

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,459, 31 ta' Lulju, 2015

Taqsim A

MALTA

ATT Nru. XXV tal-2015

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

ATT sabiex jipprovdi għat-twaqqif ta' Regolatur li jkun magħruf bhala r-Regolatur għas-Servizzi tal-Energija u l-Ilma u għall-eżerċizzju minn jew f'isem dak ir-Regolatur ta' funzjonijiet regolatorji li jirrigwardaw servizzi relattivi għall-enerġija u l-ilma, u sabiex jipprovdi dwar affarijiet anċillari għal dan jew konnessi ma' dan.

ACT No. XXV of 2015

AN ACT enacted by the Parliament of Malta.

AN ACT to provide for the establishment of a Regulator to be known as the Regulator for Energy and Water Services and for the exercise by or on behalf of that Regulator of regulatory functions regarding services relating to energy and water, and to make provision with respect to matters ancillary thereto and connected therewith.

Naghti l-kunsens tiegħi.

(L.S.)

**MARIE LOUISE
COLEIRO PRECA
President**

31 ta' Lulju, 2015

ATT Nru. XXV tal-2015

ATT sabiex jipprovi għat-twaqqif ta' Regolatur li jkun magħruf bhala r-Regolatur għas-Servizzi tal-Energija u l-Ilma u għall-eżerċizzju minn jew f'isem dak ir-Regolatur ta' funzjonijiet regolatorji li jirrigwardaw servizzi relattivi għall-enerġija u l-ilma, u sabiex jipprovi dwar affarijiet anċillari għal dan jew konnessi ma' dan.

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

**TAQSIMA I
PRELIMINARI**

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2015 dwar ir-Regolatur għas-Servizzi tal-Energija u l-Ilma.

Titolu fil-qosor, skop u bidu fis-sehħ.

(2) L-għan ta' dan l-Att huwa sabiex iwaqqaf Regolatur li jkun magħruf bhala r-Regolatur għas-Servizzi tal-Energija u l-Ilma li għandu jaqdi dmirijiet relatati ma' rizorsi tal-enerġija u l-ilma.

(3) Dan l-Att m'għandux japplika għal kwistjonijiet relattivi għal rizorsi minerali u għal-ligijiet imsemmija fit-Tieni Skeda li għandhom jibqgħu jiġu regolati mill-Awtorità ta' Malta dwar ir-Rizorsi taht id-dispożizzjonijiet tal-artikolu 43 ta' dan l-Att.

(4) Id-dispożizzjonijiet, f'dan l-Att, fejn jiġi dikjarat speċifikament li daww id-dispożizzjonijiet għandhom jiġu fis-sehħ f'data futura, kif ukoll id-dispożizzjonijiet tal-artikolu 5(1)(l)

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għandhom jiġu fis-seħh f'dik id-data li l-Ministru responsabbli għall-enerġija jista', b'avviż fil-Gazzetta, jistabbilixxi.

Tifsir.

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

"awtorizzazzjoni" tinkludi kull liċenza jew permess ikunu kif ikunu deskritti maħruġin minn jew taħt dan l-Att sabiex topera, tipprovdi jew tagħmel kull attività jew operazzjoni li għandha x'taqsam mal-enerġija u l-ilma u, fir-rigward ta' servizzi u l-provdituri ta' servizzi, tfisser permess, liċenza, *warrant*, ħatra, konċessjoni jew deċiżjoni li tirrigwarda l-aċċess għal attività ta' servizz jew kull attività oħra li l-eżerċizzju tagħha għandu x'jaqşam mar-rizorsi tal-enerġija u l-ilma;

"Bord" tfisser il-Bord tar-Regolatur maħtur taħt l-artikolu 3(2);

"deċiżjoni" tinkludi kull determinazzjoni, miżura, ordni, ħtieġa, jew speċifikazzjoni tkun kif tkun deskritta li tittiehed mir-Regolatur għas-Servizzi tal-Enerġija u l-Ilma u l-kelma "deċiżjoni" għandha tinftehem skont dan;

"direttiva" tfisser direttiva maħruġa mir-Regolatur għas-Servizzi tal-Enerġija u l-Ilma skont il-proċeduri li jistgħu jiġu preskritti b'regolamenti magħmulin taħt dan l-Att;

"Direttorati" tfisser dawk id-direttorati li huma jew jistgħu jkunu stabbiliti taħt l-artikolu 6;

"distribuzzjoni", dwar l-enerġija elettrika, tfisser it-trasport tal-elettriku fuq is-sistemi ta' medju-vultaġġ u ta' vultaġġ baxx bil-għan tal-kunsinna tiegħu lill-konsumaturi;

"enerġija" tinkludi enerġija elettrika, *fuel*, jew enerġija termali meta l-istess hija trasmessa bħala attività kummerċjali, u enerġija li tinkiseb minn sorsi li jiġgeddu;

"enerġija elettrika" tfisser l-enerġija elettrika meta din tkun generata, trasmessa, distribwita, fornita jew użata għal kull għan minbarra t-trasmissjoni ta' xi komunikazzjoni jew sinjal;

"*fuel*" tinkludi faħam, l-idrokarburi kollha jew derivati tal-idrokarburi li normalment jintużaw bħala *fuels*, inkluż żejt mhux raffinat, *fuels* ibbażati fuq idrokarburi jew faħam, fuel f'forma gassuża, sostituti tal-*petroleum* f'forma likwida, likwidi jew gassijiet magħmula minn fermentazzjoni jew proċessi simili, meta maħsuba sabiex jintużaw bħala *fuel*, *fuels* prodotti minn skart solidu; iżda ma tinkludix *petroleum* għall-fini tal-Att dwar il-Produzzjoni tal-

Kap. 156.

Petroleum;

"gass" tfisser kull idrokarburi f'forma gassuża sew fl-istat naturali tagħhom jew miksuba mill-*petroleum* jew prodotti kimikament;

"ilma" meta użata relattivament għal xi Prattika, operazzjoni jew attività regolata b'dan l-Att għandha tinkludi s-servizzi ta' drenaġġ u skart likwidu iżda ma għandhiex tinkludi ilma tax-xorb bottiljat;

"impjegat" tfisser persuna impjegata mir-Regolatur għas-Servizzi tal-Energija u l-Ilma;

"intrapriża" tfisser kull persuna sew jekk individwu, korp magħqud jew mhux magħqud u kull entità oħra inkorporata bl-għan ta' attività ekonomika, u tinkludi grupp ta' intrapriži;

"kuntrattur" tfisser persuna li taġixxi skont ftehim magħmul mar-Regolatur għas-Servizzi tal-Energija u l-Ilma jew skont l-artikolu 6(5);

"Ministru" tfisser il-Ministru responsabbli għas-servizzi tal-enerġija u l-ilma;

"operatur tas-sistema ta' distribuzzjoni" tfisser il-persuna responsabbli għall-operat, li tiżgura l-manutenzjoni ta' u jekk meħtieġ, l-iżvilupp tas-sistema ta' distribuzzjoni f'żona, u fejn applikabbli, l-interkonnessjonijiet tagħha ma' sistemi oħra, kif ukoll li tiżgura l-kapaċità fit-tul tas-sistema li tissodisfa domandi raġonevoli għat-trasmissjoni tal-elettriku;

"*petroleum*" tfisser l-idrokarburi naturali kollha sew f'forma likwida sew gassuża, inkluż iż-żejt mhux raffinat, gass naturali, *asphalt*, *ozokerite* u sustanzi jixxiebħu u gażolina naturali;

"President" tfisser il-President tar-Regolatur għas-Servizzi tal-Energija u l-Ilma u tinkludi, fiċ-ċirkostanzi msemmija fl-artikolu 3(3), lill-Viċi President jew persuna oħra hekk maħtura sabiex tagħmilha ta' President;

"provvidur awtorizzat" tfisser kull persuna li għandha awtorizzazzjoni valida sabiex topera, tipprovdi jew tagħmel kull attività jew operazzjoni jew li tipprovdi kull servizz li għandu x'jaqsam mal-enerġija u l-ilma;

"provvidur ta' servizz" tfisser kull persuna li hija ċittadina ta' Stat Membru, jew kull persuna ġuridika kif imsemmija fl-Artikolu 48 tat-Trattat u stabbilita fi Stat Membru, li tkun toffri jew li tkun

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tippovdi servizz;

"raġunijiet aktar importanti fir-rigward tal-interess pubbliku" tfisser ir-raġunijiet rikonoxxuti bħala tali fil-każistika tal-Qorti tal-Ġustizzja Ewropea għar-rigward tal-Artikoli 43 u 49 tat-Trattat, u hekk kif dawn jistgħu jibqgħu jevolvu u inkluzi r-raġunijiet li ġejjin:

- (a) il-politika pubblika, is-sigurezza pubblika, is-sigurtà pubblika, u s-saħħa pubblika, iżda dawn għandhom jiġu interpretati skont l-Artikoli 46 u 55 tat-Trattat;
- (b) iż-żamma tal-ordni fis-soċjetà;
- (ċ) l-oġġettivi tal-politika soċjali;
- (d) il-protezzjoni tar-riċevituri ta' servizzi;
- (e) il-protezzjoni tal-konsumatur;
- (f) il-ġlieda kontra l-frodi;
- (g) il-prevenzjoni tal-kompetizzjoni ingusta;
- (h) il-protezzjoni tal-ambjent;

"Regolatur" tfisser ir-Regolatur għas-Servizzi tal-Energija u l-Ilma stabbilit skont l-artikolu 3;

"riċevitur" tfisser kull persuna naturali li hija ċittadina ta' Stat Membru jew li tibbenefika mid-drittijiet mogħtija lilha mill-atti Komunitarji, jew kull persuna ġuridika kif imsemmija fl-Artikolu 48 tat-Trattat u stabbilita fi Stat Membru, li, għal finijiet professjonali jew mhux professjonali, tuża, jew tkun tixtieq tuża, servizz;

"rizorsi" tfisser ir-rizorsi li għandhom x'jaqsmu mal-enerġija u l-ilma regolati minn jew skont dan l-Att;

"sena finanzjarja" tfisser perjodu ta' tnaq-il xahar li jtemm fil-31 ta' Diċembru:

Iżda l-ewwel sena finanzjarja tar-Regolatur għas-Servizzi tal-Energija u l-Ilma għandha tibda mal-bidu fis-seħħ ta' dan l-Att u tispicċa fil-31 ta' Diċembru tas-sena ta' wara;

"servizz" tfisser attività ta' persuni li jaħdmu għal rashom u magħmula għal korrispettiv finanzjarju kif imsemmija fl-Artikolu 50 tat-Trattat;

"servizzi ta' interess ekonomiku ġenerali" tfisser dawk is-servizzi ddikjarati mill-Ministru responsabbli għall-Kompetizzjoni bħala servizzi ta' interess ekonomiku ġenerali skont l-artikolu 30(3) tal-Att dwar il-Kompetizzjoni;

Kap. 379.

"Sistema ta' Informazzjoni għas-Suq Intern" tfisser sistema ta' informazzjoni li permezz tagħha l-awtoritajiet kompetenti jaqsmu l-informazzjoni skont l-obbligi tagħhom taħt il-Kapitolu VI tad-Direttiva 2006/123/KE tal-Parlament Europew u tal-Kunsill tat-12 ta' Diċembru 2006 dwar is-servizzi fis-suq intern;

"skema ta' awtorizzazzjoni" tfisser kull għoti ta' awtorizzazzjoni jew proċedura oħra ta' xorta amministrattiva, li taħtha provditur jew riċevitur ikun fil-fatt meħtieġ li jieħu passi sabiex jibda l-attività involuta u sabiex jikseb minghand awtorità kompetenti awtorizzazzjoni li tirrigwarda aċċess għal attività ta' servizz jew l-eżerċizzju tagħha;

"stabbiliment" tfisser it-twettiq effettiv ta' xi attività ekonomika, kif imsemmi fl-Artikolu 43 tat-Trattat, mill-provditur ta' servizz għal perjodu indefinit u permezz ta' infrastruttura stabbli li minnu n-negozju ta' provvista ta' servizzi jkun qiegħed fil-fatt jitwettaq;

"Stat Membru" tfisser Stat Membru tal-Unjoni Ewropea;

"Stat Membru fejn is-servizz jiġi provdut" tfisser l-Istat Membru fejn is-servizz jiġi provdut minn provditur stabbilit fi Stat Membru ieħor;

"Stat Membru ta' stabbiliment" tfisser l-Istat Membru li fit-territorju tiegħu l-provditur tas-servizz konċernat ikun stabbilit;

"trasmissjoni" tfisser, dwar l-enerġija elettrika, it-trasport tal-elettriku fuq is-sistema interkonnessa ta' vultagġ għoli bil-għan tal-kunsinna tiegħu lill-kunsumatur finali jew lid-distributori iżda ma tinkludix provvista;

"TSO" tfisser persuna fiżika jew ġuridika responsabbli mill-operat, li tiżgura l-manutenzjoni u, jekk meħtieġ, tiżviluppa s-sistema ta' trasmissjoni f'żona partikolari u, fejn ikun japplika, tal-interkonnessjonijiet tagħha ma' sistemi oħrajn, kif ukoll li tiżgura l-kapaċità fit-tul tas-sistema biex tlaħhaq ma' domanda raġonevoli għat-trasmissjoni tal-elettriku;

"Trattat" tfisser it-Trattat li jistabbilixxi l-Unjoni Ewropea;

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"Tribunal" tfisser it-Tribunal ta' Reviżjoni Amministrattiva mwaqqaf bl-artikolu 5 tal-Att dwar il-Ġustizzja Amministrattiva;

Kap. 490.

"Uffiċjal Eżekuttiv Ewlieni" tfisser l-Uffiċjal Eżekuttiv Ewlieni mahtur taht l-artikolu 6(7);

"uffiċjal pubbliku" għar-rigward tal-artikolu 18, għandha l-istess tifsira lilha mogħtija bl-artikolu 124 tal-Kostituzzjoni iżda ma tinkludix imħallef jew maġistrat.

TAQSIMA II

TWAQQIF, FUNZJONIJIET U TMEXXIJA TAL-AFFARIJIET TAR-REGOLATUR

Twaqqif u kompożizzjoni tar-Regolatur għas-Servizzi tal-Enerġija u l-Ilma.

3. (1) Għandu jkun hemm korp, li jkun magħruf bħala r-Regolatur għas-Servizzi tal-Enerġija u l-Ilma, hawnhekk iżjed 'il quddiem imsejjaħ "ir-Regolatur", li jkun magħmul minn President u mhux inqas minn erbgħa u mhux iktar minn sitt membri oħra.

(2) Il-membri tal-Bord tar-Regolatur għandhom jinhatru mill-Ministru għal żmien ta' hames snin jew għal dak il-perjodu itwal li jista' jiġi speċifikat fl-istrument tal-ħatra sugġett għal massimu ta' seba' snin iżda l-membri li jiġu hekk mahtura jistgħu jiġu mahtura mill-gdid, darba biss, fl-iskadenza taż-żmien tal-kariga, għal żmien ta' hames snin jew għal dak il-perjodu itwal li jista' jiġi speċifikat fl-istrument tal-ħatra sugġett għal massimu ta' seba' snin.

Għandha tidhol fis-seħħ skema ta' rotazzjoni xierqa għall-ħatriet tal-membri tal-Bord biex, skont l-istess skema, il-membri jiġu assenjati dati relattivi għat-tmiem tat-terminu tal-kariga tagħhom li ma tkunx l-istess għal kull wieħed minnhom.

(3) Il-Ministru jista' jinnomina lil wieħed mill-membri l-oħra tal-Bord tar-Regolatur bħala Viċi President u l-membri li jiġi hekk nominat ikollu s-setgħat kollha li jwettaq il-funzjonijiet kollha tal-President matul l-assenza jew l-inkapaċità tiegħu, jew meta l-uffiċċju u l-kariga ta' President tkun vakanti; u l-Ministru jista' wkoll, f'kull waħda miċ-ċirkostanzi hawn aktar qabel imsemmija, jahtar lil xi persuna oħra sabiex tagħmilha ta' President u f'każ bħal dak id-dispożizzjonijiet ta' qabel għandhom japplikaw għar-rigward ta' dik il-persuna.

(4) Persuna ma tkunx kwalifikabbli sabiex iżzomm il-kariga ta' membru tal-Bord tar-Regolatur jekk:

(a) tkun Ministru, Segretarju Parlamentari jew membru tal-Kamra tad-Deputati; jew

(b) tkun imhallett jew magiŕat; jew

(ċ) ikollha xi interess finanzjarju jew interess ieħor f'xi intrapriża jew attività li taffettwa jew tista' taffettwa t-twettiq tal-funzjonijiet tagħha bħala membru tal-Bord tar-Regolatur.

(5) Bla ħsara għad-dispożizzjonijiet ta' dan l-artikolu, il-kariga ta' membru tal-Bord tar-Regolatur issir vakanti:

(a) meta jiskadi ż-żmien tal-kariga; jew

(b) jekk ikun hemm ċirkostanzi li jikkagunaw, li kieku mhux għax kien membru tal-Bord tar-Regolatur, li l-persuna li tħaddan dik il-kariga tkun skwalifikata milli tinħatar fl-istess kariga.

(6) Membru tal-Bord tar-Regolatur jista' jitneħħa mill-kariga tiegħu mill-Ministru jekk dak il-membru ma jkunx idoneju sabiex ikompli fil-kariga tiegħu jew għal kull waħda jew aktar mir-raġunijiet li ġejjin:

(a) jekk il-membru jirriżulta inkapaċi milli jaġixxi b'mod indipendenti minn kwalunkwe interess tas-suq;

(b) jekk il-membru jinstab jieħu istruzzjonijiet jew direzzjonijiet minn kwalunkwe entità pubblika jew privata oħra fit-twettiq tal-funzjonijiet regolatorji assenjati lir-Regolatur;

(ċ) fejn il-membru jinstab ħati ta' mġiba ħażina taħt kwalunkwe liġi.

(7) Jekk membru jirriżenja jew jekk il-kariga ta' membru tal-Bord tar-Regolatur tkun xort' oħra vakanti jew jekk membru ma jkunx jista' għal liema raġuni tkun iwettaq il-funzjonijiet tal-kariga tiegħu, il-Ministru għandu jieħu l-miżuri kollha xierqa sabiex timtela l-kariga vakanti, bla ħsara għad-dispożizzjonijiet tas-subartikoli (4), (5) u (6).

(8) Kull membru tal-Bord tar-Regolatur li jkollu xi interess dirett jew indirett f'xi kuntratt magħmul jew propost li jsir mir-Regolatur, li ma jkunx interess li jiskwalifika lil dak il-membru milli jibqa' membru, għandu jizvela x-xorta ta' dak l-interess fl-ewwel laqgħa tal-Bord tar-Regolatur wara li huwa jkun sar jaf bil-fatti rilevanti, u dak l-izvelar għandu mbaġhad jitnizzel fil-minuti tal-laqgħa tal-Bord tar-Regolatur, u l-membru li jkollu interess kif hawn aktar qabel imsemmi għandu jirtira minn kull laqgħa li fiha jkun qed jiġi diskuss dak il-kuntratt. Meta l-interess tal-membru jkun tali li jiskwalifikah milli jibqa' membru, huwa għandu jirrapporta l-fatt minnufih lill-Bord tar-Regolatur u jissottometti r-riżenja tiegħu. Kull

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żvelar taht dan is-subartikolu għandu jiġi mgharraf mir-Regolatur lill-Ministru mingħajr dewmien.

Għanijiet tar-Regolatur.

4. Ir-Regolatur għandu jkun responsabbli mir-regolamentazzjoni tas-servizzi u tar-rizorsi tal-enerġija u l-ilma sabiex jiġi żgurat:

(a) ħarsien akbar u aktar protezzjoni tal-konsumatur; u

(b) l-indipendenza tar-Regolatur kif meħtieġ minn diversi Direttivi tal-UE inklużi d-Direttiva 2009/72/KE dwar ir-regoli komuni għas-suq intern fil-qasam tal-elettriku u d-Direttiva 2009/73/KE dwar ir-regoli komuni għas-suq intern tal-gass naturali u t-Trattat dwar l-Enerġija.

Funzjonijiet tar-Regolatur.

5. (1) Ir-Regolatur għandu jkollu, u għandu indipendentement u imparzjalment jimplimenta u jamministra dawn il-funzjonijiet li ġejjin:

(a) li jirregola, jissorvelja u jzomm fil-konjizzjoni tiegħu kull prattika, operazzjoni u attività li tirrigwarda s-servizzi u r-rizorsi tal-enerġija u l-ilma;

(b) li jagħti liċenza, permess jew awtorizzazzjoni oħra, għall-għemil ta' kull operazzjoni jew attività li tirrigwarda s-servizzi u r-rizorsi tal-enerġija u l-ilma;

(c) li jirregola u jiżgura li jkun hemm interkonnessjoni għall-produzzjoni, trasmissjoni u distribuzzjoni tas-servizzi jew tal-prodotti regolati minn jew taht dan l-Att;

(d) li jippromwovi kompetizzjoni ġusta f'kull prattika, operazzjoni u attività u li jissorvelja l-okkorrenza tal-prattiċi kontrattwali restrittivi, u fejn xieraq f'kollaborazzjoni mal-awtorità responsabbli għall-kompetizzjoni;

(e) li jistabbilixxi livelli ta' kwalità u sigurezza minimi għal kull waħda mill-imsemmija prattiċi, operazzjonijiet u attivitajiet u jirregola dawk il-miżuri li jistgħu jkunu meħtieġa sabiex jiżguraw is-sigurezza pubblika u dik privata;

(f) li jiżgura u jirregola l-iżvilupp u l-manutenzjoni ta' sistemi effiċjenti sabiex tiġi sodisfatta, bl-aktar mod ekonomiku possibbli, kull domanda raġonevoli għall-provdiment tas-servizzi regolati minn jew taht dan l-Att;

(g) li jirregola l-istruttura tal-prezzijiet għal kull attività regolata b'dan l-Att u meta jkun xieraq li jistabbilixxi l-

mekkanizmi li bihom jiġi stabbilit il-prezz li jkollu jithallas għall-akkwist, produzzjoni, manifattura, bejgħ, hażna u distribuzzjoni relattiva;

(h) li jistabilixxi l-kwalifiki minimi li persuna għandu jkollha meta hija tiġi mqabba taħdem jew tiġi mpjegata f'xi attività regolata minn jew taħt dan l-Att;

(i) li jiżgura li l-obbligi internazzjonali magħmula mill-Gvern relattivi għall-ħwejjeġ regolati minn jew taħt dan l-Att jiġu mharsa, u b'mod partikolari l-implimentazzjoni tal-funzjonijiet regolatorji previsti fid-Direttiva tas-Suq tal-Gass u l-Elettriku u t-Trattat tal-Energija;

(j) li jagħti parir lill-Gvern dwar il-formulazzjoni ta' *policy* għar-rigward ta' ħwejjeġ regolati b'dan l-Att u b'mod partikolari għar-rigward ta' dawk l-obbligi internazzjonali;

(k) li jippromwovi l-interessi tal-konsumaturi u ta' utenti oħra f'Malta, partikolarment konsumaturi vulnerabbli, speċjalment għar-rigward tal-prezzijiet li jithallsu, u l-kwalità u l-varjetà tas-servizzi u, jew prodotti regolati minn jew taħt dan l-Att;

(l) li jiddetermina kwistjonijiet li għandhom x'jaqsmu ma' ħwejjeġ regolati minn jew taħt dan l-Att;

(m) li jsejjaħ konsultazzjoni effettiva mal-partijiet interessati, u li jinvolvi entitajiet ikkonċernati waqt it-tnejjija ta' dikjarazzjonijiet jew proposti rigward xi azzjonijiet.

(2) Ir-Regolatur għandu wkoll indipendentement u imparzjalment -

(a) għar-rigward tal-enerġija -

(i) jirregola l-immaniġġar, il-ġenerazzjoni, id-distribuzzjoni, it-trasmissjoni, il-provvista u l-użu ta' kull forma ta' enerġija; u

(ii) jirċievi taxxa fuq l-enerġija li tiġi prodotta minn sorsi li ma jiġġeddux u jagħti sussidji f'dak li għandu x'jaqsam mal-produzzjoni ta' enerġija minn sorsi li jiġġeddu u enerġija effiċjenti;

(b) għar-rigward tal-ilma -

(i) jassigura u jirregola l-akkwist, il-produzzjoni,

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il-ħażna, id-distribuzzjoni jew użu ieħor tal-ilma għal għanijiet domestiċi, kummerċjali, industrijali jew oħrajn;

(ii) jassigura u jirregola l-konservazzjoni, it-tkabbir u l-użu tar-riżorsi tal-ilma u tal-għejjun tal-provvista tal-ilma;

(iii) jassigura u jirregola t-trattament, il-ħażna, id-disponiment, l-użu jew l-użu mill-ġdid, kif f'loku, ta' skart likwidu, ilma mhux tax-xorb, ilma mtajjan u ilma tax-xita;

(iv) jassigura u jirregola l-provdiment ta' sistemi pubbliċi adegwati ta' drenagg u jiżgura l-indafa, is-sigurezza u l-effiċjenza tagħhom;

(ċ) għar-rigward tal-*petroleum* -

(i) jiżgura li jkun hemm disponibbli f'kull żmien provvisti u ħażniet ta' riserva adegwati ta' *petroleum* u gass;

(ii) jirregola d-distribuzzjoni, il-bejgħ, l-esportazzjoni jew id-disponiment b'kull mod ieħor li jkun ta' żjut furniti għall-*bunkering*; għall-għanijiet ta' dan is-subparagrafu "*bunkering*" u "żejt" għandu jkollhom l-istess tifsir lilhom assenjat bl-artikolu 2 tal-Att dwar it-Taxxa fuq *Bunkering* ta' Żjut;

(iii) ikollu l-ġestjoni ta' ħażniet nazzjonali ta' emerġenza u ħażniet speċifiċi għal liema raġuni r-Regolatur hu b'dan maħtur bħala l-Entità Ċentrali ta' Hżin għal ħażniet ta' sigurtà skont id-Direttiva 2009/119/KE tal-Kunsill tal-14 ta' Settembru 2009 li timponi obbligu fuq l-Istati Membri biex iżommu livell minimu ta' ħażniet ta' żejt mhux raffinat u/jew ta' prodotti petroliferi:

Izda l-kwistjonijiet li jaqgħu taħt is-subartikoli (1) u (2) li jkunu pendenti quddiem l-Awtorità ta' Malta dwar ir-Riżorsi skont l-Att dwar l-Awtorità ta' Malta dwar ir-Riżorsi minn qabel id-dhul fis-seħħ ta' dan l-Att, għandhom minnufih jiġu trasferiti fuq ir-Regolatur mingħajr il-ħtieġa ta' formalitajiet oħra għajr id-dhul fis-seħħ ta' dan l-Att.

