

**- REVIEWED -
LEGISLATION UNIT
MINISTRY FOR
JUSTICE,
CULTURE & LOCAL
GOVERNMENT**

.....
Prim Ministru

.....
Segretarju Parlamentari għas-
Servizzi Finanzjarji, Ekonomija
Diġitali u Innovazzjoni

.....
Chairperson,
Awtorità ta' Malta dwar il-
Logħob

A.L. tal-2018

**ATT DWAR IL-LOGHOB
(ATT TAL-2018)**

Regolamenti tal-2018 dwar il-Konformità u l-Infurzar fil-Logħob

Taqsim tar-Regolamenti

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BIS-SAĦĦA tas-setgħat mogħtija bl-artikolu 12 tal-Att dwar il-Logħob, is-Segretarju Parlamentari għas-Servizzi Finanzjarji, Ekonomija Diġitali u Innovazzjoni, wara konsultazzjoni mal-Awtorità ta' Malta dwar il-Logħob, għamel dawn ir-regolamenti li ġejjin:-

Taqsimi I

Titoli u Tifsiriet

Titolu.

1. It-titolu ta' dawn ir-regolamenti huwa r-Regolamenti tal-2018 dwar il-Konformità u l-Infurzar fil-Logħob.

Tifsir.
**LEGAL
NOTICE
NUMBER TO
BE INSERTED
UPON
PUBLICATION**

2. (1) F'dawn ir-regolamenti, bla ħsara għal dak previst fis-subregolamenti (2) u (3), il-kliem u l-frażijiet kollha għandhom l-istess tifsira bħal dik preskritta fir-Regolamenti tal-2018 dwar Tifsiriet fil-Logħob.

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(2) F'dawn ir-regolamenti, sakemm ir-rabta tal-kliem ma teħtieġx xort'oħra, "l-Att" tfisser l-Att tal-2018 dwar il-Logħob.

(3) It-termini l-oħra kollha użati f'dawn ir-regolamenti għandhom l-istess tifsira mogħtija lilhom fl-Att.

Taqsimi II

Konformità

Obbligu ta'
konformità
kontinwa.

3. (1) Persuna awtorizzata għandha, matul it-terminu ta' awtorizzazzjoni, kontinwament twettaq u tħares il-ħtiġiet kollha rilevanti u tkun responsabbli għall-obbligi kollha imposti mill-istrumenti regolatorji applikabbli kollha.

(2) Persuna awtorizzata għandha, matul it-terminu ta' awtorizzazzjoni, tħares il-politika u l-proċeduri li għandhom jiġu notifikati lill-Awtorità skont kull strument regolatorju, u kull ksur ta' dik il-politika u dawk il-proċeduri jitqies bħala ksur ta' strument regolatorju.

4. L-Awtorità tista' teħtieg persuna awtorizzata li tieħu azzjonijiet, timplimenta proċeduri jew sistemi, tagħmel sottomissjonijiet, tipprovdi informazzjoni, rapporti, ċertifikati ta' konformità u, jew kull prova oħra ta' konformità lill-Awtorità, fuq bażi regolari jew *ad hoc*, biex juru t-tħaris, min-naħa tal-persuna awtorizzata, tal-istrumenti regolatorji applikabbli kollha:

L-awtorità tista' tordna li jittieħdu azzjonijiet speċifiċi.

Iżda jiġu rikonoxxuti mill-Awtorità dawk iċ-ċertifikati ta' konformità maħruġa minn persuni li jiċċertifikaw u awdituri approvati mill-Awtorità biss.

5. L-Awtorità tista' teħtieg persuna awtorizzata li toqgħod għal verifika ta' konformità, fuq bażi regolari jew *ad hoc*, skont strumenti vinkolanti li jistgħu jinħarġu mill-Awtorità:

Setgħa li tiġi ordnata verifika dwar konformità.

Iżda jiġu rikonoxxuti mill-Awtorità verifiki ta' tħaris mwettqa minn awdituri approvati mill-Awtorità biss.

Taqsimha III

Reviżjoni ta' Konformità

6. (1) L-Awtorità tista' fejn jidhrilha neċessarju, tibda' reviżjoni tal-konformità u, jew tal-operazzjonijiet ta' persuna awtorizzata.

Reviżjoni tat-tħaris.

(2) Jekk, waqt it-twettieq ta' dik ir-reviżjoni, l-Awtorità tiskopri mgħiba u, jew operazzjonijiet li mhumiex, jew li jistgħu ma jkunux, skont l-istrumenti regolatorji applikabbli, hi għandha tinnotifika lill-persuna awtorizzata b'dan il-fatt, waqt li tagħti lill-persuna awtorizzata żmien raġjonevoli biex tagħmel kwalsijasi sottomissjoni rilevanti:

Iżda jekk il-persuna awtorizzata tonqos milli tagħmel sottomissjonijiet fiż-żmien allokat, l-Awtorità għandha tieħu deċiżjoni bbażata fuq l-informazzjoni li għandha disponibbli:

Iżda wkoll fit-twettieq ta' dik ir-reviżjoni, l-Awtorità tista' ukoll titlob kull informazzjoni minn terzi li direttament jew indirettament jipprovdu servizz jew servizzi lil, jew jiksbu servizz jew servizzi minn, il-persuna awtorizzata li l-Awtorità jidhrilha rilevanti, mingħajr ma titlob il-kunsens tal-persuna awtorizzata u mingħajr il-ħtieġa li tinforma lill-persuna awtorizzata.

(3) Jekk il-persuna awtorizzata tonqos milli tagħmel sottomissjonijiet jew, fis-sottomissjonijiet tagħha, ma tindirizzax it-tħassib li l-Awtorità jista' jkollha, l-Awtorità tista' tibda' investigazzjoni formali u, jew tieħu dawk il-miżuri l-oħra, inklużi

mizuri ta' infurzar, li jidhrilha xierqa.

Taqsimha IV

Investigazzjoni Formali

Sospensjoni tal-awtorizzazzjoni.

7. (1) Meta l-Awtorità għandha raġuni għaliex tissuspetta li persuna awtorizzata qed twettaq l-operat tagħha bi ksur ta' xi strument regolatorju applikabbli, jew mhijiex mod ieħor denja li jkollha dik l-awtorizzazzjoni, l-Awtorità għandha tibda' investigazzjoni formali ta' dik il-persuna awtorizzata.

