

Nru. 66

29. 9. 2000

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Eddie Fenech Adami, M.P., Prim Ministru, u moqri għall-Ewwel darba fis-Seduta ta' l-20 ta' Marzu, 2000.

A BILL introduced by the Honourable Eddie Fenech Adami, M.P., Prime Minister, and read the First time at the Sitting of the 20th March, 2000.

ATT sabliex jagħmel provvedimenti għall-protezzjoni ta' individwi kontra l-ksur tal-privatezza u l-integrità personali tagħhom bl-ipproċessar ta' *data* personali u dwar dak li għandu x'jaqsam ma' dan jew li hu anċillari għalih.

AN ACT to make provision for the protection of individuals against the violation of their privacy and personal integrity by the processing of personal data and for matters connected therewith or ancillary thereto.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

RICHARD J. CAUCHI
Clerk of the House of Representatives

**ATT TA' L-2000 DWAR IL-PROTEZZJONI
U L-PRIVATEZZA TAD-DATA**

Arrangament ta' l-artikoli

Artikoli

Taqsimi I - Preliminari

1. Titolu u bidu fis-sehh
2. Tifsir

Taqsimi II - Applikabilità

3. Skop territorjali
4. Mod ta' pprocessar
5. Fejn l-Att ma japplikax
6. Libertà ta' l-espressjoni

Taqsimi III - Htiġiet u Kriterji għall-Ipproċessar

7. Htiġiet għall-ipproċessar
8. L-ipproċessar għal għanijiet storiċi, eċċ
9. Kriterji għall-ipproċessar
10. Tqeghid għal bejgh dirett fis-suq
11. Revoka tal-kunsens
12. *Data* personali sensitivi
13. Proċessar mehtieg

Taqsimi IV - Proċessar għal Skopijiet Speċifiċi

14. Proċessar minn fondazzjonijiet, eċċ
15. Proċessar dwar is-sahha jew skopijiet mediċi
16. Proċessar dwar riċerka u statistika

17. Proċessar dwar reati kontra l-liġi
18. Proċessar tan-numru fuq karta ta' l-identità

Taqsimha V - Ġbir ta' *Data* u Dritt ta' Dhul

19. Tagħrif dwar suġġett ta' *data*
20. *Data* miġbura minn oriġni oħra
21. Dritt ta' dhul
22. Rettifika

Taqsimha VI - Eżenzjonijiet, Rettifika u Miżuri oħra

23. Eżenzjonijiet u restrizzjonijiet fil-każ ta' segretezza, eċċ
24. Deċiżjonijiet msejsa fuq l-ipproċessar awtomatizzat
25. Persuni awtorizzati li jipproċessaw *data*
26. Miżuri ta' sigurtà dwar l-ipproċessar
27. Trasferiment ta' *data* lil pajjiż terz
28. Eżenzjonijiet mill-projbizzjoni ta' trasferiment ta' *data* lil pajjiż terz

Taqsimha VII - Notifikazzjoni u Proċeduri oħra

29. Obbligazzjoni ta' notifikazzjoni
30. Deroga mill-obbligazzjoni ta' notifikazzjoni
31. Funzjoni ta' rappreżentant tad-*data*
32. Reġistru ta' proċessar suġġett għal notifikazzjoni
33. Għajnuna lil suġġett ta' *data*
34. Notifikazzjoni obligatorja
35. Reġistru ta' hidmiet ta' pproċessar

Taqsimha VIII - Awtorità Kompetenti

36. Tismija ta' awtorità kompetenti
37. Funzjonijiet ta' awtorità kompetenti
38. Dritt li ghandha l-awtorità kompetenti li tidhol fl-informazzjoni
39. L-awtorità kompetenti tfittex li tikseb rettifika
40. Applikazzjoni ghal kancellament
41. Kollaborazzjoni ma' awtoritajiet ohra
42. Ġurament ta' segretezza
43. Kumpens ghal danni
44. Pieni
45. Bord ta' l-Appelli dwar il-Protezzjoni ta' *Data*
46. Appelli
47. Setghat u proċedura tal-Bord
48. Appell quddiem il-Qorti ta' l-Appell

Taqsimha IX - Ġenerali

49. Setgha ta' ghemil ta' regolamenti
50. It-test Inġliż ghandu jipprevali

ABBOZZ TA' LIĠI msejjah

ATT sabiex jagħmel provvedimenti għall-protezzjoni ta' individwi kontra l-ksur tal-privatezza u l-integrità personali tagħhom bl-ipproċessar ta' "data" personali u dwar dak li għandu x'jaqsam ma' dan jew li hu anċillari għalih.

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:-

Taqsimi I - Preliminari

Titolu fil-qosor u bidu fis-sehh.

1. It-titolu ta' dan l-Att hu l-Att ta' l-2000 dwar il-Protezzjoni u l-Privatezza tad-Data, u għandu jibda jsehh f' dik id-data li l-Ministru jista' jstabilixxi b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti u għal għanijiet differenti ta' l-Att.

Tifsir.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'ohra: -

“awtorità kompetenti” tfisser l-awtorità hekk imsemmija skond l-artikolu 36 ta' dan l-Att;

“data personali” tfisser kull informazzjoni li tirrigwarda persuna naturali identifikata jew identifikabbli: persuna identifikabbli hija persuna li tista' tiġi identifikata, direttament jew indirettament, b'mod partikolari b'riferenza għal numru ta' identifikazzjoni jew għal xi fattur wiehed jew iktar speċifiku għall-identità fiżika, fiżjoloġika, mentali, ekonomika, kulturali jew soċjali tagħha;

“*data personali sensittivi*” tfisser *data personali* li jkunu jiżvelaw r-razza jew l-oriġni etnika, fehmiet politiċi, twemmin reliġjuż jew filosofiku, shubija fi *trade union*, saħha, u attività sesswali;

“kontrollur ta’ *data personali*” jew “kontrollur” tfisser persuna li waħedha jew solidalment ma’ oħrajn tistabbilixxi l-ghanijiet u l-mezzi ta’ l-ipproċessar ta’ *data personali*;

“kunsens” tfisser kull indikazzjoni speċifika u informata li tingħata liberament dwar ix-xewqat tas-sugġett ta’ *data* li permezz tagħha juri li jkun jaqbel li għandhom jiġu pproċessati *data personali* dwaru;

“mblokkar” dwar *data personali*, tfisser it-thaddim biex jiġi sospiż jew ristrett il-provdiment ta’ informazzjoni lil terzi meta dak il-provdiment jiġi hekk sospiż jew ristrett skond id-dispożizzjonijiet ta’ dan l-Att;

“Ministru” tfisser il-Ministru responsabbli għal komunikazzjonijiet;

“numru ta’ karta ta’ identità” tfisser in-numru ta’ identifikazzjoni li jkun jinsab f’karta ta’ l-identità kif provdut fl-Att dwar il-Karta ta’ l-Identità;

Kap. 258.

“pajjiż terz” tfisser Stat li ma jkunx inkluż fi skeda li tista’ minn żmien għal żmien tiġi preskritta taht dan l-Att;

“preskrit” tfisser preskrit b’regolamenti magħmulin mill-Ministru skond id-dispożizzjonijiet ta’ dan l-Att, wara konsultazzjoni ma’ l-awtorità kompetenti;

“proċessar” u “proċessar ta’ *data personali*” tfisser kull thaddim jew sett ta’ operazzjonijiet li jsiru dwar *data personali*, sew jekk dan jiġri b’mezzi awtomatiċi sew jekk le, u tinkludi l-kollezzjoni, r-rekordjar, l-organizzazzjoni, il-ħżin, l-adattament, il-bdil, l-irkuprar, il-ġbir, l-użu, il-kxif permezz ta’ trasmissjoni, it-tixrid jew l-għemil xort’ohra ta’ informazzjoni disponibbli, l-allinjament jew il-kombinazzjoni, l-imblokkar, il-kancellament jew il-qerda ta’ tali *data*;

“proċessur” tfisser persuna li tipproċessa *data personali* f’isem il-kontrollur;

“rappreżentant ta’ *data personali*” tfisser persuna, mahtura mill-kontrollur ta’ *data personali*, li għandha tiżgura b’mod indipendenti li d-*data personali* jkunu pproċessati b’mod korrett u legittimu;

“riċevent” tfisser persuna li lilha tiġi pprovduta *data* personali; madankollu, meta jiġu pprovduti *data* personali sabiex l-awtorità kompetenti tkun tista’ twettaq dik is-sorveljanza, kontroll jew verifika li tkun taht dmir li twettaq, l-awtorità kompetenti ma ghandhiex titqies bhala riċevent;

“sistema ta’ *filig* ta’ *data* personali” tfisser kull sett strutturat ta’ *data* personali li tkun aċċessibbli skond kriterji speċifiċi, sew jekk ċentralizzati, deċentralizzati jew mifruxin fuq bażi funzjonali jew ġeografika;

“suġġett ta’ *data*” tfisser persuna naturali li lilha jkunu jirrigwardaw id-*data* personali;

“terzi” tfisser persuna li, minbarra s-suġġett ta’ *data*, il-kontollur ta’ *data* personali, ir-rappreżentant ta’ *data* personali, il-proċessur u dawk il-persuni li taht ir-responsabbiltà diretta tal-kontollur ta’ *data* personali jew tal-proċessur tkun awtorizzata li tipproċessa *data* personali.

Taqsim II - Applikabilità

Skop territorjali.

3. (1) Dan l-Att japplika -

(a) għal kontrollur ta’ *data* personali stabbilit f’Malta u f’Ambaxxata Maltija jew Kummissjoni Għolja barra minn Malta;

(b) għal kontrollur ta’ *data* personali stabbilit f’pajjiż terz sakemm it-tagħmir li jintuża għall-ipproċessar tad-*data* personali jkun jinsab f’Malta;

(ċ) sa dak iż-żmien li l-Ministru jista’ b’ordni jippreskrivi, għal kontrollur ta’ *data* personali stabbilit f’pajjiż elenkat fl-Iskedi li jinsabu ma’ dan l-Att li jkun jipproċessa *data* f’Malta.

(2) Bla preġudizzju għad-dispożizzjonijiet tas-subartikolu (3) ta’ dan l-artikolu, id-dispożizzjonijiet tal-paragrafu (b) tas-subartikolu (1) ta’ dan l-artikolu ma ghandhomx japplikaw jekk it-tagħmir jintuża biss għal għanijiet ta’ trasmissjoni ta’ informazzjoni bejn pajjiż terz u pajjiż tali iehor.

(3) Għall-għanijiet tas-subartikolu (2) ta’ dan l-artikolu il-kontrollur għandu jahtar rappreżentant li jkun stabbilit f’Malta.

Mod ta’ pproċessar.

4. Id-dispożizzjonijiet ta’ dan l-Att għandhom japplikaw għall-ipproċessar ta’ *data* personali, għalkollox jew f’parti minnhom, b’mezzi awtomatizzati u għal dak l-ipproċessar li ma jsirx b’mezzi awtomatizzati

meta tali *data* personali jkunu jagħmlu parti minn sistema ta' *filing* jew ikunu maħsuba biex jagħmlu parti minn sistema ta' *filing*.

5. Dan l-Att ma japplikax għall-ipproċessar ta' *data* personali meta dak l-ipproċessar jkun qed isir minn persuna naturali filwaqt li tkun qeghda twettaq attività għalkollox personali.

Fejn l-Att ma japplikax.

6. (1) Bla ħsara għal dak li hemm provdut f'dan l-artikolu, id-dispożizzjonijiet ta' dan l-Att ma għandhomx jolqtu d-dispożizzjonijiet ta' l-Att dwar il-Konvenzjoni Ewropea, dwar il-libertà ta' l-espressjoni, jew id-dispożizzjonijiet ta' l-Att dwar l-Istampa, dwar il-libertajiet gurnalistiċi.

Libertà ta' l-espressjoni.

Kap. 319.
Kap. 248.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu l-awtorità kompetenti għandha tinkoraġġixxi l-abbozzar ta' kodiċi ta' kondotta adattat li jkun japplika għall-gurnalisti u għall-medja biex jiġi regolat l-ipproċessar ta' xi *data* personali u l-kodiċi ta' kondotta għandu jipprovidi miżuri u proċeduri adattati biex jipproteġu s-sugġett ta' *data*, fil-qies tax-xorta tad-*data*.

(3) Fin-nuqqas ta' tali kodiċi ta' kondotta, l-awtorità kompetenti tista' tistabbilixxi miżuri u proċeduri speċifiċi biex jipproteġu s-sugġetti ta' *data*; f'dak il-każ sew il-gurnalisti sew il-medja għandhom jikkonformaw ruħhom mal-miżuri u l-proċeduri hekk stabbiliti.