(3) Id-dispożizzjonijiet ta' dan l-artikolu għandhom ikunu mingħajr preġudizzju għall-eżerċizzju tal-funzjonijiet ta' xi awtorità stabbilita minn jew taħt xi liġi oħra għar-rigward tas-saħħa pubblika, il-kompetizzjoni u l-ambjent jew kull haġ'ohra li tinkwadra fil-funzjonijiet ta' xi awtorità simili.

Kap. 381.

Kap. 423.

(4) Ir-Regolatur jista' jehtieg lil kull persuna jew provditur awtorizzat sabiex jipprovdilha kull informazzjoni, inkluż informazzjoni finanzjarja, li r-Regolatur iqis bhala neċessarja b'ghan li jiżgura konformità mad-dispożizzjonijiet ta' dan l-Att, ta' regolamenti magħmula tahtu, u deċiżjonijiet jew direttivi magħmulin skont dan l-Att, jew kull liġi oħra jew regolamenti magħmula taħtha li r-Regolatur ikollu jedd jinforza. Kull persuna jew provditur awtorizzat li jonqos jew jirrifjuta li jagħti din l-informazzjoni jkun qiegħed jikser dan l-Att u jehel penali amministrattiva skont ma jiġi preskritt mir-Regolatur.

6. (1) Bla ħsara għad-dispożizzjonijiet l-oħra ta' dan l-Att l-affarijiet u x-xogħol tar-Regolatur għandhom ikunu r-responsabbiltà tar-Regolatur innifsu, iżda salv kif hawn aktar qabel imsemmi, it-tmexxija eżekuttiva tar-Regolatur, l-amministrazzjoni u l-organizzazzjoni tiegħu u l-kontroll amministrattiv tal-uffiċjali u l-impjegati tiegħu, għandhom ikunu r-responsabbiltà tal-Uffiċjal Eżekuttiv Ewlieni tar-Regolatur, li jkollu wkoll dawk il-poteri l-oħra li jistgħu minn żmien għal żmien jiġu lilu delegati mir-Regolatur, u li għandu jkun suġġett għad-direzzjonijiet, sorveljanza u kontroll tar-Regolatur.

Tmexxija tal-affarijiet tar-Regolatur.

(2) Ir-Regolatur għandu jistabbilixxi Direttorati, Dipartimenti, Diviżjonijiet u Sezzjonijiet, kif xieraq, li jkollhom dawk ir-responsabbiltajiet li jista' jiddeċiedi li jagħtihom u li jista' jibdel minn żmien għal żmien kif jidhirlu li jkun xieraq.

(3) Ir-Regolatur għandu jeżerċita l-funzjonijiet tiegħu permezz tad-Direttorati, Dipartimenti, Diviżjonijiet u Sezzjonijiet hekk stabbiliti u għal dak l-għan għandu jvesti f'kull wieħed mid-Direttorati, Dipartimenti, Diviżjonijiet u Sezzjonijiet hekk stabbiliti, suġġett għas-sorveljanza u l-kontroll tal-Uffiċjal Eżekuttiv Ewlieni, dawk il-funzjonijiet tiegħu li jirrelataw jew huma anċillari għal dawk l-affarijiet li huwa responsabbli għalihom sabiex dawk id-Direttorati, Dipartimenti, Diviżjonijiet u Sezzjonijiet ikunu jistgħu jagħtu seħħ lill-*policies* tar-Regolatur u biex xort'oħra jkunu jistgħu jwettqu b'mod effettiv u effiċjenti l-funzjonijiet tar-Regolatur fl-isfera rispettiva tal-operat tagħhom.

(4) Kull wieħed mid-Direttorati, Dipartimenti, Diviżjonijiet u Sezzjonijiet hekk stabbiliti għandu jitmexxa minn individwu li jista' jkun sew uffiċjal pubbliku assenjat sabiex iwettaq dmirijietu mar-Regolatur jew impjegat tar-Regolatur, jew persuna assenjata sabiex taħdem mar-Regolatur skont ftehim bejn ir-Regolatur u intrapriża pubblika jew privata, li f'kull każ ikollu esperjenza jew konoxxenza adegwata fl-isfera rispettiva tal-operat tas-sezzjoni konċernata.

(5) Sew ir-Regolatur, sew kull wiehed mid-Direttorati, Dipartimenti, Diviżjonijiet u Sezzjonijiet tiegħu jistgħu jeżerċitaw xi wiehed jew iktar mill-funzjonijiet tagħhom kemm direttament kemm permezz tal-uffiċjali jew impjegati tagħhom jew permezz ta' aġenzija li tkun awtorizzata għal dak l-għan, jew permezz ta' kuntrattur jew persuna oħra li magħhom isir ftehim għat-twettiq ta' xi waħda jew iktar minn dawk il-funzjonijiet:

Izda ebda haġa f'dan is-subartikolu ma għandha tawtorizza lir-Regolatur sabiex jagħti b'kuntratt xi funzjonijiet regulatorji jew ta' liċenzjar tiegħu.

(6) Meta f'dan l-Att xi haġa jkollha ssir minn jew kontra jew għar-rigward tar-Regolatur, jew xi avviż ikollu jinghata jew jista' jinghata lir-Regolatur, kull haġa jew avviż simili jistgħu wkoll jintgħamlu minn jew kontra jew għar-rigward ta' jew jinghataw lid-Direttorat, Dipartiment, Diviżjoni jew Sezzjoni li l-haġa tkun taqa' taħt il-gurisdizzjoni tal-istess minhabba f'xi delega ta' funzjoni lilhom; u għall-għanijiet hawn aktar qabel imsemmija kull referenza f'dan l-Att għar-Regolatur tinkludi riferenza għad-Direttorat, Dipartiment, Diviżjoni jew Sezzjoni idoneja.

(7) L-Uffiċjal Eżekuttiv Ewlieni u l-kapijiet tad-Direttorati, Dipartimenti, Diviżjonijiet u Sezzjonijiet għandhom jinhatru mir-Regolatur għall-perjodu stabbilit mir-Regolatur li fl-ebda każ m'għandu jkun anqas minn tliet snin:

Izda l-Uffiċjal Eżekuttiv Ewlieni għandu jkun mahtur mill-Ministru.

(8) L-Uffiċjal Eżekuttiv Ewlieni għandu jattendi għal-laqgħat kollha tar-Regolatur izda ma jkollux vot waqt dawk il-laqgħat:

Izda r-Regolatur jista' jekk iqis li jkun hekk xieraq jehtieg lill-Uffiċjal Eżekuttiv Ewlieni sabiex ma jattendix għal xi waħda mil-laqgħat jew għal xi parti minn xi laqgħa.

(9) L-Uffiċjal Eżekuttiv Ewlieni jkun responsabbli għall-implimentazzjoni tal-għanijiet tar-Regolatur fl-eżerċizzju tal-funzjonijiet tiegħu u mingħajr preġudizzju għall-generalità ta' dak hawn aktar qabel imsemmi huwa għandu:

(a) jassumi kull responsabbiltà għas-sorveljanza u l-kontroll totali tad-Direttorati, Dipartimenti, Diviżjonijiet u Sezzjonijiet;

(b) jassenja lil kull Direttorat, Dipartiment, Diviżjoni u

Sezzjoni dawk id-dmirijiet li huwa jqis meħtieġa jew spedjenti;

(c) jikkordina l-operat tad-Direttorati, Dipartimenti, Diviżjonijiet u Sezzjonijiet;

(d) jiżviluppa l-istrategġiji meħtieġa għall-implimentazzjoni tal-għanijiet tar-Regolatur;

(e) jagħti parir lir-Regolatur dwar kull haġa li dan jista' jirrifertilu jew dwar kull haġa li huwa jqis li tkun meħtieġa jew spedjenti; u

(f) dawk id-dmirijiet l-oħra li r-Regolatur jista' jassenjalu minn żmien għal żmien.

7. (1) Il-Ministru jista', għar-rigward ta' dawk l-affarijiet li jkunu jidhrulu li jolqtu l-interess pubbliku, minn żmien għal żmien jagħti lir-Regolatur direttivi bil-miktub ta' xorta generali, li ma jkunux relatati mas-setgħat regolatorji tar-Regolatur u li ma jkunux inkonsistenti mad-dispożizzjonijiet ta' dan l-Att, u r-Regolatur għandu, mill-aktar fis possibbli, iġib fis-seħħ dawn id-direttivi kollha b'tali mod li jirrispettaw, b'mod partikolari, id-dispożizzjonijiet tal-artikolu 5 hekk li s-setgħat regolatorji indipendenti tar-Regolatur ma jkunu bl-ebda mod preġudikati.

Relazzjonijiet
bejn il-Ministru
u r-Regolatur.

(2) Ir-Regolatur għandu jagħti lill-Ministru faċilitajiet għall-ksib ta' informazzjoni dwar il-proprjetà li jkollu u l-attivitajiet tiegħu u jibgħatlu prospetti, kontijiet u kull informazzjoni oħra li jkollha x'taqsam ma' dan, u jagħtih il-faċilitajiet kollha sabiex ikun jista' jivverifika l-informazzjoni mogħtija, b'dak il-mod u f'kull waqt li huwa jista' hekk raġonevolment jeħtieġ.

(3) Il-komunikazzjonijiet kollha bejn il-Ministru u r-Regolatur għandhom isiru b'tali mod li jiġi żgurat li l-indipendenza tar-Regolatur fl-eżercizzju tal-funzjonijiet tiegħu fl-ebda hin ma tkun bi kwalunkwe mod preġudikata.

8. (1) Ir-Regolatur għandu jkun korp ġuridiku li jkollu personalità ġuridika distinta u għandu jkun kapaċi, bla ħsara għad-dispożizzjonijiet ta' dan l-Att, li jagħmel kull kuntratt, li jakkwista, iżomm u jiddisponi minn kull xorta ta' proprjetà għall-għanijiet tal-funzjonijiet tiegħu, jew li jħarrek u li jiġi mħarrek, u li jagħmel dawk l-affarijiet kollha u li jidhol f'dawk it-transazzjonijiet kollha li jkunu incidentali jew li jwasslu għall-eżercizzju jew it-twettiq tal-funzjonijiet tiegħu taħt dan l-Att, inkluż is-self jew it-tisli ta' flus.

Personalità
ġuridika u
rappreżentanza
tar-Regolatur.

(2) Ir-rappreżentanza ġuridika tar-Regolatur għandha tkun vestita solidalment fil-President u fl-Uffiċjal Eżekuttiv Ewlieni:

Iżda r-Regolatur jista' jahtar lil xi wiehed jew aktar mill-membri tiegħu jew mill-uffiċjali jew l-impjegati tar-Regolatur sabiex jidhru f'isem u flok ir-Regolatur fi proċedimenti ġudizzjarji kif ukoll f'kull att, kuntratt, strument jew dokument ieħor ikun liema jkun:

Iżda wkoll, dwar kull haġa li tinkwadra fil-funzjonijiet vestiti f'Direttorat, ir-rappreżentanza legali u ġuridika tar-Regolatur għandha tkun vestita wkoll fil-Kap tad-Direttorat jew f'dak il-membri, uffiċjal jew impjegat ieħor tar-Regolatur, hekk kif ir-Regolatur jista' jahtar jew jawtorizza għal dak l-ghan.

(3) Kull dokument li huwa intiż bħala strument magħmul jew mahruġ mir-Regolatur u li jiġi ffirmat mill-President jew mill-Uffiċjal Eżekuttiv Ewlieni jew minn Kap tad-Direttorat għar-rigward ta' xi haġa vestita fid-Direttur relattiv mir-Regolatur għandu jiġi riċevut b'xhieda tal-kontenut tiegħu u għandu, sakemm ma jiġix ippruvat il-kuntrarju, jitqies li jkun strument magħmul jew mahruġ mir-Regolatur.

Dispożizzjonijiet rigward il-proċedimenti tar-Regolatur.

9. (1) Il-laqgħat tar-Regolatur għandhom jissejhu mill-President kemm-il darba jkun meħtieġ iżda mill-anqas darba fix-xahar, jew b'inizjattiva tiegħu jew fuq talba ta' xi tnejn mill-membri l-oħra.

(2) Nofs l-għadd tal-membri li f'dak iż-żmien ikunu jikkostitwixxu r-Regolatur għandhom jagħmlu *quorum*. Id-deċiżjonijiet għandhom jiġu adottati minn maġġoranza sempliċi tal-voti tal-membri preżenti u votanti. Il-President, jew fl-assenza tiegħu il-Viċi President jew persuna oħra li tkun mahtura sabiex tagħmilha ta' President, għandu jkollu vot inizjali u fil-każ li jkun hemm voti ndaqs, vot deċiżiv. Mingħajr preġudizzju għall-ħtiġiet l-oħra ta' dan l-Att, ebda deċiżjoni ma tkun valida jekk din ma jkollhiex l-appoġġ ta' mill-anqas żewġ membri tar-Regolatur.

(3) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, ir-Regolatur jista' jirregola l-proċedura tiegħu nnifsu.

(4) Bla ħsara għad-dispożizzjonijiet ta' qabel ta' dan l-artikolu, ebda att jew proċediment tar-Regolatur ma għandu jiġi invalidat unikament minhabba li jkun hemm xi post vakanti fost il-membri.

(5) Kull att magħmul minn xi persuna li tkun qed tagixxi f'bonafidi bħala membru tar-Regolatur għandu jkun validu bhallikieku hi kienet membru minkejja li wara jiġi skopert li kien hemm xi difett fil-ħatra jew il-kwalifiki tagħha. Ebda att jew proċediment tar-Regolatur ma għandu jiġi kontestat minhabba fil-

ksur minn xi membru tad-dispożizzjonijiet tal-artikolu 3(8).

TAQSIMA III IS-SETGHAT TAR-REGOLATUR

10. (1) Sakemm ma jigix preskritt mod ieħor, hadd ma għandu jwettaq xi attività jew operazzjoni, jew ikun ingaġġat f'xi attività jew operazzjoni, li tirrigwarda r-rizorsi u s-servizzi tal-enerġija u l-ilma kemm-il darba dik il-persuna ma jkollhiex liċenza, permess jew awtorizzazzjoni oħra tar-Regolatur taħt dan l-Att.

Liċenzjar, eċċ.,
ta' attivitajiet.

(2) Kull min iwettaq xi attività bħal dik mingħajr liċenza jew jaġixxi bi ksur ta' xi kondizzjoni ta' dik il-liċenza, ikun ħati ta' reat u jeħel meta jinstab ħati multa ta' mhux iżjed minn mija u ħmistax-il elf euro (€115,000) jew priġunerija għal żmien mhux iżjed minn sentejn, jew dik il-multa u priġunerija flimkien.

(3) Bla ħsara għad-dispożizzjonijiet tal-artikolu 469A tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili ma għandu jkun hemm ebda appell minn xi deċiżjoni tar-Regolatur taħt is-subartikolu (1).

Kap. 12.

(4) Id-dispożizzjonijiet ta' dan l-artikolu ma għandhomx japplikaw għal xi ġiebjja jew bir f'dar ta' abitazzjoni, li jeħtieġu li jiġu kostruwiti taħt xi liġi, u d-dispożizzjonijiet ta' dan l-artikolu ma għandhomx jitqiesu li jeħtieġu xi liċenza jew permess għall-kostruzzjoni u l-manutenzjoni ta' xi ġiebjja jew bir bħal dawk, b'dan illi din il-kostruzzjoni ma tipprekludix lir-Regolatur milli jeżerċita xi waħda mill-funzjonijiet u s-setgħat taħt dan l-Att bil-għan li jiżgura li ma jinħeliex jew jiġi użat ħażin xi ilma u li ma ssir ebda ħsara lill-akwifer jew band'oħra.

(5) Awtorizzazzjoni mogħtija lil persuna taħt dan l-Att m'għandhiex teżonera lil dik il-persuna mill-obbligu li għandha taħt il-liġi li tapplika għal kull awtorizzazzjoni oħra neċessarja, tkun kif tkun deskritta, jew minn kull obbligu ieħor li johroġ minn xi liġi oħra:

Izda l-kwistjonijiet li jaqgħu taħt dan l-artikolu li jkunu pendent i quddiem l-Awtorità ta' Malta dwar ir-Rizorsi skont l-Att dwar l-Awtorità ta' Malta dwar ir-Rizorsi minn qabel id-dhul fis-seħħ ta' dan l-Att, għandhom minnufih jiġu trasferiti fuq ir-Regolatur mingħajr il-ħtieġa ta' formalitajiet oħra għajr id-dhul fis-seħħ ta' dan l-Att.

Kap. 423.

11. (1) Kull uffiċjal jew impjegat tar-Regolatur hekk awtorizzat jista', f'kull żmien raġonevoli, jidhol f'kull fond, vettura jew f'kull post ieħor, bil-għan li -

Setgħat ta'
infurzar tar-
Regolatur.

(a) jagħmel spezzjonijiet, testijiet, kejl, u, jew jieħu

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kampjuni sabiex jiġi żgurati li ebda ksur ma jkun qiegħed isir tad-dispożizzjonijiet ta' dan l-Att, tar-regolamenti li jsiru taħtu jew il-pattijiet u l-kondizzjonijiet ta' xi liċenza, permess jew awtorizzazzjoni maħruġa taħt dan l-Att;

(b) tiġi aċċertata jew riprodotta dik l-informazzjoni li r-Regolatur ikun jista' jeħtieġ.

(2) Kull min jostakola jew jimpedixxi lil xi uffiċjal jew impjegat tar-Regolatur fl-eżerċizzju ta' dmirijietu taħt dan l-Att jehel, meta jinstab ħati, priġunerija għal perjodu ta' mhux iżjed minn tmintax-il xahar jew multa ta' mhux iżjed minn sebgħin elf euro (€70,000), jew dik il-multu u priġunerija flimkien.

Impożizzjoni ta' penali amministrattivi.

12. (1) Ir-Regolatur jista' jimponi penali amministrattiva fuq persuna li tikkommetti ksur ta' xi dispożizzjoni ta' dan l-Att, ta' regolamenti magħmulin taħtu jew ta' kull liġi oħra li r-Regolatur ikollu jedd jinforza, jew li tonqos milli tikkonforma ruħha ma' xi direttiva jew deċiżjoni mogħtija mir-Regolatur kemm jekk taħt dan l-Att, kemm b'regolamenti magħmulin taħtu jew taħt kull liġi oħra li r-Regolatur ikollu jedd jinforza, jew li tonqos milli tosserva deċiżjoni legalment vinkolanti tal-Aġenzija għall-Kooperazzjoni tar-Regolaturi tal-Energija, jew li tonqos milli tosserva l-kondizzjoni ta' xi awtorizzazzjoni jew liċenza mogħtija taħt dan l-Att.

(2) Multa amministrattiva mogħtija skont is-subartikolu (1) ma għandhiex teċċedi:

(a) mitt elf euro (€100,000) għal kull kontravvenzjoni u, jew sitt mitt euro (€600) għal kull jum ta' nuqqas ta' tharis, mid-data tal-għoti tad-deċiżjoni tar-Regolatur; u, jew

(b) f'każ ta' intrapriża (inkluż intrapriża integrata vertikalment) jew korp ġuridiku, sa għaxra fil-mija tad-dħul totali konċernat fis-sena kummerċjali preċedenti:

Iżda, f'każ ta' intrapriża, inkluż intrapriża integrata vertikalment jew korp ġuridiku, tista' fi kwalunkwe każ tiġi imposta multa ta' għaxra fil-mija tad-dħul annwali konċernat fis-sena kummerċjali preċedenti, liema ammont jeċċedi mitt elf euro (€100,000).

Proċeduri meta jiġu imposti multi amministrattivi.

13. (1) Ir-Regolatur, qabel ma jirkupra penali amministrattiva fuq xi persuna li tikser jew tonqos milli tosserva -

(a) xi dispożizzjoni ta' dan l-Att;

(b) regolamenti magħmulin taħt dan l-Att;

(c) xi ligi oħra li r-Regolatur għandu l-jedd li jenforza; jew;

(d) xi direttiva jew deċiżjoni mogħtija mir-Regolatur kemm jekk taħt dan l-Att, regolamenti magħmulin taħt dan l-Att jew taħt kull ligi oħra li r-Regolatur ikollu l-jedd li jenforza; jew

(e) xi kondizzjoni ta' xi awtorizzazzjoni mogħtija taħt dan l-Att,

għandu permezz ta' ittra uffiċjali lill-persuna involuta -

(i) jagħti avviż lil dik il-persuna tal-penali amministrattiva li tkun qiegħda tiġi imposta mir-Regolatur;

(ii) jagħti avviż tar-raġuni speċifika għaliex tkun qiegħda tiġi imposta dik il-penali;

(iii) jagħti avviż dwar l-ammont tal-penali;

(iv) jitlob lil dik il-persuna sabiex tirrimedja l-atti jew l-ommissjonijiet li jkunu saru minnha jekk dawk l-atti jew ommissjonijiet ikunu għadhom jistgħu jiġu rimedjati u, jew li tressaq is-sottomissjonijiet tagħha lir-Regolatur fi żmien speċifikat:

Iżda dak iż-żmien ma jistax ikun ta' aktar minn għoxrin gurnata u mhux anqas minn hamest ijiem mid-data tan-notifika tal-ittra uffiċjali:

Iżda wkoll il-persuna, li kontriha tiġi imposta penali amministrattiva, għandha tingħata opportunità raġonevoli matul dak il-perjodu ta' żmien li jista' jkun stipulat fl-ittra uffiċjali sabiex tagħmel is-sottomissjonijiet tagħha lir-Regolatur u sabiex tipproponi kull rimedju li jirrimedja l-attijiet jew l-ommissjonijiet hekk kif ikunu meħtieġa mir-Regolatur jekk dawk l-atti jew ommissjonijiet ikunu għadhom jistgħu jiġu rimedjati.

(2) Fl-ittra uffiċjali msemmija fis-subartikolu (1), ir-Regolatur jista' jimponi dawk il-kondizzjonijiet li jista' jikkunsidra raġonevoli fiċ-ċirkostanzi.

(3) Jekk il-persuna involuta tirrimedja l-ksur fiż-żmien stabbilit mir-Regolatur skont is-subartikolu (1), u taqbel bil-miktub li tosserva l-kondizzjonijiet li r-Regolatur jista' jimponi, ir-Regolatur għandu jieqaf milli jkompli jipproċedi:

Iżda jekk il-persuna involuta, wara li tkun intrabtet bil-

miktub, kif imsemmi hawn qabel, tonqos milli tirrimedja l-ksur fiż-
zmien stabbilit mir-Regolatur skont is-subartikolu (1) jew tonqos
milli thares il-kondizzjonijiet li jkunu ġew miftiehma bil-miktub, ir-
Regolatur għandu jimponi penali amministrattiva kontra dik il-
persuna għal dak in-nuqqas, flimkien mal-penali amministrattiva li
tkun ġiet imposta għall-ksur innifsu.

(4) Jekk wara li jiskadi l-perjodu msemmi fis-subartikolu (1),
ir-Regolatur jikkunsidra li l-persuna involuta ma tkun tat ebda raġuni
valida sabiex turi għaliex m'għandhiex tiġi imposta ebda penali
amministrattiva kontriha, ir-Regolatur għandu jgħaddi sabiex jirkupra
dik il-penali amministrattiva.

(5) Minkejja kull dispożizzjoni oħra ta' dan l-artikolu, meta r-
Regolatur ikollu prova *prima facie* li l-ksur -

(a) jirrappreżenta theddida immedjata u gravi għas-
sigurtà, sigurezza jew saħħa pubblika; jew

(b) joħloq jew jista' joħloq problemi serji ekonomiċi
jew operattivi għal provdituri oħra ta' rizorsi jew għal
konsumaturi,

ir-Regolatur jista' jqassar il-perjodi msemmija fis-subartikolu (1):

Izda l-persuna li kontriha tkun qieghda tiġi imposta dik il-
penali amministrattiva, għandha tingħata opportunità raġonevoli
sabiex tagħti l-fehma tagħha u tipproponi kull rimedju possibbli.

(6) L-ittra uffiċjali msemmija fis-subartikolu (1), meta jiskadi
t-terminu li fih jista' jsir appell minnha, u meta ssir notifika ta' kopja
tagħha permezz ta' att ġudizzjarju lill-persuna konċernata li kontriha
tkun qieghda tiġi imposta penali amministrattiva, għandha
tikkostitwixxi titolu eżekuttiv għall-finijiet u l-effetti kollha tal-
artikolu 253(a) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili:

Kap. 12.