(2) Il-persuna awtorizzata għandha tiġi infurmata dwar l-investigazzjoni u r-raġunijiet li għalihom ġiet mibdija:

Iżda meta l-Awtorità temmen li l-infurmar tal-persuna awtorizzata jista' jippreġudika l-investigazzjoni jew xi eżitu possibbli minnha, jew hi projbita milli tinforma l-persuna awtorizzata bis-saħħa ta' xi liġi applikabbli, hi tista' twettaq l-investigazzjoni mingħajr ma tinforma lill-persuna awtorizzata.

(3) Fit-twettiq ta' dik l-investigazzjoni, l-Awtorità jkollha s-setgħa li titlob u, jew ikollha aċċess għal kull informazzjoni, dokumenti u ħwejjeg oħra relatati mill-persuna awtorizzata, jew minn terzi li direttament jew indirettament jipprovdu servizz jew servizzi lil, jew jiksbu servizz jew servizzi mill-persuna awtorizzata, li l-Awtorità jidhrilha rilevanti:

Iżda meta l-Awtorità titlob informazzjoni, dokumenti jew ħwejjeg oħra minn terza parti, hi ma jkollhiex bżonn tal-kunsens tal-persuna awtorizzata li għaliha jirreferu l-informazzjoni, id-dokumenti jew ħwejjeg oħra.

(4) Jekk persuna awtorizzata ma tipprovdi lill-Awtorità l-informazzjoni, id-dokumenti u, jew il-ħwejjeg l-oħra li l-Awtorità tista' teħtieġ, jew mod ieħor tostakola l-investigazzjoni tal-Awtorità jew tonqos milli tikkollabora magħha, dan jammonta għal offiża kontra l-Att. F'dan il-każ, l-Awtorità tista' wkoll tasal għal deċiżjoni bbażata fuq l-informazzjoni li jkollha.

(5) Meta tintemm l-investigazzjoni tal-Awtorità, l-Awtorità għandha tipprovdi lill-persuna awtorizzata rapport dwarha li għandu jkun fiha:

(a) ir-raġuni jew ir-raġunijiet li għalihom inbdiet l-investigazzjoni;

(b) il-ksur ta' strumenti regolatorji applikabbli mill-

persuna awtorizzata, jekk ikun hemm, u l-provi dwar dan il-ksur; u

(è) il-miżuri ta' infurzar li l-Awtorità jidhrilha xieraq li għandhom jittieħdu fiè-çirkostanzi, jekk ikun hemm:

Iżda l-Awtorità tista' ma tiżvelax l-informazzjoni fuq imsemmija, jew parti minnha, jekk l-iżvelar tagħha lill-persuna awtorizzata jista' jippreġudika l-interessi ta' ġugaturi jew ta' xi persuna oħra, jew ikun ifisser il-ksur ta' xi liġi applikabbli.

(6) Il-persuna awtorizzata tista' tikkontesta l-eżiti fit-tali rapport fi żmien għoxrin ġurnata mid-data tan-notifika tiegħu.

(7) Meta tirçievi l-kontestazzjoni tal-persuna awtorizzata, jekk ikun hemm, jew meta jgħaddu għoxrin ġurnata min-notifika tar-rapport tal-Awtorità, skont liema tigrì l-ewwel, l-Awtorità għandha tikkomunika lill-persuna awtorizzata d-deciżjoni finali tagħha dwar il-kwistjoni, billi tikkonferma, tirrevoka jew temenda r-rapport.

Taqsimha V

Miżuri ta' Infurzar

8. (1) Il-miżuri ta' infurzar li l-Awtorità tista' tieħu huma dawn li ġejjin: Miżuri ta' infurzar.

(a) ordni, tkun kif tkun imsejha, li tordna lill-persuna awtorizzata tagħmel, jew tieqaf milli tagħmel, xi haġa jew biex mod ieħor tikkorreġi l-imġiba tagħha u, jew l-operat tagħha; u, jew

(b) twissija, tkun kif tkun imsejha, li tordna lill-persuna awtorizzata tagħmel, jew tieqaf milli tagħmel, xi haġa fil-futur; u, jew

(è) żieda, tneħħija jew emendar ta' kondizzjonijiet annessi mal-awtorizzazzjoni li għandha l-persuna awtorizzata rilevanti; u, jew

(d) fil-każ ta' ksur li mhuwiex offiża kontra l-Att, li timponi piena amministrattiva skont l-artikolu 25(3) tal-Att; u, jew

(e) fil-każ ta' ksur li hu offiża kontra l-Att, u mingħajr preġudizzju għall-artikolu 25(1) tal-Att, li tippreżenta rapport lill-Pulizija Eżekuttiva sabiex jinbdew proceduri kriminali; u, jew

(f) li tissospendi jew tikkancella l-liċenza, skont ir-regolamenti 9 jew 10, kif ikun il-każ:

Iżda s-sanzjonijiet ta' infurzar imsemmija f'dan is-subregolament m'għandhomx isiru pubbliċi sakemm l-Awtorità ma tqisx li dan ikun fl-interess pubbliku jew sakemm l-Awtorità mhijiex obligata li tirrendi pubblika dik is-sanzjoni skont xi liġi oħra:

Iżda wkoll kull miżura msemmija fil-paragrafu (f) għandha ssir pubblika.

(2) L-Awtorità tista' teżerċita miżura ta' infurzar biss wara l-konklużjoni ta' reviżjoni ta' tharis u, jew wara investigazzjoni formali:

Iżda l-Awtorità tista', f'ċirkostanzi eċċezzjonali u fl-interess ta' gūgaturi jew għal raġunijiet ta' ordni pubbliku, sigurtà pubblika jew sabiex tiġi salvagwardata r-reputazzjoni ta' Malta, teżerċita kull miżura ta' infurzar li jidhrilha xierqa qabel ma ssir ir-reviżjoni u, jew l-investigazzjoni, jew wara l-konklużjoni tagħhom iżda qabel ma jgħaddi ż-żmien li fih il-persuna awtorizzata tista' tikkontesta l-eżiti.

