

MALTA

**ATT Nru XIV tal-2021**

ATT maħruġ b'liġi mill-Parlament ta' Malta.

**ATT li jirregola u jissorvelja l-industrija tal-bini u l-kostruzzjoni, li jagħmel dispożizzjonijiet għall-ippjanar, il-ġestjoni u l-kontroll tas-settur u li jwaqqaf awtorità b'setgħat relatati mal-bini u l-kostruzzjoni u għal kwistjonijiet relatati magħhom jew anċillari għalihom.**

**ACT No. XIV of 2021**

AN ACT enacted by the Parliament of Malta.

**AN ACT to regulate and monitor the building and construction industry, to make provisions for the planning, management and control of the sector and for the establishment of an authority with powers relative to building and construction and for matters related therewith or ancillary thereto.**



Nagħti l-kunsens tiegħi.

(L.S.)

**GEORGE VELLA**  
**President**

6 ta' April, 2021

**ATT Nru XIV tal-2021**

*ATT li jirregola u jissorvelja l-industrija tal-bini u l-kostruzzjoni, li jagħmel dispożizzjonijiet għall-ippjanar, il-ġestjoni u l-kontroll tas-settur u li jwaqqaf awtorità b'setgħat relatati mal-bini u l-kostruzzjoni u għal kwistjonijiet relatati magħhom jew anċillari għalihom.*

IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħareġ b'ligi dan li ġej:-

**ARRANĠAMENT TAL-ATT**

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TAQSIMA I  
Preliminari

Titolu fil-qosor  
u bidu fis-seħh.

**1.** (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2021 dwar l-Awtorità tal-Bini u l-Kostruzzjoni.

(2) Dan l-Att għandu jidhol fis-seħh f'dik id-data li l-Ministru jista' jstabbilixxi b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

Tifsir.

**2.** F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġ xort'oħra:

"Awtorità" tfisser l-Awtorità tal-Bini u l-Kostruzzjoni;

"avviż tal-infurzar" għandu jkollha l-istess tifsira kif mogħtija lilha fit-Taqsima VI;

"bini" tfisser kull struttura li tinholoq minn proċess ta' kostruzzjoni;

"Bord" tfisser il-Bord tal-Awtorità tal-Bini u l-Kostruzzjoni stabbilita skont it-Taqsima II;

"data operattiva" tfisser il-jum li fih strument isir legalment effettiv;

"demolizzjoni" tfisser it-twaqqiġ jew it-tneħħija tal-elementi strutturali u komponenti oħra tal-bini li ma jkunx strutturali inkluża kull miżura kontingenti meħtieġa biex jitwettqu tali xogħlijiet;

"disinn" tinkludi t-tnejn ta' pjanijiet, dettalji, skizzijiet, speċifikazzjonijiet, kalkoli u kull espressjoni oħra ta' għan minn persuna kompetenti li abbażi tagħhom għandhom jiġu eżegwiti x-xogħlijiet permanenti, iżda m'għandhiex tinkludi affarijiet li jirrigwardaw l-ippjanar tal-iżvilupp, id-disinn urban u l-estetika;

"funzjonijiet" tinkludi setgħat u dmirijiet;

"klijent" tfisser il-persuna li f'isimha qegħdin isiru x-xogħlijiet;

"Kodiċi" tfisser il-Kodiċi Nazzjonali tal-Bini u l-Kostruzzjoni li jstabbilixxi l-istandards minimi tal-bini u x-xogħlijiet;

"kostruzzjoni" tfisser kwalunkwe att jew operazzjoni ta'

inginerija meħtieġa għal jew relatata mat-titjib tas-sit, it-tluġġ, l-estensjoni, it-tibdil, it-tiswija ta' bini jew struttura u "mibnija" għandha tinftiehem f'dan is-sens;

"kuntrattur" tfisser il-persuna mqabba mill-klijent li jkollha l-esperjenza u, jew it-taħriġ u, jew il-kwalifiki stabbiliti f'regolamenti magħmula taħt dan l-Att; u l-kelma "kuntrattur" għandha, għall-finijiet ta' dan l-Att, tinkludi wkoll subkuntrattur;

"Ministru" tfisser il-Ministru responsabbli għall-industrija tal-kostruzzjoni;

"persuna kompetenti" tfisser persuna li jkollha l-esperjenza u, jew it-taħriġ u, jew il-kwalifiki stabbiliti f'regolamenti magħmula taħt dan l-Att;

"preskritt" tfisser preskritt permezz ta' regolamenti magħmula mill-Ministru skont dan l-Att;

"sit" tfisser il-post fejn għandhom jiġu eżegwiti x-xogħlijiet u li fih għandhom jintbagħtu t-tagħmir u/jew il-materjal u/jew haddiema;

"skavar" tfisser il-qtuġġ jew it-tneħħija ta' materjal naturali jew materjal imqiegħed mill-bniedem fuq l-art jew fil-baħar, inkluża kull miżura kontingenti meħtieġa biex jitwettqu tali xogħlijiet;

"tagħmir tal-kuntrattur" tfisser l-apparat, makkinarju u vetturi kollha tal-kuntrattur u kull haġa oħra meħtieġa għall-eżekuzzjoni u t-tlestija tax-xogħlijiet u r-rimedjar ta' kull difett;

"Tribunal" tfisser it-Tribunal tal-Bini u l-Kostruzzjoni stabbilit skont it-Taqsima VIII;

"Uffiċjal Kap Eżekuttiv" tfisser l-Uffiċċju tal-Kap Eżekuttiv tal-Awtorità maħtur skont l-artikolu 14;

"xogħlijiet" tfisser ix-xogħlijiet permanenti u x-xogħlijiet temporanji, jew xi wieħed minnhom kif ikun xieraq, u jinkludu xogħlijiet tal-iskavar, tad-demolizzjoni u tal-kostruzzjoni, ix-xogħlijiet ta' servizzi tal-bini u x-xogħlijiet ta' finitura;

"xogħlijiet permanenti" tfisser ix-xogħlijiet kollha li għandhom jiġu eżegwiti mill-kuntrattur li huma maħsuba li jiffurmaw funzjoni kontinwa wara t-tlestija tax-xogħlijiet;

"xogħlijiet ta' finitura" tinkludi kull xogħol imwaħħal fi

jew ma' bini biex tali bini jkun tajjeb għall-użu maħsub inkluża kull miżura kontingenti meħtieġa biex jitwettqu tali xogħlijiet, iżda teskludi d-demolizzjoni, l-iskavar, il-kostruzzjoni u servizzi ta' bini;

"xogħlijiet ta' servizzi ta' bini" tfisser l-istallazzjoni, il-manutenzjoni, it-tiswija jew it-tneħħija ta' servizzi mekkaniċi, elettrici, ta' gass, arja kumpressa, idrawliċi, ta' telekomunikazzjoni, ta' kompjuter, jew servizzi simili li normalment huma mwahħlin fi jew ma' xi bini, inklużi miżuri kontingenti neċessarji biex jitwettqu tali xogħlijiet;

"xogħlijiet temporanji" tfisser ix-xogħlijiet temporanji kollha ta' kull tip li huma meħtieġa fuq is-sit għall-eżekuzzjoni u tlestija tax-xogħlijiet permanenti u l-irrimedjar ta' kull difett.

## TAQSIMA II

### Twaqqif, Funzjonijiet u Kamp ta' Applikazzjoni tal-Awtorità

Objettivi ġenerali.

**3.** (1) Għandu jkun id-dmir ta' kull persuna u entità, kemm jekk pubblika jew privata, li teżegwixxi xogħlijiet fuq bini f'konformità mal-aħjar prattiki tal-industrija u tistabbilixxi standards li jinkludu wkoll ir-rispett u l-protezzjoni tal-ambjent u tal-inħawi immedjati, l-utenti tagħha u l-pubbliku ingenerali u dan wara li jitqies il-livell rispettiv tar-responsabbiltà u obbligi mistennija mill-persuna u, jew mill-entità, kif ikun il-każ.

(2) Huwa essenzjali wkoll li kwalunkwe xogħol ta' bini u kostruzzjoni jagħti l-konsiderazzjoni dovuta u jirrispetta l-prinċipji tas-sostenibbiltà, l-integrità strutturali, il-kwalità tagħhom u l-effiċjenza fl-enerġija sa mill-bidu tiegħu, matul il-kostruzzjoni u l-użu.

Interpretazzjoni.

**4.** Id-dispożizzjonijiet tal-artikolu 3 għandhom ikunu applikati fl-interpretazzjoni tad-dispożizzjonijiet l-oħra ta' dan l-Att, jew ta' kwalunkwe liġi oħra relatata ma' affarijiet regolati b'dan l-Att.

Twaqqif tal-Awtorità.

**5.** Għandu jkun hemm Awtorità, li għandha tkun magħrufa bħala l-Awtorità tal-Bini u l-Kostruzzjoni, li għandha tkun responsabbli għar-regolamentazzjoni, it-titjib u l-ġestjoni sostenibbli tal-industrija tal-bini u l-kostruzzjoni f'Malta.

Awtorità b'personalità ġuridika distinta u r-rappreżentanza legali u ġuridika tal-Awtorità.

**6.** (1) L-Awtorità għandha tkun entità korporattiva b'personalità ġuridika distinta u, bla ħsara għad-dispożizzjonijiet ta' dan l-Att, għandha tkun kapaċi li tidhol f'kuntratti, li takkwista, li żżomm u li tiddisponi minn proprjetà ta' kull tip għall-finijiet tal-funzjonijiet tagħha skont dan l-Att u kwalunkwe liġi oħra, li tħarrek u tiġi mħarrka, u li tagħmel dawk l-affarijiet kollha u tidhol fit-tranzazzjonijiet kollha li huma inċidentali jew li jwasslu għall-

eżerċizzju jew it-tweġġ tal-funzjonijiet tagħha skont dan l-Att, inkluż is-self ta' flus.

(2) Ir-rappreżentanza legali u ġuridika tal-Awtorità għandha tkun vestita fil-Bord:

Iżda l-Bord jista' jahtar kwalunkwe wieħed jew aktar mill-membri tiegħu jew kwalunkwe wieħed jew aktar mill-uffiċjali jew l-impjegati tal-Awtorità biex jidhru f'isem u għan-nom tal-Awtorità fi kwalunkwe proċediment u fi kwalunkwe att, kuntratt, strument jew dokument ieħor ikun xi jkun:

Iżda wkoll li fir-rigward ta' kwalunkwe kwistjoni li taqa' fi hdan il-funzjonijiet mogħtija lill-Uffiċjal Kap Eżekuttiv, ir-rappreżentanza legali u ġudizzjarja tal-Awtorità għandha wkoll tkun vestita fl-Uffiċjal Kap Eżekuttiv.

7. (1) L-Awtorità għandha tkun il-mezz prinċipali li bih il-Gvern għandu jiddelega l-funzjonijiet tiegħu b'konsegwenza jew b'mod inkidentalment għal dan l-Att.

Funzjonijiet u kamp ta' applikazzjoni tal-Awtorità.

(2) Il-funzjonijiet tal-Awtorità għandhom jinkludu dan li ġej:

(a) li twettaq u tirnexxi fil-funzjonijiet li qabel kienu assenjati lill-Bord li Jirregola l-Bini u lill-Uffiċċju dwar ir-Regolament tal-Bini skont id-dispożizzjonijiet tal-Att dwar ir-Regolament tal-Bini u li issa jinsabu f'dan l-Att u li twettaq u tirnexxi fl-assi, id-drittijiet, ir-responsabbiltajiet u l-obbligi tal-Bord li Jirregola l-Bini u l-Uffiċċju dwar ir-Regolament tal-Bini stabbiliti skont id-dispożizzjonijiet tal-Att dwar ir-Regolament tal-Bini sa fejn il-Ministru jista' jippreskrivi permezz ta' regolamenti skont dan l-Att;

Kap. 513.

(b) li twettaq u tirnexxi fil-funzjonijiet li qabel kienu assenjati lill-Aġenzija tal-Bini u tal-Kostruzzjoni skont id-dispożizzjonijiet tal-Ordni li jistabbilixxi l-Aġenzija tal-Bini u tal-Kostruzzjoni u li issa jinsabu f'dan l-Att u li twettaq u tirnexxi fl-assi, id-drittijiet, ir-responsabbiltajiet u l-obbligi tal-Aġenzija tal-Bini u tal-Kostruzzjoni stabbilita skont id-dispożizzjonijiet tal-Ordni li jistabbilixxi l-Aġenzija tal-Bini u tal-Kostruzzjoni sa fejn il-Ministru jista' jippreskrivi permezz ta' regolamenti skont dan l-Att;

L.S. 595. 33.

(ċ) li twettaq u tirnexxi fil-funzjonijiet li qabel kienu assenjati lill-Bord għall-Bennejja skont id-dispożizzjonijiet tal-Kodiċi tal-Liġijiet tal-Pulizija u li issa jinsabu f'dan l-Att u li twettaq u tirnexxi fl-assi, id-drittijiet, ir-responsabbiltajiet u l-obbligi tal-Bord għall-Bennejja stabbiliti skont id-

Kap. 10.

dispożizzjonijiet tal-Kodiċi tal-Ligijiet tal-Pulizija sa fejn il-Ministru jista' jippreskrivi permezz ta' regolamenti skont dan l-Att;

(d) li toħroġ u tinforza linji gwida u metodoloġiji ta' prattika tajba, politiki u regolamenti mmirati lejn it-titjib u l-ġestjoni sostenibbli tal-prattiki tal-bini u l-kostruzzjoni f'Malta;

(e) li tivvaluta t-talbiet magħmula minn jew skont dan l-Att u li tiddeċiedi jekk toħroġx iċ-ċertifikazzjoni, l-ordni, il-liċenzja, il-permess jew l-eżenzjonijiet relattivi taht dawk il-kundizzjonijiet li tqis raġonevoli, bla ħsara għal kwalunkwe dispożizzjoni oħra ta' din il-ligi jew kwalunkwe ligi oħra;

(f) li tipprovdi ufficċju ċentralizzat għar-riċeviment u l-ipproċessar ta' lmenti, rapporti u valutazzjoni ta' informazzjoni relatata ma' allegat ksur tad-dispożizzjonijiet magħmula minn jew skont dan l-Att, u, jekk ikun hemm bżonn, tikkordina investigazzjonijiet ma' awtoritajiet kompetenti oħra;

(g) li tippromwovi programmi ta' riċerka, edukazzjoni, taħriġ u għarfien pubbliku relatati mat-titjib u l-ġestjoni sostenibbli tal-industrija tal-bini u l-kostruzzjoni;

(h) li tagħti pariri lill-Ministru b'mod ġenerali dwar kwalunkwe kwistjoni u azzjoni fir-rigward tat-titjib u l-ġestjoni sostenibbli tal-prattiki tal-bini u l-kostruzzjoni f'Malta;

(i) li tistabilixxi objettivi u strategiji fuq perjodu fit-tul u fil-qosor għall-amministrazzjoni xierqa tal-Awtorità u l-industrija tal-bini u l-kostruzzjoni f'Malta;

(j) li tissorvelja l-prestazzjoni, is-sikurezza u l-kwalità tal-bini u l-kostruzzjonijiet f'Malta;

(k) li żżomm reġistru ta' fornituri tas-servizz;

(l) li żżomm depożitarju tad-dokumentazzjoni kif ipprovdut minn jew skont dan l-Att;

(m) li tikkollabora ma' aġenziji, korporazzjonijiet, awtoritajiet, entitajiet governattivi u mhux governattivi oħra u persuni oħra għat-twettiq tal-funzjonijiet tagħha, inkluż iżda mhux limitat sabiex tkun tista' tissorvelja l-implimentazzjoni ta' u l-konformità mad-dispożizzjonijiet ta' dan l-Att;

(n) li tidhol f'arrangamenti permezz ta' impriži kongunti jew sħubijiet jew ftehimiet oħra ma' korpi pubbliċi, awtoritajiet

pubbliċi, dipartimenti tal-gvern, korporazzjonijiet pubbliċi, kunsilli lokali, entitajiet mhux governattivi, u korporattivi oħra biex jassistuha fit-twettiq tal-funzjonijiet tagħha, inkluż iżda mhux limitat sabiex tkun tista' tissorvelja l-implimentazzjoni ta' u l-konformità mad-dispożizzjonijiet ta' dan l-Att;

(o) li twettaq kwalunkwe funzjoni oħra li tista' minn żmien għal żmien tiġi ddelegata lilha b'avviż tal-Gvern mill-Ministru f'isem kwalunkwe dipartiment jew aġenzija tal-Gvern, u kwistjonijiet oħra li jistgħu jkunu meħtieġa għat-twettiq aħjar tad-dispożizzjonijiet ta' dan l-Att, inklużi l-funzjonijiet meħtieġa biex teżegwixxi kwalunkwe obbligu internazzjonali li Malta daħlet għalih fir-rigward ta' kwistjonijiet regolati b'dan l-Att.