Izda jekk il-persuna li kontriha tkun inħarġet l-ittra
uffiċjali tagħmel appell minnha quddiem it-Tribunal ta' Revizjoni
Amministrattiva, u flimkien mal-appell jew qabel ma tagħmel l-
appell tkun talbet lit-Tribunal ta' Revizjoni Amministrattiva
jissospendi l-effetti tal-ittra uffiċjali, ir-Regolatur għandu jieqaf milli
joħroġ att ġudizzjarju kif imsemmi f'dan is-subartikolu sakemm tkun
ġiet deċiża, miċhuda jew mod ieħor ittrattata t-talba għal sospensjoni:

Izda wkoll it-Tribunal ta' Revizjoni Amministrattiva
għandu jiddeċiedi kull talba għas-sospensjoni msemmija f'dan is-
subartikolu mill-aktar fis. Qabel ma tiġi deċiża talba bħal dik, it-
Tribunal ta' Revizjoni Amministrattiva għandu jagħti lir-Regolatur

opportunità raġonevoli sabiex iwieġeb u jressaq is-sottomissjonijiet tiegħu, fi żmien mhux anqas minn tleTT ijiem tax-xogħol.

(7) Imgħax bir-rata ta' tmienja fil-mija fis-sena għandu jibda għaddej mid-data li r-Regolatur jistabbilixxi għall-pagament ta' xi penali amministrattiva imposta minnu. Fil-każijiet meta t-Tribunal ta' Reviżjoni Amministrattiva jew il-Qorti tal-Appell, skont ma jkun il-każ, wara li jkun intlaqa' favorevolment rikors sabiex jissospendi l-penali sakemm isiru l-proċedimenti, fl-aħħar jiddeċiedu li l-penali amministrattiva kif imposta mir-Regolatur tkun dovuta, dik il-penali amministrattiva għandha tkun dovuta flimkien ma' kull imgħax li jkun akkumula fuqha sa minn dik id-data li r-Regolatur ikun oriġinarjament stabbilixxa għall-ħlas u li tkun tinkludi l-perjodu li matulu l-ħlas ta' dik il-penali jkun ġie sospiż.

(8) Ir-Regolatur għandu jagħti r-raġunijiet tiegħu għal kull deċiżjoni li tittiehed taħt dan l-artikolu.

(9) Minkejja d-dispożizzjonijiet ta' kull liġi oħra, ebda mandat jew ordni kawtelatorju m'għandhom jinħarġu minn xi qorti li jkunu jirrestringu lir-Regolatur milli jeżerċita xi setgħa mogħtija lilu taħt dan l-Att dwar penalitajiet amministrattivi.

(10) Fil-każijiet kollha li r-Regolatur jimponi xi penali amministrattiva fir-rigward ta' xi haġa li tkun saret jew li tkun naqset milli ssir minn xi persuna u dak l-att jew ommissjoni jkunu wkoll jikkostitwixxu reat kriminali, ebda proċediment ma jkun jista' jinbeda jew jitkompla kontra dik il-persuna dwar dak ir-reat kriminali.

(11) Penali amministrattiva imposta mir-Regolatur għandha titqies bħala dejn ċivili.

(12) Jekk xi persuna xjentement tevita, tfixkel jew turrifjuta n-notifika ta' xi att ġudizzjarju mahruġ taħt dan l-artikolu, dik il-persuna tkun hatja ta' reat u tehel, meta tinstab hatja, multa ta' mhux iżjed minn sebgħin elf euro (€70,000):

Iżda l-kwistjonijiet li jaqgħu taħt dan l-artikolu li jkunu pendent i quddiem l-Awtorità ta' Malta dwar ir-Riżorsi skont l-Att dwar l-Awtorità ta' Malta dwar ir-Riżorsi minn qabel id-dħul fis-seħħ ta' dan l-Att, għandhom minnufih jiġu trasferiti fuq ir-Regolatur mingħajr il-ħtieġa ta' formalitajiet oħra għajr id-dħul fis-seħħ ta' dan l-Att.

Kap. 423.

14. Meta ksur amministrattiv ikun jirrigwarda -

- (a) xi dispożizzjoni ta' dan l-Att;

Ksur amministrattiv minn korpi magħqudin u intrapriżi.

A 888

- (b) regolamenti magħmulin taħt dan l-Att;
- (ċ) kull liġi oħra li r-Regolatur ikollu jedd jenforza;

jew xi persuna -

(i) tonqos milli tosserva xi direttiva jew deċiżjoni mogħtija mir-Regolatur kemm jekk taħt dan l-Att, regolamenti magħmulin taħt l-Att jew taħt kull liġi oħra li r-Regolatur ikollu l-jedd li jenforza; jew

(ii) tonqos milli tosserva xi kondizzjoni ta' xi awtorizzazzjoni mogħtija taħt dan l-Att, u l-ksur ikun sar minn intrapriża jew korp magħqud u jkun gie ppruvat li twettaq bil-kunsens, jew l-involviment ta', jew li jkun attribwibbli għal, xi negliġenza gravi min-naħa ta' persuna li tkun direttur, *manager*, segretarju jew uffiċjal ieħor, tkun kif tkun deskritta l-kariga, ta' dak il-korp magħqud jew intrapriża jew persuna li kienet qiegħda taġixxi f'dik il-kariga,

dik il-persuna u dak il-korp magħqud għandhom ikunu responsabbli għal dak il-ksur u għandhom ikunu responsabbli *in solidum* għall-ħlas ta' dik il-penali amministrattiva imposta mir-Regolatur bħala konsegwenza ta' dan.

Proċedimenti
dwar djun
dovuti.
Kap. 12.

15. Id-dispożizzjonijiet tal-artikolu 466 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw għar-Regolatur bl-istess mod kif japplikaw għad-Dipartimenti tal-Gvern:

Kap. 423.

Izda l-kwistjonijiet li jaqgħu taħt dan l-artikolu li jkunu pendenti quddiem l-Awtorità ta' Malta dwar ir-Riżorsi skont l-Att dwar l-Awtorità ta' Malta dwar ir-Riżorsi minn qabel id-dħul fis-seħħ ta' dan l-Att, għandhom minnufih jiġu trasferiti fuq ir-Regolatur mingħajr il-ħtieġa ta' formalitajiet oħra għajr id-dħul fis-seħħ ta' dan l-Att.

TAQSIMA IV

UFFIĊJALI U IMPJEGATI TAR-REGOLATUR

Hatriet ta'
persunal.

16. Mingħajr preġudizzju għad-dispożizzjonijiet l-oħra ta' dan l-Att, il-hatra ta' uffiċjali u ta' impjegati oħra tar-Regolatur għandha ssir mir-Regolatur. Il-pattijiet u l-kondizzjonijiet tal-impjegat għandhom jiġu stabbiliti mir-Regolatur.

Hatra u
funzjonijiet tal-
uffiċjali u l-
impjegati tar-
Regolatur.

17. Ir-Regolatur għandu jahtar u jimpjega, b'dik ir-rimunerazzjoni u b'dawk il-pattijiet u kondizzjonijiet ta' zmien hekk kif jista', skont l-artikolu 16 jistabbilixxi, lil dawk l-uffiċjali u l-

impjegati tar-Regolatur bħalma jistgħu minn żmien għal żmien ikunu meħtieġa għat-twettiq dovut u effiċjenti tal-funzjonijiet tar-Regolatur.

18. (1) Is-Segretarju Permanenti Ewlieni, fuq id-direzzjoni tal-Prim Ministru, jista', minn żmien għal żmien, wara talba tar-Regolatur, jidderieġi li uffiċjal pubbliku għandu jiġi inkarigat għal xogħol mar-Regolatur f'dik il-kapaċità u taħt dawk il-kondizzjonijiet b'effett minn dik id-data li hu jista' jispeċifika.

Assenjament ta' uffiċjali pubbliċi sabiex jaqdu dmirijiet mar-Regolatur.

(2) Il-perjodu li matulu direttiva kif hawn qabel imsemmi għandha tapplika għal xi uffiċjal speċifikat fiha, għandu, kemm-il darba l-uffiċjal ma jirtirax mis-servizz pubbliku, jew xort'oħra ma jkomplix fil-kariga f'data qabel, jew kemm-il darba ma jkunx speċifikat perjodu differenti f'dik id-direttiva, jintemm meta sseħħ xi grajja minn dawn li ġejjin:

(a) l-aċċettazzjoni minn dak l-uffiċjal ta' offerta ta' trasferiment għas-servizz ta', u impjeg permanenti mar-Regolatur skont id-dispożizzjonijiet tal-artikolu 20; jew

(b) ir-revoka ta' dik id-direttiva mis-Segretarju Permanenti Ewlieni fuq direttiva tal-Prim Ministru.

(3) Meta direttiva kif hawn aktar qabel imsemmi tiġi revokata mis-Segretarju Permanenti Ewlieni dwar xi uffiċjal, is-Segretarju Permanenti Ewlieni jista' b'direttiva oħra u fuq direttiva tal-Prim Ministru, jalloka lil dak l-uffiċjal għal dmirijiet mar-Regolatur f'dik il-kariga u b'seħħ minn dik id-data li tista' tiġi speċifikata fid-direttiva tas-Segretarju Permanenti Ewlieni, u d-dispożizzjonijiet tas-subartikolu (2) għandhom malli jsir dan japplikaw dwar il-perjodu ta' tul ta' kull direttiva oħra bħal dik dwar dak l-uffiċjal.

19. (1) Meta uffiċjal jiġi assenjat għal dmirijiet mar-Regolatur taħt xi waħda mid-dispożizzjonijiet tal-artikolu 18, dak l-uffiċjal għandu, matul iż-żmien li fih dik l-ordni jkollha effett dwaru, ikun taħt l-awtorità u l-kontroll amministrattiv tar-Regolatur iżda huwa għandu għal kull għan u raġuni oħra jibqa' u jitqies u jiġi ttrattat bħala uffiċjal pubbliku.

Status ta' uffiċjali pubbliċi assenjati sabiex jaqdu dmirijiet mar-Regolatur.

(2) Mingħajr preġudizzju għall-ġeneralità ta' dak hawn aktar qabel imsemmi, uffiċjal li jkun assenjat għal dmirijiet kif hawn aktar qabel imsemmi:

(a) ma għandux waqt iż-żmien li matulu huwa jkun hekk assenjat:

(i) jiġi mcaħhad milli japplika għal trasferiment f'xi dipartiment tal-Gvern skont it-termini u l-

kondizzjonijiet tas-servizz marbuta mal-ħatra miżmuma minnu taht il-Gvern li kellu fid-data li fiha huwa hekk kien inkarigat biex jagħmel ix-xogħol; jew

(ii) ikun hekk impjegat li l-ħlas u l-kondizzjonijiet ta' servizz tiegħu jkunu inqas favorevoli minn dawk li jkunu marbuta mal-ħatra miżmuma minnu taht il-Gvern u li jkun qed igawdi fid-data hawn aktar qabel imsemmija jew li kieku kienu jkunu marbuta ma' dik il-ħatra, matul dak il-perjodu, li kieku dak l-uffiċjal ma kienx ġie inkarigat jagħmel xogħol mar-Regolatur:

Iżda dawk it-termini u kondizzjonijiet m'għandhomx jitqiesu li huma inqas favorevoli għax ma jkunux fil-ħwejjeg kollha identiċi jew oġġa minn dawk li l-uffiċjal konċernat ikollu fid-data tal-offerta, jekk dawk it-termini u l-kondizzjonijiet, meħuda globalment, fil-fehma tal-Prim Ministru joffru benefiċċji li jkunu sostanzjalment daqshom jew aħjar; u

(b) ikun intitolat li s-servizz tiegħu mar-Regolatur jiġi meqjus bħala servizz mal-Gvern għall-finijiet ta' kull pensjoni, gratifikazzjoni, jew benefiċċju taht l-Ordinanza dwar il-Pensjonijiet u l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema u ta' kull dritt jew privileġġ ieħor li huwa jkollu jedd għalih, u jkun responsabbli għal dak kollu li jista' jkun responsabbli għalih, li kieku dak l-uffiċjal ma jkunx ġie mqabbaq jaqdi dmirijietu mar-Regolatur:

Kap. 93.

Kap. 58.

Iżda fil-kalkolu tal-emolumenti pensjonabbli ta' dak l-uffiċjal għall-finijiet ta' xi ligi li għandha x'taqsam mal-pensjonijiet għal servizz mal-Gvern, m'għandu jittiehed ebda kont ta' xi *allowance*, bonus jew gratifikazzjonijiet imħallsa lil dak l-uffiċjal mir-Regolatur li tkun iżjed minn dak li għandu jedd għalih bħala uffiċjal pubbliku.

(3) Meta ssir applikazzjoni kif previst fis-subartikolu (2)(a)(i) għandha tingħatalha l-istess konsiderazzjoni bħallikieku l-applikant ma kienx ġie inkarigat jagħmel servizz mar-Regolatur.

(4) Ir-Regolatur għandu jhallas lill-Gvern dawk il-kontribuzzjonijiet li jistgħu minn żmien għal żmien jiġu stabbiliti mill-Ministru responsabbli għall-finanzi fir-rigward tan-nefqa ta' pensjonijiet u gratifikazzjonijiet li jaqla' uffiċjal li jiġi inkarigat jagħmel xogħol mar-Regolatur kif hawn qabel imsemmi matul il-perjodu li fih ikun qed jagħmel dak ix-xogħol.

20. (1) Ir-Regolatur jista', bl-approvazzjoni tal-Prim Ministru, joffri lil uffiċjal assenjat għal dmirijiet mar-Regolatur taħt xi wahda mid-dispożizzjonijiet tal-artikolu 18, impjieg permanenti mar-Regolatur b'dak il-ħlas u b'dawk it-termini u l-kondizzjonijiet li ma jkunux inqas favorevoli minn dawk li jgawdi dak l-uffiċjal fid-data ta' dik l-offerta.

Offerta ta' impjieg permanenti mar-Regolatur.

(2) It-termini u l-kondizzjonijiet komprizi f'xi offerta magħmula kif hawn qabel imsemmi ma għandhomx jitqiesu li jkunu inqas favorevoli sempliċement minħabba li ma jkunux f'kull rigward identiċi ma' jew aħjar minn dawk li l-uffiċjal ikun qed igawdi fid-data ta' dik l-offerta, jekk dawk it-termini u l-kondizzjonijiet, meħuda lkoll flimkien, fil-fehma tal-Prim Ministru, joffru benefiċċji sostanzjalment ekwivalenti jew aħjar.

(3) Kull uffiċjal li jaċċetta impjieg permanenti li jiġi offrut lilu mar-Regolatur, taħt id-dispożizzjonijiet tas-subartikolu (1), għandu għall-għanijiet kollha minbarra dawk tal-Ordinanza dwar il-Pensjonijiet u l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, u b'riserva għad-dispożizzjonijiet tas-subartikolu (6), jitqies bħala li temm milli jibqa' fis-servizz mal-Gvern u li jkun daħal fis-servizz mar-Regolatur fid-data minn meta jaċċetta, u għall-finijiet tal-imsemmija Ordinanza u tal-imsemmi Att, sakemm applikabbli għalih, servizz mar-Regolatur għandu jitqies bħala servizz mal-Gvern fil-parametri tat-tifsiriet relattivi tagħhom.

Kap. 93.
Kap. 58.

(4) Kull uffiċjal bħal dak hawn aktar qabel imsemmi li, minnufih qabel ma jaċċetta impjieg permanenti mar-Regolatur kellu jedd jikseb benefiċċju taħt l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, ikompli jkollu dak il-jedd għal benefiċċju taħt dak l-Att għal kull fini bħallikieku s-servizz tiegħu mar-Regolatur kien servizz mal-Gvern.

Kap. 58.

(5) Ir-Regolatur għandu jhallas lill-Gvern dawk il-kontribuzzjonijiet li jistgħu minn żmien għal żmien jiġu stabbiliti mill-Ministru responsabbli għall-finanzi dwar in-nefqa ta' pensjonijiet u gratifikazzjonijiet li jaqla' uffiċjal li jkun aċċetta impjieg permanenti mar-Regolatur kif hawn qabel imsemmi matul il-perjodu li jibda għaddej mid-data meta dak l-uffiċjal hekk jaċċetta.

(6) Għall-għanijiet tal-Ordinanza dwar il-Pensjonijiet, l-emolumenti pensjonabbli ta' dak l-uffiċjal pubbliku meta jirtira għandhom jitqiesu li jkunu l-emolumenti pensjonabbli li jiġihallu lil xi uffiċjal fis-servizz tal-Gvern fil-grad u fil-livell inkrementali li jkollu l-uffiċjal meta jirtira minn mar-Regolatur.

Kap. 93.

(7) (a) Għall-għanijiet ta' dan l-artikolu l-karigi u l-gradji salarjali mar-Regolatur għandhom jiġu klassifikati fi gradi u livelli

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inkrementali li jkunu l-aktar jikkorrispondu ma' dawk ta' min hu fis-servizz taht il-Gvern b'referenza ghad-deskrizzjoni ta' xoghol, kapaċitajiet, responsabbiltajiet u fatturi oħra li jixxiebhu.

(b) Il-klassifikazzjoni msemmija fil-paragrafu (a) għandha ssir minn bord magħmul minn *chairman* li jigi mahtur mill-Ministeru responsabbli għall-finanzi u magħmul ukoll minn żewġ membri oħra, wiehed mahtur mill-Ministeru ċentralment responsabbli għal politika dwar il-persunal fis-servizz pubbliku u wiehed li jigi mahtur mir-Regolatur. Il-klassifikazzjoni tkun sugġetta għall-approvazzjoni finali tal-Ministru responsabbli għall-finanzi.

(c) Dik il-klassifikazzjoni għandha ssehh fi żmien tliet xhur minn kull meta jsir aġġustament tas-salarji ta' impjegati fis-servizz tal-Gvern u, jew, ta' impjegati tar-Regolatur.

(d) Ebda kariga ma għandha tiġi klassifikata fi grad oġhla minn dak ta' Grad 3 fis-servizz tal-Gvern jew dak il-grad ieħor li l-Ministru responsabbli għall-finanzi jista' minn żmien għal żmien jistabilixxi b'avviz fil-Gazzetta.

(e) Bla ħsara għall-artikolu 113 tal-Kostituzzjoni, hadd ma jista', wara klassifikazzjoni kif hawn aktar qabel imsemmi, ikun intitolat għal drittijiet taht l-imsemmija Ordinanza dwar il-Pensjonijiet li jkunu inqas favorevoli minn dawk li kien ikollu jedd għalihom qabel dik il-klassifikazzjoni.

Kap. 93.

IL-HAMES TAQSIMA DISPOŻIZZJONIJIET FINANZJARJI

L-ispiza tar-Regolatur tinhareg mid-dhul tiegħu.

21. (1) Mingħajr preġudizzju għad-dispożizzjonijiet li ġejjin ta' dan l-artikolu, ir-Regolatur għandu hekk imexxi l-affarijiet tiegħu li daqstant mill-ispiza meħtieġa għat-twettiq sew tal-funzjonijiet tiegħu għandha, daqskemm dan ikun possibbli, tinhareg mid-dhul tiegħu.

(2) Għal dan l-għan ir-Regolatur għandu jiġbor kull dritt, rata u hlas ieħor preskritti jew meqjusa bħala preskritti b'dan l-Att jew tahtu jew taht kull liġi oħra li jkollha x'taqsam mas-setgħat u l-funzjonijiet tar-Regolatur.

(3) Ir-Regolatur għandu wkoll jithallas mill-Gvern mill-Fond Konsolidat dawk l-ammonti li l-Parlament jista' minn żmien għal żmien jawtorizza li jiġu approprijati sabiex minnhom issir kull nefqa li r-Regolatur jista' jkollu jagħmel u li ma tkunx tista' tinhareg mid-dhul tiegħu u l-ispejjeż ta' xogħlijiet speċifikati sabiex dawn jitkomplew jew xort'oħra jsiru mill-istess Regolatur, li jkunu xogħlijiet ta' infrastruttura jew ta' xorta kapitali simili.

(4) Kull eċċess ta' dħul fuq l-infiq għandu jiġi applikat mir-Regolatur għall-formazzjoni ta' fondi ta' riserva sabiex dawn jintużaw għall-ghanijiet tar-Regolatur; u mingħajr preġudizzju għall-generalità tas-setgħat mogħtijin lill-Ministru b'dan is-subartikolu, kull direzzjoni li tingħata mill-Ministru kif hawn aktar qabel imsemmi tista' tkun tordna t-trasferiment lill-Gvern, jew l-applikazzjoni b'dak il-mod li jista' jiġi speċifikat fl-ordni, ta' xi parti mid-drittijiet, rati u ħlasijiet oħra miġbura skont is-subartikolu (2) jew ta' kull eċċess bħal dak kif hawn aktar qabel imsemmi.

(5) Il-flus kollha tar-Regolatur li ma jkunux meħtieġa minnufih sabiex minnhom issir l-ispiza jistgħu jiġu investiti b'dak il-mod li jiddeċiedi r-Regolatur.

22. (1) Bil-għan li jkun jista' jaqdi kull funzjoni tiegħu taħt dan l-Att, ir-Regolatur jista', f'konnessjoni mal-qadi tal-funzjonijiet tiegħu, jissellef jew jiġbor flus. Setgħa li jissellef jew joriġina kapital.

(2) Ir-Regolatur jista' wkoll, minn żmien għal żmien, jissellef, b'*overdraft* jew xort'oħra, dawk l-ammonti li jista' jeħtieġ sabiex iwettaq il-funzjonijiet tiegħu taħt dan l-Att:

Izda għal kull ammont li jkun jeċċedi mija u għoxrin elf euro (€120,000), għandu jingħata l-approvazzjoni tal-Ministru bil-miktub.

23. Il-Ministru responsabbli għall-finanzi jista', wara konsultazzjoni mal-Ministru, jagħmel avvanzi lir-Regolatur ta' dawk l-ammonti li huwa jista' jaqbel li jkunu meħtieġa mir-Regolatur sabiex iwettaq kull funzjoni tiegħu taħt dan l-Att, u jista' jagħmel dawk l-avvanzi b'dawk il-pattijiet u l-kondizzjonijiet li huwa jista', wara dik il-konsultazzjoni hawn aktar qabel imsemmija, iqis li jkunu xierqa. Avvanz bħal dak jista' jsir mill-Ministru responsabbli għall-finanzi mill-Fond Konsolidat, u mingħajr ebda approprjazzjoni oħra minbarra dan l-Att, b'kitba minnu magħmula li tkun tawtorizza lill-*Accountant General* li jagħmel dak l-avvanz. Avvanzi mill-Gvern.

24. (1) Il-Ministru responsabbli għall-finanzi jista', għal kull htieġa tar-Regolatur ta' xorta kapitali, jikkuntratta jew jiġbor kull self, jew jidhol f'passiv, għal dawk il-perjodi u b'dawk il-pattijiet u kondizzjonijiet hekk kif huwa jista' jqis li jkun xieraq; u kull ammont dovut għar-rigward ta' jew b'konnessjoni ma' xi self jew passiv bħal dak għandu jkun piż fuq il-Fond Konsolidat. Self mingħand il-Gvern.

(2) Għandu jingħata avviz dwar kull self, passiv jew avvanz magħmul jew li jsir taħt id-dispożizzjonijiet ta' qabel ta' dan l-artikolu lill-Kamra tad-Deputati kemm jista' jkun prattikament malajr u, f'kull każ, mhux aktar tard minn tmien (8) gimgħat wara li dak is-

self, passiv jew avvanz ikun sar, jew jekk f'xi żmien waqt dak il-perjodu l-Kamra ma tkunx qed tiltaqa', fi żmien tmien (8) ġimġhat mill-bidu tas-sessjoni li minnufih imiss wara.

(3) Waqt il-proċess ta' ġbir ta' xi self bħal dak imsemmi fis-subartikolu (1), jew bil-għan li r-Regolatur jiġi pprovdut b'kapital funzjonali, il-Ministru responsabbli għall-finanzi jista', b'kitba magħmula minnu nnifsu, u mingħajr ebda approprjazzjoni oħra hlief dan l-Att, jawtorizza lill-*Accountant General* li jagħmel avvanzi lir-Regolatur mit-*Treasury Clearance Fund* taht dawk il-pattijiet li jistgħu jiġu speċifikati mill-Ministru meta dawn isiru.

(4) Ir-rikavat minn kull self li jingabar bil-għan li jsiru avvanzi lir-Regolatur, u kull flus oħra li għandhom jiġu avvanzati lir-Regolatur taht dan l-artikolu, għandhom jitpogġew f'fond speċifikament stabbilit għal dak l-għan u li jkun magħruf bħala "Fond għal Self lir-Regolatur għall-Energija u Servizzi tal-Ilma".

(5) Ammonti li jirċievi l-*Accountant General* mir-Regolatur għar-rigward ta' avvanzi magħmulin lir-Regolatur taht is-subartikolu (3) għandhom jithallsu, kwantu għal dawk li huma ammonti riċevuti bħala hlas lura billi jitqiegħdu fit-*Treasury Clearance Fund* u kwantu għal dawk li huma ammonti riċevuti bħala mgħax billi jitqiegħdu fil-Fond Konsolidat.

Estimi tar-Regolatur.

25. (1) Ir-Regolatur għandu jara li jithejjew f'kull sena finanzjarja, u mhux iktar tard minn sitt (6) ġimġhat wara t-tmiem ta' kull sena bħal dik, estimi tad-dhul u l-infiq tar-Regolatur għas-sena finanzjarja li tiġi minnufih wara.

