

CAYMAN ISLANDS



Information and Communications Technology Authority Law

**INFORMATION AND COMMUNICATIONS
TECHNOLOGY AUTHORITY LAW
(CONFIDENTIALITY) REGULATIONS,
2003**

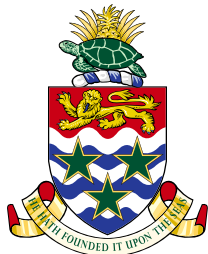
(SL 1 of 2003)

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The Governor in Cabinet, in exercise of the powers conferred by section 70 (1) of the Information and Communications Technology Authority Law, 2002, makes the following regulations —

Citation

1. These regulations may be cited as the Information and Communications Technology Authority Law (Confidentiality) Regulations, 2003.

Definitions

2. In these regulations the word “confidential” has the meaning given by regulation 3.

Confidential information

3. Any person who submits information to the Authority (“the submitting party”) may request that such information should be designated “confidential” by the Authority if —
 - (a) the information is a trade secret;
 - (b) the information is financial, commercial, scientific or technical information that is treated consistently in a confidential manner by the submitting party and the information is not otherwise publicly available;

- (c) the information is subject to a claim of legal privilege; or
- (d) the disclosure of the information could reasonably be expected —
 - (i) to result in significant financial loss or gain to any person;
 - (ii) to prejudice significantly the competitive position of any person; or
 - (iii) to affect contractual or other liabilities of any person.

Treatment of confidential information

4. (1) The following applies to confidential information under regulation 3 —
- (a) where a document is filed with the Authority, the Authority may place the document on the public record unless the submitting party asserts a claim, at the time of such filing that the information in the document or a specified part thereof, is confidential;
 - (b) where the submitting party makes a claim that any document or part thereof is confidential for the purposes of these regulations the claim shall be accompanied by the reasons for the claim, and, where one of the reasons is that specific direct harm would be caused to the party claiming confidentiality, sufficient details shall be provided as to the nature and extent of such harm; and the minimum details which the submitting party shall provide shall be as follows —
 - (i) identification of the specific information for which confidentiality is sought;
 - (ii) an explanation of the circumstances giving rise to the claim of confidentiality;
 - (iii) an explanation of the nature and degree to which the information claimed as confidential qualifies as information falling under regulation 3;
 - (iv) identification of the measures taken by the submitting party to prevent unauthorised disclosure;
 - (v) an explanation of how the disclosure of the information could reasonably be expected to result in significant financial loss or gain to any person, to prejudice significantly the competitive position of any person, or to affect contractual or other liabilities of any person;
 - (vi) identification of the degree to which the information may pertain to a service which is subject to competition; and
 - (vii) justification for and the period of time for which the information should not be available for public disclosure;
 - (c) a submitting party, shall file with the Authority —
 - (i) a complete version of the document; and



- (ii) either a redacted version of the document or a request to the Authority to file in place of a redacted version of the document a statement as to the existence and general nature of the document and a copy of such statement,
- and the statement in sub sub-paragraph (ii) shall be placed, subject to the Authority's determination, on the public record;
- (d) a claim for confidentiality referred to in subparagraph (b) shall be placed on the public record and a copy of such claim shall be provided by the Authority on request to any person, unless the Authority determines it is not in the public interest to do so;
 - (e) where a claim for confidentiality is made in connection with a document, or a part thereof, that has not been filed by a submitting party, the Authority may require that party to file the document and, after the document has been filed, the document shall —
 - (i) be reviewed by the Authority in confidence; and
 - (ii) be dealt with as provided in regulation 5(a) or 5(b), whichever is applicable;
 - (f) any person who wants the public disclosure of a document, or a part thereof, in respect of which there has been a claim for confidentiality shall file with the Authority —
 - (i) a request for such disclosure setting out the reasons for the request, including the public interest in the disclosure of all information relevant to the Authority's regulatory responsibilities; and
 - (ii) any material in support of the reasons for public disclosure;
 - (g) a copy of a request for the public disclosure of a document, or a part thereof, shall be served on the submitting party person and that person may, unless the Authority otherwise determines, file a reply with the Authority within 10 days after the date of service of the request and shall, where a reply is filed, serve a copy of the reply on the person requesting public disclosure; and
 - (h) where the Authority determines that a document, or a part thereof, in respect of which there has been a claim for confidentiality shall be placed on the public record, the submitting party may file a reply within 10 days of such determination, unless the Authority otherwise determines.

Decisions and orders on disclosure by the Authority

5. (1) Where the Authority is of the opinion that, based on all the material before it, no specific direct harm would be likely to result from disclosure, or where any such specific direct harm is shown but is not sufficient to outweigh the public interest in disclosing the document, the document shall be placed on the public record.

- (2) Where the Authority is of the opinion that, based on all the material before it, the specific direct harm likely to result from public disclosure justifies a claim for confidentiality, the Authority may —
- (a) order that the document, or part thereof, not be placed on the public record;
 - (b) order the disclosure of a redacted version of the document, or a part thereof;
 - (c) order that a statement as to the existence and general nature of a document be placed on the public record; or
 - (d) order that the document, or a part thereof, be disclosed to interested persons at a hearing to be conducted in camera by the Authority.

Made in Cabinet the 4th day of November, 2003

Carmena Watler
Clerk of the Cabinet

