

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 21,064, 5 ta' Ġunju, 2023

Taqsim A

MALTA

ATT Nru XVIII tal-2023

ATT maħruġ b'liġi mill-Parlament ta' Malta.

ATT sabiex jissalvagwardja l-interessi ta' persuni li jistgħu jkunu f'riskju ta' vjolenza domestika billi jistabilixxi proċedura li ttiprovdi għall-ħruġ ta' twissija ta' riskju ta' vjolenza domestika.

ACT No. XVIII of 2023

AN ACT enacted by the Parliament of Malta.

AN ACT to safeguard the interests of persons who may be at risk of domestic violence by establishing a procedure which provides for the issuance of a domestic violence risk warning.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

5 ta' Ġunju, 2023

ATT Nru XVIII tal-2023

ATT sabiex jissalvagwardja l-interessi ta' persuni li jistgħu jkunu f'riskju ta' vjolenza domestika billi jistabbilixxi proċedura li ttipprovdi għall-ħruġ ta' twissija ta' riskju ta' vjolenza domestika.

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2023 dwar il-Prevenzjoni tal-Vjolenza Domestika.

Titolu fil-qosor
u bidu fis-sehħ.

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

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

"applikant" tfisser kull persuna li tibda l-proċess skont dan l-Att;

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"applikazzjoni" tfisser it-talba sottomessa lill-Pulizija sabiex jiskatta l-proċess skont dan l-Att;

Kap. 77.

"ċertifikat tal-kondotta" tfisser iċ-ċertifikat tal-kondotta maħruġ skont id-dispożizzjonijiet tal-Ordinanza dwar iċ-Ċertifikati tal-Kondotta;

"Ministru" tfisser il-Ministru responsabbli għall-Pulizija sakemm ma jingħadx mod ieħor;

"persuna f'riskju potenzjali" tfisser il-persuna li tkun inħarġitilha twissija ta' riskju ta' vjolenza domestika mill-Pulizija skont dan l-Att;

"persuna ta' tħassib" tfisser il-persuna li fir-rigward tagħha tiġi sottomessa l-applikazzjoni;

"persuna vulnerabbli" tfisser persuna li għandha inqas minn sittax (16)-il sena, jew li għandha diżordni mentali jew kundizzjoni oħra, jew li hija kkunsidrata mill-qorti kompetenti bħala partikolarment f'riskju tenut kont tal-età tal-persuna, il-maturità, is-saħħa, id-diżabilità mentali u kundizzjonijiet oħra, inkluż kwalunkwe sitwazzjoni ta' dipendenza, kif ukoll l-istat psikoloġiku u, jew emozzjonali tal-istess persuna.

L.S. 595.37.

"Pulizija" tfisser l-uffiċjali tal-Korp tal-Pulizija ta' Malta assenjati lill-Aġenzija li toffri Sapport lill-Vittmi skont id-dispożizzjonijiet tal-artikolu 3(2)(b) tal-Ordni li jwaqqaf l-Aġenzija li toffri Sapport lill-Vittmi;

"twissija ta' riskju ta' vjolenza domestika" tfisser dik l-informazzjoni mogħtija mill-Pulizija lill-persuna f'riskju potenzjali skont dan l-Att;

Kap. 581.

"vjolenza domestika" għandu jkollha l-istess tifsira kif mogħti lilha fl-artikolu 2 tal-Att dwar il-Vjolenza Abbażi ta' Ġeneru u Vjolenza Domestika sa fejn jirrigwarda l-applikant jew il-persuna vulnerabbli taħt dan l-Att.

Applikazzjoni u laqgħa inizjali.

3. (1) Persuna li hija:

(a) il-konjuġi, is-sieheb f'unjoni ċivili jew koabitant tal-persuna ta' tħassib; jew

(b) f'relazzjoni informali mal-persuna ta' tħassib;

u li temmen li tista' tkun f'riskju ta' vjolenza domestika mill-persuna ta' tħassib, tista' tissottometti applikazzjoni lill-Pulizija, fejn titlob li tinħareġ twissija ta' riskju ta' vjolenza

domestika skont dan l-Att:

Iżda l-ġenitur jew tutur legali ta' persuna vulnerabbli li tkun f'relazzjoni ma' persuna ta' tħassib skont is-subparagrafi (a) jew (b), u li jemmen li l-persuna ta' tħassib tista' tkun ta' riskju ta' vjolenza domestika għall-persuna vulnerabbli, jistgħu wkoll jissottomettu applikazzjoni lill-Pulizija, fejn jitlob li tinħareġ twissija ta' riskju ta' vjolenza domestika skont dan l-Att.

