pubbliku minn dawn il-korpi jew persuni f'isem il-Gvern jew f'isem awtorità pubblika oħra; jew

(b) proġetti jew inizzjattivi li qed jitwettqu minn dawn il-korpi jew persuni iżda li huma finanzjati mill-Gvern jew minn awtorità pubblika oħra.

(2) L-għoti ta' aċċess għal kull informazzjoni li japplika għaliha s-subartikolu (1) għandha tkun suġġetta għad-dispożizzjonijiet tar-regolamenti li jsiru taħt dan l-Att.

Dritt ta' aċċess għal regoli interni li jolqtu deċiżjonijiet.

**19.** (1) Bla ħsara għat-Taqsima V u t-Taqsima VI, kull persuna eliġibbli għandha dritt li tingħata u, wara talba magħmula taħt dan l-artikolu, għandha tingħata aċċess għal kull dokument (inkluż manwal) li jinżamm għand awtorità pubblika u li fih *policies*, prinċipji, regoli jew linji gwida li fuqhom jittieħdu deċiżjonijiet jew isiru rakkomandazzjonijiet fir-rigward ta' membri tal-pubbliku (inklużi korpi ġuridiċi u impjegati ta' l-awtorità pubblika fil-kapaċità personali tagħhom).

(2) Id-dispożizzjonijiet tat-Taqsima II minbarra l-artikoli 12 u 13 għandhom japplikaw *mutatis mutandis* għal talba magħmula taħt is-subartikolu (1).

(3) Meta, bis-saħħa tat-Taqsima V u t-Taqsima VI, hemm raġuni tajba biex ma jingħatawx partijiet minn dokument li għalih jirrelata s-subartikolu (1), l-awtorità pubblika għandha, sakemm ma jkunx prattikabbli li jsir dan, jew –

(a) tagħmel aċċessibbli kopja ta' dak id-dokument b'dak it-tħassir jew bidliet skond kif neċessarju; jew

(b) tipprovdi dokument ieħor li fih tingħata s-sustanza tad-dokument minbarra dak li jirrelata għall-informazzjoni li ma tingħatax.

(4) Meta jingħata aċċess għal dokument skond is-subartikolu (3), l-awtorità pubblika għandha –

(a) tagħti lill-applikant ir-raġunijiet għaliex l-informazzjoni ma ngħatatx; u

(b) tiddikjara li l-applikant għandu d-dritt, taħt l-artikolu 23, li jfittex li ssir investigazzjoni u rikonsiderazzjoni mill-Kummissarju tar-rifjut li tingħata dik l-informazzjoni.

**20.** (1) Bla ħsara għad-dispożizzjonijiet tat-Taqsima V u t-Taqsima VI, meta awtorità pubblika tiegħu deċiżjoni jew tagħmel rakkomandazzjoni fir-rigward ta' xi persuna eligibbli, inkluż persuna eligibbli li tkun qed taġixxi f'isem korp ġuridiku, dik il-persuna għandha d-dritt li tingħata u, wara talba fi żmien sitt xhur minn meta l-persuna ssir taf bid-deċiżjoni jew rakkomandazzjoni, għandha tingħata dikjarazzjoni bil-miktub ta' –

(a) il-konklużjonijiet fuq kwistjonijiet materjali ta' fatt; u

(b) bla ħsara għas-subartikolu (2), referenza għall-informazzjoni li fuqha kienu bbażati dawk il-konklużjonijiet; u

(ċ) r-raġunijiet tad-deċiżjoni jew rakkomandazzjoni.

(2) Referenza għall-informazzjoni li fuqha kienu bbażati l-konklużjonijiet m'hemmx għalfejn tingħata taħt il-paragrafu (b) tas-subartikolu (1) jekk –

(a) l-iżvelar ta' l-informazzjoni jew ta' informazzjoni li tidentifika l-persuna li tatha, billi tikkostitwixxi materjal evalwattiv, tkun qed tikser wegħda espressa jew impliċita lill-persuna li tat l-informazzjoni b'mod li l-informazzjoni, jew l-identità tal-persuna, jew it-tnejn, għandhom jinżammu konfidenzjali; jew

(b) wara konsultazzjoni li tkun saret (meta prattikabbli) minn jew f'isem l-awtorità pubblika mat-tabib tal-familja ta' persuna naturali, l-awtorità pubblika hija sodisfatta li l-informazzjoni tirrelata għal dik il-persuna u l-iżvelar ta' l-informazzjoni (billi hi informazzjoni li tirrelata mas-saħħa fiżika jew mentali tal-persuna li tagħmel it-talba taħt dan l-artikolu)

Dritt ta' aċċess minn persuna għal raġunijiet ta' deċiżjonijiet li jolqu lil dik il-persuna.

x'aktarx li jkun ta' preġudizzju għas-saħħa fiżika jew mentali ta' dik il-persuna; jew

(ċ) fil-każ ta' persuna naturali li m'għalqitx it-18-il sena, l-iżvelar ta' l-informazzjoni jmur kontra l-interessi ta' dik il-persuna; jew

(d) l-iżvelar ta' l-informazzjoni (billi hi informazzjoni li tirrigwarda persuna li ntbagħtet il-ħabs minħabba reat jew li qegħda jew kienet miżmuma taħt arrest) x'aktarx li jkun ta' preġudizzju għall-kustodja fiż-żgur jew ir-riabilitazzjoni ta' dik il-persuna.

(3) Għall-finijiet tal-paragrafu (a) tas-subartikolu (2), it-terminu "materjal evalwattiv" ifisser valutazzjoni jew opinjoni miġbura biss –

(a) għall-iskop li tiddetermina l-adeqwatezza, l-eligibilità jew il-kwalifiki tal-persuna li l-materjal jirrelata magħha għal skopijiet li għandhom x'jaqsmu ma' l-għoti, kontinwazzjoni jew kancellament ta' ħatra, kuntratt, borża ta' studju, unur jew xi benefiċċju ieħor; jew

(b) għall-iskop li tiddetermina jekk wiehed jassigurax xi persuna jew propjetà jew jekk ikomplix jew iġeddidx din l-assigurazzjoni.

(4) Id-dispożizzjonijiet tat-Taqsima II, minbarra l-artikoli 12 u 13, għandhom japplikaw *mutatis mutandis* għal talba magħmula taħt is-subartikolu (1).

## TAQSIMA IV

### IL-KUMMISSARJU GĦALL-INFORMAZZJONI U L-PROTEZZJONI TAD-DATA

Funzjonijiet  
ġenerali tal-  
Kummissarju.

**21.** (1) B'żjieda mad-dmirijiet tiegħu taħt l-Att dwar il-Protezzjoni u l-Privatezza tad-Data, għandu jkun id-dmir tal-Kummissarju li jippromwovi l-osservanza mill-awtoritajiet pubblici rilevanti –

(a) tar-rekwiżiti ta' dan l-Att; u

(b) tad-dispożizzjonijiet tal-kodiċi ta' prattika maħruġ taħt l-artikolu 41.

(2) Il-Kummissarju għandu jieħu ħsieb it-tixrid, fil-forma u l-manjiera kif iqis addattati, ta' dik l-informazzjoni li fil-fehma tiegħu għandha tinghata lill-pubbliku –

(a) fuq l-operat ta' dan l-Att,

(b) fuq l-osservanza tal-liġi, u

(ċ) fuq materji oħrajn li jaqgħu taħt il-firxa tal-funzjonijiet tiegħu taħt dan l-Att,

u hu jista' jagħti parir lil kull persuna jew awtorità dwar kull waħda minn dawn il-materji.

(3) Bla ħsara għall-artikoli 22, 24 u 25, il-Kummissarju jista', bil-kunsens jew wara talba ta' xi awtorità pubblika, jivvaluta jekk dik l-awtorità hix issegwi prattika tajba.

(4) Il-Kummissarju jista' jitlob bħala ħlas dawk l-ammonti li hu jista', bil-kunsens tal-Ministru, jiddetermina għal kull wieħed mis-servizzi mogħtija mill-Kummissarju taħt dan l-artikolu.

(5) Fi żmien tliet xhur wara l-għeluq ta' kull sena kalendarja, il-Kummissarju għandu jipprepara u jissottometti lill-Ministru rapport annwali fuq il-ħidma ta' dan l-Att tul dik is-sena, u l-Ministru għandu, ma' l-ewwel opportunità li jkollu, jara li kopja tar-rapport titqiegħed fuq il-mejda tal-Kamra tar-Rappreżentanti; dan ir-rapport għandu jgħid:

(a) kemm saru talbiet lil awtoritajiet pubbliċi għal informazzjoni taħt dan l-Att;

(b) kemm minn dawn it-talbiet ġew milqugħa u kemm miċhuda;

(ċ) ir-raġunijiet għalfejn talbiet ġew miċhuda;

(d) iż-żmien medju li ttieħed biex jingħataw risposti għat-talbiet;

(e) kemm saru lmenti lill-Kummissarju, ir-raġunijiet għalfejn saru l-ilmenti, u l-eżitu tagħhom;

(f) kemm saru appelli quddiem it-Tribunal u kif ġew deċiżi dawn l-appelli; u

(g) kemm inħarġu avvizi ta' informazzjoni, deċiżjoni u infurzar mill-Kummissarju.

(6) Bla ħsara għas-subartikolu (4) ta' dan l-artikolu u għall-artikoli 26, 39 u 40, fl-eżerċizzju tal-funzjonijiet tiegħu taħt dan l-Att il-Kummissarju għandu jaġixxi b'mod indipendenti u m'għandux ikun suġġett għad-direzzjoni jew kontroll ta' xi persuna jew awtorità oħra.

(7) F'dan l-artikolu "prattika tajba", fir-rigward ta' awtorità pubblika, tfisser dik il-prattika fil-qadi tal-funzjonijiet tagħha taħt dan l-Att li hija xierqa fil-fehma tal-Kummissarju, u tinkludi (iżda mhux limitata għal) konformità mar-rekwiziti ta' dan l-Att u d-dispożizzjonijiet tal-kodiċi ta' prattika maħruġ taħt l-artikolu 41.

Rakkomandazzjonijiet rigward prattika tajba.

**22.** (1) Jekk jidher lill-Kummissarju li l-prattika ta' awtorità pubblika rilevanti fir-rigward ta' l-eżerċizzju tal-funzjonijiet tagħha taht dan l-Att ma tikkonformax ma' dak propost fil-kodiċi ta' prattika maħruġ taht l-artikolu 41, hu jista' jagħmel lill-awtorità rakkomandazzjoni (f'din it-taqsimha msejja bħala "rakkomandazzjoni ta' prattika") fejn jispeċifika l-passi li fil-fehma tiegħu għandhom jittiehdu għall-promozzjoni ta' din il-konformità.

(2) Rakkomandazzjoni ta' prattika għandha tingħata bil-miktub u għandha tirreferi għad-dispożizzjonijiet partikolari tal-kodiċi ta' prattika li fil-fehma tal-Kummissarju mhux qed ikunu segwiti mill-awtorità pubblika.

Applikazzjoni għal deċiżjoni mill-Kummissarju.

**23.** (1) Kull applikant jista' japplika għand il-Kummissarju għal deċiżjoni fuq jekk, f'xi każ speċifikat –

(a) talba għal informazzjoni magħmula mill-applikant lil awtorità pubblika kinitx ittrattata skond ir-rekwiżiti ta' dan l-Att; jew

(b) awtorità pubblika hix konformi mar-rekwiżiti mnizzlin fit-Taqsima III.

(2) Meta jirċievi applikazzjoni taht dan l-artikolu, il-Kummissarju għandu jiehu deċiżjoni sakemm ma jidhirlux –

(a) li l-applikant ma jkunx eżawrixxa xi proċedura ta' lmenti li tista' tkun ipprovduta mill-awtorità pubblika f'konformità mal-kodiċi ta' prattika maħruġ taht l-artikolu 41;

Izda l-Kummissarju jista' jiddeċiedi fuq l-applikazzjoni jekk fil-fehma tiegħu l-proċedura ta' lmenti pprovduta mill-awtorità pubblika ma kinitx konkluziva, jew x'aktarx m'hix se tkun konkluziva, fi żmien raġonevoli;

(b) li kien hemm dewmien mhux meħtieġ fit-tressiq ta' l-applikazzjoni;

(ċ) li l-applikazzjoni hija frivola jew vessatorja; jew

(d) li l-applikazzjoni giet irtirata jew abbandunata.

(3) Meta l-Kummissarju jkun irċieva applikazzjoni taht dan l-artikolu, hu għandu –

(a) jinnotifika lill-applikant li hu ma ħa ebda deċiżjoni taht dan l-artikolu minħabba l-applikazzjoni u jagħtih ir-raġunijiet tiegħu għaliex m'għamilx dan; jew

(b) jibgħat notifika tad-deċiżjoni tiegħu (f'dan l-Att imsejja "avviż ta' deċiżjoni") lill-applikant u lill-awtorità pubblika.