(4) Jekk il-miżuri u l-proċeduri li jinsabu fil-kodiċi ta' kondotta li japplikaw għall-gurnalisti u l-medja skond is-subartikoli (2) jew (3) ma jitharsux, l-awtorità kompetenti tista' timponi interdizzjoni fuq l-ipproċessar kollu ta' *data*, jew ta' part minnu, u tordna l-imblokkar ta' *data* meta, fil-qies tax-xorta tad-*data*, l-mezzi ta' l-ipproċessar jew l-effetti li dan jista' jkollu, jkun hemm riskju gravi ta' dannu rilevanti għal xi sugġett ta' *data* wiehed jew iktar.

Taqsimha III - Htiġiet u Kriterji għall-Ipproċessar

7. Il-kontrollur għandu jiżgura li -

Htiġiet għall-
ipproċessar.

(a) *data* personali jiġu proċessati biss jekk dawn ikunu skond il-liġi;

(b) *data* personali jkunu dejjem proċessati b'mod korrett u skond prattika korretta;

(ċ) *data* personali jkunu miġbura biss għal għanijiet speċifiċi u legittimi, u li jkunu espressi b'mod esplicitu;

(d) *data* personali ma jkunux proċessati għal xi skop li jkun inkompatibbli ma' dak li għalih tkun qeghda tingabar l-informazzjoni;

(e) *data* personali li jkunu qed jiġu proċessati jkunu adegwati u rilevanti dwar l-iskopijiet ta' l-ipproċessar;

(f) ma jiġux ipproċessati iktar *data* personali milli jkun mehtieg fil-qies ta' l-għanijiet ta' l-ipproċessar;

(g) id-*data* personali li jiġu proċessati jkunu korretti u, jekk mehtieg, aġġornati;

(h) jittiehdu l-miżuri raġonevoli kollha biex jikkompletaw, jikkoreġu, jimblokkaw jew jikkancellaw *data* jekk dawk id-*data* ma jkunux kompleti jew korretti, fil-qies ta' l-iskopijiet li jkunu qeghdin jiġu pproċessati għalihom;

(i) d-*data* personali ma jinżammux għal perjodu itwal minn dak mehtieg, fil-qies ta' l-iskopijiet li jkunu qed jiġu pproċessati għalihom.

L-ipproċessar għal għanijiet storiċi, eċċ.

8. L-ipproċessar ta' *data* personali għal skopijiet storiċi, statistiċi jew xjentifiċi ma għandux jitqies bħala inkompatibbli ma' l-iskopijiet li dwarhom tkun ingabret l-informazzjoni:

Iżda l-kontrollur għandu jiżgura li:

(a) s-salvagwardji xierqa kollha jkunu japplikaw fejn jinżammu *data* personali għal skopijiet storiċi, statistiċi jew xjentifiċi għal żmien itwal; jew

(b) id-*data* personali li jinżammu għal skopijiet storiċi, statistiċi jew xjentifiċi ma għandhomx jintużaw għat-tehid ta' xi deċiżjoni li tkun tirrigwarda lil suġġett ta' *data*.

Kriterji għall-ipproċessar.

9. Id-*data* personali jistghu jkunu proċessati biss jekk:

(a) is-suġġett ta' *data* jkun minghajr ebda ambigwià ta l-kunsens tiegħu; jew

(b) l-ipproċessar ikun mehtieg sabiex jista' jitwettaq kuntratt li fih is-suġġett ta' *data* ikun parti jew biex jittiehdu passi fuq talba tas-suġġett ta' *data* qabel l-għemil tal-kuntratt; jew

(c) l-ipproċessar ikun mehtieg biex tithares xi obligazzjoni legali li l-kontrollur ikun suġġett għaliha; jew

(d) l-ipproċessar ikun mehtieg sabiex jiġu protetti l-interessi vitali tas-sugġett ta' *data*; jew

(e) l-ipproċessar ikun mehtieg għat-twettiq ta' attività li ssir fl-interess pubbliku jew fl-esercizzju ta' l-awtorità uffiċjali vestita fil-kontrollur jew f'terzi li d-*data* jiġu żvelati lilhom; jew

(f) l-ipproċessar ikun mehtieg għal xi skop li jolqot l-interess legittimu tal-kontrollur jew ta' dawk it-terzi li lilhom jkunu ġew ipprovduti d-*data* personali, u jkun jista jiġi sodisfatt, hlief meta dawk l-interessi jiġu meghlubin b'kull interess għad-drittijiet u libertajiet fundamentali tas-sugġett ta' *data*.

10. (1) Id-*data* personali jistghu ma jiġux proċessati għal skopijiet li jkunu jolqtu il-bejgħ dirett fis-suq, jekk is-sugġett ta' *data* javża lill-kontrollur ta' *data* personali bil-miktub li huwa jkun jopponi dak l-ipproċessar.

Tqeghid għal bejgħ dirett fis-suq.

(2) Il-kontrollur għandu jgħarraf kif xieraq lis-sugġett ta' *data* bid-dritt li jkollu li jopponi, bla ma jagħmel ebda spejjeż, għall-ipproċessar imsemmi fis-subartikolu (1) ta' dan l-artikolu.

11. (1) F'dawk il-każijiet fejn l-ipproċessar ta' *data* personali jkun biss permess meta s-sugġett ta' *data* jkun ta l-kunsens tiegħu taht l-artikolu 9, 12(2) jew 28 (1), is-sugġett ta' *data* jkun intitolat jirrevoka f'kull waqt il-kunsens li jkun ingħata. Wara dan, ebda *data* personali dwar is-sugġett ta' *data* ma jkunu jistghu jiġu proċessati.

Revoka tal-kunsens.

(2) Is-sugġett ta' *data* ma jkunx intitolat, iktar minn dak li hemm provdut bl-artikolu 10 u 11(1), li jopponi dak l-ipproċessar ta' *data* personali jew li jirrevoka dak il-kunsens għall-ipproċessar ta' *data* personali kif inhu permess taht dan l-Att.

12. (1) Bla hsara għad-dispożizzjonijiet l-oħra ta' dan l-Att hadd ma jista' jipproċessa *data* personali sensittivi:

Data personali sensittivi.

Iżda dawk id-*data* personali jistghu jiġu proċessati f'dawk il-każijiet li hemm provdut dwarhom taht is-subartikolu (2) ta' dan l-artikolu u taht l-artikoli 13 sa 16 ta' dan l-Att jew hekk kif jista' jiġi preskritt mill-Ministru li jqis l-esiġenzi ta' l-interess pubbliku.

(2) Id-*data* personali sensittivi jistghu jiġu proċessati jekk is-sugġett ta' *data*:

(a) jkun ta l-kunsens esplicitu tiegħu għall-ipproċessar; jew

(b) jekk id-*data* jiġu manifestament mahruġin għall-pubbliku mis-sugġett ta' *data*.

Proċessar meħtieġ.

13. Id-*data* personali sensittivi jistgħu jiġu pproċessati jekk l-ipproċessar ikun meħtieġ sabiex:

(a) il-kontrollur jkun jista' jikkonforma ruhu ma' dmirijietu jew jeżerċita d-drittijiet tiegħu fi hdan il-liġi dwar l-impiegi; jew

(b) l-interessi vitali tas-sugġett ta' *data* jew ta' xi persuna oħra jkunu jistgħu jiġu protetti u s-sugġett ta' *data* ma jkunx fiżikament jew legalment kapaċi li jagħti l-kunsens tiegħu: jew

(c) ikunu jistgħu jiġu stabbiliti, eżerċitati jew difiżi talbiet legali.

Taqsimha IV - Proċessar għal Skopijiet Speċifiċi

Proċessar minn fondazzjonijiet, eċċ.

14. Organizzazzjonijiet bla skop ta' profitt li jkollhom għanijiet politiċi, filosofiċi, reliġjużi jew trejdunjonistiċi jistgħu, filwaqt li jkunu għaddejin bl-attivitajiet legittimi tagħhom u b'garanziji xierqa, jipproċessaw *data* personali sensittivi li jkunu jolqtu lill-membri ta' l-enti rispettiva u lil daww il-persuni l-oħra li minhabba fl-għanijiet ta' l-enti jkollhom kuntatt regolari magħhom:

Iżda *data* personali sensittivi jistgħu jiġu pprovduti lil terzi biss jekk is-sugġett ta' *data* jagħti l-kunsens espliċitu tiegħu għal dan.

Proċessar dwar is-saħħa jew skopijiet mediċi.

15. Id-*data* personali sensittivi jistgħu jiġu pproċessati għal skopijiet ta' saħħa u ta' kura fl-isptar, sakemm dawn ikunu meħtieġa għal:

(a) mediċina preventiva u l-protezzjoni tas-saħħa pubblika;

(b) dijanjosi mediċi;

(c) kura tas-saħħa jew il-kura li tinghata; jew

(d) il-manigġ ta' servizzi ta' kura tas-saħħa u fl-isptar:

Iżda d-*data* għandha tiġi pproċessata minn professjonist tas-saħħa li jkun sugġett għall-obbligu impost fuqu ta' segretezza professjonali, jew minn xi persuna oħra li tkun ukoll sugġetta għal dak l-obbligu.

Proċessar dwar riċerka u statistika.

16. (1) Id-*data* personali sensittivi jistgħu jiġu pproċessati għal skopijiet ta' riċerka u statistika, sakemm l-ipproċessar jkun meħtieġ kif stipulat fis-subartikolu (e) ta' l-artikolu 9.

(2) Jekk l-ipproċessar imsemmi fis-subartikolu (1) ta' dan l-artikolu jkun ġie approvat:

- (a) fil-każ ta' statistika, mill-awtorità kompetenti nnifisha;
- (b) fil-każ ta' riċerka, mill-awtorità kompetenti bil-parir ta' xi kumitat ta' riċerka fl-etika ta' xi istituzzjoni rikonoxxuta,

id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għandhom jitqiesu li jkunu sodisfatti.

(3) Id-*data* personali jistgħu jiġu pprovduti sabiex jintużaw għall-finijiet imsemmija fis-subartikolu (1) ta' dan l-artikolu, kemm-il darba ma jiġix provdut xort'ohra bir-regoli applikabbli dwar is-segretezza u l-kunfidenzjalità.

17. (1) *Data* li jkollhom x'jaqsmu ma' reati, sejbien ta' htija kriminali jew miżuri ta' sigurezza, jistgħu jiġu biss proċessati taht il-kontroll ta' awtorità pubblika.

Proċessar dwar reati kontra l-liġi.

(2) Għal dan l-iskop il-Ministru jista' b'regolamenti jawtorizza lil kull persuna tipproċessa d-*data* msemmija fis-subartikolu (1) ta' dan l-artikolu bla hsara għal dawk salvagwardji speċifiċi xierqa li jistgħu jiġu preskritti:

Izda reġistru shih ta' sejbien ta' htija kriminali jista' biss jinżamm taht il-kontroll ta' awtorità pubblika.

18. In-numru tal-karta ta' l-identità jista', fin-nuqqas ta' kunsens, jiġi biss ipproċessat meta dan ikun b'mod ċar ġustifikat fil-qies ta':

Proċessar tan-numru fuq karta ta' l-identità.

- (a) l-iskop ta' l-ipproċessar;
- (b) l-importanza ta' identifikazzjoni sigura;
- (ċ) xi raġuni valida oħra li tista' tiġi preskritta.

Taqsim V - Ġbir ta' *Data* u Dritt ta' Dhul

19. (1) Il-kontrollur jew xi persuna oħra awtorizzata minnu għal dak l-ghan għandhom jipprovdu lil sugġett ta' *data* li jingabru minghandu *data* li jkunu jirrigwardaw lis-sugġett ta' *data* nnifsu, b'mill-inqas din l-informazzjoni li ġejja, hlief meta din tkun diġà tinsab għand is-sugġett ta' *data*:

Tagħrif dwar sugġett ta' *data*.

- (a) l-identità tal-kontrollur u ta' kull persuna oħra awtorizzata minnu għaldaqshekk, jekk ikun hemm;

(b) l-iskopijiet ta' l-ipproċessar li dwaru jkunu mahsuba *d-data*;

(ċ) kull informazzjoni ulterjuri bhal:

(i) ir-riċeventi jew kategoriji tad-*data*;

(ii) jekk l-ghoti ta' risposti għall-mistoqsijiet ikunx obligatorju jew volontarju, kif ukoll dwar x'jistax jigi jekk wiehed jonqos milli jwieġeb;

(iii) id-dritt li huwa jkollu li jidhol fid-*data* u d-dritt li jirrettifika *d-data* li tkun tirrigwardah.

