

Prime Minister

**Parliamentary Secretary for
Financial Services, Digital
Economy and Innovation**

L.N. XX of 2018

**ELECTRONIC COMMUNICATIONS (REGULATION) ACT
(CAP. 399)**

**The Mandatory Registration of Subscriber Identity Modules (SIMs) used for
Publicly Available Electronic Communications Services Regulations, 2018**

IN exercise of the powers conferred by article 47 of the Electronic Communications (Regulation) Act, the Minister responsible for communications has made the following regulations:-

Citation and Entry into Force.

1. (1) The title of these regulations is the Mandatory Registration of Subscriber Identity Modules (SIMs) used for Publicly Available Electronic Communications Services Regulations, 2018.

(2) The provisions of these regulations shall come into force on publication in the Gazette, other than regulation 3(2) which shall come into force on the appointed date.

Interpretation.

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2. (1) Any reference in these regulations to the “Act” is a reference to the Electronic Communications (Regulation) Act.

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

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“appointed date” is the date as the Minister responsible for communications may by notice in the Government Gazette appoint as laid down in regulation 3(2).

"the Authority" means the Malta Communications Authority established under the Malta Communications Authority Act;

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“competent authorities” means any public authority competent for the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to

the public security, and includes the Security Service as established under the Security Service Act;

S.L. 497.07.

“Identity Malta Agency” is the Agency established under the Identity Malta Agency (Establishment) Order;

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“identity document” means an identity card, a residence document or an identification document issued under the Identity Card and Other Identity Documents Act or an identity card issued by the pertinent authorities of a Member State of the European Union, Norway, Iceland, Liechtenstein or Switzerland;

“minor” means any person who has not attained the age of eighteen years;

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“passport” means a certificate of identity, a legally valid identification document or other official document issued for travel purposes by the pertinent authority;

“reseller” means a provider who purchases or otherwise acquires SIMs from an undertaking and resells them to subscribers and, or end-users;

“SIM” means the replaceable or non-replaceable Subscriber Identity Module purchased or acquired through other legitimate means from an undertaking or reseller in Malta which is activated prior or after the entry into force of these regulations;

“stipulated time frame” means six months following the date when regulation 3(2) shall come into force;

"subscriber" means any natural or legal person who is party to a contract with the provider of publicly available electronic communications services or of a public communications network, for the supply of such services, and includes a pre-paid customer of such provider;

“undertaking” means a person providing or authorised to provide electronic communications networks and, or services or associated facilities in Malta.

Registration of SIMs.

3. (1) With effect from the date of publication of these regulations, a subscriber may register a SIM, purchased or acquired through any other legitimate means in Malta, from an undertaking or a reseller, in accordance with these regulations.

(2) A subscriber shall register a SIM, purchased or acquired through any other legitimate means in Malta, from an undertaking or a reseller, in accordance with these regulations, following the date which the Minister responsible for communications may appoint by order in the Government Gazette.

Provided that the appointed date shall not be earlier than six months from the publication of these regulations.

(3) Upon the appointment of such date, any SIM purchased or acquired through any other legitimate means, prior to the entry into force of regulation 3(2) shall be registered within the stipulated timeframe.

(4) An undertaking shall be responsible for notifying, where technically feasible, all unregistered end-users to register their SIMs.

(5) An undertaking shall deactivate all SIMs which have not been registered in accordance with these regulations.

(6) Any SIM purchased or acquired through any other legitimate means after the entry into force of these regulations, shall be registered in accordance with these regulations.

SIM registration data.

4. (1) In order to register a SIM, the subscriber shall provide the undertaking or the reseller with the following data:

- (a) SIM number;
- (b) mobile phone number, where available;
- (c) full name and surname of the subscriber;
- (d) address of the subscriber in Malta; and
- (e) number of identity document or passport.
- (f) full name of entity, if applicable;
- (g) full name and surname of the legal representative who is registering on behalf of an entity, if applicable; and
- (h) address of entity in Malta, if applicable; company registration number of entity, if applicable.