(4) Meta l-Kummissarju jiddeċiedi li awtorità pubblika –



(a) naqset milli tagħti aċċess għal dokument, jew milli tikkonferma jew tiċhad l-eżistenza ta' dokument, f'każ meta hi meħtieġa li tagħmel dan taħt dan l-Att; jew

(b) naqset milli tikkonforma ma' xi rekwiżiti oħra tat-Taqsima II fit-trattament tat-talba ta' l-applikant għal dokument; jew

(c) naqset milli tikkonforma ma' xi rekwiżiti tat-Taqsima III,

l-avviż ta' deċiżjoni għandu jispeċifika l-passi li għandhom jittieħdu mill-awtorità biex tikkonforma ma' dak ir-rekwiżit u l-perjodu li fiha dawn għandhom jittieħdu.

(5) Avviż ta' deċiżjoni għandu jipprovdi tagħrif dwar id-dritt ta' appell mogħti mill-artikolu 39.

(6) Meta avviż ta' deċiżjoni jitlob li jittieħdu passi mill-awtorità pubblika f'perjodu speċifikat, iż-żmien speċifikat fl-avviż m'għandux jiskadi qabel tmiem il-perjodu li tulu appell kontra l-avviż jista' jitressaq u, jekk dan l-appell ikun tressaq, ebda pass li jintlaqat mill-appell m'hemm għalfejn jittieħed sakemm l-appell ikun deċiż jew irirat.

(7) Dan l-artikolu għandu jkollu effett bla ħsara għall-artikolu 26.

**24.** (1) Jekk il-Kummissarju jkun irċieva applikazzjoni taħt l-artikolu 23, jew ikun jeħtieġ raġonevolment xi informazzjoni –

Avviżi ta' informazzjoni.

(a) sabiex jiddetermina jekk awtorità pubblika kinitx ikkonformat jew hix qed tikkonforma ma' xi rekwiżiti ta' dan l-Att; jew

(b) sabiex jiddetermina jekk il-prattika ta' awtorità pubblika f'relazżjoni ma' l-eżerċizzju tal-funzjonijiet tagħha taħt dan l-Att tikkonformax ma' dak li hu mnizzel fil-kodiċi ta' Prattika Stabbilit taħt l-artikolu 41,

hu jista' jibgħat lill-awtorità avviż (f'dan l-Att imsejjaħ "avviż ta' informazzjoni") li jitlobha biex, fiż-żmien kif speċifikat fl-avviż, tgħaddi lill-Kummissarju, bil-mod kif jista' jkun speċifikat, dik l-informazzjoni kif inhi hekk speċifikata li għandha x'taqsam ma' l-applikazzjoni jew ma' l-iskopijiet li jirreferu għalihom il-paragrafi (a) u (b).

(2) Avviż ta' informazzjoni għandu jispeċifika l-iskop li għalih il-Kummissarju jeħtieġ l-informazzjoni u, meta jirreferi għal informazzjoni registrata f'dokument, għandu jinkludi dawk id-dettalji raġonevolment meħtieġa biex uffiċjal responsabbli ta' l-awtorità pubblika jkun jista' jidentifika dak id-dokument.

(3) Avviż ta' informazzjoni għandu wkoll jipprovdi tagħrif dwar id-dritt ta' appell mogħti mill-artikolu 39.

(4) Il-perjodu ta' żmien speċifikat f'avviż ta' informazzjoni m'għandux jiskadi qabel tmiem il-perjodu li tulu jista' jitressaq appell kontra l-avviż u, jekk dan l-appell ikun tressaq, l-informazzjoni mitluba fl-avviż m'hemmx għalfejn tingħata sakemm l-appell ikun deċiż jew irtirat.

(5) Awtorità pubblika m'għandhiex tkun mitluba bis-saħħa ta' dan l-artikolu li tgħaddi lill-Kummissarju xi informazzjoni fir-rigward ta':

(a) xi komunikazzjoni bejn konsulent legali professjonali u l-klijent tiegħu f'konnessjoni ma' l-għoti ta' parir legali lill-klijent fir-rigward ta' l-obbligi, responsabbiltajiet jew drittijiet tiegħu taħt dan l-Att; jew

(b) xi komunikazzjoni bejn konsulent legali professjonali u l-klijent tiegħu, jew bejn tali konsulent jew il-klijent tiegħu u xi persuna oħra, magħmula f'konnessjoni ma' proċeduri attwali jew possibbli taħt dan l-Att jew li jirriżultaw minnu (inklużi proċeduri quddiem it-Tribunal) u għall-iskopijiet ta' dawn il-proċeduri.

(6) Fis-subartikolu (5), referenzi għall-klijent ta' konsulent legali professjonali jinkludi referenzi għal xi persuna li tirrappreżenta lil dan il-klijent.

(7) Il-Kummissarju jista' jhassar xi avviż ta' informazzjoni b'avviż bil-miktub lill-awtorità pubblika li tkun irċevietu.

(8) F'dan l-artikolu "informazzjoni" tinkludi informazzjoni mhux registrata.

Avviżi ta' infurzar.

**25.** (1) Jekk il-Kummissarju hu sodisfatt li awtorità pubblika naqset milli tikkonforma ma' xi wieħed mill-obbligi tagħha taħt dan l-Att, il-Kummissarju jista' jibgħat lill-awtorità avviż (f'dan l-Att imsejjaħ "avviż ta' infurzar") li jitlob lill-awtorità li, tul dak iż-żmien kif jista' jkun speċifikat fl-avviż, tiegħu daww il-passi kif jistgħu jkunu speċifikati biex tikkonforma ma' daww l-obbligi.

(2) Avviż ta' infurzar għandu jkun fih –

(a) dikjarazzjoni tar-rekwiżit jew rekwiżiti ta' dan l-Att li magħhom l-awtorità pubblika, fl-opinjoni sodisfatta tal-Kummissarju, naqset milli tikkonforma, u r-raġunijiet li wassluh biex jasal għal dik il-konklużjoni; u

(b) tagħrif dwar id-dritt ta' appell mogħti mill-artikolu 39.

(3) Avviż ta' infurzar m'għandux jitlob konformità ma' xi dispożizzjoni ta' l-avviż qabel tmiem il-perjodu li tulu jista' jitressaq appell kontra l-avviż, u, jekk dan l-appell jitressaq, ma tenhtiegħ konformità ma' l-avviż sakemm l-appell ikun deċiż jew irtirat.

(4) Il-Kummissarju jista' jhassar xi avviż ta' infurzar b'avviż bil-miktub lill-awtorità pubblika li tkun irċevietu.

(5) Dan l-artikolu għandu jkollu effett bla ħsara għall-artikolu 26.

**26.** (1) Avviż ta' deċiżjoni jew ta' infurzar maħrug mill-Kummissarju fir-rigward ta' l-iżvelar ta' dokument ikun bla effett jekk il-Prim Ministru jiċċertifika lill-Kummissarju li, fl-opinjoni tiegħu, id-dokument hu dokument eżentat skond it-termini ta' xi waħda mid-dispożizzjonijiet tat-Taqsima V.

Eżenzjoni mid-dmir ta' konformità ma' avviż ta' deċiżjoni jew ma' avviż ta' infurzar.

(2) Ċertifikat taħt dan l-artikolu għandu jkollu fih dikjarazzjoni mill-Prim Ministru bir-raġunijiet għall-opinjoni tiegħu, minbarra meta dan jinvolvi l-iżvelar ta' materja li hi materjal eżentat skond it-termini tad-dispożizzjonijiet tat-Taqsima V.

(3) Meta l-Prim Ministru jorog ċertifikat taħt dan l-artikolu, hu għandu fl-iqsar żmien prattikabbli jqiegħed kopja tiegħu quddiem il-Kamra tar-Rappreżentanti.

(4) Meta l-Kummissarju jirċievi ċertifikat taħt dan l-artikolu fir-rigward ta' avviż ta' deċiżjoni, hu għandu jinforma lill-applikant b'dan.

**27.** (1) Meta awtorità pubblika jew uffiċjal ta' tali awtorità jirrifjuta jew, mingħajr raġuni valida, jonqos milli jikkonforma ma':

Nuqqas ta' konformità ma' avviż.

- (a) avviż ta' deċiżjoni, safejn dan jitlob li jittieħdu passi;
- (b) avviż ta' informazzjoni; jew
- (c) avviż ta' infurzar,

dan għandu jitqies bħala reat skond it-termini tas-subartikolu (2) ta' l-artikolu 41 ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*, u l-Kummissarju jista' wkoll jimponi multa amministrattiva kontra l-awtorità jew l-uffiċjal tagħha kif ipprovdut mis-subartikolu (3) ta' l-artikolu 42 ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*.

(2) Meta awtorità pubblika tonqos milli tikkonforma ma' avviż ta' informazzjoni, jew meta l-Kummissarju jemmen li reat skond it-termini ta' l-artikolu 43 ikun qed jiġi, jew ikun wasal biex jiġi, kommess, il-Kummissarju jista' jaġixxi biex jiżgura konformità ma' l-avviż, jew biex ma jhallix li r-reat ikun kommess, billi juża s-setgħat ta' dħul u tiftix vestiti fil-Kummissarju taħt is-subartikolu (5) ta' l-artikolu

41 ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-Data, li għandu jkun applikabbli għal dan il-fini.

(3) Għall-finijiet ta' dan l-artikolu, awtorità pubblika li, sabiex turi li qed tikkonformi ma' avviż ta' informazzjoni –

(a) tagħmel dikjarazzjoni li taf li hija falza f'aspett materjali; jew

(b) tagħmel bl-addoċ dikjarazzjoni li hija falza f'aspett materjali,

għandha titqies li naqset milli tikkonforma ma' l-avviż.

Ebda azzjoni ċivili kontra awtorità pubblika.

**28.** (1) Dan l-Att ma jagħti ebda dritt ta' azzjoni ċivili fir-rigward ta' xi nuqqas ta' konformità ma' xi dmir impost minn jew taħt dan l-Att.

(2) Is-subartikolu (1) m'għandux jolqot is-setgħat tal-Kummissarju taħt l-artikolu 27.

## TAQSIMA V

### RAĠUNIJIET KONKLUŻIVI BIEX DOKUMENTI UFFIĊJALI MA JKUNUX ŻVELATI TAHT DAN L-ATT

Dokumenti li jolqtu s-sigurtà nazzjonali, difiża u relazzjonijiet internazzjonali, u dokumenti tal-Kabinett.

**29.** (1) Dokument hu dokument eżentat jekk l-iżvelar tiegħu taħt dan l-Att:

(a) jikkaguna, jew jista' raġonevolment ikun mistenni li jikkaguna, ħsara lis-sigurtà, id-difiża jew ir-relazzjonijiet internazzjonali ta' Malta; jew

(b) jikxef xi informazzjoni jew materja komunikata b'konfidenzjalità minn jew f'isem gvern barrani, awtorità ta' gvern barrani, jew organizzazzjoni internazzjonali lill-Gvern ta' Malta jew lil awtorità pubblika oħra, jew mill-Gvern ta' Malta jew minn awtorità pubblika lil gvern barrani, awtorità tiegħu, jew organizzazzjoni internazzjonali.

(2) Bla ħsara għas-subartikolu (3), dokument hu dokument eżentat jekk hu:

(a) dokument li kien sottomess lill-Kabinett għall-konsiderazzjoni tiegħu jew hu propost minn Ministru biex ikun sottomess b'dan il-mod, billi hu dokument li nħoloq għall-iskop ta' sottomissjoni lill-Kabinett;

(b) rekord uffiċjali tal-Kabinett;

(ċ) dokument li hu kopja ta' dokument imsemmi fil-paragrafu (a) jew (b), jew kopja ta' parti minn dokument bħal dan, jew fih xi silta minnu; jew

(d) dokument li l-iżvelar tiegħu jkun jinvolvi l-iżvelar ta' xi deliberazzjoni jew deċiżjoni tal-Kabinett, minbarra dokument li bih deċiżjoni tal-Kabinett kienet ippubblikata:

Iżda kull sena, il-Prim Ministru jista' jordna li ċerti dokumenti tal-Kabinett, li jkunu dokumenti magħżulin minn fost dawk li għandhom 30 sena jew aktar, għandhom ikunu suġġetti għall-iżvelar, u dan is-subartikolu ma jibqax japplika għal dawn id-dokumenti.

(3) Is-subartikolu (2) m'għandux japplika għal dokument jekk, u safejn, ikun fih informazzjoni fattwali li għandha x'taqsam ma' deċiżjoni tal-Kabinett li giet ippubblikata.

