

SUBSIDIARY LEGISLATION 546.02
BUSINESS REGISTER AND INFORMATION
SHARING REGULATIONS

8th January, 2021

LEGAL NOTICE 430 of 2020.

1. (1) The title of these regulations is the Business Register and Information Sharing Regulations. Citation and scope.

(2) These regulations establish:

(a) a Registrar for Business whose responsibility shall be the administration of the Business Register;

(b) a Business Register which records all businesses established in Malta and the assignment of a unique machine-readable identifier for every business whose details are recorded in the Business Register; and

(c) a Business Portal which will facilitate sharing of business information between public sector bodies and between public sector bodies and businesses.

(3) These regulations provide for measures which are necessary for giving full effect to the Act by facilitating the sharing of commonly used business data between public sector bodies.

(4) These regulations also provide for the establishment and maintenance of a business profile within which businesses may store information relative to their activities and share them with public sector bodies as may be necessary from time to time.

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

"Act" means the Re-Use of Public Sector Information Act; Cap. 546.

"data generator" means any person, undertaking or public body responsible for generating and updating business-related information and data which is to be shared with other public entities;

"data manager" means a natural person appointed by the owners of an undertaking, by board resolution in the case of a company, to manage the daily affairs of the undertaking and who is made responsible for the updating of the particulars of the undertaking in the Register; in the case of a sole trader, the data manager shall be the sole proprietor himself, and in the case of a partnership, the data manager shall be one of the partners, unless, in both cases, a person is specifically appointed to fulfil such function;

- S.L. 546.01. "data owner" shall have the same meaning as is assigned to it in the Organisational Structures for Data Sharing and Re-Use Regulations;
- S.L. 546.01. "data-sharing" shall have the same meaning as is assigned to it in the Organisational Structures for Data Sharing and Re-Use Regulations;
- "director" includes any person occupying the position of director of a company by whatever name that position may be called carrying out substantially the same functions in relation to the running of the company as those carried out by a director;
- "established in Malta" means the head office, agency, or branch or part of a business;
- "General Data Protection Regulation" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);
- "information" shall also include data;
- S.L. 546.01. "information system" shall have the same meaning as is assigned to it in the Organisational Structures for Data Sharing and Re-Use Regulations;
- Cap. 386. "limited liability company" means a company duly formed and registered under Part V of the Companies Act;
- "name", in relation to an individual, means that individual's first name or names and surname;
- S.L. 546.01. "official record" shall have the same meaning as is assigned to it in the Organisational Structures for Data Sharing and Re-Use Regulations;
- S.L. 546.01. "official register" shall have the same meaning as is assigned to it in the Organisational Structures for Data Sharing and Re-Use Regulations;
- "open data" shall have the same meaning as is assigned to it in the Organisational Structures for Data Sharing and Re-Use Regulations 2020;
- "owner" means the ultimate beneficiary natural person who, directly or indirectly, has a shareholding or other interest in a business;

"partnership" means a partnership *en nom collectif* or partnership *en commandite* duly formed and registered in terms of Part III and Part V of the Companies Act; Cap. 386.

"public limited company" means a company duly formed and registered under Part V of the Companies Act; Cap. 386.

"public sector body" shall have the same meaning as is assigned to it in the Organisational Structures for Data Sharing and Re-Use Regulations; S.L. 546.01.

"prescribed" means prescribed by regulations made or deemed to have been made under the Act, and where no regulation is in force in respect of a matter which may or is to be prescribed, means determined, approved or allowed by the Minister;

"Register of Registers" means the Register established under Part V of the Organisational Structures for Data Sharing and Re-Use Regulations; S.L. 546.01.

"the Registrar" means a person who is appointed to assign the unique identifier to each undertaking and to administer the Register of Businesses according to these regulations and appointed by virtue of regulation 3;

"the Regulator" means the regulatory authority for the purposes of the Act as defined in the Organisational Structures for Data Sharing and Re-use Regulations; S.L. 546.01.

"undertaking" or "business" means any entity engaged in an economic activity, that is an activity consisting in offering goods or services on a given market, regardless of its legal status and the way in which it is financed; an undertaking listed in the Register can be either -

(a) a commercial partnership formed and registered under the Companies Act or formed and registered under the Commercial Partnerships Ordinance where applicable; or Cap. 386.
Cap. 168.

(b) a self employed person as defined in the Employment and Industrial Relations Act; or Cap. 452.

(c) a co-operative society as defined in the Co-operatives Societies Act; or Cap. 442.