**8.** (1) Fit-twettiq tal-funzjonijiet tagħha skont dan l-Att, l-Awtorità għandha tfittex li taġixxi fl-interess pubbliku u f'konformità mal-aħjar prattiki u standards. Tmexxija u kompiti tal-Awtorità.

(2) L-Awtorità għandu jkollha s-setgħa li tirregola l-kondotta tagħha stess inkluż il-formulazzjoni tar-regoli, l-iskedi u l-proċeduri amministrattivi tagħha stess.

(3) L-Awtorità għandha twettaq id-dmirijiet, il-funzjonijiet u r-responsabbiltajiet tagħha skont id-direzzjonijiet strateġiċi tal-Gvern relatati mal-industrija tal-bini u tal-kostruzzjoni kif ikkomunikati mill-Ministru.

**9.** (1) L-Awtorità għandha tkun regolata mid-dispożizzjonijiet tal-Att dwar il-Ġestjoni tal-Finanzi Pubbliċi. Amministrazzjoni finanzjarja. Kap. 601.

(2) L-Awtorità għandha timponi t-tariffi, ir-rati u l-pagamenti l-oħrajn kollha preskritti jew meqjusa bħala preskritti minn jew skont dan l-Att jew kwalunkwe liġi oħra relatata mas-setgħat u l-funzjonijiet tal-Awtorità.

(3) L-Awtorità għandha tithallas mill-Gvern permezz tal-Fond Konsolidat dawk is-somom li l-Parlament jista', minn żmien għal żmien, jawtorizza li jiġu allokati sabiex jintlaħqu l-ispejjeż ta' xogħlijiet speċifikati li għandhom jitkomplew jew jitwettqu b'xi mod ieħor mill-Awtorità:

Iżda kwalunkwe sovvenzjoni riċevuta mill-Gvern tiġi eżentata minn kwalunkwe responsabbiltà għall-pagament tat-taxxa fuq id-dhul u d-dazju fuq dokumenti skont kwalunkwe liġi f'dan il-mument.

(4) Kwalunkwe eċċess ta' dhul fuq in-nefqa għandu jkun, soġġett għal tali direttivi kif il-Ministru, wara konsultazzjoni mal-Ministru responsabbli għall-finanzi, jista' jagħti minn żmien għal żmien,

applikat mill-Awtorità għall-formazzjoni ta' fondi ta' riżerva li għandhom jintużaw għall-iskopijiet tal-Awtorità u mingħajr preġudizzju għall-ġeneralità tas-setgħat mogħtija lill-Ministru b'dan is-subartikolu, kwalunkwe direzzjoni mogħtija mill-Ministru kif imsemmi qabel tista' tordna t-trasferiment lill-Gvern, jew l-applikazzjoni b'tali mod kif jista' jiġi speċifikat fid-direzzjoni, ta' kwalunkwe parti mit-tariffi, rati u pagamenti oħra imposti skont is-subartikolu (2) jew kwalunkwe tali eċċess kif imsemmi qabel.

(5) Kwalunkwe fond tal-Awtorità mhux immedjatament meħtieġ biex jissodisfa n-nefqa jista' jiġi investit b'tali mod kif jista' minn żmien għal żmien jiġi approvat mill-Ministru.

Dokumenti.

**10.** (1) Dokument li jkun juri li hu kopja ta' entrata f'registru jew li jkun kopja ta' dokument ipprezentat lill-Awtorità, u li jkun iċċertifikat minn uffiċjal tal-Awtorità, għandu jitqies bħala kopja korretta ta' tali entrata jew dokument, għandu jkun prova *prima facie* tal-entrata jew tad-dokument li jkun kopja tiegħu u ma għandux ikun meħtieġ li tingħata prova tal-firma ta' dak l-uffiċjal jew li fil-fatt huwa kien dak l-uffiċjal.

(2) Prova ta' entrata f'registru tista' tingħata billi tingieb kopja ta' dik l-entrata, iċċertifikata f'konformità mad-dispożizzjonijiet tas-subartikolu (1), u ma għandux ikun meħtieġ li jiġi prodott ir-registru nnifsu.

(3) Fi kwalunkwe proċediment jew prosekuzzjoni skont dan l-Att, kopja ta' kull ordni, avviż, deċiżjoni jew dokument ieħor li jkun juri li sar skont dan l-Att u li jkun juri li ġie ffirmat miċ-Chairperson tal-Bord jew kwalunkwe persuna awtorizzata mill-Bord, għandha tkun aċċettata bħala prova tal-ordni, avviż, deċiżjoni jew dokument ieħor, u tal-fatti li jidhru fiha, mingħajr provi ulterjuri.

(4) L-Awtorità għandha tiżgura li jinżamm rekord tal-awditjar tal-fajls kollha, inklużi d-dokumentazzjoni u r-rapporti kollha:

Iżda l-fajls, id-dokumentazzjonijiet u r-rapporti jistgħu jiġu diġitizzati u l-Bord jista', wara d-diġitizzazzjoni, jiddisponi minn kopji stampati tal-fajls, dokumentazzjonijiet u rapporti wara perjodu ta' mill-anqas ħames (5) snin mid-data tal-preżentazzjoni lill-Awtorità jew mid-deċiżjoni tagħha jew lil kwalunkwe entità oħra preċedenti li twettaq l-istess funzjonijiet:

Iżda wkoll id-data miżmuma manwalment jew elettronikament kif tista' teħtieġ minn żmien għal żmien tkun soġġetta għall-Att dwar il-Protezzjoni u l-Privatezza tad-Data u r-Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni ta' persuni fiżiċi fir-rigward ta' dan l-

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ipproċessar ta' data personali u l-moviment liberu ta' dik id-data, u li jhassar id-Direttiva 95/46/KE.

**11.** (1) Għandu jkun hemm Bord imsejjaħ il-Bord tal-Awtorità <sup>Bord.</sup> tal-Kostruzzjoni tal-Bini maħtur mill-Ministru, liema Bord għandu jeżerċita l-funzjonijiet kollha assenjati lill-Awtorità jew direttament lilu minn jew skont dan l-Att, kif ukoll daww il-funzjonijiet li jistgħu minn żmien għal żmien jiġu ddelegati lilu bil-miktub mill-Ministru kif meħtieġ għat-twettiq aħjar tal-funzjonijiet ta' dan l-Att.

(2) Il-Bord għandu jkun magħmul minn:

(a) persuna li għandha tkun ukoll iċ-Chairperson tal-Bord;

(b) perit detentur ta' liċenzja b'minimu ta' seba' (7) snin esperjenza;

(ċ) avukat detentur ta' liċenzja b'minimu ta' seba' (7) snin esperjenza;

(d) inġinier detentur ta' liċenzja b'minimu ta' seba' (7) snin esperjenza;

(e) seba' (7) persuni magħżula minn fost persuni ta' integrità magħrufa u b'għarfien u esperjenza fi kwalunkwe wieħed mis-sugġetti li ġejjin: il-kummerċ, l-ekonomija, l-industrija, l-industrija tal-iżvilupp u l-kostruzzjoni, l-ippjanar tal-iżvilupp, l-ambjent, il-wirt storiku, il-wirt kulturali u l-affarijiet komunitarji.

(3) Għandu jkun hemm ukoll persuna maħtura mill-Ministru li għandha taġixxi bħala segretarju tal-Bord.

(4) Il-membri tal-Bord u s-segretarju tal-Bord għandhom jiġu rimunerati kif preskritt mill-Ministru u jibqgħu fil-kariga għal perjodu li ma jaqbiżx it-tliet (3) snin u jistgħu jerġgħu jinhatru mill-ġdid għal perjodi ulterjuri, li ma jaqbzux total ta' seba' (7) snin:

Iżda fil-każ li membru tal-Bord iħalli l-kariga tiegħu qabel ma jiskadi l-mandat tiegħu, il-persuna maħtura minflok għandha tinhatru għall-perjodu li jifdal tal-hatra oriġinali.

(5) Il-Ministru jista' jahtar wieħed mill-membri l-oħra tal-Bord bħala Deputat Chairperson u l-membri hekk maħtur għandu jkollu s-setgħat kollha u jwettaq il-funzjonijiet kollha taċ-Chairperson matul l-assenza temporanja taċ-Chairperson jew l-inabbiltà li jaġixxi bħala Chairperson, jew waqt li ċ-Chairperson ma jkunx jista' jattendi, jew

waqt xi post vakanti fil-kariga ta' Chairperson.

(6) Iċ-Chairperson jew kwalunkwe membru ieħor tal-Bord jista' jittneħħa mill-kariga mill-Ministru qabel ma jiskadi t-terminu tal-kariga tiegħu minhabba nuqqas ta' kapaċità li jkompli jwettaq il-funzjonijiet tal-kariga jew kwalunkwe kawża raġonevoli oħra.

(7) Jekk membru jirriżenja jew mal-iskadenza tal-mandat jew jekk il-kariga ta' membru tal-Bord tkun altrimenti vakanti jew jekk membru jkun għal xi raġuni mhux kapaċi jwettaq il-funzjonijiet tal-kariga tiegħu, il-Ministru jista' jahtar persuna li tkun ikkwalifikata biex tinħatar bħala membru biex tkun membru temporanju tal-Bord, skont il-każ; u kwalunkwe persuna hekk maħtura għandha tieqaf milli tkun tali membru meta tkun giet maħtura persuna biex timla l-post vakanti jew, skont il-każ, meta l-membri li ma setax iwettaq il-funzjonijiet tal-kariga tiegħu jerga' jassumi dawk il-funzjonijiet.

(8) Il-Bord jista' jaġixxi minkejja kwalunkwe post vakanti fost il-membri tiegħu.

(9) Il-kworum fil-laqgħat kollha tal-Bord ma għandux ikun anqas minn nofs il-membri li jivvutaw u wiehed.

(10) Id-deċiżjonijiet tal-Bord għandhom jittieħdu b'maġġoranza sempliċi tal-voti tal-membri preżenti waqt il-laqgħa meta jittieħed il-vot. Iċ-Chairperson li jippresjedi l-laqgħa għandu jkollu t-tieni vot jew il-vot deċiżiv.

(11) Il-Bord għandu jkollu tali numru ta' laqgħat kif jista' jkun meħtieġ għat-twettiq tal-funzjonijiet tiegħu, u għandu jiltaqa' mhux anqas minn darba fix-xahar. Iċ-Chairperson *ex officio* jew kwalunkwe tnejn mill-membri votanti jistgħu f'kull hin isejhu laqgħa tal-Bord.

(12) Il-Bord jista' jikkonsulta ma' kwalunkwe persuna kif ukoll jitlob lil kwalunkwe dipartiment jew aġenzija tal-Gvern biex jipprovdu tali informazzjoni li l-Bord jista' jqis meħtieġa għall-eżekuzzjoni xierqa tal-funzjonijiet tiegħu.

(13) Il-Bord jista' jahtar konsulenti biex jassistuh fit-twettiq tal-funzjonijiet tiegħu u jistieden lil dawn il-persuni biex jattendu l-laqgħat tiegħu.

(14) Il-Bord jista' jiddeċiedi li jzomm il-laqgħat tiegħu fil-pubbliku u, jew permezz ta' tali mezzi elettronici jew mezzi vijabbli oħrajn kif iqis xieraq.

(15) Il-Bord jista', permezz ta' komunikazzjoni bil-miktub, bl-approvazzjoni tal-Ministru, jiddelega kwalunkwe waħda mis-setgħat

tiegħu lil kwalunkwe wieħed mill-membri jew għadd ta' membri u, jew l-Uffiċjal Kap Eżekuttiv jew kwalunkwe entità amministrattiva oħra stabbilita bil-liġi jew taht liġi sabiex tagħti effett u twettaq b'mod effettiv u effiċjenti kwalunkwe waħda mill-funzjonijiet previsti skont dan l-Att. Il-Bord għandu fil-komunikazzjoni bil-miktub tiegħu jiddikjara b'mod ċar ir-raġunijiet għall-appoġġ tad-delegazzjoni.

(16) Il-membri tal-Bord, jew kwalunkwe persuna li lilha jkunu ġew iddelegati xi dmirijiet, m'għandhom ikunu responsabbli personalment għal ebda dannu lil kwalunkwe persuna jew proprjetà bhala riżultat tat-twettiq ta' dmirijiet, sakemm ma jiġix ippruvat li tali membru jew persuna aġixxew in *mala fede*.

**12.** (1) Meta l-Bord ikun mehtieg jiddetermina applikazzjoni jew talba magħmula minn xi persuna skont id-dispożizzjonijiet ta' dan l-Att, hawn iżjed 'il quddiem imsejjaħ "l-applikant", il-Bord għandu jinforma lill-persuna li tkun qed tagħmel l-applikazzjoni jew it-talba bid-deċiżjoni tiegħu.

Determinazzjoni tat-talbiet jew tal-applikazzjonijiet.

(2) L-avviż tad-deċiżjoni għandu jiġi ppubblikat fuq is-sit web tad-Dipartiment tal-Infurmazzjoni.

(3) Għandha tinzamm ukoll kopja f'reġistru li għandu jkun disponibbli għall-ispezzjoni mill-pubbliku.

(4) Il-Bord għandu s-setgħa li jissospendi, jirtira, jirrevoka jew iħassar kwalunkwe approvazzjoni u għandu minnufih jinforma lill-applikant filwaqt li jispeċifika r-raġunijiet ewlenin li jiġġustifikaw is-sospensjoni, l-irtirar, ir-revoka jew it-tħassir, kif ikun il-każ.

(5) L-avviż tas-sospensjoni, l-irtirar, ir-revoka jew it-tħassir, kif ikun il-każ, għandu jiġi ppubblikat fuq is-sit web tad-Dipartiment tal-Infurmazzjoni.