(2) Kull applikant għandu jipprova, għas-sodisfazzjon tal-Pulizija, l-eżistenza ta' relazzjoni mal-persuna ta' tħassib skont is-subartikolu (1), jew, f'każ ta' ġenitur jew tutur legali, prova tal-parentela jew tutela tal-persuna vulnerabbli, kif ukoll l-eżistenza ta' relazzjoni bejn il-persuna vulnerabbli u l-persuna ta' tħassib skont is-subartikolu (1).

(3) Hekk kif tiġi sottomessa l-applikazzjoni, il-Pulizija għandha tagħmel laqgħa inizjali mal-applikant.

(4) Waqt il-laqgħa inizjali, il-Pulizija għandha tevalwa l-applikazzjoni, tivverifika l-identità tal-applikant, u tiddetermina jekk l-applikant jissodisfax il-kriterji kollha meħtieġa sabiex jiskatta l-proċess skont dan l-Att.

(5) Il-Pulizija għandha tassigura lill-applikant li s-sigurtà tiegħu u tal-persuna vulnerabbli, skont il-każ, huma ta' importanza kbira, u li l-persuna ta' tħassib mhijiex ser tkun infurmata b'din il-proċedura.

(6) Il-Pulizija għandha twissi lill-applikant li l-proċess fl-intier tiegħu għandu jinżamm kunfidenzjali, u l-applikazzjoni għandha tinkludi dikjarazzjoni f'dan is-sens:

Iżda jekk l-applikant ma jkunx lest li jiddikjara dan, il-Pulizija ma għandiex tipproċedi b'mod ulterjuri bl-applikazzjoni.

(7) Il-Pulizija għandha tgħarraf lill-applikant li jekk, fi kwalunkwe hin matul il-proċedura, il-Pulizija temmen li qed isir, jew sar reat, il-Pulizija għandha tippreżenta rapport skont il-proċeduri tal-investigazzjoni kriminali, u f'dawn iċ-ċirkostanzi jista' jkun li ma jkunx possibbli li tinżamm il-kunfidenzjalità.

(8) Il-Pulizija għandha tipprovdi lill-applikant b'informazzjoni dwar is-servizzi ta' appoġġ disponibbli u l-Pulizija għandha tiftiehem dwar mezz ta' komunikazzjoni sigur mal-applikant.

(9) Il-Pulizija għandha tagħti d-deċiżjoni finali tagħha skont l-artikolu 6 fi żmien sebat (7) ijiem tax-xogħol mil-laqgħa inizjali permezz tal-mezzi ta' komunikazzjoni miftiehma skont is-subartikolu

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(8).

(10) Jekk waqt il-laqgħa inizjali, il-Pulizija tiddetermina li hija meħtieġa iktar informazzjoni jew li l-applikant jew il-persuna vulnerabbli, skont il-każ, mhijiex eliġibbli skont dan l-Att, il-Pulizija għandha tirrifjuta l-applikazzjoni u tinnota tali deċiżjoni fir-rekords tal-każ skont l-artikolu 7(4).

(11) Il-Pulizija għandha tipprovdi mekkanizmu elettroniku, mingħajr hlas, li permezz tiegħu persuna tkun tista' titlob li ssir laqgħa inizjali skont is-subartikolu (3) li matulha tista' tissottometti l-applikazzjoni tagħha.

Dritt li tifhem u tinftehem.

4. Matul il-proċess skont dan l-Att, il-Pulizija għandha tiżgura li l-komunikazzjoni mal-applikant u, jew mal-persuna vulnerabbli, skont il-każ, issir b'is-sien li tali persuna tifhem.

Verifiki tal-Pulizija. Kap. 77.

5. (1) Mingħajr preġudizzju għall-Ordinanza dwar iċ-Ċertifikati tal-Kondotta, fejn il-Pulizija tipproċedi bl-applikazzjoni skont dan l-Att, il-Pulizija għandha titlob kopja taċ-ċertifikat tal-kondotta tal-persuna ta' thassib.