(3) Mingħajr preġudizzju għal dak li ntqal hawn qabel u għal kull dispożizzjoni tal-Att jew ta' xi liġi oħra, fil-każ ta' reat elenkat fil-paragrafu (a) tat-Tielet Skeda li tinsab mal-Att, l-Awtorità tista', kemm jekk il-persuna li twettaq il-ksur hi persuna awtorizzata kemm jekk mhijiex, timponi multa amministrattiva fuq il-persuna li twettaq il-ksur u, jew toħroġ kull ordni oħra li jidhrilha xieraq bħala alternattiva għal proċeduri kriminali skont l-artikolu 25(1) tal-Att:

Iżda kull persuna li twettaq ksur tal-paragrafu (a) tat-Tielet Skeda li tinsab mal-Att tista' titlob li l-miżura ta' infurzar hawn qabel imsemmija tingħata konsiderazzjoni fil-konfront tagħha, u l-Awtorità għandha tiegħu dik il-miżura bħala alternattiva għal proċeduri kriminali sakemm ma tkunx raġjonevolment sodisfatta li proċeduri kriminali huma aktar xierqa, meta jitqiesu ċ-ċirkostanzi tal-każ:

Iżda ukoll, biex ma jkunx hemm ebda dubju, id-deċiżjoni tal-Awtorità li ma timponix multa amministrattiva fuq il-persuna li tkun wettqet il-ksur bħala alternattiva għal proċeduri kriminali għandha titqies bħala att amministrattiv soġġett għal appell skont l-artikolu 43 tal-Att.

(4) Mingħajr preġudizzju għal dak li ntqal qabel, l-Awtorità jkollha wkoll is-setgħa li żżomm u tippubblika lista ta' operaturi li ma jkunux qed jharsu l-liġijiet applikabbli u, jew strumenti regolatorji:

Iżda kull operatur imniżżel f'dik il-lista għandu jingħata l-opportunità li jagħmel sottomissjonijiet lill-Awtorità, biex jikkjarifika u, jew jindirizza n-nuqqas ta' tharis tiegħu, sabiex l-Awtorità tneħhi dak l-operatur mil-lista:

Iżda wkoll jekk l-Awtorità tirrifjuta, wara li jsiru protesti min-naħa ta' dak l-operatur, li tneħhi l-operatur minn dik il-lista, ir-rifjut jitqies li jikkostitwixxi att amministrattiv li jista' jsir appell dwaru skont l-artikolu 43 tal-Att.

9. (1) L-Awtorità jkollha s-setgħa li tissospendi awtorizzazzjoni fil-każijiet li ġejjin: Raġunijiet għal sospensjoni.

(a) l-Awtorità tkun sodisfatta li l-persuna awtorizzata, jew persuna li għandha interess dirett jew indirett fil-persuna awtorizzata, jew persuna li jkollha funzjoni ewlenija fil-persuna awtorizzata, mhijiex, jew waqqfet milli tkun, fl-opinjoni tal-Awtorità, idonea u xierqa li jkollha dik l-awtorizzazzjoni;

(b) il-persuna awtorizzata naqset milli thares ordni mahruġa mill-Awtorità;

(c) il-persuna awtorizzata naqset milli thares xi wiehed jew aktar mill-obbligi applikabbli skont xi strument regolatorju jew kwalsijasi liġi ta' Malta;

(d) il-persuna awtorizzata naqset milli tonora l-impenni finanzjarji tagħha għall-operat tagħha jew l-Awtorità għandha raġunijiet biex temmen li dan in-nuqqas huwa imminenti;

(e) fil-każ ta' persuna fiżika, il-persuna awtorizzata ssir inkapaċi li teżerċita l-funzjonijiet tagħha bħala persuna awtorizzata minhabba f'inkapaċità fiżika u, jew mentali jew għal xi raġuni oħra;

(f) il-persuna awtorizzata hi falluta, insolventi jew qed tiġi stralċjata;

(g) il-persuna awtorizzata titlob li jinħareġ ordni, jew hi mgieghela b'xi mezz jew għal xi raġuni, biex l-operazzjonijiet tagħha jiġu mwaqqfa jew tiġi stralċjata;

(h) il-persuna awtorizzata tkun kisret il-liġijiet jew ir-regolamenti f'xi żmien fis-seħħ għall-prevenzjoni ta' *money laundering* u l-finanzjament tat-terroriżmu;

(i) il-persuna awtorizzata naqset milli tissodisfa l-impenni tagħha lejn ġugaturi f'waqthom, jew l-Awtorità

għandha għalfejn temmen li dan in-nuqqas huwa imminenti;

(j) jinqalgħu ċirkostanzi li, li kieku kienu preżenti u magħrufa mill-Awtorità fil-mument meta nħarġet l-awtorizzazzjoni, kienu jwasslu lill-Awtorità biex ma toħroġx dik l-awtorizzazzjoni;

(k) il-persuna awtorizzata naqset milli titlob l-approvazzjoni minn qabel tal-Awtorità dwar xi bidla materjali fejn dik l-approvazzjoni minn qabel hi meħtieġa skont xi strument regolatorju, jew naqset milli tinnotifika lill-Awtorità dwar dik il-bidla materjali fejn in-notifika hi meħtieġa;

(l) il-persuna awtorizzata naqset milli tħallas f'waqthom l-ammonti kollha dovuti lill-Awtorità; jew

(m) l-Awtorità, fid-diskrezzjoni unika tagħha, iddeċidiet li hemm raġuni materjali u suffiċjenti sabiex tissospendi l-awtorizzazzjoni.

(2) (a) Meta jkun hemm raġuni għas-sospensjoni tal-awtorizzazzjoni skont is-subregolament (1), l-Awtorità għandha, permezz ta' avviż bil-miktub, tagħti lill-persuna awtorizzata ammont ta' żmien, li ma jkunx inqas minn għoxrin ġurnata, biex dik il-persuna turi għaliex dik l-awtorizzazzjoni m'għandhiex tiġi sospiża.