(2) Meta informazzjoni ulterjuri bhal dik tkun hekk mehtieġa, fil-qies taċ-ċirkostanzi speċifiċi li fihom jingabru *d-data*, il-kontrollur għandu jiggwarantixxi proċessar ġust dwar is-sugġett ta' *data*.

Data miġbura minn oriġni oħra.

20. (1) Jekk, għar-rigward ta' sugġett ta' *data*, il-kontrollur jew kull persuna oħra awtorizzata minnu għal dak l-iskop jizvela jew ikun bi hsiebu jizvela *data* personali li terzi, il-kontrollur jew kull persuna oħra minnu awtorizzata għal dak l-iskop għandhom jipprovdu lis-sugġett ta' *data* b'mill-inqas din l-informazzjoni li ġejja:

(a) l-identità tal-kontrollur u ta' kull persuna oħra minnu awtorizzata għal dak l-iskop;

(b) l-iskopijiet ta' l-ipproċessar;

(ċ) kull informazzjoni ulterjuri inklużi:

(i) il-kategoriji ta' *data* involuti;

(ii) ir-riċeventi jew kategoriji ta' riċeventi;

(iii) id-dritt li huwa jkollu li jidhol fid-*data* u d-dritt li jirrettifika *d-data* li tkun tirrigwardah;

sakemm dik l-informazzjoni ulterjuri tkun mehtieġa, fil-qies taċ-ċirkostanzi speċifiċi li fihom id-*data* jigu pproċessati, biex jigi garantit proċessar ġust dwar is-sugġett ta' *data*:

Iżda, jekk id-*data* jkunu mahsuba li jigu żvelati lil terzi, l-informazzjoni dwar l-ipproċessar ma għandhiex tinghata qabel ma *d-data* jigu żvelati għall-ewwel darba.

(2) Ma jkunx hemm ghalfejn tiġi provduta informazzjoni taht is-subartikolu (1) ta' dan l-artikolu jekk ikun hemm dispożizzjonijiet li jirrigwardaw ir-registrazzjoni jew l-iżvelar ta' *data* personali f'xi liġi.

(3) Ma jkunx hemm ghalfejn tiġi provduta l-informazzjoni taht is-subartikolu (1) ta' dan l-artikolu jekk din tkun mehtieġa:

- (i) ghal ipproċessar li jsir ghal skopijiet xjentifiċi;
- (ii) ghal skopijiet ta' riċerka storika jew xjentifikax:

u dan sakemm l-ghoti ta' dik l-informazzjoni ma jkunx wiehed impossibbli jew ikun jinvolvi attività sproporzjonata:

Iżda jekk id-*data* jintużaw biex jittiehdu miżuri li jirrigwardaw is-sugġett ta' *data*, l-informazzjoni speċifikata skond is-subartikolu (1) ta' dan l-artikolu ghandha tinghata kif disponibbli fi żmien l-iktar viċin ghal dik l-okkorrenza.

(4) Meta l-informazzjoni tingabar minn oriġni ohra, sew il-kontrollur sew kull persuna ohra minnu awtorizzata ghal dak l-iskop ghandhom jipprovdu lis-sugġett ta' *data* b'informazzjoni kif hemm provdut fil-paragrafi (a), (b) u (ċ) tas-subartikolu (1) ta' l-artikolu 19 ta' dan l-Att.

21. (1) Il-kontrollur ta' *data* personali fuq talba tas-sugġett ta' *data* ghandu jaghti lis-sugġett ta' *data*, minghajr dewmien jew nefqa eċċessivi, informazzjoni bil-miktub dwar jekk *data* personali li jkunu jirrigwardaw lis-sugġett ta' *data* ikunux proċessati: Dritt ta' dhu.

Iżda htieġa minn sugġett ta' *data* taht dan is-subartikolu ghandha ssir biss mis-sugġett ta' *data* f'intervalli raġonevoli.

(2) Jekk tali *data* jiġu proċessati, il-kontrollur ta' *data* ghandu jipprovdi lis-sugġett ta' *data* informazzjoni bil-miktub, f'format li jiftiehem, dwar:

- (i) liema informazzjoni dwar is-sugġett ta' *data* tkun proċessata;
- (ii) minn fejn tkun ingabret din l-informazzjoni;
- (iii) l-iskop ta' l-ipproċessar;
- (iv) lil liema riċeventi jew kategoriji ta' riċeventi l-informazzjoni tkun żvelata; u

(v) konoxxenza tal-logika involuta f'xi pprocessar awtomatiku ta' *data* li jirrigwardaw lis-sugġett ta' *data*.

(3) Applikazzjoni taht is-subartikolu (1) ta' dan l-artikolu ghandha ssir bil-miktub lill-kontrollur ta' *data* personali u ghandha ggib il-firma tas-sugġett ta' *data*.

(4) Il-kontrollur ta' *data* ghandu minghajr dewmien ecessiv jipprovdi lis-sugġett ta' *data* bl-informazzjoni taht is-subartikolu (1) ta' dan l-artikolu.

Rettifika.

22. (1) Il-kontrollur ghandu r-responsabbiltà fuq talba tas-sugġett ta' *data* li minnufih jirrettifika, jimblokka jew jikkancella dawk id-*data* personali li ma jkunux gew ipprocessati skond dan l-Att jew regolamenti maghmulin taht dan l-Att.

(2) Il-kontrollur ghandu javża lil dawk it-terzi li d-*data* jkunu gew lilhom żvelati bil-mizura li tkun ittiehdet taht is-subartikolu (1) ta' dan l-artikolu:

Izda ebda avviż bhal dak ma ghandu jinghata jekk dan ikun impossibbli jew ikun jinvolvi attività sproporzjonata.

Taqsim VI - Eżenzjonijiet, Rettifika u Miżuri ohra

Eżenzjonijiet u restrizzjonijiet fil-każ ta' segretezza, eċċ.

23. (1) Id-dispożizzjonijiet ta' l-artikoli 7, 19, 20(1), 21 u 35 ta' dan l-Att ma ghandhomx japplikaw meta xi ligi speċifikatament tipprovdi għall-ghoti ta' informazzjoni bhala miżura mehtieġa fl-interess:

(a) tas-sigurtà nazzjonali;

(b) tad-difiża;

(ċ) tas-sigurtà pubblika;

(d) tal-prevenzjoni, investigazzjoni, kxif u prosekuzzjoni ta' reati kriminali, jew ta' ksur ta' etika għal professjonijiet regolati;

(e) ta' xi interess ekonomiku jew finanzjarju importanti li jinkludi materji monetarji, ta' estimi u tassazzjoni;

(f) ta' xi funzjoni regulatorja, ta' sorveljanza jew spezzjon konnessa, ukoll jekk okkażjonalment, ma' l-eżerċizzju ta' l-awtorità uffiċjali msemmija fil-paragrafi (ċ), (d) u (e) ta' dan is-subartikolu; jew

(ġ) li dik l-informazzjoni tkun preġudizzjali għall-protezzjoni tas-sugġett ta' *data* jew għad-drittijiet u l-libertajiet ta' l-ohrajn.

(2) Id-dispożizzjonijiet ta' l-artikolu 21 ta' dan l-Att ma japplikawx meta d-*data* jkunu proċessati biss għal skopijiet ta' riċerka xjentifika jew inkella jinżammu f'format personali għal perjodu li ma jkunx jeċċedi l-perjodu meħtieġ għall-iskop uniku li johloq l-istatistika:

Iżda daww id-*data* ma għandhomx jintużaw għat-tehid ta' miżuri jew deċiżjonijiet li jkunu jirrigwardaw lil xi individwu partikolari jew fejn ikun hemm riskju ta' kontravvenzjoni tal-privatezza tas-sugġett ta' *data*.

24. (1) Jekk deċiżjoni li jkollha effetti legali għal persuna naturali jew li xort'ohra manifestament ikollha effetti fuq il-persuna naturali, tkun msejsa unikament fuq l-ipproċessar awtomatizzat ta' daww id-*data* personali bħalma jkun maħsub biex jiġu stmati l-kwalitajiet tal-persuna, l-persuna li tintlaqat mid-deċiżjoni jkollha l-opportunità li titlob li jkollha d-deċiżjoni kkunsidrata mill-ġdid mill-persuna responsabbli għal dik id-deċiżjoni wara li dik il-persuna naturali hekk titlob.

Deċiżjonijiet msejsa fuq l-ipproċessar awtomatizzat.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu ma għandhomx japplikaw meta d-deċiżjoni tittiehed filwaqt li jkun qed isir jew jiġi esegwit kuntratt, sakemm it-talba għall-ghemil jew l-esekuzzjoni tal-kuntratt, li tkun saret mis-sugġett ta' *data*, tkun għet sodisfatta jew ikun hemm miżuri adattati biex jissalvagwardaw l-interessi legittimi tiegħu.

(3) Persuna li tkun is-sugġett ta' deċiżjoni msemmija fis-subartikolu (1) ta' dan l-artikolu tkun intitolata li meta hekk titlob, tikseb informazzjoni mingħand il-kontrollur dwar xi jkun li kkontrolla l-ipproċessar awtomatizzat li jkun irriżulta fid-deċiżjoni;

Iżda dik l-informazzjoni li ssir disponibbli mill-kontrollur tkun sugġetta għad-dispożizzjonijiet ta' l-artikolu 21 ta' dan l-Att.

25. (1) Kull persuna li taġixxi taht l-awtorità tal-kontrollur jew tal-proċessur, inkluż il-proċessur innifsu, li jkollu dhul għal *data* personali, jista' biss jipproċessa *data* personali skond l-istruzzjonijiet tal-kontrollur kemm-il darba l-persuna ma tkunx xort'ohra mitluba tagħmel hekk mil-liġi.

Persuni awtorizzati li jipproċessaw *data*.

(2) L-ghemil ta' pproċessar permezz ta' proċessur għandu jkun regolat b'kuntratt jew b'att legali f'forma miktuba jew ekwivalenti, li jkun jorbot lill-proċessur mal-kontrollur u jstipula b'mod partikolari li l-proċessur:

(a) jaġixxi biss fuq struzzjonijiet li jiehu minghand il-kontrollur;

(b) jkun responsabbli li jiehu daww il-miżuri msemmija fis-subartikolu (1) ta' l-artikolu 26 ta' dan l-Att.

Miżuri ta' sigurtà
dwar l-ipproċessar.

26. (1) Il-kontrollur għandu jimplementa miżuri tekniċi u organizzattivi xierqa sabiex jiproteġi *d-data* personali li jkunu qed jiġu proċessati kontra kull qirda aċċidentali jew forom ta' proċessar illeġittimi u b'hekk jipprovdi livell xieraq ta' sigurtà li jkun iqis:

(a) il-possibilitajiet tekniċi disponibbli;

(b) in-nefqa ta' l-implementazzjoni tal-miżuri ta' sigurtà;

(ċ) ir-riskji speċjali li jeżistu fl-ipproċessar ta' *data* personali;

(d) is-sensitività tad-*data* personali li jkunu qed jiġu proċessati.

(2) Jekk il-kontrollur jqabbad proċessur, il-kontrollur għandu jiżgura li l-proċessur:

(a) ikun jista' jimplementa l-miżuri ta' sigurtà li jkollhom jittiehdu;

(b) attwalment jiehu l-miżuri identifikati.

Trasferiment ta'
data lil pajjiż terz.

27. (1) Minghajr preġudizzju għad-dispożizzjonijiet ta' l-artikolu 28 ta' dan l-Att, it-trasferiment lil pajjiż terz ta' *data* personali li jkunu qed jiġu proċessati jew li jkunu maħsuba li jiġu proċessati, jista' jsir biss bla ħsara għad-dispożizzjonijiet ta' dan l-Att u sakemm il-pajjiż terz li jiġu trasferiti lejha ikun jiżgura livell xieraq ta' protezzjoni.

(2) Dwar kemm ikun biżżejjed il-livell ta' protezzjoni ta' pajjiż terz għandu jiġi stmat fil-qies ta' ċirkostanzi kollha li jkunu jirrigwardaw it-thaddim ta' trasferiment ta' *data* jew sett ta' operazzjonijiet ta' trasferiment ta' *data*: għandha tinghata konsiderazzjoni partikolari għax-xorta tad-*data*, l-iskop u għal kemm żmien jkunu se jidumu l-hidma jew l-operazzjonijiet ta' proċessar proposti, il-pajjiż ta' provenjenza u l-pajjiż ta' destinazzjoni finali, ir-regoli legali, sew ġenerali sew settorjali, li jkunu fis-seħh fil-pajjiż terz involut u r-regoli professjonali u miżuri ta' sigurtà li jkunu qed jitharsu f'dak il-pajjiż.

(3) Ikun dmir ta' l-awtorità kompetenti li tiddeċiedi jekk pajjiż terz ikunx jiżgura livell adegwat ta' protezzjoni.

