

SUBSIDIARY LEGISLATION 545.42

DATA CENTRES (SUSTAINABILITY REPORTING OBLIGATIONS) REGULATIONS

28th November, 2025

LEGAL NOTICE 271 of 2025.

1. (1) The title of these regulations is the Data Centres (Sustainability Reporting Obligations) Regulations. Citation and scope.

(2) The scope of these regulations is to transpose Article 12 and Article 26(6) of Directive (EU) 2023/1791 of the European Parliament and of the Council of 13 September 2023 on energy efficiency and amending Regulation (EU) 2023/955 (recast).

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

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

"co-hosting customer" means a physical or legal person who obtains access to a network or networks, servers, and storage equipment in a co-hosting data centre on which they operate their own services and applications;

"co-hosting data centre" means a data centre in which one (1) or more customers are provided with access to network or networks, servers, and storage equipment on which they operate their own services and applications and where both the information technology equipment and the support infrastructure of the building are provided as a service by the data centre operator;

"co-hosting data centre operator" means a physical or legal person who manages the co-hosting data centre space, security, network access, power, cooling, network or networks, servers, and storage equipment, and part of the necessary software to deliver information technology services to one (1) or more customers, including information technology outsourcing;

"colocation customer" means a physical or legal person who owns and manages one (1) or more networks, servers and storage equipment located in a colocation data centre in which they purchase managed space, power, and cooling capacity;

"colocation data centre" means a data centre in which one (1) or more customers install and manage their own network or

networks, servers and storage equipment and services;

"colocation data centre operator" means a physical or legal person who manages and sells space, security, network access, power and cooling capacity in the entire colocation data centre to one (1) or more customers who install and manage their own network or networks, servers and storage equipment and services;

"Commission" means the European Commission;

"Commission Delegated Regulation" means the Commission Delegated Regulation (EU) 2024/1364 of 14 March 2024 on the first phase of the establishment of a common Union rating scheme for data centres adopted in accordance with Article 33(3) of the Directive;

"data centre" means a structure or a group of structures used to house, connect and operate computer systems and, or servers and associated equipment for data storage, processing and, or distribution, as well as related activities;

"data centre computer room floor area" means the total floor area within the data centre that accommodates the data processing, data storage and telecommunication equipment that provide the information technology services of the data centre;

"data centre operator" means enterprise data centre operator, colocation data centre operator or co-hosting data centre operator;

"data centre total floor area" means the total floor area of all floors of the structure or group of structures that constitute the data centre;

"Directive" means Directive (EU) 2023/1791 of the European Parliament and of the Council of 13 September 2023 on energy efficiency and amending Regulation (EU) 2023/955 (recast);

"enterprise data centre" means a data centre that is operated by an enterprise, and of which the sole purpose is to deliver and manage the information technology needs of the enterprise;

"enterprise data centre operator" means a physical or legal person who manages the entire enterprise data centre, including the building and the use of the information technology services delivered;

"European Database on data centres" means the database

established by the European Commission in accordance with Article 12(3) of the Directive, which is intended for the collection of information to be communicated by obligated data centres in conformity with any delegated Act adopted by the Commission in accordance with Article 33(3) of the Directive;

"installed information technology power demand" means the sum of the nominal power demand, in kW, of the network or networks, servers and storage equipment installed in the data centre computer room floor area;

"Malta" shall have the same meaning as assigned to it in article 124 of the Constitution of Malta;

"obligated data centres" means all data centres located in Malta, including co-hosting data centres, colocation data centres and enterprise data centres, having an installed information technology power demand of at least five hundred kilowatts (500kW).

(2) Unless the context otherwise requires, words and phrases used in these regulations which are not defined in this regulation shall have the same meaning as assigned to them in the Energy Efficiency Regulations.

S.L. 545.33.

3. (1) Owners and operators of obligated data centres shall, by the 15th May of every year, make publicly available the information set out in the First Schedule.

Data centres reporting obligation.