(2) Jekk ikun hemm kundanna kriminali reġistrata fiċ-ċertifikat tal-kondotta tal-persuna ta' thassib, il-Pulizija għandha, sabiex tiddetermina jekk dik il-kundanna hijiex relatata ma' vjolenza domestika titlob, taċċessa, u tipproċessa informazzjoni:

Kap. 77.

(a) li tirriżulta mir-reġistru tal-kundanni kriminali skont l-Ordinanza dwar iċ-Ċertifikati tal-Kondotta;

(b) irreġistrata mill-Korp tal-Pulizija ta' Malta; jew

(ċ) irreġistrata mill-Qrati ta' Malta.

(3) Meta jiġi determinat li l-kundanna kriminali reġistrata hija relatata mal-vjolenza domestika, il-Pulizija għandha tipproċedi bil-ħruġ ta' twissija ta' riskju ta' vjolenza domestika:

Iżda qabel ma tikkomunika d-deċiżjoni tagħha, l-uffiċjal tal-Pulizija konċernat għandu jitlob lis-superjur dirett tiegħu jew lil uffiċjal ieħor maħtur għal dan il-għan mill-Kummissarju tal-Pulizija, sabiex jirrevedi l-istess deċiżjoni u jew jikkonfermaha u jikkontrofirmaha, jew jirrevokaha:

Iżda wkoll li kull deċiżjoni għandha tiġi miżmuma fir-rekords tal-każ skont l-artikolu 7(4) u, jekk id-deċiżjoni oriġinali tiġi revokata, ir-raġuni tagħha għandha tiġi reġistrata wkoll.

6. (1) Kull deċiżjoni finali tal-Pulizija għandha tiġi komunikata verbalment lill-applikant u, f'kull każ, il-Pulizija għandha tispjega b'mod ċar lill-applikant il-proċess li wassal għad-deċiżjoni tagħha. Id-deċiżjoni tal-Pulizija.

(2) Fejn il-Pulizija tikkonkludi li m'hemmx lok għal hruġ ta' twissija ta' riskju ta' vjolenza domestika, il-Pulizija għandha tikkomunika u tispjega dan lill-applikant, u ttiprovdi informazzjoni relatata ma' servizzi ta' appoġġ offruti minn organizzazzjonijiet governattivi jew organizzazzjonijiet mhux governattivi.

(3) Fejn il-Pulizija tikkonkludi li hemm lok għall-hruġ ta' twissija ta' riskju ta' vjolenza domestika, il-Pulizija għandha:

(a) tikkomunika u tispjega dan lill-applikant u l-persuna vulnerabbli, skont il-każ;

(b) tispjega li minhabba kundanna ta' vjolenza domestika reġistrata fiċ-ċertifikat tal-kondotta tal-persuna ta' tħassib, hemm riskju potenzjali ta' vjolenza domestika; u

(ċ) ttiprovdi informazzjoni relatata ma' servizzi ta' appoġġ offruti minn organizzazzjonijiet governattivi jew organizzazzjonijiet mhux governattivi:

Iżda meta tinhareg twissija ta' riskju ta' vjolenza domestika, il-Pulizija ma għandha tiżvela l-ebda informazzjoni ulterjuri għajr dik li hija strettament meħtieġa għall-finijiet ta' dan l-Att:

Iżda wkoll jekk l-applikazzjoni ssir minn ġenitur jew tutur legali ta' persuna vulnerabbli, il-Pulizija għandha tinnotifika t-twissija ta' riskju ta' vjolenza domestika lill-persuna vulnerabbli fil-preżenza tal-applikant u, jekk neċessarju, fil-preżenza wkoll ta' professjonist imħarreġ mill-aġenzija msemmija skont l-Att dwar il-Vjolenza Abbażi tal-Ġeneru u Vjolenza Domestika. Kap. 581.

7. (1) L-ebda haġa f'dan l-Att ma għandha tippregudika l-applikabilità tar-Regolamenti dwar il-Protezzjoni tad-Data (Ipproċessar ta' Data Personali minn Awtoritajiet Kompetenti għall-Finijiet tal-Prevenzjoni, l-Investigazzjoni, is-Sejbien jew il-Prosekuzzjoni ta' Reati Kriminali jew l-Eżekuzzjoni ta' Pieni Kriminali). Il-protezzjoni tad-data. L.S. 586.08.