(b) Meta titqies li teżisti raġuni għas-sospensjoni tal-awtorizzazzjoni skont is-subregolament (1) wara li tkun saret investigazzjoni formali u l-persuna awtorizzata diġà tkun inġhatat perjodu ta' żmien biex tikkontesta is-sejbiet ta' dik l-investigazzjoni skont ir-regolament 7(6), il-perjodu ta' żmien imsemmi fil-paragrafu (a) ma jkunx applikabbli:

Iżda, minkejja dak li ntqal hawn qabel u kull dispożizzjoni oħra f'xi strument regolatorju jew f'xi liġi oħra, l-Awtorità jkollha d-dritt tissospendi awtorizzazzjoni b'effett immedjat, permezz ta' avviż bil-miktub lill-persuna awtorizzata u mingħajr ma tagħti żmien lill-persuna awtorizzata sabiex din turi għaliex l-awtorizzazzjoni m'għandhiex tiġi sospiża, fejn l-Awtorità tiddetermina li jeżistu raġunijiet eċċezzjonali biex tagħmel hekk, inklużi iżda mhux limitati għal:

(i) meta l-Awtorità ssir taf li l-awtorizzazzjoni nkisbet permezz ta' sottomissjoni, waħda jew aktar, falza jew qarrieqa jew b'xi mod hażin ieħor; jew

(ii) meta l-persuna awtorizzata tkun ta' theddida

imminenti għar-reputazzjoni ta' Malta; jew

(iii) meta l-persuna awtorizzata tkun ta' theddida imminenti ta' preġudizzju serju għall-interessi tal-ġugaturi jew tal-pubbliku jew għall-interess nazzjonali.

10. (1) L-Awtorità jkollha d-dritt li tikkancella awtorizzazzjoni fil-każijiet li ġejjin:

Raġunijiet
għall-
kancellament.

(a) tinholq waħda mir-raġunijiet għal sospensjoni msemmija fir-regolament 9 u l-Awtorità, fid-diskrezzjoni unika tagħha, tiddetermina li l-aktar miżura xierqa hi l-kancellament tal-awtorizzazzjoni;

(b) l-Awtorità ssuspendiet l-awtorizzazzjoni skont r-regolament 9 u, fiċ-ċirkostanzi tal-każ, l-Awtorità tkun sodisfatta li dak li wassal għas-sospensjoni ma jistax jiġi rettifikat;

(ċ) l-awtorizzazzjoni giet volontarjament sospiza għal aktar minn sitt (6) xhur u l-persuna awtorizzata ma pprovdietx pjan li juri meta tistenna li l-awtorizzazzjoni tiġi attivata mill-ġdid, għas-sodisfazzjon tal-Awtorità; jew

(d) il-persuna awtorizzata tkompli tipprovdi servizz tal-logħob u, jew provvista ta' logħob, jew funzjoni ewlenija, minkejja s-sospensjoni tal-awtorizzazzjoni mill-Awtorità skont ir-regolament 9.

(2) (a) Meta tinholq raġuni għall-kancellament tal-awtorizzazzjoni skont is-subregolament (1) l-Awtorità għandha, permezz ta' avviż bil-miktub, tagħti lill-persuna awtorizzata ammont ta' żmien, li ma jkunx inqas minn għoxrin ġurnata, biex din turi għaliex l-awtorizzazzjoni m'għandhiex tiġi kancellata.

(b) Meta titqies li teżisti raġuni għall-kancellament tal-awtorizzazzjoni skont is-subregolament (1) wara li tkun saret investigazzjoni formali u l-persuna awtorizzata diġà ingħatat perjodu ta' żmien biex tikkontesta s-sejbiet ta' dik l-investigazzjoni skont ir-regolament 7(6), il-perjodu ta' żmien imsemmi fil-paragrafu (a) ma jkunx applikabbli:

Iżda, minkejja dak li ntqal hawn qabel u kull dispożizzjoni oħra f'xi strument regolatorju jew f'xi liġi oħra, l-Awtorità jkollha d-dritt tikkancella awtorizzazzjoni b'effett immedjat, permezz ta' avviż bil-miktub lill-persuna awtorizzata u mingħajr ma tagħti żmien lill-persuna awtorizzata sabiex din turi għaliex l-awtorizzazzjoni m'għandhiex tiġi kancellata, għal raġunijiet ta' interess nazzjonali

jew biex tissalvagwardja r-reputazzjoni ta' Malta, jewv jekk l-awtorizzazzjoni nkisbet permezz ta' sottomissjoni, waħda jew aktar, falza jew qarrieqa jew b'xi mod ħazin ieħor.

Sospensjoni jew
kancellament
ma jaffettwawx
ir-
responsabbiltà.

11. (1) Is-sospensjoni jew il-kancellament ta' awtorizzazzjoni ma jaffettwawx ir-responsabbiltà tad-detentur tal-awtorizzazzjoni għal dak kollu li jkun sar jew li naqas milli jsir, jew għal ammonti dovuti li jkunu diġà ġew akkumulati, qabel id-data tas-sospensjoni jew kancellament.

L.S. 438.12

(2) Mingħajr preġudizzju għal xi dispożizzjoni tar-Regolamenti dwar il-Miżati għal-Liċenzi, ir-responsabbiltà tal-persuna awtorizzata li tħallas il-kontribuzzjoni ta' konformità, dazju fuq apparat tal-logħob u, jew taxxa fuq il-logħob applikabbli għandha tiegħaf milli takkumula matul kull perjodu li fih l-awtorizzazzjoni tkun sospiża:

Iżda l-persuna awtorizzata m'għandha l-ebda dritt li tirkupra kwalsijasi ammonti applikabbli li kienu mħallsin minn qabel.

Notifika ta'
avviżi ta'
sospensjoni jew
kancellament.

12. Il-persuna awtorizzata għandha tiġi notifikata bl-avviżi dwar sospensjoni jew kancellament skont l-artikolu 53 tal-Att:

Iżda meta l-persuna awtorizzata tiġi notifikata permezz ta' mezzi elettronici, jekk l-Awtorità ma jkollhiex xhieda li n-notifika waslet għand il-persuna awtorizzata fi żmien erbgħa u għoxrin siegħa, l-Awtorità tista' tqieghed l-avviż dwar is-sospensjoni jew il-kancellament fuq is-sit elettroniku tagħha u l-persuna awtorizzata titqies li tkun ġiet notifikata minnufih malli l-avviż ikun jidher fuq dak is-sit elettroniku:

Iżda wkoll meta s-sopensjoni jew il-kancellament jinħargu b'effett immedjat skont il-proviso għar-regolament 9(2) jew il-proviso għar-regolament 10(2), l-Awtorità tista' tippubblika dak l-avviż qabel ma jiskadu erbgħa u għoxrin siegħa u l-persuna awtorizzata titqies li ġiet notifikata minnufih malli l-avviż ikun jidher fuq dak is-sit elettroniku.