(2) Fit-thejjija ta' dawk l-estimi r-Regolatur għandu jqis kull fond u flus oħra li jistgħu jkunu dovuti li jithallsu lil mill-Fond Konsolidat matul is-sena finanzjarja rilevanti, sew bis-saħħa ta' dan l-Att jew ta' att ta' approprjazzjoni jew ta' kull liġi oħra; u r-Regolatur għandu hekk ihejji l-estimi msemmija b'mod li jiżgura li d-dhul totali tar-Regolatur huwa mill-inqas suffiċjenti sabiex minnu jithallas kull ammont li sewwasew għandu jintnefaq mill-kont tad-dhul tiegħu inkluz, iżda mingħajr preġudizzju għall-ġeneralità ta' dik il-frazi, id-deprezzament.

(3) L-estimi għandhom isiru f'dik l-għamla u għandu jkun fihom dik l-informazzjoni u dak it-tqabbil ma' snin ta' qabel hekk kif il-Ministru responsabbli għall-finanzi jista' jordna.

(4) Kopja tal-estimi għandha, meta dawn jiġu adottati mir-Regolatur, tintbagħat minnufih mir-Regolatur lill-Ministru u lill-Ministru responsabbli għall-finanzi.

(5) Il-Ministru għandu, mal-ewwel opportunità u mhux iktar tard minn sitt (6) ġimgħat wara li jkun irċieva kopja tal-estimi mingħand ir-Regolatur, japprovahom bl-emendi jew mingħajrhom, wara konsultazzjoni mal-Ministru responsabbli għall-finanzi.

26. (1) Ma għandha ssir jew tiġġarrab ebda nefqa mir-Regolatur sakemm ma jkunx sar provvediment għaldaqshekk fl-estimi approvati kif previst fl-artikolu 25.

L-infiq għandu jkun skont l-estimi approvati.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) -

(a) sal-iskadenza ta' sitt (6) xhur mill-bidu ta' sena finanzjarja, jew sal-approvazzjoni tal-estimi għal dik is-sena, skont liema data tiġi l-ewwel, ir-Regolatur jista' jagħmel jew iġarrab spiza għat-twertiq tal-funzjonijiet tiegħu taht dan l-Att li ma tkunx globalment teċċedi nofs l-ammont approvat għas-sena finanzjarja preċedenti;

(b) in-nefqa approvata għar-rigward ta' intestatura jew sotto-intestatura tal-estimi tista' ssir jew tiġġarrab għar-rigward ta' xi intestatura jew sotto-intestatura oħra tal-estimi;

(c) għar-rigward tal-ewwel sena finanzjarja, ir-Regolatur jista' jagħmel jew iġarrab nefqa li ma tkunx globalment teċċedi tali ammonti;

(d) jekk għar-rigward ta' xi sena finanzjarja jinstab li l-ammont approvat fl-estimi ma jkunx suffiċjenti jew inkella tkun inqal għet hteġa għal nefqa għal għan li ma jkunx hemm provdut dwaru fl-estimi, ir-Regolatur jista' jadotta estimi supplimentari għall-approvazzjoni tal-Ministru, u f'kull każ bħal dak id-dispożizzjonijiet ta' dan l-Att applikabbli għall-estimi għandhom kemm jistgħu ikunu japplikaw għall-estimi supplimentari.

27. Il-Ministru għandu, mal-ewwel opportunità u mhux iktar tard minn tmien (8) ġimgħat wara li jkun irċieva kopja tal-estimi u tal-estimi supplimentari tar-Regolatur, jew, jekk f'xi żmien waqt dak il-perjodu l-Kamra tad-Deputati ma tkunx qed tiltaqa' fi żmien tmien (8) ġimgħat mill-bidu tas-sessjoni li minnufih imiss wara, jara li daww l-estimi jitqieghdu fuq il-Mejda tal-Kamra tad-Deputati.

Pubblikazzjoni tal-estimi approvati.

28. (1) Ir-Regolatur għandu jara li jinżammu kontijiet u *records* oħra sew għar-rigward tal-operazzjonijiet tiegħu, u għandu jara li jithejja prospett ta' kontijiet għar-rigward ta' kull sena finanzjarja.

Kontijiet u verifika.

(2) Il-kontijiet tar-Regolatur għandhom jiġu verifikati minn

awditur jew awdituri li jinhatru mir-Regolatur:

Iżda l-Ministru responsabbli għall-finanzi jista', wara konsultazzjoni mal-Ministru, jehtieg li l-kotba u l-kontijiet tar-Regolatur jiġu verifikati jew eżaminati mill-Awditur Ġenerali li għal dan l-għan ikollu s-setgħa li jikkontrolla fizikament u jagħmel dawk l-aċcertamenti li huwa jista' jqis li jkunu meħtieġa.

(3) Wara t-tmieni ta' kull sena finanzjarja, u mhux aktar tard mid-data meta l-estimi tar-Regolatur jintbagħtu lill-Ministru taħt l-artikolu 25, ir-Regolatur għandu jara li kopja tal-prospett tal-kontijiet debitament verifikat għandu jintbagħat lill-Ministru u lill-Ministru responsabbli għall-finanzi flimkien ma' kopja ta' kull rapport magħmul mill-awdituri dwar dak il-prospett jew fuq il-kontijiet tar-Regolatur.

(4) Il-Ministru għandu, mal-ewwel opportunità u mhux aktar tard minn tmien (8) ġimgħat wara li jkun irċieva kopja ta' kull prospett u rapport bħal dak, jew, jekk f'xi żmien waqt dak il-perjodu l-Kamra tad-Deputati ma tkunx qed tiltaqa', fi żmien tmien (8) ġimgħat mill-bidu tas-sessjoni li minnufih imiss wara, jara li kopja ta' kull prospett u rapport bħal dak jitqiegħdu fuq il-Mejda tal-Kamra tad-Deputati.

Depożitu tad-
dhul u hlasijiet
li jsiru mir-
Regolatur.

29. (1) Il-flus kollha li jingabru mir-Regolatur għandhom jitqiegħdu f'bank jew banek li jinhatru bħala bankiera tar-Regolatur b'riżoluzzjoni tar-Regolatur. Dawk il-flus għandhom, kemm jista' jkun prattiku, jitqiegħdu f'dawk il-banek minn jum għall-ieħor, hlief dak l-ammont li r-Regolatur jista' jawtorizza li għandu jinżamm sabiex isiru nefqiet zgħar minnu u hlasijiet ta' flus likwidi ta' minnufih.

(2) Kull hlas mill-fondi tar-Regolatur, minbarra nefqiet zgħar li ma jkunux jeċċedu ammont stabbilit mir-Regolatur, għandhom isiru minn dak l-ufficjal jew dawk l-ufficjali tar-Regolatur li r-Regolatur jahtar jew jinnomina għal dak l-għan.

(3) Ċekkijiet li jinħarġu fuq, u zbanki li jsiru minn, xi kont tal-bank tar-Regolatur għandhom ikunu ffirmati minn dak l-ufficjal tar-Regolatur hekk kif jista' jiġi maħtur jew nominat mir-Regolatur għal dak l-għan u għandhom ikunu kontrosenjati mill-President, jew minn dak il-membri jew ufficjal ieħor tar-Regolatur li jista' jiġi awtorizzat mir-Regolatur għal dak l-għan.

(4) Ir-Regolatur għandu wkoll jagħmel provvedimenti għar-rigward ta' -

(a) il-mod kif il-hlasijiet għandhom jiġu awtorizzati jew

approvati u l-uffiċjal jew uffiċjali li għandhom jawtorizzawhom jew japprovawhom;

(b) it-titolu ta' kull kont miżmum f'bank jew banek fejn jiġu depożitati l-flus tar-Regolatur, u t-trasferiment ta' fondi minn kont għall-iehor;

(ċ) il-metodu li għandu jiġi adottat meta jkun qed jithallsu flus mill-fondi tar-Regolatur;

u b'mod ġenerali għar-rigward ta' kull haġa li hi rilevanti għat-tiżmim u kontroll sew tal-kontijiet u l-kotba, u l-kontroll tal-finanzi tar-Regolatur.

30. Ir-Regolatur għandu, mhux aktar tard minn sitt (6) ġimgħat wara t-tmiem ta' kull sena finanzjarja, jagħmel u jibgħat lill-Ministru u lill-Ministru responsabbli għall-finanzi rapport li jkun ġeneralment jittratta dwar l-attivitajiet tar-Regolatur matul dik is-sena finanzjarja u li jkun fih dik l-informazzjoni relattiva għall-proċedimenti u l-*policy* tar-Regolatur li jista' jkun hemm b'zonn minn żmien għal żmien. Il-Ministru għandu mal-ewwel opportunità u mhux aktar tard minn tmien (8) ġimgħat wara li jkun irċieva kopja tar-rapport imsemmi, jew, jekk f'xi żmien waqt dak il-perjodu l-Kamra tad-Deputati ma tkunx qed tiltaqa', fi żmien tmien (8) ġimgħat mill-bidu tas-sessjoni li minnufih imiss wara, jara li dak ir-rapport jitqiegħed fuq il-Mejda tal-Kamra tad-Deputati.

Rapport
annwali.

IS-SITT TAQSIMA MIXXELLANJI

31. Id-dispożizzjonijiet tal-Att dwar il-Ġustizzja Amministrattiva, kwantu għal dawk li japplikaw għat-Tribunal ta' Revizjoni Amministrattiva, għandhom japplikaw għal kull proċedura quddiem l-imsemmi Tribunal u l-kliem "amministrazzjoni pubblika" fl-istess leġislazzjoni għandhom jinftiehem bħala referenza għar-Regolatur.

Tribunal ta'
Revizjoni
Amministrattiva
Kap. 490.

32. (1) Jista' jsir appell quddiem it-Tribunal ta' Revizjoni Amministrattiva minn kull deċiżjoni tar-Regolatur skont id-dispożizzjonijiet ta' dan l-Att u r-regolamenti magħmulin tahtu u kull persuna li tħoss ruħha aggravata b'xi deċiżjoni bħal dik għandu jkollha l-jedd li tagħmel appell.

Appelli.

(2) Jista' jsir appell quddiem it-Tribunal ta' Revizjoni Amministrattiva għal kull waħda mir-raġunijiet li ġejjin:

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

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

(ċ) li jkun sar żball fil-liġi;

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

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

(4) Fid-determinazzjoni ta' appell, it-Tribunal ta' Revizjoni Amministrattiva għandu jqis il-merti tal-appell, u jista', għal kollox jew f'parti, jikkonferma jew jannulla d-deċiżjoni appellata, u għandu jagħti bil-miktub ir-raġunijiet għad-deċiżjoni tiegħu u għandu jara li dik id-deċiżjoni tkun waħda pubblika u li din tiġi kkomunikata lill-partijiet fl-appell.

(5) L-effett ta' deċiżjoni li dwarha jkun hemm appell ma għandux, hlief meta t-Tribunal ta' Revizjoni Amministrattiva jew il-Qorti tal-Appell, skont il-każ, hekk jordna, ikun sospiz b'konsegwenza ta' dak l-appell.

(6) Id-dritt ta' appell quddiem it-Tribunal ta' Revizjoni Amministrattiva jkun jista' jiġi eżerċitat mill-persuna li tħoss ruħha aggravata bid-deċiżjoni:

Iżda f'kull każ, persuna li tagħmel appell quddiem it-Tribunal ta' Revizjoni Amministrattiva għandu jkollha wkoll interess dirett meta tkun qiegħda tikkontesta d-deċiżjoni jew id-direttiva li jkun qed isir appell minnha.

(7) Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 13:

(a) appell minn deċiżjoni jew direttiva tar-Regolatur għandu jsir b'rikors u għandu jiġi ppreżentat quddiem is-segretarju tat-Tribunal ta' Revizjoni Amministrattiva fi żmien għoxrin (20) ġurnata mid-data meta dik id-deċiżjoni jew direttiva tkun giet notifikata bil-miktub lill-parti li tkun qiegħda tappella, jew tiġi ppubblikata fil-Gazzetta, skont dak li jiġi l-ewwel, kif ikun il-każ; u

(b) ir-rikors tal-appell għandu jiġi notifikat lir-Regolatur, li jkollu mhux aktar tard minn għoxrin (20) ġurnata minn dik in-notifika sabiex jipprezenta r-risposta tiegħu għal

dak ir-rikors quddiem is-segretarju tat-Tribunal ta' Revizjoni Amministrattiva.

33. (1) It-Tribunal ta' Revizjoni Amministrattiva jkun kompetenti li jisma' u jiddeċiedi kull appell li jingieb quddiemu skont id-dispożizzjonijiet ta' dan l-Att u regolamenti magħmulin tahtu, u, bla ħsara għall-artikolu 34, id-deċizzjonijiet tal-imsemmi Tribunal għandhom ikunu finali u jorbtu.

Baži għal appell.

(2) Fl-eżerċizzju tal-funzjonijiet tiegħu, it-Tribunal jista' jharrek lil kull persuna sabiex tidher quddiemu sabiex tixhed u ġgib dokumenti magħha u *ċ-chairperson* ikollu s-setgħa li jagħti l-ġurament. It-Tribunal jista' wkoll jahtar esperti sabiex jagħtu parir lit-Tribunal fuq kull suġġett tekniku li jista' jkun relevanti għad-deċizzjoni tiegħu.

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

(4) Il-proċedura li għandha tiġi segwita quddiem it-Tribunal, iż-żmien li fih u l-mod kif għandu jingieb appell quddiem it-Tribunal għandhom ikunu hekk kif jista' jiġi preskritt u bla ħsara għal dan, u għal kull dispożizzjoni applikabbli oħra ta' dan l-Att, it-Tribunal jista' jistabbilixxi l-proċedura tiegħu stess.

34. (1) Kull parti f'appell quddiem it-Tribunal li tħoss ruħha aggravata b'deċizzjoni tat-Tribunal, jew ir-Regolatur jekk dan iħoss ruħu mhux sodisfatt b'xi deċizzjoni bħal dik, jista' jappella quddiem il-Qorti tal-Appell fuq punt ta' liġi skont id-dispożizzjonijiet tal-Att dwar il-Ġustizzja Amministrattiva.

Appell lill-Qorti tal-Appell.

Kap. 490.

(2) L-appell għandu jsir permezz ta' rikors li jiġi pprezentat fir-reġistru ta' dik il-qorti fi żmien għoxrin (20) gurnata minn meta dik id-deċizzjoni tkun giet notifikata.

35. (1) L-eżekuzzjoni tax-xogħlijiet kollha f'konnessjoni mas-servizzi provduti b'licenza mahruġa taht dan l-Att għandha ssir b'kull mod li jista' jiġi miftiehem bejn dak li jkun qed jipprovdi s-servizz u l-persuna li qed tirċievi tali servizz.

Poteri ta' min jipprovdi s-servizzi.

(2) Min jipprovdi s-servizz b'licenza li tkun inħarġet lilu taht dan l-Att u kull impjegat debitament awtorizzat minnu, jista' f'kull hin li jkun raġonevoli jidhol f'kull bini għar-raġunijiet ta':

(a) verifika li s-servizz qed jintuża skont il-kondizzjonijiet li tahtom ikunu ġew provduti;

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(b) manutenzjoni jew tiswijiet ta' xi makkinarju provdut lilu f'konnessjoni ma' tali servizz;

(ċ) verifika ta' dokumentazzjoni jew informazzjoni li jista' jkun hemm b'zonn f'konnessjoni mal-ghoti ta' tali servizz:

Izda min jipprovi s-servizz għandu jagħmel kull tiswijiet għal hsarat ikkawżati b'tali dhul.

(3) Kull persuna li tostakola jew timpedixxi lil xi persuna fl-eżekuzzjoni tad-dmirijiet tagħha taht is-subartikolu (1) tkun hatja ta' reat taht dan l-artikolu.

Min jipprovi s-servizz.

Kap. 500.

36. (1) Meta jirregola l-aċċess għall-attivitajiet ta' servizzi li jaqgħu taht dan l-Att u, jew l-eżerċizzju tagħhom, ir-Regolatur għandu, meta l-istess attivitajiet ta' servizz ikunu jaqgħu fil-kamp ta' applikazzjoni tal-Att dwar Servizzi li jingħataw fis-Suq Intern:

(a) jaġixxi b'mod oġġettiv, trasparenti, effiċjenti u fil-hin;

(b) jipprovi informazzjoni u għajjnuna lill-provdituri tas-servizz u lir-riċevituri skont id-dispożizzjonijiet ta' dan l-Att;

(ċ) jagħmel possibbli li jitlestew il-proċeduri u l-formalitajiet kollha li għandhom x'jaqsmu mal-aċċess għall-attività ta' servizz, u għall-eżerċizzju tiegħu, disponibbli b'mod elettroniku permezz tal-punt ewlieni ta' kuntatt stabbilit:

Izda l-htieġa li jsir possibbli li jitlestew il-proċeduri u l-formalitajiet b'mod elettroniku permezz tal-punt ewlieni ta' kuntatt m'għandhiex tapplika għal spezzjonijiet ta' bini minn fejn is-servizz ikun provdut jew għal apparat li jintuza mill-provditur ta' servizz.

(2) Meta provditur ta' servizz ikun diġà stabbilit fi Stat Membru ieħor, u jitlob aċċess għal attività ta' servizz jew għall-eżerċizzju tagħha f'Malta:

(a) meta l-attività ta' servizz tkun soġġetta għal skema ta' awtorizzazzjoni jew għat-twettiq ta' htigiet oħra li jirregolaw l-istabbiliment f'Malta, ir-Regolatur m'għandux jiduplika l-htigiet u l-kontrolli li huma ekwivalenti jew essenzjalment komparabbli fir-rigward tal-għan tagħhom li għalihom il-provditur ta' servizz jista' jkun diġà soġġett fi Stat Membru ieħor fejn ikun diġà stabbilit;

(b) meta r-Regolatur ikun jeħtieg li provditur ta' servizz jipprovi certifikat, attestazzjoni jew xi dokument ieħor li jkun jagħti prova li xi rekwiżit ikun gie sodisfatt skont dan l-Att jew regolamenti magħmulin taħtu:

(i) għandu jaççetta kull dokument minn Stat Membru ieħor li jkun iservi għal skop ekwivalenti jew li jkun juri biç-çar li r-rekwiżit inkwistjoni jkun gie sodisfatt;

(ii) jista' ma jesigix li dokument minn Stat Membru ieħor ikun oriġinali, jew li jkun kopja awtentikata jew traduzzjoni awtentikata, hlief fil-każijiet previsti fi strument Komunitarju jew meta rekwiżit bħal dan ikun ġustifikat minn raġuni aktar importanti fir-rigward tal-interess pubbliku inkluż l-ordni pubbliku u s-sigurtà pubblika:

Izda d-dispożizzjonijiet ta' dan is-subartikolu ma għandhomx jaffettwaw id-dritt tar-Regolatur li jitlob traduzzjoni mhux awtentikata ta' dokumenti għal-lingwa Maltija jew Ingliża.

(3) Meta n-numru ta' awtorizzazzjonijiet disponibbli għal attività ta' servizz ikun limitat minħabba fin-nuqqas ta' rizorsi naturali disponibbli, kapaçità teknika, jew jekk ġustifikat minn raġuni aktar importanti fir-rigward tal-interess pubbliku, ir-Regolatur għandu japplika proçedura ta' għażla għal kandidati potenzjali sabiex jiżgura l-imparzjalità, it-trasparenza, kondizzjonijiet ta' kompetizzjoni miftuħa, inkluż b'mod partikolari, reklamar adegwat dwar it-tnedija, l-andament u t-tlestija tal-proçedura. Meta jiġu stabbiliti r-regoli għall-proçedura tal-għażla, ir-Regolatur ikun jista' jikkunsidra każijiet li jkollhom x'jaqsmu mas-saħħa pubblika, objettivi ta' politika soçjali, is-saħħa u s-sigurtà tal-ħaddiema jew persuni li jaħdmu għal rashom, il-ħarsien tal-ambjent u raġunijiet oħrajn aktar importanti li għandhom x'jaqsmu mal-interess pubbliku, skont id-dritt Komunitarju.

(4) Awtorizzazzjoni mogħtija lil provditur ta' servizz għandha tkun għal perjodu indefinit hlief meta:

(a) l-awtorizzazzjoni tkun qed tiġi mgedda b'mod awtomatiku jew tkun soġgetta biss għat-twettiq kontinwu tar-rekwiżiti;

(b) in-numru ta' awtorizzazzjonijiet disponibbli jkun limitat skont is-subartikolu (3);

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(ċ) perjodu limitat ta' awtorizzazzjoni jista' jkun ġustifikat minn raġuni aktar importanti li għandha x'taqsam mal-interess pubbliku:

Izda fil-każijiet imsemmija fil-paragrafu (b), awtorizzazzjoni għandha tinghata għal perjodu limitat li jkun jippermetti li l-provditur ta' servizz ikun jista' jiġbor lura l-ispejjeż tal-investiment u jagħmel dħul ġust fuq il-kapital investit, liema awtorizzazzjoni ma għandux ikollha tul eċċessiv, tkun soġġetta għal tiġdid awtomatiku, jew tagħti xi vantaġġ ieħor lill-provditur ta' servizz li l-awtorizzazzjoni tiegħu tkun għadha kemm skadiet jew lil xi persuna oħra li jkollha rabtiet partikolari ma' dak il-provditur ta' servizz.

(5) Awtorizzazzjoni mogħtija mir-Regolatur għandha tippermetti li l-provditur ta' servizz ikollu aċċess għall-attività ta' servizz, jew l-eżerċizzju tagħha madwar Malta, inkluż permezz ta' aġenziji li jiġu stabbiliti, sussidjarji, fergħat jew uffiċċji, hlief meta l-awtorizzazzjoni għal kull stabbiliment individwali jew limitu tal-awtorizzazzjoni għal xi parti mit-territorju tkun ġustifikata b'raġuni aktar importanti li għandha x'taqsam mal-interess pubbliku:

Izda l-provditur ta' servizz ikun meħtieġ jinforma lir-Regolatur dwar il-ħolqien ta' kumpanniji sussidjarji, fergħat, uffiċċji jew aġenziji li l-attivitàjiet tagħhom jaqgħu taħt l-iskop tal-iskema ta' awtorizzazzjoni.

(6) Fit-twettiq tal-funzjonijiet tiegħu dwar awtorizzazzjonijiet skont dan l-artikolu, ir-Regolatur għandu:

(a) jagħti konferma tal-applikazzjonijiet kollha li jkunu qegħdin jitolbu awtorizzazzjoni;

(b) fil-każ ta' applikazzjoni li ma tkunx kompluta, jinforma lill-applikant mill-aktar fis dwar il-ħtieġa li jipprovi xi informazzjoni addizzjonali, kif ukoll dwar il-konsegwenzi li jinqalgħu jekk l-applikant idum sabiex jipprovi l-imsemmija informazzjoni jew rekwiziti;

(ċ) imexxi applikazzjoni għal awtorizzazzjoni mill-iktar fis possibbli u, f'kull każ f'perjodu ta' żmien li għandu jiġi stabbilit u magħmul pubbliku minn qabel, u fin-nuqqas ta' dan għandu jiġi meqjus li l-awtorizzazzjoni tkun ingħatat. Il-perjodu għandu jibda għaddej mill-ġurnata li l-informazzjoni kollha dovuta tkun preżentata u kull rekwizit u formalità oħra jkunu ġew sodisfatti sabiex ir-Regolatur ikun jista' jmexxi l-applikazzjoni:

Iżda l-perjodu ta' żmien jista' jiġi estiż darba, għal żmien limitat, meta jkun ġustifikat minhabba l-komplessità tal-każ. L-estensjoni u ż-żmien tagħha għandhom ikunu debitament ġustifikati u għandhom jiġu notifikati lill-applikant qabel ma l-perjodu oriġinali jkun skada:

Iżda wkoll ir-Regolatur jista' b'mod oġġettiv jagħmel arrangamenti differenti, fejn ġustifikati minn raġunijiet aktar importanti li għandhom x'jaqsmu mal-interess pubbliku, inkluż l-interess leġittimu ta' terzi persuni;

(d) jipprovdi informazzjoni dwar il-mezzi ta' rimedji li jkunu disponibbli f'każ ta' nuqqas ta' aċċettazzjoni ta' applikazzjoni;

(e) jagħti awtorizzazzjoni hekk kif l-applikant jissodisfa r-rekwiziti kollha, mingħajr preġudizzju għad-dritt tar-Regolatur li jhassar jew ibiddel awtorizzazzjoni meta l-kondizzjonijiet tal-awtorizzazzjoni ma jkunux aktar osservati mill-provditur ta' servizz;

(f) f'każ li applikazzjonijiet ikunu rifjutati minhabba li ma jissodisfawx il-proċeduri jew formalitajiet meħtieġa, l-applikant għandu jiġi avżat dwar ir-rifjut mill-aktar fis possibbli;

(g) hlief fil-każ tal-għoti ta' awtorizzazzjoni, deċiżjoni mir-Regolatur, inkluż ir-rifjut jew irtirar, għandha tkun tinkludi r-raġunijiet kollha u għandha tkun miftuħa għal kontestazzjoni quddiem it-Tribunal ta' Revizjoni Amministrattiva.

