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L.N. 374 of 2015

CONSUMER AFFAIRS ACT
(CAP. 378)

Consumer Alternative Dispute Resolution (General) Regulations, 2015

IN exercise of the powers conferred upon him by articles 7 and 43G of the Consumer Affairs Act, the Minister for Social Dialogue, Consumer Affairs and Civil Liberties, after consultation with the Consumer Affairs Council, has made the following regulations:-

PART I

Preliminary

Citation. purpose and commencement.

1. (1) The title of these regulations is the Consumer Alternative Dispute Resolution (ADR) (General) Regulations, 2015.

(2) The purpose of these regulations is to implement Directive 2013/11/EU of the European Parliament and of the Council of the 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC.

(3) These regulations shall come into force on the 20th November, 2015.

Interpretation Cap. 378.

2. (1) Any reference in these regulations to the "Act" is a reference to the Consumer Affairs Act, and the provisions of articles 2 and 43A of the said Act shall apply to these regulations provided that the definitions contained in sub-regulation (2) shall in all instances for the purposes of these regulations prevail.

(2) In these regulations, unless the context otherwise requires -

"ADR" means alternative dispute resolution;

"ADR entity" means any entity, however named or referred to, which is established on a durable basis and offers the resolution of a dispute through an ADR procedure and that is listed in accordance with regulation 20;

"ADR procedure" means a procedure, as referred to in regulation 3, which complies with the requirements set out under these regulations and is carried out by an ADR entity;

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"Council" means the Consumer Affairs Council established under Part II of the Consumer Affairs Act; Cap. 378.

"cross-border dispute" means a contractual dispute arising from a sales or services contract where, at the time the consumer orders the goods or services, the consumer is resident in a Member State other than the Member State in which the trader is established;

"domestic dispute" means a contractual dispute arising from a sales or service contract where, at the time the consumer orders the goods or services, the consumer is resident in the same Member State as that in which the trader is established;

"Directive on consumer ADR" means Directive 2013/11/EU of the European Parliament and of the Council of the 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC;

"European Consumer Centre Malta" or "ECC Malta" means the European Consumer Centre in Malta which operates as part of the European Consumer Centre network of the European Union; and

"trader" means any natural person or any legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to his trade, business, craft or profession.

(3) A trader is established:

(a) if the trader is a natural person where he has his place of business; and

(b) if the trader is a company or other legal person or association of natural or legal persons, where it has its statutory seat, central administration or place of business, including a branch, agency or any other establishment.

(4) An ADR entity is established:

(a) if it is operated by a natural person, at the place where it carries out ADR activities; or

(b) if the entity is operated by a legal person or association of natural or legal persons, at the place where that legal person or association of natural or legal persons carries out ADR activities or has its statutory seat; or

(c) if it is operated by an authority or other public

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body, at the place where the authority or other public body has its seat.

Scope of these regulations.

3. (1) These regulations shall apply to procedures for the out-of-court resolution of domestic and cross-border disputes concerning contractual obligations resulting from sales contracts or service contracts between a trader established in the European Union and a consumer resident in the European Union through the intervention of an ADR entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution.

(2) These regulations shall not apply to:

(a) procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed or remunerated exclusively by the individual trader;

(b) procedures before consumer complaint-handling systems operated by the trader;

(c) non-economic services of general interest;

(d) disputes between traders;

(e) direct negotiation between the consumer and the trader;

(f) attempts made by a judge or a magistrate to settle a dispute in the course of a judicial proceeding concerning that dispute;

(g) procedures initiated by a trader against a consumer;

(h) health services provided by health professionals to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medical devices; and

(i) public providers of further or higher education.

(3) Nothing in these regulations shall be interpreted as preventing any person from exercising the right of access to the judicial system.

Relationship with other national legislation.

4. Unless stated otherwise in these regulations, if any provision of these regulations conflicts with a provision laid down in any other national law that relates to out-of-court redress procedures

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initiated by a consumer against a trader, the provisions of these regulations shall prevail.

PART II

Access to and requirements applicable to ADR entities and ADR procedures

Information requirements onerous on ADR entities.

5. ADR entities shall:

(a) maintain an up-to-date website which provides the parties with easy access to information concerning the ADR procedure, and which enables consumers to submit a complaint and the requisite supporting documents online;

(b) provide the parties, at their request, with the information referred to in paragraph (*a*) on a durable medium;

(c) where applicable, enable the consumer to submit a complaint offline;

(d) enable the exchange of information between the parties by electronic means or, if applicable, by post;

(e) accept both domestic and cross-border disputes, including disputes covered by Regulation (EU) No 524/2013; and

(f) take all the necessary measures to ensure that the processing of personal data complies with national legislation on the protection of personal data.