Taqsim VI

Setgħat tal-Awtorità

Setgħat ta'
uffiċjali tal-
Awtorità.

13. (1) Mingħajr preġudizzju għal kull ma jinsab f'xi strument regolatorju, uffiċjal tal-Awtorità għandu, bil-għan li jaċċerta ruħu li l-istrumenti regolatorji applikabbli kollha qed jiġu mharsa, is-setgħat li ġejjin:

(a) li jispezzjona, jittestja u, jew jeżamina kull apparat,

software jew kull haġ'ohra li jintuża għall-fornitura ta' servizz tal-logħob, provvista ta' logħob jew funzjoni ewlenija;

(b) li jcaqlaq kull apparat, *software* jew haġ'ohra lejn xi post ieħor jew fond approvat u, jew imsemmi għal daqstant mill-Awtorità, sabiex jiġi spezzjonat u, jew eżaminat;

(ċ) li jispezzjona kull fond, kemm awtorizzat mill-Awtorità kemm mhux, fejn ikun qed isir il-logħob, jew li fih hemm, jew raġjonevolment jissuspetta li hemm, xi apparat, *software* jew xi haġ'ohra li għandha x'taqsam mal-logħob;

(d) li jitlob informazzjoni jew li jiġi prodott xi dokument jew haġ'ohra li għandha x'taqsam mal-logħob jew li raġjonevolment jissuspetta li għandha x'taqsam mal-logħob għall-għan ta' spezzjoni u, jew eżami, inkluż, iżda mhux limitat għal, li jitlob lil kull persuna li tinstab fil-fond fejn qed isir il-logħob biex tipprovdi dokumenti ta' identifikazzjoni u, jew xhieda tal-età tagħha;

(e) li jieħu xi dokument jew xi haġ'ohra prodotti bħala riżultat ta' talba skont il-paragrafu ta' qabel dan, jew li jkunu nstabu waqt l-ispezzjoni, bil-għan li jeżamina dak id-dokument u, jew li jagħmel kopji jew jieħu estratti minnu jew mod ieħor jiddokumenta l-eżistenza tiegħu u, jew il-karatteristiċi tiegħu;

(f) li jilgħab logħba jew logħbiet sabiex jikkonferma jekk dik il-logħba teħtieġx awtorizzazzjoni skont l-Att jew xi strument regolatorju ieħor;

(g) li jilgħab logħba jew logħbiet li huma awtorizzati mill-Awtorità biex jiġu offerti, sabiex jikkonferma jekk dik il-logħba tħarisx l-Att u kull strument regolatorju applikabbli ieħor;

(h) li jitlob għal informazzjoni u, jew il-produzzjoni ta' xi dokument jew haġ'ohra, minn kull persuna li l-uffiċjal tal-Awtorità jissuspetta raġjonevolment li qed tmexxi l-logħob mingħajr l-awtorizzazzjoni neċessarja jew jgħin jew ihegġeg it-tmexxija ta' logħob mingħajr l-awtorizzazzjoni neċessarja;

(i) li jkollu aċċess għal, jieħu l-pussess ta', u, jew jagħmel estratti jew kopji minn kull *data*, informazzjoni u, jew kull dokument li tagħhom il-persuna awtorizzata tkun is-sid, inkluż filmati ta' sorvelljanza u kull reġistrazzjoni xort'ohra ta' vidjo u, jew awdjo u, jew informazzjoni oħra, ikunu fejn ikunu mqiegħda u, jew mażżuna dik id-*data*, informazzjoni jew

ħaġ'ohra;

(j) li jitlob l-assistenza sabiex iwettaq il-funzjonijiet tiegħu -

(i) ta' uffiċjal ieħor tal-Awtorità;

(ii) ta' xi membru tal-Pulizija, kull kunsill lokali, kull dipartiment tal-Gvern jew aġenzija governattiva jew kwalsijasi awtorità pubblika oħra, lokali jew barranija;

(k) li jagħmel dak kollu li jista' jkun anċillari jew iwassal għas-setgħat u dmirijiet tiegħu taħt l-Att, dawn ir-regolamenti jew kull strument regolatorju ieħor jew xi liġi oħra.

(2) Meta uffiċjal tal-Awtorità jneħhi tagħmir, *software*, dokument jew xi ħaġ'ohra minn xi fond jew post skont is-subregolament (1) l-Awtorità għandha tagħti rċevuta lill-persuna li hi s-sid ta' jew tkun responsabbli għal dak il-fond jew post u, bla ħsara għas-subregolament (3), għandha minnufih tqiegħed lura t-tagħmir, *software*, dokument jew ħaġ'ohra fil-fond jew post ieħor wara li jintemmu l-ispezzjon, l-eżami, l-ittestjar, l-għemil ta' kopji jew it-teħid ta' estratti, kif ikun il-każ.

(3) Uffiċjal tal-Awtorità jista', għall-finijiet ta' xhieda, iżomm għal dak iż-żmien li jista' jkun meħtieġ, kull tagħmir, *software*, dokument jew ħaġ'ohra li l-uffiċjal jiskopri waqt l-eżerċizzju tas-setgħat tiegħu u li jemmen, fuq bażi raġjonevoli, jistgħu jipprovdu xhieda ta' ksur jew nuqqas ta' osservanza ta' xi ħaġa li tinsab fl-Att jew f'xi strument regolatorju ieħor.

(4) Kopji jew estratti minn dokumenti jew affarijiet oħra mneħħija minn xi fond jew post ieħor minn xi uffiċjal tal-Awtorità, u ċertifikati minn uffiċjal tal-Awtorità li jagħmel il-kopji jew jieħu l-estratti li huma kopji veri ta', jew estratti veri minn, l-orijinali, huma ammissibbli bħala xhieda sal-istess limitu, u għandhom l-istess valur ta' prova, bħal id-dokumenti jew affarijiet li minnhom saru l-kopji jew ittieħdu estratti.

Obbligu ta' assistenza waqt l-investigazzjonijiet.

14. (1) Il-persuna li tkun is-sid ta', jew tkun responsabbli għal, il-post jew il-fond li fih ikun daħal uffiċjal tal-Awtorità fl-eżerċizzju tas-setgħat tiegħu, u kull impjegat jew aġent ta' tali persuna għandhom jagħtu kull assistenza raġjonevoli lill-uffiċjal tal-Awtorità sabiex l-uffiċjal ikun jista' jeżerċita s-setgħat tiegħu skont l-Att u dawn ir-regolamenti, u għandu jagħti lill-uffiċjal kull tagħmir, *software*, *records*, dokumenti, informazzjoni jew affarijiet oħra li l-uffiċjal jista' jitlob.