(7) Hlief l-attivitajiet ta' servizz u ta' affarijiet li jkunu dikjarati li huma servizzi ta' interess ekonomiku ġenerali, li *inter alia* jistgħu jinkludu -

(a) fis-settur tal-elettriku, servizzi koperti bid-Direttiva 2009/72/KE tal-Parlament Europew u tal-Kunsill tas-26 ta' Ġunju, 2003 dwar regoli komuni għas-suq intern fl-elettriku;

(b) fis-settur tal-gass, servizzi koperti bid-Direttiva 2009/73/KE tal-Parlament Europew u tal-Kunsill tas-26 ta' Ġunju, 2003 dwar regoli komuni għas-suq intern fil-gass naturali;

(c) id-distribuzzjoni tal-ilma u servizzi ta' provvista u servizzi tal-iskart tal-ilma,

ir-Regolatur għandu jirrispetta d-dritt ta' provdituri ta' servizzi li

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jkunu stabbiliti legalment u li jipprovdu servizzi fi Stat Membru ieħor sabiex jipprovdu servizzi f'Malta u ma jistax iwaqqafhom milli jipprovdu l-attivitajiet ta' servizzi bħal dawk billi jimponi rekwiżiti li jkunu diskriminatorji, mhux meħtieġa jew mhux proporzjonati:

Iżda r-Regolatur jista' jimponi rekwiżiti dwar il-forniment ta' xi attività ta' servizz partikolari meta dawn ikunu ġustifikati minħabba f'raġunijiet li għandhom x'jaqsmu mal-ordni pubbliku, mas-sigurtà pubblika, mas-saħħa pubblika u mal-ħarsien tal-ambjent:

Iżda wkoll meta jkun qiegħed jistabbilixxi jekk provditur ikunx qiegħed jeżerċita l-libertà tiegħu li jipprovdi servizzi fi hdan it-tifsir ta' dan l-artikolu u tal-Artikolu 49 tat-Trattat, jew jekk ikunx każ ta' stabbiliment, jew jekk il-provditur tas-servizz ikunx qiegħed jabbuża mil-libertà li jipprovdi s-servizzi, ir-Regolatur għandu jivvaluta u jiddeċiedi kull każ fuq il-mertu individwali tiegħu u f'konformità mad-dritt Komunitarju u mad-deċiżjonijiet tal-Qorti Europea tal-Ġustizzja.

(8) Mingħajr preġudizzju għas-subartikolu (7), f'ċirkostanzi eċċezzjonali biss, ir-Regolatur jista', f'każ ta' provditur ta' servizz li jkun stabbilit fi Stat Membru ieħor, jieħu miżuri sabiex jiżgura s-sigurtà tas-servizzi provduti f'Malta. Meta jieħu dawk il-miżuri, ir-Regolatur għandu jsegwi l-proċedura stabbilita fir-Raba' Skeda li tinsab mal-Att dwar Servizzi li jingħataw fis-Suq Intern u għandu jiżgura li jiġu osservati l-kondizzjonijiet li ġejjin:

Kap. 500.

(a) id-dispożizzjonijiet nazzjonali li f'konformità magħhom jittieħdu l-miżuri, ma kenux soġġetti għall-armonizzazzjoni Komunitarja fil-qasam tas-sigurtà tas-servizzi;

(b) il-miżuri li jkunu ttieħdu jipprovdu lir-riċevitur livell ta' protezzjoni oġġla milli jkun il-każ f'miżura meħuda mill-Istat Membru ta' stabbiliment skont id-dispożizzjonijiet nazzjonali tiegħu;

Kap. 500.

(c) l-Istat Membru ta' stabbiliment ma jkun ħa l-ebda miżura jew ikun ħa miżuri li ma jkunux suffiċjenti meta mqabbla ma' dawk rikjesti mir-Regolatur u kif imsemmija fil-paragrafi 2 u 3 tar-Raba' Skeda li tinsab mal-Att dwar Servizzi li jingħataw fis-Suq Intern;

(d) il-miżuri jkunu proporzjonati:

Iżda meta r-Regolatur isir jaf b'xi għemil jew att minn provditur ta' servizz stabbilit f'Malta u li jkun iforni servizzi fi Stati Membri oħrajn, li, sa fejn ikun jaf hu, jista' jikkawża dannu serju fis-saħħa jew fis-sigurtà ta' persuni jew tal-ambjent, hu għandu jinforma

lill-Istati Membri l-oħrajn kollha u lill-Kummissjoni Ewropea fl-iqsar perjodu ta' żmien possibbli permezz tas-Sistema ta' Informazzjoni għas-Suq Intern.

(9) (a) Ir-Regolatur għandu jesigi li l-provdituri ta' servizz stabbiliti f'Malta u li jaqgħu taħt il-kamp ta' kompetenza tiegħu jzommuh agġornat f'kull hin bl-informazzjoni li jidentifika bħala meħtieġa u oġġettivament ġustifikata sabiex iwettaq il-funzjoni superviżorja tiegħu dwar is-servizzi skont dan l-Att u l-Att dwar Kap. 500. Servizzi li jingħataw fis-Suq Intern.

(b) Ir-Regolatur għandu jeżerċita l-funzjonijiet superviżorji tiegħu fuq il-provdituri ta' servizzi f'Malta li jaqgħu taħt il-kamp tiegħu ta' kompetenza, kemm jekk is-servizz jiġi provdut f'Malta kif ukoll fi Stat Membru ieħor.

(ċ) Fl-eżekuzzjoni tal-funzjoni superviżorja tiegħu, meta servizz ikun qiegħed jiġi provdut fi Stat Membru ieħor minn provditur ta' servizz stabbilit f'Malta, ir-Regolatur għandu jgħin lill-awtorità kompetenti tal-Istat Membru l-ieħor skont il-proċedura stabbilita fit-Tieni Skeda li tinsab mal-Att dwar Servizzi li jingħataw fis-Suq Intern. Meta jagħmel dan, ir-Regolatur m'għandux jieqaf milli jieħu miżuri ta' infurzar superviżorji f'Malta minhabba fil-fatt li servizz ikun ġie provdut jew li jkun ikkawża ħsara fi Stat Membru ieħor: Kap. 500.

Iżda r-Regolatur m'għandux ikun marbut li jwettaq verifiki u kontrolli fl-Istat Membru li fih is-servizz ikun qed jiġi provdut.

(d) Meta servizz ikun qed jiġi provdut f'Malta, f'każ ta' ċaqliq temporanju minn provditur ta' servizz stabbilit fi Stat Membru ieħor:

(i) ir-Regolatur għandu jipparteċipa fis-superviżjoni tal-provditur ta' servizz skont il-proċedura stabbilita fit-Tieni Skeda li tinsab mal-Att dwar Servizzi li jingħataw fis-Suq Intern; Kap. 500.

(ii) meta r-Regolatur ikun impona rekwiżiti skont l-ewwel proviso tas-subartikolu (7), għandu jassumi r-responsabbiltà għas-superviżjoni ta' dak il-provditur ta' servizz f'Malta sabiex ikun żgur li r-rekwiżiti qed jiġu sodisfatti.

(e) Ir-Regolatur għandu jiskambja talbiet u informazzjoni mal-awtoritajiet kompetenti rilevanti tal-Istati Membri l-oħra permezz tas-Sistema ta' Informazzjoni għas-Suq Intern.

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(f) Mingħajr preġudizzju għal-limiti imposti minn kull liġi oħra, ir-Regolatur għandu jforni informazzjoni lill-awtorità kompetenti rilevanti ta' Stat Membru ieħor dwar azzjonijiet dixxiplinarji jew amministrattivi jew sanzjonijiet kriminali u deċiżjonijiet relatati ma' insolvenza jew falliment li jkunu jinvolvu frodi, fir-rigward tal-provditur li jkunu direttament rilevanti għall-kompetenza jew għall-affidabilità professjonali tal-provditur, skont il-proċedura stabbilita fit-Tielet Skeda li tinsab mal-Att dwar Servizzi li jingħataw fis-Suq Intern.

Kap. 500.

Setgħa ta' għemil ta' regolamenti.

37. (1) Il-Ministru jista', wara konsultazzjoni mar-Regolatur, jagħmel regolamenti għar-rigward ta' kull waħda mill-funzjonijiet tar-Regolatur jew għall-aħjar twestiq ta' xi waħda mid-dispożizzjonijiet ta' dan l-Att.

(2) Mingħajr preġudizzju għall-ġeneralità tas-setgħa aktar qabel imsemmija dawk ir-regolamenti jistgħu, b'mod partikolari jipprovdu -

(a) għal kull aspekt li għandu x'jaqsam mal-proċedura u l-kondizzjonijiet li jistgħu jiġu imposti fir-rigward ta' kull awtorizzazzjoni taħt dan l-Att inkluż, fejn ikun japplika, dwar l-għoti, tiġdid, trasferiment, sospensjoni, tħassir u kemm għandha ddum tali awtorizzazzjoni, dwar il-mod kif l-applikazzjonijiet għal dawk l-awtorizzazzjonijiet għandhom isiru, dwar il-kontenut u l-forma ta' dawk l-applikazzjonijiet, u dwar il-mod kif dawn jistgħu jingħataw, jiġgeddu jew jiġu trasferiti, id-drittijiet li jithallsu għalihom, u l-mod li bih it-tiġdid jew it-trasferiment tagħhom għandu jiġi indikat;

(b) għar-regolament ta' kull aspekt li għandu x'jaqsam mal-impożizzjonijiet ta' obbligi ta' servizzi pubbliċi u, jew universali, jiġu kif jiġu deskritti, għar-rigward ta' kull operazzjoni, attività jew servizz regolat b'dan l-Att;

(c) dwar ir-regolament ta' strutturi ta' prezz għal riżorsi u fejn ikun adatt sabiex jiġu regolati u stabbiliti t-tariffi, żidiet permessi fil-prezz u l-ħlasijiet għall-provvista, il-ħażna u d-distribuzzjoni tar-riżorsi u għall-użu ta' kull sistema li tintuza fid-distribuzzjoni u t-trasmissjoni tar-riżorsi;

(d) dwar l-iżgurar ta' riservi adegwati, fejn japplika, u dwar l-iżgurar ta' provvizjoni adwegwata tar-riżorsi regolati minn jew taħt dan l-Att;

(e) dwar l-akkwist obligatorju u d-distribuzzjoni ta' riżorsi bħal dawk matul żminijiet ta' skarsezza;

(f) dwar l-inqas *standards* li għandhom jiġu adottati fi, u kull haġa li għandha x'taqsam mal-konservazzjoni, akkwist, provvista, bejgħ, hażna, generazzjoni, distribuzzjoni, trasmissjoni, esportazzjoni, trattament, użu mill-ġdid jew disponiment u kull prattika, operazzjoni u attività oħra regolata minn jew taħt dan l-Att inklużi l-mezzi li bihom dawk ir-riżorsi għandhom jiġu protetti, akkwistati, forniti, mibjugħa, maħżuna, generati, distribwiti, trasmessi, esportati, trattati, użati mill-ġdid jew imneħħija;

(g) għat-tnedija ta' servizz ta' kwalità u t-twaqqif u l-manteniment ta' servizz għall-konsumaturi effiċjenti minn provduri awtorizzati;

(h) sabiex jiżguraw u jirregolaw il-konservazzjoni, it-tkabbir, l-operazzjoni u l-użu ta' għejjun ta' riżorsi tal-enerġija u l-ilma kif ukoll il-promozzjoni u l-immaniġġar, il-generazzjoni u l-użu ta' riżorsi tal-enerġija u l-ilma;

(i) dwar l-iżgurar ta' kompetizzjoni ġusta f'kull prattika, operazzjoni u attività relatati mal-enerġija u l-ilma;

(j) dwar studji, riċerka jew investigazzjonijiet fuq kull haġa li jkollha x'taqsam mar-riżorsi regolati minn jew taħt dan l-Att u l-provdiment ta' informazzjoni, il-ħruġ ta' linji direttivi lill-pubbliku u lill-entitajiet kummerċjali fuq kull ma għandu x'jaqşam ma' dawk ir-riżorsi;

(k) sabiex jingħata seħħ lil kull obbligu internazzjonali li l-Gvern jaderixxi għalih għar-rigward ta' riżorsi regolati minn jew taħt dan l-Att;

(l) dwar ir-regolamentazzjoni tas-servizzi li jistgħu jinħtiegu għar-rigward tar-riżorsi tal-enerġija u ż-żmien, il-mod, il-post u l-kondizzjoni li bihom jew taħthom għandhom jiġu pprovduti dawk is-servizzi;

(m) dwar ir-regolamentazzjoni ta' kwalifiki li għandu jkollhom persuni li jkunu impjegati f'xi attività regolata minn jew taħt dan l-Att;

(n) dwar affarijiet li jolqtu l-kostruzzjoni, il-kondizzjoni u l-manutenzjoni ta' faċilitajiet, apparat u taġmhir ieħor utilizzat fil-provdiment ta' xi wieħed mill-imsemmija riżorsi jew servizzi li għandhom x'jaqsmu magħhom;

(o) dwar il-preskrizzjoni ta' informazzjoni li għandu

jkollhom il-provdituri awtorizzati taht dan l-Att u l-għoti ta' informazzjoni statistika minn dawk il-provdituri awtorizzati, u dwar kull haġa li għandha x'taqsam mal-provdiment ta' informazzjoni minn provdituri awtorizzati lir-Regolatur;

(p) dwar l-għemil ta' kull depożitu jew l-għoti ta' garanzija li tiġi imposta bħala kondizzjoni ta' xi permess, awtorizzazzjoni jew liċenza taht dan l-Att sabiex jiġi żgurat it-twetiq ta' kull obbligu minn kull persuna konċernata;

(q) dwar il-preskrizzjoni ta' kull Prattika li għandha tiġi adottata għar-rigward tas-sigurezza u l-ħarsien tal-ambjent u għar-rigward ta' kull haġa regolata minn dan l-Att, inkluż in-normi relatati mar-responsabbiltà ta' kull persuna rigward ħsara lill-ambjent magħmula b'konsegwenza ta' xi attività regolata minn jew taht dan l-Att;

(r) dwar pjan ta' kontingenza f'każ ta' kriżi li għandha x'taqsam ma' xi haġa regolata minn dan l-Att;

(s) dwar proċedura ta' pproċessar ta' lmenti li għandhom jiġu implimentati minn provditur awtorizzat, u dwar kull haġa li għandha x'taqsam mar-riżoluzzjoni ta' kull vertenza u, jew ilment, jiġu kif jiġu deskritti, relatati ma' kull haġa regolata minn dan l-Att;

(t) għar-rigward ta' kontravvenzjonijiet u multi amministrattivi;

(u) għar-rigward ta' koperazzjoni ma' awtoritajiet oħra u r-relazzjoni bejn ir-Regolatur u awtoritajiet pubbliċi inklużi konsultazzjonijiet, għoti ta' informazzjoni u dwar kull haġa oħra ta' interess reċiproku;

(v) dwar il-proċeduri li għandhom jiġu segwiti għar-rigward ta' riżoluzzjoni ta' kwistjonijiet;

(w) dwar is-setgħat ta' infurzar meħtieġa mir-Regolatur sabiex jaqdi l-funzjonijiet tiegħu taht dan l-Att;

(x) dwar il-preskrizzjoni ta' kull haġa oħra li tista' tkun jew li tkun meħtieġa li tiġi preskritta b'dan l-Att.

38. Mingħajr preġudizzju għal kwalunkwe dispożizzjoni oħra taht dan l-Att, il-Ministru jista', wara konsultazzjoni mar-Regolatur, jagħmel regolamenti li jippreskrivu pieni għal reati kriminali kontra kull ksur ta' dan l-Att, u dawn ir-regolamenti jistgħu:

Setgħa tal-Ministru li jagħmel regolamenti dwar reati kriminali.

(a) jistipulaw pieni ta' prigunerija u multi differenti għal reati differenti;

(b) jippreskrivu multi kkalkulati skont it-tul tal-għemil tar-reat:

Izda dawk ir-regolamenti li jistgħu jkunu magħmula m'għandhomx ikunu jipprovdu għal:

(a) perjodu ta' prigunerija ta' aktar minn tmintax-il xahar, jew għal multa ta' aktar minn sebghin elf euro (€70,000); jew

(b) multa ta' aktar minn elf u erba' mitt euro (€1,400) għall kull jum li fih jibqa' għaddej ir-reat.

39. Il-membri tar-Regolatur u l-uffiċjali u impjegati tar-Regolatur ikunu kkunsidrati bħala uffiċjali pubbliċi skont it-tifsira u l-għanijiet tal-Kodiċi Kriminali.

Persuni
kkunsidrati
bħala uffiċjali
pubbliċi.
Kap. 9.

40. Il-membri tal-Bord, l-uffiċjali u l-impjegati tar-Regolatur fl-eżekuzzjoni tal-funzjonijiet tagħhom taħt dan l-Att jew liġi oħra amministrata mir-Regolatur, ma jkunu responsabbli għall-ebda telf jew ħsara mgarrba minn xi persuni minhabba f'xi haġa magħmula jew ommessa milli ssir jekk dan ikun sar f'*bona fede* matul l-amministrazzjoni ta' dan l-Att, regolamenti magħmula taħtu jew xi liġi oħra.

Eżenzjoni minn
responsabbiltà.

41. (1) Kull leġizlazzjoni sussidjarja promulgata taħt l-Att dwar l-Awtorità ta' Malta dwar ir-Rizorsi u, jew elenkata fl-Iskeda li tinsab mal-Att dwar l-Awtorità ta' Malta dwar ir-Rizorsi għandha tibqa' fis-seħħ soġġetta għall-effett li fejn din il-leġizlazzjoni sussidjarja tirrigwarda rizorsi li mhumiex rizorsi minerali tkun ikkunsidrata li tkun magħmula taħt dan l-Att u tista' tkun hekk emendata, sostitwita jew revokata kif meħtieġ.

Riservi.
Kap. 423.

(2) Il-kliem li ġej li jinsabu fil-leġizlazzjoni sussidjarja elenkata fl-Ewwel Skeda għandhom jiġu sostitwiti kif ġej:

(a) il-kliem "Att dwar l-Awtorità ta' Malta dwar ir-Rizorsi" għandhom jiġu sostitwiti bil-kliem "Att dwar ir-Regolatur għas-Servizzi tal-Energija u l-Ilma";

(b) il-kliem "Awtorità ta' Malta dwar ir-Rizorsi" għandhom jiġu sostitwiti bil-kliem "Regolatur għall-Energija u Servizzi tal-Ilma"; u

(c) il-kelma "Awtorità" għandha tiġi sostitwita bil-

kelma "Regolatur".

(3) Kull liċenza, permess, awtorizzazzjoni jew ordni mogħtija jew magħmula taħt id-dispożizzjonijiet tal-legiżlazzjoni sussidjarja elenkata fl-Ewwel Skeda li tkun għadha fis-seħħ eżatt qabel ma jiġi fis-seħħ dan l-Att, tkompli tkun fis-seħħ wara daqsliekku kienet liċenzja, permess, awtorizzazzjoni jew ordni mogħtija jew magħmula taħt id-dispożizzjonijiet korrispondenti ta' dan l-Att, u kull liċenza, permess, awtorizzazzjoni jew ordni u tkun hekk trattata kif meħtieġ.

Kap. 423.

(4) Soġġetta għall-artikolu 43, il-legiżlazzjoni elenkata fit-Tieni Skeda għandha tkompli tkun fis-seħħ taħt l-Att dwar l-Awtorità ta' Malta dwar ir-Rizorsi.

(5) Mingħajr preġudizzju għad-dispożizzjonijiet l-oħra ta' dan l-Att, kull referenza f'kull liġi għall-Awtorità ta' Malta dwar ir-Rizorsi fir-rigward ta' rizorsi li mhumiex rizorsi minerali tkun ikkunsidrata bħala referenza għar-Regolatur għas-Servizzi tal-Energija u l-Ilma.

(6) Mingħajr preġudizzju għal kull dispożizzjoni oħra taħt dan l-Att, kull referenza f'kull liġi għall-Att dwar l-Awtorità ta' Malta dwar ir-Rizorsi fir-rigward ta' rizorsi li mhumiex rizorsi minerali tkun ikkunsidrata bħala referenza għal dan l-Att kif fis-seħħ minn żmien għal żmien.

(7) Minkejja d-dispożizzjonijiet ta' kull liġi oħra, l-emendi għal-legiżlazzjoni sussidjarja fit-Taqsimiet VII u VIII ta' dan l-Att jiġu fis-seħħ permezz ta' dan l-Att mingħajr il-bżonn ta' formalitajiet ulterjuri.

Trasferiment ta' assi u djun tal-Awtorità ta' Malta dwar ir-Rizorsi.

42. (1) B'effett mid-data meta dan l-Att jiġi fis-seħħ:

(a) l-assi u d-drittijiet ta' kwalunkwe natura tal-Awtorità ta' Malta dwar ir-Rizorsi (hawn aktar 'il quddiem imsejha 'Awtorità') relatati ma' rizorsi li mhumiex rizorsi minerali kemm jekk eżistenti f'Malta jew barra minn Malta, inkluż iżda mhux limitat għal kull dritt reali u drittijiet oħra taħt kull kuntratt, kull flejjes dovuti minn kull persuna lill-Awtorità u kull sehem, ishma jew interessi oħrajn f'kull korp ieħor; u

(b) l-obbligi u r-responsabbiltajiet kollha tal-Awtorità relatati ma' rizorsi li mhumiex rizorsi minerali,

permezz ta' dan l-Att ikunu kkunsidrati bħala assi, drittijiet, responsabbiltajiet u obbligi tar-Regolatur mingħajr il-bżonn ta' formalitajiet oħra barra dan l-Att.

(2) B'effett mid-data meta dan l-Att jiġi fis-seħħ, kull azzjoni pendenti quddiem kull qorti, tribunal, arbitru jew ċentru arbitrali, jew korp aġġudikanti, intavolata minn jew kontra l-Awtorità jkollha -

(a) b'referenza għal riżorsi minerali u għal-legiżlazzjoni elenkata taħt it-Tieni Skeda tkompli minn jew kontra l-Awtorità;

(b) b'referenza għal riżorsi oħra li mhumiex riżorsi minerali u għal-legiżlazzjoni elenkata taħt it-Tieni Skeda, tkompli minn jew kontra r-Regolatur,

mingħajr il-bżonn ta' formalitajiet oħra barra dan l-Att.

43. (1) L-Att dwar l-Awtorità ta' Malta dwar ir-Riżorsi qiegħed jiġi mħassar u revokat bl-eċċezzjoni tad-dispożizzjonijiet li ser ssir referenza għalihom fis-subartikolu (2). Dispożizzjonijiet transitorji. Kap. 423

(2) Id-dispożizzjonijiet li ġejjin tal-Att dwar l-Awtorità ta' Malta dwar ir-Riżorsi għandhom jibqgħu fis-seħħ sakemm jiġu mħassra b'effett minn dik il-ġurnata li tkun stabbilita permezz ta' avviż fil-Gazzetta mill-Ministru responsabbli għar-riżorsi: Kap. 423

(a) l-artikolu 2 kif applikabbli skont dan is-subartikolu;

(b) l-artikolu 3;

(ċ) l-artikolu 4(1) limitatament fejn dan jikkonċerna r-riżorsi minerali u l-legiżlazzjoni mnizzla fit-Tieni Skeda biss;

(d) l-artikolu 4(2)(b) limitatament fejn dan jikkonċerna l-legiżlazzjoni mnizzla fit-Tieni Skeda u l-artikolu 4(2)(ċ) biss;

(e) l-artikolu 4(3) kif applikabbli;

(f) artikolu 4(4) limitatament fejn dan jikkonċerna l-legiżlazzjoni elenkata fit-Tieni Skeda u r-riżorsi minerali biss;

(g) l-artikoli 5 sa 8 limitatament b'referenza għar-riżorsi minerali u fejn dan jikkonċerna l-legiżlazzjoni elenkata fit-Tieni Skeda;

(h) it-Taqsimiet III u IV; u

(i) it-Taqsima V limitatament fejn din tikkonċerna r-riżorsi minerali u l-legiżlazzjoni mnizzla fit-Tieni Skeda biss.

TAQSIMA VII**REVOKA TA' ĊERTI REGOLAMENTI MAGHMULIN TAHT
L-AWTORITÀ TA' MALTA DWAR IR-RIŻORSI**

Revoka tar-
Regolamenti
għall-Harsien
tal-Ilma tal-Art
mit-Tniġġis
kaġunat minn xi
Sustanzi
Perikolużi
L.S. 423.16

44. Ir-Regolamenti għall-Harsien tal-Ilma tal-Art mit-Tniġġis kaġunat minn xi Sustanzi Perikolużi huma b'dan revokati mingħajr preġudizzju għal dak kollu li sar jew li naqas milli jsir taħthom.

TAQSIMA VIII**EMENDI GĦAL ĊERTI REGOLAMENTI MAGHMULIN TAHT
L-AWTORITÀ TA' MALTA DWAR IR-RIŻORSI**

Emenda tar-
Regolamenti
dwar Drittijiet li
jithallsu għar-
Rendiment tal-
Bini fl-Użu tal-
Energija.
L.S. 423.43

45. Fir-regolament 2 tar-Regolamenti dwar Drittijiet li jithallsu għar-Rendiment tal-Bini fl-Użu tal-Energija, it-tifsira "l-Att" għandha tiġi mħassra.

Effett tar-
Regolamenti
dwar Drittijiet li
jithallsu għar-
Rendiment tal-
Bini fl-Użu tal-
Energija.
L.S. 423.43

46. Ir-Regolamenti dwar Drittijiet li jithallsu għar-Rendiment tal-Bini fl-Użu tal-Energija għandu jkollhom effett daqslikieku saru taħt l-Att dwar ir-Regolament tal-Bini u jistgħu jiġu emendati, sostitwiti jew revokati skont hekk.

Emendi tar-
Regolamenti
dwar Pjan ta'
Azzjoni fil-
Qasam tal-
Politika tal-
Ilma.
L.S. 423.20

47. Ir-Regolamenti dwar Pjan ta' Azzjoni fil-Qasam tal-Politika tal-Ilma għandhom jiġu emendati kif ġej:

(a) fit-tifsira "l-awtorità kompetenti" fir-regolament 2 tagħhom, minflok il-kliem "l-Awtorità ta' Malta dwar ir-Riżorsi" għandhom jidhlu l-kliem "it-Taqsima tal-Energija Sostenibbli u Konservazzjoni tal-Ilma";

(b) fit-Taqsima B tal-Iskeda VI tagħhom, il-kliem "l-Awtorità ta' Malta dwar ir-Riżorsi u" għandhom jiġu mħassra.

