

Nru. 100

15. 10. 2019

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Carmelo Abela, M.P., Ministru għall-Affarijiet Barranin u Promozzjoni tal-Kummerċ, f'isem is-Segretarju Parlamentari għas-Servizzi Finanzjarji, Ekonomija Digitali u Innovazzjoni, u moqri għall-Ewwel darba fis-Seduta tas-7 ta' Ottubru 2019.

A BILL introduced by the Honourable Carmelo Abela, M.P., Minister for Foreign Affairs and Trade Promotion, on behalf of the Parliamentary Secretary for Financial Services, Digital Economy and Innovation, and read the First time at the Sitting of the 7th October 2019.

ATT biex jemenda l-Att dwar l-Użu mill-Ġdid tal-Infommazzjoni tas-Settur Pubbliku, Kap. 546.

AN ACT to amend the Re-Use of Public Sector Information Act, Cap. 546.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

**Abbozz ta' Liġi
msejjah**

ATT biex jemenda l-Att dwar l-Użu mill-Ġdid tal-Informazzjoni tas-Settur Pubbliku, Kap. 546.

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

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2019 li jemenda l-Att dwar l-Użu mill-Ġdid tal-Informazzjoni tas-Settur Pubbliku, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar l-Att dwar l-Użu mill-Ġdid tal-Informazzjoni tas-Settur Pubbliku, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.

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2. Minnufih wara s-subartikolu (2) tal-artikolu 1 tal-Att prinċipali għandu jiżdied s-subartikolu ġdid li ġej:

Emenda tal-artikolu 1 tal-Att prinċipali.

"(3) Dan l-Att għandu japplika wkoll sabiex jiffacilita t-tqassim ta' informazzjoni għall-finijiet tal-amministrazzjoni pubblika skont id-dispożizzjonijiet ta' kull liġi."

3. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) minnufih wara t-tifsira "korp tas-settur pubbliku" għandha tiżdied it-tifsira ġdida li ġejja:

" "Ministru" tfisser il-Ministru responsabbli għall-informazzjoni dwar is-settur pubbliku;"

(b) minnufih wara t-tifsira "*standard* formali miftuħ"

għandha tiżdied it-tifsira ġdida li ġejja:

" "tribunal" tfisser it-Tribunal tal-Appelli
dwar l-Infurmazzjoni u l-Protezzjoni tad-*Data*
Kap. 586. stabbilit taht l-artikolu 24 tal-Att dwar il-
Protezzjoni u l-Privatezza tad-*Data*"; u

(ċ) it-tifsira "użu mill-ġdid ta' dokumenti" għandha tiġi
sostitwita b'dan li ġej:

" "użu mill-ġdid ta' dokumenti" tfisser l-użu minn
persuna, korp tas-settur pubbliku jew entità ġuridika ta'
dokument miżmum mill-korp tas-settur pubbliku jew korp
ieħor tas-settur pubbliku, kif ikun il-każ, għal finijiet
kummerċjali jew mhux kummerċjali, minbarra l-fini
inizjali fi hdan il-kompitu pubbliku ta' dak il-korp tas-
settur pubbliku li għalih kien prodott id-dokument.".

Emenda tal-
artikolu 3 tal-
Att prinċipali.

4. Fil-paragrafu (i) tal-artikolu 3 tal-Att prinċipali, minflok il-
kliem "mużewijiet jew arkivji." għandhom jidhlu l-kliem
"mużewijiet jew arkivji:", u minnufih wara għandu jiżdied il-proviso
ġdid li ġej:

"Izda d-dispożizzjonijiet ta' dan l-artikolu m'għandhomx
japplikaw għall-użu mill-ġdid ta' dokumenti, minn korp tas-
settur pubbliku, ta' dokument miżmum minn korp ieħor tas-
settur pubbliku.".

Sostituzzjoni
tal-artikolu 24
tal-Att
prinċipali.

5. L-artikolu 24 tal-Att prinċipali għandu jiġi sostitwit b'dan
li ġej:

"Rikors għal
deċiżjoni tal-
awtorità
regolatorja.

24. (1) Kull applikant jista' jirrikorri
għand l-awtorità regolatorja għal deċiżjoni fejn
issir pretensjoni li:

(a) talba għall-użu mill-ġdid ta'
infurmazzjoni tas-settur pubbliku magħmula
minn applikant lil korp tas-settur pubbliku
giet rifjutata jew ma gietx ittrattata skont il-
ħtiġiet ta' dan l-Att; jew

(b) korp tas-settur pubbliku mhux
qiegħed josserva l-ħtiġiet ta' dan l-Att.