(4) Ghandu jkun projbit it-trasferiment ta' *data* personali lil pajjiż terz li ma jkunx jiżgura protezzjoni adegwata.

28. (1) It-trasferiment ta' *data* personali lil pajjiż terz li ma jiżgurax livell adegwat ta' protezzjoni fil-qies tat-tifsir moghti fis-subartikolu (2) ta' l-artikolu 27 ta' dan l-Att jista' jiġi awtorizzat mill-awtorità kompetenti jekk is-sugġett ta' *data* jkun ta l-kunsens tiegħu mhux ambigwu għat-trasferiment propost jew jekk it-trasferiment:

Eżenzjonijiet mill-projbizzjoni ta' trasferiment ta' *data* lil pajjiż terz.

(a) ikun neċessarju għat-twertieq ta' kuntratt bejn is-sugġett ta' *data* u l-kontrollur jew l-implementazzjoni ta' miżuri qabel il-kuntratt li jittiehdu b'konsegwenza tat-talba li ssir mis-sugġett ta' *data*;

(b) ikun neċessarju għat-twertieq jew għemil ta' kuntratt magħmul jew li jkun se jsir fl-interess tas-sugġett ta' *data* bejn il-kontrollur u terzi;

(c) ikun neċessarju jew meħtieġ skond il-liġi minhabba f'raġunijiet importanti ta' interess pubbliku, jew għat-twaqqif, eżerċizzju jew difiża ta' talbiet legali;

(d) ikun neċessarju sabiex jiġu protetti l-interessi vitali tas-sugġett ta' *data*; jew

(e) isir minn reġistru li skond il-liġijiet jew ir-regolamenti jkun maħsub li jipprovdi informazzjoni għall-pubbliku u li jkun miftuh għall-konsultazzjoni sew mill-pubbliku kollu sew minn xi persuna li tista' turi li jkollha interess legittimu, sakemm jitwettqu f'dak il-każ partikolari l-kondizzjonijiet stipulati bil-liġi għall-konsultazzjoni.

(2) Mingħajr preġudizzju għas-subartikolu (1) ta' dan l-artikolu, l-awtorità kompetenti tista' tawtorizza trasferiment jew sett ta' trasferimenti ta' *data* personali lil pajjiż terz li ma jiżgurax livell adegwat ta' protezzjoni fil-qies tat-tifsir moghti fis-subartikolu (2) ta' l-artikolu 27 ta' dan l-Att sakemm il-kontrollur ma jipprovdi salvagwardji adegwati dwar il-protezzjoni tal-privatezza u tad-drittijiet fundamentali u libertajiet ta' l-individwu għar-rigward ta' l-eżerċizzju tagħhom, b'mod partikolari permezz ta' klawżoli kontrattwali xierqa.

(3) L-awtorizzazzjoni provduta fis-subartikolu (2) ta' dan l-artikolu għandha tingħata jew titneħħa mill-awtorità kompetenti skond il-proċeduri tagħha.

(4) Trasferiment ta' *data* personali li jkunu meħtieġa għall-protezzjoni ta' sigurtà nazzjonali, difiża, sigurtà pubblika u l-prevenzjoni, investigazzjoni u prosekuzzjoni ta' reati kriminali għandu jkun regolat bi provvedimenti legali speċjali jew bil-konvenzjonijiet u b'kull ftehim internazzjonali li Malta tkun parti fih.

Taqsim VII - Notifikazzjoni u Proċeduri oħra

Obbligazzjoni ta' notifikazzjoni.

29. (1) Il-kontrollur għandu jinnotifika lill-awtorità kompetenti qabel ma jagħmel xi operazzjoni ta' pproċessar awtomatizzat għalkollox jew f'parti minnu, jew sett ta' tali operazzjonijiet, maħsuba għal għan wiehed jew għal diversi għanijiet relatati.

(2) In-notifikazzjoni msemmija fis-subartikolu (1) ta' dan l-artikolu għandha tispeċifika:

(a) l-isem u l-indirizz tal-kontrollur ta' *data* u ta' kull persuna oħra minnu awtorizzata għal dak l-iskop, jekk ikun hemm;

(b) l-iskop jew l-iskopijiet ta' l-ipproċessar;

(ċ) deskrizzjoni tal-kategorija jew kategoriji ta' suġġetti ta' *data* u tad-*data* jew kategoriji ta' *data* li jirrigwardawhom;

(d) ir-riċeventi jew kategoriji ta' riċeventi li d-*data* tista' tiġi żvelata lilhom;

(e) trasferimenti ta' *data* proposti lil pajjiżi terzi; u

(f) deskrizzjoni ġenerali li tkun tippermetti stima preliminari li jkollha ssir dwar kemm ikunu xierqa l-miżuri li jittiehdu skond l-artikolu 26 ta' dan l-Att sabiex tiġi żgurata s-sigurtà fl-ipproċessar.

(3) Jekk il-kontrollur jahtar rappreżentant ta' *data* personali, dan għandu jiġi avżat lill-awtorità kompetenti. It-tnehhija mill-kariga ta' rappreżentant ta' *data* personali għandha wkoll tiġi avżata lill-awtorità kompetenti.

(4) Il-Ministru jista' b'regolamenti jippreskrivi dwar kull haġa li tirrigwarda l-obbligu ta' notifikazzjoni taht is-subartikolu (1) ta' dan l-artikolu għal dawn il-forom ta' pproċessar li ġejjin:

(a) l-ipproċessar li jkollu bi skop uniku ż-żamma ta' registru li skond il-liġijiet jew ir-regolamenti jkun maħsub biex jipprovdi informazzjoni lill-pubbliku u li jkun miftuħ għall-konsultazzjoni

sew mill-pubbliku kollu sew minn xi persuna li turi li jkollha interess legittimu;

(b) l-operazzjonijiet ta' proċessar imsemmija fl-artikolu 14 ta' dan l-Att;

(ċ) l-ipproċessar li ma jirriżultax f'indhil mhux dovut fl-integrità personali.

30. Ma tkunx mehtieġa li ssir in-notifikazzjoni taht is-subartikolu (1) ta' l-artikolu 29 ta' dan l-Att jekk il-kontrollur jkun ta' avviż lill-awtorità kompetenti li jkun in-hatar rappreżentant ta' *data* personali u jghid min ikun.

Deroga mill-obbligazzjoni ta' notifikazzjoni.

31. (1) Ir-rappreżentant ta' *data* personali jkollu l-funzjoni li jassigura b'mod indipendenti li l-kontrollur jipproċessa *data* personali b'mod legittimu u korrett u skond kull prattika adatta kif ukoll jiġbidlu l-attenzjoni ghal kull haġa mhux adegwata.

Funzjoni ta' rappreżentant tad-*data*.

(2) Jekk ir-rappreżentant ta' *data* personali jkollu ghalieqx jahseb li l-kontrollur jkun qed jikser id-dispożizzjonijiet applikabbli ghall-ipproċessar ta' *data* personali u jekk ma ssirx ir-rettifika kemm jista' jkun prattikament malajr wara li jintwera dan, ir-rappreżentant ta' *data* personali ghandu javża lill-awtorità kompetenti b'din is-sitwazzjoni.

(3) Ir-rappreżentant ta' *data* personali ghandu wkoll xort'ohra jikkonsulta lill-awtorità kompetenti jekk ikollu xi dubju dwar kif ghandhom jiġu applikati r-regoli li jirrigwardaw l-ipproċessar ta' *data* personali.

32. Ir-rappreżentant ta' *data* personali ghandu jzomm reġistru ta' l-ipproċessar li l-kontrollur jimplimenta u li kien ikun sugġett ghall-obbligu ta' notifikazzjoni li kieku ma kienx hemm rappreżentant. Ir-reġistru ghandu jkun fih l-informazzjoni li mill-inqas kien ikun fiha notifikazzjoni taht l-artikolu 29 ta' dan l-Att.

Reġistru ta' proċessar sugġett ghal notifikazzjoni.

33. Ir-rappreżentant ta' *data* personali ghandu jghin lis-sugġett ta' *data* jesercita d-drittijiet tiegħu taht dan l-Att.

Għajnuna lil sugġett ta' *data*.

34. (1) L-ipproċessar ta' *data* personali li jinvolvi riskji partikolari ta' indhil mhux dovut fid-drittijiet u l-libertajiet ta' sugġetti ta' *data* ghandu jinghata mill-kontrollur lill-awtorità kompetenti ghall-verifika tagħha bil-quddiem.

Notifikazzjoni obbligatorja.

(2) Il-Ministru jista' b'regolamenti jipprekrivi:

(i) regoli, proċeduri, formalitajiet u termini għall-iskop ta' l-implementazzjoni tas-subartikolu (1) ta' dan l-artikolu;

(ii) regoli dwar it-tifsiriet tal-hidmiet ta' pproċessar li jnvolvu riskji partikolari kif imsemmija fis-subartikolu (1) ta' dan l-artikolu.

Registru ta' hidmiet ta' pproċessar.

35. (1) L-awtorità kompetenti għandha żżomm registru ta' hidmiet ta' pproċessar li dwarhom tkun saret notifikazzjoni skond is-subartikolu (1) ta' l-artikolu 29 ta' dan l-Att. Ir-registru għandu jkun fih l-informazzjoni elenkata fil-paragrafi (a) sa (e) tas-subartikolu (2) ta' l-artikolu 29 ta' dan l-Att.

(2) Il-kontrollur jew ir-rappreżentant ta' *data* personali jekk jiġi hekk mgħarraf mill-kontrollur għandu, lil kull min jitlobhielu, jagħti informazzjoni kemm jista' jkun malajr u b'mod xieraq dwar dak l-ipproċessar awtomatizzat jew ipproċessar ieħor ta' *data* personali li ma tkunx saret notifikazzjoni dwaru lill-awtorità kompetenti taht is-subartikolu (2) ta' l-artikolu 29 ta' dan l-Att:

Iżda d-dispożizzjonijiet ta' dan is-subartikolu m'għandhomx ikunu japplikaw għall-informazzjoni speċifikata fil-paragrafu (e) tas-subartikolu (2) ta' l-artikolu 29 ta' dan l-Att.

Taqsim VIII - Awtorità Kompetenti

Tismija ta' awtorità kompetenti.

36. (1) L-awtorità kompetenti għandha tkun il-persuna li tiġi nominata b'Ordni tal-Ministru biex tkun l-awtorità kompetenti għall-finijiet ta' dan l-Att.

(2) Il-funzjonijiet ta' l-awtorità kompetenti għandhom jiġu eżerċitati b'indipendenza assoluta fid-deċiżjonijiet li jittiehdu.

Funzjonijiet ta' awtorità kompetenti.

37. L-awtorità kompetenti għandu jkollha dawn il-funzjonijiet li ġejjin:

(a) li twaqqaf u żżomm registru pubbliku ta' kull hidma ta' pproċessar skond in-notifikazzjonijiet lilha magħmula kif speċifikat f'dan l-Att;

(b) li tescriva kontroll u, sew minn jeddha sew fuq talba ta' sugġett ta' *data*, tivverifika jekk l-ipproċessar ikunx qed isir skond il-provvedimenti ta' dan l-Att jew regolamenti magħmulin tahtu;

(c) li tistruwixxi lill-proċessur u l-kontrollur sabiex jieħdu dawk il-miżuri li jistgħu jkunu meħtieġa biex jiġi żgurat li l-ipproċessar ikun skond dan l-Att jew regolamenti magħmulin tahtu;

(d) li tirċievi rapporti u pretensjonijiet minn suġġett ta' *data* jew assoċjazzjonijiet li jirrapprezentawhom dwar ksur ta' dan l-Att jew regolamenti magħmulin tahtu, u li tiehu dik l-azzjoni rimedjali hekk kif tista' tqis li jkun mehtieġ jew kif jista' jiġi preskritt taht dan l-Att;

(e) li tohroġ dawk l-ordnijiet li tista' tkun mehtieġa tohroġ għall-finijiet ta' dan l-Att;

(f) li tirriferrixxi lill-awtorità pubblika kompetenti kull reat kriminali li tista' tiltaqa' miegħu fit-twettiq jew minhabba fil-funzjonijiet tagħha;

(g) li tinkoraġġixxi l-abbozzar ta' kodiċijiet ta' kondotta adatti mis-setturi varji milquta bil-provvedimenti ta' dan l-Att u li taċċerta ruhha li l-provvedimenti ta' dawk il-kodiċijiet ikunu skond il-provvedimenti ta' dan l-Att u għal dak l-iskop l-awtorità kompetenti tista' tindaga kif ikunu jaħsbuha is-suġġetti ta' *data* jew ir-rappreżentanti tagħhom;

(h) li tiehu dawk il-mizuri li jistgħu jkunu mehtieġa biex ikunu magħrufa l-provvedimenti ta' dan l-Att minn kulhadd;

(i) li tordna l-imblokkar, il-kanċellament jew il-qirda ta' *data*, timponi projbizzjoni temporanja jew definittiva fuq l-ipproċessar, jew twissi jew tammonixxi lill-kontrollur;

(j) li tagħti parir lill-Ministru dwar kull haġa li jkollha x'taqsam mal-funzjonijiet tagħha;

(k) li tabbozza rapporti dwar l-attivitajiet tagħha f'intervalli regolari, mill-inqas darba fis-sena, b'dan li r-rapporti jkunu pubbliċi;

(l) li taġixxi bhala l-awtorità nazzjonali imsemmija mill-Ministru għall-iskop ta' xi trattat jew konvenzjoni li jidhol fihom il-Gvern u li jirrigwardaw il-protezzjoni ta' *data*;

(m) li teserċita kontroll fuq l-ipproċessar ta' *data* personali kif imfisser fl-artikolu 23 ta' dan l-Att u li tivverifika, ukoll wara li ssirilha talba mis-suġġett ta' *data*, li dan l-ipproċessar ikun konformi mal-provvedimenti ta' dan l-Att jew ta' kull liġi kif speċifikat fis-subartikolu (1) ta' l-artikolu 23 ta' dan l-Att.

