

L.N. 404 of 2018

**FINANCIAL ADMINISTRATION AND AUDIT ACT
(CAP. 174)**

Electronic Invoicing in Public Procurement Regulations, 2018

IN EXERCISE of the powers conferred by article 4 of the Financial Administration and Audit Act, the Minister responsible for Finance has made the following regulations:-

1. (1) The title of these regulations is the Electronic Invoicing in Public Procurement Regulations, 2018. Title and commencement.

(2) These regulations implement certain provisions of Directive 2014/55/EU of the European Parliament and of the Council of 16th April 2014 on electronic invoicing in public procurement.

(3) These regulations shall come into force on the 27th November 2018.

(4) By way of derogation from sub-regulation (3), contracting authorities and contracting entities shall, by not later than 18th April 2019, adopt, publish and apply the provisions necessary to comply with the obligation contained in regulation 5 to receive and process electronic invoices.

(5) By way of derogation from sub-regulation (3), sub-central contracting authorities and contracting entities shall, by not later than the 18th April 2020, adopt, publish and apply the provisions necessary to comply with the obligation contained in regulation 5 to receive and process electronic invoices.

(6) Where Malta considers that any future update or revision of the European standard on electronic invoicing made by the European Commission does not entirely satisfy the requirements set out in Article 3(1) of Directive 2014/55/EU, it shall inform the European Commission thereof with a detailed explanation.

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

"contracting authorities" means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, but for the purpose of the Concession Contract Regulations only 'contracting authorities' S.L. 174.10.

shall have the meaning assigned to it in regulation 2 of those regulations;

S.L. 174.08. "contracting entities" means contracting entities as defined
S.L. 174.10. in regulation 2 of the Public Procurement of Contracting
S.L. 174.06. Authorities or Entities in the fields of Defence and Security
Regulations, sub-regulation (2) of regulation 2 of the Concession
Contract Regulations and sub-regulation (2) of regulation 2 of
the Public Procurement of Entities operating in the Water,
Energy, Transport and Postal Services Sectors Regulations;

"core elements of an electronic invoice" means a set of essential information components which an electronic invoice must contain in order to enable cross-border interoperability, including the necessary information to ensure legal compliance;

"electronic invoice" means an invoice that has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing;

"European standard on electronic invoicing" means the European standard on electronic invoicing EN 16931-1:2017 for the semantic data model of the core elements of an electronic invoice established by the European Committee for Standardization (CEN) and published through the European Commission's Implementing Decision (EU) 2017/1870 of 16 October 2017;

"semantic data model" means a structured and logically interrelated set of terms and their meanings that specify the core elements of an electronic invoice;

"sub-central contracting authorities" means sub-central contracting authorities as defined in point (3) of Article 2(1) of Directive 2014/24/EU of the European Parliament and of the Council of 26th February 2014 on public procurement and repealing Directive 2004/18/EC.

Scope. **3. (1)** These regulations shall apply to electronic invoices
S.L. 174.08. issued as a result of the performance of contracts to which the Public
S.L. 174.10. Procurement of Contracting Authorities or Entities in the fields of
S.L. 174.04. Defence and Security Regulations, the Concession Contract
S.L. 174.06. Regulations, the Public Procurement Regulations or the Public
Procurement of Entities operating in the Water, Energy, Transport and
Postal Services Sectors Regulations apply and which are above the
threshold for inclusion in the *Official Journal of the European Union*.

(2) These Regulations shall not apply to electronic invoices issued as a result of the performance of contracts falling within the scope of the Public Procurement of Contracting Authorities or Entities in the fields of Defence and Security Regulations, where the procurement and performance of the contract are declared to be secret or must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in Malta, and provided it has been determined that the essential interests concerned cannot be guaranteed by less intrusive measures. S.L. 174.08.

4. The core elements of an electronic invoice are, *inter alia*:

Core elements of an electronic invoice.

- (a) process and invoice identifiers;
- (b) the invoice period;
- (c) seller information;
- (d) buyer information;
- (e) payee information;
- (f) seller's tax representative information;
- (g) contract reference;
- (h) delivery details;
- (i) payment instructions;
- (j) allowance or charge information;
- (k) invoice line item information;
- (l) invoice totals;
- (m) VAT breakdown.

5. (1) Contracting authorities and contracting entities shall receive and process electronic invoices which comply with the European standard on electronic invoicing. Receipt and processing of electronic invoices.

(2) These regulations are without prejudice to the right of the sender of the invoice to choose between submitting the invoice in accordance with the European standard on electronic invoicing or in paper format.

6. (1) These regulations are without prejudice to applicable European Union and national law on data protection. Data protection.

Cap. 586. (2) Subject to any provisions to the contrary in European Union or national law and without prejudice to the restrictions set out in Article 23 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, article 5 of the Data Protection Act and any regulations made thereunder, personal data obtained for the purpose of electronic invoicing may be used only for that purpose or for purposes compatible with it.

Cap. 586. (3) Without prejudice to the exemptions and restrictions set out in Article 23 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, article 5 of the Data Protection Act and any regulations made thereunder, arrangements for the publication, for transparency and accounting purposes, of personal data gathered in connection with electronic invoicing shall be consistent with the purpose of such publication and with the principle of the protection of privacy.

Provisions of
the Value Added
Tax Act.
Cap. 406. 7. These Regulations are without prejudice to the provisions of the Value Added Tax Act.