Effett tar-
Regolamenti
dwar Pjan ta'
Azzjoni fil-
Qasam tal-
Politika tal-
Ilma.
L.S. 423.20

48. Ir-Regolamenti dwar Pjan ta' Azzjoni fil-Qasam tal-Politika tal-Ilma għandu jkollhom effett daqslikieku saru taħt l-Att dwar l-Ambjent u l-Ippjanar tal-Iżvilupp u jistgħu jiġu emendati, sostitwiti jew revokati skont hekk.

Emendi tar-
Regolamenti
dwar il-
Promozzjoni ta'
Energija minn
Sorsi li
Jiġġeddu.
L.S.423.19

49. Ir-Regolamenti dwar il-Promozzjoni ta' Energija minn Sorsi li Jiġġeddu għandhom jiġu emendati kif ġej:

(a) ir-regolament 2 tagħhom għandu jiġi emendat kif ġej:

(i) it-tifsira "l-Awtorità" għandha tiġi mħassra;

(ii) minnufih wara t-tifsira "skema ta' sostenn" għandha tiżdied din it-tifsira ġdida li ġejja:

" "it-Taqsima" tfisser it-Taqsima tal-Energija Sostenibbli u l-Konservazzjoni tal-Ilma stabbilita skont ir-regolament 3 tal-Ordni tal-2014 li jwaqqaf l-Aġenzija dwar it-Taqsima dwar l-Energija Sostenibbli u l-Konservazzjoni tal-Ilma;"; u

(b) minflok il-kelma "Awtorità" kull fejn din tinstab fir-regolamenti għandha tidhol il-kelma "Taqsima".

50. Ir-Regolamenti dwar il-Protezzjoni tal-Ilma ta' taħt l-Art kontra t-Tniġġis u d-Deterjorament għandhom jiġu emendati kif ġej:

Emendi tar-Regolamenti dwar il-Protezzjoni tal-Ilma ta' taħt l-Art kontra t-Tniġġis u d-Deterjorament. L.S. 423.36

(a) ir-regolament 2 tagħhom għandu jiġi emendat kif ġej:

(i) it-tifsira "l-Awtorità" għandha tiġi mhassra;

(ii) minnufih qabel it-tifsira "tendenza li tiżdied u li hija sinifikanti u sostnuta" għandha tiżdied it-tifsira ġdida li ġejja:

" "it-Taqsima" tfisser it-Taqsima tal-Energija Sostenibbli u l-Konservazzjoni tal-Ilma stabbilita skont ir-regolament 3 tal-Ordni tal-2014 li jwaqqaf l-Aġenzija dwar it-Taqsima dwar l-Energija Sostenibbli u l-Konservazzjoni tal-Ilma;"; u

(b) minflok il-kelma "Awtorità" kull fejn tinstab fir-Regolamenti għandha tidhol il-kelma "Taqsima".

51. Ir-Regolamenti dwar il-Protezzjoni tal-Ilma ta' taħt l-Art kontra t-Tniġġis u d-Deterjorament għandu jkollhom effett daqslikieku saru taħt l-Att dwar l-Ambjent u l-Ippjanar tal-Iżvilupp u jistgħu jiġu emendati, sostitwiti jew revokati skont hekk.

Effett tar-Regolamenti dwar il-Protezzjoni tal-Ilma ta' taħt l-Art kontra t-Tniġġis u d-Deterjorament. L.S. 423.36

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L-EWWEL SKEDA
(Artikolu 41)

Regolamenti fuq il-Provvista tal-Elettriku (L.S. 423.01)

Ordni dwar il-Kontroll ta' Pompe tal-Ilma u Bjar (L.S. 423.02)

Regolamenti dwar il-Fornitura tal-Ilma (L.S. 423.03)

Regolamenti dwar l-Ekonomija tal-Ilma (L.S. 423.04)

Regolamenti sabiex jiġu stabbiliti l-Pieni dwar Servizzi tal-Ilma (L.S. 423.11)

Regolamenti dwar ir-Registrazzjoni ta' Tagħmir għat-Thaffir ta' Spieri (L.S. 423.13)

Regolamenti dwar il-Kontroll ta' Rimi fid-Drenagġ (L.S. 423.15)

Regolamenti dwar iż-Żamma ta' Livell Minimu ta' Hażniet ta' Żejt mhux Maħdum u, jew ta' Prodotti Petroliferi (L.S. 423.17)

Regolamenti dwar it-Trasmissjoni tal-Elettriku (Htiġijiet tal-Grilja) (L.S. 423.18)

Regolamenti dwar il-Promozzjoni ta' Energija minn Sorsi li Jiġgeddu (L.S. 423.19)

Regolamenti dwar is-Suq tal-Gass Naturali (L.S. 423.21)

Regolamenti dwar is-Suq tal-Elettriku (L.S. 423.22)

Regolamenti dwar il-Provvista tal-Ilma u s-Servizzi tad-Drenagġ (L.S. 423.23)

Regolamenti dwar is-Suq tal-Bijokarburanti u l-Bijolikwidi (L.S. 423.24)

Regolamenti dwar Effiċjenza fl-Energija u l-Koġenerazzjoni (L.S. 423.27)

Regolamenti dwar il-*Petroleum* fis-Suq tal-Karburanti bl-Ingrossa fuq l-Art, l-Ibbottiljar tal-LPG u l-Faċilitajiet tal-Ħżin Primarji (L.S. 423.28)

Regolamenti dwar il-Kwalità tal-Kurbaranti (L.S. 423.29)

Regolamenti dwar is-Sospensjoni, ir-Rifjut u r-Revoka tal-Awtorizzazzjonijiet (L.S. 423.30)

Regolamenti dwar is-Suq tal-Gass *Petroleum* Likwefatt (L.S. 423.31)

Regolamenti dwar Effiċjenza fl-Użu Finali tal-Energija u dwar Servizzi ta' Energija (L.S. 423.34)

Regolamenti dwar il-*Petroleum* għas-Suq tal-Karburanti bl-Imnut fuq l-Art (L.S. 423.37)

Regolamenti dwar Garanziji ta' Origini ta' Elettriku minn Koġenerazzjoni b'Effiċjenza Għolja u Sorsi Rinovabbli tal-Energija (L.S. 423.38)

Regolamenti dwar l-Installazzjonijiet Elettriċi (L.S. 423.39)

Regolamenti dwar l-Awtorizzazzjoni ta' *Bunkering* (L.S. 423.42)

Regolamenti dwar iċ-Ċertifikazzjoni u l-Installazzjoni tal-*Autogas* (L.S. 423.44);

Regolamenti dwar it-Tariffi *Feed-in* (Elettriku Ġenerat minn Stallazzjonijiet Fotovoltajiċi tax-Xemx) (L.S. 423.46)

Regolamenti dwar il-Kriterji ta' Sostenibbiltà tal-Biokarburanti (L.S. 423.47)

Regolamenti dwar il-Kontroll ta' *Swimming Pools* (L.S. 244.01)

IT-TIENI SKEDA
(Artikoli 1, 41, 43, 44)

Regolamenti dwar in-Notifika ta' Sorsi tal-Ilma ta' taħt l-Art (L.S. 423.12)

Regolamenti dwar it-Thaffir ta' *Boreholes* u x-Xogħol ta' Thaffir f'Żona ta' Saturazzjoni (L.S. 423.32)

Regolamenti dwar il-*Metering* tal-Ilma li Jittella' minn taħt l-Art (L.S. 423.40)

Regolamenti dwar il-Valutazzjoni u l-Immaniġġar ta' Riskji ta' Ghargħar (L.S. 423.41)

Regolamenti dwar l-Applikazzjoni minn Utenti ta' Sorsi tal-Ilma ta' taħt l-Art (L.S. 423.45)

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Regolamenti dwar Skema Kummerċjali għal Installazzjonijiet Stazzjonarji tal-Unjoni Ewropea dwar l-Emissjonijiet ta' Gassijiet Serra (L.S. 504.66)

Regolamenti tal-2012 dwar Skema Kummerċjali għall-Avjazzjoni tal-Unjoni Ewropea dwar l-Emissjonijiet ta' Gassijiet Serra (L.S. 504.115)

Regolamenti dwar Emissjonijiet tal-Gass b'Effett Serra tul iċ-Ċiklu tal-Ħajja mill-Karburanti (L.S. 423.48)

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 294 tal-20 ta' Lulju, 2015.

ĊENSU GALEA
Deputy Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

**MARIE LOUISE
COLEIRO PRECA
President**

31st July, 2015

ACT No. XXV of 2015

AN ACT To provide for the establishment of a Regulator to be known as the Regulator for Energy and Water Services and for the exercise by or on behalf of that Regulator of regulatory functions regarding services relating to energy and water, and to make provision with respect to matters ancillary thereto or connected therewith.

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. (1) The short title of this Act is the Regulator for Energy and Water Services Act, 2015.

Short title,
scope and
commencement.

(2) The purpose of this Act is to establish a Regulator to be known as the Regulator for Energy and Water Services which shall exercise functions relating to energy and water resources.

(3) This Act shall not apply to matters relating to mineral resources and to the legislation listed in the Second Schedule which shall continue to be regulated by the Malta Resources Authority under the provisions of article 43 of this Act.

(4) The provisions, in this Act, where it is specifically stated that such provisions shall come into force at a later date, as well as the provisions of article 5(1)(l) shall come into force on such date as the Minister responsible for energy may establish, by notice in the

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Gazette.

Interpretation.

2. In this Act, unless the context otherwise requires -

"authorisation" includes any licence or permit however so described issued by or under this Act to operate, provide or carry out any activity or operation relating to energy and water and, in relation to services and service providers of such services, means a permit, licence, warrant, appointment, concession or decision concerning access to a service activity or any other activity the exercise of which relates to energy and water resources;

"authorisation scheme" means any authorisation or other procedure of an administrative nature, under which a provider or recipient is in effect required to take steps in order to commence the activity in question and obtain from a competent authority authorisation concerning access to a service activity or the exercise thereof;

"authorised provider" means any person who has a valid authorisation to operate, provide or carry out any activity or operation or to provide any service relating to energy and water;

"Board" means the Board of the Regulator appointed under article 3(2);

"Chairman" means Chairman of the Regulator for Energy and Water Services and includes, in the circumstances mentioned in article 3(3), the Deputy Chairman or other person appointed to act as Chairman;

"Chief Executive Officer" means the Chief Executive Officer appointed under article 6(7);

"contractor" means a person acting in pursuance of an agreement entered into with the Regulator for Energy and Water Services or in accordance with article 6(5);

"decision" includes any determination, measure, order, requirement or specification however so described made by the Regulator for Energy and Water Services and the word "decision" shall be construed accordingly;

"directive" means a directive issued by the Regulator for Energy and Water Services in accordance with the procedures as may be prescribed by regulations made under this Act;

"Directorates" means such directorates as are or may be

established under article 6;

"distribution" in relation to electrical energy, means the transport of electricity on the medium-voltage and low-voltage distribution systems with a view to its delivery to customers;

"distribution system operator" means a person responsible for operating, ensuring the maintenance of and, if necessary, developing the distribution system in a given area and, where applicable, its interconnections with other systems and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of electricity;

"electrical energy" means electrical energy when generated, transmitted, distributed, supplied or used for any purpose except the transmission of any communication or signal;

"employee" means a person employed by the Regulator for Energy and Water Services;

"energy" includes electrical energy, fuels, heat when transmitted as a commercial activity, and energy derived from renewable sources;

"establishment" means the actual pursuit of an economic activity as referred to in Article 43 of the Treaty, by a service provider for an indefinite period and through a stable infrastructure from where the business of providing services is actually carried out;

"fuel" includes coal, all hydrocarbons or hydrocarbon derivatives normally used as fuels, including crude oil, fuels based on hydrocarbons or coal, gaseous fuel, petroleum substitutes in liquid form, liquids or gases produced from fermentation or similar processes when intended for use as fuels, fuels produced from solid waste; but does not include petroleum for the purposes of the Petroleum (Production) Act;

Cap. 156.

"financial year" means any period of twelve months ending on the 31st December:

Provided that the first financial year of the Regulator for Energy and Water Services shall begin on the coming into force of this Act and shall end on the 31st December of the next following year;

"gas" means all hydrocarbons in gaseous form whether in their natural state or obtained from petroleum or produced chemically;

"Internal Market Information System" means the information

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system through which competent authorities exchange information in fulfilment of their obligations under Chapter VI of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market;

"Member State" means a Member State of the European Union;

"Member State of establishment" means the Member State in whose territory the provider of the service concerned is established;

"Member State where the service is provided" means the Member State where the service is supplied by a provider established in another Member State;

"Minister" means the Minister responsible for energy and water services;

"overriding reasons relating to the public interest" means the reasons recognised as such in the case law of the European Court of Justice in relation to Articles 43 and 49 of the Treaty, as they may continue to evolve and including the following grounds:

- (a) public policy, public security, public safety and public health; provided that these grounds shall be interpreted within the meaning of Articles 46 and Article 55 of the Treaty;
- (b) the maintenance of order in society;
- (c) social policy objectives;
- (d) the protection of the recipients of services;
- (e) consumer protection;
- (f) the prevention of fraud;
- (g) the prevention of unfair competition;
- (h) the protection of the environment;

"petroleum" means all natural hydrocarbons whether liquid or gaseous including crude oil, natural gas, asphalt, ozokerite and cognate substances and natural gasoline;

"public officer" in relation to article 18, has the same meaning assigned to it by article 124 of the Constitution but does not include a judge or a magistrate;

"recipient" means any natural person who is a national of a Member State or who benefits from rights conferred upon him by Community acts, or any legal person as referred to in Article 48 of the Treaty and established in a Member State, who, for professional or non-professional purposes, uses, or wishes to use, a service;

"Regulator" means the Regulator for Energy and Water Services established by article 3;

"resources" means the resources relating to energy and water regulated by or under this Act;

"service" means any self-employed activity performed for an economic consideration as referred to in Article 50 of the Treaty;

"services of a general economic interest" means those services declared by the Minister responsible for Competition as services of general economic interest in terms of article 30 (3) of the Competition Act; Cap. 379.

"service provider" means any natural person who is a national of a Member State, or any legal person as referred to in Article 48 of the Treaty and established in a Member State, who offers or provides a service;

"transmission" in relation to electrical energy, means the transport of electricity on the high-voltage interconnected system with a view to its delivery to final customers or distributors but does not include supply;

"TSO" means a natural or legal person responsible for operating, ensuring the maintenance of and, if necessary, developing the transmission system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity;

"Treaty" means the Treaty establishing the European Community;

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

"undertaking" means any person whether an individual, a body corporate or unincorporate or any other entity, pursuing an economic activity, and includes a group of undertakings;

"water", when used in relation to any practice, operation or

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activity which is regulated by this Act, shall include drainage and sewage services, but shall not include bottled table water.

PART II
ESTABLISHMENT, FUNCTIONS AND CONDUCT OF AFFAIRS
OF REGULATOR

Establishment
and composition
of the Regulator
for Energy and
Water Services.

3. (1) There shall be a body, to be known as the Regulator for Energy and Water Services, hereinafter referred to as the "Regulator" which shall consist of a Chairman and not less than four and not more than six other members.

(2) The members of the Board of the Regulator shall be appointed by the Minister for a term of five years or for such longer period as may be specified in the instrument of appointment subject to a maximum term of seven years but the members so appointed may be re-appointed, once only, on the expiration of their term of office for a term of five years or for such longer period as may be specified in the instrument of appointment subject to a maximum term of seven years.

An appropriate rotation scheme for the appointment of the members of the Board of the Regulator shall be put in place, in terms of which the end date of the term of office of the Board members is not the same for all members.

(3) The Minister may designate one of the other members of the Board of the Regulator as Deputy Chairman and the member so designated shall have all the powers and perform all the functions of the Chairman during his absence or inability to act as Chairman or while the Chairman is on vacation or during any vacancy in the office of Chairman; and the Minister may also, in any of the circumstances aforesaid, appoint another person to act as Chairman and in such case the foregoing provisions shall apply in respect of such person.

(4) A person shall not be qualified to hold office as a member of the Board of the Regulator if he -

(a) is a Minister, Parliamentary Secretary or a member of the House of Representatives; or

(b) is a judge or magistrate; or

(c) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of his functions as a member of the Board of the Regulator.

(5) Subject to the provisions of this article, the office of a

member of the Board of the Regulator shall become vacant -

(a) at the expiration of his term of office; or

(b) if any circumstances arise that, if he were not a member of the Board of the Regulator, would cause him to be disqualified for appointment as such.

(6) A member of the Board of the Regulator may only be removed from office by the Minister if such member is unfit to continue in office for any one or more of the following reasons:

(a) if the member is found unable to act independently from any market interests;

(b) if the member is found taking instructions or directions from any other public or private entity in the exercise of the regulatory functions assigned to the Regulator;

(c) where such member has been found guilty of misconduct under any law.

(7) If a member resigns or if the office of a member of the Board of the Regulator is otherwise vacant or if a member is for any reason unable to perform the functions of his office, the Minister shall take all appropriate measures to fill the vacancy so created, subject to the provisions of sub-articles (4), (5) and (6).

(8) Any member of the Board of the Regulator who has any direct or indirect interest in any contract made or proposed to be made by the Regulator, not being an interest which disqualifies such member from remaining a member, shall disclose the nature of his interest at the first meeting of the Board of the Regulator after the relevant facts have come to his knowledge; such disclosure shall then be recorded in the minutes of the meeting of the Board of the Regulator, and the member having an interest as aforesaid shall withdraw from any meeting at which such contract is discussed. Where the interest of the member is such as to disqualify him from remaining a member, he shall report the fact immediately to the Board of the Regulator and tender his resignation. Any disclosure under this sub-article shall be communicated by the Regulator to the Minister without delay.

4. The Regulator shall be responsible for the regulation of energy and water services and resources to ensure:

Objectives of
the Regulator.

(a) greater focus on and increased consumer protection;
and

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(b) the independence of the Regulator as required by various EU directives including EU Directive 2009/72/EC concerning common rules for the internal market in electricity and EU Directive 2009/73/EC concerning common rules for the internal market in natural gas and the Energy Charter Treaty.

Functions of the
Regulator.

5. (1) The Regulator shall have, and shall independently and impartially implement and administer, the following functions:

(a) to regulate, monitor and keep under review all practices, operations and activities relating to energy and water services and resources;

(b) to grant any licence, permit or other authorisation, for the carrying out of any operation or activity relating to energy and water services and resources;

(c) to regulate and secure interconnectivity for the production, transmission and distribution of the services or products regulated by or under this Act;

(d) to promote fair competition in all such practices, operations and activities and to monitor the occurrence of restrictive contractual practices, and where appropriate in collaboration with the authority responsible for competition;

(e) to establish minimum quality and security standards for any of the said practices, operations and activities and to regulate such measures as may be necessary to ensure public and private safety;

(f) to secure and regulate the development and maintenance of efficient systems in order to satisfy, as economically as possible, all reasonable demands for the provision of the services regulated by or under this Act;

(g) to regulate the price structure for any activity regulated by this Act and where appropriate to establish the mechanisms whereby the price to be charged for the acquisition, production, manufacture, sale, storage and distribution thereof is determined;

(h) to establish the minimum qualifications to be possessed by any person who is engaged or employed in any activity regulated by or under this Act;

(i) to ensure that international obligations entered into by the Government relative to the matters regulated by or under

this Act are complied with, in particular, the implementation of the regulatory functions envisaged in the Electricity and Gas market directive and the Energy Charter Treaty;

(j) to submit its opinion to Government on the formulation of policy in relation to matters regulated by this Act, and in particular in relation to such international obligations;

(k) to promote the interests of consumers and other users in Malta, particularly vulnerable consumers, especially in respect of the prices charged for, and the quality and variety of the services and, or products regulated by or under this Act;

(l) to determine disputes in relation to matters regulated by or under this Act;

(m) to undertake effective stakeholder and regulated entity involvement and consultation when preparing its positions and actions.

(2) The Regulator shall also independently and impartially:

(a) in relation to energy -

(i) regulate the harnessing, generation, distribution, transmission, supply and use of all forms of energy; and

(ii) impose levies on energy produced by non-renewable sources and grant subsidies in connection with the production of energy from renewable sources and energy efficiency;

(b) in relation to water -

(i) secure and regulate the acquisition, production, storage, distribution or other disposal of water for domestic, commercial, industrial or other purposes;

(ii) secure and regulate the conservation, augmentation and operation of water resources and the sources of water supply;

(iii) secure and regulate the treatment, storage, disposal, use or re-use, as appropriate, of sewage, waste water, sludge and storm water run-off;

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(iv) secure and regulate the provision of adequate systems of public sewers and to ascertain their cleanliness, safety and efficiency;

(c) in relation to petroleum -

(i) secure that adequate provision and reserve stocks of petroleum and gas is available at all times;

(ii) regulate the distribution, sale, exportation or disposal in any other manner of fuels supplied for bunkering; for the purposes of this sub-paragraph "bunkering" and "fuel" shall have the same meaning assigned to them by article 2 of the Bunkering (Fuels) Tax Act;

Cap. 381.

(iii) manage national emergency stocks and specific stocks for which purpose the Regulator is hereby designated the Central Stock Holding Entity for security stock in accordance with Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products:

Cap. 423.

Provided that matters falling under sub-articles (1) and (2) which shall have been pending before the Malta Resources Authority in terms of the Malta Resources Authority Act from before the coming into force of this Act shall forthwith be transferred onto the Regulator without the need of any formalities other than the coming into force of this Act.

(3) The provisions of this article shall be without prejudice to the exercise of the functions of any authority established by or under any law in relation to public health, competition and the environment or any other matter falling within the functions of any such authority.

(4) The Regulator may require any person or authorised provider to provide it with any information, including financial information, that the Regulator considers necessary for the purpose of ensuring compliance with the provisions of this Act, regulations prescribed thereunder and decisions or directives made in accordance with this Act, or any other law or regulations prescribed thereunder which the Regulator is entitled to enforce. Any person or authorised provider who fails or refuses to provide such information shall be in contravention of this Act and shall be liable to the imposition of an administrative penalty as may be prescribed by the Regulator.

6. (1) Subject to the other provisions of this Act the affairs and business of the Regulator shall be the responsibility of the Regulator itself but save as aforesaid, the executive conduct of the Regulator, its administration and organisation and the administrative control of its officers and employees, shall be the responsibility of the Chief Executive Officer of the Regulator, who shall also have such other powers as may from time to time be delegated to him by the Regulator and who shall be wholly accountable to the Regulator.

Conduct of the affairs of the Regulator.

(2) The Regulator shall establish Directorates, Units, Divisions and Sections, as appropriate, which shall be vested with such responsibilities as the Regulator may decide and which it may vary from time to time, as it deems appropriate.

(3) The Regulator shall exercise its functions through the Directorates, Units, Divisions and Sections so established and for such purpose it shall vest in each of the Directorates, Units, Divisions and Sections so established and subject to the overall supervision and control of the Chief Executive Officer, such of its functions as relate or are ancillary to the matters for which it is responsible so as to enable the said Directorates, Units, Divisions and Sections to give effect to the policies of the Regulator and to otherwise discharge effectively and efficiently the functions of the Regulator in its respective area of operation.

(4) Each of the Directorates, Units, Divisions and Sections so established shall be headed by an individual who shall either be a public officer detailed for duty with the Regulator or an employee of the Regulator or a person detailed to work for the Regulator in accordance with an agreement made between the Regulator and a public or private undertaking, in either case having adequate experience or knowledge in the respective area of operation.

(5) The Regulator and each of the Directorates, Units, Divisions and Sections may exercise any one or more of their functions either directly or through any of their officers or employees or through an agency authorised for the purpose, or through a contractor or other person with whom an agreement for the performance of any one or more of such functions has been entered into:

Provided that nothing in this sub-article shall authorise the Regulator to contract out any of its regulatory or licensing functions.

(6) Where in this Act anything is to be done by or against or with respect to the Regulator, or any notice is to be or may be given to the Regulator, any such thing or notice may also be done by or against

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or with respect to or be given to the Directorate, Unit, Division and Section under whose jurisdiction the matter falls by reason of a delegation of function to such Directorate, Unit, Division and Section; and for the purposes aforesaid any reference in this Act to the Regulator includes a reference to the appropriate Directorate, Unit, Division and Section.

(7) The Chief Executive Officer and the heads of the Directorates, Units, Divisions and Sections shall be appointed by the Regulator for a period to be determined by the Regulator which shall in no case be less than three years:

Provided that the Chief Executive Officer shall be appointed by the Minister.

(8) The Chief Executive Officer shall attend all the meetings of the Regulator but shall not vote at such meetings:

Provided that the Regulator may if it so deems fit require the Chief Executive Officer not to attend any of the meetings or any part of a meeting.

(9) The Chief Executive Officer shall be responsible for the implementation of the objectives of the Regulator in the exercise of its functions and without prejudice to the generality of the foregoing he shall -

(a) assume full responsibility for the overall supervision and control of the Directorates, Units, Divisions and Sections;

(b) assign to each Directorate, Unit, Division and Section such duties which he considers necessary or expedient;

(c) co-ordinate the workings of the Directorates, Units, Divisions and Sections;

(d) develop the necessary strategies for the implementation of the objectives of the Regulator;

(e) advise the Regulator on any matter it may refer to him or on any matter which he considers necessary or expedient; and

(f) perform such other duties as the Regulator may assign to him from time to time.

7. (1) The Minister may, in relation to matters that appear to him to affect the public interest, from time to time communicate to the Regulator directions in writing of a general character, not related to the regulatory powers of the Regulator and not inconsistent with the provisions of this Act, and the Regulator shall, as soon as may be, give effect to all such directions in such a manner as to respect, in particular, the provisions of article 5 such that the independent regulatory powers of the Regulator are in no way prejudiced.