(2) L-ebda persuna ma għandha tostakola, timpedixxi jew mod ieħor tindahal, jew xjentement tagħmel dikjarazzjoni falza jew qarrieqa lil, kemm bil-fomm kif ukoll bil-miktub, jew tipprovdi jew tipproduci dokument falz jew haġ'ohra falza lil, ufficjal li jkun qed iwettaq id-dmirijiet u l-funzjonijiet tiegħu:

Izda kull tali dikjarazzjoni falza, inkompleta jew qarrieqa titqies li tkun dikjarazzjoni falza, inkompleta jew qarrieqa magħmula lill-Awtorità skont l-artikolu 34 tal-Att.

**- REVIEWED -
LEGISLATION UNIT
MINISTRY FOR
JUSTICE,
CULTURE & LOCAL
GOVERNMENT**

.....
Prime Minister

.....
Parliamentary Secretary for
Financial Services, Digital
Economy and Innovation

.....
Chairperson,
Malta Gaming Authority

L.N. of 2018

**GAMING ACT
(ACT OF 2018)**

Gaming Compliance and Enforcement Regulations, 2018

Arrangement of the Regulations

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L.N. of 2018

**GAMING ACT
(ACT OF 2018)**

Gaming Compliance and Enforcement Regulations, 2018

IN exercise of the powers conferred upon him by article 12 of the Gaming Act, the Parliamentary Secretary for Financial Services, Digital Economy and Innovation, in consultation with the Malta Gaming Authority, has made the following regulations:-

Part I

Citation and Interpretation

1. The title of these regulations is the Gaming Compliance and Enforcement Regulations, 2018. Citation.

2. (1) In these regulations, save as provided in sub-regulations (2) and (3), all words and phrases shall have the same meaning as prescribed in the Gaming Definitions Regulations, 2018. Interpretation.
LEGAL NOTICE NUMBER TO BE INSERTED UPON PUBLICATION

(2) In these regulations, unless the context otherwise requires, "the Act" means the Gaming Act, 2018. **ACT NUMBER TO BE INSERTED UPON PUBLICATION**

(3) All other terms used in these regulations shall have the same meaning attributed to them in the Act. **N**

Part II

General Compliance

3. (1) An authorised person shall, throughout the term of an authorisation, continuously fulfil and comply with all relevant requirements and be responsible for all obligations imposed by all applicable regulatory instruments. Obligation of continuous compliance.

(2) An authorised person shall, throughout the term of an authorisation, comply with the policies and procedures which must be notified to the Authority in terms of any regulatory instrument, and any breach of such policies and procedures shall be tantamount to a breach of a regulatory instrument.

Authority may give orders to take specific actions.

4. The Authority may require any authorised person to take actions, implement procedures or systems, to make submissions, to provide information, reports, compliance certificates and, or any other evidence of compliance to the Authority, on a regular or *ad hoc* basis, to demonstrate the authorised person's compliance with all applicable regulatory instruments:

Provided that only compliance certificates issued by certifiers and auditors approved by the Authority shall be recognised by the Authority.

Power to order compliance audit.

5. The Authority may require any authorised person to undergo a compliance audit, on a regular or *ad hoc* basis, in accordance with any binding instrument that may be issued by the Authority:

Provided that only compliance audits carried out by auditors approved by the Authority shall be recognised by the Authority.

Part III

Compliance Review

Compliance review.

6. (1) The Authority may, where it deems necessary, initiate a review of all or part of the conduct and, or operations of an authorised person.

(2) If, in conducting such review, the Authority discovers conduct and, or operations which are not, or may not be, in accordance with the applicable regulatory instruments, it shall notify the authorised person of this fact, giving such authorised person a reasonable time to make any relevant submissions:

Provided that if the authorised person fails to make submissions within the allocated time, the Authority shall reach a decision based on the information available to it:

Provided further that in conducting such review, the Authority may also request any information from third parties that directly or indirectly provide one or more services to, or obtain one or more services from, the authorised person that it deems relevant, without requiring the consent of the authorised person and with or without informing the authorised person.

(3) If the authorised person fails to make submissions or, in its submissions, does not address any concerns which the Authority may have, the Authority may initiate a formal investigation and, or take

such other measures, including enforcement measures, as it may deem appropriate.

Part IV

Formal Investigation

7. (1) When the Authority has reason to suspect that an authorised person is conducting its affairs in breach of any applicable regulatory instrument or is otherwise no longer suitable to hold such authorisation, it shall initiate a formal investigation of such authorised person. Authorisation suspension.

(2) The authorised person shall be informed of the investigation and the reasons for which it was initiated:

Provided that where the Authority reasonably believes that informing the authorised person of such investigation may prejudice the investigation or any possible outcome thereof, or is precluded from informing the authorised person by virtue of any applicable law, it may carry out the investigation without informing the authorised person.

(3) In conducting such investigation, the Authority shall be empowered to request and, or access any and all information, documents and other things from the authorised person or from third parties that directly or indirectly provide one or more services to, or obtain one or more services from, the authorised person, that it deems relevant.

Provided that where the Authority requests information, documents or any other things from a third party, it shall not require the consent of the authorised person to which the information, documents or other things relate.

(4) It shall be an offence against the Act for the authorised person not to provide the Authority with any information, documents and, or other things which the Authority may require, or to otherwise hinder the Authority's investigation or to neglect to collaborate therewith. In any such case it shall also be lawful for the Authority to make a decision based on the information available to it.

(5) When the Authority's investigation is concluded, the Authority shall provide the authorised person with a report thereon which shall include:

(a) the reason or reasons for which the investigation was initiated;

(b) the breaches of applicable regulatory instruments by the authorised person, if any, and the evidence proving such breaches; and

(c) the enforcement measures which the Authority has deemed it fit to take in the circumstances, if any:

Provided that the Authority may withhold any or all of the above information if disclosing them to the authorised person may prejudice the interests of players or of any other person, or would amount to a breach of any applicable law.

(6) The authorised person may contest the findings in such report within twenty days from the date of notification thereof.