Grounds on which an ADR entity may refuse to deal with a given dispute.

6. (1) An ADR entity may, with the prior written consent of the Council, maintain or introduce procedural rules that allow it to refuse to deal with a given dispute on the grounds that:

(a) the consumer did not attempt to contact the trader concerned in order to discuss his complaint and seek, as a first step, to resolve the matters directly with the trader;

(b) the dispute is frivolous or vexatious;

(c) the dispute is being or has previously been considered by another ADR entity or by a competent court or tribunal;

(d) the value of the claim falls below or above a pre-specified monetary threshold;

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(e) the consumer has not submitted the complaint to the ADR entity within a pre-specified time limit, which shall not be set at less than one year from the date upon which the consumer submitted the complaint to the trader; and

(f) dealing with such a type of dispute would otherwise seriously impair the effective operation of the ADR entity:

Provided that the Council shall determine whether to give its consent or not within seven working days from the receipt of a request from the ADR entity. In doing so, the Council shall in writing inform the ADR entity concerned of the reasons for its decision.

(2) Subject to the provisions of sub-regulation (1) where, in accordance with its procedural rules, an ADR entity is unable to consider a dispute that has been submitted to it, that ADR entity shall provide all the parties to the dispute with a reasoned written explanation of the grounds for not considering the dispute within three weeks of receiving the complaint file:

Provided that such procedural rules shall not significantly impair consumers' access to ADR procedures, including in the case of cross-border disputes.

(3) Where in accordance with sub-regulation (1)(d), an ADR entity is permitted to establish pre-specified monetary thresholds in order to limit access to its ADR procedures, those thresholds shall not be set a level at which they significantly impair the consumers' access to complaint handling by the aforesaid ADR entity.

Expertise, independence and impartiality.

7. (1) A natural person in charge of ADR shall:

(a) possess the necessary knowledge and skills in the field of alternative or judicial resolution of consumer disputes, as well as a general understanding of law;

(b) be appointed for a term of office of sufficient duration to ensure the independence of his actions, and shall not be liable to be relieved from his duties without just cause;

(c) not be subject to any instructions from either party or their representatives;

(d) be remunerated in a way that is not linked to the outcome of the procedure; and

(e) without undue delay disclose to the ADR entity any

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circumstances that may, or may be seen to, affect his independence and impartiality or give rise to a conflict of interest with either party to the dispute he is asked to resolve. The obligation to disclose such circumstances shall be a continuing obligation throughout the ADR procedure. It shall not however apply where the ADR entity comprises only one natural person:

Provided that an ADR entity shall in such circumstances have in place procedures to ensure that:

(i) the natural person concerned is replaced by another natural person who shall be entrusted with conducting the ADR procedure; or, failing that,

(ii) the natural person concerned refrains from conducting the ADR procedure and, where possible, the ADR entity proposes to the parties to submit the dispute to another ADR entity which is competent to deal with the dispute; or, failing that,

(iii) the circumstances are disclosed to the parties and the natural person concerned is allowed to continue to conduct the ADR procedure only if the parties have not objected after they have been informed of the circumstances and their right to object:

Provided further that the provisions of sub-regulation (1)(e) shall be without prejudice to the provisions of regulation 10(2)(a).

(2) Where the persons responsible for the ADR form part of a collegial body, the entity concerned shall ensure that there is an equal number of representatives of consumers' interests and of representatives of traders' interests in that body.

(3) Where the persons responsible for the ADR are employed or remunerated exclusively by a professional organisation or a business association of which the trader is a member, the ADR entity concerned shall ensure that, in addition to the general requirements set out in sub-regulations (1) and (2), they have a separate and dedicated budget at their disposal which is sufficient to fulfil their tasks:

Provided that this sub-regulation shall not apply where the persons responsible for the ADR form part of a collegial body composed of an equal number of representatives of the professional

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organisation or business association by which they are employed or remunerated, and of consumer organisations.

(4) For the purposes of sub-regulation (1)(a), the Council shall actively encourage and assist ADR entities to provide training for natural persons in charge of ADR:

Provided that where such training is given, the Council shall monitor the training schemes established by ADR entities on the basis of information communicated to it in accordance with regulation 19(2)(g).