(6) Għandha tinzamm ukoll kopja tas-sospensjoni, irtirar, revoka jew tħassir, kif ikun il-każ, f'reġistru li għandu jkun disponibbli għall-ispezzjoni mill-pubbliku.

(7) Minkejja kwalunkwe dispożizzjoni oħra li jista' jkun hemm f'dan l-Att, l-ebda wieħed mill-poteri maħsub f'dan l-artikolu ma jista' jiġi delegat lil xi enti jew persuna oħra li ma tkunx l-Awtorità.

**13.** (1) Il-Bord għandu jahtar ukoll awditur intern, li għandu:

Awditur intern.

(a) jissorvelja s-sistemi tal-kontroll intern u l-ġestjoni tar-riskju tal-Awtorità u jassisti u jappoġġa lill-Awtorità fit-twettiq tar-responsabbiltajiet tagħha fir-rigward ta' dan;

(b) jipprovdi l-ħolqa ta' komunikazzjoni mal-awdituri esterni u jevalwa u jikkoordina l-proċess ta' awditjar u rappurtar finanzjarju tal-Awtorità;

(ċ) jiskrutinja u jevalwa kwalunkwe tranzazzjoni li għandha tidhol fiha l-Awtorità b'valur li jaqbeż il-mitejn u ħamsin elf euro (€250,000); u

(d) jirrevedi u jivvaluta l-effettività tal-ġestjoni tal-Awtorità fil-konformità tagħha mal-politiki u fit-twettiq tal-funzjonijiet regolatorji u ta' konformità tagħha sa fejn għandhom x'jaqsmu kwistjonijiet finanzjarji.

(2) L-awditur intern għandu jirrapporta direttament u esklussivament lill-Bord f'konformità mal-proċeduri stabbiliti mill-Bord.

Uffiċjal Kap  
Eżekuttiv.

**14.** (1) Għandu jkun hemm Uffiċjal Kap Eżekuttiv maħtur mill-Bord, wara l-approvazzjoni mill-Ministru, li għandu jkun responsabbli għat-twettiq tal-funzjonijiet magħmula minn jew skont dan l-Att kif ukoll dawk il-funzjonijiet assenjati lill-Bord.

(2) L-Uffiċjal Kap Eżekuttiv jista' jeżerċita waħda jew aktar mill-funzjonijiet jew ir-responsabbiltajiet jew direttament jew permezz tal-impjegati jew l-uffiċjali fi ħdan id-direttorati, l-unitajiet, id-diviżjonijiet u t-taqsimiet li hu jista' jistabbilixxi minn żmien għal żmien sabiex jassisti fit-twettiq effettiv u effiċjenti tad-dmirijiet assenjati lill-Bord.

(3) L-Uffiċjal Kap Eżekuttiv jista' jahtar kwalunkwe konsulent jew konsulenti biex jassistuh fit-twettiq tad-dmirijiet assenjati lill-Bord.

(4) L-Uffiċjal Kap Eżekuttiv, jew ir-rappreżentant tiegħu, għandu jkollu d-dritt li jkun preżenti u jipparteċipa fil-laqgħat kollha tal-Bord:

Iżda l-Uffiċjal Kap Eżekuttiv ma għandux ikun preżenti waqt laqgħat tal-Bord jew xi parti minnhom f'każijiet ta' kunflitt ta' interess potenzjali jew attwali li hu stess għandu jiddikjara.

(5) L-Uffiċjal Kap Eżekuttiv u, jew kwalunkwe persuna li tassistih fit-twettiq tad-dmirijiet fdati lill-Bord, m'għandhomx ikunu responsabbli personalment għal kwalunkwe dannu lil kwalunkwe persuna jew kwalunkwe proprjetà bħala riżultat tat-twettiq ta' dmirijiet, sakemm ma jiġix ippruvat li tali ħsara tirriżulta minn *mala fede* min-naħa tagħhom.

**15.** (1) L-Awtorità għandha tahtar u timpjega, b'tali rimunerazzjoni u b'dawk it-termini u l-kundizzjonijiet li tista' tiddetermina hi, tali uffiċjali u impjegati tal-Awtorità li jistgħu minn żmien għal żmien ikunu meħtieġa għat-twettiq dovut u effettiv tal-funzjonijiet tagħha, f'konformità mad-direttivi maħruġa skont l-Att dwar l-Amministrazzjoni Pubblika.

Impjieg ta' uffiċjali.

Kap. 595.

(2) F'konformità mad-dispożizzjonijiet tal-Att dwar l-Amministrazzjoni Pubblika jew bl-approvazzjoni tal-Prim Ministru, l-Awtorità tista' titlob, wara konsultazzjoni mal-Ministru, li kwalunkwe impjegat pubbliku għandu, minn żmien għal żmien, ikun dettaljat biex jaħdem mal-Awtorità f'tali kapaċità u b'effett minn dik id-data li tista' tkun speċifikata fid-direzzjoni.

Kap. 595.

(3) Meta uffiċjal pubbliku jkun dettaljat għal dmir mal-Awtorità, tali uffiċjal għandu, matul iż-żmien li fih tkun fis-seħħ tali direzzjoni, ikun taht id-direzzjoni u l-kontroll amministrattivi tal-Awtorità iżda għandu xorta oħra jibqa' u jzomm id-drittijiet u d-dmirijiet kollha bħala uffiċjal pubbliku, u għall-fini ta' kwalunkwe liġi relatata mal-pensjonijiet tas-servizz pubbliku, is-servizz mal-Awtorità għandu jitqies bħala servizz mal-Gvern.

**16.** (1) Meta xi membru tal-Bord, impjegat, konsulent, advisor jew persuna oħra ingaġġata mill-Awtorità, ikollu interess personali jew finanzjarju dirett f'xi kwistjoni li għandha tiġi kkunsidrata mill-Awtorità permezz tal-involvement dirett tiegħu, malli jsir jaf b'dan l-interess huwa la għandu jinfluwenza u lanqas ifittex li jinfluwenza l-ipproċessar u d-deċiżjoni fir-rigward ta' din il-kwistjoni u ma għandu jieħu ebda parti fil-konsiderazzjoni ta' din il-kwistjoni.

Kunflitt ta' interess.

(2) Fejn persuna li għaliha japplika s-subartikolu (1) tonqos milli tagħmel l-iżvelar meħtieġ, il-Bord għandu jiddeċiedi l-azzjoni xierqa li għandha tittiehed li tista' tinkludi, wara qbil mill-Ministru, it-tneħħija mill-kariga jew it-terminazzjoni tal-kuntratt tal-persuna kkonċernata.

**17.** (1) Mingħajr preġudizzju għad-dispożizzjonijiet tal-Att dwar l-Interpretazzjoni, kwalunkwe setgħa mogħtija minn dan l-Att biex jinħarġu liċenzji, biex isiru regolamenti, regoli, ordnijiet, listi, skedi u kwalunkwe strument ieħor ta' natura simili, tinkludi s-setgħa minn żmien għal żmien biex tirrevoka, tissostitwixxi, temenda, tibdel, iżżid ma' jew tħassar minn kwalunkwe strument bħal dan kif imsemmi qabel.

Setgħa tal-Ministru li jagħmel regolamenti. Kap. 249.

(2) Il-Ministru jista', wara konsultazzjoni mal-Bord, jagħmel regolamenti fir-rigward ta' kwalunkwe kwistjoni relatata mat-titjib u l-ġestjoni sostenibbli tal-industrija tal-bini u l-kostruzzjoni f'Malta sakemm tali regolamenti jkunu konformi mal-objettivi ta' dan l-Att.

(3) Mingħajr preġudizzju għall-ġeneralità tas-subartikolu (2), tali regolamenti skont dan l-artikolu jistgħu jipprovdu għal dawn li ġejjin kollha jew għal kwalunkwe wieħed minnhom:

(a) jiddelinjaw l-obbligi, id-dmirijiet u r-responsabbiltajiet tad-diversi partijiet interessati fl-industrija tal-bini f'Malta;

(b) jippreskrivu l-forma ta' kull avviż, ordni, formola ta' applikazzjoni jew dokument ieħor awtorizzat jew meħtieġ minn dan l-Att li għandu jsir, jiġi nnotifikat jew mogħti;

(c) jistabbilixxu r-reati u s-sanzjonijiet relattivi fir-rigward ta' materji li jaqgħu taħt it-Taqsima V;

(d) jipprovdu għall-proċeduri kif jista' jkun meħtieġ għat-twettiq tal-funzjonijiet tal-Awtorità kif ukoll għat-tariffi u l-kontribuzzjonijiet li jistgħu jintalbu jithallsu għalihom;

(e) jippreskrivu liema tip ta' informazzjoni miżmuma mill-Awtorità għandha tkun aċċessibbli għall-pubbliku kif ukoll jistabbilixxu proċeduri għall-ipproċessar tad-data, l-aċċess, l-analizi, il-ġbir, il-verifika u t-tħassir ta' kwalunkwe informazzjoni;

(f) jagħtu effett lil kwalunkwe trattat jew strument internazzjonali, inklużi direttivi, regolamenti u deċiżjonijiet, relatati ma' kwalunkwe kwistjoni regolata minn dan l-Att;

(g) jippreskrivu t-twaqqif ta' Fond ta' Protezzjoni ta' Terzi Persuni li għandu jintuża biex jipprovdi akkomodazzjoni temporanja u htigijiet bażiċi oħra lil terzi persuni meta tali htigijiet ikunu kkawżati minn inċident li jirriżulta mix-xogħlijiet;

(h) jippreskrivu regolamenti għal kwalunkwe skop ieħor li għalih ir-regolamenti huma awtorizzati jew meħtieġa li jsiru;

(i) jippreskrivu regolamenti għal kwalunkwe kwistjoni oħra relatata mal-kisba tal-għanijiet ta' dan l-Att.

(4) Ir-regolamenti magħmula skont dan l-artikolu għandhom dejjem jinkludu dispożizzjonijiet biex jiddeskrivu:

(a) it-tipi, il-klassijiet jew id-deskrizzjonijiet ta' bini u kostruzzjonijiet li għalihom japplikaw ir-regolamenti, inkluż jekk kwalunkwe dispożizzjoni li tinsab fihom tistax issir sabiex tapplika b'mod ġenerali, jew fir-rigward ta' kwalunkwe żona speċifikata fir-regolamenti;

(b) id-data operattiva li fiha jidhlu fis-sehh ir-regolamenti, liema data ghandha tigi ppubblikata fil-Gazzetta;

(c) jekk id-dispozizzjonijiet, jew parti minnhom, japplikawx retroattivament jew prospettivament mid-data operattiva.

### TAQSIMA III

#### Kodiçi Nazzjonali tal-Bini u l-Kostruzzjoni

**18.** (1) Għandu jkun hemm Kodiçi Nazzjonali tal-Bini u l-Kostruzzjoni li għandu jistabbilixxi l-istandards minimi li jappartjenu għall-bini u x-xogħlijiet.

Kodiçi  
Nazzjonali tal-  
Bini u l-  
Kostruzzjoni.

(2) Il-Kodiçi għandu jimmira li jkopri aspetti differenti tar-regolamentazzjoni, it-titjib u l-ġestjoni sostenibbli tal-industrija tal-bini u l-kostruzzjoni f'Malta, li jinkludu, iżda mhux neċessarjament limitati għal regolamenti dwar il-bini, inkluż l-integrità strutturali tas-siti u l-bini, is-sikurezza kontra n-nirien, il-preparazzjoni tas-siti u r-reżistenza għall-kontaminanti u l-umdità, il-prattiki tat-twaqqiġ u l-iskavar, ir-reżistenza għall-mogħdija tal-ħsejjes, il-ventilazzjoni, is-sanità, is-sigurtà tal-miżkun u l-effiċjenza tal-ilma, id-drenagġ u r-rimi tal-iskart, it-tagħmir li jipproduċi s-sħana u sistema għall-ħżin tal-fjuwil, il-protezzjoni mill-waqgħat, il-kolliżjoni u l-impatt, il-konservazzjoni tal-fjuwil u l-enerġija, l-aċċess għall-bini u l-użu tal-bini, ħġieġ (sigurtà b'rabta mal-impatt il-ftuħ u t-tindif), is-sigurtà elettrika, is-sigurtà; il-materjali u t-teknika tax-xogħol; kif ukoll regolamenti dwar ix-xogħlijiet, inkluż is-saħħa u s-sigurtà ġewwa u madwar siti; l-operazzjonijiet fuq siti; l-eżekuzzjoni ta' xogħlijiet permanenti u temporanji, inkluż l-irfid laterali u vertikali, l-impalkatura, l-istekkatura u l-armor; il-kontroll ta' ġenerazzjoni ta' ħsejjes; il-protezzjoni ambjentali; ir-riduzzjoni u r-rimi ta' skart; il-makkinarju, l-impjant u t-tagħmir.

(3) Il-Kodiçi għandu jkun ibbażat fuq il-prinċipju li jiżgura s-sigurtà u s-sostenibbiltà tal-eżekuzzjoni tax-xogħlijiet u tal-użu tal-bini u l-ġestjoni tiegħu bil-għan li jinkiseb l-aħjar użu tal-bini għall-iskop tiegħu, billi jittieħed ukoll qies tal-fattur soċjoekonomiku u politiki u pjanijiet nazzjonali oħra.

(4) (a) L-Awtorità għandha tirrevedi l-Kodiçi mill-inqas kull għaxar (10) snin biex tirrifletti l-iżviluppi fl-industrija.

(b) Kull reviżjoni bħal din għandha ssir skont il-ħtiġijiet u l-obiettivi nazzjonali kif jistgħu jiġu approvati mill-Ministru u għandha tidhol fis-sehh fid-data tal-pubblikazzjoni fil-Gazzetta.

(c) Sabiex jinkisbu l-obiettivi stabbiliti f'dan l-artikolu, il-

Ministru jista' jiehu l-miżuri meħtieġa maħsuba biex jikkoordinaw u jtejbu l-impatti ta' politiki settorjali oħra u r-relazzjoni tagħhom ma', jew l-inkluzjoni fil-Kodiċi.

(5) L-Awtorità għandha tkun debitament awtorizzata biex temenda l-Kodiċi kif meħtieġ biex tkun konformi mar-regolamenti lokali jew tal-Unjoni Ewropea.

#### TAQSIMA IV

##### Liċenzja biex jiġu pprovduti ċerti servizzi

Rekwiżit biex tkun irregistrat jew fil-pussess ta' liċenzja.

**19.** L-ebda persuna ma għandha twettaq xi waħda mill-attivitajiet li l-Ministru jippreskrivi permezz ta' regolamenti sakemm ma tkunx ikkwalifikata li twettaq tali attivitajiet kif meħtieġ minn dawn l-istess regolamenti.

Liċenzja tista' tiġi sospiza, revokata jew imħassra.

**20.** Liċenzja tista' tiġi sospiza, revokata jew imħassra skont il-każ jekk id-detentur ikun instab mill-Awtorità li kiser id-dispożizzjonijiet ta' dan l-Att minhabba xi wieħed minn dawn li ġejjin:

(a) diżonestà, kondotta ħażina jew negligenza waqt kwalunkwe twettiq skont il-liċenzja;

(b) in-nuqqas ta' konformità mar-regolamenti, il-politiki jew id-dokumenti ta' gwida fir-rigward tal-istandards jew il-prattiki; jew

(ċ) in-nuqqas ta' konformità ma' kwalunkwe kundizzjoni imposta jew istruzzjonijiet mogħtija skont id-dispożizzjonijiet ta' dan l-Att; jew

(d) fejn id-detentur tal-liċenzja jew tal-permess ikun instab ħati minn qorti kompetenti ta' reat skont id-dispożizzjonijiet ta' dan l-Att jew ta' kwalunkwe regolament maħruġ taħtu.