(2) (a) Ir-rikors għandu jkun bil-miktub
u r-rikorrent għandu jipprova d-dokumentazzjoni
u xhieda kollha li jappoġġaw it-talbiet tiegħu.

(b) Ilmenti jew talbiet għal investigazzjoni u reviżjoni indirizzati lill-awtorità regolatorja skont id-dispożizzjonijiet ta' dan l-Att għandhom jiġu intavolati mir-rikorrent fi żmien massimu ta' sittin (60) jum mid-data ta' meta jkun rċieva l-aħħar komunikazzjoni mill-korp tas-settur pubbliku kkonċernat.

(3) Meta tirċievi rikors għal deċiżjoni taħt dan l-artikolu, l-awtorità regolatorja għandha tiegħu deċiżjoni sakemm ma jkunx jidher li -

(a) kien hemm dewmien mhux neċessarju fl-għemil tar-rikors; jew

(b) ir-rikors hu frivolu u vessatorju; jew

(c) ir-rikors ġie rtirat jew abbandunat.

(4) Meta l-awtorità regolatorja tkun irċeviet rikors taħt dan l-artikolu, hi għandha tinnotifika d-deċiżjoni tagħha lir-rikorrent u lill-korp tas-settur pubbliku.

(5) Id-deċiżjoni għandu jkun fiha tagħrif dwar id-dritt ta' appell kif previst fl-artikolu 24B.

(6) Meta deċiżjoni teħtieġ li jittiegħdu passi mill-korp tas-settur pubbliku fi żmien perjodu speċifikat, iż-żmien speċifikat fid-deċiżjoni m'għandux jiskadi qabel tmiem il-perjodu li matulu jista' jitressaq appell kontra d-deċiżjoni u, jekk dan l-appell ikun tressaq, m'hemmx bżonn li jittiegħed l-ebda pass li jintlaqat mill-appell sakemm l-appell ikun deċiż jew irtirat."

6. Minnufih wara l-artikolu 24, kif sostitwit, tal-Att prinċipali, għandhom jiżdiedu l-artikoli ġodda li ġejjin:

Żieda ta' artikoli ġodda mal-Att prinċipali.

"Avviżi ta' infurzar.

24A. (1) Jekk l-awtorità regolatorja tkun sodisfatta li korp tas-settur pubbliku naqas milli josserva xi wiegħed, jew aktar, mill-obbligi tiegħu taħt dan l-Att, l-awtorità regolatorja tista' tibgħat lill-korp tas-settur pubbliku avviż ta' infurzar li bih titolbu biex, fiż-żmien kif jista' jiġi speċifikat fl-avviż, jiegħu dawk il-passi kif jista' jiġi speċifikat sabiex josserva tali obbligi.

(2) Avviż ta' infurzar għandu jkun fih dikjarazzjoni dwar il-htieġa jew il-htigiet ta' dan l-Att li, skont l-opinjoni tal-awtorità regolatorja, il-korp tas-settur pubbliku naqas milli josserva, u r-raġunijiet tagħha li wasslu għal dik il-konklużjoni.

(3) L-awtorità regolatorja tista' tħassar avviż ta' infurzar permezz ta' avviż bil-miktub lill-korp tas-settur pubbliku li kien gie notifikat bl-avviż ta' infurzar.

Appelli kontra deċiżjonijiet u avviżi ta' infurzar notifikati mill-awtorità regolatorja.

24B. (1) Meta tiġi notifikata deċiżjoni jew jiġi notifikat avviż ta' infurzar, ir-rikorrent jew il-korp tas-settur pubbliku jista' jappella lit-tribunal kontra d-deċiżjoni jew l-avviż, kif ikun il-każ, fi żmien għoxrin (20) jum tax-xogħol.

(2) Fid-deċiżjoni tal-appell it-tribunal jista':

(a) jiċċad l-appell u jikkonferma d-deċiżjoni jew l-avviż ta' infurzar, kif ikun il-każ, fl-intier tagħhom;

(b) jissostitwixxi d-deċiżjoni jew l-avviż ta' infurzar, kif ikun il-każ;

(ċ) jimmodifika jew ivarja d-deċiżjoni jew l-avviż ta' infurzar, kif ikun il-każ; jew

(d) jannulla d-deċiżjoni jew l-avviż ta' infurzar, kif ikun il-każ.