(4) Fis-subartikoli (2) u (3) "Kabinett" tinkludi Kumitati tal-Kabinett.

**30.** (1) Dokument hu dokument eżentat jekk l-iżvelar tiegħu taht dan l-Att jasal biex, jew jista' raġonevolment ikun mistenni li:

Dokumenti li jolqtu l-infurzar tal-liġi u l-harsien tas-sigurtà pubblika.

(a) jippreġudika t-tmexxiya ta' investigazzjoni ta' ksur, jew possibiltà ta' ksur, tal-liġi, jew nuqqas, jew possibiltà ta' nuqqas, ta' konformità ma' liġi li għandha x'taqsam ma' tassazzjoni, jew jippreġudika l-infurzar jew l-amministrazzjoni xierqa tal-liġi f'ċirkustanza partikolari;

(b) jiżvela l-eżistenza jew l-identità, jew jippermetti li persuna tiskopri l-eżistenza jew l-identità, ta' sors konfidenzjali ta' informazzjoni, jew in-nuqqas ta' eżistenza ta' sors konfidenzjali ta' informazzjoni, fir-rigward ta' l-infurzar jew l-amministrazzjoni tal-liġi;

jew

(ċ) jqiegħed fil-periklu l-hajja jew is-sigurtà fiżika ta' xi persuna.

(2) Dokument hu dokument eżentat jekk l-iżvelar tiegħu taht dan l-Att jasal biex, jew jista' raġonevolment ikun mistenni li:

(a) jippreġudika l-proċess ġust ta' persuna jew il-ġudizzju imparzjali ta' każ partikolari minn xi qorti, tribunal, bord ta' dixxiplina, *panel* ta' arbitraġġ jew korp simili, jew jippreġudika inkjesta mmexxiya taht l-Att dwar l-Inkjesti;

(b) jippreġudika l-effettività ta' metodi jew proċeduri legali għall-prevenzjoni, kxif, investigazzjoni, jew trattament ta' materji li jirriżultaw minn ksur jew evażjoni tal-liġi permezz ta' l-iżvelar tiegħu; jew

(ċ) jippreġudika l-manteniment jew infurzar ta' metodi legali għall-harsien tas-sigurtà pubblika.

(3) Għall-finijiet tal-paragrafu (b) tas-subartikolu (1), persuna għandha titqies li hija sors konfidenzjali ta' informazzjoni fir-rigward ta' l-infurzar jew l-amministrazzjoni tal-liġi jekk il-persuna qed tirċievi, jew irċeviet, protezzjoni mill-Pulizija jew minn awtoritajiet pubbliċi oħrajn bhala:

(a) xhud; jew

(b) persuna li, minhabba r-relazzjoni jew l-assoċjazzjoni tagħha ma' xhud, jehtigilha jew tista' tehtigilha din il-protezzjoni; jew

(c) kull persuna oħra li, għal xi raġuni, jehtigilha jew tista' tehtigilha din il-protezzjoni.

Dokumenti suġġetti għall-privileġġ professjonali legali jew li fihom materjal miksub b'mod konfidenzjali.

**31.** (1) Dokument hu dokument eżentat jekk hu ta' natura tali li jkun privileġġjat milli jittella' fi proċeduri legali għal raġuni ta' privileġġ professjonali legali.

(2) Dokument hu dokument eżentat jekk l-iżvelar tiegħu taħt dan l-Att jagħti lok għal azzjoni minn persuna (minbarra awtorità pubblika) għal ksur ta' konfidenzjalità.

(3) Is-subartikolu (2) m'għandux japplika għal *working documents* interni mhejjijin minn membru, uffiċjal jew impjegat tal-Gvern jew ta' xi awtorità pubblika oħra fil-kors ta' dmirijietu sakemm l-iżvelar ma jikkostitwixxi ksur ta' konfidenzjalità dovuta lil persuna jew korp minbarra membru, uffiċjal jew impjegat tal-Gvern jew ta' xi awtorità pubblika oħra kif intqal hawn fuq.

Dokumenti li għandhom x'jaqsmu ma' affarijiet ta' negozju, l-ekonomija u r-riċerka.

**32.** (1) Dokument hu dokument eżentat jekk l-iżvelar tiegħu taħt dan l-Att jiżvela:

(a) sigrieti kummerċjali;

(b) kull informazzjoni oħra li għandha valur kummerċjali li jinqered jew jitnaqqas, jew jista' raġonevolment ikun mistenni li jinqered jew jitnaqqas, jekk l-informazzjoni tkun żvelata; jew

(c) informazzjoni (minbarra sigrieti jew informazzjoni kummerċjali li għaliha tapplika l-paragrafu (b)) dwar persuna fir-rigward ta' l-affarijiet tan-negozju jew personali tiegħu jew dwar l-affarijiet tan-negozju, kummerċjali jew finanzjarji ta' organizzazzjoni jew intrapriża, billi tkun informazzjoni li:

(i) l-iżvelar tagħha jolqot hażin, jew raġonevolment ikun mistenni li jolqot hażin, b'mod mhux raġonevoli lil dik il-persuna fir-rigward tan-negozju jew affarijiet professjonali legittimi tagħha jew lil dik l-organizzazzjoni jew intrapriża fir-rigward ta' l-affarijiet legittimi tan-negozju, kummerċjali jew finanzjarji tagħha; jew

(ii) l-iżvelar tagħha taħt dan l-Att jista' jkun raġonevolment mistenni li jippreġudika l-provvista futura ta' informazzjoni lill-Gvern jew lil awtorità pubblika oħra għall-finijiet ta' l-amministrazzjoni ta' liġi jew l-amministrazzjoni ta' materji amministrati mill-awtorità.

(2) Is-subartikolu (1) m'ghandux japplika għal talba għal access għal dokument għar-raġuni waħdanija li d-dokument fih informazzjoni fuq:

(a) in-negozju jew l-affarijiet professjonali ta' l-applikant innifsu;

(b) l-affarijiet ta' negozju, kummerċjali jew finanzjarji ta' intrapriża meta l-applikant hu l-propjetarju ta' l-intrapriża jew qed jaġixxi f'isem il-propjetarju; jew

(c) l-affarijiet ta' negozju, kummerċjali jew finanzjarji ta' organizzazzjoni meta l-applikant qed jaġixxi f'isimha.

(3) Il-paragrafu (c) tas-subartikolu (1) m'ghandux japplika għal informazzjoni li għandha x'taqsam biss ma' l-istatus ta' persuna bħala membru ta' professjoni.

(4) Dokument hu dokument eżentat jekk l-iżvelar tiegħu taħt dan l-Att imur kontra l-interess pubbliku għar-raġuni li hu:

(a) jkollu, jew raġonevolment ikun mistenni li jkollu, effett hażin sostanzjali fuq il-hila tal-Gvern li jimmaniġġja l-ekonomija Maltija; jew

(b) jista' jkun raġonevolment mistenni li jirriżulta fi tfixkil mhux floku tal-kors ordinarju tan-negozju fil-komunità, jew f'benefiċċju jew detriment mhux flokhom lil xi persuna jew komunità, jew f'benefiċċju jew detriment mhux flokhom lil xi persuna jew klassi ta' persuna, għar-raġuni li jagħtu għarfien prematur jew ikunu jittrattaw dwar azzjoni jew nuqqas ta' azzjoni proposti jew possibbli tal-Gvern jew tal-Parlament.

(5) Ix-xorta ta' dokumenti li s-subartikolu (4) jista' japplika għalihom jinkludu, iżda m'humix limitati għal, dokumenti li fihom materja li għandha x'taqsam ma':

(a) il-munita jew rati tal-kambju;

(b) rati ta' l-imghax;

(c) taxxi, inklużi dazji tad-dwana jew tas-sisa;

(d) ir-regolamentazzjoni jew is-sorveljanza ta' banek, istituzzjonijiet ta' l-assigurazzjoni, u istituzzjonijiet finanzjarji oħrajn;

(e) l-istabilità tas-sistema finanzjarja;

(f) proposti għal infiq;

(g) investiment barrani f'Malta; jew

(h) self mill-Gvern jew awtoritajiet pubbliċi oħrajn.



(6) Dokument hu dokument eżentat jekk hu fil-pussess ta' membru ta' l-istaff akkademiku ta' l-Università ta' Malta u fih informazzjoni li għandha x'taqsam ma' riċerka li kienet jew qiegħda ssir minn dak il-membru, sakemm ir-riċerka m'hix kummissjonata minn awtorità pubblika.

(7) Dokument hu dokument eżentat jekk:

(a) fih informazzjoni li għandha x'taqsam ma' riċerka xjentifika jew akkademika li qed issir, jew se ssir, minn membru ta' l-istaff ta' awtorità pubblika, minbarra riċerka li għaliha japplika s-subartikolu (6); u

(b) żvelar ta' informazzjoni qabel it-tlestija tar-riċerka x'aktarx li jizvantaġġja b'mod mhux raġonevoli lill-awtorità pubblika jew lill-membru ta' l-istaff.

(8) Is-subartikolu (7) m'għandux japplika għal dokument li, safejn fih informazzjoni li għandha x'taqsam ma' riċerka, fiha biss informazzjoni li għandha x'taqsam ma' riċerka li tlestiet kollha.

(9) Dokument hu dokument eżentat jekk fih informazzjoni li għandha x'taqsam ma' riċerka dwar affarijiet ta' sigurtà u difiża, u awtorità pubblika għamlet dik ir-riċerka jew talbet biex issir, jew kienet involuta fir-riċerka jew fit-talba biex issir.

Dokumenti li l-iżvelar tagħhom jikkostitwixxi disprezz tal-Parlament jew tal-Qorti.

**33.** Dokument hu dokument eżentat jekk, apparti minn dan l-Att u minn kull immunità tal-Gvern, l-iżvelar pubbliku tad-dokument:

(a) jikkostitwixxi disprezz tal-qorti;

(b) imur kontra xi ordni magħmula jew direzzjoni mogħtija minn xi Bord li għalih japplika l-Att dwar l-Inkjesti, jew minn xi tribunal jew persuna oħra li għandha s-setgħa li tiġbor xhieda ġuramentata; jew

(c) jikser il-privileġġi tal-Parlament.

Informazzjoni fuq l-eżistenza ta' ċerti dokumenti.

**34.** Meta –

(a) talba taħt dan l-Att għandha x'taqsam ma' dokument li għalih japplikaw id-dispożizzjonijiet ta' din it-Taqsima, jew kienu japplikaw kieku tali dokument kien jeżisti; u

(b) l-eżistenza jew nuqqas ta' eżistenza tad-dokument tista' tkun minnha nnifisha, jekk tingħad f'dokument, sugġetta għal nuqqas ta' żvelar skond it-termini ta' xi waħda mid-dispożizzjonijiet imsemmija,

l-awtorità pubblika li tittratta t-talba tista' tagħti avviż bil-miktub lill-applikant li hi la tikkonferma u lanqas tiċhad l-eżistenza jew nuqqas ta' eżistenza ta' dak id-dokument.



**TAQSIMA VI**  
**RAĠUNIJIET OHRAJN BIEX MA TINGHATAX**  
**INFORMAZZJONI UFFIĊJALI**

**35.** (1) Din it-Taqsima għandha tapplika bla ħsara għad-dispożizzjonijiet tat-Taqsima V. *Applikazzjoni ta' din it-Taqsima.*

(2) Dokument jista' ma jingħatax skond id-dispożizzjonijiet ta' din it-Taqsima biss jekk ikun fih materja li fir-rigward tagħha l-interess pubbliku li jinqeda bin-nuqqas ta' żvelar m'għandux piż aktar mill-interess pubbliku li jinqeda jekk id-dokument ikun żvelat.

**36.** (1) Bla ħsara għall-artikolu 35 u għas-subartikoli (2) u (3) ta' dan l-artikolu, dokument hu dokument eżentat jekk l-iżvelar tiegħu taħt dan l-Att jiżvela materja li għandha n-natura ta', jew li għandha x'taqsam ma', opinjonijiet, pariri jew rakkomandazzjonijiet miksubin, imħejjijin jew reġistrati, jew ma' konsultazzjoni jew deliberazzjoni li jkunu saru, fil-kors tal-proċessi deliberattivi involuti fil-funzjonijiet tal-Gvern jew awtorità pubblika oħra, jew għall-finijiet ta' dawk il-proċessi. *Working documents interni.*

(2) Is-subartikolu (1) m'għandux japplika għal dokument għar-raġuni waħdanija ta' informazzjoni purament fattwali li tkun fid-dokument.