#### TAQSIMA V

##### Eżenzjonijiet

Applikazzjonijiet.

**21.** (1) Il-Bord għandu, fuq talba minn persuna interessata, jikkunsidra li l-adozzjoni ta' rekwiżit konsegwenti jew inċidentali għal dan l-Att ma tkunx raġonevoli fir-rigward tal-każ partikolari li miegħu tkun marbuta t-talba, u għandu jagħti direzzjoni li teżenta, tneħhi jew tirrilassa dak ir-rekwiżit, soġġett għal kwalunkwe kondizzjoni addizzjonali li jqis li hija xierqa:

B'dan illi tali eżenzjoni tkun biss waħda minn dawk preskritti b'regolamenti maħruġa mill-Ministru.

(2) Applikazzjoni skont dan l-artikolu tista' tkun f'tali forma u għandu jkun fiha dawk id-dettalji li jistgħu jiġu preskritti.

(3) L-applikazzjoni għandha ssir lill-Bord u għandha tinkludi gustifikazzjoni li tispjega r-raġunijiet għaliex l-eżenzjoni jew ir-rilassament għandhom ikunu ġġustifikati mill-Bord.

(4) Qabel ma jikkonsidra kwalunkwe talba magħmula skont dan l-artikolu, il-Bord għandu jordna n-notifika lill-persuni kollha li fil-fehma tiegħu jkollhom interess dirett u sussegwentement jilqa' s-sottomissjonijiet ta' dawn il-persuni.

(5) Il-Bord għandu jipproċessa u jiddetermina l-applikazzjoni fi żmien għaxart (10) ijiem tax-xogħol mill-preżentazzjoni tal-applikazzjoni u deċiżjoni mogħtija fl-għaxart (10) ijiem tax-xogħol li jkun imiss. Madanakollu l-Bord jista' għal darba waħda biss jestendi kull wieħed mill-imsemmija termini b'terminu ulterjuri ta' għaxart (10) ijiem.

(6) L-eżenzjoni, it-tneħħija jew ir-rilassament jistgħu jkunu:

(a) mingħajr kundizzjoni; jew

(b) soġġetti għall-konformità ma' kwalunkwe kundizzjoni li tista' tiġi speċifikata fid-direzzjoni, li huma kundizzjonijiet dwar materji direttament marbuta mal-eżenzjoni, it-tneħħija jew ir-rilassament.

(7) L-eżenzjoni taħt dan l-artikolu:

(a) jekk tipprovdi hekk, għandha tieqaf milli jkollha effett fl-aħħar ta' dak il-perjodu kif jista' jiġi speċifikat fl-eżenzjoni; u

(b) tista' tinbidel jew tiġi revokata b'direzzjoni sussegwenti tal-Bord.

## TAQSIMA VI Infurzar

22. (1) L-Awtorità għandu jkollha s-setgħa li tivvaluta jekk kwalunkwe attività hijiex konformi mad-dispożizzjonijiet ta' dan l-Att u, jew regolamenti maħruġa taħtu. Sorveljanza u infurzar.

(2) Għall-finijiet ta' dan l-artikolu, l-Uffiċjal Kap Eżekuttiv jew kwalunkwe persuna jew persuni awtorizzati minnu għal dak il-għan għandhom, mal-preżentazzjoni ta' prova tal-identità tagħhom, ikollhom id-dritt li jidhlu u jispezzjonaw kull bini jew sit f'kull hin

raġonevoli mingħajr ebda formalità oħra meħtieġa minn xi liġi oħra u jitolbu kwalunkwe informazzjoni sa fejn ikun meħtieġ biex tiġi żgurata l-konformità ma' dan l-Att jew ma' kwalunkwe regolament maħruġ skont dan l-Att, inkluż li jivverifika u jawditja kwalunkwe dokument imressaq lill-Awtorità:

Iżda f'kazijiet fejn l-Uffiċjal Kap Eżekuttiv jemmen li hemm periklu imminente, kwalunkwe persuna awtorizzata tista' tidhol fil-bini jew fis-sit fi kwalunkwe hin:

Iżda wkoll xejn f'dan l-artikolu ma jagħti s-setgħa lil persuna awtorizzata biex tidhol fi jew tispezzjona kwalunkwe pjanti jew dokumenti relatati ma' art jew bini okkupati mill-Forzi Armati ta' Malta jew mill-Forza tal-Pulizija ta' Malta, jew il-Faċilitajiet Korrettivi jew bini ieħor bħal dan li l-Ministru jista' jahtar bil-miktub minn żmien għal żmien, jekk, fil-fehma tal-uffiċjali fil-kmand rispettivi, tali spezzjoni ta' dokumentazzjoni tikser is-sigurtà.

(3) Fejn l-Uffiċjal Kap Eżekuttiv jew kwalunkwe persuna jew persuni awtorizzati minnu ma jkunux jistgħu jeżerċitaw is-setgħa tiegħu li jidhlu fi kwalunkwe art jew bini fit-twertiq tas-setgħat tagħhom skont dan l-artikolu, l-Awtorità, skont il-każ, tista' titlob l-assistenza tal-pulizija.

(4) Kull ordni verbali maħruġa mill-Uffiċjal Kap Eżekuttiv jew minn kwalunkwe persuna jew persuni awtorizzati minnu għandha tkun segwita minn ordni ta' infurzar bil-miktub fi żmien erbgħa u għoxrin (24) siegħa maħruġa skont l-artikoli 23, 24 u 25.

(5) L-Uffiċjal Kap Eżekuttiv jew kwalunkwe persuna awtorizzata minnu jistgħu wkoll:

(a) jeżaminaw kwalunkwe oġġett, prodott, jew jieħdu kampjuni tal-materjali użati fit-twertiq ta' kwalunkwe xogħol jew jieħdu azzjoni oħra bħal din fir-rigward ta' dak ix-xogħol ta' kostruzzjoni li jista' jkun meħtieġ biex jiġi stabbilit jekk ir-rekwiżiti ta' dan l-Att jew taht dan l-Att humiex qegħdin jiġu osservati fir-rigward il-bini u, jew xogħlijiet;

(b) jeżaminaw kwalunkwe oġġett, prodott, jew jieħdu kampjuni tal-materjali użati fit-twertiq ta' kwalunkwe xogħol jew jieħdu tali azzjoni oħra fir-rigward ta' tali xogħol ta' kostruzzjoni kif jista' jkun meħtieġ biex jiġi stabbilit jekk ir-rekwiżiti tar-regolamenti tal-bini humiex qegħdin jiġu osservati fir-rigward tal-bini u, jew xogħlijiet;

(ċ) jieħdu servejs, ritratti jew vidjo jew jużaw kull tip ta'

tagħmir biex jgħin fl-investigazzjonijiet li jistgħu jiġu prodotti bħala prova;

(d) jagħtu l-ordnijiet kollha meħtieġa, inkluż l-għeluq immedjat ta' sit jew parti minnu u l-waqfien tax-xogħlijiet kollha jew parti minnhom f'każijiet ta' periklu imminenti jew fl-interess pubbliku;

(e) jeħtieġu s-sid jew l-abitanti tal-bini, jew kwalunkwe persuna responsabbli għax-xogħlijiet, biex jipprovdu tali pjanijiet, dokumenti u informazzjoni li huma meħtieġa biex jiġi stabbilit jekk ir-rekwiziti tal-kwistjonijiet irregolati minn dan l-Att u r-regolamenti magħmula tahtu humiex qed jiġu mharsa fir-rigward tal-bini, l-iżvilupp, ix-xogħlijiet, l-istallazzjoni u s-servizzi;

(f) jagħmlu kwalunkwe haġa li hija ancillari jew konsegwenza tagħha.

(6) Għall-finijiet ta' dan l-Att, l-Uffiċjal Kap Eżekuttiv jew kwalunkwe persuna awtorizzata ma għandhiex tkun responsabbli personalment għal xi danni lil kwalunkwe persuna jew kwalunkwe proprjetà bħala riżultat tal-eżerċizzju tas-setgħat tagħha skont dan l-artikolu, sakemm ma jiġix ippruvat li tkun aġixxiet b'*mala fede*.

(7) L-Uffiċjal Kap Eżekuttiv jew kwalunkwe persuna awtorizzata minnu, minkejja kwalunkwe liġi oħra, għandu jkollhom id-dritt li jassistu lill-pulizija fit-twettiq tal-prosekuzzjoni għal reati taht dan l-Att u li jittrattaw il-każ f'isem il-prosekuzzjoni.

**23.** (1) L-Awtorità tista' toħroġ u tinnotifika avviż ta' infurzar meta attività ma tkunx konformi mad-dispożizzjonijiet ta' dan l-Att u, jew regolamenti maħruġa tahtu. Avviżi ta' infurzar.

(2) Avviż ta' infurzar maħruġ skont dan l-artikolu għandu jkun fih:

(a) deskrizzjoni dettaljata tal-ksur allegat;

(b) id-data meta l-avviż jidhol fis-seħh;

(ċ) l-istruzzjonijiet li għandhom jiġu segwiti għall-finijiet ta' konformità;

(d) l-ammont ta' multa amministrattiva, jekk applikabbli;

(e) id-dettalji tal-persuna responsabbli għall-ksur

osservat;

(f) perjodu li fih l-Awtorità tista' tippermetti lil min iwettaq in-nuqqas jirrimedja s-sitwazzjoni minghajr ma jkollu għalfejn iħallas il-multa amministrattiva;

(g) indikazzjoni li l-avviż jista' jiġi appellat quddiem it-Tribunal fi żmien għoxrin (20) jum mid-data tal-pubblikazzjoni tal-avviż fuq is-sit web tad-Dipartiment tal-Infurmazzjoni u li, meta l-avviż jordna l-waqfien ta' kwalunkwe xogħol, dan ikollu effett immedjat; u l-effett ta' dan l-avviż ma jkunx sospiż permezz tal-preżentata ta' appell.

(3) Bla ħsara għad-dispożizzjonijiet l-oħra ta' dan l-artikolu, l-istruzzjonijiet li għandhom jiġu rispettati għall-finijiet ta' konformità jistgħu:

(a) jeħtieġu passi bħal dawn li jistgħu jkunu speċifikati fl-avviż li jridu jittiehdu f'dak il-perjodu li jista' jkun speċifikat għall-finijiet li tiġi żgurata konformità ma' dan l-Att jew regolamenti magħmula tahtu, u tali avviż jista' jeħtieġ:

(i) it-tneħħija, it-tibdil jew il-holqien ta' sikurezza ta' kwalunkwe struttura, servizz, fitting jew tagħmir; jew

(ii) il-waqfien ta' kwalunkwe xogħol jew it-twettiq ta' kwalunkwe haġa oħra kif jista' jkun speċifikat fl-avviż fir-rigward tal-bini jew ix-xogħlijiet li għalihom jirreferi l-avviż;

(b) jipprojbixxu l-użu ta' bini, jew parti speċifikata ta' bini, għal kwalunkwe skop speċifikat fl-avviż sakemm jittiehdu l-miżuri speċifikati għas-sodisfazzjon tal-Awtorità, billi jitneħħew, jinbidlu jew isiru sikuri kwalunkwe struttura, servizz, fitting jew tagħmir jew il-waqfien ta' kwalunkwe xogħol jew permezz ta' kwalunkwe haġa oħra fir-rigward ta' bini bħal dan jew parti speċifika ta' bini li tista' tkun meħtieġa mill-avviż;

(ċ) jipprojbixxu l-użu jew it-tneħħija ta' kwalunkwe tip ta' vettura, impjant jew makkinarju li jista' jmur kontra kwalunkwe dispożizzjoni ta' dan l-Att jew regolamenti maħruġa tahtu:

Iżda meta l-attività illegali tkun limitata għal parti mis-sit, l-Awtorità tista' fid-diskrezzjoni tagħha toħroġ avviż ta' infurzar parzjali li jitlob il-waqfien immedjat tal-attività biss fir-rigward ta' dik il-parti tas-sit u mhux fir-rigward tas-sit kollu.

**24.** Avviż ta' infurzar għandu jiġi nnotifikat lil:

Għoti u notifika ta' avviż ta' infurzar.

- (a) sid is-sit jew bini ikkonċernat; u, jew
- (b) l-okkupanti tas-sit jew bini ikkonċernat; u, jew
- (ċ) il-kuntrattur; u, jew

(d) kwalunkwe persuna oħra li tkun responsabbli jew involuta fis-supervizjoni jew l-eżekuzzjoni tax-xogħlijiet fis-sit jew fil-bini ikkonċernat; u, jew

- (e) il-klijent:

Iżda "persuna" għandha tinkludi wkoll persuna ġuridika.

**25.** (1) Meta avviż ta' infurzar ikun awtorizzat skont dan l-Att, l-avviż tiegħu għandu jiġi ppubblikat fuq is-sit web tad-Dipartiment tal-Infurmazzjoni.

Pubblikazzjoni u notifika ta' avviż ta' infurzar.

(2) Kopja tal-avviż għandha tiġi nnotifikata wkoll bl-użu ta' kwalunkwe wieħed mill-metodi li ġejjin:

(a) meta persuna hija magħrufa bl-isem, billi titwassal personalment lilha jew billi titħalla fl-indirizz fejn din il-persuna normalment tirisjedi jew, fejn ikun inġhata indirizz għan-notifika, f'dak l-indirizz jew billi tintbagħat bil-posta reġistrata fl-indirizz fejn din il-persuna normalment tirisjedi jew, fejn ikun inġhata indirizz għan-notifika, f'dak l-indirizz; jew

(b) meta l-indirizz fejn din il-persuna normalment tirisjedi ma jistax jiġi aċċertat b'inkjesta raġonevoli u l-avviż ta' infurzar huwa awtorizzat li jingħata fir-rigward ta' kwalunkwe bini jew xogħlijiet partikolari, billi jwassluha lil persuna li tirisjedi f'bini bħal dan jew twettaq tali xogħlijiet jew permezz ta' affissjoni f'post prominenti jew hdejn bini jew xogħlijiet bħal dawn u billi dik l-affissjoni tinzamm għal perjodu ta' mhux anqas minn ħamest (5) ijiem ta' xogħol;

(ċ) meta avviż ta' infurzar ikun awtorizzat minn dan l-Att li jiġi nnotifikat jew mogħti lis-sid ta' bini jew xogħlijiet jew persuna li wettqet jew qiegħda twettaq ix-xogħlijiet li għalihom japplikaw ir-regolamenti dwar il-bini, u l-isem ta' tali persuna ma jistax jiġi aċċertat b'inkjesta raġonevoli, l-avviż jista' jiġi indirizzat "lis-sid", "lill-abitanti", jew "lill-persuna kkonċernata li twettaq ix-xogħlijiet", skont kif iċ-ċirkostanzi jehtieġu, mingħajr jissemma dan is-sid jew persuna.

