

**ABBOZZ TA' LIĠI**  
**msejjaħ**

*ATT biex jemenda l-Att dwar il-Protezzjoni u l-Privatezza tad-Data, Kap 440.*

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

**1.** It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2012 li jemenda l-Att dwar il-Protezzjoni u l-Privatezza tad-Data, u dan l-Att għandu jinqara u jiftiehem haġa waħda mal-Att dwar il-Protezzjoni u l-Privatezza tad-Data, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.

Kap. 440.

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

(a) minnufih wara t-tifsira "pajjiż terz", għandha tizdied it-tifsira ġdida li ġejja:

Emenda tal-artikolu 2 tal-Att prinċipali.

" "penali tal-qorti" tfisser penali li tiġi infurzata permezz ta' prosekuzzjoni fil-Qrati ta' Malta, kif preskritt fit-Tieni Skeda;"

(b) minnufih wara t-tifsira "penali tal-qorti", għandha tizdied it-tifsira ġdida li ġejja:

" "piena amministrattiva" tfisser piena li tista' tiġi stabbilita u imposta mill-Kummissarju, kif preskritt fit-Tielet Skeda;" u

(c) minnufih wara t-tifsira "terzi", għandha tizdied it-tifsira ġdida li ġejja:

" "Tribunal" tfisser it-Tribunal tal-Appelli dwar l-  
Informazzjoni u l-Protezzjoni tad-Data stabbilit taht l-  
artikolu 48."

Emenda tal-  
artikolu 17 tal-  
Att prinċipali.

**3.** Is-subartikolu (1) tal-artikolu 17 tal-Att prinċipali għandu  
jiġi sostitwit b'dan li ġej:

"(1) *Data* li jkollhom x'jaqsmu ma' reati, sejbien ta' htija  
kriminali jew miżuri ta' sigurtà, jistgħu jiġu proċessati taht il-  
kontroll ta' awtorita pubblika biss, sakemm ma jkunx  
speċifikament provdut taht xi liġi oħra."

Emenda tal-  
artikolu 29 tal-  
Att prinċipali.

**4.** Fis-subartikolu (1) tal-artikolu 29 tal-Att prinċipali,  
minnufih wara l-kliem "proċessar awtomatizzat għalkollox jew  
f'parti minnu", għandhom jiżdiedu l-kliem "jew ipproċessar mhux  
awtomatizzat".

Emenda tal-  
artikolu 34 tal-  
Att prinċipali.

**5.** Il-paragrafu (b) tas-subartikolu (1) tal-artikolu 34 tal-Att  
prinċipali għandu jiġi sostitwit b'dan li ġej:

"(b) Il-Kummissarju jista', minn żmien għal żmien kif  
jista' jidhirlu xieraq, joħroġ linji gwida sabiex jiddefinixxi l-  
operazzjonijiet ta' proċessar li jinvolvu riskji partikolari kif  
imfisser fil-paragrafu (a) u jista' f'dawk il-linja gwida,  
jippreskrivi regoli dwar dawk l-operazzjonijiet ta' proċessar."

Żieda ta'  
artikoli godda  
mal-Att  
prinċipali.

**6.** Minnufih wara l-artikolu 41 tal-Att prinċipali, għandhom  
jiżdiedu l-artikoli godda li ġejjin:

"Klassifikaz-  
zjoni ta' pjeni u  
penali.

41A. (1) Fir-rigward ta' penali ta' xi livell  
speċifikat fl-ewwel kolonna tat-Tieni Skeda, li hija  
penali tal-qorti, il-penali għandha tkun jew il-multa  
korrispondenti speċifikata fit-tieni kolonna tal-  
istess Skeda jew il-perjodu korrispondenti ta'  
prigunerija speċifikat fit-tielet kolonna tal-istess  
Skeda, jew dik il-multa u prigunerija flimkien.