(3) Is-subartikolu (1) m'għandux japplika għal:

(a) rapporti (inklużi rapporti dwar ir-rizultati ta' studji, sħarriġ jew testijiet) ta' esperti xjentifiċi jew tekniċi, kemm jekk impjegati minn awtorità pubblika u kemm jekk m'humieq, inklużi rapporti li jesprimu l-opinjoni ta' dawn l-esperti fuq materji xjentifiċi jew tekniċi; jew

(b) ir-reġistrazzjoni jew id-dikjarazzjoni finali tar-raġunijiet għal deċiżjoni finali mogħtija fl-eżercizzju tas-setgħa jew ta' funzjoni aġġudikativa.

(4) Fis-subartikolu (3) it-terminu "espert xjentifiku jew tekniku" għandu jfittiehem li jeskludi manigera anzjani f'awtoritajiet pubbliċi.

**37.** Bla ħsara għall-artikolu 35, dokument hu dokument eżentat jekk l-iżvelar tiegħu taħt dan l-Att ikollu effett ħażin sostanzjali fuq l-interessi finanzjarji jew ta' proġett ta' awtoritajiet pubbliċi. *Dokumenti li jolqtu interessi finanzjarji jew ta' proġett ta' awtoritajiet pubbliċi.*

**38.** Bla ħsara għall-artikolu 35, dokument hu dokument eżentat jekk l-iżvelar tiegħu taħt dan l-Att iwassal biex, jew jista' raġonevolment ikun mistenni li: *Dokumenti dwar ċerti operazzjonijiet ta' awtoritajiet pubbliċi.*

(a) jippreġudika l-effettività ta' proċeduri jew metodi għat-tmexxija ta' testijiet, eżamijiet jew proċessi ta' awditjar minn awtorità pubblika;

(b) jippreġudika l-ilhiq ta' l-oġettivi ta' testijiet, eżamijiet jew proċessi ta' awditjar partikolari mmexxijin jew li jkunu se jitmexxew minn awtorità pubblika;

(c) jkollu effett hażin sostanzjali fuq it-tmexxija xierqa u effiċjenti ta' l-operazzjonijiet ta' awtorità pubblika; jew

(d) jkollu effett hażin sostanzjali fuq it-tmexxija ta' negozjati (inklużi negozjati kummerċjali u industrijali) mill-Gvern jew awtorità pubblika oħra jew f'isimha.

## TAQSIMA VII

### DISPOŻIZZJONIJIET SUPPLEMENTARI

Appelli minn  
avviżi maħruġin  
mill-Kummissarju.

**39.** (1) Meta avviż ta' deċiżjoni jintbagħat, l-applikant jew l-awtorità pubblika jistgħu jappellaw lit-Tribunal kontra l-avviż fi żmien għoxrin ġurnata tax-xogħol.

(2) Awtorità pubblika li tirċievi avviż ta' informazzjoni jew avviż ta' infurzar mingħand il-Kummissarju tista' tappella lit-Tribunal kontra l-avviż.

(3) Jekk, meta jsir appell taħt dan l-artikolu, it-Tribunal iqis –

(a) li l-avviż li kontrieh sar l-appell m'hux skond il-liġi; jew

(b) safejn l-avviż kien jinvolvi eżerċizzju ta' diskrezzjoni mill-Kummissarju, li hu kellu jeżerċita d-diskrezzjoni tiegħu b' mod differenti,

it-Tribunal għandu jilqa' l-appell jew jissostitwih b'avviż ieħor kif seta' jintbagħat mill-Kummissarju; u f'kull każ ieħor it-Tribunal għandu jiċċad l-appell.

(4) Meta t-Tribunal jissostitwixxi avviż kif intqal hawn fuq, il-Kummissarju għandu jieħu azzjoni taħt l-artikolu 27 biex jiżgura konformità bħallikieku dak l-avviż kien inħareġ mill-Kummissarju.

(5) Fis-smiġh ta' appelli taħt dan l-artikolu t-Tribunal għandu jibqa' sugġett għad-dispożizzjonijiet li ġejjin ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-Data:

(a) is-subartikolu (3) ta' l-artikolu 49; u

(b) is-subartikoli (2), (3) u (4) ta' l-artikolu 50.

**40.** Deċiżjonijiet tat-Tribunal taħt dan l-Att għandhom ikunu suġġetti għal appell lill-Qorti ta' l-Appell skond l-artikolu 51 ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*.

Appelli minn deċiżjonijiet tat-Tribunal.

**41.** (1) Il-Ministru għandu jorog kodiċi ta' prattika li jagħti gwida lill-awtoritajiet pubbliċi dwar il-prattika li, fil-fehma tiegħu, ikun desiderevoli li huma jsegwu f'konnessjoni mal-qadi tal-funzjonijiet ta' awtoritajiet pubbliċi taħt it-Taqsima II u t-Taqsima III.

Kodiċi ta' prattika.

(2) Il-kodiċi ta' prattika għandu, b'mod partikolari, jinkludi dispozizzjonijiet dwar:

(a) l-għoti ta' parir u għajnuna minn awtoritajiet pubbliċi lil persuni li jixtiequ jagħmlulhom, jew ikunu għamlulhom, talbiet għal informazzjoni;

(b) it-trasferiment ta' talbiet minn awtorità pubblika għal awtorità pubblika oħra li għandha, jew jista' jkollha, id-dokumenti mitlubin;

(c) konsultazzjoni ma' persuni li l-informazzjoni mitluba għandha x'taqsam magħhom jew li l-interessi tagħhom x'aktarx li jintlaqtu mill-iżvelar ta' informazzjoni;

(d) l-inkluzjoni f'kuntratti li jidhlu għalihom awtoritajiet pubbliċi ta' termini li għandhom x'jaqsmu ma' l-iżvelar ta' informazzjoni;

(e) il-provvediment minn awtoritajiet pubbliċi ta' proċeduri mgħagġlin biex jieħdu hsieb ilmenti dwar it-trattament minnhom ta' talbiet għal informazzjoni; u

(f) iż-żamma ta' dokumenti u *records* minn awtoritajiet pubbliċi b'mod li tithaffef l-identifikazzjoni u l-akkwist ta' dokumenti għall-finijiet ta' dan l-Att.

(3) Il-kodiċi jista' jagħmel dispozizzjonijiet differenti għal awtoritajiet pubbliċi differenti.

(4) Qabel jorog jew jirrevedi xi kodiċi taħt dan l-artikolu, il-Ministru għandu jikkonsulta lill-Kummissarju u lis-Segretarju Permanenti Ewlieni.

**42.** Il-Ministru jista', wara konsultazzjoni mal-Kummissarju, jagħmel regolamenti għall-finijiet kollha li ġejjin jew għal xi whud minnhom:

Regolamenti.

(a) biex jippreskrivi formoli ta' applikazzjoni (manwali jew elettronici) u dokumenti oħra meħtieġa għall-finijiet ta' dan l-Att, jew biex jawtorizza xi persuna biex tippreskrivi jew tapprova dawn il-formoli jew dokumenti:

Iżda formoli ma jistgħux jimponu rekwiżiti fuq l-applikanti b'żieda ma' dawk imniżżlin f'dan l-Att, u applikazzjoni li tissodisfa dawn ir-rekwiżiti kollha għandha xorta waħda titqies jekk issir b'mod ieħor milli bl-użu tal-formola preskritta;

(b) biex jistabbilixxi l-proċedura biex jintbagħtu avvizi u dokumenti minn awtoritajiet pubbliċi taħt dan l-Att;

(ċ) biex jippreskrivi ħlasijiet raġonevoli jew skali ta' ħlasijiet raġonevoli għall-finijiet ta' dan l-Att; u

(d) biex jipprovdi għal dawk il-materji kif kontemplati minn dan l-Att jew li huma neċessarji biex jagħtuh effett sħiħ u jipprovdu għall-amministrazzjoni xierqa tiegħu.

Ħsara eċċ. lil dokumenti għandha tikkostitwixxi reat.

**43.** L-artikolu 144 tal-Kodiċi Kriminali għandu japplika għal kull min jieħu b'qerq, jiddistruġġi, ma jhallix sħiħ jew jisraq dokument bil-ħsieb li ma jkunx jista' jsir żvelar ta' informazzjoni lil applikant taħt dan l-Att.

Emendi għall-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

**44.** (1) Is-subartikolu (2) ta' l-artikolu 590 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili (f'dan l-artikolu msejjaħ il-Kodiċi) għandu jkun sostitwit minn dan li ġej:

“(2) Ebda xhud ma jista' jiġi mgieġhel jiżvela xi informazzjoni miġjuba minn jew li għandha x'taqsam ma' xi dokument li għalih japplika s-subartikolu (3) ta' l-artikolu 637.”

(2) Is-subartikolu (3) ta' l-artikolu 637 tal-Kodiċi għandu jkun sostitwit minn dan li ġej:

“(3) Ma tistax tintalab il-produzzjoni ta' xi dokument li hu miżmum minn awtorità pubblika u –

(a) li hu dokument eżentat taħt l-artikoli 29, 30 jew 36(1) jew is-subartikoli (4) jew (5) ta' l-artikolu 32 ta' l-Att dwar il-Liberta ta' l-Informazzjoni; jew

(b) li l-iżvelar tiegħu hu pprojbit minn xi liġi oħra.”

(3) Is-subartikolu (4) ta' l-artikolu 637 tal-Kodiċi għandu jkun sostitwit minn dan li ġej:

“(4) Meta ssir domanda għall-produzzjoni fil-qorti ta' dokument miżmum għand awtorità pubblika, u l-awtorità pubblika hija tal-fehma li l-paragrafu (a) tas-subartikolu (3) japplika għal dak id-dokument, l-awtorità pubblika għandha twieġeb għad-domanda bħallikieku dik id-domanda kienet talba għall-iżvelar tad-dokument

taħt l-Att dwar il-Libertà ta' l-Informazzjoni; u d-dispożizzjonijiet tat-Taqsimiet II u IV u ta' l-artikoli 39, 40 u 43 ta' l-Att dwar il-Libertà ta' l-Informazzjoni għandhom japplikaw skond il-każ.”

(4) Is-subartikolu (6) ta' l-artikolu 637 tal-Kodiċi għandu jkun sostitwit minn dan li ġej:

“(6) F’dan l-artikolu “awtorità pubblika” għandu jkollha t-tifsira mogħtija lilha mill-Att dwar il-Libertà ta' l-Informazzjoni.”

**45.** (1) Is-subartikoli (1) u (2) ta' l-artikolu 47 ta' l-Att dwar l-Istampa għandhom jithassru.

Emendi għall-Att  
dwar l-Istampa.

(2) Is-subartikolu (3) ta' l-artikolu 47 ta' l-Att dwar l-Istampa għandu jkunu numerat mill-ġdid bhala l-artikolu 47 tiegħu.

**46.** (1) Fl-artikolu 2 ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data* u kulfejn dawn jistgħu jidhru, għall-kelmiet “Kummissarju għall-Protezzjoni u l-Privatezza tad-*Data*” għandhom ikunu sostitwiti l-kelmiet “Kummissarju għall-Informazzjoni u l-Protezzjoni tad-*Data*”.

Emendi għall-Att  
dwar il-Protezzjoni  
u l-Privatezza tad-*Data*.

(2) Fl-artikolu 2 ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*, flok il-kelmiet “Ministru responsabbli għall-protezzjoni tad-*data*” għandhom ikunu sostitwiti l-kelmiet “Ministru responsabbli mill-libertà ta' l-informazzjoni u l-protezzjoni tad-*data*”.

(3) Fil-paragrafu (m) ta' l-artikolu 40 ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*, il-kelmiet “obbligu ieħor internazzjonali ta' Malta.” għandhom ikunu sostitwiti mill-kelmiet “obbligu ieħor internazzjonali ta' Malta; u”, u għandu jiżdied paragrafu ġdid kif ġej:

“(n) biex jaqdi l-funzjonijiet assenjati lill-Att dwar il-Libertà ta' l-Informazzjoni.”

(4) Fl-artikolu 48 ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data* u fin-nota marginali tiegħu, flok il-kelmiet “Tribunal ta' l-Appelli dwar il-Protezzjoni tad-*Data*” għandhom ikunu sostitwiti l-kelmiet “Tribunal ta' l-Appelli dwar l-Informazzjoni u l-Protezzjoni tad-*Data*”.

(5) Fis-subartikolu (1) ta' l-artikolu 52 ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*, il-kelmiet “u taħt l-Att dwar il-Libertà ta' l-Informazzjoni u liġijiet oħra” għandhom jiżdiedu immedjatement wara l-kelmiet “L-ispejjeż meħtieġa mill-Kummissarju għall-eżerċizzju tal-funzjonijiet tiegħu taħt dan l-Att”.

(6) Fis-subartikolu (1) ta' l-artikolu 53 ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*, il-kelmiet “taht dan l-Att u taht l-Att dwar il-Libertà ta' l-Informazzjoni u ligijiet oħra” għandhom jiżdiedu immedjatament wara l-kelmiet “Il-Kummissarju għandu jara li jinżammu kontijiet u *records* oħra sew għar-rigward ta' l-operazzjonijiet tiegħu”.