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Kap. 12. (3) Għall-finijiet ta' dan l-artikolu n-notifika ta' avviż lil korp li jkollu personalità ġuridika distinta għandha ssir kif jiddisponi s-subartikolu 187(4) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(4) Persuna li fi kwalunkwe hin wara l-affissjoni ta' avviż skont is-subartikolu (2)(b) tneħhi, tagħmel ħsara jew tħassar l-avviż mingħajr awtorità legali għandha tkun hatja ta' reat kontra dan l-Att.

Minkejja d-dispożizzjonijiet tas-subartikolu (2), avviż jitqies li ġie nnotifikat lill-persuna jew persuni indikati fl-avviż fil-jum tal-pubblikazzjoni tiegħu fuq is-sit web tad-Dipartiment tal-Infurmazzjoni.

Nuqqas ta' konformità mal-avviż.

**26.** (1) Persuna li lilha jkun jgħajjat avviż ta' infurzar għandha tikkonforma mat-termini tal-avviż fil-perjodu speċifikat fih.

(2) Fejn persuna tonqos milli tikkonforma mar-rekwiżiti ta' avviż ta' infurzar, l-Uffiċjal Kap Eżekuttiv, jew ir-rappreżentant tiegħu, jista' jidhol fi kwalunkwe bini jew sit li għalih jirreferi l-avviż ta' infurzar mingħajr ebda formalità oħra meħtieġa minn kwalunkwe ligi oħra u jieħu kwalunkwe azzjoni jew jagħmel kwalunkwe haġa meħtieġa mill-avviż, inkluż l-għeluq jew l-issigillar tal-bini jew sit, jew azzjoni oħra kif meħtieġ miċ-ċirkostanzi u jista' għal dan il-għan jitlob l-assistenza tal-pulizija li għandha għal dan il-għan teżerċita dawk is-setgħat li huma mogħtija lilha għall-prevenzjoni ta' reati u l-infurzar tal-liġi u l-ordni.

Kap. 319.

(3) Minkejja d-dispożizzjonijiet ta' kwalunkwe ligi oħra u salv id-dispożizzjonijiet tal-artikolu 46 tal-Kostituzzjoni u tal-artikolu 4 tal-Att dwar il-Konvenzjoni Ewropea, l-ebda mandat kawtelatorju jew ordni oħra ma għandhom jinħarġu jew isiru minn kwalunkwe qorti li jirrestringu lill-Awtorità milli teżerċita kwalunkwe setgħa mogħtija lilha b'dan l-artikolu.

(4) Jekk kwalunkwe passi jew azzjoni oħra, inkluż kwalunkwe rinunzja għall-atti, waqfien jew rekwiżit simili, li jkunu meħtieġa jittieħdu minn avviż ta' infurzar, ma jkunux ittieħdu fil-hin speċifikat fih, l-Awtorità tista' tidhol fuq l-art jew iż-żona fuq il-baħar u tiegħu tali passi jew azzjoni oħra kif imsemmi qabel mingħajr ma tkun meħtieġa ebda formalità oħra minn xi ligi oħra, inkluż id-diżattivazzjoni jew it-tneħħija ta' kwalunkwe tagħmir, makkinarju, għodda, affarijiet personali, vetturi jew oġġetti oħra li jistgħu jkunu fuq il-post u t-twettiq ta' kwalunkwe xogħol meħtieġ biex ikun konformi ma' dak li huwa mitlub fl-avviż ta' infurzar u li tista' għal dan il-għan titlob l-assistenza tal-Forza tal-Pulizija, il-Forzi Armati, kwalunkwe kunsill lokali, kwalunkwe dipartiment tal-Gvern jew kwalunkwe aġenzija tal-Gvern, u l-Forza tal-Pulizija u, jew il-Forzi Armati u, jew entità oħra għandhom għal dan il-għan jeżerċitaw tali setgħat mogħtija lilhom bil-

liġi, fuq talba tal-Awtorità għall-assistenza.

(5) L-ispejjeż kollha li l-Awtorità tkun garrbet b'mod raġonevoli fl-eżerċizzju tas-setgħat tagħha fir-rigward ta' avviżi ta' infurzar għandhom ikunu jistgħu jiġu rkuprati mill-Awtorità.

(6) L-Awtorità tista' tirkupra l-ispejjeż involuti fit-teħid tal-azzjoni meħtieġa skont din it-Taqsima bhala dejn ċivili, wara n-notifika ta' att ġudizzjarju, skont l-artikolu 466 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, li jew ma jkunx ġie kkontestat jew inkella li l-kontestazzjoni tiegħu tkun ġiet miċħuda, u skont id-dispożizzjonijiet tal-artikolu msemmi, għandu jikkostitwixxi titolu eżekuttiv għall-effetti u l-finijiet kollha tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Kap. 12.

(7) L-Awtorità tista' tirreġistra kawzjoni fuq il-proprjetà fejn ikunu seħħew l-illegalitajiet skont l-Att dwar ir-Reġistrazzjoni tal-Artijiet. Kap. 296.

(8) L-Awtorità għandu jkollha s-setgħa li timponi fir-rigward ta' kwalunkwe persuna li tikser xi dispożizzjoni ta' dan l-Att multa amministrattiva skont id-dispożizzjonijiet ta' regolamenti maħruġa taħt dan l-Att li ma għandhiex taqbeż il-ħames mitt elf euro (€500,000), u ħamest elef euro (€5,000) kuljum, f'każ fejn il-ksur jippersisti:

Iżda l-penali kollha provduti f'dan l-artikolu għandhom ikunu dovuti lill-Gvern bhala dejn ċivili u wara n-notifika ta' att ġudizzjarju, skont l-artikolu 466 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, li jew ma jkunx ġie kkontestat jew inkella li l-kontestazzjoni tiegħu tkun ġiet miċħuda, skont id-dispożizzjonijiet tal-artikolu msemmi, l-istess penali amministrattiva għandha tikkostitwixxi titolu eżekuttiv għall-effetti u l-finijiet kollha tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Kap. 12.

**27.** (1) Mingħajr preġudizzju għal kwalunkwe dispożizzjoni speċjali oħra ta' dan l-Att, il-Ministru jista', wara konsultazzjoni mal-Bord, jagħmel regolamenti li jippreskrivu li l-ksur tar-regolamenti magħmula skont dan l-Att għandu jikkostitwixxi reat kriminali u li jippreskrivu penali għal reati kriminali kontra kwalunkwe regolament magħmul skont dan l-Att. Setgħa tal-Ministru li jagħmel regolamenti fir-rigward ta' reati kriminali.

(2) Kull regolamenti bħal dawn jistgħu jippreskrivu sentenzi ta' prigunerija u multi differenti għal reati differenti u jippreskrivu multi kkalkulati skont kemm idum jitwettaq ir-reat:

Iżda kwalunkwe regolamenti bħal dawn li jistgħu jsiru ma għandhomx jipprovdu għal:

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(i) prigunerija għal aktar minn sentejn (2), jew multa ta' aktar minn mitejn elf euro (€200,000); jew

(ii) multi ta' aktar minn hamest elef euro (€5,000) għal kull jum li matulu r-reat jippersisti.

Proċedimenti  
kriminali.

**28.** Il-proċedimenti kriminali għal reat kontra dan l-Att għandhom isiru quddiem il-Qorti tal-Maġistrati (Malta) jew il-Qorti tal-Maġistrati (Għawdex), skont il-każ, u għandhom ikunu konformi mad-dispożizzjonijiet tal-Kodiċi Kriminali li jirregolaw il-proċedura quddiem il-qrati msemmija tal-ġurisdizzjoni kriminali.

Kap. 9.

Dritt ta' appell  
tal-Avukat  
Ġenerali.  
Kap. 9.

**29.** Minkejja d-dispożizzjonijiet tal-Kodiċi Kriminali, l-Avukat Ġenerali għandu dejjem ikollu d-dritt ta' appell minn kwalunkwe sentenza mogħtija mill-Qorti tal-Maġistrati (Malta) jew il-Qorti tal-Maġistrati (Għawdex) fir-rigward tal-proċedimenti għal kwalunkwe reat kontra dan l-Att jew kwalunkwe regolament li sar skont dan l-Att.

Hruġ ta' avviż  
ta' infurzar.

**30.** Minkejja kwalunkwe liġi oħra li tipprovdi għall-proċediment u l-piena għal reati, meta l-Awtorità temmen li persuna wettqet reat kontra dan l-Att, l-Awtorità tista' toħroġ avviż ta' infurzar skont l-artikoli 23, 24 u 25.

Skwalifika.

**31.** Kwalunkwe persuna li tinstab hatja ta' reat kriminali skont jew taħt dan l-Att tista' wkoll, fuq talba tal-prosekuzzjoni, tiġi skwalifikata skont regolamenti maħruġa skont dan l-Att milli tipprovdi s-servizzi tagħha li huma rikonoxxuti skont, jew taħt dan l-Att.

## TAQSIMA VII Reġistru

Żamma ta'  
reġistru.

**32.** L-Awtorità għandha żżomm reġistru ta':

(a) id-deċiżjonijiet meħuda mill-Bord skont l-artikolu 12;

(b) id-dettalji tal-fornituri tas-servizzi reġistrati kif stabbilit mir-regolamenti magħmula skont dan l-Att u dawn id-dettalji għandhom jinkludu skwalifiki magħmula skont l-artikolu 31;

(ċ) id-dettalji tal-eżenzjonijiet mogħtija skont l-artikolu 21;

(d) id-dettalji tal-avviżi ta' infurzar maħruġa skont dan l-Att;

(e) id-deċiżjonijiet meħuda mit-Tribunal;

(f) il-kopja tal-avviżi tal-bidu, id-dikjarazzjonijiet dwar il-metodi, ir-rapporti dwar il-kundizzjoni, iċ-ċertifikati ta' konformità;

(g) kwalunkwe dokumentazzjoni oħra preskritta minn jew skont dan l-Att.

**33.** Ir-reġistru għandu jkun disponibbli għall-ispezzjoni pubblika f'hinijiet raġonevoli li jistgħu jiġu stabbiliti mill-Awtorità.

Ir-reġistru għandu jkun disponibbli għall-pubbliku.

### TAQSIMA VIII

#### Tribunal tal-Bini u l-Kostruzzjoni

**34.** Għandu jkun hemm Tribunal indipendenti u imparzjali, magħruf bħala t-Tribunal tal-Bini u l-Kostruzzjoni li għandu jisma' u jiddeċiedi dwar appelli pprezentati minn persuna li tħosha aggravata fuq punti ta' liġi u, jew punti ta' fatt fir-rigward ta' kwalunkwe ordni, ruling jew deċiżjoni tal-Awtorità. It-Tribunal ma għandux ikun soġġett għall-kontroll jew id-direzzjoni ta' xi persuna jew awtorità oħra.

Twaqqif tat-Tribunal tal-Bini u l-Kostruzzjoni.

**35.** It-Tribunal għandu jkun kompost minn avukat, perit u inġinier awtorizzat, li lkoll għandu jkollhom minimu ta' tliet (3) snin esperjenza. L-imsemmi avukat għandu jaġixxi bħala Chairperson u jippresjedi s-seduti tat-Tribunal.

Kompożizzjoni tat-Tribunal.

**36.** Il-membri tat-Tribunal għandhom jinhatru mill-President ta' Malta fuq parir tal-Prim Ministru għal perjodu ta' tliet (3) snin, u jistgħu jerġgħu jinhatru għal perjodi oħra li l-Prim Ministru jidhirlu li jkunu xierqa.

Hatra tal-membri tat-Tribunal.

**37.** It-Tribunal jista' jahtar kull persuna oħra kwalifikata kif xieraq li jkollha l-kwalifiki jew l-esperjenza fis-suġġett li dwaru jkun hemm tilwima sabiex taġixxi u tgħin fil-proċedimenti:

Hatra mit-Tribunal ta' persuni kwalifikati u b'esperjenza fis-suġġett.

Iżda t-Tribunal ma jkunx marbut li jimxi fuq l-opinjoni ta' dawn il-persuni mahtura.

**38.** It-Tribunal għandu jkollu segretarjat amministrattiv, li jkun jikkonsisti minn segretarju u tali uffiċjali jew impjegati oħra kif ikun meħtieġ sabiex il-kwistjonijiet jiġu ddeterminati fil-pront u b'mod effiċjenti fi hdan il-kompetenza tat-Tribunal. Is-segretarju u l-membri l-oħra tas-segretarjat għandhom jinhatru mill-Ministru.

Segretarjat amministrattiv tat-Tribunal.

**39.** L-ispejjeż magħmula b'rabta mal-amministrazzjoni tat-Tribunal, inkluż il-ħlas tal-onorarju liċ-Chairperson u lill-membri tat-Tribunal u s-salarju tas-Segretarju tat-Tribunal u l-persunal tat-Tribunal għandhom jiġihallu mill-Fond Konsolidat mingħajr il-ħtieġa ta' kwalunkwe approprijazzjoni ulterjuri.

ħlas tas-salarji.

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Seduti tat-Tribunal.

**40.** It-Tribunal għandu jzomm is-seduti tiegħu fil-pubbliku b'mod fiżiku jew b'mezzi virtwali u jista' jistabbilixxi l-proċedura tiegħu stess, madankollu f'konformità shiħa mal-prinċipji ta' mgħiba amministrattiva tajba li jinsabu fl-Att dwar il-Ġustizzja Amministrattiva.

Kap. 490.

Setgħa tat-Tribunal li jamministra għurament.

**41.** It-Tribunal għandu jkollu s-setgħa li jamministra l-għurament lil kwalunkwe xhud jew persuna li jidhru quddiemu.

Rappreżentanza tal-partijiet fl-appell.

**42.** Il-partijiet fl-appell jistgħu jkunu rappreżentati minn kull aġent u assistiti wkoll minn kull aġent.

Appell lit-Tribunal.

**43.** (1) L-appell għandu jsir mhux aktar tard minn għoxrin (20) jum wara li n-notifika tal-ordni, ir-ruling jew id-deċiżjoni tkun inħarġet fuq is-sit web tad-Dipartiment tal-Infurmazzjoni.

(2) Id-data tal-ewwel seduta ma għandhiex tkun aktar tard minn għoxrin (20) jum mid-data tal-preżentata tal-appell.

(3) It-Tribunal għandu jagħti d-deċiżjoni finali tiegħu dwar l-appell fi żmien mija u għoxrin (120) jum mill-ewwel seduta, liema perjodu jista' jiġi estiż darba biss b'perjodu ieħor ta' tletin (30) jum f'ċirkostanzi eċċezzjonali, fl-interess tal-ġustizzja.

Forma ta' appell.

**44.** (1) L-appell għandu jsir permezz ta' rikors, u għandu:

(a) jagħmel referenza għad-deċiżjoni tal-Awtorità appellata, b'kopja tagħha;

(b) jiddikjara b'mod distint il-kapijiet tad-deċiżjoni li qiegħed isir l-ilment dwarhom taħt intestaturi differenti, flimkien mar-raġunijiet taħt kull intestatura li għaliha ddaħhal l-appell;

(ċ) jiddikjara b'mod speċifiku l-mod li bih huwa mixtieq li d-deċiżjoni tkun varjata taħt kull intestatura;

(d) jinkludi d-dokumentazzjoni kollha li hija rilevanti għar-raġunijiet tal-appell; u

(e) ikun akkumpanjat mill-ħlas tat-tariffa tal-appell kif tista' tiġi preskritta minn regolamenti magħmula skont dan l-Att.