(2) Fir-rigward ta' piena amministrattiva ta'  
xi livell speċifikat fl-ewwel kolonna tat-Tielet  
Skeda, il-piena għandha tkun l-ammont  
korrispondenti speċifikat fit-tieni kolonna tal-istess  
Skeda u l-ammont korrispondenti għal kull jum li  
matulu l-infrazzjoni tkompli, hekk kif speċifikat  
fit-tielet kolonna tal-istess Skeda.

Impozizzjoni ta' pjeni u penali.

41B. (1) Kull persuna li tinstab hatja ta' reat għax tkun kisret xi dispożizzjoni ta' dan l-Att imsemmija fl-ewwel kolonna tar-Raba' Skeda, b'deskrizzjoni ġenerali tar-reat korrispondenti stabbilit fit-tieni kolonna tal-istess Skeda, tehel il-penali korrispondenti tal-livell speċifikat fit-tielet kolonna tal-istess Skeda.

(2) Għal kull infrazzjoni, minn xi persuna, ta' xi dispożizzjoni ta' dan l-Att imsemmija fl-ewwel kolonna tal-Ħames Skeda, li tikkonsisti fl-att jew fl-ommissjoni korrispondenti deskritta fit-tieni kolonna tal-istess Skeda, il-Kummissarju jista', b'avviz bil-miktub, jimponi, bħala piena amministrattiva fuq il-persuna kkonċernata, il-piena korrispondenti speċifikata fit-tielet kolonna tal-istess Skeda.

(3) Kull deskrittura fit-tieni kolonna tar-Raba' Skeda u tal-Ħames Skeda li għandha x'taqsam ma' xi reat u infrazzjoni kif imsemmija fis-subartikoli (1) u (2) rispettivament m'għandiex tippregudika l-interpretazzjoni tad-dispożizzjonijiet ta' dan l-Att li għaliha ir-reat jew infrazzjoni jikkorrispondu.

Reati u infrazzjonijiet mhux speċifikament imsemmijin fl-Iskedi.

(4) Kull persuna li tinsab hatja ta' reat skont xi dispożizzjoni ta' dan l-Att, li ma jkunx speċifikament previst fir-Raba' Skeda, għandha tehel multa ta' mhux anqas minn mija u għoxrin euro (€120) u mhux aktar minn tlieta u għoxrin elf u tlett mitt euro (€23,300) jew prigunerija għal sitt xhur jew dik il-multa u prigunerija flimkien.

(5) Kull persuna li ma tosservax xi dispożizzjoni oħra ta' dan l-Att, li tista' tagħti lok għall-impożizzjoni ta' piena amministrattiva mhux prevista speċifikament fil-Ħames Skeda, għandha tehel piena amministrattiva ta' mhux anqas minn mija u għoxrin euro (€120) u mhux aktar minn tlieta u għoxrin elf u tlett mitt euro (€23,300) għal kull vjolazzjoni u hamsin euro (€50) għal kull jum li matulu il-vjolazzjoni tippersisti, liema piena għandha tiġi determinata u imposta mill-Kummissarju, skont il-proċedura stipulata taht l-artikolu 42 ta' dan l-Att."

7. L-artikolu 42 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 42 tal-Att prinċipali.

"Il-Kummissarju jfittex li jikseb rettifika u s-setgħa li jimponi u jirkupra pieni amministrattiva.

42. (1) Jekk il-Kummissarju jikkonkludi li *data* personali jkunu qegħdin jiġu pproċessati jew jistgħu jkunu pproċessati b'xi mod illeġittimu, il-Kummissarju għandu jordna rettifika, u jekk ma ssirx ir-rettifika jew jekk il-kwistjoni tkun waħda urġenti, il-Kummissarju jista' jipprojbixxi lill-kontrollur ta' *data* personali milli jkompli jipproċessa d-*data* personali b'kull mod hliet għall-ħzin ta' dik id-*data*.