(7) Upon receiving the authorised person's contestation, if any, or upon the lapse of twenty days from the date of notification of the Authority's report, whichever is earlier, the Authority shall communicate to the authorised person its final decision on the matter, confirming, revoking or amending the report.

Part V

Enforcement Measures

Enforcement
measures.

8. (1) The enforcement measures which the Authority may take are the following:

(a) an order, howsoever named, directing the authorised person to do, or to refrain from doing, something or to otherwise correct its conduct and, or operations; and, or

(b) a warning, howsoever named, directing the authorised person to do, or refrain from doing, something in the future; and, or

(c) adding, removing or amending conditions attached to the authorisation held by the relevant authorised person; and, or

(d) in the case of a breach which is not an offence against the Act, imposing an administrative penalty in terms of article 25(3) of the Act; and, or

(e) in the case of a breach which is an offence against the Act, and without prejudice to article 25(1) of the Act, filing a report to the Executive Police for the commencement of criminal proceedings; and, or

(f) suspending or cancelling the licence, in terms of regulations 9 or 10, as the case may be:

Provided that the enforcement sanctions mentioned in this sub-regulation shall not be made public unless the Authority determines that this is in the public interest or if the Authority is obliged to make such sanction public in terms of any other law:

Provided further that any measure mentioned in paragraph (f) shall be made public.

(2) The Authority may exercise an enforcement measure solely following the conclusion of a compliance review and, or a formal investigation:

Provided that the Authority may, in exceptional circumstances and in the interest of players or on grounds of public policy, public security or the safeguarding of the reputation of Malta, exercise any enforcement measures which it deems appropriate prior to the performance of the review and, or investigation, or following the conclusion thereof but prior to the lapse of the time within which the authorised person may contest the findings.

(3) Without prejudice to the above and to any provision of the Act or any other law, in the case of the offence listed in paragraph (a) of the Third Schedule to the Act, the Authority may, whether the person in breach is an authorised person or otherwise, impose an administrative fine on the person in breach and, or give any other direction it may deem fit as an alternative to criminal proceedings in terms of article 25(1) of the Act:

Provided that any person in breach of paragraph (a) of the Third Schedule to the Act may request that the above enforcement measure be taken in his regard, and the Authority shall take such measure as an alternative to criminal proceedings unless it is reasonably satisfied that criminal proceedings are more appropriate, having regard to the circumstances of the case:

Provided further that for the avoidance of doubt, the Authority's decision not to impose an administrative fine on the person in breach as an alternative to criminal proceedings shall be considered to be an administrative act subject to an appeal in terms of article 43 of the Act.

(4) Without prejudice to the foregoing, the Authority shall also be empowered to keep and publish a list of operators which are not compliant with the applicable laws and, or regulatory instruments:

Provided that any operator included on such list shall be given the opportunity to make submissions to the Authority, clarifying and, or addressing its lack of compliance, in order for the Authority to remove such operator from the list:

Provided further that should the Authority refuse, further to remonstrations from such operator, to remove the operator from such list, the refusal shall be deemed to constitute an administrative act which may be appealed from in terms of article 43 of the Act.

Grounds for suspension.

9. (1) The Authority shall have the power to suspend an authorisation in the following instances:

(a) the Authority is satisfied that the authorised person, or a person holding a direct or indirect interest in the authorised person, or a person holding a key function in the authorised person, is not, or has ceased to be, in the opinion of the Authority, fit and proper to hold such authorisation;

(b) the authorised person has failed to comply with an order issued by the Authority;

(c) the authorised person has failed to comply with one or more applicable obligations in terms of any regulatory instrument or any other applicable law of Malta;

(d) the authorised person has failed to discharge financial commitments for its operations or the Authority has reason to believe that such failure is imminent;

(e) in the case of a natural person, the authorised person becomes incapable of exercising his or her functions as an authorised person due to physical and, or mental incapacity or for any other reason;

(f) the authorised person is bankrupt, insolvent or is being wound up;

(g) the authorised person applies for an order, or is compelled by any means or for any reason, to discontinue or to wind up its operations;

(h) the authorised person is in breach of the laws or regulations at any time in force for the prevention of money laundering and financing of terrorism;

(i) the authorised person has failed to meet commitments to players in a timely manner, or the Authority has

reason to believe that such failure is imminent;

(j) circumstances arise which, had they been present and known to the Authority at the time of issuance of the authorisation, would have led the Authority not to issue such authorisation;

(k) the authorised person has failed to seek the prior approval of the Authority of any material change where such prior approval is required in terms of any regulatory instrument, or has failed to notify the Authority of such material change where such notification is required;

(l) the authorised person has failed to pay in a timely manner all amounts due to the Authority; or

(m) the Authority, in its sole discretion, has determined that there is material and sufficient reason for suspending the authorisation.

(2) (a) Where a ground for suspension of the authorisation arises in terms of sub-regulation (1), the Authority shall, by notice in writing, give the authorised person an amount of time, being not less than twenty days, to show cause why the authorisation should not be suspended.

(b) Where a ground for suspension of the authorisation in terms of sub-regulation (1) is deemed to exist following a formal investigation and the authorised person has already been granted a period of time to contest the findings of such investigation in terms of regulation 7(6), the time period mentioned in paragraph (a) shall not be applicable:

Provided that, notwithstanding the above and any other provision in any regulatory instrument or any other law, the Authority shall have the right to suspend an authorisation with immediate effect, by written notice to the authorised person and without giving the authorised person time to show cause why the authorisation should not be suspended, where it determines that there exist exceptional grounds for doing so, including but not limited to:

(i) when the Authority becomes aware that the authorisation was obtained by one or more materially false or misleading representations or in some other improper way; or

(ii) when the authorised person presents an imminent threat to the reputation of Malta; or

(iii) when the authorised person presents an imminent threat of serious prejudice to the interests of players or to public or national interest.

Grounds for
cancellation.

10. (1) The Authority shall have the power to cancel an authorisation in the following instances:

(a) one of the grounds for suspension envisaged in regulation 9 arises and the Authority, in its sole discretion, determines that cancellation of the authorisation is the most appropriate measure;

(b) the Authority has suspended the authorisation in terms of regulation 9 and, in the circumstances of the case, the Authority becomes satisfied that the matter which has led to the suspension cannot be rectified;

(c) the authorisation has been voluntarily suspended for more than six (6) months and the authorised person has not provided a plan outlining when it expects the authorisation to be reactivated, to the satisfaction of the Authority; or

(d) the authorised person continues to provide a gaming service and, or a gaming supply and, or a key function, notwithstanding the suspension of the authorisation by the Authority in terms of regulation 9.