(2) Avviż dwar tali rikors għandu jiġi notifikat liċ-Chairman tal-Bord li, min-naħa tiegħu, għandu jkun intitolat li jipprezenta risposta bil-miktub sa mhux aktar tard minn għaxart (10) ijiem qabel id-data tal-ewwel seduta.

Deċiżjoni tal-appell.

**45.** Appell ma għandux jissospendi l-effetti tad-deċiżjoni

appellata:

B'dana illi l-appellant jista' jitlob is-suspensjoni tal-ordni, ruling jew deċiżjoni appellata sakemm jinqata' l-appell.

**46.** It-Tribunal jista', b'mod shiħ jew parzjalment, jikkonferma, jannulla jew ivarja d-deċiżjoni appellata, billi jagħti bil-miktub ir-raġunijiet għad-deċiżjoni tiegħu u għandu jordna li din id-deċiżjoni tiġi ppubblikata u kkomunikata lill-partijiet fl-appell u ppubblikata fuq is-sit web tad-Dipartiment tal-Infommazzjoni.

Deċiżjoni tat-Tribunal.

**47.** Id-deċiżjonijiet tat-Tribunal għandhom ikunu finali iżda jista' jsir appell quddiem il-Qorti tal-Appell (Kompetenza Inferjuri) fuq punt ta' liġi, liema appell għandu jsir fi żmien għoxrin (20) jum minn dak inhar meta d-deċiżjoni tingħata fil-pubbliku mit-Tribunal. Dawn l-appelli għandhom ikunu rregolati minn dawk ir-regoli tal-qorti li jistgħu jsiru f'konformità mal-artikolu 29 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Appell mid-deċiżjoni tat-Tribunal.

Kap. 12.

**48.** Il-Ministru jista', b'effett minn dik id-data li tista' tiġi stabbilita b'avviż fil-Gazzetta, jirrevoka l-Att dwar ir-Regolament tal-Bini u l-Ordni li jistabbilixxi l-Aġenzija tal-Bini u tal-Kostruzzjoni:

Dispożizzjonijiet dwar it-thassir.  
Kap. 513.  
L.S. 595. 33.

Iżda jistgħu jiġu stabbiliti dati, regoli u proċeduri differenti għar-revoka u, jew l-applikabbiltà ta' dispożizzjonijiet differenti tagħhom.

(a) Kwalunkwe ordni, regola, regolament, bye-law, avviż, pjan jew politika jew strument ieħor li jkollhom is-saħħa ta' liġi magħmula skont l-awtorità jew li jkunu miżmuma fis-seħħ taħt kwalunkwe waħda mid-dispożizzjonijiet tal-Att dwar ir-Regolament tal-Bini għandhom ikomplu jkunu fis-seħħ u għandhom jibqgħu jkollhom effett daqslikieku saru skont dan l-Att u jistgħu jiġu emendati, mibdula jew revokati skont dan:

Kap. 513.

Iżda fil-każ ta' tali liċenzja, permess, ordni, avviż jew ċertifikat maħruġa bħala operattivi għal perjodu speċifiku, tali liċenzja, permess, ordni, avviż jew ċertifikat għandhom jibqgħu operattivi għal tali perijodu mid-data li fiha tali liċenzja, permess, ordni, avviż jew ċertifikat ikunu nħarġu.

(b) Id-dispożizzjonijiet tal-Att dwar ir-Regolament tal-Bini u kwalunkwe leġislazzjoni sussidjarja promulgata skont l-Att imsemmi, kif fis-seħħ qabel id-dhul fis-seħħ ta' dan l-Att, għandhom ikomplu japplikaw fir-rigward ta' kwalunkwe azzjoni ċivili jew kriminali, id-dritt ta' azzjoni jew l-obbligu relatat ma' jew li jirriżulta minn ħlasijiet dovuti jew magħmula fir-rigward ta' kwalunkwe materjal jew xogħol fornut jew magħmul, qabel

Kap. 513.

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id-dhul fis-sehh ta' dan l-Att.

(ċ) Sa fejn ikun konsistenti mal-generalità tad-dispożizzjonijiet li jinsabu f'dan l-Att, xejn f'dan l-Att ma għandu jippreġudika, jew jitqies jew jinftiehem li jippreġudika, il-validità ta' kwalunkwe att li jkun sar, jew jeżenta lil xi hadd milli jagħmel xi haġa li ma tkunx saret, jew kwalunkwe drittijiet vestiti li jirriżultaw minn kwalunkwe liġi mħassra minn dan l-Att, jew kwalunkwe regolament, direttiva, ordni jew regola magħmula tahtu:

Iżda l-effett ta' kwalunkwe att jew ommissjoni ta' din ix-xorta għandu jkompli mad-dhul fis-sehh ta' dan l-Att daqsliekieku sar skont dan l-Att.

Kap. 513.

(d) Kwalunkwe referenza fi kwalunkwe liġi għall-Att dwar ir-Regolament tal-Bini jew għal kwalunkwe regolament, direttiva, ordni jew regola magħmula tahtu għandha titqies bhala referenza għal dan l-Att jew kwalunkwe liġi oħra li tista' minn żmien għal żmien temenda, tissupplimenta jew tissostitwih.

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Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 445 tal-24 ta' Marzu, 2021.

ANĠLU FARRUGIA  
*Speaker*

RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

**GEORGE VELLA**  
**President**

6th April, 2021

**ACT No. XIV of 2021**

*AN ACT to regulate and monitor the building and construction industry, to make provisions for the planning, management and control of the sector and for the establishment of an authority with powers relative to building and construction and for matters related therewith or ancillary thereto.*

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:-

**ARRANGEMENT OF THE ACT**

		Articles
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PART I  
Preliminary

Short title and commencement.

1. (1) The short title of this Act is the Building and Construction Authority Act, 2021.

(2) This Act shall come into force on such date as the Minister may by notice in the Gazette establish, and different dates may be so established for different provisions or different purposes of this Act.

Interpretation.

2. In this Act, unless the contents otherwise requires:

"Authority" means the Building and Construction Authority;

"Board" means the Building and Construction Authority Board established under Part II;

"building" means any structure resultant from a construction process;

"building services works" means the installation, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within or to a building including any necessary contingent measures to carry out such works;

"Chief Executive Officer" means the Chief Executive Officer of the Authority appointed under article 14;

"client" means the person in whose name the works are being undertaken;

"Code" means the National Building and Construction Code which shall set out the minimum standards for buildings and works;

"competent person" means a person who shall have experience and, or training and, or qualifications set out in regulations made under this Act;

"construction" means any act or engineering operation necessary for, or related to site improvement, fabrication, extension, alteration, repair of a building or structure and "constructed" shall be construed accordingly;

"contractor" means the person engaged by the client who

has the experience and, or training and, or qualifications set out in regulations made under this Act; and the term "contractor" shall, for the purpose of this Act, also include sub-contractors;

"contractor's equipment" means all apparatus, machinery, vehicles and other things of the contractor required for the execution and completion of the works and the remedying of any defects;

"demolition" means the pulling down or removal of structural elements and other non-structural building components including any necessary contingent measures to carry out such works;

"design" includes the preparation of plans, particulars, drawings, specifications, calculations and other expressions of purpose by a competent person according to which the permanent works are to be executed, but shall not include matters relating to development planning, urban design and aesthetics;

"enforcement notice" has the meaning assigned to it under Part VI;

"excavation" means the cutting or removal of natural material or human placed material on land or at sea, including any necessary contingent measures to carry out such works;

"finishing works" includes any works fixed within or to a building to make it fit for its intended use including any necessary contingent measures to carry out such works, but excludes demolition, excavation, construction and building services;

"functions" includes powers and duties;

"Minister" means the Minister responsible for the construction industry;

"operative date" means the day on which an instrument takes legal effect;

"permanent works" means all works to be executed by the contractor intended to form a continuing function after the completion of the works;

"prescribed" means prescribed by regulations made by the Minister under this Act;

"site" means the place where the works are to be executed

and to where the equipment and/or materials and/or workers are to be delivered;

"temporary works" means all temporary works of every kind required on site for the execution and completion of the permanent works and the remedying of any defects;

"Tribunal" means the Building and Construction Tribunal established under Part VIII;

"works" means the permanent works and the temporary works, or either of them as appropriate, and include excavation, demolition, construction, building services works and finishing works.

## PART II

### Establishment, Duty and Scope of the Authority

General objectives.

**3.** (1) It shall be the duty of every person and entity, whether public or private, to execute works on a building according to best industry practices and set standards that also include the respect and protection of the environment and the immediate surroundings, its users and the public in general and this after taking into consideration the respective level of responsibility and obligations expected from the person and, or entity as the case may be.

(2) It is also essential that any building and construction works give due regard to and respect the principles of sustainability, structural integrity, their quality and energy efficiency at its inception, during construction and use.

Interpretation.

**4.** The provisions of article 3 shall be applied in the interpretation of the other provisions of this Act, or of any other law relating to matters governed by this Act.

Establishment of the Authority.

**5.** There shall be an Authority, to be known as the Building and Construction Authority, which shall be responsible for the regulation, improvement and sustainable management of the building and construction industry in Malta.

Authority with a distinct legal personality and legal and judicial representation of the Authority.

**6.** (1) The Authority shall be a body corporate having a distinct legal personality and, subject to the provisions of this Act, it shall be capable of entering into contracts, of acquiring, holding and disposing of property of any kind for the purposes of its functions under this Act and any other law, of suing and of being sued, and of doing all such things and entering into all transactions as are incidental or conducive to the exercise or performance of its functions under this Act, including the borrowing of money.

(2) The legal and judicial representation of the Authority shall vest in the Board:

Provided that the Board may appoint any one or more of its members or any one or more of the officers or employees of the Authority to appear in the name and on behalf of the Authority in any proceedings and in any act, contract, instrument or other document whatsoever:

Provided further that in respect of any matter falling within the functions vested in the Chief Executive Officer, the legal and judicial representation of the Authority shall also vest in the Chief Executive Officer.

7. (1) The Authority shall be the principal means whereby the Government shall delegate its duties consequent or incidental to this Act. Functions and the scope of the Authority.

(2) The functions of the Authority shall include the following:

(a) to perform and succeed in the functions which were previously assigned to the Building Regulation Board and the Building Regulation Office under the provisions of the Building Regulation Act and which are now contained in this Act and to perform and succeed in the assets, rights, liabilities and obligations of the Building Regulation Board and Building Regulation Office established under the provisions of the Building Regulation Act to the extent that the Minister may prescribe by regulations under this Act; Cap. 513.

(b) to perform and succeed in the functions which were previously assigned to the Building and Construction Agency under the provisions of the Building and Construction Agency (Establishment) Order and are now contained in this Act and to perform and succeed in the assets, rights, liabilities and obligations of the Building and Construction Agency established under the provisions of the Building and Construction Agency (Establishment) Order to the extent that the Minister may prescribe by regulations under this Act; S.L. 595. 33.

(c) to perform and succeed in the functions which were previously assigned to the Masons Board under the provisions of the Code of Police Laws and are now contained in or under this Act and to perform and succeed in the assets, rights, liabilities and obligations of the Masons Board as established under the provisions of the Code of Police Laws to the extent that the Minister may prescribe by regulations under this Act; Cap. 10.

(d) to issue and enforce good practice guidelines and methodologies, policies and regulations aimed towards the improvement and sustainable management of building and construction practices in Malta;

(e) to assess requests made by or under this Act and decide whether to issue the relative certification, order, licence, permit or exemptions under such conditions as it deems reasonable, subject to any other provision of this or any other law;

(f) to provide a centralised office for the receipt and processing of complaints, reports and assessment of information related to alleged breaches of the provisions made by or under this Act, and, if need be, co-ordinate investigations with other competent authorities;

(g) to promote research, educational, training and public awareness programs relating to the improvement and sustainable management of the building and construction industry;

(h) to advise the Minister generally on any matter and action with regard to the improvement and sustainable management of building and construction practices in Malta;

(i) to establish long and short term objectives and strategies for the proper administration of the Authority and the building and construction industry in Malta;

(j) to monitor the performance, safety and quality of buildings and constructions in Malta;

(k) to keep a register of service providers;

(l) to keep a depository of documentation as provided by or under this Act;

(m) to collaborate with other agencies, corporations, authorities, government and non-governmental entities and other persons for the carrying out of its functions, including but not limited to enabling it to monitor the implementation of and compliance with the provisions of this Act;

(n) to enter into arrangements through joint ventures or partnerships or other agreements with public bodies, public authorities, government departments, public corporations, local councils, non-governmental entities, and other body corporates to assist it in fulfilling its functions, including but not limited

enabling it to monitor the implementation of and compliance with the provisions of this Act;

(o) to perform any other functions as may from time to time be delegated to it by Government notice by the Minister on behalf of any department or agency of Government, and other matters as may be necessary for the better carrying out of the provisions of this Act, including the functions required to give effect to any international obligation entered into by Malta relative to matters regulated by this Act.

**8.** (1) In the pursuance of its functions under this Act, the Authority shall seek to act in the public interest and in line with the best practices and standards.

Conduct and affairs of the Authority.

(2) The Authority shall have the power to regulate its own conduct including formulating its own rules, schedules and administrative procedures.

(3) The Authority shall execute its duties, functions and responsibilities in accordance with Government's strategic directions relating to the building and construction industry as communicated by the Minister.

**9.** (1) The Authority shall be governed by the provisions of the Public Finance Management Act.

Financial administration. Cap. 601.

(2) The Authority shall levy all fees, rates and other payments prescribed or deemed to be prescribed by or under this Act or any other law related to the powers and functions of the Authority.

(3) The Authority shall be paid by Government out of the Consolidated Fund such sums as Parliament may from time to time authorise to be appropriated to meet the costs of specified works to be continued or otherwise carried out by the Authority:

Provided that any subvention received from Government shall be exempted from any liability for the payment of income tax and duty on documents under any law for the time being.

(4) Any excess of revenue over expenditure shall, subject to such directives as the Minister, after consultation with the Minister responsible for finance, may from time to time give, be applied by the Authority to the formation of reserve funds to be used for the purposes of the Authority and without prejudice to the generality of the powers given to the Minister by this sub-article, any direction given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the direction, of any

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part of the fees, rates and other payments levied in accordance with sub-article (2) or any such excess as aforesaid.

(5) Any funds of the Authority not immediately required to meet expenditure may be invested in such manner as may from time to time be approved by the Minister.

Documents.

**10.** (1) A document purporting to be a copy of an entry in a register or to be a copy of a document lodged with the Authority, and which is certified by an officer of the Authority, shall be deemed to be a correct copy of such entry or document and shall be *prima facie* evidence of the entry or the document of which it purports to be a copy and it shall not be necessary to prove the signature of such officer or that he was in fact such officer.

(2) Evidence of an entry in a register may be given by the production of a copy of such entry, certified in accordance with the provisions of sub-article (1), and it shall not be necessary to produce the register itself.

(3) In any proceeding or prosecution under this Act, a copy of any order, notice, decision or other document purporting to have been made under this Act and purporting to have been signed by the Chairman of the Board or any person authorised by the Board, shall be accepted as evidence of the order, notice, decision or other document, and of the facts appearing therein, without further proof.

(4) The Authority shall ensure that an audit trail of all files, including all documentation and reports are kept:

Provided that files, documentations and reports may be digitised and the Board may after digitisation dispose of hard copies of files, documentations and reports after a period of at least five (5) years from date of submission to or decision of the Authority or to any other previous entity carrying out the same functions:

Cap. 586.