(2) Fil-kapaċità tagħha ta' kontrollur skont ir-regolament 2 tar-Regolamenti dwar il-Protezzjoni tad-Data (Ipproċessar ta' Data Personali minn Awtoritajiet Kompetenti għall-Finijiet tal-Prevenzjoni, l-Investigazzjoni, is-Sejbien jew il-Prosekuzzjoni ta' Reati Kriminali jew l-Eżekuzzjoni ta' Pieni Kriminali), il-Pulizija għandha twettaq l- L.S. 586.08.

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operazzjonijiet kollha rilevanti ta' pproċessar ta' data li huma strettament meħtieġa u proporzjonati għall-għanijiet fil-mira ta' dan l-Att.

L.S. 586.08.

(3) L-iproċessar ta' data personali, inkluż l-iproċessar ta' kategoriji speċjali ta' data personali, għall-finijiet ta' dan l-Att għandu jikkonforma bis-sħiħ mal-prinċipji relatati mal-iproċessar ta' data personali skont ir-regolament 4 tar-Regolamenti dwar il-Protezzjoni tad-Data (Iproċessar ta' Data Personali minn Awtoritajiet Kompetenti għall-Finijiet tal-Prevenzjoni, l-Investigazzjoni, is-Sejbien jew il-Prosekuzzjoni ta' Reati Kriminali jew l-Eżekuzzjoni ta' Pieni Kriminali).

(4) Il-Pulizija għandha tiġbor u żżomm rekord ta' kull applikazzjoni u kull proċess, irrISPettivament mir-riżultat, u l-istess rekords għandhom jinżammu għal perjodu ta' tliet (3) snin u ma għandhomx jintużaw jew jiġu pproċessati għal kwalunkwe skop ieħor, ħlief għal skopijiet ta' verifika fir-rigward tal-istess każ li għalih ġew kkompilati.

Salvagwardji xierqa.

8. (1) Il-kontrollur, tenut kont tan-natura, l-għan, il-kuntest u l-għanijiet tal-iproċessar kif ukoll ir-riskji ta' probabbiltà u severità li jvarjaw tad-drittijiet u l-libertajiet tas-suġġetti tad-data, kemm fil-ħin tad-determinazzjoni tal-mezzi għall-iproċessar kif ukoll fiż-żmien tal-iproċessar innifsu, għandu jimplementa miżuri tekniċi u organizzattivi xierqa, b'mod effettiv u biex jintegra s-salvagwardji meħtieġa fl-iproċessar, sabiex jiproteġi d-drittijiet tas-suġġetti tad-data u sabiex jiżgura livell ta' sigurtà xieraq għar-riskju.

L.S. 586.08.

(2) L-uffiċjal tal-protezzjoni tad-data maħtur mill-kontrollur skont ir-regolament 32 tar-Regolamenti dwar il-Protezzjoni tad-Data (Iproċessar ta' Data Personali minn Awtoritajiet Kompetenti għall-Finijiet tal-Prevenzjoni, l-Investigazzjoni, is-Sejbien jew il-Prosekuzzjoni ta' Reati Kriminali jew l-Eżekuzzjoni ta' Pieni Kriminali) għandu jkun involut u kkonsultat b'mod tempestiv dwar kwalunkwe każ b'raba mal-protezzjoni ta' data personali pproċessata għall-finijiet ta' dan l-Att.

L.S. 586.08.

(3) Għall-iskop li jiġi żgurat u sabiex ikun jista' jintwera li l-iproċessar tad-data personali qed jitwettaq skont id-dispożizzjonijiet tar-Regolamenti dwar il-Protezzjoni tad-Data (Iproċessar ta' Data Personali minn Awtoritajiet Kompetenti għall-Finijiet tal-Prevenzjoni, l-Investigazzjoni, is-Sejbien jew il-Prosekuzzjoni ta' Reati Kriminali jew l-Eżekuzzjoni ta' Pieni Kriminali), il-kontrollur għandu jimplementa policies xierqa dwar il-protezzjoni tad-data, liema policies għandhom jiġu riveduti u aġġornati perjodikament fejn neċessarju.

(4) L-aċċess għal kwalunkwe data personali, inklużi kategoriji

speċjali ta' data personali pproċessata għall-finijiet ta' dan l-Att, għandu jkun riżervat esklussivament għal persunal debitament awtorizzat tal-kontrollur. L-aċċess għandu jkun limitat sal-punt meħtieġ għat-twettiq tal-funzjonijiet tal-kontrollur skont l-għanijiet ta' dan l-Att, u għal dak li huwa meħtieġ u proporzjonat għall-għanijiet fil-mira ta' dan l-Att.