(2) Mingħajr preġudizzju għas-setgħat l-oħra mogħtija lilu taħt dan l-Att, il-Kummissarju jista' jimponi piena amministrattiva kif stipulat fis-subartikolu (3) fil-kazijiet li ġejjin:

(a) jekk il-kontrollur ma jimplimentax miżuri ta' sigurtà skont l-artikolu 26;

(b) jekk il-kontrollur jittrasferixxi *data* personali lil pajjiż terz bi ksur tal-artikoli 27 u 28;

(ċ) jekk il-kontrollur jonqos milli jinnotifika lill-Kummissarju skont l-artikolu 29(1) jew l-artikolu 34(1)(a).

(3) F'kull wieħed mil-kazijiet imsemmija fis-subartikolu ta' qabel dan jew fl-artikolu 41(2), il-Kummissarju jista', b'ordni bil-miktub, jeħtieġ lill-kontrollur ta' *data* personali li jhallas dik il-piena amministrattiva, kif provdut fl-Iskedi jew hekk kif jista' jkun preskritt.

(4) Kull piena amministrattiva imposta taħt dan l-Att għandha tkun dovuta lill-Kummissarju bħala dejn ċivili:

Izda dik l-ordni għandha tkun soġġetta għall-proċedura ta' appell kif stabbilit taħt l-artikolu 51.

(5) Fl-assenza ta' dak l-appell, id-deċiżjoni tal-Kummissarju ssir finali u tikkostitwixxi titolu eżekuttiv għall-finijiet tat-Titolu VII tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, bħallikieku id-deċiżjoni kienet ġiet ordnata b'deċiżjoni ta' qorti ta' ġurisdizzjoni ċivili.

(6) Meta persuna tiġi notifikata, permezz ta' avviż, li hemm impost fuqha piena amministrattiva u -

(a) dik il-persuna tonqos milli tappella fiż-żmien stipulat mill-liġi għall-appell, u tonqos milli tħallas il-piena amministrattiva hekk imposta; jew

(b) dik il-persuna tappella lit-Tribunal fiż-żmien imsemmi u l-appell jiġi rtirat jew it-Tribunal jikkonferma l-piena amministrattiva fl-ammont iffissat mill-Kummissarju jew f'ammont imnaqqas minnu, u ma jkun ippreżentat ebda appell ieħor fil-Qorti tal-Appell jew jekk appell jiġi ppreżentat fil-Qorti tal-Appell u din il-Qorti jew tikkonferma d-deċiżjoni mogħtija, jew tiddeċiedi li l-piena hija dovuta f'ammont ieħor, jew il-piena imposta ma tithallasx fi żmien hmistax-il ġurnata mid-data tad-deċiżjoni jew mid-data tal-irtirar tal-appell jew mid-data meta t-Tribunal jew il-Qorti tal-Appell jikkonfermaw jew ivarjaw l-penali kif hawn qabel imsemmi,

il-Kummissarju jkun intitolat li jieħu azzjoni ċivili sabiex jirkupra l-ammont dovut."

**8.** Fl-artikolu 45 tal-Att prinċipali, minflok il-kliem "fl-Iskeda ta' dan l-Att", għandhom jidhlu l-kliem "fl-Ewwel Skeda".

Emenda tal-artikolu 45 tal-Att prinċipali.

**9.** L-artikolu 47 tal-Att prinċipali, kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 47 tal-Att prinċipali.

"Pieni.

47. Kull persuna li:

(a) tipprovdi informazzjoni mhux vera lil suġġetti ta' *data* kif hemm preskritt b'dan il-Att, jew fin-notifika lill-Kummissarju skont l-artikolu 29 jew lill-Kummissarju meta l-Kummissarju jitlob informazzjoni skont l-artikolu 41; jew

(b) tipproċessa *data* personali bi ksur tad-dispożizzjonijiet tal-artikoli 12 sa 17,

tkun haġja ta' reat, u tehel, meta tinsab haġja, multa ta' mhux inqas minn mija u għoxrin euro (€120) u mhux aktar minn tlieta u għoxrin elf u tliet mitt euro (€23,300) jew prġunerija għal sitt (6) xhur jew dik il-multa u prġunerija flimkien, kif previst fit-Tieni Skeda, jew kif jista' jiġi preskritt."