Provided further that data kept manually or electronically as it may require from time to time is subject to the Data Protection Act and the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 regarding the protection of natural persons with regard to the processing of personal data and the free movement of such data, and repealing Directive 95/46/EC.

The Board.

**11.** (1) There shall be a Board to be known as the Building and Construction Authority Board appointed by the Minister, which Board shall exercise all the functions assigned to the Authority or directly to it by or under this Act as well as those functions as may from time to time be delegated to it in writing by the Minister as may be necessary

for the better carrying out of the duties of this Act.

(2) The Board shall be composed as follows:

(a) a person who shall also be the Chairperson of the Board;

(b) a duly warranted *perit* with a minimum of seven (7) years experience;

(c) a duly warranted advocate with a minimum of seven (7) years experience;

(d) a duly warranted *inginier* with a minimum of seven (7) years experience;

(e) seven (7) persons chosen from amongst persons of known integrity and with knowledge and experience in any of the following subjects: commerce, economy, industry, planning and construction industry, development planning, environment, historical heritage, cultural heritage and community affairs.

(3) There shall also be a person appointed by the Minister who shall act as a secretary of the Board.

(4) The members of the Board and the secretary of the Board shall be remunerated as prescribed by the Minister and hold office for a period not exceeding three (3) years and may be reappointed for further periods, not exceeding a total of seven (7) years:

Provided that in the event that a member of the Board vacates his office prior to the expiration of his term of office, the person appointed in his stead shall be appointed for the remaining period of the original appointment.

(5) The Minister may designate one of the other members of the Board as Deputy Chairperson and the member so designated shall have all the powers and perform all the functions of the Chairperson during the Chairperson's temporary absence or inability to act as chairperson, or while the Chairperson is on vacation, or during any vacancy in the office of Chairperson.

(6) The Chairperson or any other member of the Board may be removed from office by the Minister prior to the expiry of his term of office on grounds of inability to continue to perform the functions of office or any other reasonable cause.

(7) If a member resigns or on the expiration of term of office or if

the office of a member of the Board is otherwise vacant or if a member is for any reason unable to perform the functions of his office, the Minister may appoint a person who is qualified to be appointed as a member to be a temporary member of the Board, as the case may be; and any person so appointed shall cease to be such a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

(8) The Board may act notwithstanding any vacancy among its members.

(9) The quorum at all meetings of the Board shall be not less than half of the voting members plus one.

(10) The decisions of the Board shall be taken by a simple majority of the votes of the members present during the meeting when the vote is taken. The Chairperson presiding at the meeting shall have a second or casting vote.

(11) The Board shall hold such number of meetings as may be necessary for the performance of its functions, and shall meet not less than once a month. The Chairperson of his own motion or any two of the voting members may at any time convene a meeting of the Board.

(12) The Board may consult with any person as well require any department or agency of Government to provide it with such information as the Board may deem necessary for the proper execution of its functions.

(13) The Board may appoint consultants to assist it in the performance of its functions and invite such persons to attend its meetings.

(14) The Board may decide to hold its meetings in public and, or through such electronic or other viable means of communication as it deems appropriate.

(15) The Board may, by written communication, with the approval of the Minister, delegate any of its powers to any one of the members or a number of members and, or the Chief Executive Officer or any other administrative entity established by law or under a law in order to give effect and discharge effectively and efficiently any of the functions provided under this Act. The Board shall in its written communication state clearly the reasons supporting the delegation.

(16) The members of the Board, or any person to whom any duties

are delegated, shall not be personally liable for any damages to any person or property as a result of the performance of their duties, unless it is shown that such member or person has acted in bad faith.

**12.** (1) When the Board is required to determine an application or a request made by any person in terms of this Act, hereinafter referred to as "the applicant", the Board shall inform the person making the application or request of its decision.

Determination  
of requests or  
applications.

(2) Notice of the decision shall be published on the website of the Department of Information.

(3) A copy shall also be kept in a register which shall be available for inspection by the public.

(4) The Board has the power to suspend, withdraw, revoke or cancel any approval and shall immediately inform the applicant outlining the salient reasons justifying the suspension, withdrawal, revocation or cancellation, as the case may be.

(5) Notice of the suspension, withdrawal, revocation or cancellation, as the case may be, shall be published on the website of the Department of Information.

(6) A copy of the suspension, withdrawal, revocation or cancellation, as the case may be, shall also be kept in a register which shall be available for inspection by the public.

(7) Notwithstanding any other provision found in this Act, none of the powers contemplated in this article can be delegated to any entity or person that is not the Authority.

**13.** (1) The Board shall also appoint an internal auditor, who shall:

Internal auditor.

(a) oversee the systems of internal control and risk management of the Authority and assist and support the Authority in discharging its responsibilities in relation thereto;

(b) provide the communication link with external auditors and evaluate and coordinate the audit and financial reporting process of the Authority;

(c) scrutinise and evaluate any transaction to be entered into by the Authority with a value exceeding two hundred and fifty thousand euro (€250,000); and

(d) review and assess the effectiveness of the

management of the Authority in its compliance with policies and in the discharge of its regulatory and compliance functions in so far as financial matters are concerned.

(2) The internal auditor shall report directly and exclusively to the Board in accordance with procedures established by the Board.

Chief Executive Officer.

**14.** (1) There shall be a Chief Executive Officer appointed by the Board, following approval by the Minister, who shall be responsible for exercising the functions made by or under this Act as well those functions assigned to him by the Board.

(2) The Chief Executive Officer may exercise any one or more of the functions or responsibilities either directly or through the employees or officers within the directorates, units, divisions and sections which he may set up from time to time in order to assist his carrying out effectively and efficiently the duties assigned to him under this Act.

(3) The Chief Executive Officer may appoint any consultant or consultants to assist him in the performance of the duties assigned to him under this Act.

(4) The Chief Executive Officer, or his representative, shall have the right to be present and participate at all meetings of the Board:

Provided that the Chief Executive Officer shall not be present during meetings of the Board or any part thereof in cases of potential or actual conflict of interest, which he shall be obliged to disclose.

(5) The Chief Executive Officer and, or any person assisting him in the carrying out of his duties assigned to him under this Act, shall not be personally liable for any damages to any person or any property as a result of the performance of their duties, unless it is proven that such damage resulted from bad faith on their part.

Employment of officials.

Cap. 595.

**15.** (1) The Authority shall appoint and employ, at such remuneration and upon such terms and conditions as it may determine, such officers and employees of the Authority as may from time to time be necessary for the due and effective discharge of its functions, in accordance with directives issued under the Public Administration Act.

Cap. 595.

(2) In accordance with the provisions of the Public Administration Act or with the approval of the Prime Minister, the Authority may request, after consultation with the Minister, that any public employee shall, from time to time, be detailed for duty with the Authority in such capacity and with effect from such date as may be

specified in the direction.

(3) Where a public officer is detailed for duty with the Authority such officer shall, during the time in which such direction is in force, be under the administrative direction and control of the Authority but shall otherwise remain and retain all rights and duties as a public officer, and for the purpose of any law relating to government service pensions, service with the Authority shall be deemed to be service with the Government.

**16.** (1) Where any member of the Board, an employee, consultant, advisor or other person engaged by the Authority, has a personal or direct financial interest in any matter which is to be considered by the Authority through his direct involvement, upon becoming aware of such interest, he shall neither influence nor seek to influence the processing and the decision in relation to such matter and shall take no part in any consideration of such matter.

Conflict of interest.

(2) Where a person to whom sub-article (1) applies fails to make the required disclosure, the Board shall decide the appropriate action to be taken which may include, after concurrence from the Minister, the removal from office or termination of the contract of the person concerned.

**17.** (1) Without prejudice to the provisions of the Interpretation Act, any power conferred by this Act to issue licences, to make regulations, rules, orders, lists, schedules and any other instrument of like nature, includes the power from time to time to revoke, replace, amend, alter, add to or delete from any such instrument as aforesaid.

Power of the Minister to make regulations. Cap. 249.

(2) The Minister may, after consultation with the Board, make regulations in relation to any matter relating to the improvement and sustainable management of the building and construction industry in Malta so long as such regulations are in line with the objectives of this Act.

(3) Without prejudice to the generality of sub-article (2) such regulations under this article may provide for all or any of the following:

(a) delineate the obligations, duties and responsibilities of the various stakeholders in the building industry in Malta;

(b) prescribe the form of any notice, order, application form or other document authorized or required by this Act to be made, served or given;

(c) establish offences and the relative punishments in

relation to matters falling under Part V;

(d) provide for the procedures as may be required for the performance of the functions of the Authority as well as the fees and contributions chargeable therefor;

(e) prescribe what type of information held by the Authority shall be accessible to the public as well as to establish procedures for data processing, accessing, analysing, collection, verification and deletion of any information;

(f) give effect to any international treaty or instrument, including directives, regulations and decisions, relating to any matter governed by this Act;

(g) prescribe the setting up of a Third Party Protection Fund which shall be used to provide injured third parties with temporary accommodation and other basic needs when such needs are occasioned by an accident resulting from the works;

(h) prescribe regulations for any other purpose for which regulations are authorised or required to be made;

(i) prescribe regulations for any other matter relating to attaining the objectives of this Act.

(4) Regulations made under this article shall always contain provisions to outline:

(a) the types, classes or descriptions of buildings and constructions to which the regulations apply, including whether any provisions contained therein, may be made so as to apply generally, or with regard to any area specified in the regulations;

(b) the operative date on which the regulations come in force, which date shall be published in the Gazette;

(c) whether the provisions, or part thereof, apply retroactively or prospectively from the operative date.

### PART III

#### National Building and Construction Code

National  
Building and  
Construction  
Code.

**18.** (1) There shall be a National Building and Construction Code, which shall set out the minimum standards pertaining to buildings and works.

(2) The Code shall aim towards covering different aspects of

regulation, improvement and sustainable management of the building and construction industry in Malta, which should include, but not necessarily be limited to, building regulations, including structural integrity of sites and buildings, fire safety, site preparation and resistance to contaminants and moisture, demolition and excavation practices, dealing with toxic substances, resistance to the passage of sound, ventilation, sanitation, hot water safety and water efficiency, drainage and waste disposal, heat producing appliances and fuel storage system, protection from falling, collision and impact, conservation of fuel and power, access to and use of buildings, glazing (safety in relation to impact, opening and cleaning), electrical safety, security; materials and workmanship; and construction regulations, including health and safety in and around sites; site operations; execution of permanent and temporary works, including shoring, propping, scaffolding, hoarding, and formwork; noise abatement; environmental protection; waste reduction and disposal; machinery, plant and equipment.

(3) The Code shall be based on the principle that ensures the sustainable and safe execution of works and use of buildings and their management with the purpose of achieving the building's optimum use for its purpose, also taking account of the socioeconomic factor and other national policies and plans.

(4) (a) The Authority shall review the Code at least every ten (10) years to reflect the developments in the industry.

(b) Every such review shall be made in accordance with national needs and objectives as may be approved by the Minister and shall come into force on the date of publication on the Gazette.

(c) In order to achieve the objectives set out in this article, the Minister may take the necessary measures intended to coordinate and improve the impacts of other sectoral policies and their relation to, or inclusion in, the Code.

(5) The Authority shall be duly authorised to amend the Code as necessary to be in compliance with local or European Union regulations.

#### PART IV

##### Licence to provide certain services

**19.** No person shall carry out any of the activities which the Minister shall by means of regulations prescribe unless he is qualified to carry out such activities as required by these same regulations.

Requirement to be registered or in possession of a licence.

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A licence may be suspended, revoked or cancelled.

**20.** A licence may be suspended, revoked or cancelled as the case may be may if the holder has been found by the Authority to be in breach of the provisions of this Act due to any of the following:

(a) dishonesty, misconduct or negligence in the course of any undertaking in virtue of the licence;

(b) non-compliance with regulations, policies or guidance documents with respect to standards or practices; or

(c) failure to comply with any condition imposed or instructions made under the provisions of this Act; or

(d) where the holder of the licence or permit has been found guilty by a competent court of an offence under the provisions of this Act or of any regulations made thereunder.

PART V  
Exemptions

Applications.

**21.** (1) The Board shall, following a request from an interested person, consider that the adoption of a requirement consequent or incidental to this Act is unreasonable in relation to the particular case to which the request relates, and shall give a direction exempting from, dispensing or relaxing that requirement, subject to any additional conditions as it deems fit:

Provided that the said exemption is one of those prescribed by regulations issued by the Minister.

(2) An application pursuant to this article may be in such form and shall contain such particulars as may be prescribed.

(3) The application shall be made to the Board and it shall include justification outlining the reasons why an exemption or relaxation should be warranted by the Board.

(4) Before considering any request made in accordance with this article, the Board shall order the notification of all the persons who in its opinion to have a direct interest and subsequently shall receive the submissions from such persons.

(5) The Board shall process and determine the application within ten (10) working days from the filing of the application and a decision delivered within the next ten (10) working days. Nevertheless, the Board may on one occasion only extend each of the said terms by a further ten (10)-day term.

- (6) The exemption, dispensation or relaxation may be:
- (a) unconditional; or
  - (b) subject to compliance with any such condition as may be specified in the direction, being conditions on matters directly connected with the exemption, dispensation or relaxation.
- (7) The exemption under this article:
- (a) if it so provides, shall cease to have effect at the end of such period as may be specified in the exemption; and
  - (b) may be varied or revoked by a subsequent direction of the Board.

#### PART VI Enforcement

22. (1) The Authority shall have the power to assess whether any activity is compliant with the provisions of this Act and, or regulations made thereunder. Monitoring and enforcement.

(2) For the purposes of this article, the Chief Executive Officer or any person or persons authorised by him to that effect shall, upon production of proof of their identity, have the right to enter and inspect any building or site at all reasonable times without any other formalities required by any other law and request any information insofar as it is needed to ensure compliance with this Act or any regulations made under this Act, including to verify and audit any document submitted to the Authority:

Provided that in cases where the Chief Executive Officer believes that there is an imminent danger, any authorised person may enter the building or site at any time:

Provided further that nothing in this article shall empower an authorised person to enter into or to inspect any plans or documents relating to land or building which is in the occupation of the Armed Forces of Malta or the Malta Police Force, or Correctional Facilities or such other building that the Minister may designate in writing from time to time, if in the opinion of the respective commanding officers such inspection of documentation would breach security.

(3) Where the Chief Executive Officer or any person or persons authorised by him are prevented from exercising his power of entry into any land or building in the exercise of his powers under this

article, the Authority, as the case may be, may request the assistance of the police.

(4) Any verbal order issued the by the Chief Executive Officer or any person or persons authorised by him shall be followed in writing within twenty-four (24) hours by an enforcement order issued under articles 23, 24 and 25.

(5) The Chief Executive Officer or any person authorised by him may also:

(a) examine any article, product, or take samples of the materials used in the carrying out of any work or take such other action in relation to such construction work as may be necessary to establish whether the requirements set out in this Act or under this Act are being complied with in relation to the building and, or works;

(b) examine any article, product, or take samples of the materials used in the carrying out of any work or take such other action in relation to such construction work as may be necessary to establish whether the requirements of building regulations are being complied with in relation to the building and, or works;

(c) take surveys, photographs or video or use any type of equipment to help in the investigations which may be produced as evidence;

(d) give all necessary orders, including the immediate closure of a site or part thereof and cessation of works in part or in full in case of imminent danger or in the public interest;

(e) require the owner or occupier of the building, or any person responsible for the works, to provide such plans, documents and information as are necessary to establish whether the requirements of the matters regulated by this Act and regulations made thereunder are being complied with in relation to the building, development, works, installation and services;

(f) do anything that is ancillary or consequential thereto.