Dritt li għandha l-awtorità kompetenti li tidhol fl-informazzjoni.

38. (1) L-awtorità kompetenti jkollha jedd tikseb malli tagħmel talba għaldaqshekk:

(a) dhul fid-*data* personali li jkun ipproċessat; u

(b) informazzjoni u dokumentazzjoni relattivi għall-ipproċessar ta' *data* personali u s-sigurtà f' dan l-ipproċessar:

Iżda meta d-*data* personali jkunu proċessati sabiex tkun tista' tithares xi obligazzjoni skond il-liġi li l-kontrollur ikun suġġett għaliha, il-Ministru jista' b'regolamenti jippreskrivi regoli u proċeduri għall-iskopijiet ta' l-implementazzjoni tal-paragrafu (a) tas-subartikolu (1) ta' dan l-artikolu.

(2) Minghajr preġudizzju għal xi dispożizzjoni oħra f' xi liġi oħra, min ma jikkonformax ruhu ma' xi talba legittima rilevanti għal xi investigazzjoni, jkun hati ta' reat kontra dan l-artikolu.

(3) L-investigazzjonijiet dwar l-ipproċessar ta' *data* imfissra fl-artikolu 23 ta' dan l-Att ikunu suġġetti għall-awtorizzazzjoni bil-miktub ta' l-awtorità kompetenti.

(4) Jekk l-awtorità kompetenti ma tkunx tista', minhabba f' talba taht is-subartikolu (1) ta' dan l-artikolu, tikseb informazzjoni biżżejjed sabiex tikkonkludi li l-ipproċessar ta' *data* personali jkun wiehed legittimu, l-awtorità kompetenti tista' tipprojbixxi lill-kontrollur ta' *data* personali milli jipproċessa *data* personali b'xi mod iehor milli bil-ħzin tagħhom.

(5) Għall-fini li jesercita s-setgħat lilha mogħtija taht dan l-artikolu, l-awtorità kompetenti jew kull persuna minnha awtorizzata bil-miktub ikollha d-dritt tidhol u tagħmel tfittxija f' kull fond fejn tkun raġonevolment tissuspetta li jkunu qed jinżammu jew jiġu pproċessati dawk id-*data* personali.

L-awtorità kompetenti tfittex li tikseb rettifika.

39. (1) Jekk l-awtorità kompetenti kkonkludiet li *data* personali jkunu qegħdin jiġu proċessati jew jistgħu jkunu proċessati b'xi mod illegittimu, l-awtorità kompetenti għandha, permezz ta' xi avviż li jiġbed l-attenzjoni jew b'xi proċedura oħra simili, jittanta jikseb rettifika. Jekk ma jkunx possibbli li jikseb rettifika b'xi mod iehor jew inkella jekk il-kwistjoni tkun wahda urgenti, l-awtorità kompetenti tista' tipprojbixxi lill-kontrollur ta' *data* personali milli jkompli jipproċessa d-*data* personali b'xi mod iehor li ma jkunx il-ħzin tagħhom.

(2) Jekk il-kontrollur ma jimplementax miżuri ta' sigurtà skond l-artikolu 26 ta' dan l-Att, l-awtorità kompetenti tista' timponi piena amministrattiva kif stipulat fis-subartikolu li ġej.

(3) F'kull wiehed mill-kazijiet imsemmija fis-subartikoli ta' qabel ta' dan l-artikolu, l-awtorità kompetenti tista', b'avviż bil-miktub, tehtieg lill-kontrollur ta' *data* personali li jhallas dik il-penali amministrattiva li tista' tiġi preskritta, iżda jekk il-kontrollur jonqos milli jhares dik il-htieġa l-awtorità kompetenti ghandha tibda proċedimenti kontra l-kontrollur:

Iżda dik il-penali amministrattiva ghandha tkun dovuta lill-awtorità kompetenti bhala dejn ċivili, li jikkostitwixxi titolu eżekuttiv għall-finijiet tat-*Titolu VII tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili* bhallikieku l-hlas ta' l-ammont tal-penali kien ġie ordnat b'deċiżjoni ta' qorti ta' kompetenza ċivili.

40. Meta l-awtorità kompetenti tiddeċiedi li *data* personali jkunu ġew ipproċessati illeġittimament, l-awtorità kompetenti tista' tagħmel rikors quddiem il-Qorti tal-Maġistrati għall-kancellament ta' dawk id-*data* personali. Deċiżjoni dwar il-kancellament tista' ma tinhariġx jekk din tkun waħda irragonevoli.

Applikazzjoni għal kancellament.

41. Qabel ma l-awtorità kompetenti tiehu deċiżjoni fl-esercizzju tal-funzjonijiet tagħha taht il-paragrafi (ċ) jew (e) ta' l-artikolu 37 ta' dan l-Att li jista' b'mod sinjifikattiv jagħmel impatt fuq it-thaddim ta' xi dipartiment governattiv jew ta' xi impriza pubblika jew privata, din ghandha tikkonsulta lill-parti jew lill-partijiet interessati li jistghu jintlaqtu direttament bid-deċiżjoni u ghandha wkoll issejjes id-deċiżjonijiet tagħha fuq raġunijiet.

Kollaborazzjoni ma' awtoritajiet ohra.

42. L-awtorità kompetenti u kull ufficjal u impjegat ta' l-awtorità kompetenti ghandhom, qabel ma jidhlu fil-karigi tagħhom, jiehdur ġurament ta' lealtà u jkunu sugġetti għall-provvedimenti ta' l-Att dwar is-Sigrieti Ufficjali, u l-Kodiċi ta' Etika kif japplikaw għall-ufficjali pubbliċi.

Ġurament ta' segretezza.

Kap. 50.

43. (1) Is-sugġett ta' *data* jista', b'ċitazzjoni li tiġi pprezentata fill-Prim'Awla tal-Qorti Ċivili, jibda azzjoni kontra l-kontrollur li jipproċessa *data* bi ksur ta' dan l-Att jew regolamenti magħmulin tahtu, għall-hlas tad-danni attwali, u għall-kumpens għal danni morali, f'ammont li ma jeċċedix hamest elef lira Maltija (Lm5,000) dwar il-vjolazzjoni ta' l-integrità personali bhala riżultat ta' dak l-ipproċessar.

Kumpens għal danni.

(2) Azzjoni taht dan l-artikolu ghandha tinbeda fi żmien perjodu ta' tna-x-il xahar mid-*data* meta is-sugġett ta' *data* jsir jaf jew seta' jsir jaf b'dan il-ksur, skond liema tiġi l-ewwel.

44. (1) Kull persuna li:

Pieni.

(a) tipprovdi informazzjoni mhux vera f'dik l-informazzjoni lil sugġetti ta' *data* kif hemm preskritta b'dan l-Att, jew fin-notifikazzjoni lill-awtorità kompetenti taht l-artikolu 29 ta' dan l-

Att jew lill-awtorità kompetenti meta l-awtorità kompetenti titlob informazzjoni skond l-artikolu 38 ta' dan l-Att;

(b) tipproċessa *data* personali bi ksur tad-dispożizzjonijiet ta' l-artikoli 12 sa 17 ta' dan l-Att;

(ċ) tittrasferixxi *data* personali lil pajjiż terz bi ksur ta' l-artikoli 27 u 28 ta' dan l-Att;

(d) tonqos milli taghti notifikazzjoni taht l-artikolu 29 (1) jew skond ir-regolamenti mahruġa taht l-artikolu 34 ta' dan l-Att;

tkun hatja ta' reat u tista' tehel, meta tinsab hatja, multa ta' mhux iżjed minn Lm 10,000 jew prigunerija ghal sitt xhur jew ghal dik il-multa u prigunerija flimkien.

(2) Kull min ikun kiser ordni sugġetta ghal multa dwar nuqqas ta' konformità skond is-subartikolu (2) ta' l-artikolu 38 jew is-subartikolu (1) ta' l-artikolu 39 ta' dan l-Att, ma jinghatax sentenza bhala li jkun hati ta' xi att li jkun sugġett ghall-ordni ta' multa dwar nuqqas ta' konformità.

Bord ta' l-Appelli
dwar il-Protezzjoni
ta' *Data*.

45. (1) Ikun hemm Bord ta' l-Appelli dwar il-Protezzjoni ta' *Data*, li jkun magħmul minn tliet membri, li wiehed minnhom, li jkun il-president, għandu jkun persuna li tkun eserċitat bhala avukat ghal mhux inqas minn seba' snin.

(2) Il-membri tal-Bord għandhom jinhatru mill-Ministru ghal perjodu ta' sentejn u jistgħu jerġghu jiġu mahtura drabi oħra.

Kap. 12.

(3) Membru tal-Bord jista' jiġi rikuzat jew jastjeni ghal xi waħda mir-raġunijiet li għalihom jista' jiġi rikuzat jew jastjeni mħallef skond l-artikolu 734 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. F'kull każ bhal dak il-Ministru għandu jahtar persuna, li jkollha l-kwalifiki tal-membru rikuzat jew li jastjeni, biex joqgħod bhala membru tal-Bord minflok il-membru msemmi.

(4) Membru tal-Kamra tar-Rappreżentanti jew ta' xi Kunsill Lokali għandu jkun skwalifikat milli jinhatar jew ikompli jkun membru tal-Bord ghal daqskemm żmien idum f'dik il-kariga.

(5) Il-Ministru għandu wkoll jahtar persuna biex tagħmilha ta' segretarju tal-Bord.

Appelli.

46. (1) Persuna li thoss ruhha aggravata b'xi deċiżjoni ta' l-awtorità kompetenti għandu jkollha l-jedd li tagħmel appell minn dik id-deċiżjoni billi tikkomunika bil-miktub mal-Bord ta' l-Appelli dwar

il-Protezzjoni ta' *Data* fi żmien tletin jum minn meta tiġi avżata b'dik id-deċiżjoni.

(2) Jista' jsir appell quddiem il-Bord għal kull waħda mir-raġunijiet li ġejjin:

(a) li jkun sar żball materjali dwar il-fatti;

(b) li kien hemm żball materjali fil-proċedura;

(c) li jkun sar żball fil-liġi;

(d) li kien hemm xi illegalità materjali, inkluża l-irragonevolezza jew nuqqas ta' proporzjonalità.

(3) Il-Bord għandu jsejjes id-deċiżjoni tiegħu fuq raġunijiet u għandu jara li dawk id-deċiżjonijiet jkunu pubbliċi filwaqt li jithallew barra, jekk iqis li jkun hekk xieraq għal raġunijiet ta' konfidenzjalità, l-ismijiet tal-persuni involuti.

(4) Fid-deċiżjoni ta' appell taht dan l-artikolu l-Bord jista':

(i) jiċhad l-appell;

(ii) jannulla d-deċiżjoni,

u meta l-Bord jannulla d-deċiżjoni, jista' jirreferi l-kwistjoni lill-awtorità kompetenti flimkien ma' ordni biex din terġa' tikkunsidraha mill-ġdid u tasal għal deċiżjoni skond ir-riżultanzi tal-Bord.

(5) L-effett ta' deċiżjoni li dwarha jkun hemm appell ma għandux, hlief meta l-Bord jew il-Qorti ta' l-Appell, skond il-każ, hekk jordna, jkun sospiż b'konsegwenza ta' l-għemil ta' dak l-appell.