(2) (a) Where a ground for cancellation of the authorisation in terms of sub-regulation (1) arises the Authority shall, by notice in writing, give the authorised person an amount of time, being not less than twenty days, to show cause why the authorisation should not be cancelled.

(b) Where a ground for cancellation of the authorisation in terms of sub-regulation (1) is deemed to exist following a formal investigation and the authorised person has already been granted a period of time to contest the findings of such investigation in terms of regulation 7(6), the time period mentioned in paragraph (a) shall not be applicable:

Provided that, notwithstanding the above and any other provision in any regulatory instrument or any other law, the Authority shall have the right to cancel an authorisation with immediate effect, by written notice to the authorised person and without giving the authorised person time to show cause why the authorisation should not be cancelled, on grounds of national interest or to safeguard the reputation of Malta, or if the authorisation was obtained by one or more materially false or misleading representations or in some other

improper way.

11. (1) The suspension or cancellation of the authorisation shall not affect any liability of the authorisation holder for anything done or omitted to be done, or for any amounts due which may have already accrued, before the date of suspension or cancellation.

Suspension or cancellation not to affect liability.

(2) Without prejudice to any provision in the Gaming Licence Fees Regulations, the liability of the authorised person to pay any applicable compliance contribution, gaming devices levy and, or gaming tax shall stop accruing during any period in which the authorisation is suspended:

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Provided that the authorised person shall have no right to recover any applicable dues paid in advance.

12. Notices of suspension or cancellation shall be served on the authorised person in accordance with article 53 of the Act:

Service of notices of suspension or cancellations.

Provided that where the authorised person is notified by electronic means, if the Authority does not have evidence that the notice was received by the authorised person within twenty-four hours, the Authority may issue the suspension or cancellation notice on its website and the authorised person shall be considered to be notified immediately as soon as the notice is visible on such website:

Provided further that where the suspension or cancellation is issued with immediate effect in terms of the proviso to regulation 9(2) or the proviso to regulation 10(2), the Authority may publish such notice prior to the lapse of such twenty-four hours and the authorised person shall be considered to be notified immediately as soon as the notice is visible on the website.

Part VI

Powers of the Authority

13. (1) Without prejudice to anything contained in any other regulatory instrument, an officer of the Authority shall, for the purpose of ascertaining that all applicable regulatory instruments are being complied with, have the following powers:

Powers of officers of the Authority.

(a) to inspect, test and, or examine any equipment, software or other thing being used in the provision of a gaming service, a gaming supply, or a key function;

(b) to remove any equipment, software or other thing to another place or premises approved and, or designated by the

Authority, for the purpose of an inspection and, or examination;

(c) to inspect any premises, whether authorised by the Authority or otherwise, in which gaming is taking place or in which he reasonably suspects that gaming is taking place, or in which there is, or he reasonably suspects that there is, any equipment, software or any other thing related to such gaming;

(d) to demand information or the production of any document or other thing related to gaming or which he reasonably suspects relates to gaming for the purpose of an inspection and, or examination, including but not limited to requiring any person found within any premises in which gaming is taking place to produce identification documents and, or evidence of his age;

(e) to remove any document or other thing produced as a result of a request under the preceding paragraph or discovered during an inspection for the purpose of examining it and, or making copies or taking extracts or otherwise documenting its existence and, or characteristics;

(f) to play a game or games for the purpose of confirming whether such game requires authorisation in terms of the Act or any other regulatory instrument;

(g) to play a game or games which are authorised by the Authority to be offered for the purpose of confirming whether such game is compliant with the Act and any other applicable regulatory instruments;

(h) to demand information and, or the production of any document or other thing, from any person whom the officer of the Authority reasonably suspects to be conducting gaming without the necessary authorisation, or aiding or abetting gaming without the necessary authorisation;

(i) to access, retrieve and, or make extracts or copies of any data, information and, or any document or other thing pertaining to an authorised person, including but not limited to surveillance footage and any recording by whatever means of video, audio and, or any other information, wherever such data, information, document or other thing is located and, or stored;

(j) to call to his assistance for the purpose of carrying out his functions -

(i) another officer of the Authority;

(ii) any member of the Police Force, any local council, any department of Government or any agency of Government, or any other public authority, whether local or foreign;

(k) to do all such things as may be ancillary or conducive to his powers and duties under the Act, these regulations and any other regulatory instrument or any other law.

(2) Whenever an officer of the Authority removes equipment, software, document or any other thing from any premises or place in terms of sub-regulation (1), the Authority shall provide a receipt for it to the person who owns or is in charge of the premises or place and, subject to sub-regulation (3), shall promptly return the equipment, software, document or other thing to the premises or other place after completion of the inspection, examination, testing, making of copies or taking of extracts, as the case may be.

(3) An officer of the Authority may, for the purposes of evidence, detain for such time as may be required any equipment, software, document or other thing that the officer discovers while acting in the exercise of his powers and which he believes, on reasonable grounds, may afford evidence of a violation of or a non-compliance with anything contained in the Act or any other regulatory instrument.

(4) Copies of or extracts from documents or other things removed from any premises or other place by an officer of the Authority, and certified by an officer of the Authority making the copies or taking the extracts as being true copies of or extracts from the originals, are admissible in evidence to the same extent as, and have the same probatory value as, the documents or things of which they are copies or from which they are extracts.

14. (1) The person who owns or is in charge of any place or premises entered by an officer of the Authority in the exercise of his powers, and any employee or agent of such person shall give all reasonable assistance to the officer of the Authority to enable the officer to exercise his powers in terms of the Act and these regulations, and shall furnish the officer with such equipment, software, records, documents, information or other thing as the officer may request.

Obligation to assist with investigations.

(2) No person shall hinder, obstruct or otherwise interfere

with, or knowingly make a false, incomplete or misleading statement, either orally or in writing, or provide or produce a false document or other thing to, an officer of the Authority who is carrying out his duties and functions:

Provided that any such false, incomplete or misleading statement shall be deemed to be a false, incomplete or misleading statement made to the Authority in terms of article 34 of the Act.