(6) For the purposes of this Act, the Chief Executive Officer or any authorised person shall not be personally liable for any damages to any person or any property as a result of the exercise of his powers under this article, unless it is proven that he has acted in bad faith.

(7) The Chief Executive Officer or any person authorised by him,

notwithstanding any other law, shall have the right to assist the police in the conduct of prosecution for offences under this Act and to plead the case on behalf of the prosecution.

**23.** (1) The Authority may issue and serve an enforcement notice where an activity is not compliant with the provisions of this Act and, or regulations made thereunder. Enforcement notices.

(2) An enforcement notice made under this article shall contain:

(a) a detailed description of the infringements being alleged;

(b) the date on which the notice takes effect;

(c) the instructions to be adhered to for compliance purposes;

(d) the amount of administrative fine, if applicable;

(e) the details of the person who is liable for the detected infringement;

(f) a period within which the Authority may allow the offender to remedy the situation without having to pay the administrative fine;

(g) indication that the notice may be appealed before the Tribunal within twenty (20) days from the date of publication of the notice on the website of the Department of Information and that where the notice orders the cessation of any work, it shall have effect immediately, and the effect of this notice will not be suspended by the lodging of an appeal.

(3) Without prejudice to the other provisions of this article, the instructions to be adhered to for compliance purposes may:

(a) require such steps as may be specified in the notice to be taken within such period as may be so specified for the purposes of ensuring compliance with this Act or regulations made thereunder, and such notice may require:

(i) the removal, alteration or making safe of any structure, service, fitting or equipment; or

(ii) the cessation of any works or the doing of any other thing as may be specified in the notice in relation to the building or works to which the notice relates;

(b) prohibit the use of a building, or a specified part of a building, for any purpose specified in the notice until the specified measures are taken to the satisfaction of the Authority, by the removing, altering or making safe of any structure, service, fitting or equipment or the cessation of any works or by the doing of any other thing in relation to such building or such specified part of a building that may be required by the notice;

(c) prohibit the use or the removal of any type of vehicle, plant or machinery that may contravene any of the provisions of this Act or regulations made thereunder:

Provided that when the illegal activity is limited to part of the site, the Authority may in its discretion issue a partial enforcement notice requiring the immediate cessation of the activity only in relation to that part of the site and not in relation to the whole site.

Serving and notification of enforcement notice.

**24.** An enforcement notice shall be served on:

- (a) the owner of the site or building concerned; and, or
- (b) the occupier of the site or building concerned; and, or
- (c) the contractor; and, or
- (d) any other person who is responsible or involved in the monitoring or the execution of the works in the site or building concerned; and, or
- (e) the client:

Provided that "person" shall also include a legal person.

Publication and service of enforcement notice.

**25.** (1) Where an enforcement notice is authorised under this Act, notice thereof shall be published on the website of the Department of Information.

(2) A copy of the notice shall also be served using any of the following methods:

- (a) where a person is known by name, by delivering it to him in person or leaving it at the address at which such person ordinarily resides or, where an address for service has been furnished, at that address or by sending it by registered mail at the address where such person ordinarily resides or, where an address for service has been furnished, at that address; or
- (b) where the address at which such person ordinarily

resides cannot be ascertained by reasonable enquiry and the enforcement notice is authorised to be given in respect of any particular building or works, by delivering it to a person residing in such building or carrying out such works or by affixing it in a conspicuous place on or near such building or works and keeping it so affixed for a period of not less than five (5) working days;

(c) where an enforcement notice is authorised by this Act to be served on or given to the owner of a building or works or a person who carried out or is carrying out the works to which building regulations apply, and the name of such person cannot be ascertained by reasonable enquiry, the notice may be addressed to "the owner", "the occupier", or "the person concerned executing the works", as the circumstances may require, without naming such owner or person.

(3) For the purpose of this article, serving of the notice to a body having a distinct legal personality shall be effected according to sub-article 187(4) of the Code of Organization and Civil Procedure.

Cap. 12.

(4) A person who at any time after a notice is affixed pursuant to sub-article (2)(b) removes, damages or defaces the notice without lawful authority shall be guilty of an offence against this Act.

Notwithstanding the provisions of sub-article (2), a notice is deemed to have been served to the person or persons indicated in the notice on the day notice thereof is published on the website of the Department of Information.

**26.** (1) A person on whom an enforcement notice has been served shall comply with the terms of the notice within the period specified therein.

Non-compliance with the notice.

(2) Where a person fails to comply with the requirements of an enforcement notice, the Chief Executive Officer, or his representative, may enter into any building or site to which the enforcement notice relates without any other formalities required by any other law and take any action or do anything required by the notice, including the closure or sealing off of the building or site, or other action as required by circumstances and may for such purpose request the assistance of the police which shall for such purpose exercise such powers as are vested in them for the prevention of offences and the enforcement of law and order.

(3) Notwithstanding the provisions of any other law and saving the provisions of article 46 of the Constitution and article 4 of the European Convention Act, no precautionary warrant or other order shall be issued or made by any court restraining the Authority from the

Cap. 319.

exercise of any of the powers conferred upon it by this article.

(4) If any steps or other action, including any discontinuance, stoppage or similar requirement, required to be taken by an enforcement notice have not been taken within the time specified therein, the Authority may enter on the land or the area at sea and take such steps or other action as aforesaid without any other formalities required by any other law, including the disabling or removal of any equipment, machinery, tools, belongings, vehicles or other objects that may be on site and the carrying out of any works necessary to comply with what is requested in the enforcement notice and may for such purpose request the assistance of the Police Force, the Armed Forces, any local council, any department of Government or any agency of Government, and the Police Force and, or Armed Forces and, or other entity shall for such purpose exercise such powers as are vested in them at law, on the demand of the Authority for assistance.

(5) All expenses reasonably incurred by the Authority in the exercise of its powers with respect to enforcement notices shall be recoverable by the Authority.

Cap. 12. (6) The Authority may recover the costs involved in taking the action required under this Part as a civil debt, following the service of a judicial act, in terms of article 466 of the Code of Organization and Civil Procedure, which is either not opposed or the opposition of which is denied, and according to the provisions of the said article, shall constitute an executive title for all the effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

Cap. 296. (7) The Authority may register on the property in which the illegalities took place a caution on the property in terms of the Land Registration Act.

(8) The Authority shall have the power to impose, in respect of any person who infringes any provision of this Act, an administrative penalty according to the provisions in regulations made thereunder, which shall not exceed five hundred thousand euro (€500,000), and five thousand euro (€5,000) each day, in the case where the infringement persists:

Cap. 12. Provided that all the penalties provided for in this article shall be due to the Government as a civil debt and following the service of a judicial act, in terms of article 466 of the Code of Organization and Civil Procedure, which is either not opposed or the opposition of which is denied, according to the provisions of the said article, the same administrative penalty shall constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code

of Organization and Civil Procedure.

**27.** (1) Without prejudice to any other special provisions of this Act, the Minister may, after consultation with the Board, make regulations which prescribe that the breach of regulations made under this Act shall constitute a criminal offence and which prescribe penalties for criminal offences against any regulations made under this Act.

Power of Minister to make regulations in respect of criminal offences.

(2) Any such regulations may prescribe imprisonment and different fines (*multa*) for different offences and prescribe fines (*multa*) calculated in accordance with the duration of the commission of the offence:

Provided that any such regulations as may be made shall not provide for:

(i) imprisonment for more than two (2) years, or a fine (*multa*) of more than two hundred thousand euro (€200,000); or

(ii) fines of more than five thousand euro (€5,000) for each day during which the offence persists.

**28.** Criminal proceedings for an offence against this Act shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts of criminal judicature.

Criminal proceedings. Cap. 9.

**29.** Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal from any judgement given by the Courts of Magistrates (Malta) or by the Court of Magistrates (Gozo) in respect of proceedings for any offence against this Act or any regulations made under this Act.

Right of appeal of the Attorney General. Cap. 9.

**30.** Notwithstanding any other law providing for the trial and punishment of offences, where the Authority believes that a person has committed an offence against this Act, the Authority may issue an enforcement notice in terms of articles 23, 24 and 25.

Issue of enforcement notice.

**31.** Any person who is convicted of a criminal offence in terms of or under this Act may also, at the request of the prosecution, be disqualified according to regulations made under this Act from providing his services which are recognised by, or under this Act.

Disqualification.

PART VII  
Register

Keeping of  
register.

**32.** The Authority shall keep a register of:

- (a) decisions taken by the Board in terms of article 12;
- (b) details of the registered service providers as established by regulations made under this Act and such details shall include disqualifications made in terms of article 31;
- (c) details of the exemptions granted in terms of article 21;
- (d) details of the enforcement notices issued under this Act;
- (e) decisions taken by the Tribunal;
- (f) copy of commencement notices, method statements, condition reports, compliance certificates;
- (g) any other documentation prescribed by or under this Act.

Register shall be  
made available  
to the public.

**33.** The register shall be made available for public inspection at such reasonable times as may be determined by the Authority.

PART VIII  
Building and Construction Tribunal

Establishment  
of the Building  
and  
Construction  
Tribunal.

**34.** There shall be an independent and impartial Tribunal, known as the Building Construction Tribunal which shall hear and decide on appeals made by a person aggrieved on points of law and, or points of fact on any order, ruling or decision of the Authority. The Tribunal shall not be subject to the control or direction of any other person or authority.

Composition of  
Tribunal.

**35.** The Tribunal shall be composed of an advocate, a *perit* and a warranted *inginier*, all of whom shall have a minimum of three (3) years experience. The said advocate shall act as Chairperson and shall preside over the sittings of the Tribunal.

Appointment of  
members of the  
Tribunal.

**36.** The members of the Tribunal shall be appointed by the President of Malta on the advice of the Prime Minister for a period of three (3) years, and may be reappointed for further periods as the Prime Minister may deem appropriate.

**37.** The Tribunal may appoint any other suitably qualified person having qualifications or experience on the subject in dispute to act and assist it in the proceedings:

Appointment of qualified and experienced persons by the Tribunal,

Provided that the Tribunal shall not be bound to abide by the opinion of the said appointed persons.

**38.** The Tribunal shall have an administrative secretariat, consisting of a secretary and such other officers or employees as may be necessary for a prompt and efficient determination of the matters within the Tribunal's jurisdiction. The secretary and the other members of the secretariat shall be appointed by the Minister.

Administrative secretariat of the Tribunal.

**39.** The expenses incurred in connection with the administration of the Tribunal, including the payment of the honorarium to the Chairperson and members of the Tribunal and the salary of the Tribunal's Secretary and the Tribunal's staff shall be paid out of the Consolidated Fund without the necessity of any further appropriation.

Payment of salaries.

**40.** The Tribunal shall hold its hearings in public, physically or by virtual means, and may establish its own procedure, however in full adherence with the principles of good administrative behaviour found in the Administrative Justice Act.

Hearings of the Tribunal.

Cap. 490.

**41.** The Tribunal shall have the power to administer the oath to any witness or person appearing before it.

Power of the Tribunal to administer oath.

**42.** The parties to the appeal may be represented by any agent and also assisted by any agent.

Representation of parties during the appeal.

**43.** (1) An appeal shall be made not later than a period of twenty (20) days after notice of the order, ruling or decision is made on the website of the Department of Information.

Appeal to the Tribunal.

(2) The date of the first hearing shall not be later than twenty (20) days from the date the appeal is filed.

(3) The Tribunal shall grant its final decision on the appeal within one hundred and twenty (120) days from when it holds the first hearing, which period may be extended only once by a further period of thirty (30) days in exceptional circumstances, in the interest of justice.

**44.** (1) The appeal shall be in a form of an application, and shall:

Form of appeal.

(a) make reference to the Authority's decision appealed from, and a copy thereof;

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(b) distinctly state the heads of the decision complained of under different headings, together with reasons under each heading for which the appeal is entered;

(c) state specifically the manner in which it is desired that the decision be varied under each heading;

(d) include all documentation which is relevant for the grounds of appeal; and

(e) be accompanied with the payment of the appeal fee as may be prescribed by regulations made under this Act.

(2) Notice of such an application shall be served on the Chairperson of the Board who, in turn, shall be entitled to file a written reply not later than ten (10) days before the date of the first hearing.

Decision of appeal.

**45.** An appeal shall not suspend the effects of the appealed decision:

Provided that the appellant may request the suspension of the order, ruling or appealed decision pending the determination of the appeal.

Decision of the Tribunal.

**46.** The Tribunal may, in whole or in part, confirm, annul or vary the decision appealed from, giving in writing the reasons for its decision and shall cause such decision to be made public and communicated to the parties to the appeal and published on the website of the Department of Information.

Appeal from decision of the Tribunal.

**47.** The decisions of the Tribunal shall be final except that there may lie an appeal to the Court of Appeal (Inferior Jurisdiction) on a point of law, which appeal shall be made within twenty (20) days from the day the decision is delivered in public by the Tribunal. Such appeals shall be regulated by such rules of court as may be made in accordance with article 29 of the Code of Organization and Civil Procedure.

Cap. 12.

Repeal provisions. Cap. 513. S.L. 595. 33.

**48.** The Minister may, with effect from such date as may be established by notice in the Gazette, repeal the Building Regulation Act and the Building and Construction Agency (Establishment) Order:

Provided that different dates, rules and procedures may be so established for the revocation and, or applicability of different provisions thereof.

Cap. 513.

(a) Any order, rule, regulation, bye-law, notice, plan or policy or other instrument having the force of law made under the authority or kept in force under any of the provisions of the

Building Regulation Act shall continue to be in force and shall continue to have effect as if made under this Act and may be amended, substituted or revoked accordingly:

Provided that in the case of any such licence, permission, order, notice or certificate issued as operative for a specific period, such licence, permission, order, notice or certificate shall remain operative for such a period from the date such licence, permission, order, notice or certificate was issued.

(b) The provisions of the Building Regulation Act and any subsidiary legislation enacted under the said Act, as in force prior to the coming into force of this Act, shall continue to apply in respect of any civil or criminal action, right of action or obligation relating to or arising out of payments due or made in respect of any material or work supplied or done, prior to the coming into force of this Act. Cap. 513.

(c) In so far as consistent with the generality of the provisions contained in this Act, nothing in this Act shall prejudice, or be held or construed as prejudicing, the validity of any act done, or exempt any one from doing anything omitted to be done, or any vested rights arising under any law repealed by this Act, or any regulation, directive, order or rule made thereunder:

Provided that the effect of any such act or omission shall continue, on the coming into force of this Act, as if done hereunder.

(d) Any reference in any law to the Building Regulation Act or to any regulation, directive, order or rule made thereunder shall be deemed to be a reference to this Act or any other law which may from time to time amend, supplement or substitute it. Cap. 513.

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VERŻJONI ELETTRONIKA

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Passed by the House of Representatives at Sitting No. 445 of the  
24th March, 2021.

ANĠLU FARRUGIA  
*Speaker*

RAYMOND SCICLUNA  
*Clerk of the House of Representatives*



# VERŻJONI ELETTRONIKA