47. (1) Il-Bord ikun kompetenti li jisma u jiddeċiedi appell li jingieb quddiemu skond id-dispożizzjonijiet ta' dan l-Att u regolamenti magħmulin tahtu; u bla ħsara għall-artikolu 48 ta' dan l-Att, id-deċiżjonijiet tal-Bord għandhom ikunu finali u vinkolanti.

Setgħat u proċedura tal-Bord.

(2) Għall-eżerċizzju tal-funzjonijiet tiegħu il-Bord jista' jharrek lil kull persuna biex tidher quddiemu sabiex tixhed u ġgib dokumenti magħha; u l-president ikollu s-setgħa li jagħti l-ġurament. Il-Bord jista' wkoll jahtar periti biex jagħtu parir lill-Bord fuq kull suġġett tekniku li jista' jkun relevanti għad-deċiżjoni tiegħu.

(3) Għall-għanijiet hawn aktar qabel imsemmija, il-Bord ikollu l-istess setgħat bħalma jappartjenu lill-Prim'Awla tal-Qorti Ċivili skond il-liġi.

(4) Il-proċedura li għandha tiġi segwita quddiem il-Bord għandha tkun dik li tista' tiġi preskritta; u bla hsara għal dan, u għal kull dispożizzjoni applikabbli oħra ta' dan l-Att, il-Bord jista' jirregola l-proċedura tiegħu nnifsu.

Appell quddiem il-Qorti ta' l-Appell.

48. Parti f'appell quddiem il-Bord li thoss ruhha aggravata b'deċiżjoni tal-Bord, jew l-awtorità kompetenti jekk din thoss ruhha mhux sodisfatta b'xi deċiżjoni bhal dik, tista' fuq punt ta' liġi tappella quddiem il-Qorti ta' l-Appell kif magħmula skond is-subartikolu (6) ta' l-artikolu 41 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili permezz ta' rikors li jiġi ppreżentat fir-reġistru ta' dik il-qorti, fil-każ ta' appell mill-awtorità kompetenti fi żmien tletin għurnata minn meta l-Bord jagħti d-deċiżjoni tiegħu, u fil-każ ta' xi persuna oħra fi żmien tletin għurnata minn meta dik id-deċiżjoni tkun għet lilha notifikata.

Taqsimha IX - Ġenerali

Setgħa ta' għemil ta' regolamenti.

49. Il-Ministru jista' jippreskrivi regolamenti sabiex id-dispożizzjonijiet ta' dan l-Att ikunu jistgħu jitwettqu aħjar, u mingħajr preġudizzju għall-ġeneralità ta' dak hawn aktar qabel imsemmi huwa jista' b'mod partikolari jippreskrivi regolamenti li jirrigwardaw:—

(a) il-każijiet li fihom ikun permess l-ipproċessar ta' *data* personali;

(b) il-htigiet li jkunu imposti fuq il-kontrollur meta jkun qed jipproċessa *data* personali;

(c) x'għandu jkun fiha notifikazzjoni jew applikazzjoni lil kontrollur;

(d) liema informazzjoni għandha tiġi pprovduta lis-suġġett ta' *data* u kif għandha tiġi pprovduta dik l-informazzjoni;

(e) in-notifikazzjoni lill-awtorità kompetenti u l-proċedura meta l-informazzjoni notifikata tkun għet mibdula;

(f) regoli u proċeduri li għandhom x'jaqsmu ma' l-aċċess li l-awtorità kompetenti tagħmel ta' *data* miżmuma f'dawk il-każijiet meta l-kontrollur jipproċessa *data* bil-għan li jhares xi obligazzjoni imposta skond il-liġi;

(g) il-kwalifiki meħtieġa sabiex persuna tiġi mahtura bhala rappreżentant ta' *data* personali;

(h) l-inqas garanziji li jiġu provduti min organizzazzjonijiet bla skop ta' profitt fl-ipproċessar ta' *data* personali;

(i) id-drittijiet li jistghu jingabru mill-awtorità kompetenti;

(j) il-pieni amministrattivi li jistghu jiġi imposti mill-awtorità kompetenti u l-kontravvenzjonijiet amministrattivi li dwarhom jistghu jiġu imposti dawk il-penali; iżda dawk il-penali ma ghandhomx ikunu f'ammont iżjed minn Lm 1,000;

(k) il-pieni li jistghu jiġu imposti taht dan l-Att; u

(l) dwar kull haġa li tista' tiġi preskritta taht xi wahda mid-dispożizzjonijiet ta' dan l-Att.

50. Fil-każ ta' kunflitt bejn it-test Malti u dak Inġliż ta' dan l-Att, jipprevali t-test Inġliż. It-test Inġliż ghandu jipprevali.

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz huwa sabiex jipprovdi dwar il-protezzjoni ta' individwi kontra l-ksur tal-privatezza u l-integrità personali tagħhom bl-ipproċessar ta' *data* personali.

Għak dan l-iskop l-Abbozz jipproponi t-twaqqif ta' korp regolatorju bil-funzjoni li jkollu kontroll assolut fuq l-ipproċessar ta' *data* personali.

DATA PROTECTION ACT, 2000

Arrangement of articles

Articles

Part I – Preliminary

1. Short title and commencement
2. Interpretation

Part II – Applicability

3. Territorial scope
4. Mode of processing
5. Non-applicability of the Act
6. Freedom of expression

Part III – Requirements and Criteria for Processing

7. Requirements for processing
8. Processing for historical purposes, etc
9. Criteria for processing
10. Direct marketing
11. Revocation of consent
12. Sensitive personal data
13. Necessary processing

Part IV – Processing for Specific Purposes

14. Processing by foundations, etc
15. Processing concerning health or medical purposes
16. Processing concerning research and statistics
17. Processing concerning legal offences
18. Processing of identity card number

Part V – Data Collection and Right of Access

19. Information to data subject
20. Data collected from other source
21. Right of access
22. Rectification

Part VI – Exemptions, Rectification and other Measures

23. Exemptions and restrictions in case of secrecy, etc
24. Decisions based on automated processing
25. Persons authorised to process data
26. Security measures relating to processing
27. Transfer of data to a third country
28. Exemptions from the prohibition of the transfer of data to third country

Part VII – Notification and other Procedures

29. Obligation for notification
30. Derogation from the obligation for notification
31. Function of data representative
32. Register of processing subject to notification
33. Assistance to data subject
34. Mandatory notification
35. Register of processing operations

Part VIII – Competent Authority

36. Designation of competent authority
37. Functions of competent authority
38. Competent authority's right of access to information
39. Competent authority to seek rectification
40. Application for erasure
41. Collaboration with other authorities
42. Oath of secrecy
43. Compensation for damages

C 1342

44. Penalties
45. Data Protection Appeals Board
46. Appeals
47. Powers and procedure of the Board
48. Appeal to the Court of Appeal

Part IX – General

49. Power to make regulations
50. English text to prevail

**A BILL
entitled**

AN ACT to make provision for the protection of individuals against the violation of their privacy and personal integrity by the processing of personal data and for matters connected therewith or ancillary thereto.

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

1. The title of this Act is the Data Protection Act, 2000 and shall come into force on such 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. Short title and commencement.

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

“blocking” in relation to personal data, means the operation to suspend or restrict the provision of information to a third party when such provision is so suspended or restricted in accordance with the provisions of this Act;

“competent authority” means the authority so designated in terms of article 36 of this Act;

“consent” means any freely given specific and informed indication of the wishes of the data subject by which he signifies his agreement to personal data relating to him being processed;

“controller of personal data” or “controller” means a person who alone or jointly with others determines the purposes and means of the processing of personal data;

“data subject” means a natural person to whom the personal data relates;

Cap.258.

“identity card number” means the identifying number contained in an identity card as provided in the Identity Card Act;

“Minister” means the Minister responsible for communications;

“personal data” means any information relating to an identified or identifiable natural person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;

“personal data filing system” means any structured set of personal data which is accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis;

“personal data representative” means a person, appointed by the controller of personal data, who shall independently ensure that the personal data is processed in a correct and lawful manner;

“prescribed” means prescribed by regulations made by the Minister in accordance with the provisions of this Act, after consultation with the competent authority;

“processing” and “processing of personal data” mean any operation or set of operations which is taken as regards personal data, whether or not it occurs by automatic means, and includes the collection, recording, organisation, storage, adaptation, alteration, retrieval, gathering, use, disclosure by transmission, dissemination or otherwise making information available, alignment or combination, blocking, erasure or destruction of such data;

“processor” means a person who processes personal data on behalf of the controller;

“recipient” means a person to whom personal data is provided; however, when personal data is provided in order that the competent authority may perform such supervision, control or audit that it is under a duty to attend to, the competent authority shall not be regarded as a recipient;

“sensitive personal data” means personal data that reveals race or ethnic origin, political opinions, religious or philosophical beliefs, membership of a trade union, health, and sex life;

“third country” means a State that is not included in a schedule which may from time to time be prescribed under this Act;

“third party” means a person other than the data subject, the controller of personal data, the personal data representative, the processor and such persons who under the direct responsibility of the controller of personal data or the processor is authorised to process personal data.

Part II – Applicability

3. (1) This Act applies:

Territorial scope.

(a) to a controller of personal data established in Malta and in a Maltese Embassy or High Commission abroad;

(b) to a controller of personal data established in a third country provided that the equipment used for the processing of the personal data is situated in Malta;

(c) until such time as the Minister may by order prescribe, to a controller of personal data established in a country listed in the Schedule to this Act who process data in Malta.

(2) Without prejudice to the provisions of subarticle (3) of this article, the provisions of paragraph (b) of subarticle (1) of this article shall not apply if the equipment is used only for purposes of transit of information between a third country and another such country.

(3) For the purposes of subarticle (2) of this article the controller shall designate a representative established in Malta.

4. The provisions of this Act shall apply to the processing of personal data, wholly or partly, by automated means and to such processing other than by automated means where such personal data

Mode of processing.

forms part of a filing system or is intended to form part of a filing system.

Non-applicability of the Act.

5. This Act shall not apply to processing of personal data where such processing is undertaken by a natural person in the course of a purely personal activity.

Freedom of expression.

Cap. 319.
Cap. 248.

6. (1) Subject to what is provided in this article, the provisions of this Act shall not affect the provisions of the European Convention Act relating to freedom of expression, or the provisions of the Press Act relating to journalistic freedoms.

(2) Notwithstanding the provisions of subarticle (1) of this article the competent authority shall encourage the drawing up of a suitable code of conduct to be applicable to journalists and the media to regulate the processing of any personal data and the code of conduct shall provide appropriate measures and procedures to protect the data subject, having regard to the nature of the data.

(3) In the absence of such code of conduct, the competent authority may establish specific measures and procedures to protect the data subjects; in such a case journalists and the media are to comply with measures and procedures so established.

(4) If the measures and procedures contained in the code of conduct applicable to journalists and the media in terms of subarticle (2) or (3) are not complied with, the competent authority may impose a ban on all or part of a data processing and order the blocking of data when, having regard to the nature of the data, the means of the processing or the effects that it may have, there is a serious risk of a relevant damage to one or more data subjects.

Part III – Requirements and Criteria for Processing

Requirements for processing.

7. The controller shall ensure that:
- (a) personal data is processed only if it is lawful;
 - (b) personal data is always processed in a correct manner and in accordance with good practice;
 - (c) personal data is only collected for specific, explicitly stated and legitimate purposes;
 - (d) personal data is not processed for any purpose that is incompatible with that for which the information is collected;

(e) personal data that is processed is adequate and relevant in relation to the purposes of the processing;

(f) no more personal data is processed than is necessary having regard to the purposes of the processing;

(g) personal data that is processed is correct and, if necessary, up to date;

(h) all reasonable measures are taken to complete, correct, block or erase data to the extent that such data is incomplete or incorrect, having regard to the purposes for which they are processed;

(i) personal data is not kept for a longer period than is necessary, having regard to the purposes for which they are processed.

8. The processing of personal data for historical, statistical or scientific purposes shall not be regarded as incompatible with the purposes for which the information was collected: Processing for historical purposes, etc.

Provided that the Controller shall ensure that:

(a) the appropriate safeguards are in place where personal data for historical, statistical or scientific purposes may be kept for a longer period; or

(b) personal data kept for historical, statistical or scientific purposes shall not be used for any decision concerning a data subject.

9. Personal data may be processed only if: Criteria for processing.

(a) the data subject has unambiguously given his consent; or

(b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract; or

(c) processing is necessary for compliance with a legal obligation to which the controller is subject; or

(d) processing is necessary in order to protect the vital interests of the data subject; or

(e) processing is necessary for the performance of an activity that is carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the data is disclosed; or

(f) processing is necessary for a purpose that concerns a legitimate interest of the controller or of such a third party to whom personal data is provided, and is able to be satisfied, except where such interests are overridden by the interests for fundamental rights and freedoms of the data subject.