Relations between the Minister and the Regulator.

(2) The Regulator shall afford to the Minister facilities for obtaining information with respect to its property and activities and furnish him with returns, accounts and other information with respect thereto, and afford to him facilities for the verification of information furnished, in such manner and at such times as he may reasonably require.

(3) All communications between the Minister and the Regulator shall be conducted in such a manner as to ensure that at no time shall the independence of the Regulator in the exercise of its functions be, or be perceived to be, in any way prejudiced.

8. (1) The Regulator shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of its functions, or suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act, including the lending or borrowing of money.

Legal personality and representation of the Regulator.

(2) The legal representation of the Regulator shall jointly vest in the Chairman and the Chief Executive Officer:

Provided that the Regulator may appoint any one or more of its members or of the officers or employees of the Regulator to appear in the name and on behalf of the Regulator in any judicial proceedings and in any act, contract, instrument or other document whatsoever:

Provided further that in respect of any matter falling within the functions vested in a Directorate, the legal and judicial representation of the Regulator shall also vest in the head of the Directorate or in such other member, officer or employee of the Regulator, as the Regulator may appoint or authorise for the purpose.

(3) Any document purporting to be an instrument made or issued by the Regulator and signed by the Chairman or by the Chief Executive Officer or by a head of a Directorate in relation to any

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matter vested in the relative Directorate by the Regulator shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Regulator.

Provisions with respect to proceedings of the Regulator.

9. (1) The meetings of the Regulator shall be called by the Chairman as often as may be necessary but at least once a month either on his own initiative or at the request of any two of the other members.

(2) Half the number of members for the time being constituting the Regulator shall form a quorum. Decisions shall be adopted by a simple majority of the votes of the members present and voting. The Chairman, or in his absence the Deputy Chairman or other person appointed to act as Chairman, shall have an initial vote and in the event of an equality of votes, a casting vote. Without prejudice to the other requirements of this Act, no decision shall be valid which is not supported by at least two members of the Regulator.

(3) Subject to the provisions of this Act the Regulator may regulate its own procedure.

(4) Subject to the foregoing provisions of this article, no act or proceeding of the Regulator shall be invalidated merely by reason of the existence of any vacancy among the members.

(5) All acts done by any person acting in good faith, as a member of the Regulator, shall be valid as if he were a member notwithstanding that some defect in his appointment or qualification be afterwards discovered. No act or proceeding of the Regulator shall be questioned on the ground of the contravention, by a member, of the provisions of article 3(8).

PART III

POWERS OF THE REGULATOR

Licensing, etc., of activities.

10. (1) Save as may otherwise be prescribed, no person shall carry out any activity or operation, or be engaged in such activity or operation, relating to energy and water services and resources unless such person is in possession of a licence, permit or other authorisation of the Regulator under this Act.

(2) Any person who carries out any such activity without a licence or who acts in breach of any condition of such licence, shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding one hundred and fifteen thousand euro (€115,000) or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(3) Saving the provisions of article 469A of the Code of Organization and Civil Procedure no appeal shall lie from any decision of the Regulator under sub-article (1). Cap. 12.

(4) The provisions of this article shall not apply to any cistern or well in any dwelling house, which is required to be constructed under any law, and the provisions of this article shall not be deemed to require any licence or permit for the construction and maintenance of any such cistern or well, so however that this construction shall not preclude the Regulator from exercising any of its functions and powers under this Act for the purpose of ensuring that water is not wasted or misused and that no damage is caused to the aquifer or elsewhere.

(5) An authorisation granted to a person under this Act shall not relieve such a person from the requirement at law to apply for any other authorisation however so described, or from any other obligation arising under any other law:

Provided that matters falling under this article which shall have been pending before the Malta Resources Authority in terms of the Malta Resources Authority Act from before the coming into force of this Act shall forthwith be transferred onto the Regulator without the need of any formalities other than the coming into force of this Act. Cap. 423.

11. (1) Any officer or employee of the Regulator so authorised may, at all reasonable times, enter any premises, vehicle, vessel or any other place, for the purposes of - Enforcement powers of the Regulator.

(a) the making of such inspections, tests, measurements, lifting of samples or to ascertain that nothing contrary to the provisions of this Act, to the regulations made thereunder or to any term or condition attached to any licence, permit or authorisation issued under this Act is being carried out;

(b) ascertaining or reproducing such data or information as the Regulator may require.

(2) Any person who obstructs or impedes any officer or employee of the Regulator in the exercise of his duties under this Act shall be guilty of an offence and shall, on conviction, be liable to imprisonment not exceeding eighteen months or to a fine (*multa*) of not more than seventy thousand euro (€70,000) or to both such fine and imprisonment.

12. (1) The Regulator may impose an administrative penalty upon any person who infringes any provision of this Act, Imposition of administrative penalties.

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regulations prescribed thereunder or of any other law which the Regulator is entitled to enforce, or who fails to comply with any directive or decision given by the Regulator whether under this Act, regulations prescribed thereunder or under any other law which the Regulator is entitled to enforce, or who fails to comply with a legally-binding decision of the Agency for the Cooperation of Energy Regulators, or who fails to comply with any condition of any authorisation granted under this Act.

(2) An administrative penalty imposed under sub-article (1) shall not exceed:

(a) one hundred thousand euro (€100,000) for each contravention and, or six hundred euro (€600) for each day of non-compliance, from the date of the decision given by the Regulator; and, or

(b) in the case of an undertaking (including a vertically integrated undertaking) or a body corporate, up to ten *per centum* of the total turnover concerned in the preceding business year:

Provided that in the case of an undertaking, including a vertically integrated undertaking or a body corporate, a fine of up to ten *per centum* of the annual turnover concerned in the preceding business year, which amount exceeds one hundred thousand euro (€100,000) may, in any such case be imposed.

Proceedings
when imposing
administrative
penalties.

13. (1) The Regulator, before recovering an administrative penalty upon any person who infringes or fails to comply with -

(a) any provision of this Act;

(b) regulations made thereunder;

(c) any other law which the Regulator is entitled to enforce;

(d) any directive or decision given by the Regulator whether under this Act, regulations made thereunder or under any other law which the Regulator is entitled to enforce; or

(e) any condition of any authorisation granted under this Act,

shall by judicial letter to the person concerned -

(i) give notice of the administrative penalty being imposed by the Regulator;

(ii) give notice of the specific reason why such penalty is being imposed;

(iii) give notice of the amount of the penalty;

(iv) demand that the person concerned rectify the acts or omissions committed by such person where such acts or omissions are capable of remedy and, or make submissions to the Regulator within a specified time:

Provided that such time may not be of more than twenty days and of not less than five days from the date of service of the judicial letter:

Provided further that the person, against whom an administrative penalty is imposed, shall be given a reasonable opportunity during such period of time as may be stipulated in the judicial letter to make submissions to the Regulator and to propose any remedies that rectify the acts or omissions required by the Regulator to be so rectified where such acts or omissions are capable of remedy.

(2) In the judicial letter mentioned in sub-article (1), the Regulator may impose such conditions as it may consider reasonable in the circumstances.

(3) If the person concerned remedies the infringement within the period established by the Regulator in accordance with sub-article (1), and agrees in writing to abide with any conditions that the Regulator may impose, the Regulator shall desist from proceeding any further:

Provided that if the person concerned, after having been bound in writing as stated above, fails to remedy the infringement within the period established by the Regulator in accordance with sub-article (1) or fails to abide with any conditions agreed to in writing, the Regulator shall impose against such person an administrative penalty for such failure, in addition to the administrative penalty which is imposed for the infringement itself.

(4) If, after the lapse of the period mentioned in sub-article (1), the Regulator considers that the person concerned has not given any valid reasons to demonstrate why no administrative penalty should be

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imposed against such person, the Regulator shall proceed to recover such administrative penalty.

(5) Notwithstanding any other provision of this article, where the Regulator has *prima facie* evidence that the infringement -

(a) represents an immediate and serious threat to public safety or public security or public health; or

(b) creates or may create serious economic or operational problems for other providers of resources or for consumers,

the Regulator may shorten the periods mentioned in subarticle (1):

Provided that the person against whom such administrative penalty is imposed shall be given a reasonable opportunity to state any views and propose any possible remedies.

(6) The judicial letter referred to in sub-article (1) shall, upon the expiry of the time limit for appeal therefrom, and upon the service of a copy thereof by means of a judicial act on the person liable to the payment of the administrative penalty, constitute an executive title for all effects and the purposes of article 253(a) of the Code of Organization and Civil Procedure:

Cap. 12.

Provided that if the person, against whom the judicial letter has been issued, files an appeal before the Administrative Review Tribunal, and concurrently with or before the filing of the appeal requests the Administrative Review Tribunal to suspend the effects of the judicial letter, then the Regulator shall desist from issuing a judicial act as referred to in this sub-article until the request of suspension has been determined, withdrawn or otherwise dealt with:

Provided further that the Administrative Review Tribunal shall determine any requests for suspension referred to in this sub-article expeditiously. Before determining any such request the Administrative Review Tribunal shall give the Regulator a reasonable opportunity to reply and make its submissions, within a period of not less than three working days.

(7) Interest at the rate of eight per cent *per annum* shall run as from the date set by the Regulator for the payment of any administrative penalty imposed by it. In cases where the Administrative Review Tribunal or the Court of Appeal, as the case may be, after having upheld an application to suspend the penalty pending proceedings, finally decides that the administrative penalty as imposed by the Regulator is due, such administrative penalty shall

be due together with any interests accrued thereon as from the date originally set by the Regulator for payment including the period during which the payment of the said penalty was suspended.

(8) The Regulator shall give its reasons for any decision taken under this article.

(9) Notwithstanding the provisions of any other law, no precautionary warrant or order shall be issued by any court restraining the Regulator from the exercise of any of the powers conferred upon it under this Act in relation to administrative penalties.

(10) In all cases where the Regulator imposes an administrative penalty in respect of anything done or omitted to be done by any person and such act or omission also constitutes a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence.

(11) An administrative penalty imposed by the Regulator upon any person shall be considered a civil debt due to the Regulator.

(12) If any person knowingly avoids, obstructs or refuses service of any judicial act issued under this article, such person shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not more than seventy thousand euro (€70,000):

Provided that matters falling under this article which shall have been pending before the Malta Resources Authority in terms of the Malta Resources Authority Act from before the coming into force of this Act shall forthwith be transferred onto the Regulator without the need of any formalities other than the coming into force of this Act.

Cap. 423.

14. Where an administrative infringement breaches -

- (a) any provision of this Act;
- (b) regulations made thereunder;
- (c) any other law which the Regulator is entitled to enforce;

Administrative
infringements
by bodies
corporate and
undertakings.

or any person -

- (i) fails to comply with any directive or decision given by the Regulator whether under this Act, regulations made thereunder or under any other law which the Regulator is entitled to enforce; or

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(ii) fails to comply with any condition of any authorisation granted under this Act, and the infringement is committed by an undertaking or body corporate and is proved to have been committed with the consent, or involvement of, or to be attributable to, any gross negligence on the part of a person being a director, manager, secretary or other officer, however so described, of such body corporate or undertaking or a person who was purporting to act in any such capacity,

such person and such body corporate shall be responsible for the said infringement and shall be jointly and severally liable for the payment of any administrative penalty imposed by the Regulator as a consequence thereof.

Debt recovery
procedure.
Cap. 12.

15. The provisions of article 466 of the Code of Organization and Civil Procedure shall apply to the Regulator in the same manner as they apply to Government Departments:

Cap. 423.

Provided that matters falling under this article which shall have been pending before the Malta Resources Authority in terms of the Malta Resources Authority Act from before the coming into force of this Act shall forthwith be transferred onto the Regulator without the need of any formalities other than the coming into force of this Act.

PART IV

OFFICERS AND EMPLOYEES OF THE REGULATOR

Staff
appointments.

16. Without prejudice to the other provisions of this Act, the appointment of officers and other employees of the Regulator shall be made by the Regulator. The terms and conditions of employment shall be established by the Regulator.

Appointment
and functions of
officers and
employees of
the Regulator.

17. The Regulator shall appoint and employ, at such remuneration and upon such time, terms and conditions as it may, in accordance with article 16, determine, such officers and employees as may from time to time be necessary for the due and efficient discharge of the functions of the Regulator.

Detailing of
public officers
for duty with the
Regulator.

18. (1) The Principal Permanent Secretary, following the direction of the Prime Minister, may from time to time, at the request of the Regulator, direct that any public officer shall be detailed for duty with the Regulator in such capacity and under such conditions and with effect from such date as he may prescribe.

(2) The period during which a direction as aforesaid shall apply to any officer specified therein shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier

date, or unless a different period is specified in such direction, end on the happening of any of the following events:

(a) the acceptance by such officer of an offer of transfer to the service of, and permanent employment with, the Regulator made in accordance with the provisions of article 20; or

(b) the revocation of such direction by the Principal Permanent Secretary following the direction of the Prime Minister.

(3) Where a direction as aforesaid is revoked by the Principal Permanent Secretary in relation to any officer, the Principal Permanent Secretary may, by further direction and following the direction of the Prime Minister, detail such officer for duty with the Regulator in such capacity and with effect from such date as may be specified in the direction of the Principal Permanent Secretary, and the provisions of sub-article (2) shall thereupon apply to the period of duration of such detailing by any such further direction in relation to such officer.

19. (1) Where any officer is detailed for duty with the Regulator under any of the provisions of article 18, such officer shall, during the time in which such direction has effect in relation to him, be under the administrative authority and control of the Regulator but he shall for other intents and purposes remain and be considered and treated as a public officer.

Status of public officers detailed for duty with the Regulator.

(2) Without prejudice to the generality of the foregoing, an officer detailed for duty as aforesaid -

(a) shall not during the time in respect of which he is so detailed -

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the Government appointment held by him at a date on which he is so detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the Government appointment held by him at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Regulator:

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Provided that such terms and conditions shall not be deemed to be less favourable because they are not in all respects identical or superior to those enjoyed by the officer concerned at the date of such detailing, if in the opinion of the Prime Minister, such terms and conditions, taken as a whole, offer substantially equivalent or greater benefits; and

Cap. 93.

Cap. 58.

(b) shall be entitled to have his service with the Regulator considered as service with the Government for the purposes of any pension, gratuity, or benefit under the Pensions Ordinance and the Widows' and Orphans' Pensions Act and for the purpose of any other right or privilege to which he would be entitled, and shall be liable to any liability to which he would be liable, but for the fact of his being detailed for duty with the Regulator:

Provided that in assessing the pensionable emoluments of such officer for the purposes of any law relating to government service pensions, no account shall be taken of any allowances, bonuses or gratuities paid to such officer by the Regulator in excess of what he is entitled to as a public officer.

(3) Where an application is made as provided in sub-article (2)(a)(i) the same consideration shall be given thereto as if the applicant had not been detailed for service with the Regulator.

(4) The Regulator shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Regulator as aforesaid during the period in which he is so detailed.

Offer of permanent employment with the Regulator.

20. (1) The Regulator may, with the approval of the Prime Minister, offer to any officer detailed for duty with the Regulator under any of the provisions of article 18 permanent employment with the Regulator at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

(2) The terms and conditions comprised in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister offer substantially equivalent or greater benefits.

(3) Every officer who accepts permanent employment with the Regulator offered to him, under the provisions of sub-article (1) shall for all purposes other than those of the Pensions Ordinance and of the Widows' and Orphans' Pensions Act, and saving the provisions of sub-article (6), be deemed to have ceased to be in service with the Government and to have entered into service with the Regulator on the date of his acceptance, and for the purposes of the said Ordinance and of the said Act, so far as applicable to him, service with the Regulator shall be deemed to be service with the Government within the meanings thereof respectively. Cap. 93.
Cap. 58.

(4) Every such officer as aforesaid who, immediately before accepting permanent employment with the Regulator was entitled to benefit under the Widows' and Orphans' Pensions Act, shall continue to be so entitled to benefit thereunder to all intents as if his service with the Regulator were service with the Government. Cap. 58.

(5) The Regulator shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer who has accepted permanent employment with the Regulator as aforesaid during the period commencing on the date of such officer's acceptance.

(6) For the purposes of the Pensions Ordinance the pensionable emoluments of such public officer on retirement shall be deemed to be the pensionable emoluments payable to an officer in Government service in a grade and at an incremental level corresponding to the post and incremental level at which the officer retires from the Regulator. Cap. 93.

(7) (a) For the purposes of this article, posts and salary grades with the Regulator shall be classified in the most nearly corresponding grades and incremental levels in the service under the Government by reference to job description, skills, responsibilities and other analogous factors.

(b) The classification referred to in paragraph (a) shall be carried out by a board composed of a chairman appointed by the Ministry responsible for finance and two other members, one appointed by the Minister responsible in general for personnel policies in the public service and one appointed by the Regulator. The classification shall be subject to the final approval of the Minister responsible for finance.

(c) Such classification shall take place within three months of any adjustment of salaries of employees in Government service and, of employees of the Regulator.

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(d) No post shall be classified in a grade higher than that of a Grade 3 in the service of the Government or such other grade that the Minister responsible for finance may from time to time by notice in the Gazette determine.

Cap. 93.

(e) Without prejudice to article 113 of the Constitution, no person may, following a classification as aforesaid, be entitled to rights under the said Pensions Ordinance less favourable than those to which he would have been entitled prior to such classification.

PART V FINANCIAL PROVISIONS

Regulator to meet expenditure out of revenue.

21. (1) Without prejudice to the following provisions of this article, the Regulator shall so conduct its affairs that so much of the expenditure required for the proper performance of its functions shall, as far as possible, be met out of its revenue.

(2) For such purpose the Regulator shall levy all fees, rates and other payments prescribed and however so described or deemed to be prescribed by or under this Act or any other law related to the powers and functions of the Regulator.

(3) The Regulator shall also be paid by Government out of the Consolidated Fund such sums as Parliament may from time to time authorise to be appropriated to meet any of its expenditure that cannot be met out of its revenue and the costs of specified works to be continued or otherwise carried out by the Regulator, being works of infrastructure or a similar capital nature.

(4) Any excess of revenue over expenditure shall, be applied by the Regulator to the formation of reserve funds to be used for the purposes of the Regulator; and without prejudice to the generality of the powers given to the Minister by this sub-article, any direction given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the direction, of any part of the fees, rates and other payments levied in accordance with sub-article (2) or any such excess as aforesaid.

(5) Any funds of the Regulator not immediately required to meet expenditure may be invested in such manner as may be decided by the Regulator.

Power to borrow or raise capital.

22. (1) For the purpose of carrying out any of its functions under this Act, the Regulator may, in connection with the exercise of its functions, borrow or raise money.

(2) The Regulator may also, from time to time, borrow, by

way of overdraft or otherwise, such sums as it may require for carrying out its functions under this Act:

Provided that for any amount in excess of one hundred and twenty thousand euro (€120,000), there shall be required the approval of the Minister in writing.

23. The Minister responsible for finance may, after consultation with the Minister, make advances to the Regulator of such sums as he may agree to be required by the Regulator for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as he may, after consultation as aforesaid, deem appropriate. Any such advance may be made by the Minister responsible for finance out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorising the Accountant General to make such advance.

Advances from Government.

24. (1) The Minister responsible for finance may, for any requirements of the Regulator of a capital nature, contract or raise loans, or incur liabilities, for such periods and on such terms and conditions as he may deem appropriate; and any sums due in respect of or in connection with any such loan or liability shall be a charge on the Consolidated Fund.

Borrowing from Government.

(2) Notice of any loans, liabilities or advances made or incurred under the foregoing provisions of this article shall be given to the House of Representatives as soon as practicable and, in any case, not later than eight (8) weeks after such loan, liability or advance is made, or if at any time during that period the House is not in session, within eight weeks from the beginning of the next following session.

(3) Pending the raising of any such loan as is mentioned in sub-article (1), or for the purpose of providing the Regulator with working capital, the Minister responsible for finance may, by warrant under his hand, and without further appropriation other than this Act, authorise the Accountant General to make advances to the Regulator out of the Treasury Clearance Fund under such terms as may be specified by the Minister upon the making thereof.

(4) The proceeds of any loan raised for the purposes of making advances to the Regulator, and any other moneys to be advanced to the Regulator under this article, shall be paid into a fund specially established for the purpose and which shall be known as the "Regulator for Energy and Water Services Loan Fund".

(5) Sums received by the Accountant General from the

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Regulator, in respect of advances made to the Regulator under sub-article (3) shall be paid, as respects of amounts received by way of repayment into the Treasury Clearance Fund and, as respects of amounts received by way of interest into the Consolidated Fund.

Estimates of the
Regulator.

25. (1) The Regulator shall cause to be prepared in every financial year, and shall not later than six (6) weeks after the end of each such year adopt, estimates of the income and expenditure of the Regulator for the next following financial year.

(2) In the preparation of such estimates the Regulator shall take account of any funds and other monies that may be due to be paid to it out of the Consolidated Fund during the relevant financial year, whether by virtue of this Act or an appropriation Act or of any other law; and the Regulator shall so prepare the said estimates as to ensure that the total revenues of the Regulator are at least sufficient to meet all sums properly chargeable to its revenue account including, but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form and shall contain such information and such comparison with previous years as the Minister responsible for finance may direct.

(4) A copy of the estimates shall, upon their adoption by the Regulator, be sent forthwith by the Regulator to the Minister and to the Minister responsible for finance.

(5) The Minister shall, at the earliest opportunity and not later than six (6) weeks after he has received a copy of the estimates from the Regulator, approve the same with or without amendment after consultation with the Minister responsible for finance.

Expenditure to
be according to
approved
estimates.

26. (1) No expenditure shall be made or incurred by the Regulator unless provision therefor has been made in the estimates approved as provided in article 25.

(2) Notwithstanding the provisions of sub-article (1) -

(a) until the expiration of six months from the beginning of a financial year, or until the approval of the estimates for that year, whichever is the earlier date, the Regulator may make or incur expenditure for carrying on its functions under this Act not exceeding in the aggregate one-half of the amount approved for the preceding financial year;

(b) expenditure approved in respect of a head or sub-head of the estimates may be made or incurred in respect of

another head or sub-head of the estimates;

(c) in respect of the first financial year, the Regulator may make or incur expenditure not exceeding in the aggregate such amounts;

(d) if in respect of any financial year it is found that the amount approved in the estimates is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Regulator may adopt supplementary estimates for approval by the Minister and in any such case the provisions of this Act applicable to the estimates shall as near as practicable apply to the supplementary estimates.

27. The Minister shall at the earliest opportunity and not later than eight (8) weeks after he has received a copy of the estimates and supplementary estimates of the Regulator, or if at any time during that period the House of Representatives is not in session, within eight weeks from the beginning of the next following session, cause such estimates to be laid on the Table of the House of Representatives.

Publication of approved estimates.

28. (1) The Regulator shall cause to be kept proper accounts and other records in respect of its operations, and shall cause to be prepared a statement of accounts in respect of each financial year.

Accounts and audit.

(2) The accounts of the Regulator shall be audited by an auditor or auditors to be appointed by the Regulator:

Provided that the Minister responsible for finance may, after consultation with the Minister, require the books and accounts of the Regulator to be audited or examined by the Auditor General who shall for the purpose have the power to carry out such physical checking and other certifications as he may deem necessary.

(3) After the end of each financial year, and not later than the date on which the estimates of the Regulator are forwarded to the Minister under article 25, the Regulator shall cause a copy of the statement of account duly audited to be transmitted to the Minister and to the Minister responsible for finance together with a copy of any report made by the auditors on that statement or on the accounts of the Regulator.

(4) The Minister shall, at the earliest opportunity and not later than eight (8) weeks after he has received a copy of every such statement and report, or if at any time during that period the House of Representatives is not in session, within eight (8) weeks from the beginning of the next following session, cause every such statement and report to be laid on the Table of the House of Representatives.

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Deposit of revenues and payments by the Regulator.

29. (1) All monies accruing to the Regulator shall be paid into a bank or banks appointed as bankers of the Regulator by a resolution of the Regulator. Such monies shall, as far as practicable, be paid into any such banks from day to day, except such sum as the Regulator may authorise to be retained to meet petty disbursements and immediate cash payments.

(2) All payments out of the funds of the Regulator, other than petty disbursements not exceeding a sum fixed by the Regulator, shall be made by such officer or officers of the Regulator as the Regulator shall appoint or designate for that purpose.

(3) Cheques against and withdrawals from any bank account of the Regulator shall be signed by such officer of the Regulator as may be appointed or designated by the Regulator for that purpose and shall be countersigned by the Chairman, or such other member or officer of the Regulator as may be authorised by the Regulator for that purpose.

(4) The Regulator shall also make provision with respect to -

(a) the manner in which and the officer or officers by whom payments are to be authorised or approved;

(b) the title of any account held with the bank or banks into which the monies of the Regulator are to be paid, and the transfer of funds from one account to the other;

(c) the method to be adopted in making payments out of funds of the Regulator;

and generally with respect to any matter which is relevant to the proper keeping and control of the accounts and books, and the control of the finance, of the Regulator.

Annual report.

30. The Regulator shall, not later than six (6) weeks after the end of each financial year, make and transmit to the Minister and to the Minister responsible for finance a report dealing generally with the activities of the Regulator during that financial year and containing such information relating to the proceedings and policy of the Regulator as may be required from time to time. The Minister shall at the earliest opportunity and not later than eight (8) weeks after he has received a copy of the said report, or if at any time during that period the House of Representatives is not in session, within eight (8) weeks from the beginning of the next following session, cause such report to be laid on the Table of the House of Representatives.