Emendi għall-Att  
dwar Kunsilli  
Lokali.

**47.** (1) Fl-artikolu 2 ta' l-Att dwar Kunsilli Lokali, għandha tiżdied id-definizzjoni ġdida li ġejja wara d-definizzjoni ta' “Kummissarju għall-Ġustizzja”:

“ “Kummissarju għall-Informazzjoni u l-Protezzjoni tad-*Data*” tfisser l-uffiċjal mahtur skond it-termini ta' l-artikolu 36 ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*;”.

(2) Id-dispożizzjoni ta' l-artikolu 45 ta' l-Att dwar Kunsilli Lokali għandha tkun numerata bħala s-subartikolu (1) ta' l-istess artikolu.

(3) Is-subartikoli ġodda (2) u (3) li ġejjin għandhom jiżdiedu ma' l-artikolu 45 ta' l-Att dwar Kunsilli Lokali sussegwenti għad-dispożizzjoni kurrenti tiegħu:

“(2) Kull persuna li titlob informazzjoni minn Kunsill Lokali skond is-subartikolu (1) u li m'hix sodisfatta bit-tweġiba tal-Kunsill għat-talba tagħha tista' tapplika lill-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-*Data* għal deċiżjoni dwar jekk, f'xi rigward speċifikat, it-talba tagħha kinitx ittrattata skond ir-rekwiziti ta' dan l-Att u kull regolament magħmul tahtu.

(3) It-Taqsima IV ta' l-Att dwar il-Libertà ta' l-Informazzjoni, minbarra l-artikolu 26, u wkoll l-artikoli 39, 40 u 43 ta' l-istess Att, għandhom japplikaw *mutatis mutandis* għal talbiet għal informazzjoni taht dan l-artikolu, iżda referenzi għal kodiċi ta' prattika fit-Taqsima IV ta' l-Att dwar il-Libertà ta' l-Informazzjoni għandhom ikunu interpretati li jirreferu għal kull kodiċi ta' prattika dwar l-iżvelar ta' informazzjoni li jista' jinħareġ mill-Ministru taht dan l-Att; iżda l-applikazzjoni ta' l-Att dwar il-Libertà ta' l-Informazzjoni skond it-termini ta' dan is-subartikolu m'għandhiex tiddependi mill-ħruġ ta' kodiċi ta' din ix-xorta.”

Emendi għar-  
Regolamenti dwar  
il-Libertà ta'  
Aċċess għal  
Informazzjoni dwar  
l-Ambjent.

**48.** Ir-Regolamenti dwar il-Libertà ta' Aċċess għal Informazzjoni dwar l-Ambjent għandhom ikunu emendati skond l-Iskeda ma' dan l-Att.

## SKEDA

(Artikolu 48)

**REGOLAMENTI TA' L-2008 LI JEMENDAW IR-REGOLAMENTI DWAR  
LIBERTÀ TA' ACCÈSS GHAL INFORMAZZJONI DWAR L-AMBJENT**

BIS-SAHHA tas-setgħat mogħtija mill-artikoli 3, 9, 19, 23 u 28 ta' l-Att dwar il-Ħarsien ta' l-Ambjent, il-Prim Ministru għamel ir-regolamenti li ġejjin:—

**1.** (1) It-titolu ta' dawn ir-regolamenti hu Regolamenti ta' l-2008 li jemendaw ir-Regolamenti dwar Libertà ta' Access għal Informazzjoni dwar l-Ambjent.

Isem u bidu fis-sehħ.

(2) Dawn ir-regolamenti għandhom jinqraw u jkunu interpretati bħala haġa waħda mar-Regolamenti ta' l-2005 dwar il-Libertà ta' Access għal Informazzjoni fuq l-Ambjent, hawnhekk iżjed 'il quddiem imsejħin "ir-regolamenti prinċipali".

(3) Dawn ir-regolamenti għandhom jidhlu fis-sehħ f'dik id-data li l-Ministru responsabbli għall-ambjent jista' jistabbilixxi b'avviż fil-Gazzetta.

**2.** Fir-regolament 2 tar-regolamenti prinċipali, wara t-tifsira ta' "informazzjoni miżmuma minn awtorità pubblika" għandha tiżded t-tifsira l-ġdida li ġejja:

Emenda għar-regolament 2.

“ “Kummissarju għall-*Informazzjoni u l-Protezzjoni tad-Data*” tfisser l-uffiċjal maħtur skond it-termini ta' l-artikolu 36 ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*”.

**3.** (1) Għandhom jiżdiedu mar-regolamenti prinċipali ir-regolamenti ġodda 12 u 13 kif ġej:

Żjieda ta' regolamenti ġodda.

“Infurzar.

12. (1) Kull persuna li titlob lill-awtorità kompetenti biex tagħtiha informazzjoni ambjentali skond ir-regolament 3, u li m'hix sodisfatta bit-tweġiba, tista' tapplika lill-Kummissarju għall-*Informazzjoni u l-Protezzjoni tad-Data* għal deċiżjoni dwar jekk, f'xi rigward speċifikat, it-talba tagħha kinitx ittrattata skond ir-rekwiżiti ta' dawn ir-regolamenti u ta' kull regolament addizzjonali magħmul skond ir-regolament 11.

(2) It-Taqsima IV ta' l-Att dwar il-Libertà ta' l-*Informazzjoni* minbarra l-artikolu 26, u wkoll l-artikoli 39, 40 u 43 ta' l-istess Att, għandhom japplikaw

*mutatis mutandis* għal talbiet għal informazzjoni taht dan l-artikolu, iżda referenzi għal kodiċi ta' prattika fit-Taqsima IV ta' l-Att dwar il-Libertà ta' l-Informazzjoni għandhom ikunu interpretati li jirreferu għal kull kodiċi ta' prattika dwar l-iżvelar ta' informazzjoni li jista' jinħareġ mill-awtorità kompetenti bis-saħħa ta' regolamenti skond ir-regolament 11; iżda l-applikazzjoni ta' l-Att dwar il-Libertà ta' l-Informazzjoni skond it-termini ta' dan is-sub-regolament m'għandhiex tiddependi mill-ħruġ ta' kodiċi ta' din ix-xorta.

(3) Meta tqum kwistjoni fuq jekk informazzjoni mitluba taht ir-regolament 3 hix informazzjoni ambjentali li għaliha dawn ir-regolamenti japplikaw, dik il-kwistjoni għandha tkun suġġetta għal rikonsiderazzjoni u deċiżjoni mill-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-*Data* u wkoll suġġetta għal appell taht l-artikoli 39 u 40 ta' l-Att dwar il-Libertà ta' l-Informazzjoni.

Interpretazzjoni.

13. Meta tiġi biex tittiehed deċiżjoni fuq jekk informazzjoni ambjentali partikolari hix eżentata jew le għall-iskop ta' żvelar taht il-paragrafu (a) tas-sub-regolament (2) tar-regolament 7, għandu jingħata kas tas-subartikoli (2), (3) u (4) ta' l-artikolu 29 u l-artikolu 36 ta' Att dwar il-Libertà ta' l-Informazzjoni; u informazzjoni li japplika għaliha l-paragrafu msemmi hawn fuq m'għandhiex tinħareġ taht dawn ir-regolamenti jekk titqies bħala materjal eżentat taht l-Att dwar il-Libertà ta' l-Informazzjoni."

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Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 67 tal-15 ta' Diċembru, 2008.

LOUIS GALEA  
*Speaker*

Pauline Abela  
*Aġent Skrivan tal-Kamra tad-Deputati*



## **FREEDOM OF INFORMATION ACT**

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46. Amendments to the Data Protection Act.
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48. Amendments to the Freedom of Access to Information on the Environment Regulations.

**SCHEDULE – FREEDOM OF ACCESS TO INFORMATION ON THE ENVIRONMENT (AMENDMENT) REGULATIONS, 2008**

I assent.

(L.S.)

EDWARD FENECH ADAMI  
President

19th December, 2008

**ACT No. XVI of 2008**

*AN ACT to establish a right to information held by public authorities in order to promote added transparency and accountability in government.*

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:—

**PART I**

**PRELIMINARY AND DECLARATION OF PRINCIPLES**

**1.** (1) This Act may be cited as the Freedom of Information Act, 2008. Short title and commencement.

(2) This Act shall come into force on such a date as the Minister may by notice in the Gazette appoint, and different dates may be so appointed for different provisions or different purposes of this Act.

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

“applicant” means, in relation to a request for the disclosure of a document in accordance with article 3, the person who made that request;

“Commissioner” means the Information and Data Protection Commissioner appointed in terms of article 36 of the Data Protection Act;

“decision notice” has the meaning given by article 23;

“document” means any article that is held by a public authority and on which information has been recorded in whatever form, including electronic data, images, scale models and other visual representations, and audio or video recordings, regardless of whether the information can be read, seen, heard or retrieved with or without the aid of any other article or device;

“eligible person” means a person who is resident in Malta and who has been so resident in Malta for a period of at least five years, and who is either a citizen of Malta or a citizen of any other member state of the European Union or a citizen of any other state the citizens of which have a right, in virtue of any treaty between such state and the European Union, to be treated in Malta in the same manner as citizens of member states of the European Union;

“enforcement notice” has the meaning given by article 25;

“European Union” has the meaning given by the European Union Act;

“exempt document” means a document which is not subject to disclosure under this Act in accordance with Parts V and VI;

“exempt matter” means matter the inclusion of which in a document causes the document to be an exempt document;

“information notice” has the meaning given by article 24;

“Minister” means the Minister responsible for freedom of information and data protection;

“Principal Permanent Secretary” means the officer appointed in terms of article 14 of the Public Administration Act;

“public authority” means:

(a) the Government, including any ministry or department thereof;

(b) a Government agency established in terms of the Public Administration Act or any other law; and

(c) any body established under any law, or any partnership or other body in which the Government of Malta, a Government agency or any such body as aforesaid has a controlling interest or over which it has effective control;

“relevant public authority” means a public authority other than those mentioned in article 5;

“Tribunal” means the Information and Data Protection Appeals Tribunal established under article 48 of the Data Protection Act.

3. Any eligible person has a right of access to documents held by public authorities in accordance with and subject to the provisions of this Act. Right of access to official documents.

4. Nothing in this Act shall be construed as preventing public authorities from publishing or granting access to documents (including exempt documents) otherwise than as required by this act. Access to documents other than through this Act.

5. (1) Subject to subarticle (2), this Act shall not apply to documents that – Application of this Act.

(a) are held by a Local Council and are accordingly subject to article 45 of the Local Councils Act;

(b) are subject to the Freedom of Access to Information on the Environment Regulations or to any other regulations made under the Environment Protection Act and providing for freedom of access to information;

(c) have been transferred to the National Archives in accordance with the National Archives Act;

(d) are accessible to the public under any other law;

(e) are available for purchase by the public in accordance with arrangements made by a public authority; or

(f) are held by a commercial partnership in which the Government or another public authority has a controlling interest, in so far as the documents in question relate to the commercial activities of the commercial partnership.

(2) This Act shall apply to documents to which subarticle (1) refers only in so far as may be provided for by any law governing access to such documents.

(3) This Act shall not apply to documents in so far as such documents contain –

(a) personal data subject to the Data Protection Act; or

(b) information the disclosure of which is prohibited by any other law:

Provided that where it is possible to release a document with such data or information deleted, this shall be done in accordance with subarticles (1) and (2) of article 13.

(4) This Act shall not apply to documents held by:

(a) the Electoral Commission;

(b) the Employment Commission;

(c) the Public Service Commission;

- (d) the Office of the Attorney General;
- (e) the National Audit Office;
- (f) the Security Service;
- (g) the Broadcasting Authority, in so far as such documents relate to its functions under subarticle (1) of article 119 of the Constitution; or
- (h) the Ombudsman.

## PART II

### SUBMISSION AND HANDLING OF REQUESTS FOR INFORMATION

Manner in which requests for access shall be made.

**6.** (1) An applicant's request to a public authority in terms of article 3 shall –

(a) be delivered in writing, including by post or electronically, subject to paragraph (e), to an office of the public authority; and

(b) provide such information concerning the document as is reasonably necessary to enable a responsible officer of the public authority to identify it; and

(c) include a copy of the applicant's identity card or residence permit, or make reference to the identity card or residence permit in such a way as may be specified by regulations issued under paragraph (a) of article 42;

(d) specify a postal address at which notices under this Act may, if necessary, be sent to the applicant; and

(e) be accompanied by any fee payable in accordance with subarticle (3) of article 9.