C 112

Żieda ta' Skedi  
godda mal-Att  
prinċipali.

**10.** L-Iskeda li tinsab mal-Att prinċipali għandha tigi enumerata mill-ġdid bħala l-Ewwel Skeda; u minnufih wara għandhom jiżdedu l-Iskedi godda li ġejjin:

**"IT-TIENI SKEDA**

(Regolament 4)

Penali li huma infurzabbli bi prosekuzzjoni fil-Qrati ta' Malta

L-Ewwel Kolonna	It-Tieni Kolonna	It-Tielet Kolonna
Livell	Multa	Prigunerija
1	Mhux inqas minn €120 iżda mhux aktar minn €600	Mhux aktar minn xahar
2	Mhux inqas minn €250 iżda mhux aktar minn €2,500	Mhux inqas minn xahar iżda mhux aktar minn tliet xhur
3	Mhux inqas minn €2,500 iżda mhux aktar minn €23,300	Mhux inqas minn tliet xhur iżda mhux aktar minn sitt xhur

**IT-TIELET SKEDA**

(Regolament 4)

Pieni amministrattivi li jistgħu jiġu imposti mill-Kummissarju mingħajr smiġh fil-qorti

L-Ewwel Kolonna	It-Tieni Kolonna	It-Tielet Kolonna
Livell	Piena	Piena ta' kuljum
1	Mhux inqas minn €120 iżda mhux aktar minn €600	Mhux inqas minn €20 iżda mhux aktar minn €60
2	Mhux inqas minn €250 iżda mhux aktar minn €2,500	Mhux inqas minn €25 iżda mhux aktar minn €250
3	Mhux inqas minn €2,500 iżda mhux aktar minn €23,300	Mhux inqas minn €250 iżda mhux aktar minn €2,500

## IR-RABA' SKEDA

(Regolament 5)

Penali tal-Qorti

L-Ewwel Kolonna	It-Tieni Kolonna	It-Tielet Kolonna
Artikolu	Reat	Livell tal-Penali
47(1)(a)	Tipprovdi informazzjoni mhux vera lis-sugġetti ta' <i>data</i>	3
47(1)(a)	Tipprovdi informazzjoni mhux vera fin-notifika lill-Kummissarju, magħmula skont l-artikolu 29	3
47(1)(a)	Tipprovdi informazzjoni mhux vera lill-Kummissarju meta l-Kummissarju jitlob din l-informazzjoni, skont l-artikolu 41	3
47(1)(b)	Proċessar ta' <i>data</i> personali, bi ksur tad-dispożizzjonijiet tal-artikoli 12 sa 17	3

## IL-HAMES SKEDA

(Regolament 5)

Pieni Amministrattivi

L-Ewwel Kolonna	It-Tieni Kolonna	It-Tielet Kolonna
Artikolu	Infrazzjoni	Livell tal-Piena
42(2)(a)	Nuqqas ta' implimentazzjoni ta' miżuri tekniċi u organizzattivi xierqa sabiex tiġi protetta d- <i>data</i> personali li tkun qegħdha tiġi pproċessata kontra qirda jew telf aċċidentali, jew forom ta' proċessar illeġittimu, b'kontravvenzjoni tal-artikolu 26	2