(3) Fejn it-tribunal jissostitwixxi deċiżjoni jew avviż ta' infurzar, kif intqal qabel, l-awtorità regolatorja għandha tiegħu azzjoni sabiex tiżgura l-osservanza bħallikieku dik id-deċiżjoni jew dak l-avviż ta' infurzar kienu ġew maħruġa mill-awtorità regolatorja.

(4) Fis-smiġh ta' appelli taht dan l-artikolu t-tribunal jibqa' soġġett għad-dispożizzjonijiet tal-artikolu 27(2), (4) u (5) u tal-artikolu 28(2) tal-Att dwar il-Protezzjoni u l-Privatezza tad-Data.

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Appell lill-Qorti tal-Appell.
Kap. 586.

24Ċ. (1) Id-deċiżjonijiet tat-tribunal taht dan l-Att huma soġġetti għal appell lill-Qorti tal-Appell kif previst fl-artikolu 29 tal-Att dwar il-Protezzjoni u l-Privatezza tad-Data.

Kap. 586. (2) Fl-applikazzjoni ta' dan l-artikolu, referenzi, fl-imsemmi artikolu 29 tal-Att dwar il-Protezzjoni u l-Privatezza tad-Data, għal "il-Kummissarju" għandhom jinqraw u jinftiehemu bħal referenzi għal "l-awtorità regolatorja" imsemmija fl-artikolu 24 ta' dan l-Att."

7. L-artikolu 25 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 25 tal-Att prinċipali.

(a) minflok il-kliem "Il-Ministru responsabbli għall-informazzjoni dwar is-settur pubbliku" għandhom jidhlu l-kliem "Il-Ministru";

(b) fil-paragrafu (d) tiegħu, minflok il-kliem "għall-finijiet ta' dan l-Att; u" għandhom jidhlu l-kliem "għall-finijiet ta' dan l-Att;";

(ċ) il-paragrafu (e) tiegħu għandu jiġi enumerat mill-ġdid bħala l-paragrafu (f); u

(d) minnufih wara l-paragrafu (d) tiegħu għandu jżidied il-paragrafu ġdid li ġej:

(e) biex jiffacilita t-tqassim u l-użu mill-ġdid bejn korpi tas-settur pubbliku, permezz ta' strutturi organizzattivi u registri godda, sabiex tkun tista' ssir l-implimentazzjoni tal-*'Prinċipju ta' Darba Waħda Biss'* (*'Once-Only Principle'*); u

Ghanijiet u Raġunijiet

L-għan prinċipali ta' dan l-Abbozz ta' Liġi hu biex jintroduċi proċeduri tal-appell godda, biex titwessa' t-tifsira ta' użu mill-ġdid ta' dokumenti biex tinkorpora l-użu mill-ġdid minn korpi tas-settur pubbliku, u biex jippermetti l-ħolqien ta' registri sabiex jiġi applikat *'il-Prinċipju ta' Darba Waħda Biss'* (*'Once-Only Principle'*).

**A Bill
entitled**

*AN ACT to amend the Re-Use of Public Sector Information Act,
Cap. 546.*

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:-

Short title.

1. The short title of this Act is the Re-Use of Public Sector Information (Amendment) Act, 2019, and this Act shall be read and construed as one with the Re-Use of Public Sector Information Act, hereinafter referred to as "the principal Act".

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Amendment of
article 1 of the
principal Act.

2. Immediately after sub-article (2) of article 1 of the principal Act there shall be added the following new sub-article:

"(3) This Act shall also apply to facilitate information sharing for public administration purposes in line with any law."

Amendment of
article 2 of the
principal Act.

3. Article 2 of the principal Act shall be amended as follows:

(a) immediately after the definition "machine-readable format", there shall be added the following new definition:

" "Minister" means the Minister responsible for public sector information;"

(b) the definition "re-use of documents" shall be substituted by the following:

" "re-use of documents" means the use by a person, public sector body, or legal entity of a document held by

the public sector body or another public sector body, as the case may be, for commercial or non-commercial purposes, other than the initial purpose within that public sector body's public task for which the document was produced"; and

(c) immediately after the definition "re-use of documents", as substituted, there shall be added the following new definition:

" "tribunal" means the Information and Data Protection Appeals Tribunal established under article 24 of the Data Protection Act;".