(2) No applicant shall be required to justify or give any reasons for a request under this Act, and any beliefs of public authorities as to what are the applicant's reasons for seeking access shall not affect that request.

Public authority's duty to assist applicants.

**7.** Where an eligible person –

(a) wishes to make a request to a public authority; or

(b) has made to a public authority a request that does not comply with article 6,

it is the duty of the public authority to take reasonable steps to assist the person to make the request in a manner that complies with article 6, and it shall do so at no charge.

Transfer of requests.

**8.** Where a request in accordance with article 6 is made to a public authority, and the document to which the request relates is not

held by the authority but is believed by the person dealing with the request to be held by another public authority, the public authority to which the request is made shall promptly, and in any case not later than 10 working days after the day on which the request is received, transfer the request to the other public authority and inform the applicant accordingly.

**9.** (1) Subject to subarticle (2) and to any regulations issued under this Act, a public authority may charge a fee to an applicant for access to a document in accordance with this Act. Fees.

(2) Any fee set by a public authority shall not exceed the cost of making a document available to the applicant, whereas if regulations issued as aforesaid prescribe a range of standard fees, such fees shall not exceed the average cost of making documents available to applicants.

(3) Regulations issued as aforesaid may provide for the payment of a fee specifically for the processing of a request for access to documents, and for the payment of such a fee on presentation of the request.

(4) Where a public authority decides to charge an applicant a fee, it shall advise him accordingly and inform him that he has the right to complain to the Commissioner under article 23 if he feels that the fee is excessive:

Provided that if the fee is a standard fee established by regulations under this Act, the Commissioner may in response to such a complaint inquire only into whether the regulations have been correctly applied.

(5) A public authority may waive any fees payable in respect of a particular application if, in the opinion of the authority –

(a) the fee payable is so small as to be not worth collecting; or

(b) payment of the fee would cause financial hardship to the applicant, bearing in mind the applicant's means and circumstances; or

(c) disclosure of the information requested is in the public interest.

(6) Where a public authority fails to meet the time limit set by article 10 or, if applicable, article 11, it shall not charge any fee for access to a document.

**10.** Subject to this Act, the public authority to which a request is made in accordance with article 6 or is transferred in accordance with article 8 shall, as soon as reasonably practicable, and in any case not

Decisions on and replies to requests.

later than 20 working days after the day on which the request is received by the authority –

- (a) decide whether the request is to be granted and, if it is to be granted, in what manner and for what charge (if any); and
- (b) inform the applicant accordingly in writing.

Extension of time limits.

**11.** (1) Where a request in accordance with article 6 is made or transferred to a public authority, the authority may extend the time limit set out in article 10 by up to 40 working days in respect of the request if –

- (a) the request is for a large number of documents or necessitates a search through a large number of documents, and meeting the original time limit would unreasonably interfere with the operations of the public authority; or
- (b) consultations necessary to make a decision on the request are such that a proper response to the request cannot reasonably be made within the original time limit.

(2) Any extension under subarticle (1) shall be for a reasonable period of time having regard to the circumstances.

(3) The extension shall be effected by giving notice to the person who made the request within 20 working days after the day on which the request is received, and the notice shall –

- (a) specify the period of the extension;
- (b) give the reasons for the extension;
- (c) state that the applicant has the right under article 23 to make a complaint to the Commissioner about the extension; and
- (d) contain such other information as is necessary.

Manner in which access may be granted.

**12.** (1) A public authority may grant an applicant access to a document in one or more of the following ways:

- (a) by giving the applicant a reasonable opportunity to inspect the document; or
- (b) by providing the applicant with a copy of the document; or
- (c) in the case of a document that is a recording of sounds or visual images, by making arrangements for the applicant to hear or view those sounds or visual images; or
- (d) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in codified form, by providing the applicant



with a written transcript of the words recorded or contained in the document; or

(e) by giving an excerpt or summary of the contents.

(2) Subject to article 13, the public authority shall make the document available to the applicant in the way preferred by the applicant unless to do so would –

(a) impair efficient administration; or

(b) be contrary to any legal duty of the public authority in respect of the document; or

(c) prejudice the interests protected by Part V and Part VI and (in the case of the interests protected by Part VI) those interests are not outweighed by a contrary public interest.

(3) Where access is not granted in the way preferred by the applicant, the public authority shall give to the applicant the reason for not providing the information in that way and state that the applicant has the right under article 23 to make a complaint thereon to the Commissioner.

**13.** (1) Where a request is made to a public authority for a document which is an exempt document, but –

Deletion of exempt matter or irrelevant material.

(a) it is possible for the public authority to make a copy of the document with the deletion of the exempt matter; and

(b) it is reasonably practical for the public authority, having regard to the nature and extent of the work involved in deciding on and making those deletions and the resources available for that work, to make such a copy,

the public authority shall make such a copy available to the applicant.

(2) Where access is granted to a copy of a document in accordance with subarticle (1), the applicant shall be informed –

(a) that it is a copy;

(b) of the grounds for the deletions; and

(c) that the applicant has the right under article 23 to make a complaint to the Commissioner about the deletions.

(3) Where a document (not being an exempt document) contains material that is irrelevant to the applicant's request, the public authority may, if possible and reasonably practical and if the applicant agrees, make available to the applicant a copy of the document with the irrelevant material deleted; but a document may not be withheld on the grounds that it contains irrelevant material which cannot be deleted.

Reasons for refusal of requests.

**14.** A request made in accordance with article 6 may be refused only for one or more of the following reasons:

(a) that the document requested is excluded from the scope of this Act by virtue of article 5;

(b) that, by virtue of Part V or Part VI, there is good reason for withholding the document requested;

(c) that, by virtue of article 34, the public authority does not confirm or deny the existence or non-existence of the document requested;

(d) that the document requested is publicly available or will be published within three months;

(e) that the document requested cannot be found, and this is certified in writing by the head of the public authority;

(f) that the resources required to –

(i) identify, locate or collate a document or documents;

(ii) examine a document or consult any person or body in relation to its possible disclosure; or

(iii) make a copy, or an edited copy, of a document, would substantially and unreasonably divert the resources of the public authority from its other operations, and it has not proved possible for the applicant, with advice from the public authority, to redefine his request in such a manner as to make it more easily addressed by the authority;

(g) that the document requested is not held by the public authority and the person dealing with the request has no grounds for believing that the document is held by, or connected more closely with the functions of, another public authority; or

(h) that the request is frivolous or vexatious or that the information requested is trivial.

Reason for refusal to be given.

**15.** (1) Where a request made in accordance with this Act is refused, the public authority shall –

(a) subject to article 34, give the applicant the reasons for the refusal; and

(b) state that the applicant has the right, under article 23 of this Act, to seek an investigation and review by the Commissioner of the refusal.

(2) A notice under this article is not required to contain any matter that is of such a nature that its inclusion in a document would cause that document to be an exempt document.

**16.** (1) A decision by a public authority in respect of a request under this Act shall, subject to paragraph (c) of article 6 of the Interpretation Act, be taken by –

Decisions by public authorities under this Act.

(a) the head of the public authority or its governing board (as applicable), as identified in or established under the Public Administration Act or any other instrument to which the authority is subject; or

(b) an officer of the public authority, acting within the scope of the authority exercisable by him in accordance with arrangements approved by the head of the authority or by its governing board.

(2) A decision to disclose or grant access to a document in accordance with this Act shall constitute authorised disclosure in terms of the Official Secrets Act.

### PART III

#### ACCESS TO CERTAIN DOCUMENTS

**17.** (1) Not later than one year after the coming into force of this article, every relevant public authority shall publish, in accordance with any instructions issued by the Commissioner:

Publication of information by public authorities.

(a) a description of its structure, functions and responsibilities;

(b) a general description of the categories of documents held by it;

(c) a description of all manuals and similar types of documents which contain policies, principles, rules or guidelines in accordance with which decisions or recommendations are made in respect of members of the public (including bodies corporate and employees of the public authority in their personal capacity); and

(d) a statement of the information that needs to be available to members of the public who wish to obtain access to official documents from the public authority, which statement shall include particulars of the officer or officers to whom requests for such access should be sent.

(2) The Minister may, by regulations issued in consultation with the Commissioner, require relevant public authorities to publish information additional to that listed in subarticle (1).

(3) Each public authority shall update the material published in accordance with subarticles (1) and (2) at least annually, or at more frequent intervals as may be established by regulations issued under subarticle (2).

(4) Publication on an internet website or another electronic medium that is publicly accessible at all reasonable times shall be sufficient to satisfy the requirements of this article, provided that the information published hereunder shall be made available in printed form to members of the public who so require it.

(5) Nothing in this article shall require the publication of information where there is good reason under this Act to withhold it.

Right of access to certain official information.

**18.** (1) Regulations may be issued under this Act to establish a right of access to information which is held by bodies or persons other than public authorities or the employees thereof, and which pertains to:

(a) services provided to the public by such bodies or persons on behalf of the Government or another public authority; or

(b) projects or initiatives which are undertaken by such bodies or persons but financed by the Government or another public authority.

(2) The giving of access to any information to which subarticle (1) applies shall be subject to the provisions of any regulations made under this Act.

Right of access to internal rules affecting decisions.

**19.** (1) Subject to Part V and Part VI, any eligible person has a right to and shall, on request made under this article, be given access to any document (including a manual) which is held by a public authority and which contains policies, principles, rules, or guidelines in accordance with which decisions or recommendations are made in respect of members of the public (including bodies corporate and employees of the public authority in their personal capacity).

(2) The provisions of Part II other than articles 12 and 13 shall apply *mutatis mutandis* to a request made under subarticle (1).

(3) Where, by virtue of Part V and Part VI, there is good reason for withholding parts of a document to which subarticle (1) relates, the public authority shall, unless it is impracticable to do so, either –

(a) make a copy of that document available with such deletions or alterations as are necessary; or

(b) provide another document stating the substance and effect of the document except as it relates to the information withheld.

(4) Where a document is made available in accordance with subarticle (3), the public authority shall –

(a) give to the applicant the reasons for withholding the information; and

(b) state that the applicant has the right, under article 23, to seek an investigation and review by the Commissioner of the withholding of the information.

**20.** (1) Subject to the provisions of Part V and Part VI, where a public authority makes a decision or recommendation in respect of any eligible person, including an eligible person acting on behalf of a body corporate, that person has the right to and shall, on request within six months from when the person learns of the decision or recommendation, be given a written statement of –

Right of access by a person to reasons for decisions affecting that person.

(a) the findings on material issues of fact; and

(b) subject to subarticle (2), a reference to the information on which the findings were based; and

(c) the reasons for the decision or recommendation.

(2) A reference to the information on which any findings were based need not be given under paragraph (b) of subarticle (1) if –

(a) the disclosure of the information or of information identifying the person who supplied it, being evaluative material, would breach an express or implied promise to the person who supplied the information to the effect that the information, or his identity, or both would be held in confidence; or

(b) after consultation undertaken (where practicable) by or on behalf of the public authority with a natural person's medical practitioner, the public authority is satisfied that the information relates to that person and the disclosure of the information (being information that relates to the physical or mental health of the person making the request under this article) would be likely to prejudice the physical or mental health of that person; or

(c) in the case of a natural person under the age of 18, the disclosure of the information would be contrary to that person's interests; or

(d) the disclosure of the information (being information in respect of a person who has been convicted of an offence or is or has been detained in custody) would be likely to prejudice the safe custody or the rehabilitation of that person.

(3) For the purposes of paragraph (a) of subarticle (2), the term “evaluative material” means an assessment or opinion compiled solely –

(a) for the purpose of determining the suitability, eligibility or qualifications of the person to whom the material relates for purposes relating to the award, continuation or

cancellation of an appointment, a contract, an award, a scholarship, an honour or any other benefit; or

(b) for the purpose of determining whether to insure any person or property or to continue or renew such insurance.

(4) The provisions of Part II other than articles 12 and 13 shall apply *mutatis mutandis* to a request made under subarticle (1).

#### PART IV

### THE INFORMATION AND DATA PROTECTION COMMISSIONER

General  
functions of the  
Commissioner.

**21.** (1) In addition to his duties under the Data Protection Act it shall be the duty of the Commissioner to promote the observance by relevant public authorities of –

(a) the requirements of this Act; and

(b) the provisions of the code of practice issued under article 41.

(2) The Commissioner shall arrange for the dissemination in such form and manner as he considers appropriate of such information as it may appear to him expedient to give to the public –

(a) about the operation of this Act,

(b) about compliance with the law, and

(c) about other matters within the scope of his functions under this Act,

and he may give advice to any person or authority as to any of those matters.

(3) Without prejudice to articles 22, 24 and 25, the Commissioner may, with the consent or at the request of any public authority, assess whether that authority is following good practice.