(2) The reporting obligation referred to in sub-regulation (1) shall not apply to those data centres used for, or which provide their services exclusively with the final aim of defence and civil protection.

(3) The obligation referred to in sub-regulation (1) shall be satisfied through the publishing of the form available in Part B of the First Schedule.

4. (1) Operators of obligated data centres shall monitor and communicate to the European database on data centres any information and key performance indicators required by the Commission Delegated Regulation, and any other delegated act adopted by the Commission in accordance with Article 33(3) of the Directive.

Obligation to report in the Commission European database on data centres.

(2) Operators of obligated data centres shall, by the 15th May of each year, communicate to the European database with regard to the obligations of data centres described.

5. Data centre operators shall put in place any arrangements which may be necessary for the obtaining of information from customers or third parties, including with colocation data centre

Information required from third parties.

customers and co-hosting data centre customers, as the case may be, which are required to ensure timely compliance with the obligations referred to in regulations 3 and 4.

Obligation of
waste heat
utilisation.

6. (1) Data centre operators with a total rated energy input exceeding one megawatt (1MW) shall, following the 11th October 2025, utilise the waste heat or other waste heat recovery applications, unless they can demonstrate that it is not technically or economically feasible in accordance with the assessment referred to in sub-regulation (2).

(2) Data centres operators shall carry out an installation level cost-benefit analysis in accordance with Part A of the Second Schedule in order to assess, at a minimum, technical feasibility, cost-efficiency and the impact on energy efficiency and local heat demand, including seasonal variation, of utilising waste heat to satisfy economically justified demand, and of the connection of such installation to a district heating network or to an efficient or renewable energy source-based district cooling system, or other waste heat recovery applications.

(3) The analysis referred to in sub-regulation (2) shall be carried out whenever a data centre with a total rated energy input exceeding one megawatt (1MW) is newly planned or substantially refurbished and shall consider cooling system solutions that allow removing or capturing the waste heat at useful temperature level with minimal ancillary energy inputs.

(4) Within six (6) months of the conclusion of a cost-benefit analysis carried out in accordance with sub-regulation (2), the data centre operator or the developer, as the case may be, shall communicate the information listed in Part B of the Second Schedule to the Regulator.

(5) Any data centres whose waste heat is used or shall be used in a district heating network or directly for space heating, domestic hot water preparation or other uses in the building or group of buildings or facilities where it is located shall be exempt from the application of this regulation:

Provided that such exemption may be subject to thresholds set by the Regulator, expressed in terms of the amount of available useful waste heat.

Obligations
without prejudice
to other
obligations.

7. The obligations arising from regulations 3(1), 4(1) and 5 are not intended to replace, and shall be without prejudice to any other obligations which may be applicable to data centres as they may arise out of any other law such as obligations in relation to the implementation of an energy management system, the drawing up of an action plan based upon the recommendations emanating from obligatory energy audits, and the publication thereof in the annual

report of the enterprise having any obligations in accordance with these obligations.

8. (1) The Regulator may impose an administrative penalty upon any person who breaches any provision of these regulations or who fails to comply with any directive or decision given by the Regulator in ensuring compliance with these regulations. Administrative penalty.

(2) An administrative penalty imposed in accordance with sub-regulation (1) shall not exceed five thousand euro (€5,000) for each breach.

9. For the purposes of an appeal in respect of a decision of the Regulator and an administrative penalty, Part VI of the Act shall apply *mutatis mutandis*. Right of appeal.

10. Any person who:

(a) wilfully or through negligence acts in breach of any provision of these regulations; Offences and penalties.

(b) fails to comply with any lawful order in relation to these regulations; or

(c) makes a declaration or submits information for any purpose of these regulations which is false, misleading or incorrect in any material respect,

shall be guilty of an offence against these regulations and shall on conviction be liable to a fine (*multa*) of not more than ten thousand euro (€10,000).