9. (1) Il-kontrollur jista' jirrestringi d-drittijiet u l-obbligi previsti fit-Tielet Taqsima tar-Regolamenti dwar il-Protezzjoni tad-Data (Ipproċessar ta' Data Personali minn Awtoritajiet Kompetenti għall-Finijiet tal-Prevenzjoni, l-Investigazzjoni, is-Sejbien jew il-Prosekuzzjoni ta' Reati Kriminali jew l-Eżekuzzjoni ta' Pieni Kriminali), fejn dawn ir-restrizzjonijiet jitqiesu bħala miżura meħtieġa u proporzjonata għat-twettiq tal-funzjonijiet tal-kontrollur skont dan l-Att.

Restrizzjoni tad-drittijiet tas-sugġetti tad-data.
L.S. 586.08.

(2) L-uffiċjal tal-protezzjoni tad-data għandu jiġi kkonsultat mill-kontrollur dwar kwalunkwe każ b'mod tempestiv fil-proċess kollu tal-applikazzjoni tar-restrizzjoni.

(3) Il-kontrollur għandu japplika r-restrizzjoni msemmija fis-subartikolu (1) sakemm ir-raġunijiet li jiġġustifikawhom jibqgħu applikabbli wara test ta' neċessità u proporzjonalità. Ir-raġunijiet li jiġġustifikaw ir-restrizzjonijiet għandhom ikunu dokumentati u magħmula disponibbli lill-Kummissarju għall-Infommazzjoni u l-Protezzjoni tad-Data, meta u kif meħtieġ.

(4) Fejn ir-raġunijiet għal restrizzjoni ma jibqgħux japplikaw, il-kontrollur għandu jneħhi r-restrizzjoni u jinforma lis-sugġett tad-data kkonċernat kif xieraq u jikkonforma mad-drittijiet u l-obbligi previsti fit-Tielet Taqsima tar-Regolamenti dwar il-Protezzjoni tad-Data (Ipproċessar ta' Data Personali minn Awtoritajiet Kompetenti għall-Finijiet tal-Prevenzjoni, l-Investigazzjoni, is-Sejbien jew il-Prosekuzzjoni ta' Reati Kriminali jew l-Eżekuzzjoni ta' Pieni Kriminali).

L.S. 586.08.

(5) Il-kontrollur għandu jirrevedi l-applikazzjoni tar-restrizzjoni msemmija f'dan l-artikolu u skont ir-riżultat ta' tali reviżjoni jinforma lis-sugġett tad-data kif xieraq.

10. Il-Ministru jista' jagħmel regolamenti sabiex jimplimenta u jagħti effett aħjar lid-dispożizzjonijiet ta' dan l-Att, u mingħajr preġudizzju għall-generalità ta' dak li ntqal qabel, jista' jipprovdi għal kull materja konsegwenzjali, inċidentali jew konnessa mad-dispożizzjonijiet ta' dan l-Att.

Setgħa tal-Ministru li jagħmel regolamenti.

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Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 129 tal-31 ta' Meju, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

5th June, 2023

ACT No. XVIII of 2023

AN ACT to safeguard the interests of persons who may be at risk of domestic violence by establishing a procedure which provides for the issuance of a domestic violence risk warning.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows: -

1. (1) The short title of this Act is the Domestic Violence Prevention Act, 2023. Short title and commencement.

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

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

"applicant" means any person who initiates the procedure in terms of this Act;

"application" means the request submitted to the Police to

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initiate the procedure in terms of this Act;

Cap. 77.

"conduct certificate" means the conduct certificate issued in accordance with the provisions of the Conduct Certificates Ordinance;

"Minister" means the Minister responsible for the Police, unless stated otherwise;

Cap. 581.

"domestic violence" shall have the same meaning assigned to it by article 2 of the Gender-Based Violence and Domestic Violence Act in so far as it relates to the applicant or to the vulnerable person under this Act;

"domestic violence risk warning" means that information disclosed by the Police to the person at potential risk in terms of this Act;

"person at potential risk" means the person to whom a domestic violence risk warning is issued by the Police in terms of this Act;

"person of concern" means the person in relation to whom the application is filed;

L.S. 595.37.