(2) An undertaking or reseller shall not register a SIM in a minor's name.

(3) A subscriber shall be responsible for any SIM which is registered in his name but is being used by any other person who is not the subscriber.

(4) The subscriber shall provide the original and valid documentation attesting the truthfulness of the details provided in accordance with regulation 4(1).

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(5) Any person who shall knowingly provide a false document shall be subject to the applicable provisions relating to the submission of false documents found in the Criminal Code.

(6) When a registered subscriber wishes to transfer a SIM to another person, the registered subscriber shall make this request by submitting a transfer form provided by the undertaking. In accordance with the requirements laid down in regulation 4(1), the transfer form shall contain all the necessary registration details of the subscriber and of the person receiving the transferred SIM, including the necessary authentication from both parties and the presentation of valid and original documentation as laid down in regulation 4(1) and 4(4).

(7) When a subscriber wishes to register a SIM, but is unable to carry out the registration himself, the subscriber may authorise a person to carry out the registration on his behalf, which is subject to the completion of the declaration found in the registration form provided by the undertaking. The person registering on behalf of the subscriber shall also provide the undertaking with proof of identification. In accordance with the requirements laid down in regulation 4(1), the registration form shall contain all the necessary registration details of the subscriber and the presentation of valid and original documentation as laid down in regulation 4(1) and 4(4).

(8) If an undertaking is aware or becomes aware that a person is, with reference to the documents listed in sub-regulation 4(1) and 4(4), knowingly making use of a false document or documents, the undertaking shall refuse to consign the SIM and, if the SIM has already been consigned, the undertaking shall deactivate the SIM immediately:

Provided that this provision shall apply in the same manner to a reseller except that, where the SIM has already been purchased or acquired through any other legitimate means, the reseller shall forthwith inform the undertaking which shall deactivate the SIM immediately.

(9) Any subscriber shall immediately request an undertaking to deactivate a SIM which has been lost or stolen.

(10) Any reseller shall immediately report to an undertaking any SIM which has been lost, stolen or damaged.

Sanctions.

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(11) Unless otherwise prescribed in these regulations, the Authority may in accordance with Part VI of the Malta Communications Authority Act, impose such sanctions including administrative fines, as it may consider appropriate upon any undertaking for any breach of any of the provisions of these regulations.

(12) Any person who sells, issues, distributes or puts into circulation SIMs in breach of these regulations, shall be liable on conviction to a fine (*multa*) of not more than twenty-five thousand euro (€25,000) in respect of each SIM, and upon the demand of the prosecution, the Court may order that any SIMs be forfeited and delivered to the Commissioner of Police.

Data Protection.

Cap. 586.

5. (1) Upon verification of the identity of a subscriber, an undertaking or a reseller shall collect data in accordance with regulation 4(1) of these regulations, excluding physical copies, if any, of original and valid documentation attesting the truthfulness of the details.

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(2) The data collected pursuant to regulation 4(1) shall be kept in a register held by the undertaking, subject to the provisions laid down in the Data Protection Act, including any regulations made thereunder, and in the relevant European Union law.

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(3) The undertaking may be provided with controlled and secure access to the national identity card database hosted by the Identity Malta Agency for the performance of their obligations as laid down in regulation 4(1), 4(6) and 4(7). Such access shall be strictly performed on a record-by-record basis and restricted only to those employees who require access to undertake the registration process, and subject to the implementation of organisational and technical security measures. Such access shall be regulated by the provisions laid down in the Data Protection Act, including any regulations made thereunder, and in the relevant European Union law:

Provided that Identity Malta Agency shall only give access to the National Identity Card Database after obtaining an authorisation from the Information and Data Protection Commissioner.

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(4) The registration details collected pursuant to regulation 4(1), shall be kept by the undertaking for a period of six months following deactivation of the SIM, unless such data is requested by the competent authorities for the performance of their tasks:

Provided that where the data is provided to a competent authority, a record shall be kept by the undertaking and the respective competent authority in accordance with the Data Protection Act including any regulations made thereunder and the relevant European Union law.