(d) any other economic activity:

Provided that "undertaking" or "business" shall also include entrepreneurs and, or business entities that may apply for certain incentives, although not yet incorporated in Malta, but who may be taxed in Malta on the basis of their operation, in accordance with the

relative legislation then in force;

S.L. 546.01. "unique identifier" shall have the same meaning as is assigned to it in the Organisational Structures for Data Sharing and Re-Use Regulations.

Establishment of Business Register and Business Registrar.

3. (1) There shall be established a Business Register which shall contain therein the business profile of every undertaking operating in and from Malta; the details to be stored and maintained for every business profile shall be in accordance with the list contained in the Schedule 1.

(2) There shall be appointed, by the Minister responsible for the registration of commercial partnerships, a Registrar for Business, hereinafter referred to as "the Registrar", whose responsibility shall be the drawing up, and regular updating, of the Business Register in accordance with the provisions of these regulations.

Cap. 386.

(3) The functions and duties of the Registrar shall be performed by the Registrar of Companies and Other Commercial Partnerships appointed under the provisions of article 400 of the Companies Act:

Provided that the Registrar may, with the approval of the Minister, delegate any or all of his administrative functions to an authorised entity.

Unique identifier.

4. (1) The Registrar shall assign a unique identifier to every undertaking established in Malta and listed in the Register, for the purpose of uniquely identifying the undertaking.

(2) The unique identifier shall be the identifier to be quoted by an undertaking whenever it carries out any transaction with any public sector body; and the public sector body shall use the same identifier in any related activity.

Access to register information on the Register.

5. (1) The Register shall be accessed by authorised users who are employees or contractors acting for and on behalf of a public sector body, which body shall be responsible for the manner in which the data from the Register is used within such public sector body.

(2) Unless otherwise authorised by the Regulator, the general public shall have access to the information as included in Schedule 2, as this may be amended, substituted or updated by the Registrar from time to time.

(3) Any interested party may, in writing, contest with the Regulator, the information in the business profile.

Business portal.

6. (1) There shall be established, by the Registrar or

his delegate, a business portal the function of which shall be the facilitation of the management, updating and sharing of business information across public sector bodies, as well as the regulation of the access thereto, through the management of the business profile.

(2) There shall also be appointed, by the Minister responsible for the registration of commercial partnerships, a person whose responsibility shall be the administration of the business portal in accordance with the provisions of these regulations.

(3) The portal shall be designed in such manner as to enable undertakings, and owners of data related thereto, to interact; data submitted through the portal to one stakeholder shall be deemed to have been submitted to other users listed in Schedules 1 and 3.

(4) The information that may be shared through the business portal and the data owners of each data field in the business portal is listed in Schedule 3.

7. (1) The undertakings have the responsibility to ensure that the information in the business profile shall be kept correct and updated.

Responsibilities of undertakings.

(2) In the case where an undertaking has ceased operations, or is otherwise in breach of these regulations, the data manager or owner, as the case may be, of the undertaking shall be bound to update the status of the business profile accordingly, within one month of the date of such end of operations or the occurrence of such breach.

(3) Where a public sector body has reasonable cause to believe that the undertaking has actually ceased operations, or is otherwise in breach of these regulations, the public sector body shall inform the Regulator accordingly who shall have the right to update the business profile accordingly:

Provided that the data owner may contest the change by submitting proof to the contrary; the data owner shall have the right, once the change has been proved to be incorrect and the Regulator has authorised it, to change the incorrect entry himself and inform the public sector body accordingly.

8. (1) Data owners of public sector bodies shall have the responsibility to:

Responsibilities of data owners (public sector bodies).

(a) maintain their records and, or data fields listed in the Schedule 3 and ensure that the information they supply through the business portal reflects the true and updated information;

(b) install software products and tools that shall be

used to enable the ‘machine to machine’ communication of information that may be allowed to be shared or re-used on the basis of these regulations; and

(c) indicate in their correspondence with undertakings listed in the Register, whether electronically or otherwise, the unique identifier of every undertaking included in the Register and in respect of which a record is required to be kept.

Obligation to link to business portal.

9. (1) Public sector bodies responsible for official registers as included in the Register of Registers and which are identified as having common business data as listed in Schedule 3 shall link to the business profile through the unique identifiers in order to establish a connection between the locally stored records and the centrally maintained business identifier:

Provided that the links established between official registers enabling interoperability and re-use of data shall remain under the control and full visibility of the source data owner and access to such data shall only be permitted as described under these regulations or in any other relevant legislation.