C 114

42(2)(b)	Trasferiment ta' <i>data</i> personali lil pajjiżi terzi li ma jiżgurawx livell xieraq ta' protezzjoni, b'kontravvenzjoni tal-artikolu 27, u li ma jissodisfa ebda rekwiżit imsemmi fl-artikolu 28	1
42(2)(c)	Nuqqas ta' notifika lill-Kummissarju qabel il-bidu ta' xi operazzjoni ta' proċessar, b'kontravvenzjoni tal-artikolu 29(1)	1
42(2)(ċ)	Nuqqas ta' notifika lill-Kummissarju sabiex issir verifika minn qabel dwar l-iproċessar ta' <i>data</i> personali li jinvolve riskji partikolari ta' indhil mhux dovut fid-drittijiet u l-libertajiet tas-suġġetti ta' <i>data</i> , b'kontravvenzjoni tal-artikolu 34(1)(a)	2
42(3)	Nuqqas ta' konformità ma' xi talba legittima rilevanti għal xi investigazzjoni mill-Kummissarju, b'kontravvenzjoni tal-artikolu 41(2)	2
42(3)	Iproċessar illeġittimu ta' <i>data</i> personali, b'kontravvenzjoni tal-artikolu 42(1)	2
42(3)	Iproċessar ta' <i>data</i> personali li jista' jkun illeġittimu, b'kontravvenzjoni tal-artikolu 42(1)	1
42(3)	Nuqqas ta' rettifika, hekk kif ordnat mill-Kummissarju, ta' iproċessar illeġittimu ta' <i>data</i> personali, b'kontravvenzjoni tal-artikolu 42(1)	3
42(3)	Nuqqas ta' rettifika, hekk kif ordnat mill-Kummissarju, ta' iproċessar ta' <i>data</i> personali li jista' jkun illeġittimu, b'kontravvenzjoni tal-artikolu 42(1)	2".



### **Ghanijiet u Raġunijiet**

L-ghanijiet ta' dan l-Abboz huma l-introduzzjoni ta' pjeni amministrativi u r-razzjonalizzazzjoni ulterjuri tal-infurzar tal-Att dwar il-Protezzjoni u l-Privatezza tad-*Data* bl-iskop li jipprovdi għal sistema ta' infurzar tal-Att aktar effiċjenti u proporzjonat u għal aktar ċertezza legali.

C 116

**A Bill  
entitled**

*AN ACT to amend the Data Protection Act, Cap. 440.*

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

Short title.

**1.** The short title of this Act is the Data Protection (Amendment) Act, 2012, and this Act shall be read and construed as one with the Data Protection Act, hereinafter referred to as "the principal Act".

Cap. 440.

Amendment of article 2 of the principal Act.

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

(a) immediately before the definition "blocking", there shall be added the following new definition:

" "administrative fine" means a fine which may be determined and imposed by the Commissioner, as prescribed in the Third Schedule";

(b) immediately after the definition "controller of personal data", there shall be added the following new definition:

" "court penalty" means a penalty which is enforceable by prosecution in the Courts of Malta, as prescribed in the Second Schedule"; and

(c) immediately after the definition "third country", there shall be added the following new definition:

" "Tribunal" means the Information and Data Protection Appeals Tribunal, established under article 48."

**3.** Sub-article (1) of article 17 of the principal Act shall be substituted by the following: Amendment of article 17 of the principal Act.

"(1) Data relating to offences, criminal convictions or security measures may only be processed under the control of a public authority, unless specifically provided for under any other law."

**4.** In sub-article (1) of article 29 of the principal Act, immediately after the words "wholly or partially automated", there shall be added the words "or manual". Amendment of article 29 of the principal Act.

**5.** Paragraph (b) of sub-article (1) of article 34 of the principal Act shall be substituted by the following: Amendment of article 34 of the principal Act.

"(b) The Commissioner may, from time to time as he may deem necessary, issue guidelines in order to define the processing operations involving particular risks as referred to in paragraph (a) and may, in such guidelines, prescribe rules in relation to such processing operations."

**6.** Immediately after article 41 of the principal Act, there shall be added the following new articles: Addition of new articles to the principal Act.

"Classifica-  
tion of fines  
and penalties.

41A. (1) With respect to a penalty of any level specified in the first column of the Second Schedule which is a court penalty, the penalty shall be either the corresponding fine (*multa*) specified in the second column thereof or the corresponding period of imprisonment specified in the third column thereof, or both such fine and imprisonment.

