

SUBSIDIARY LEGISLATION 376.02**FINES AND PENALTIES FOR OFFENCES
REGULATIONS**

29th November, 2002

LEGAL NOTICE 357 of 2002, as amended by Legal Notices 386 of 2003 and 425 of 2007.

1. The title of these regulations is the Fines and Penalties for Offences Regulations. Citation.
2. In these regulations, unless the context otherwise requires - Interpretation.
"Act" means the Financial Institutions Act; Cap. 376.
"competent authority" means the body nominated under article 12(1) of the Act; and
"Financial Institutions Directive" means any directive issued by the competent authority under article 13(2) of the Act;
"Tribunal for Financial Services" means the Financial Services Tribunal established under article 21(1) of the Malta Financial Services Authority Act. Cap. 330.
3. (1) Any person found guilty of an offence for having Penalty.
contravened a provision of the Act appearing in the first column of the First Schedule shall be liable to the payment of the corresponding fine (*multa*) laid down in the second column of the said Schedule or to the corresponding period of imprisonment laid down in the third column thereof or to both such fine and imprisonment.
- (2) Without prejudice to any regulatory provisions of the Act and to any regulatory provision under any other law, for any failure by any person to comply with a provision of the Act appearing in the first column of the Second Schedule consisting in the corresponding act or omission described in the second column thereof, the competent authority may impose by way of an administrative penalty, the corresponding sum appearing in the third column of the said Schedule.
4. (1) Any person may appeal to the Financial Services Appeal.
Tribunal against any decision of the competent authority imposing upon him an administrative penalty in accordance with the provisions of regulation 3(2).
- (2) Subject to the provisions of subregulation (3), the provisions of article 21 of the Act shall apply *mutatis mutandis* to any appeal made under this regulation.
- (3) Any appeal under this regulation shall, in all cases, suspend the execution of the decision appealed from and the decision of the Financial Services Tribunal on any such appeal shall be final.

Amended by:
L.N. 386 of 2003.
Substituted by:
L.N. 425 of 2007.

FIRST SCHEDULE

Regulation 3(1)

Penalties which are enforceable by prosecution in the courts of Malta

First Column Provision	Second Column Fine (<i>Multa</i>)	Third Column Imprisonment
Art 22(1) unless otherwise specified hereunder	not less than €931.75 but not more than €232,937.34	not less than three months but not more than one year
Art 22(1)(a) with reference to Art 3(1)	not less than €4,658.75 but not more than €465,874.68	not less than six months but not more than one year
Art 22(1)(a) with reference to Art 8(2)	not less than €232.94	
Art 22(1)(a) with reference to Art 9(2)	not less than €232.94	
Art 22(1)(a) with reference to each failure under Art 14(8) and (11)	not less than €93.17 but not more than €931.75	not less than one week but not more than one month
Art 22(1)(a) with reference to Art 22(1) and (2)	not less than €465.87 but not more than €9,317.49	not more than two months
Art 22(1)(a) with reference to Art 25(2)	not less than €465.87 but not more than €9,317.49	not more than two months
Art 22(1)(c)	not less than €465.87 but not more than €4,658.75	
Art 22(1)(d)	not less than €465.87 but not more than €4,658.75	
Art 22(1)(e)	not less than €465.87 but more than €4,658.75	
Art 22(1)(f)	not less than €93.17 but not more than €9,317.49	not less than one month but not more than one year

Any person found guilty of an offence under any other provision of the Act or any regulations made thereunder which is not specifically provided for in this Schedule, shall be liable to a fine of not less than €232.94 and not more than €23,293.73 or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment together.

SECOND SCHEDULE

Regulation 3(2)

*Amended by:
L.N. 386 of 2003.
Substituted by:
L.N. 425 of 2007.*

Administrative penalties which may be imposed by the competent authority
without recourse to a court hearing

First Column Provision	Second Column Act or Omission	Third Column Penalty
Art 22(1)(a) with reference to Art 3(3)	failure to pay licence fee	€23.29 per week or part thereof
Art 22(1)(a) with reference to Art 5(1)(a)	failure of own funds of financial institution to attain prescribed level within period determined by competent authority	€46.59 per week or part thereof
Art 22(1)(a) with reference to Art 7A	failure to notify competent authority of change in information	€23.29 per week or part thereof
Art 22(1)(a) with reference to Art 8	failure to inform competent authority of opening of new branch, etc., in Malta or abroad	€232.94
Art 22(1)(a) with reference to Art 14	failure to notify the competent authority with the required particulars or information	€232.94 for every week or part thereof the failure continues
Art 22(1)(a) with reference to Art 10	prohibited transactions by financial institution	€116.47 for every week or part thereof the transaction continues
Art 22(1)(a) with reference to Art 18(1)	failure to appoint auditor	€232.94 for every reference to week or part thereof the failure continues
Art 22(1)(a) with reference to Art 18(3)	failure to give notice as required	€11.65 for every week or part thereof the failure continues
Art 22(1)(a) with reference to Art 18(4)	failure to change auditors	€232.94 for every week or part thereof the failure continues
Art 22(1)(a) with reference to Art 24	disqualified officer who acts or continues to act as officer of financial institution	€232.94 for every week or part thereof the failure continues
Art 22(1)(b)	failure to abide with the conditions or restrictions of a licence	€93.17 for every week or part thereof the failure continues

Any person who breaches any other provision of the Act or any rules or regulations made thereunder or any directives, and which may give rise to the imposition of an administrative penalty not otherwise specifically provided for in this Schedule, shall be liable to a penalty of not less than €232.94 and not more than €23,293.73 or to a penalty of up to €232.94 for every week (or part thereof) the contravention continues, or to both such penalties, as the case may be.