SUBSIDIARY LEGISLATION 545.19

AUTHORISATIONS (SUSPENSION, REFUSAL AND REVOCATION) REGULATIONS

22nd August, 2008

LEGAL NOTICE 195 of 2008, as amended by Acts XXXIV of 2014 and XXV of 2015; and Legal Notice 80 of 2016.

1. The title of these regulations is the Authorisations (Suspension, Refusal and Revocation) Regulations. Citation.

2. (1) Unless stated otherwise in these regulations, the definitions in the Act shall apply. Interpretation. *Amended by: XXV. 2015.41; L.N. 80 of 2016.*

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

"the Act" means the Regulator for Energy and Water Services Act; Cap. 545.

"applicant" means a person who has submitted an application for the issue or transfer to him of an authorisation and in the case of a legal person shall also include any other person who has a controlling or beneficial interest in that person;

"authorised provider" means any person who holds a valid authorisation to operate, provide or carry out any activity or operation or service however so described relating to energy or water and in the case of a legal person also includes any natural or legal person who has a controlling interest in that person.

3. These regulations shall apply to any natural or legal person, who applies to the Regulator for the issue, transfer or renewal of an authorisation, to carry out any operation or activity relating to energy or water. Applicability. *Amended by: XXV. 2015.41; L.N. 80 of 2016.*

4. Applicants and authorised providers applying to the Regulator for the issue, transfer or renewal of an authorisation shall provide the Regulator with all relevant information as may be required by the Regulator for the purpose of satisfying itself that the applicant or the authorised provider is a fit and proper person to hold an authorisation. Filing of information. *Amended by: XXV. 2015.41.*

5. (1) The Regulator may refuse the application for the issue or transfer of an authorisation, and in the case of a renewal of an authorisation, suspend or revoke an authorisation, if an applicant for the issue of an authorisation or an authorised provider has - Refusal of application, suspension or revocation of an authorisation. *Amended by: XXXIV. 2014.18; XXV. 2015.41.*

(*a*) contravened any provision of, or committed an offence against -

(i) the Act, any regulations prescribed thereunder, any subsidiary legislation prescribed under any of the provisions of the Petroleum (Importation, Storage and Sale) Ordinance, the Enemalta (Transfer of Assets, Rights, Liabilities and Obligations) Act or the Water Services Corporation Act or any regulations kept in force Cap. 25. Cap. 536. Cap. 355.

by virtue of the provisions of any of the aforesaid Acts or deemed to have been issued thereunder, or of any other law for which the Regulator is the competent authority;

Cap. 378. Cap. 379. Cap. 386.

(ii) the Consumer Affairs Act, the Competition Act, the Companies Act, or any regulations prescribed thereunder;

Cap. 465. Cap. 454.

(iii) the Public Health Act or the Metrology Act; or

(*b*) committed a voluntary criminal offence liable to a punishment of imprisonment for at least one year.

(2) When making a decision under subregulation (1), the Regulator shall take into account -

(*a*) the seriousness of, and circumstances surrounding the offence or the contravention;

(*b*) the explanation offered by the convicted person;

(*c*) the relevance of the offence to the proposed role in the case of an application for an authorisation or for the transfer thereof and the relevance to the authorisation in the case of an authorisation already issued by the Regulator or deemed to have been issued by the Regulator;

(*d*) the passage of time since the offence was committed and evidence of the individual's rehabilitation:

Provided that the Regulator, when considering whether an applicant for the issue or transfer of an authorisation or for a renewal of an authorisation, is a fit and proper person to be a holder thereof, the Regulator shall also have regard to the following matters:

(i) any evidence of actual harm or detriment to other authorised providers or consumers;

(ii) evidence pointing to risks to authorised providers and consumers from dealings with the applicant or the authorised provider.

Sub judice proceedings. *Amended by: XXV. 2015.41.*

6. (1) Where criminal proceedings in respect of an offence to which regulation 5 refers are pending *sub judice* against an applicant or an authorised provider, the Regulator may suspend an authorisation or the consideration of an application for an authorisation or for the transfer of an authorisation during the time when the said proceedings are pending.

(2) In considering whether to take any action under this regulation, the Regulator shall act in accordance with the criteria listed in regulation 5(2).