(2) The public sector body responsible for an official register holding business data shall be obliged to provide data to other registers in accordance with the law regulating the official registers concerned and in line with the links established under the Schedule 3.

Sharing of data.
Cap. 546.
Cap. 586.

10. (1) For the purposes of the Act, and in accordance with the Data Protection Act and the General Data Protection Regulation, information relating to the undertakings listed and contained in the business profile shall be shared through the business portal on a ‘needs only’ basis at the discretion of the Regulator.

(2) Notwithstanding any other enactment, public sector bodies shall share and use information relating to business amongst themselves for the purpose of discharging their functions.

(3) No public sector body shall disclose to a third party any information obtained pursuant to sub-regulations (1) or (2).

Basis for sharing of data.

11. The sharing and re-use of data through the business portal shall be based on the following Schedules and the pertinent rules described hereunder:

(a) Schedule 1 shall contain the full list of data elements that make up the Business Register and which are stored and maintained by the Registrar;

(b) Schedule 2 shall contain the list of data elements from Schedule 1 which are to be made available as

open data; and

(c) Schedule 3 shall contain the full list of data elements maintained by any other public sector body and a list of public administration processes with links between a process and a dataset, and containing also a justification for the access and re-use of such data.

12. (1) For the purposes of these regulations all undertakings listed in the Business Register shall be considered as business undertakings for data protection reasons.

General Data
Protection
Regulation.

(2) For the avoidance of any doubt, an individual who is a self-employed person and who is registered under these regulations shall be considered a business undertaking and therefore all data relating to the business may be shared and accessed by public entities subject to the provisions of this regulation and regulation 10.

13. (1) The Regulator shall receive reports and claims from any public sector body on violations of these regulations, and shall take such remedial action as he may deem necessary or as may be prescribed under these regulations, and shall inform the persons and undertaking concerned and the users of the Register of the outcome of his decision.

Remedial action.

(2) Any person aggrieved by the decision of the Regulator under this regulation may appeal to the Administrative Review Tribunal set up under article 5(1) of the Administrative Justice Act.

Cap. 490.

14. (1) No action shall lie against the Registrar or any of his officers or employees, or against any public sector body, or any authorised entity delegated under regulation 3(3), providing information under these regulations, in respect of any act done or omitted to be done in good faith by the Registrar, any of his officers or employees, public sector body or authorised entity in the execution of their functions under these regulations.

Aggrieved persons.

(2) Where the Registrar furnishes, electronically or otherwise, information relating to an undertaking registered under these regulations to any other person, neither the Registrar nor any of his officers or employees who are involved in the supply of such information shall be liable for any loss or damage suffered by any person, by reason of any error or omission, of whatever nature or however caused, if the error or omission is made in good faith and in the ordinary course of the discharge of the duties of the Registrar or officer or employee, or has occurred or arisen as a result of any defect or breakdown in the service or in any of the equipment used for the service.

15. Any person or public sector entity aggrieved by the decision of the Regulator under these regulations may appeal to the

Right of appeal.

Administrative Review Tribunal set up under article 5(1) of the Administrative Justice Act.

Breach of regulations.

16. Any person who contravenes any of the provisions of these regulations shall be guilty of an offence and shall, on conviction, be liable to such penalties as may be prescribed.

Infringements committed by a body corporate.

17. Where an infringement of any provision of these regulations is committed by a body corporate and is proved to have been committed with the consent or involvement of, or to be attributable to any gross negligence on the part of, a person being a director, manager, secretary or other officer howsoever described of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be liable to be proceeded against and liable to punishment as if he was responsible for the said infringement.

Schedule 1

[(Regulations 3(1), 6(3) and 11(1)(a)]

Full list of data elements that make up the Business Register and which are stored and maintained by the Registrar

[https://open.data.gov.mt/
search_all.html?id=53042&key=Subordinates](https://open.data.gov.mt/search_all.html?id=53042&key=Subordinates)

Schedule 2

[(Regulations 5(2), 6(4), 8(1)(a) and 11(1)(b)]

List of data elements from Schedule 1 which are to be made available as open data

[https://open.data.gov.mt/
search_all.html?id=53043&key=Subordinates](https://open.data.gov.mt/search_all.html?id=53043&key=Subordinates)

Schedule 3

[(Regulations 6(3), 9(1) and (2) and 11(1)(c)]

Full list of data elements maintained by any other public sector body
and list of public administration processes with links between a
process and a dataset

[https://open.data.gov.mt/
search_all.html?id=53044&key=Subordinates](https://open.data.gov.mt/search_all.html?id=53044&key=Subordinates)