Direct marketing.

10. (1) Personal data may not be processed for purposes concerning direct marketing, if the data subject gives notice in writing to the controller of personal data that he opposes such processing.

(2) The controller shall appropriately inform the data subject of his right to oppose, at no cost, the processing referred to subarticle (1) of this article.

Revocation of consent.

11. (1) In those cases where processing of personal data is only permitted when the data subject has provided his consent under article 9, 12(2) or 28(1), the data subject is entitled to revoke at any time the consent that has been given. Thereafter, no personal data about the data subject may be processed.

(2) A data subject is not entitled, beyond that provided by articles 10 and 11(1), to oppose such processing of personal data or revoke such consent to processing of personal data as is permitted under this Act.

Sensitive personal data.

12. (1) Subject to the other provisions of this Act no person shall process sensitive personal data:

Provided that such personal data may be processed in those cases provided for under subarticle (2) of this article and under articles 13 to 16 of this Act or as may be prescribed by the Minister having regard to the public interest.

(2) Sensitive personal data may be processed if the data subject:

(a) has given his explicit consent to processing; or

(b) if the data is manifestly made public by the data subject.

Necessary processing.

13. Sensitive personal data may be processed if the processing is necessary in order that:

(a) the controller will be able to comply with his duties or exercise his rights within employment law; or

(b) the vital interests of the data subject or some other person will be able to be protected and data subject is physically or legally incapable of giving his consent; or

(c) legal claims will be able to be established, exercised or defended.

Part IV – Processing for Specific Purposes

14. Non-profit-seeking organisations with political, philosophical, religious or trade union objects may, in the course of their legitimate activities and with appropriate guarantees, process sensitive personal data concerning the members of the respective entity and such other persons who by reason of the objects of the entity have regular contact with it: Processing by foundations, etc.

Provided that sensitive personal data may be provided to a third party only if the data subject explicitly consents thereto.

15. Sensitive personal data may be processed for health and hospital care purposes, provided that it is necessary for: Processing concerning health or medical purposes.

- (a) preventive medicine and the protection of public health;
- (b) medical diagnosis;
- (c) health care or treatment; or
- (d) management of health and hospital care services:

Provided that the data is processed by a health professional subject to the obligation of professional secrecy, or by another person also subject to such obligation.

16. (1) Sensitive personal data may be processed for research and statistics purposes, provided that the processing is necessary as stipulated in subarticle (e) of article 9. Processing concerning research and statistics.

(2) If the processing referred to in subarticle (1) above has been approved:

- (a) in the case of statistics, by the competent authority itself;

(b) in the case of research, by the competent authority on the advice of a research ethics committee of a recognised institution,

the provisions of subarticle (1) of this article shall be deemed to be satisfied.

(3) Personal data may be provided to be used for the purposes referred to in subarticle (1) above, unless otherwise provided by applicable rules on secrecy and confidentiality.

Processing concerning legal offences.

17. (1) Data relating to offences, criminal convictions or security measures may only be processed under the control of a public authority.

(2) For this purpose, the Minister may by regulations authorise any person to process the data referred to in subarticle (1) above subject to such suitable specific safeguards as may be prescribed:

Provided that a complete register of criminal convictions may only be kept under the control of a public authority.

Processing of identity card number.

18. The identity card number may, in the absence of consent, only be processed when it is clearly justified having regard to:

- (a) the purpose of the processing;
- (b) the importance of a secure identification;
- (c) some other valid reason as may be prescribed.

Part V – Data Collection and Right of Access

Information to data subject.

19. (1) The controller or any other person authorised by him in that behalf must provide a data subject from whom data relating to the data subject himself are collected, with at least the following information, except where the data subject already has it:

- (a) the identity of the controller and of any other person authorised by him in that behalf, if any;
- (b) the purposes of the processing for which the data are intended;
- (c) any further information such as:
 - (i) the recipients or categories of the data;

(ii) whether replies to the questions are obligatory or voluntary, as well as the possible consequence of failure to reply;

(iii) the existence of the right to access to and the right to rectify the data concerning him.

(2) Insofar as such further information is necessary, having regard to the specific circumstances in which the data are collected, the controller is to guarantee fair processing in respect of the data subject.

20. (1) If, in relation to a data subject, the controller or any other person authorised by him in that behalf discloses or intends to disclose personal data to a third party, the controller or any other person authorised by him in that behalf shall provide the data subject with at least the following information:

Data collected from other source.

(a) the identity of the controller and of any other person authorised by him in that behalf;

(b) the purposes of the processing;

(c) any further information including:

(i) the categories of data concerned;

(ii) the recipients or categories of recipients;

(iii) the existence of the right of access to and the right to rectify the data concerning him;

in so far as such further information is necessary, having regard to the specific circumstances in which the data is processed, to guarantee fair processing in respect of the data subject:

Provided that, if the data is intended to be disclosed to a third party, the information about the processing need not be given before the data is disclosed for the first time.

(2) Information under subarticle (1) hereof need not be provided if there are provisions concerning the registration or disclosure of personal data in any law.

(3) Information under subarticle (1) hereof need not be provided if it is required:

- (i) for processing for statistical purposes;
- (ii) for purposes of historical or scientific research,

and insofar as the provision of such information does not prove impossible or would involve a disproportionate effort:

Provided that if the data is used to take measures concerning the data subject, the information specified in terms of subarticle (1) of this article shall be provided at the latest in conjunction with that happening.

(4) When the information is collected from another source the controller or any other person authorised by him in that behalf should provide the data subject with information as provided in paragraphs (a), (b) and (c) of subarticle (1) of article 19 of this Act.

Right of access.

21. (1) The controller of personal data at the request of the data subject is to provide to the data subject, without excessive delay or expense, written information as to whether personal data concerning the data subject is processed:

Provided that a request by the data subject under this subarticle shall only be made by the data subject at reasonable intervals.

(2) If such data is processed the data controller is to provide to the data subject written information in an intelligible form about:

- (i) which information about the data subject is processed;
- (ii) where this information has been collected;
- (iii) the purpose of the processing;
- (iv) to which recipients or categories of recipients the information is disclosed; and
- (v) knowledge of the logic involved in any automatic processing of data concerning the data subject.

(3) An application under subarticle (1) hereof shall be made in writing to the controller of personal data and is to be signed by the data subject.

(4) The data controller without excessive delay shall provide the data subject with information under subarticle (1) hereof.

22. (1) The controller is liable at the request of the data subject to immediately rectify, block or erase such personal data that has not been processed in accordance with this Act or regulations made under this Act. Rectification.

(2) The controller shall notify a third party to whom the data has been disclosed about the measure undertaken under subarticle (1) of this article:

Provided that no such notification need be provided if it is shown to be impossible or would involve a disproportionate effort.

Part VI – Exemptions, Rectification and other Measures

23. (1) The provisions of articles 7, 19, 20(1), 21 and 35 of this Act shall not apply when a law specifically provides for the provision of information as a necessary measure in the interest of: Exemptions and restrictions in case of secrecy, etc.

- (a) national security;
- (b) defence;
- (c) public security;
- (d) the prevention, investigation, detection and prosecution of criminal offences, or of breaches of ethics for regulated professions;
- (e) an important economic or financial interest including monetary, budgetary and taxation matters;
- (f) a monitoring, inspection or regulatory function connected, even occasionally, with the exercise of official authority referred to in paragraphs (c), (d) and (e) of this subarticle; or
- (g) such information being prejudicial to the protection of the data subject or of the rights and freedoms of others.

(2) The provisions of article 21 of this Act shall not apply when data is processed solely for purposes of scientific research or is kept in personal form for a period which does not exceed the period necessary for the sole purpose of creating statistics:

Provided that the data is not used for taking measures or decisions regarding any particular individual or where there is a risk of breaching the privacy of the data subject.

Decisions based on automated processing.

24. (1) If a decision that has legal effects for a natural person or otherwise has manifest effects for the natural person, is based solely on automated processing of such personal data as is intended to assess the qualities of the person, the person who is affected by the decision shall have the opportunity to request to have the decision reconsidered by the person responsible for such decision following a representation made by the natural person.

(2) The provisions of subarticle (1) of this article shall not apply where the decision is taken in the course of the entering into or performance of a contract, provided that the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or that there are suitable measures to safeguard his legitimate interests.

(3) A person who is the subject of a decision referred to in subarticle (1) of this article is entitled to obtain upon representation information from the controller about what has controlled the automated processing that resulted in the decision:

Provided that information made available by the controller is subject to the provisions of article 21 of this Act.

Persons authorised to process data.

25. (1) Any person acting under the authority of the controller or of the processor, including the processor himself, who has access to personal data may only process personal data in accordance with instructions from the controller unless the person is otherwise required to do so by law.

(2) The carrying out of processing by way of a processor is to be governed by a contract or legal act in a written or in an equivalent form binding the processor to the controller and stipulating in particular that the processor:

(a) shall act only on instructions from the controller;

(b) is liable to take those measures referred to in subarticle (1) of article 26 of this Act.

Security measures relating to processing.

26. (1) The controller shall implement appropriate technical and organisational measures to protect the personal data that is processed against accidental destruction or unlawful forms of processing thereby providing an appropriate level of security that gives regard to the:

- (a) technical possibilities available;
 - (b) cost of implementing the security measures;
 - (c) special risks that exist in the processing of personal data;
 - (d) sensitivity of the personal data being processed.
- (2) If the controller engages a processor, the controller shall ensure that the processor:
- (a) can implement the security measures that must be taken;
 - (b) actually takes the measures identified.

27. (1) Without prejudice to the provisions of article 28 of this Act, the transfer to a third country of personal data that is undergoing processing or intended processing, may only take place subject to the provisions of this Act and provided that the third country to which they are transferred ensures an adequate level of protection.

Transfer of data to a third country.

(2) The adequacy of the level of protection of a third country shall be assessed in the light of all the circumstances surrounding a data transfer operation or a set of data transfer operations; particular consideration shall be given to the nature of the data, the purpose and duration of the proposed processing operation or operations, the country of origin and country of final destination, the rules of law, both general and sectoral, in force in the third country in question and the professional rules and security measures which are complied with in that country.

(3) It is for the competent authority to decide whether a third country ensures an adequate level of protection.

(4) The transfer of personal data to a third country that does not ensure adequate protection shall be prohibited.

28. (1) A transfer of personal data to a third country that does not ensure an adequate level of protection within the meaning of subarticle (2) of article 27 of this Act may be authorised by the competent authority if the data subject has given his unambiguous consent to the proposed transfer or if the transfer:

Exemptions from the prohibition of the transfer of data to third country.

- (a) is necessary for the performance of a contract between the data subject and the controller or the implementation of precontractual measures taken in response to the data subject's request;

(b) is necessary for the performance or conclusion of a contract concluded or to be concluded in the interests of the data subject between the controller and a third party;

(c) is necessary or legally required on important public interest grounds, or for the establishment, exercise or defence of legal claims;

(d) is necessary in order to protect the vital interests of the data subject; or

(e) is made from a register that according to laws or regulations is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate legitimate interest, provided that the conditions laid down in law for consultation are fulfilled in the particular case.

(2) Without prejudice to subarticle (1) of this article the competent authority may authorise a transfer or a set of transfers of personal data to a third country that does not ensure an adequate level of protection within the meaning of subarticle (2) of article 27 of this Act provided that the controller adduces adequate safeguards with respect to the protection of the privacy and fundamental rights and freedoms of individuals with respect to their exercise, particularly by means of appropriate contractual clauses.

(3) The authorisation provided for in subarticle (2) of this article shall be granted or derogated by the competent authority according to his own procedures.

(4) A transfer of personal data which is necessary for the protection of national security, defence, public safety and the prevention, investigation and prosecution of criminal offences shall be governed by special legal provisions or by the international conventions and agreements to which Malta is a party.

Part VII – Notification and other Procedures

Obligation for notification.

29. (1) The controller shall notify the competent authority before carrying out any wholly or partially automated processing operation or set of such operations intended to serve a single purpose or several related purposes.

(2) The notification referred to in subarticle (1) above must specify:

- (a) the name and address of the data controller and of any other person authorised by him in that behalf, if any;
- (b) the purpose or purposes of the processing;
- (c) a description of the category or categories of data subject and of the data or categories of data relating to them;
- (d) the recipients or categories of recipient to whom the data might be disclosed;
- (e) proposed transfers of data to third countries; and
- (f) a general description allowing a preliminary assessment to be made of the appropriateness of the measures taken pursuant to article 26 of this Act to ensure security of processing.

(3) If the controller appoints a personal data representative, this shall be notified to the competent authority. Removal from office of a personal data representative shall also be notified to the competent authority.