(2) With respect to an administrative fine of any level specified in the first column of the Third Schedule, the fine shall be the corresponding amount specified in the second column thereof and the corresponding amount for each day during which the infringement continues shall be that specified in the third column thereof.

Imposition of fines and penalties.

41B. (1) Any person found guilty of an offence for having contravened a provision of this Act mentioned in the first column of the Fourth Schedule, with a corresponding general description of the offence set out in the second column thereof, shall be liable to the corresponding penalty of the level specified in the third column thereof.

(2) For any infringement by any person of any provision of this Act mentioned in the first column of the Fifth Schedule, consisting in the corresponding act or omission described in the second column thereof, the Commissioner may, by notice in writing, impose by way of an administrative fine on the person concerned the corresponding fine specified in the third column thereof.

(3) Any description in the second column of the Fourth and Fifth Schedules related to any offence and infringement as referred to in sub-articles (1) and (2) respectively shall not prejudice the interpretation of the provisions of this Act to which the offence or infringement corresponds.

Offences and infringements not specifically provided for in the Schedules.

(4) Any person who is found guilty of an offence under any provision of this Act, which is not specifically provided for in the Fourth Schedule, shall be liable to a fine (*multa*) of not less than one hundred and twenty euro (€120) and not more than twenty-three thousand and three hundred euro (€23,300) or to imprisonment for six months or to both such fine and imprisonment.

(5) Any person who fails to comply with any other provision of this Act which may give rise to the imposition of an administrative fine not otherwise specifically provided for in the Fifth Schedule, shall be liable to an administrative fine of not less than one hundred and twenty euro (€120) and not more than twenty-three thousand and three hundred euro (€23,300) for each violation and fifty euro (€50) for each day during which such violation persists, which fine shall be determined and imposed by the Commissioner, in accordance with the procedure stipulated under article 42 of this Act."

Substitution of article 42 of the principal Act.

7. Article 42 of the principal Act shall be substituted by the following:

"Commissioner to seek rectification and the power to impose and recover administrative penalties.

42. (1) If the Commissioner concludes that personal data is processed or may be processed in an unlawful manner, the Commissioner shall order rectification, and if rectification is not effected or if the matter is urgent, the Commissioner may prohibit the controller of personal data to continue processing the personal data in any manner other than to store that data.

(2) Without prejudice to his other powers under this Act, the Commissioner may impose an administrative fine as stipulated in sub-article (3) in the following cases:

(a) if the controller does not implement security measures in terms of article 26;

(b) if the controller transfers personal data to a third country in contravention of articles 27 and 28;

(c) if the controller fails to notify the Commissioner in terms of article 29(1) or article 34(1)(a).

(3) In any of the cases mentioned in the preceding sub-article or in article 41(2), the Commissioner may, by order in writing, require the controller of personal data to pay such administrative fine as provided in the Schedules or as may be prescribed.

(4) Any administrative fine imposed under this Act shall be due to the Commissioner as a civil debt:

Provided that such order shall be subject to the appeal procedure as established under article 51.

(5) In the absence of such an appeal, the decision of the Commissioner shall become final and shall constitute an executive title for the purposes of Title VII of the Code of Organisation and Civil Procedure as if the decision had been ordered by a judgement of a court of civil jurisdiction.

(6) Where a notice imposing an administrative fine is served on a person and -

(a) such person fails to appeal within such time as an appeal may be entered, and fails to pay the fine so imposed; or

(b) such person appeals within such time to the Tribunal and the appeal is withdrawn or the Tribunal confirms the penalty in the amount fixed by the Commissioner or in an amount reduced by it, and no further appeal is filed with the Court of Appeal or if an appeal is filed with the Court of Appeal and such Court either confirms the decision taken, or decides that a penalty is due in another amount, or the imposed penalty is not paid within fifteen days from the date of the decision or the withdrawal of the appeal or the date when the Tribunal or the Court of Appeal confirms or varies the penalty as aforesaid,

the Commissioner shall be entitled to take civil action to recover the amount due."