Transparency.

8. (1) An ADR entity shall make publicly available on its website, on a durable medium upon request, and by any other means it may consider appropriate, clear and easily understandable information on:

(a) its contact details, including postal address and e-mail address;

(b) the fact that it is listed in accordance with regulation 20(2);

(c) the natural persons in charge of its ADR, the method of their appointment and the length of their mandate;

(d) the expertise, impartiality and independence of the persons in charge of ADR;

(e) its membership in networks of ADR entities facilitating cross-border dispute resolution, if applicable;

(f) the types of disputes it is competent to deal with, including any threshold if applicable;

(g) the procedural rules governing the resolution of a dispute and the grounds on which it may refuse to deal with a given dispute in accordance with regulation 6(1);

(h) the languages in which complaints can be submitted to the ADR entity and in which the ADR procedure is conducted;

(i) the types of rules the ADR entity may use as a basis for the dispute resolution (for example legal provisions, considerations of equity, codes of conduct);

(j) any preliminary requirements the parties may have

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to meet before an ADR procedure can be instituted, including the requirement that an attempt be made by the consumer to resolve the matter directly with the trader;

(k) whether or not the parties can withdraw from the procedure;

(l) the costs, if any, to be borne by the parties, including any rules on awarding costs at the end of the procedure;

(m) the average length of the ADR procedure;

(n) the legal effect of the outcome of the ADR procedure, including the penalties for non-compliance in the case of a decision having binding effect on the parties, if applicable; and

(o) the enforceability of the ADR decision, if relevant:

Provided that the Council may from time to time require ADR entities to carry such information on such other means as it may consider appropriate.

(2) ADR entities shall make publicly available on their websites, on a durable medium upon request, and by any other means they consider appropriate, annual activity reports, which reports shall include the following information relating to both domestic and cross-border disputes:

(a) the number of disputes received and the types of complaints to which they related;

(b) any systematic or significant problems that occur frequently and lead to disputes between consumers and traders. Such information may be accompanied by recommendations as to how such problems can be avoided or resolved in future, in order to raise traders' standards and to facilitate the exchange of information and best practices;

(c) the rate of disputes the ADR entity has refused to deal with and the percentage share of the types of grounds for such refusal as referred to in regulation 6(1);

(d) the percentage share of ADR procedures which were discontinued and, if known, the reasons for their discontinuation;

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(e) the average time taken to resolve disputes;

(f) the rate of compliance, if known, with the outcomes of the ADR procedures; and

(g) cooperation of ADR entities within networks of ADR entities which facilitate the resolution of cross-border disputes, if applicable.

Effectiveness.

9. The Council shall ensure that ADR procedures are effective and that the said procedures fulfil the following requirements namely that:

(a) the ADR procedure is available and easily accessible online and offline to the parties irrespective of where they are;

(b) the parties have access to the procedure without being obliged to retain a lawyer or a legal advisor, but the procedure shall not deprive the parties of their right to independent advice or to be represented or assisted by a third party at any stage of the procedure;

(c) the ADR procedure is free of charge or available at a nominal fee for consumers;

(d) the ADR entity which has received a complaint notifies the parties to the dispute as soon as it has received all the documents containing the relevant information relating to the complaint; and

(e) the outcome of the ADR procedure is made available within a period of ninety (90) calendar days from the date on which the ADR entity has received the complete complaint file:

Provided that in the case of highly complex disputes, the ADR entity in charge may, at its own discretion, extend the ninety (90) calendar days' time period, in which case, the parties shall be informed of any extension of that period and of the expected length of time that will be needed for the conclusion of the dispute.

Fairness.

10. (1) An ADR entity shall ensure that in ADR procedures:

(a) the parties have the possibility, within a reasonable period of time, of expressing their point of view, of being

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provided by the ADR entity with the arguments, evidence, documents and facts put forward by the other party or parties, any statements made and opinions given by experts, and of being able to comment on them;

(b) the parties are informed that they are not obliged to retain a lawyer or a legal advisor, but they may seek independent advice or be represented or assisted by a third party at any stage of the procedure; and

(c) the parties are notified of the outcome of the ADR procedure in writing or on a durable medium, and are given a statement of the grounds on which the outcome is based.

