A 302

I assent.

(L.S.) **GEORGE VELLA**
President

27th March, 2020

ACT No. XI of 2020

AN ACT to amend the Re-Use of Public Sector Information Act, Cap. 546.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

Short title.

1. The short title of this Act is the Re-Use of Public Sector Information (Amendment) Act, 2020, and this Act shall be read and construed as one with the Re-Use of Public Sector Information Act, hereinafter referred to as "the principal Act".

Cap. 546.

Amendment of article 1 of the principal Act.

2. Immediately after sub-article (2) of article 1 of the principal Act there shall be added the following new sub-article:

"(3) This Act shall also apply to facilitate information sharing for public administration purposes in line with any law.".

Amendment of article 2 of the principal Act.

3. Article 2 of the principal Act shall be amended as follows:

(a) immediately after the definition "machine-readable format" there shall be added the following new definition:

" "Minister" means the Minister responsible for

public sector information;";

(b) the definition "re-use of documents" shall be substituted by the following:

" "re-use of documents" means the use by a person, public sector body, or legal entity of a document held by the public sector body or another public sector body, as the case may be, for commercial or non-commercial purposes, other than the initial purpose within that public task for which the document was produced;"; and

(c) immediately after the definition "re-use of documents", as substituted, there shall be added the following new definition:

" "tribunal" means the Information and Data Protection Appeals Tribunal established under article 24 of the Data Protection Act;".

Cap. 586.

Amendment of article 3 of the principal Act.

4. In paragraph (i) of article 3 of the principal Act, for the words "museums and archives." there shall be substituted the words "museums and archives:", and immediately thereafter there shall be added the following new proviso:

"Provided that the provisions of this article shall not apply to the re-use of documents, by a public sector body, of a document held by another public sector body.".

Substitution of article 24 of the principal Act.

5. Article 24 of the principal Act shall be substituted by the following:

"Application for decision by the regulatory authority.

24. (1) Any applicant may apply to the regulatory authority for a decision where it is claimed that:

(a) a request for re-use of public sector information made by the applicant to a public sector body has been refused or has not been dealt with in accordance with the requirements of this Act; or

(b) a public sector body is not in compliance with the requirements set out in this Act.

(2) (a) The application shall be in writing and the applicant shall provide all necessary documentation and evidence in support of his claims.

(b) Complaints or requests for investigation and review addressed to the regulatory authority in terms of this Act shall be lodged by the applicant within a maximum of sixty (60) days from the date of receipt of the final communication from the public sector body concerned.

(3) On receiving an application for a decision under this article, the regulatory authority shall take a decision unless it appears that -

(a) there has been undue delay in making the application; or

(b) the application is frivolous or vexatious; or

(c) the application has been withdrawn or abandoned.

(4) Where the regulatory authority has received an application under this article, it shall serve notice of its decision to the applicant and the public sector body.

(5) The decision shall contain particulars of the right of appeal as provided in article 24B.

(6) Where a decision requires steps to be taken by the public sector body within a specified period, the time specified in the decision shall not expire before the end of the period within which an appeal can be brought against the decision and, if such an appeal is brought, no step which is affected by the appeal need be taken pending the determination or withdrawal of the appeal.".

Addition of new articles to the principal Act.

6. Immediately after article 24, as substituted, of the principal Act there shall be added the following new articles:

"Enforcement notices.

24A. (1) If the regulatory authority is satisfied that a public sector body has failed to comply with any of its obligations under this Act, the regulatory authority may serve the public

sector body with an enforcement notice requiring it to take, within such a time as may be specified in the notice, such steps as may be so specified for complying with those obligations.

(2) An enforcement notice shall contain a statement of the requirement or requirements of this Act with which the public sector body has, in the regulatory authority's opinion, failed to comply, and its reasons for reaching that conclusion.

(3) The regulatory authority may cancel an enforcement notice by written notice to the public sector body on which it was served.

Appeals against decisions and enforcement notices served by the regulatory authority.

24B. (1) Where a decision or enforcement notice has been served, the applicant or the public sector body may appeal to the tribunal against the decision or the notice, as the case may be, within twenty (20) working days.

(2) In determining an appeal the tribunal may:

(a) dismiss the appeal and confirm the decision or the enforcement notice, as the case may be, in their entirety;

(b) substitute the decision or the enforcement notice, as the case may be;

(c) modify or vary the decision or the enforcement notice, as the case may be; or

(d) annul the decision or the enforcement notice, as the case may be.

(3) Where the tribunal substitutes a decision or enforcement notice as aforesaid, the regulatory authority shall take action to secure compliance as if that decision or enforcement notice had been issued by the regulatory authority.

(4) In hearing appeals under this article the tribunal shall remain subject to the provisions of article 27(2), (4) and (5) and article 28(2) of the Data Protection Act.

Cap. 586.

Appeal to the Court of Appeal.

Cap. 586.

24C. (1) Decisions of the tribunal under this Act shall be subject to appeal to the Court of Appeal as provided for by article 29 of the Data Protection Act.

(2) In the application of this article, references, in the said article 29 of the Data Protection Act, to "the Commissioner" shall be construed and read as references to "the regulatory authority" referred to in article 24 of this Act.". Cap. 586.

Amendment of article 25 of the principal Act.

7. Article 25 of the principal Act shall be amended as follows:

(a) for the words "The Minister responsible for public sector information" there shall be substituted the words "The Minister";

(b) in paragraph (d) thereof, for the words "for the purposes of this Act; and" there shall be substituted the words "for the purposes of this Act;";

(c) paragraph (e) thereof shall be re-numbered as paragraph (f); and

(d) immediately after paragraph (d) thereof there shall be added the following new paragraph:

"(e) to facilitate the sharing and re-use of information between public sector bodies, through new organisational structures and registers, in order to enable the implementation of the 'Once-Only Principle'; and".

Passed by the House of Representatives at Sitting No. 313 of the 23rd March, 2020.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

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