Amendment of article 45 of the principal Act.

**8.** In article 45 of the principal Act, for the words "in the Schedule to this Act", there shall be substituted the words "in the First Schedule".

Substitution of article 47 of the principal Act.

**9.** Article 47 of the principal Act, as renumbered, shall be substituted by the following:

"Penalties.

47. Any person who:

(a) provides untrue information to data subjects as is prescribed by this Act, or in the notification to the Commissioner under article 29 or to the Commissioner when the Commissioner requests information in accordance with article 41; or

(b) processes personal data in contravention of the provisions of articles 12 to 17,

shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of not less than one hundred and twenty euro (€120) and not more than twenty-three thousand and three hundred euro (€23,300) or to imprisonment for six months or to both such fine and imprisonment, as provided in the Second Schedule, or as may be prescribed."

**10.** The Schedule to the principal Act shall be renumbered as the First Schedule thereof; and immediately thereafter there shall be added the following new Schedules:

Addition of new Schedules to the principal Act.

### "SECOND SCHEDULE

(Regulation 4)

Penalties which are enforceable by prosecution in the Courts of Malta

First Column	Second Column	Third Column
Level	Fine ( <i>multa</i> )	Imprisonment
1	Not less than €120 but not more than €600	Not more than one month
2	Not less than €250 but not more than €2,500	Not less than one month but not more than three months
3	Not less than €2,500 but not more than €23,300	Not less than three months but not more than six months

### THIRD SCHEDULE

(Regulation 4)

Administrative fines which may be imposed by the Commissioner without recourse to a court hearing

First Column	Second Column	Third Column
Level	Fine	Daily fine
1	Not less than €120 but not more than €600	Not less than €20 but not more than €60
2	Not less than €250 but not more than €2,500	Not less than €25 but not more than €250
3	Not less than €2,500 but not more than €23,300	Not less than €250 but not more than €2,500

C 122

## FOURTH SCHEDULE

(Regulation 5)

## Court Penalties

First Column	Second Column	Third Column
Article	Offence	Penalty Level
47(1)(a)	Providing untrue information to data subjects	3
47(1)(a)	Providing untrue information in the notification to the Commissioner, made in accordance with article 29	3
47(1)(a)	Providing untrue information to the Commissioner upon his request for information, made in accordance with article 41	3
47(1)(b)	Processing of personal data, in contravention of articles 12 to 17	3

## FIFTH SCHEDULE

(Regulation 5)

## Administrative Fines

First Column	Second Column	Third Column
Article	Infringement	Fine Level
42(2)(a)	Failure to implement appropriate technical and organisational security measures to protect personal data that is processed against accidental destruction, loss or unlawful forms of processing, in contravention of article 26	2



42(2)(b)	Transfer of personal data to a third country which does not ensure an adequate level of protection, in contravention of article 27, and which does not satisfy any of the requirements mentioned in article 28	1
42(2)(c)	Failure to notify the Commissioner of any processing operation prior to its commencement, in contravention of article 29(1)	1
42(2)(c)	Failure to notify the Commissioner of any processing operation that involves risks of improper interference with the rights and freedoms of the data subject for prior checking, in contravention of article 34(1)(a)	2
42(3)	Failure to comply with any lawful request relevant to an investigation by the Commissioner, in contravention of article 41(2)	2
42(3)	Unlawful processing of personal data, in contravention of article 42(1)	2
42(3)	Where personal data may be processed in an unlawful manner, in contravention of article 42(1)	1
42(3)	Failure to rectify unlawful processing of personal data, as ordered by the Commissioner, in contravention of article 42(1)	3
42(3)	Failure to rectify the processing of personal data which may be unlawful, as ordered by the Commissioner, in contravention of article 42(1)	2".

C 124

### **Objects and Reasons**

The objects of this Bill are the introduction of administrative fines and the further rationalisation of the enforcement of the Data Protection Act, in order to provide for a more efficient and proportionate system of enforcement of the Act and a further degree of legal certainty.