"Police" means the officers of the Malta Police Force assigned with the Victim Support Agency in terms of the provisions of article 3(2)(b) of the Victim Support Agency (Establishment) Order;

"vulnerable person" means a person who is under the age of sixteen (16), or who has a mental disorder or other condition, or who is considered by the competent court to be particularly at risk when taking into account the person's age, the maturity, the health, the mental disability and other conditions, including any situation of dependence as well as the psychological state and, or emotional state of the said person.

Application and initial meeting.

3. (1) A person who is:

(a) the spouse, civil union partner, or cohabitant of the person of concern; or

(b) in an informal relationship with the person of concern;

and who believes that he may be at risk of domestic violence from the person of concern, may submit an application to the Police, requesting the issuance of a domestic violence risk

warning in terms of this Act:

Provided that the parent or legal guardian of a vulnerable person, who is in a relationship with a person of concern in terms of sub-paragraphs (a) or (b), and who believes that the person of concern may pose a risk of domestic violence to the vulnerable person, may also submit an application to the Police, requesting the issuance of a domestic violence risk warning in terms of this Act.

(2) Each applicant shall prove, to the satisfaction of the Police, the existence of a relationship with the person of concern in terms of sub-article (1), or, in the case of a parent or legal guardian, proof of parentage or tutorship of the vulnerable person, as well as the existence of a relationship between the vulnerable person and the person of concern in terms of sub-article (1).

(3) Once the application is submitted, the Police shall hold an initial meeting with the applicant.

(4) During the initial meeting, the Police shall assess the application, verify the identity of the applicant and determine whether the applicant fulfils all the necessary criteria for the purpose of initiating the procedure in terms of this Act.

(5) The Police shall assure the applicant that his safety and that of the vulnerable person, as the case may be, is of the utmost importance, and that the person of concern shall not be informed of this procedure.

(6) The Police shall warn the applicant that the entire procedure shall be kept confidential, and the application shall include a declaration to this effect:

Provided that if the applicant is not willing to make this declaration, the Police shall not proceed any further with the application.

(7) The Police shall inform the applicant that if, at any time during the procedure, the Police believe that a crime is being committed, or has been committed, the Police shall file a report in accordance with the criminal investigation procedures, and in these circumstances it may not be possible to maintain confidentiality.

(8) The Police shall provide the applicant with information on available support services and the Police shall agree upon a safe means of communication with the applicant.

(9) The Police shall give its final decision in terms of article 6 within seven (7) working days from the initial meeting through the

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means of communication agreed upon pursuant to sub-article (8).

(10) If during the initial meeting, the Police determine that further information is required or that the applicant or the vulnerable person, as the case may be, does not qualify in terms of this Act, the Police shall reject the application and note said decision in the records of the case in terms of sub-article 7(4).

(11) The Police shall provide an electronic mechanism, which shall be free of charge, by means of which a person may request the holding of an initial meeting in accordance with sub-article (3), during which an application may be submitted.

Right to understand and be understood.

4. Throughout the procedure described in this Act, the Police shall ensure that communication with the applicant and, or with the vulnerable person, as the case may be, takes place in a language which such person understands.

Police verifications. Cap. 77.

5. (1) Without prejudice to the Conduct Certificates Ordinance, when the Police proceeds with the application in terms of this Act, the Police shall request a copy of the conduct certificate of the person of concern.

(2) If a conviction is registered in the conduct certificate of the person of concern, the Police shall, in order to determine whether that conviction relates to domestic violence, request, access and process information:

Cap. 77.

(a) that results from the register of criminal convictions pursuant to the Conduct Certificates Ordinance;

(b) registered by the Malta Police Force; or

(c) registered by the Courts of Malta.

(3) Upon determining that the registered conviction is related to domestic violence, the Police shall proceed with the issuance of a domestic violence risk warning:

Provided that before communicating the decision, the Police officer concerned shall request his direct superior or another officer designated for such purpose by the Commissioner of Police, to review the said decision and either confirm and countersign, or overturn it:

Provided further that any decision shall be kept in the records of the case in terms of article 7(4), and if the original decision is overturned, the reason thereof shall also be recorded.

Police decision.

6. (1) Every final Police decision shall be verbally

communicated to the applicant and, in any case, the Police shall clearly explain to the applicant the process which led to its decision.

(2) Where the Police conclude that a domestic violence risk warning should not be issued, the Police shall communicate and explain this to the applicant and, provide information related to support services offered by governmental or non-governmental organisations.