(4) The Commissioner may charge such sums as he may, with the consent of the Minister, determine for any of the services provided by the Commissioner under this article.

(5) Within three months following the end of each calendar year the Commissioner shall prepare and submit to the Minister an annual report on the workings of this Act during that year, and the Minister shall at the first available opportunity cause a copy of the report to be laid on the table of the House of Representatives; the report shall state:

(a) how many requests for information under this Act have been made to public authorities;

(b) how many of these requests have been accepted and rejected;

(c) the reasons for rejection;

(d) the average time taken to reply to requests;

(e) how many complaints have been made to the Commissioner, the grounds for such complaints, and the outcome thereof;

(f) the number of appeals lodged with the Tribunal and how they have been determined; and

(g) the number of information, decision and enforcement notices issued by the Commissioner.

(6) Without prejudice to subarticle (4) hereof and to articles 26, 39 and 40, in the exercise of his functions under this Act the Commissioner shall act independently and shall not be subject to the direction or control of any other person or authority.

(7) In this article “good practice”, in relation to a public authority, means such practice in the discharge of its functions under this Act as appears to the Commissioner to be desirable, and includes (but is not limited to) compliance with the requirements of this Act and the provisions of the code of practice issued under article 41.

**22.** (1) If it appears to the Commissioner that the practice of a relevant public authority in relation to the exercise of its functions under this Act does not conform with that proposed in the code of practice issued under article 41, he may give to the authority a recommendation (in this section referred to as a “practice recommendation”) specifying the steps which ought in his opinion to be taken for promoting such conformity.

Recommendations  
as to good practice.

(2) A practice recommendation must be given in writing and must refer to the particular provisions of the code of practice with which, in the Commissioner’s opinion, the public authority’s practice does not conform.

**23.** (1) Any applicant may apply to the Commissioner for a decision whether, in any specified respect –

Application for  
decision by  
Commissioner.

(a) a request for information made by the applicant to a public authority has been dealt with in accordance with the requirements of this Act; or

(b) a public authority is in compliance with the requirements set out in Part III.

(2) On receiving an application under this article, the Commissioner shall make a decision unless it appears to him –

(a) that the applicant has not exhausted any complaints procedure which may be provided by the public authority in conformity with the code of practice issued under article 41;

Provided that the Commissioner may decide on the application if in his opinion the complaints procedure provided by the public authority has not been, or is unlikely to be, concluded within a reasonable period;

(b) that there has been undue delay in making the application;

(c) that the application is frivolous or vexatious; or

(d) that the application has been withdrawn or abandoned.

(3) Where the Commissioner has received an application under this article, he shall either –

(a) notify the applicant that he has not made any decision under this article as a result of the application and of his grounds for not doing so; or

(b) serve notice of his decision (in this Act referred to as a “decision notice”) on the applicant and the public authority.

(4) Where the Commissioner decides that a public authority –

(a) has failed to provide access to a document, or to confirm or deny the existence of a document, in a case where it is required to do so under this Act; or

(b) has failed to comply with any of the other requirements of Part II in its handling of the applicant’s request for a document; or

(c) has failed to comply with any of the requirements of Part III,

the decision notice shall specify the steps which must be taken by the authority for complying with that requirement and the period within which they must be taken.

(5) A decision notice shall contain particulars of the right of appeal conferred by article 39.

(6) Where a decision notice requires steps to be taken by the public authority within a specified period, the time specified in the notice shall not expire before the end of the period within which an appeal can be brought against the notice and, if such an appeal is brought, no step which is affected by the appeal need be taken pending the determination or withdrawal of the appeal.

(7) This article shall have effect subject to article 26.



24. (1) If the Commissioner has received an application under article 23, or reasonably requires any information – Information notices.

(a) for the purpose of determining whether a public authority has complied or is complying with any of the requirements of this Act; or

(b) for the purpose of determining whether the practice of a public authority in relation to the exercise of its functions under this Act conforms with that set out in the code of practice established under article 41,

he may serve the authority with a notice (in this Act referred to as an “information notice”) requiring it, within such time as is specified in the notice, to furnish the Commissioner, in such a manner as may be so specified, with such information as is so specified relating to the application or to the purposes to which paragraphs (a) and (b) refer.

(2) An information notice shall specify the purpose for which the Commissioner requires the information and, where it refers to information recorded in a document, shall include such details as is reasonably necessary to enable a responsible officer of the public authority to identify that document.

(3) An information notice shall also contain particulars of the right of appeal conferred by article 39.

(4) The time period specified in an information notice shall not expire before the end of the period within which an appeal can be brought against the notice and, if such an appeal is brought, the information required by the notice need not be furnished pending the determination or withdrawal of the appeal.

(5) A public authority shall not be required by virtue of this article to make available to the Commissioner any information in respect of:

(a) any communication between a professional legal adviser and his client in connection with the giving of legal advice to the client with respect to his obligations, liabilities or rights under this Act; or

(b) any communication between a professional legal adviser and his client, or between such an adviser or his client and any other person, made in connection with or in contemplation of proceedings under or arising out of this Act (including proceedings before the Tribunal) and for the purposes of such proceedings.

(6) In subarticle (5) references to the client of a professional legal adviser include references to any person representing such a client.

(7) The Commissioner may cancel an information notice by written notice to the public authority on which it was served.

(8) In this article “information” includes unrecorded information.

Enforcement notices.

**25.** (1) If the Commissioner is satisfied that a public authority has failed to comply with any of its obligations under this Act, the Commissioner may serve the authority with a notice (in this Act referred to as “an enforcement notice”) requiring the authority to take, within such a time as may be specified in the notice, such steps as may be so specified for complying with those obligations.

(2) An enforcement notice shall contain –

(a) a statement of the requirement or requirements of this Act with which the public authority has, in the Commissioner’s satisfied opinion, failed to comply, and his reasons for reaching that conclusion; and

(b) particulars of the right of appeal conferred by article 39.

(3) An enforcement notice shall not require any of the provisions of the notice to be complied with before the end of the period within which an appeal can be brought against the notice and, if such an appeal is brought, the notice need not be complied with pending the determination or withdrawal of the appeal.

(4) The Commissioner may cancel an enforcement notice by written notice to the public authority on which it was served.

(5) This article shall have effect subject to article 26.

Exception from duty to comply with decision notice or enforcement notice.

**26.** (1) A decision or enforcement notice issued by the Commissioner in respect of the disclosure of a document shall not have effect if the Prime Minister certifies to the Commissioner that, in his opinion, the document is an exempt document in terms of any of the provisions of Part V.

(2) A certificate under this article shall contain a statement by the Prime Minister of the reasons for his opinion, except in so far as this would involve the disclosure of matter that is exempt matter in terms of the provisions of Part V.

(3) Where the Prime Minister issues a certificate under this article, he shall as soon as practicable thereafter lay a copy of it before the House of Representatives.

(4) Where the Commissioner receives a certificate under this article in respect of a decision notice, he shall inform the applicant accordingly.

**27.** (1) Where a public authority or an officer of such an authority refuses or, without a good reason, fails to comply with:

Failure to comply with notice.

- (a) so much of a decision notice as requires steps to be taken;
- (b) an information notice; or
- (c) an enforcement notice,

this shall be regarded as an offence in terms of subarticle (2) of article 41 of the Data Protection Act, and the Commissioner may also levy an administrative fine against the defaulting authority or officer thereof as provided for by subarticle (3) of article 42 of the Data Protection Act.

(2) Where a public authority fails to comply with an information notice, or where the Commissioner believes that an offence in terms of article 43 is being or is about to be committed, the Commissioner may act to secure compliance with the notice or to prevent the offence from being committed using the powers of entry and search vested in the Commissioner under subarticle (5) of article 41 of the Data Protection Act, which shall be applicable for this purpose.

(3) For the purposes of this article, a public authority which, in purported compliance with an information notice –

- (a) makes a statement which it knows to be false in a material respect; or
- (b) recklessly makes a statement which is false in a material respect,

shall be taken to have failed to comply with the notice.

**28.** (1) This Act does not confer any right of action in civil proceedings in respect of any failure to comply with any duty imposed by or under this Act.

No civil action against a public authority.

(2) Subarticle (1) shall not affect the powers of the Commissioner under article 27.

**PART V**  
**CONCLUSIVE REASONS FOR NOT DISCLOSING**  
**OFFICIAL DOCUMENTS UNDER THIS ACT**

Documents affecting national security, defence or international relations, and Cabinet documents.

**29.** (1) A document is an exempt document if its disclosure under this Act:

(a) would, or could reasonably be expected to, cause damage to the security, the defence, or the international relations of Malta; or

(b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government, or an international organisation to the Government of Malta or to another public authority, or by the Government of Malta or another public authority to a foreign government, an authority thereof, or an international organisation.

(2) Subject to subarticle (3), a document is an exempt document if it is:

(a) a document that has been submitted to the Cabinet for its consideration or is proposed by a Minister to be so submitted, being a document that was brought into existence for the purpose of submission to the Cabinet;

(b) an official record of the Cabinet;

(c) a document that is a copy of all or part of, or contains an extract from, a document referred to in paragraph (a) or (b); or

(d) a document the disclosure of which would involve the disclosure of any deliberation or decision of the Cabinet, other than a document by which a decision of the Cabinet was published:

Provided that each year, the Prime Minister may direct that certain Cabinet documents, being documents selected from among those that are 30 years old or more, shall be subject to disclosure, whereupon this subarticle shall not apply to such documents.

(3) Subarticle (2) shall not apply to a document if, and in so far as, it contains factual information relating to a decision of the Cabinet that has been published.

(4) In subarticles (2) and (3) “Cabinet” includes Cabinet Committees.

Documents affecting the enforcement of the law and the protection of public safety.

**30.** (1) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to;

(a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;

(b) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, or the non-

existence of a confidential source of information, in relation to the enforcement or administration of the law; or

(c) endanger the life or physical safety of any person.

(2) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:

(a) prejudice the fair trial of a person or the impartial adjudication of a particular case by any court, tribunal, disciplinary board, arbitration panel or similar body, or prejudice an inquiry conducted under the Inquiries Act;

(b) prejudice the effectiveness of lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of breaches or evasions of the law through the disclosure thereof; or

(c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.

(3) For the purposes of paragraph (b) of subarticle (1), a person shall be taken to be a confidential source of information in relation to the enforcement or administration of the law if the person is receiving, or has received, protection by the Police or other public authorities as:

(a) a witness; or

(b) a person who, because of his relationship to or association with a witness, needs or may need such protection; or

(c) any other person who, for any reason, needs or may need such protection.

**31.** (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.

Documents subject to legal professional privilege or containing material obtained in confidence.

(2) A document is an exempt document if its disclosure under this Act would found an action by a person (other than a public authority) for breach of confidence.

(3) Subarticle (2) shall not apply to internal working documents prepared by a member, officer or employee of the Government or any other public authority in the course of his duties unless the disclosure would constitute a breach of confidence owed to a person or body other than a member, officer or employee of the Government or any other public authority as aforesaid.

**32.** (1) A document is an exempt document if its disclosure under this Act would disclose:

Documents relating to business affairs, the economy and research.

(a) trade secrets;

(b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or

(c) information (other than trade secrets or information to which paragraph (b) applies) concerning a person in respect of his business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, being information:

(i) the disclosure of which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or

(ii) the disclosure of which under this Act could reasonably be expected to prejudice the future supply of information to the Government or to another public authority for the purpose of the administration of a law or the administration of matters administered by the authority.

(2) Subarticle (1) shall not apply to a request for access to a document by reason only that the document contains information about:

(a) the applicant's own business or professional affairs;

(b) the business, commercial or financial affairs of an undertaking where the applicant is the proprietor of the undertaking or is acting on behalf of the proprietor; or

(c) the business, commercial or financial affairs of an organisation where the applicant is acting on its behalf.

(3) Paragraph (c) of subarticle (1) shall not apply to information solely concerning a person's status as a member of a profession.

(4) A document is an exempt document if its disclosure under this Act would be contrary to the public interest by reason that it:

(a) would, or could reasonably be expected to, have a substantial adverse effect on the ability of the Government to manage the Maltese economy; or

(b) could reasonably be expected to result in an undue disturbance of the ordinary course of business in the community, or an undue benefit or detriment to any person or community, or an undue benefit or detriment to any person or class of persons, by reason of giving premature knowledge of or concerning proposed or possible action or inaction of the Government or Parliament.

(5) The kinds of documents to which subarticle (4) may apply include, but are not limited to, documents containing matter relating to:

- (a) currency or exchange rates;
- (b) interest rates;
- (c) taxes, including duties of customs or of excise;
- (d) the regulation or supervision of banking, insurance and other financial institutions;
- (e) the stability of the financial system;
- (f) proposals for expenditure;
- (g) foreign investment in Malta; or
- (h) borrowings by the Government or other public authorities.