(4) The Minister may by regulations prescribe matters concerning the notification obligation under subarticle (1) of this article for the following forms of processing:

- (a) processing whose sole purpose is the keeping of a register which according to laws or regulations is intended to provide information to the public and which is open to consultation either by the public in general or by any person demonstrating a legitimate interest;
- (b) processing operations referred to in article 14 of this Act;
- (c) processing that would not result in an improper intrusion of personal integrity.

30. Notification under subarticle (1) of article 29 of this Act need not be made if the controller has given notice to the competent authority that a personal data representative has been appointed and who he is.

Derogation from the obligation for notification.

31. (1) The personal data representative shall have the function of independently ensuring that the controller processes personal data in

Function of data representative.

a lawful and correct manner and in accordance with good practice and also points out any inadequacies to him.

(2) If the personal data representative has reason to suspect that the controller contravenes the provisions applicable for processing personal data and if rectification is not implemented as soon as practicable after being pointed out, the personal data representative shall notify this situation to the competent authority.

(3) The personal data representative shall also otherwise consult with the competent authority in the event of doubt about how the rules applicable to processing of personal data shall be applied.

Register of processing subject to notification.

32. The personal data representative shall maintain a register of the processing that the controller implements and which would have been subject to the duty of notification if the representative had not existed. The register shall comprise at least the information that a notification under article 29 of this Act would have contained.

Assistance to data subject.

33. The personal data representative shall assist the data subject to exercise his rights under this Act.

Mandatory notification.

34. (1) Processing of personal data that involves particular risks of improper interference with the rights and freedoms of data subjects shall be submitted for prior checking to the competent authority by the controller.

(2) The Minister may by regulations prescribe:

(i) rules, procedures, formalities and time limits for the purposes of the implementation of subarticle (1) of this article;

(ii) rules as to the definitions of the processing operations involving particular risks as referred to in subarticle (1) of this article.

Register of processing operations.

35. (1) The competent authority shall maintain a register of processing operations notified in accordance with subarticle (1) of article 29 of this Act. The register shall contain the information listed in paragraphs (a) to (e) of subarticle (2) of article 29 of this Act.

(2) The controller or the personal data representative if so instructed by the controller shall, to any person who requests it, expeditiously and in an appropriate manner, provide information about such automated or other processing of personal data that have not been

notified to the competent authority under subarticle (2) of article 29 of this Act:

Provided that the provisions of this subarticle shall not apply to the information specified in paragraph (e) of subarticle (2) of article 29 of this Act.

Part VIII – Competent Authority

36. (1) The competent authority shall be the person designated by Order of the Minister to be the competent authority for the purposes of this Act. Designation of competent authority.

(2) The functions of the competent authority shall be exercised with complete independence of judgement.

37. The competent authority shall have the following functions: Functions of competent authority.

(a) to create and maintain a public register of all processing operations according to notifications submitted to it as specified in this Act;

(b) to exercise control and, either of his own motion or at the request of a data subject, verify whether the processing is carried on in accordance with the provisions of this Act or regulations made thereunder;

(c) to instruct the processor and controller to take such measures as may be necessary to ensure that the processing is in accordance with this Act or regulations made thereunder;

(d) to receive reports and claims from data subjects or associations representing them on violations of this Act or regulations made thereunder, and to take such remedial action as it deems necessary or as may be prescribed under this Act;

(e) to issue such directions as may be required of it for the purposes of this Act;

(f) to refer to the competent public authority any criminal offence encountered in the course of or by reason of its functions;

(g) to encourage the drawing up of suitable codes of conduct by the various sectors affected by the provisions of this Act and to ascertain that the provisions of such codes are in accordance with the provisions of this Act and for such purpose the competent

authority may seek the views of data subjects or their representatives;

(h) to take such measures as may be necessary so as to bring to the knowledge of the general public the provisions of this Act;

(i) to order the blocking, erasure or destruction of data, to impose a temporary or definitive ban on processing, or to warn or admonish the controller;

(j) to advise the Minister on any matter relating to its functions;

(k) to draw up reports on his activities at regular intervals, at least once a year, which reports shall be made public;

(l) to act as the national authority as designated by the Minister for the purpose of any treaty or convention concerning data protection entered into by Government;

(m) to exercise control on the processing of personal data described in article 23 of this Act and to verify, also on request of the data subject, the compliance of such processing with the provisions of this Act or of any law as specified in subarticle (1) of article 23 of this Act.

Competent authority's right of access to information.

38. (1) The competent authority is entitled to obtain on request:

(a) access to the personal data that is processed, and

(b) information about and documentation of the processing of personal data and security of this processing:

Provided that where the personal data is processed for compliance with a legal obligation to which the controller is subject, the Minister may by regulation prescribe rules and procedures for the purposes of the implementation of paragraph (a) of subarticle (1) of this article.

(2) Without prejudice to any other provision of any other law, any person who does not comply with any lawful request relevant to an investigation shall be guilty of an offence against this article.

(3) The investigations on the data processing described in article 23 of this Act are subject to the written authorisation of the competent authority.

(4) If the competent authority cannot, pursuant to a request under subarticle (1) of this article, obtain sufficient information in order to conclude that the processing of personal data is lawful, the competent authority may prohibit the controller of personal data to process personal data in any other manner than by storing them.

(5) For the purpose of exercising the powers granted to it under this article, the competent authority or any person authorised in writing by it shall have the right to enter and search any premises where it reasonably suspects that such personal data is held or processed.

39. (1) If the competent authority concluded that personal data is processed or may be processed in an unlawful manner, the competent authority shall, by a reminder or similar procedure, endeavour to attain rectification. If it is not possible to attain rectification in any other manner or if the matter is urgent, the competent authority may prohibit the controller of personal data to continue processing the personal data in any manner other than by storing them.

Competent authority to seek rectification.

(2) If the controller does not implement security measures in terms of article 26 of this Act, the competent authority may impose an administrative fine as stipulated in the following subarticle.

(3) In any of the cases mentioned in the preceding subarticles of this article, the competent authority may, by notice in writing, require the controller of personal data to pay such administrative fine as may be prescribed, provided that if the controller fails to comply with such requirement the competent authority shall commence proceedings against the controller:

Provided that such administrative fine shall be due to the competent authority as a civil debt, constituting an executive title for the purposes of Title VII of the Code of Organization and Civil Procedure as if payment of the amount of the fine had been ordered by a judgement of a court of civil jurisdiction.

40. Where the competent authority decides that personal data has been unlawfully processed, the competent authority may apply to the Court of Magistrates for the erasure of such personal data. A decision on erasure may not be issued if it is unreasonable.

Application for erasure.

41. The competent authority, before taking a decision in the exercise of its functions under paragraphs (c) or (e) of article 37 of this Act which may significantly impact the operation of any government department or of any public or private enterprise, shall consult the

Collaboration with other authorities.

interested party or parties who may be directly affected by the decision and he shall give reasons of his decisions.

Oath of secrecy.

42. The competent authority and any officer and employee of the competent authority shall, before assuming their duties, take an oath of office and shall be subject to the provisions of the Official Secrets Act, and the Code of Ethics applicable to public officers.

Cap. 50.

Compensation for damages.

43. (1) The data subject may, by writ of summons filed in the First Hall of the Civil Court, exercise an action against the controller who processes data in contravention of this Act or regulations made thereunder, for the payment of actual damages, and for compensation for moral damages, in a sum not exceeding five thousand Maltese liri (Lm5,000) in respect of the violation of personal integrity as a result of such processing.

(2) An action under this article shall be commenced within a period of twelve months from the date when the data subject becomes aware or could have become aware of such a contravention, which ever is the earlier.

Penalties.

44. (1) Any person who:

(a) provides untrue information in such information to data subjects as is prescribed by this Act, or in the notification to the competent authority under article 29 of this Act or to the competent authority when the competent authority requests information in accordance with article 38 of this Act;

(b) processes personal data in contravention of the provisions of articles 12 to 17 of this Act;

(c) transfers personal data to a third country in contravention of article 27 and 28 of this Act;

(d) omits to give notification under article 29 (1) or in accordance with regulations issued under article 34 of this Act;

shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) not exceeding Lm10,000 or to imprisonment for six months or to both such fine and imprisonment.

(2) Any person who has contravened an order subject to a default fine in accordance with subarticle (2) of article 38 or subarticle (1) of article 39 of this Act, shall not be sentenced for liability for an act that is subject to the default fine order.

45. (1) There shall be a Data Protection Appeals Board, consisting of three members, of whom one, who shall be the chairperson, shall be a person who has practised as an advocate for not less than seven years. Data Protection Appeals Board.

(2) The members of the Board shall be appointed by the Minister for a period of two years and shall be eligible for reappointment.

(3) A member of the Board may be challenged or abstain for any of the reasons for which a judge may be challenged or abstain in accordance with article 734 of the Code of Organization and Civil Procedure. In any such case the Minister shall appoint a person, having the qualifications of the member challenged or abstaining, to sit as a member of the Board in substitution of the said member. Cap.12.

(4) A member of the House of Representatives or of a Local Council shall be disqualified from being appointed or continuing to be a member of the Board for so long as he holds that office.

(5) The Minister shall also designate a person to serve as secretary to the Board.

46. (1) Any person aggrieved by a decision of the competent authority shall have the right to appeal that decision by communicating in writing to the Data Protection Appeals Board within thirty days from the notification to him of the said decision. Appeals.

(2) An appeal to the Board may be made on any of the following grounds:

- (a) that a material error as to the facts has been made;
- (b) that there was a material procedural error;
- (c) that an error of law has been made;

(d) that there was some material illegality, including unreasonableness or lack of proportionality.

(3) The Board shall give reasons for its decision and shall cause such decisions to be made public omitting, if it deems it appropriate for reasons of confidentiality, the names of the persons involved.

(4) In determining an appeal under this article the Board may:

- (i) dismiss the appeal;

- (ii) annul the decision;

and where the Board annuls the decision it may refer the matter to the competent authority with a direction to reconsider it and reach a decision in accordance with the findings of the Board.

(5) The effect of a decision to which an appeal relates shall not except where the Board or the Court of Appeal, as the case may be, so orders, be suspended in consequence of the bringing of the appeal.

Powers and procedure of the Board.

47. (1) The Board shall be competent to hear and decide any appeal made to it in accordance with the provisions of this Act and any regulations made thereunder; and subject to article 48 of this Act, the decisions of the Board shall be final and binding.

(2) For the exercise of its functions, the Board may summon any person to appear before it and give evidence and produce documents; and the chairperson shall have the power to administer the oath. The Board may also appoint experts to advise the Board on any technical issue that may be relevant to its decision.

(3) For the purposes aforesaid the Board shall have the same powers as are competent to the First Hall, Civil Court according to law.

(4) The procedure to be followed before the Board shall be such as may be prescribed; and subject thereto, and to any other applicable provision of this Act, the Board may regulate its own procedure.

Appeal to the Court of Appeal.

48. Any party to an appeal to the Board who feels aggrieved by a decision of the Board, or the competent authority if it feels dissatisfied with any such decision, may on a question of law appeal to the Court of Appeal as constituted in accordance with subarticle (6) of article 41 of the Code of Organization and Civil Procedure by means of an application filed in the registry of that court, in the case of an appeal by the competent authority within thirty days from the date of the Board's decision, and in the case of any other person within thirty days from the date on which that decision has been notified to him.

Part IX – General

Power to make regulations.

49. The Minister may prescribe regulations for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing may in particular prescribe regulations concerning:–

- (a) the cases in which processing of personal data is permitted;
- (b) the requirements which are imposed on the controller when processing personal data;
- (c) what a notification or application to a controller should contain;
- (d) which information shall be provided to the data subject and how information shall be provided;
- (e) notification to the competent authority and the procedure when information notified has been altered;
- (f) rules and procedures relating to access, by the competent authority, of data held in instances where the Controller processes data for compliance with a legal obligation;
- (g) the qualifications required for a person to be appointed as a personal data representative;
- (h) the minimum guarantees to be provided by non-profit-seeking organisations in the processing of personal data;
- (i) the fees that may be levied by the competent authority;
- (j) the administration fines that may be imposed by the competent authority and the administrative violations in respect of which such fines may be imposed; provided that such fines shall not be in an amount exceeding Lm1000;
- (k) the penalties that may be imposed under this Act; and
- (l) for anything that may be prescribed under any of the provisions of this Act.

50. In the case of conflict between the Maltese and English text of this Act, the English text shall prevail. English text to prevail.

Objects and Reasons

The object of this Act is to make provision for the protection of individuals against the violation of their privacy and personal integrity by the processing of personal data.

For such purpose the Act proposes the constitution of a regulatory body with a function which shall exercise overall control on the processing of personal data.