PART VI
MISCELLANEOUS

31. The provisions of the Administrative Justice Act, in so far as they apply to the Administrative Review Tribunal, shall apply to any proceedings before the said Tribunal and the words "public administration" in the said enactment shall be construed as a reference to the Regulator.

Administrative
Review
Tribunal.
Cap. 490.

32. (1) An appeal shall lie to the Administrative Review Tribunal on any decision of the Regulator in accordance with the provisions of this Act and any regulations made thereunder, and the right to appeal shall be competent to any person aggrieved by such decision.

Appeals.

(2) An appeal to the Administrative Review Tribunal may be filed 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 Administrative Review Tribunal 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 the Administrative Review Tribunal shall take into account the merits of the appeal, and may in whole or in part, confirm or annul the decision appealed from, giving in writing the reasons for its decision and shall cause such decision to be made public and communicated to the parties to the appeal.

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

(6) The right of appeal to the Administrative Review Tribunal shall be competent to any person aggrieved by the decision:

Provided that in any case, a person making an appeal to the Administrative Review Tribunal shall also require a direct interest in

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impugning the decision or directive appealed from.

(7) Without prejudice to the provisions of article 13 -

(a) an appeal from a decision or directive of the Regulator shall be made by application and shall be filed with the secretary of the Administrative Review Tribunal within twenty (20) days from the date on which the said decision or directive has been notified in writing to the party appealing or published in the Gazette whichever is the earlier, as the case may be; and

(b) the application of appeal shall be served on the Regulator, which shall not later than twenty (20) days from such service file its reply thereto with the secretary of the Administrative Review Tribunal.

Grounds of
appeal.

33. (1) The Administrative Review Tribunal 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 34, the decisions of the said Tribunal shall be final and binding.

(2) In the exercise of its functions, the Tribunal 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 Tribunal may also appoint experts to advise the Tribunal on any technical issue that may be relevant to its decision.

(3) For the purposes aforesaid the Tribunal 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 Tribunal, the time within which and the manner in which an appeal to the Tribunal is to be made shall be such as may be prescribed; and subject thereto, and to any other applicable provision of this Act, the Tribunal may establish its own procedure.

Appeal to the
Court of
Appeal.
Cap. 490.

34. (1) Any party to an appeal to the Tribunal who feels aggrieved by a decision of the Tribunal, or the Regulator if it feels dissatisfied with any such decision, may on a question of law appeal to the Court of Appeal in terms of the Administrative Justice Act.

(2) The appeal shall be made by means of an application filed in the registry of that court within twenty (20) days from the date on which that decision has been notified.

35. (1) The execution of all works in connection with any services provided under a licence issued under this Act shall be carried out in such manner as may be agreed between the service provider and the person receiving such services.

Powers of
service
providers.

(2) The provider of any service for which a licence is required under this Act and any employee duly authorised by him may at all reasonable times enter any premises for the purpose of -

(a) ascertaining that the services are being used in accordance with the conditions under which they are supplied;

(b) maintaining or repairing any equipment supplied by him in relation to such service;

(c) ascertaining such data or information that may be required in connection with the provision of such service:

Provided that any such service provider shall repair all damage caused by such entry.

(3) Any person who obstructs or impedes any person in the exercise of his duties under sub-article (1) shall be guilty of an offence against this Act.

36. (1) In regulating access to service activities falling under this Act and, or the exercise thereof, the Regulator shall, where such service activities fall within the scope of the Services (Internal Market) Act:

Service
providers.
Cap. 500.

(a) act objectively, transparently, efficiently and in a timely manner;

(b) provide information and assistance to service providers and recipients subject to the provisions of this Act;

(c) make it possible to complete all procedures and formalities relating to access to a service activity and to the exercise thereof, available electronically through the designated point of single contact:

Provided that the requirement to make it possible to complete all procedures and formalities electronically through the point of single contact shall not apply to the inspection of premises from which the service is provided or of equipment used by the service provider.

(2) When a service provider is already established in another

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Member State, and seeks access to a service activity or the exercise thereof in Malta:

(a) where the service activity is subject to an authorisation scheme or the fulfilment of other requirements regulating establishment in Malta, the Regulator shall not duplicate requirements or controls which are equivalent or essentially comparable as regards their purpose which a service provider may already be subject to in another Member State where he is already established;

(b) where the Regulator requires a service provider to supply a certificate, attestation or document proving that a requirement has been satisfied in terms of this Act or regulations made thereunder:

(i) it shall accept any document from another Member State which serves an equivalent purpose or from which it is clear that the requirement in question has been satisfied;

(ii) it may not require a document from another Member State to be produced in its original form or as a certified copy or certified translation save in the cases provided for in a Community instrument or where such a requirement is justified by an overriding reason relating to the public interest, including public order and public security:

Provided that the provisions of this paragraph shall not affect the right of the Regulator from requesting a non-certified translation of documentation in the Maltese or in the English language.

(3) Where the number of authorisations available for a service activity is limited because of the scarcity of available natural resources, technical capacity or if justified by an overriding reason relating to public interest, the Regulator shall apply a selection procedure to potential candidates in order to ensure impartiality, transparency, conditions of open competition, including in particular, adequate publicity about the launch, conduct and completion of the procedure. In establishing the rules for the selection procedure, the Regulator may give consideration to issues relating to public health, social policy objectives, the health and safety of employees or self-employed persons, the protection of the environment, and other overriding reasons relating to the public interest, in conformity with Community law.

(4) An authorisation granted to a service provider shall be for an indefinite period, except where:

(a) the authorisation is being automatically renewed or is subject only to the continued fulfilment of requirements;

(b) the number of available authorisations is limited in terms of sub-article (3);

(c) a limited authorisation period can be justified by an overriding reason relating to the public interest:

Provided that in cases referred to in paragraph (b), an authorisation shall be granted for an appropriate limited period enabling the service provider to recover the cost of investment and to make a fair return on the capital invested, which authorisation may not have an excessive duration, be open to automatic renewal nor confer any other advantage on the service provider whose authorisation has just expired or on any person having any particular links with that provider.

(5) An authorisation granted by the Regulator shall enable the service provider to have access to the service activity or the exercise thereof throughout Malta including by means of the setting up of agencies, subsidiaries, branches or offices, except where the authorisation for each individual establishment or a limitation of authorisation to a certain part of the territory is justified by an overriding reason relating to public interest:

Provided that the service provider shall be required to inform the Regulator of the creation of subsidiaries, branches, offices or agencies whose activities fall within the scope of the authorisation scheme.

(6) In the fulfilment of its authorisation function in terms of this article, the Regulator shall:

(a) acknowledge all applications requesting authorisation;

(b) in case of an incomplete application, inform the applicant as quickly as possible of the need to supply any additional information, together with the consequences which ensue should the applicant delay in providing the said information or requirements;

(c) process an application for an authorisation as quickly as possible and in any event within a time period which

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shall be fixed and made public in advance failing which it shall be deemed that the authorisation has been granted. The period will start to run from the day when all due information has been submitted and any other requirements and formalities have been completed in order for the Regulator to process the application:

Provided that the time period may be extended once for a limited time when justified by the complexity of the issue. The extension and its duration shall be duly justified and given to the applicant before the original period has expired:

Provided further that the Regulator may make different arrangements where objectively justified by overriding reasons relating to the public interest including a legitimate interest of third parties;

(d) provide information regarding the means of redress available in case of non-acceptance of an application;

(e) grant an authorisation as soon as the applicant fulfils all requirements, without prejudice to the right of the Regulator to revoke or modify an authorisation when the conditions for authorisation are no longer met by the service provider;

(f) in the case of rejected applications due to failure to comply with the required procedures or formalities, inform the applicant of the rejection as soon as possible;

(g) except in the case of the granting of an authorisation, a decision from the Regulator, including refusal or withdrawal, shall be fully reasoned and shall be open to challenge before the Administrative Review Tribunal.

(7) With the exclusion of service activities and matters which are declared to be services of a general economic interest, which *inter alia* may include -

(a) in the electricity sector, services covered by Directive 2009/72/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity;

(b) in the gas sector, services covered by Directive 2009/73/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas;

(c) water distribution and supply services and waste

water services,

the Regulator shall respect the right of service providers that are lawfully established and providing services in another Member State to provide services in Malta, and may not prevent them from providing such service activities by imposing requirements which are discriminatory, unnecessary or disproportionate:

Provided that the Regulator may impose requirements with regard to the provision of a particular service activity, where these are justified for reasons relating to public policy, public security, public health or the protection of the environment:

Provided also that in establishing whether a service provider is exercising his freedom to provide services within the meaning of this article and Article 49 of the Treaty, or is an establishment case, or whether a service provider is abusively taking advantage of the freedom to provide services, the Regulator shall assess and decide each case on its individual merits and in conformity with Community legislation and rulings of the European Court of Justice.

(8) Without prejudice to sub-article (7), in exceptional cases only, the Regulator may, in respect of a service provider established in another Member State, take measures in order to ensure the safety of services provided in Malta. When taking such measures, the Regulator shall follow the procedure established under the Fourth Schedule to the Services (Internal Market) Act, and ensure the fulfilment of the following conditions: Cap. 500.

(a) the national provisions, in accordance with which the measures are taken, have not been subject to Community harmonisation in the field of the safety of services;

(b) the measures taken provide for a higher level of protection of the recipient than would be the case in a measure taken by the Member State of establishment in accordance with its national provisions;

(c) the Member State of establishment has not taken any measures or has taken measures which are insufficient as compared with those requested by the Regulator and as referred to in paragraphs 2 and 3 to the Fourth Schedule to the Services (Internal Market) Act; Cap. 500.

(d) the measures are proportionate:

Provided that the Regulator, upon gaining actual

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knowledge of any conduct or specific acts by a service provider established in Malta and which provides services in other Member States, which, to its knowledge, could cause serious damage to the health or safety of persons or to the environment, shall inform all other Member States and the European Commission within the shortest possible period of time through the Internal Market Information System.

Cap. 500. (9) (a) The Regulator shall require service providers established in Malta and falling under its area of competence to keep it updated at all times with the information it identifies as necessary and objectively justified for it to fulfil its supervisory function of services in terms of this Act and the Services (Internal Market) Act.

(b) The Regulator shall exercise its supervisory functions on service providers established in Malta, and falling under its area of competence, whether the service is provided in Malta or in another Member State.

Cap. 500. (c) In executing its supervisory functions, when a service is being provided in another Member State by a service provider established in Malta, the Regulator shall assist the relevant competent authority of that other Member State in terms of the procedure established in the Second Schedule of the Services (Internal Market) Act. In doing so, the Regulator shall not refrain from taking supervisory enforcement measures in Malta on the grounds that a service has been provided or caused damage in another Member State:

Provided that the Regulator shall not be bound to carry out checks and controls in the Member State where the service is being provided.

(d) When a service is being provided in Malta, in the event of a temporary movement by a service provider established in another Member State:

Cap. 500. (i) the Regulator shall participate in the supervision of the service provider in accordance with the procedure set up in the Second Schedule to the Services (Internal Market) Act;

(ii) when the Regulator has imposed requirements in terms of the first proviso to sub-article (7), it shall assume responsibility for the supervision of that service provider in Malta in order to ensure compliance with those requirements.

(e) The Regulator shall exchange requests and information with the relevant competent authorities of another Member State through the Internal Market Information System.

(f) Without prejudice to the limitations imposed by any other law, the Regulator shall supply information to the relevant competent authority of another Member State on disciplinary or administrative actions, or criminal sanctions and decisions concerning insolvency or bankruptcy involving fraud, which directly concern a provider, and which are directly relevant to the provider's competence or professional reliability, in terms of the procedure contemplated under the Third Schedule of the Services (Internal Market) Act. Cap. 500.

37. (1) The Minister may, after consultation with the Regulator, make regulations in respect of any of the functions of the Regulator or for the better carrying out of any of the provisions of this Act. Power to make regulations.

(2) Without prejudice to the generality of the aforesaid power such regulations may, in particular provide -

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

(b) for the regulation of any aspect relating to imposition of public and, or universal service obligations, however so described, in respect of any operation, activity or service regulated by this Act;

(c) for the regulation of price structures for resources and where appropriate for the regulation and determination of tariffs, price mark-ups and charges for the supply, storage and distribution of resources and for the use of any systems used in the distribution and transmission of resources;

(d) for securing adequate reserves, where applicable, and for securing the adequate provision of the resources regulated by or under this Act;

(e) for the compulsory acquisition and distribution of

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any such resources during periods of scarcity;

(f) for the minimum standards to be adopted in, and any other matter related to the conservation, acquisition, supply, sale, storage, generation, distribution, transmission, export, treatment, re-use or disposal and any other practices, operations and activities, regulated by or under this Act including the means by which such resources are to be protected, acquired, supplied, sold, stored, generated, distributed, transmitted, exported, treated, re-used or disposed of;

(g) for the quality of service targets and the establishment and maintenance of an efficient customer service by authorised providers for consumers;

(h) to secure and regulate the conservation, augmentation, operation and use of sources of energy and water as well as the promotion and the harnessing, generation and use of energy and water resources;

(i) for promoting fair competition in all practices, operations and activities related to energy and water;

(j) for the undertaking of studies, research or investigation on any matter relating to the resources regulated by or under this Act and the provision of information, the issue of guidelines to the public and to commercial entities on matters relating to the said resources;

(k) to give effect to any international obligation entered into by Government in relation to the resources regulated by or under this Act;

(l) for regulating the services that may be required in relation to energy and water and the time, manner, place and condition in which or under which such services are to be provided;

(m) for the regulation of the qualifications to be possessed by persons who are employed in any activity regulated by or under this Act;

(n) for matters concerning the construction, condition and maintenance of any facilities, apparatus and other equipment utilised in the provision of any of the said resources or services related thereto;

(o) for prescribing the information to be retained by

authorised providers under this Act and the provision of statistical data by such authorised providers, and on any other matter relating to provision of information by authorised providers to the Regulator;

(p) for the making of any deposit or the giving of any guarantee to ensure the performance of any obligation by any person imposed as a condition of any permit, authorisation or licence under this Act;

(q) for prescribing the practices to be adopted in regard to safety, and the protection of the environment in relation to any matter regulated by this Act, including any norms in relation to the liability of any person who causes damage to the environment as a result of any activities regulated by or under this Act undertaken by that person;

(r) regarding a contingency plan in the event of any crisis relating to any matter regulated by this Act;

(s) for complaint processing procedures to be implemented by an authorised provider, and for any matter relating to the resolution of any disputes and, or complaints, however so described, relating to any matter regulated by this Act;

(t) in regard to administrative infringements and fines;

(u) regarding cooperation with other authorities and the relationship between the Regulator and other public authorities including consultations, provision of information and any other matter of mutual interest;

(v) for the procedures to be followed in regard to the settlement of disputes;

(w) for the enforcement powers required by the Regulator to perform its functions under this Act;

(x) for prescribing anything which may be or is required to be prescribed by this Act.

38. Without prejudice to any other provision of this Act the Minister may, after consultation with the Regulator, make regulations prescribing penalties for criminal offences against any regulations made under this Act, and such regulations may:

Power of Minister to make regulations in relation to criminal offences.

(a) prescribe imprisonment and different fines (*multi*)

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for different offences;

(b) prescribe fines (*multi*) calculated in accordance with the duration of the commission of the offence:

Provided that any such regulations as may be made shall not provide for:

(i) imprisonment for more than eighteen months, or a fine (*multa*) of more than seventy thousand euro (€70,000); or

(ii) a fine of more than one thousand four hundred euro (€1,400) for each day during which the offence persists.

Persons deemed public officers.

Cap. 9.

39. The members of the Regulator and all officers and employees of the Regulator shall be deemed to be public officers within the meaning and for the purposes of the Criminal Code.

Exemption from liability.

40. The members of the Board, officers and employees of the Regulator in the performance of their functions under this Act or any other law administered by the Regulator, shall not be liable for any loss or damage suffered by any person by reason of anything done or omitted to be done in good faith in the course of the administration of this Act or of any other law.

Savings.
Cap. 423.

41. (1) Any subsidiary legislation promulgated under the Malta Resources Authority Act and, or listed in the Schedule to the Malta Resources Authority Act shall continue in force subject to the effect that where such subsidiary legislation relates to resources other than mineral resources it shall be deemed as if made under this Act and may be amended, substituted or revoked accordingly.

(2) The following words occurring in the subsidiary legislation listed in the First Schedule shall be substituted as follows:

(a) the words "Malta Resources Authority Act" shall be substituted by the words "Regulator for Energy and Water Services Act";

(b) the words "Malta Resources Authority" shall be substituted by the words "Regulator for Energy and Water Services";

(c) the word "Authority" shall be substituted by the word "Regulator".

(3) Any licence, permission, authority or order granted or made under any of the provisions of the subsidiary legislation listed in the First Schedule and still in force immediately before the coming into force of this Act, shall continue in force thereafter as if it were a licence, permission, authority or order granted or made under a corresponding provision of this Act, and any such licence, permission, authority or order as aforesaid shall be treated and dealt with accordingly.

(4) Subject to article 43, the legislation listed in the Second Schedule shall continue in force under the Malta Resources Authority Act. Cap. 423.

(5) Without prejudice to any other provision of this Act, any reference in any law to the Malta Resources Authority in relation to resources other than mineral resources shall be deemed to be a reference to the Energy and Water Services Regulator.

(6) Without prejudice to any other provision of this Act, any reference in any law to the Malta Resources Authority Act in relation to resources other than mineral resources shall be deemed to be a reference to this Act as in force from time to time. Cap. 423.

(7) Notwithstanding the provisions of any other law, the amendments to the subsidiary legislation in Parts VII and VIII of this Act shall come into force by virtue of this Act without the need of any further formalities.

42. (1) With effect from the date of the coming into force of this Act: Transfer of assets and liabilities of the Malta Resources Authority.

(a) all assets and rights of whatever nature of the Malta Resources Authority (hereafter ‘Authority’) relating to resources other than mineral resources whether existing in Malta or outside Malta, including but not limited to all real or other rights under any contract, all monies due by any person to the Authority, and all shares in, stocks, or other interests of or in any other bodies; and

(b) all obligations and liabilities of the Authority relating to resources other than mineral resources,

shall by virtue of this Act be deemed to be assets, rights, liabilities and obligations of the Regulator without the need of any formalities other than this Act.

(2) With effect from the date of the coming into force of this Act, all actions pending before any court, tribunal, arbitral tribunal, or

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any other adjudicating body, instituted by or against the Authority shall:

(a) with reference to mineral resources and to the legislation listed in the Second Schedule be continued by or against the Authority;

(b) with reference to resources other than mineral resources and to the legislation listed in the Second Schedule, be continued by or against the Regulator,

without the need of any formalities other than this Act.

Transitory
provisions.
Cap. 423.

43. (1) The Malta Resources Authority Act is hereby repealed, with the exception of the provisions referred to in sub-article (2).

Cap. 423.

(2) The following provisions of the Malta Resources Authority Act shall remain in force until repealed with effect from such date as may be established by notice in the Gazette by the Minister responsible for resources:

(a) article 2 as applicable in terms of this sub-article;

(b) article 3;

(c) article 4(1) in relation to mineral resources and to the legislation listed in the Second Schedule only;

(d) article 4(2)(b) in relation to the legislation listed in the Second Schedule only and article 4(2)(c);

(e) article 4(3) as applicable;

(f) article 4(4) in relation to the legislation listed in the Second Schedule and to mineral resources only;

(g) articles 5 to 8 limitedly with reference to mineral resources and to the legislation listed in the Second Schedule;

(h) Parts III and IV; and

(i) Part V in relation to mineral resources and to the legislation listed in the Second Schedule only.

PART VII**REVOCATION OF CERTAIN REGULATIONS MADE UNDER
THE MALTA RESOURCES AUTHORITY ACT**

44. The Protection of Groundwater against Pollution caused by Certain Dangerous Substances Regulations are hereby revoked without prejudice to anything done or omitted to be done thereunder.

Revocation of the Protection of Groundwater against Pollution caused by Certain Dangerous Substances Regulations.
S.L. 423.16

PART VIII**AMENDMENT OF CERTAIN REGULATIONS MADE UNDER
THE MALTA RESOURCES AUTHORITY ACT**

45. In regulation 2 of the Energy Performance of Buildings (Fees) Regulations, the definition "the Act" shall be deleted.

Amendment of the Energy Performance of Buildings (Fees) Regulations.
S.L.423.43

46. The Energy Performance of Buildings (Fees) Regulations shall have effect as if made under the Building Regulation Act and may be amended, substituted or revoked accordingly.

Effect of the Energy Performance of Buildings (Fees) Regulations.
S.L.423.43

47. The Water Policy Framework Regulations shall be amended as follows:

Amendment of the Water Policy Framework Regulations.
S.L. 423.20

(a) in the definition "the competent authority" in regulation 2 thereof, for the words "Malta Resources Authority" there shall be substituted the words "Sustainable Energy and Water Conservation Unit";

(b) in Part B of Schedule VI thereof, the words "the Malta Resources Authority Act and" shall be deleted.

48. The Water Policy Framework Regulations shall have effect as if made under the Environment and Development Planning Act and may be amended, substituted or revoked accordingly.

Effect of the Water Policy Framework Regulations.
S.L. 423.20

49. The Promotion of Energy from Renewable Sources Regulations shall be amended as follows:

Amendment of the Promotion of Energy from Renewable Sources Regulations.
S.L. 423.19

(a) regulation 2 thereof shall be amended as follows:

(i) the definition "the Authority" shall be deleted;

(ii) immediately after the definition "support scheme" there shall be added the following new definition:

" "the Unit" means the Sustainable Energy

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and Water Conservation Unit established under regulation 3 of the Sustainable Energy and Water Conservation Unit (Establishment as an Agency) Order, 2014;"; and

(b) for the word "Authority" wherever it occurs in the Regulations there shall be substituted the word "Unit".

Amendment of the Protection of Groundwater against Pollution and Deterioration Regulations. S.L. 423.36

50. The Protection of Groundwater against Pollution and Deterioration Regulations shall be amended as follows:

(a) regulation 2 thereof shall be amended as follows:

(i) the definition "the Authority" shall be deleted;

(ii) immediately after the definition "significant and sustained upward trend" there shall be added the following new definition:

" "the Unit" means the Sustainable Energy and Water Conservation Unit established under regulation 3 of the Sustainable Energy and Water Conservation Unit (Establishment as an Agency) Order, 2014;"; and

(b) for the word "Authority" wherever it occurs in the Regulations there shall be substituted the word "Unit".

Effect of the Protection of Groundwater against Pollution and Deterioration Regulations. S.L. 423.36

51. The Protection of Groundwater against Pollution and Deterioration Regulations shall have effect as if made under the Environment and Development Planning Act and may be amended, substituted or revoked accordingly.

FIRST SCHEDULE

(Article 41)

- Water Supply Regulations (S.L. 423.03)
- Maintenance of Minimum Stocks of Crude Oil and, or Petroleum Products Regulations (S.L. 423.17)
- Electricity Transit (Grid Requirements) Regulations (S.L. 423.18)
- Natural Gas Market Regulations (S.L. 423.21)
- Electricity Market Regulations (S.L. 423.22)
- Water Supply and Sewerage Services Regulations (S.L. 423.23)
- Energy Efficiency and Cogeneration Regulations (S.L. 423.27)
- Biofuels and Bioliquids Market Regulations (S.L. 423.24)
- Petroleum for the Inland Wholesale Fuel Market, Bottling of LPG and Primary Storage Facilities Regulations (S.L. 423.28)
- Quality of Fuels Regulations (S.L. 423.29)
- Authorisations (Suspension, Refusal and Revocation) Regulations (S.L. 423.30)
- Liquefied Petroleum Gas Market Regulations (S.L. 423.31)
- Energy End-use Efficiency and Energy Services Regulations (S.L. 423.34)
- Bunkering (Authorisation) Regulations (S.L. 423.42)
- Petroleum for the Inland (Retail) Fuel Market Regulations (S.L. 423.37)
- Guarantees of Origin of Electricity from High Efficiency Cogeneration and Renewable Energy Sources Regulations (S.L. 423.38)
- Electrical Installations Regulations (S.L. 423.39)
- Autogas (Installation and Certification) Regulations (S.L. 423.44)
- Feed-in Tariffs Scheme (Electricity Generated from Solar Photovoltaic Installations) Regulations (S.L. 423.46)

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Biofuels (Sustainability Criteria) Regulations (S.L. 423.47)

Control of Swimming Pools Regulations (S.L. 244.01)

Promotion of Energy from Renewable Sources Regulations (S.L. 423.19)

Control of Water Pumps and Wells Order (S.L. 423.02)

Water Economy Regulations (S.L. 423.04)

Water Services (Establishment of Penalties) Regulations (S.L.423.11)

Sewer Discharge Control Regulations (S.L. 423.15)

Electricity Supply Regulations (S.L. 423.01)

Registration of Drilling Rigs Regulations (S.L.423.13)

SECOND SCHEDULE

(Articles 1, 41, 43, 44)

Notification of Groundwater Sources Regulations (S.L. 423.12)

Borehole Drilling and Excavation Works within the Saturated Zone Regulations (S.L. 423.32)

Groundwater Abstraction (Metering) Regulations (S.L. 423.40)

Assessment and Management of Flood Risks Regulations (S.L. 423.41)

Users of Groundwater Sources (Application) Regulations (S.L. 423.45)

Lifecycle Greenhouse Gas Emissions from Fuels Regulations (S.L. 423.48)

European Union Greenhouse Gas Emissions Trading Scheme for Stationary Installations Regulations (S.L. 504.66)

European Community Greenhouse Gas Emissions Trading Scheme for Aviation Regulations (S.L. 504.115)

Passed by the House of Representatives at Sitting No. 294 of the
20th July 2015.

ĊENSU GALEA
Deputy Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