(2) In ADR procedures which aim at resolving the dispute by proposing a solution, the ADR entity shall ensure that:

(a) the parties have the possibility of withdrawing from the procedure at any stage if they are dissatisfied with the performance or the operation of the procedure and in doing so shall ensure that the parties are informed of such a right before the procedure commences:

Provided that where the ADR procedure requires that the participation of the trader is mandatory this requirement shall only apply to the consumer;

(b) the parties, before agreeing or following a proposed solution, are informed that:

(i) they have the choice as to whether or not to agree to or follow the proposed solution;

(ii) participation in the procedure does not preclude the possibility of seeking redress through proceedings in a competent court or tribunal; and

(iii) the proposed solution may be different from an outcome determined by a competent court or tribunal applying legal rules;

(c) the parties, before agreeing to or following a proposed solution, are informed of the legal effect of agreeing to or following such a proposed solution; and

(d) the parties, before expressing their consent to a proposed solution or amicable agreement, are allowed a reasonable period of time to reflect.

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(3) Where ADR procedures provide that their outcome becomes binding on the trader once the consumer has accepted the proposed solution, sub-regulation (2) shall be read as applicable only to the consumer.

Liberty.

11. (1) An agreement between a consumer and a trader to submit complaints to an ADR entity is not binding on the consumer if it was concluded before the dispute has materialised and if it has the effect of depriving the consumer of his right to bring an action before the competent courts or tribunals for the settlement of the dispute.

(2) Where the ADR procedure aims at resolving the dispute by imposing a solution, then in such an instance the solution imposed may be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this:

Provided that specific acceptance by the trader is not required if the ADR procedure provides that solutions are binding on the trader.

Legality.

12. (1) In an ADR procedure which aims at resolving the dispute by imposing a solution on the consumer in a situation where there is no conflict of laws:

(a) the solution imposed shall not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State where the consumer and the trader are habitually resident;

(b) where the law applicable to the sales or service contract is determined in accordance with the provisions of Article 6(1) and (2) of Regulation (EC) No 593/2008, the solution imposed by the ADR entity shall not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State in which he is habitually resident; and

(c) where the law applicable to the sales or service contract is determined in accordance with the provisions of Article 5(1) to (3) of the Rome Convention of 19 June 1980 on the law applicable to contractual obligations, the solution imposed by the ADR entity shall not result in the consumer being deprived of the protection afforded to him by the mandatory rules of the law of the Member State in which he is habitually resident.

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(2) For the purposes of this regulation "habitual residence" shall be determined in accordance with Regulation (EC) No 593/2008.

Effect of ADR procedures on limitation and prescription periods.

13. Parties who, in an attempt to settle a dispute, have recourse to an ADR procedure the outcome of which is not binding on them, are not subsequently prevented from initiating judicial proceedings in relation to that dispute as a result of the expiry of limitation or prescription periods as provided for under national law during the ADR procedure:

Provided that this regulation shall be without prejudice to provisions on limitation or prescription contained in international agreements to which Malta is a party.

PART III

Information and Cooperation

Consumer information that a trader must provide.

14. (1) A trader shall inform consumers about the ADR entity by which he is covered, when he commits to or is obliged to use such an entity to resolve disputes with consumers:

Provided that such information shall include the website address of the relevant ADR entity and shall be provided in a clear, comprehensible and easily accessible way on the trader's website, where one exists, and, if applicable, in the general terms and conditions of sales or service contracts between the trader and the consumer.

(2) Where a dispute between a consumer and a trader cannot be settled further to a complaint submitted directly by the consumer to the trader, the trader shall provide the consumer with the information referred to in sub-regulation (1) specifying whether he makes use of the relevant ADR entity to settle the dispute:

Provided that such information shall be provided on paper or on another durable medium.

Assistance by the European Consumer Centre in Malta.

15. The European Consumer Centre Malta shall be responsible for assisting consumers to access ADR entities operating in another Member State which are competent to deal with their cross-border disputes with regard to disputes arising from cross-border sales or service contracts:

Provided that the Minister, after consultation with the Council, may by notice in the Gazette also require public entities involved in any aspect of consumer protection to provide such

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assistance to consumers in relation to the specific areas of consumer protection as may fall within their remit.

Publicity about ADR entities.

16. (1) ADR entities, the ECC Malta and where appropriate, any other entities as may be designated in accordance with regulation 15, shall make publicly available on their websites, by providing a link to the European Commission's website, and whenever possible on a durable medium at their premises, the list of ADR entities referred to in paragraph 4 of Article 20 of the Directive on consumer ADR.