(3) Where the Police conclude that a domestic violence risk warning should be issued, the Police shall:

(a) communicate and explain this to the applicant and the vulnerable person, as the case may be;

(b) explain that due to a domestic violence conviction registered in the person of concern's conduct certificate, there is a potential risk of domestic violence; and

(c) provide information related to support services offered by governmental or non-governmental organisations:

Provided that when a domestic violence risk warning is issued, the Police shall not divulge any further information other than that which is strictly necessary for the purposes of this Act:

Provided further that when the application is filed by a parent or legal guardian of a vulnerable person, the Police shall serve a domestic violence risk warning to the vulnerable person in the applicant's presence and, if necessary, also in the presence of a professional trained by the agency in accordance with the Gender-Based Violence and Domestic Violence Act.

Cap. 581.

7. (1) Nothing in this Act shall prejudice the applicability of the Data Protection (Processing of Personal Data by Competent Authorities for the purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties) Regulations.

Data protection.
S.L. 586.08.

(2) The Police, acting in its capacity of a controller in terms of regulation 2 of the Data Protection (Processing of Personal Data by Competent Authorities for the Purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties) Regulations, shall perform all the relevant data processing operations which are strictly necessary and proportionate to the objectives pursued in terms of this Act.

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S.L. 586.08. (3) The processing of personal data, including the processing of special categories of personal data, for the purposes of this Act shall fully comply with the principles relating to the processing of personal data in accordance to regulation 4 of the Data Protection (Processing of Personal Data by Competent Authorities for the purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties) Regulations.

(4) The Police shall compile and maintain a record of each application and each process, irrespective of the outcome, and such records shall be retained for a period of three (3) years and shall not be used or processed for any other purpose, except for verification purposes in relation to the same case for which they were compiled.

Appropriate safeguards.

8. (1) The controller, taking into account the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity of the rights and freedoms of the data subjects, both at the time of the determination of the means for processing as well as at the time of the processing itself, shall implement appropriate technical and organisational measures, in an effective manner and to integrate the necessary safeguards into the processing, in order to protect the rights of the data subjects and to ensure a level of security appropriate to the risk.

S.L. 586.08. (2) The data protection officer designated by the controller in terms of regulation 32 of the Data Protection (Processing of Personal Data by Competent Authorities for the Purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties) Regulations shall be involved and consulted about any case and in a timely manner on any issues in relation to the protection of personal data processed for the purposes of this Act.

S.L. 586.08. (3) For the purpose of ensuring and in order to be able to demonstrate that the processing of personal data is performed in accordance with the provisions of Data Protection (Processing of Personal Data by Competent Authorities for the purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties) Regulations, the controller shall implement the appropriate data protection policies, which policies shall be periodically reviewed and updated where necessary.

(4) Access to any personal data, including special categories of personal data processed for the purposes of this Act, shall be reserved exclusively to the duly authorised staff of the controller. Access shall be limited to the extent needed for the performance of the controller's functions in accordance with the purposes of the Act, and to what is

necessary and proportionate to the objectives pursued in terms of this Act.

9. (1) The controller may restrict the rights and obligations provided for in Part III of the Data Protection (Processing of Personal Data by Competent Authorities for the purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties) Regulations, where these restrictions are considered as a necessary and proportionate measure for the performance of the functions of the controller pursuant to this Act.

Restriction of the rights of the data subjects. S.L. 586.08.

(2) The data protection officer shall be consulted by the controller in any case in a timely manner during the entire process of applying the restriction.

(3) The controller shall apply the restriction referred to in sub-article (1) for as long as the reasons justifying them remain applicable following a necessity and proportionality test. The reasons justifying the restrictions shall be documented and made available to the Information and Data Protection Commissioner, when and as required.

(4) Where the reasons for a restriction no longer apply, the controller shall lift the restriction and inform the data subject concerned accordingly and comply with the rights and obligations provided for in Part III of the Data Protection (Processing of Personal Data by Competent Authorities for the purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties) Regulations.

S.L. 586.08.

(5) The controller shall review the application of the restriction referred to in this article and depending on the outcome of said review inform the data subject accordingly.

10. The Minister may make regulations to implement and to give better effect to the provisions of this Act, and without prejudice to the generality of the foregoing, may provide for any consequential matter, incidental to or connected with the provisions of this Act.

Power of the Minister to make regulations.

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Passed by the House of Representatives at Sitting No. 129 of the
31st May, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