4. In paragraph (i) of article 3 of the principal Act, for the words "museums and archives." there shall be substituted the words "museums and archives:", and immediately thereafter there shall be added the following new proviso:

Amendment of article 3 of the principal Act.

"Provided that the provisions of this article shall not apply to the re-use of documents, by a public sector body, of a document held by another public sector body."

5. Article 24 of the principal Act shall be substituted by the following:

Substitution of article 24 of the principal Act.

"Application for decision by the regulatory authority.

24. (1) Any applicant may apply to the regulatory authority for a decision where it is claimed that:

(a) a request for re-use of public sector information made by the applicant to a public sector body has been refused or has not been dealt with in accordance with the requirements of this Act; or

(b) a public sector body is not in compliance with the requirements set out in this Act.

(2) (a) The application shall be in writing and the applicant shall provide all necessary documentation and evidence in support of his claims.

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(b) Complaints or requests for investigation and review addressed to the regulatory authority in terms of this Act shall be lodged by the applicant within a maximum of sixty (60) days from the date of receipt of the final communication from the public sector body concerned.

(3) On receiving an application for a decision under this article, the regulatory authority shall take a decision unless it appears that -

(a) there has been undue delay in making the application; or

(b) the application is frivolous or vexatious; or

(c) the application has been withdrawn or abandoned.

(4) Where the regulatory authority has received an application under this article, it shall serve notice of its decision to the applicant and the public sector body.

(5) The decision shall contain particulars of the right of appeal as provided in article 24B.

(6) Where a decision requires steps to be taken by the public sector body within a specified period, the time specified in the decision shall not expire before the end of the period within which an appeal can be brought against the decision 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."

Addition of new articles to the principal Act.

6. Immediately after article 24, as substituted, of the principal Act there shall be added the following new articles:

"Enforcement notices.

24A. (1) If the regulatory authority is satisfied that a public sector body has failed to comply with any of its obligations under this Act, the regulatory authority may serve the public sector body with an enforcement notice requiring it 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 statement of the requirement or requirements of this Act with which the public sector body has, in the regulatory authority's opinion, failed to comply, and its reasons for reaching that conclusion.

(3) The regulatory authority may cancel an enforcement notice by written notice to the public sector body on which it was served.

Appeals
against
decisions and
enforcement
notices served
by the
regulatory
authority.

24B. (1) Where a decision or enforcement notice has been served, the applicant or the public sector body may appeal to the tribunal against the decision or the notice, as the case may be, within twenty (20) working days.

(2) In determining an appeal the tribunal may:

(a) dismiss the appeal and confirm the decision or the enforcement notice, as the case may be, in their entirety;

(b) substitute the decision or the enforcement notice, as the case may be;

(c) modify or vary the decision or the enforcement notice, as the case may be;
or

(d) annul the decision or the enforcement notice, as the case may be.

(3) Where the tribunal substitutes a decision or enforcement notice as aforesaid, the regulatory authority shall take action to secure compliance as if that decision or enforcement notice had been issued by the regulatory authority.

(4) In hearing appeals under this article the tribunal shall remain subject to the provisions of article 27(2), (4) and (5) and article 28(2) of the Data Protection Act.

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Appeal to the
Court of
Appeal.

Cap. 586.

24C. (1) Decisions of the tribunal under this Act shall be subject to appeal to the Court of Appeal as provided for by article 29 of the Data Protection Act.

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(2) In the application of this article, references, in the said article 29 of the Data Protection Act, to "the Commissioner" shall be construed and read as references to "the regulatory authority" referred to in article 24 of this Act."

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Amendment of
article 25 of the
principal Act.

7. Article 25 of the principal Act shall be amended as follows:

(a) for the words "The Minister responsible for public sector information" there shall be substituted the words "The Minister";

(b) in paragraph (d) thereof, for the words "for the purposes of this Act; and" there shall be substituted the words "for the purposes of this Act;"

(c) paragraph (e) thereof shall be re-numbered as paragraph (f); and

(d) immediately after paragraph (d) thereof there shall be added the following new paragraph:

"(e) to facilitate the sharing and re-use of information between public sector bodies, through new organisational structures and registers, in order to enable the implementation of the 'Once-Only Principle'; and".

Objects and Reasons

The main object of the Bill is to introduce new appeal procedures and powers to the regulatory body, to widen the definition of the re-use of documents to include re-use by public sector bodies, and for the establishment of registers to enable the implementation of the "Once-Only Principle".