(2) The Council shall encourage relevant consumer organisations and business associations to make publicly available on their websites, and by any other means they consider appropriate, the list of ADR entities referred to in paragraph 4 of Article 20 of the Directive on consumer ADR including the appropriate dissemination of information on how consumers can access ADR procedures for resolving disputes covered by these regulations.

Cooperation and exchanges of experience between ADR entities.

17. (1) ADR entities shall cooperate with each other in the resolution of cross-border disputes and shall conduct regular exchanges of best practices as regards the settlement of both cross-border and domestic disputes.

(2) Where a network of ADR entities facilitating the resolution of cross-border disputes exists in a sector-specific area, the Council shall encourage the ADR entities that deal with disputes in that area to become members of that network.

Cooperation between ADR entities and national authorities concerned with consumer protection.

18. (1) ADR entities and national public authorities entrusted with the enforcement of any aspect of consumer protection legislation shall cooperate with each other and exchange information on practices in specific business sectors about which consumers have repeatedly lodged complaints:

Provided that such information shall include the provision of technical assessment and information by such national public authorities to ADR entities where such assessment or information may be necessary for the handling of individual disputes and is already available.

(2) Any cooperation and information exchanges given in accordance with this regulation shall comply with national data protection legislation.

(3) This regulation shall be without prejudice to provisions on professional and commercial secrecy which apply to the national public authorities enforcing consumer protection legislation, and

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ADR entities shall be subject to rules of professional secrecy or other equivalent duties of confidentiality laid down under national legislation.

Notification of information by entity wishing to act as an ADR entity.

19. (1) An entity which wishes to act as an ADR entity in accordance with these regulations shall notify the Council with the following:

(a) its name, contact details and website address;

(b) information on its structure and funding including information on the natural persons in charge of dispute resolution, their remuneration, term of office and by whom they are employed;

(c) its procedural rules;

(d) its fees, if applicable;

(e) the average length of the dispute resolution procedures;

(f) the language or languages in which complaints can be submitted and the dispute resolution procedure conducted;

(g) a statement on the type of disputes covered by the dispute resolution procedure;

(h) the grounds on which the dispute resolution entity may refuse to deal with a given dispute in accordance with the provisions of regulation 6(1); and

(i) a reasoned statement on whether the entity qualifies as an ADR entity falling within the scope of these regulations and complies with the quality requirements set out in Part II of these regulations:

Provided that in the event of changes to the information referred to in paragraphs (a) to (h), the ADR entity concerned shall without undue delay notify those changes to the Council.

(2) An ADR entity shall communicate to the Council every two years information on:

(a) the number of disputes received and the types of complaints to which they related;

(b) the percentage share of ADR procedures which

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were discontinued before an outcome was reached;

(c) the average time taken to resolve the disputes received;

(d) the rate of compliance, if known, with the outcomes of the ADR procedures;

(e) any systematic or significant problems that occur frequently and lead to disputes between consumers and traders. The information communicated in this regard may be accompanied by recommendations as to how such problems can be avoided or resolved in future;

(f) where applicable, an assessment of the effectiveness of its cooperation within networks of ADR entities facilitating the resolution of cross-border disputes;

(g) where applicable, the training provided to natural persons in charge of ADR in accordance with regulation 7(4); and

(h) an assessment of the effectiveness of the ADR procedure offered by the entity and of possible ways of improving its performance.

Role of the Council.

20. (1) The Council shall assess, in particular on the basis of the information it has received in accordance with regulation 19(1), whether the dispute resolution entities notified to it qualify as ADR entities falling within the scope of these regulations and comply with the quality requirements set out in Part II of these regulations.

(2) The Council shall on the basis of the assessment referred to in sub-regulation (1), list all the ADR entities that have been notified to it and that fulfil the conditions set out in these regulations, which list shall include the following:

(a) the name, the contact details and the website addresses of the ADR entities referred to in this sub-regulation;

(b) their fees, if applicable;

(c) the language or languages in which complaints can be submitted and the ADR procedure conducted;

(d) the types of disputes covered by the ADR procedure;

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(e) the sectors and categories of disputes covered by each ADR entity;

(f) the need for the physical presence of the parties or of their representatives, if applicable, including a statement by the ADR entity on whether the ADR procedure is or can be conducted as an oral or a written procedure;

(g) the binding or non-binding nature of the outcome of the procedure; and

(h) the grounds on which the ADR entity may refuse to deal with a given dispute in accordance with regulation 6(1).