FIRST SCHEDULE (regulation 3)

Part A

Minimum requirements for Monitoring and Publishing the Energy Performance of Data Centres

The following minimum information shall be monitored and published with regard to the energy performance of data centres referred to in regulation 3:

(a) the name of the data centre, the name of the owner and operators of the data centre, the date on which the data centre started its operations and the locality where the data centre is based;

(b) the floor area of the data centre, the installed

power, the annual incoming and outgoing data traffic, and the amount of data stored and processed within the data centre;

(c) the performance, during the last full calendar year, of the data centre in accordance with key performance indicators about, *inter alia*, energy consumption, power utilisation, temperature set points, waste heat utilisation, water usage and use of renewable energy.

Part B

Data Centre General Information	
Name of the Data Centre	
Data Centre Owner(s)	
Data Centre Operator(s) (if different from owner(s))	
Date on which the Data Centre commenced operations	
Locality of the Data Centre	
Data Specific to the Reporting Period	
Reporting Period Start Date	
Reporting Period End Date	
Data Centre floor area	
Installed Power	
Annual Data Traffic - Incoming	
Annual Data Traffic - Outgoing	
Amount of Data Stored within Data Centre	
Amount of Data Processed within Data Centre	
Energy Consumption	
Power Utilisation	
Temperature Set Points	
Waste Heat Utilisation	
Water Consumption	
Renewable Energy used	

Information which is subject to European Union and Maltese laws protecting trade and business secrets and confidentiality shall not be made publicly available by the data centre. This information shall be marked as confidential in any submissions made in satisfaction of the obligations in accordance with these regulations.

SECOND SCHEDULE

(regulation 6)

Part A

Cost-Benefit Analysis

Cost-benefit analysis shall provide information for the purpose of the measures referred to in regulation 6 as follows:

1. If an installation without heat recovery is planned, a comparison shall be made between the planned installation or the planned refurbishment and an equivalent installation producing the same amount of process heat, but recovering the waste heat and supplying heat through a district heating and cooling network.

2. Within a defined geographical boundary, the assessment shall take into account the planned installation and any appropriate existing or potential heat or cooling demand points that may be supplied from it, taking into account rational possibilities, for example, technical feasibility and distance.

3. The system boundary shall be set to include the planned installation and the heat and cooling loads, such as buildings and industrial process. Within this system boundary the total cost of providing heat shall be determined for both cases and compared.

4. Heat or cooling loads shall include existing heat or cooling loads, such as an industrial installation or an existing district heating or cooling system and also in urban areas, the heat or cooling load and costs that would exist if a group of buildings or part of a city were provided with or connected into a new district heating or cooling network, or both.

5. Cost-benefit analysis shall be based on a description of the planned installation and the comparison installations and shall cover thermal capacity, planned usage and the number of planned operating hours every year, location and thermal demand.

6. An assessment of waste heat utilisation shall take into consideration current technologies. The assessment shall take into consideration the direct use of waste heat or its upgrading to higher temperature levels, or both. In the case of waste heat recovery on-site, at least the use of heat exchangers, heat pumps, and heat to power technologies shall be assessed. In the case of waste heat recovery off-

site, at least industrial installations, agriculture sites and district heating networks shall be assessed as potential demand points.

7. For the purpose of the comparison, the thermal energy demand and the types of heating and cooling used by the nearby heat or cooling demand points shall be taken into account. The comparison shall cover infrastructure related costs for the planned and comparison installation.

8. Cost-benefit analysis for the purposes of regulation 6 shall include an economic analysis covering a financial analysis reflecting actual cash flow transactions from investing in, and the operating of, individual installations.

9. Projects with positive cost-benefit outcome are those where the sum of discounted benefits in the economic and financial analysis exceeds the sum of discounted costs (cost-benefit surplus).

10. The cost-benefit analysis shall be carried out in line with any further guiding principles which may be published for this purpose in relation to the methodology, assumptions and timelines for the economic analysis.

Part B

Information to be supplied within six (6) months of the completion of the cost-benefit analysis

1. Data on the amount of available heat supply and heat parameters.
 2. Number of planned operating hours every year.
 3. Geographical location of the site.
-