(6) A document is an exempt document if it is in the possession of a member of the academic staff of the University of Malta and contains information relating to research that has been or is being undertaken by such a member, unless the research has been commissioned by a public authority.

(7) A document is an exempt document if:

- (a) it contains information relating to scientific or academic research that is being, or is to be, undertaken by a member of staff of a public authority, other than research to which subarticle (6) applies; and
- (b) disclosure of the information before the completion of the research would be likely unreasonably to expose the public authority or the member of staff to disadvantage.

(8) Subarticle (7) shall not apply to a document that, in so far as it contains information relating to research, only contains information relating to research that has been completed.

(9) A document is an exempt document if it contains information relating to research on security and defence matters which has been undertaken or commissioned by, or with the involvement of, a public authority.

**33.** A document is an exempt document if public disclosure of the document would, apart from this Act and any immunity of the Government:

- (a) be in contempt of court;

Documents the disclosure of which would be contempt of Parliament or of Court.

(b) be contrary to an order made or direction given by any Board to which the Inquiries Act applies, or by any tribunal or other person having power to take evidence on oath; or

(c) infringe the privileges of Parliament.

Information concerning existence of certain documents.

**34.** Where –

(a) a request under this Act relates to a document to which the provisions of this Part apply, or would apply if such a document existed; and

(b) the existence or non-existence of the document would in its own right, if it were stated in a document, be subject to non-disclosure in terms of any of the said provisions,

the public authority dealing with the request may give notice in writing to the applicant that it neither confirms nor denies the existence or non-existence of that document.

## PART VI

### OTHER REASONS FOR WITHHOLDING OFFICIAL INFORMATION

Application of this Part.

**35.** (1) This Part shall apply subject to the provisions of Part V.

(2) A document may be withheld in accordance with the provisions of this Part only if it contains matter in relation to which the public interest that is served by non-disclosure outweighs the public interest in disclosure.

Internal working documents.

**36.** (1) Subject to article 35 and to subarticles (2) and (3) hereof, a document is an exempt document if its disclosure under this Act would disclose matter in the nature of, or relating to, opinions, advice or recommendations obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of the Government or another public authority.

(2) Subarticle (1) shall not apply to a document by reason only of purely factual information contained in the document.

(3) Subarticle (1) shall not apply to:

(a) reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed by a public authority or not, including reports expressing the opinions of such experts on scientific or technical matters; or



(b) the record of, or a final statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.

(4) In subarticle (3) the term “scientific or technical expert” shall be construed as excluding senior managers in public authorities.

**37.** Subject to article 35, a document is an exempt document if its disclosure under this Act would have a substantial adverse effect on the financial or property interests of the Government or of another public authority.

Documents affecting financial or property interests of public authorities.

**38.** Subject to article 35, a document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:

Documents concerning certain operations of public authorities.

(a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by a public authority;

(b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by a public authority;

(c) have a substantial adverse effect on the proper and efficient conduct of the operations of a public authority; or

(d) have a substantial adverse effect on the conduct of negotiations (including commercial and industrial negotiations) by or on behalf of the Government or another public authority.

## PART VII

### FURTHER PROVISIONS

**39.** (1) Where a decision notice has been served, the applicant or the public authority may appeal to the Tribunal against the notice within twenty working days.

Appeals against notices served by the Commissioner.

(2) A public authority on which an information notice or an enforcement notice has been served by the Commissioner may appeal to the Tribunal against the notice.

(3) If, on an appeal under this article, the Tribunal considers –

(a) that the notice against which the appeal is brought is not in accordance with the law; or

(b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently,

the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner; and in any other case the Tribunal shall dismiss the appeal.

(4) Where the Tribunal substitutes a notice as aforesaid, the Commissioner shall take action under article 27 to secure compliance as if that notice had been issued by the Commissioner.

(5) In hearing appeals under this article the Tribunal shall remain subject to the following provisions of the Data Protection Act:

- (a) subarticle (3) of article 49; and
- (b) subarticles (2), (3) and (4) of article 50.

Appeals from  
decisions of the  
Tribunal.

**40.** Decisions of the Tribunal under this Act shall be subject to appeal to the Court of Appeal as provided for by article 51 of the Data Protection Act.

Code of practice.

**41.** (1) The Minister shall issue a code of practice providing guidance to public authorities as to the practice which it would, in his opinion, be desirable for them to follow in connection with the discharge of public authorities' functions under Part II and Part III.

(2) The code of practice shall, in particular, include provisions relating to:

(a) the provision of advice and assistance by public authorities to persons who propose to make, or have made, requests for information to them;

(b) the transfer of requests by one public authority to another public authority which holds, or may hold, the documents requested;

(c) consultation with persons to whom the information requested relates or persons whose interests are likely to be affected by the disclosure of information;

(d) the inclusion in contracts entered into by public authorities of terms relating to the disclosure of information;

(e) the provision by public authorities of rapid procedures for dealing with complaints about the handling by them of requests for information; and

(f) the keeping of documents and records by public authorities in such a manner as to facilitate the identification and retrieval of documents for the purposes of this Act.

(3) The code may make different provision for different public authorities.

(4) Before issuing or revising any code under this article, the Minister shall consult the Commissioner and the Principal Permanent Secretary.

**42.** The Minister may, following consultation with the Commissioner, make regulations for any or all of the following purposes: Regulations.

(a) to prescribe application forms (manual or electronic) and other documents required for the purposes of this Act, or authorising any person to prescribe or approve such forms or documents:

Provided that forms cannot place requirements on applicants additional to those set out by this Act, and that an application meeting all such requirements shall still be considered if it is made otherwise than using the prescribed form;

(b) to establish the procedure for the service of notices and documents by public authorities under this Act;

(c) to prescribe reasonable charges or scales of reasonable charges for the purposes of this Act; and

(d) to provide for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

**43.** Article 144 of the Criminal Code shall apply to any person who embezzles, destroys, mutilates or purloins a document with the intention of preventing the disclosure of information to an applicant under this Act. Damage etc. of documents to constitute an offence.

**44.** (1) Subarticle (2) of article 590 of the Code of Organisation and Civil Procedure (in this article referred to as the Code) shall be substituted by the following: Amendments to the Code of Organisation and Civil Procedure.

“(2) No witness may be compelled to disclose any information derived from or relating to any document to which subarticle (3) of article 637 applies.”

(2) Subarticle (3) of article 637 of the Code shall be substituted by the following:

“(3) It shall not be lawful to demand the production of any document which is held by a public authority and –

(a) which is an exempt document under articles 29, 30 or 36(1) or subarticles (4) or (5) of article 32 of the Freedom of Information Act; or

(b) the disclosure of which is prohibited by

any other law.”

(3) Subarticle (4) of article 637 of the Code shall be substituted by the following:

“(4) Where a demand is made for the production in court of a document held by a public authority, and the public authority is of the view that paragraph (a) of subarticle (3) applies to that document, the public authority shall reply to the demand as if that demand were a request for disclosure of the document under the Freedom of Information Act; and the provisions of Parts II and IV and of articles 39, 40 and 43 of the Freedom of Information Act shall apply accordingly.”

(4) Subarticle (6) of article 637 of the Code shall be substituted by the following:

“(6) In this article “public authority” shall have the meaning assigned to it by the Freedom of Information Act.”

Amendments to the Press Act.

**45.** (1) Subarticles (1) and (2) of article 47 of the Press Act shall be deleted.

(2) Subarticle (3) of article 47 of the Press Act shall be renumbered as article 47 thereof.

Amendments to the Data Protection Act.

**46.** (1) In article 2 of the Data Protection Act and wherever else they may appear, for the words “Data Protection Commissioner” there shall be substituted the words “Information and Data Protection Commissioner”.

(2) In article 2 of the Data Protection Act, for the words “Minister responsible for data protection” there shall be substituted the words “Minister responsible for freedom of information and data protection”.

(3) In paragraph (m) of article 40 of the Data Protection Act, the words “international obligation of Malta.” shall be replaced by the words “international obligation of Malta; and”, and a new paragraph shall be added as follows:

“(n) to carry out the functions assigned to him by the Freedom of Information Act.”

(4) In article 48 of the Data Protection Act and in the marginal note thereto, for the words “Data Protection Appeals Tribunal” there shall be substituted the words “Information and Data Protection Appeals Tribunal”.

(5) In subarticle (1) of article 52 of the Data Protection Act, the words “and under the Freedom of Information Act and other laws” shall be added immediately following the words “The expenses required by the Commissioner to exercise his functions under this Act”.

(6) In subarticle (1) of article 53 of the Data Protection Act, the words “under this Act and under the Freedom of Information Act and other laws” shall be added immediately following the words “The Commissioner shall cause to be kept proper accounts and other records in respect of his operations”.

47. (1) In article 2 of the Local Councils Act, there shall be added the following new definition after the definition of “identity card”:

Amendments to the  
Local Councils  
Act.

“ “Information and Data Protection Commissioner” means the official appointed in terms of article 36 of the Data Protection Act;”.

(2) The provision of article 45 of the Local Councils Act shall be numbered as subarticle (1) of the same article.

(3) The following new subarticles (2) and (3) shall be added to article 45 of the Local Councils Act subsequent to the current provision thereof:

“(2) Any person who requests information from a Local Council in accordance with subarticle (1) and who is dissatisfied with the Council’s response to his request may apply to the Information and Data Protection Commissioner for a decision whether, in any specified respect, his request has been dealt with in accordance with the requirements of this Act and any regulations made hereunder.

(3) Part IV of the Freedom of Information Act, other than article 26, as well as articles 39, 40 and 43 of the same Act, shall apply *mutatis mutandis* to requests for information under this article, save that references to a code of practice in Part IV of the Freedom of Information Act shall be construed as referring to any code of practice on the disclosure of information that may be issued by the Minister through regulations under this Act; but the application of the Freedom of Information Act in terms of this subarticle shall not be dependent on the issue of such a code.”

48. The Freedom of Access to Information on the Environment Regulations shall be amended in accordance with the Schedule to this Act.

Amendments to the  
Freedom of Access  
to Information on  
the Environment  
Regulations.

## SCHEDULE

(Article 48)

### FREEDOM OF ACCESS TO INFORMATION ON THE ENVIRONMENT (AMENDMENT) REGULATIONS, 2008

BY VIRTUE of the powers conferred by articles 3, 9, 19, 23 and 28 of the Environment Protection Act the Prime Minister has made the following regulations:—

Citation and commencement.

**1.** (1) The title of these regulations is the Freedom of Access to Information on the Environment (Amendment) Regulations, 2008.

(2) These regulations shall be read and construed as one with the Freedom of Access to Information on the Environment Regulations, 2005, hereinafter referred to as “the principal regulations”.

(3) These regulations shall come into force on such a date as the Minister responsible for the environment may by notice in the Gazette appoint.

Amendment to regulation 2.

**2.** In regulation 2 of the principal regulations, after the definition of “environmental information” there shall be added the following new definition:

“ “Information and Data Protection Commissioner” means the official appointed in terms of article 36 of the Data Protection Act;”.

Addition of new regulations.

**3.** (1) There shall be added to the principal regulations new regulations 12 and 13 as follows:

“Enforcement.

12. (1) Any person who requests the competent authority to provide him with environmental information in accordance with regulation 3, and who is dissatisfied with the response, may apply to the Information and Data Protection Commissioner for a decision whether, in any specified respect, his request has been dealt with in accordance with the requirements of these regulations and any additional regulations made in accordance with regulation 11.

(2) Part IV of the Freedom of Information Act other than article 26, as well as articles 39, 40 and 43 of the same Act, shall apply *mutatis mutandis* to requests for information under this article, save that references to a code of practice in Part IV of the Freedom of Information

Act shall be construed as referring to any code of practice on the disclosure of information that may be issued by the competent authority through regulations in accordance with regulation 11; but the application of the Freedom of Information Act in terms of this sub-regulation shall not be dependent on the issue of such a code.

(3) Where the question emerges as to whether or not information requested under regulation 3 is environmental information to which these regulations apply, that question shall be subject to review and decision by the Information and Data Protection Commissioner and additionally subject to appeal under articles 39 and 40 of the Freedom of Information Act.

Interpretation.

13. In deciding whether or not particular environmental information is exempted from disclosure under paragraph (a) of sub-regulation (2) of regulation 7, regard shall be had to subarticles (2), (3) and (4) of article 29 and article 36 of the Freedom of Information Act; and information to which the aforementioned paragraph applies shall not be released under these regulations if it would be considered exempt matter under the Freedom of Information Act.”

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Passed by the House of Representatives at Sitting No. 67 of 15th December, 2008.

LOUIS GALEA  
*Speaker*

PAULINE ABELA  
*Acting Clerk to the House of Representatives*