(3) The Council shall notify the list referred to in the sub-regulation (2) to the European Commission:

Provided that if any changes are notified to the Council in accordance with the proviso to regulation 19(1), that list shall be updated without undue delay and the relevant information notified to the European Commission.

(4) If a dispute resolution entity listed as ADR entity under these regulations no longer complies with the requirements referred to in sub-regulation (1), the Council shall contact that dispute resolution entity, stating the requirements the dispute resolution entity fails to comply with and requesting it to ensure compliance immediately:

Provided that if the dispute resolution entity after a period of three months still does not fulfil the requirements referred to in sub-regulation (1), the Council shall then remove the dispute resolution entity from the list referred to in sub-regulation (2), which list shall be updated without undue delay and the relevant information notified to the European Commission by the Council.

(5) By 9 July 2018, and every four years thereafter, the Council shall publish and send to the European Commission a report on the development and functioning of ADR entities, which report shall in particular:

(a) identify best practices of ADR entities;

(b) point out the shortcomings, supported by statistics, that hinder the functioning of ADR entities for both domestic and cross-border disputes, where appropriate; and

(c) make recommendations on how to improve the

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effective and efficient functioning of ADR entities, where appropriate.

PART IV

Enforcement and sanctions

Procedure when taking a regulatory measure.

21. (1) Unless provided otherwise in these regulations the Council, before proceeding to issue any regulatory measure including the imposition of any administrative penalty, shall write to the person concerned warning that person of the measure that may be taken and the specific reason why it may be taken, requiring him to cease or rectify his acts or omissions and, or to make his submissions thereto within such period, not being less than fifteen days, which period may be abridged if the Council considers that the continuance of the infringement impacts negatively the effective exercise by the Council of its regulatory functions and, or warrants its immediate intervention:

Provided that if the measure is an administrative penalty the person concerned shall also be informed of the amount of the penalty being considered:

Provided further that when issuing a warning under this regulation the Council may impose such conditions as it may consider reasonable in the circumstances.

(2) If the person concerned remedies the infringement within the period established by the Council, in accordance with sub-regulation (1), and agrees in writing to abide with any condition that the Council may impose, the Council may at its discretion desist from proceeding any further, this without prejudice to any regulatory measures that may have already been imposed.

(3) If, after the lapse of the period mentioned in sub-regulation (1), the Council considers that the person concerned has not given any valid reasons to demonstrate why no measure should be taken against him, the Council shall notify the person concerned in writing, specifying the nature of the infringement, stating the measure being taken, and if the measure is an administrative penalty, stating the amount of the administrative penalty being imposed.

(4) The notification as referred to in sub-regulation (3) shall, upon the expiry of the time limit for appeal therefrom upon the service of a copy thereof by means of a judicial act on the person indicated in the notice, constitute an executive title for all effects and the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure:

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Provided that if the person against whom the notice has been issued, files an appeal before the Appeals Tribunal in accordance with the applicable provisions of the Act and concurrently with or before the filing of his appeal requests the Appeals Tribunal to suspend the effects of the notice, then the Council shall desist from issuing a judicial act as referred to in this sub-regulation until such time as the request for suspension has been determined, withdrawn or otherwise dealt with.

(5) Interest at the rate of eight per cent *per annum* shall run as from the date set by the Council for the payment of any administrative penalty imposed by it in terms of these regulations. In cases where the Appeals 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 penalty is due, such penalty shall be due together with any interests accrued thereon as from the date originally set by the Council for payment including the period during which the payment of the said penalty was suspended.

(6) The Council shall give its reasons for any decision taken in accordance with this regulation.

Sanctions.

22. The Council shall ensure compliance with these regulations and in doing so shall take any such measures in accordance with its powers at law as it may consider appropriate in the circumstances, including the imposition of administrative penalties of not less than five hundred euro (€500) and not exceeding ten thousand euro (€10,000) and, or administrative penalties of not less than twenty euro (€20) but not more than one hundred euro (€100) for each day of non-compliance on any person who fails to abide with any requirements under these regulations or with any orders however so described as the Council may issue in accordance with these regulations.

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Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta — ***Published by the Department of Information (doi.gov.mt) — Valletta***
Mitbugħ fl-Istamperija tal-Gvern fuq karta riċiklata — ***Printed at the Government Printing Press on recycled paper***

Prezz/*Price*
€1.71