

MALTA

ATT Nru XXXVIII tal-2023

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

ATT sabiex jipprovdi għat-twaqqif ta' Awtorità magħrufa bhala l-Awtorità tal-Istandards għall-Persuni Anzjani u għall-eżerċizzju ta' dik l-Awtorità ta' funzjonijiet regolatorji sabiex tistabbilixxi l-istandards għal servizzi residenzjali, kwalunkwe faċilità oħra ġerjatrika u kwalunkwe servizz ieħor ta' natura ġerjatrika; kif ukoll sabiex jirregola s-setgħat, obbligi u rizersi finanzjarji tal-Awtorità tal-Istandards għall-Persuni Anzjani mwaqfa skont id-dispożizzjonijiet ta' dan l-Att; biex jirregola l-fornituri tas-servizzi u jistabbilixxi standards regolatorji għal servizzi differenti provduti lill-persuni anzjani minn aġenziji jew entitajiet pubbliċi jew privati jew kwalunkwe entità jew persuna oħra; biex jistabbilixxi proċeduri għall-investigazzjoni tal-ilmenti kontra fornituri tas-servizzi u sabiex jagħmel dispożizzjonijiet dwar is-setgħat kollha bhal dawn li jistgħu jkunu meħtieġa biex l-Awtorità taqdi l-funzjonijiet tagħha skont dan l-Att.

ACT No. XXXVIII of 2023

AN ACT enacted by the Parliament of Malta.

AN ACT to provide for the establishment of an Authority to be known as the Older Persons Standards Authority and for the exercise of that Authority of regulatory functions regarding the establishment of the standards for residential services, any other geriatric facility and any other service of a geriatric nature; as well as to regulate for the powers, duties and financial resources of the Older Persons Standards Authority set up in accordance with the provisions of this Act; to regulate the service providers and establish regulatory standards for different services that are provided to older persons by agencies or public or private entities or any other entity or person; establish procedures for the investigation of complaints against service providers and to make provisions in respect of all such powers as may be necessary in order for the Authority to fulfil its functions in accordance with this Act.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

24 ta' Novembru, 2023

ATT Nru XXXVIII tal-2023

ATT sabiex jipprovdi għat-twaqqif ta' Awtorità magħrufa bħala l-Awtorità tal-Istandards għall-Persuni Anzjani u għall-eżerċizzju ta' dik l-Awtorità ta' funzjonijiet regolatorji sabiex tistabbilixxi l-istandards għal servizzi residenzjali, kwalunkwe faċilità oħra ġerjatrika u kwalunkwe servizz ieħor ta' natura ġerjatrika; kif ukoll sabiex jirregola s-setgħat, obbligi u riżorsi finanzjarji tal-Awtorità tal-Istandards għall-Persuni Anzjani mwaqqfa skont id-dispożizzjonijiet ta' dan l-Att; biex jirregola l-fornituri tas-servizzi u jistabbilixxi standards regolatorji għal servizzi differenti provduti lill-persuni anzjani minn aġenziji jew entitajiet pubbliċi jew privati jew kwalunkwe entità jew persuna oħra; biex jistabbilixxi proċeduri għall-investigazzjoni tal-ilmenti kontra fornituri tas-servizzi u sabiex jagħmel dispożizzjonijiet dwar is-setgħat kollha bħal dawn li jistgħu jkunu meħtieġa biex l-Awtorità taqdi l-funzjonijiet tagħha skont dan l-Att.

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

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TAQSIMA I

Preliminari

Titolu fil-qosor. **1.** It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2023 dwar l-Awtorità tal-Istandards għall-Persuni Anzjani.

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

"Awtorità" tfisser l-Awtorità tal-Istandards għall-Persuni Anzjani;

"Bord" tfisser il-Bord tal-Gvernaturi mwaqqaf skont it-termini tal-artikolu 6(2);

"Chairperson" tfisser iċ-Chairperson tal-Awtorità;

"fornitur ta' servizz" tfisser il-persuna jew l-organizzazzjoni li qiegħda tipprovdi s-servizz skont it-termini ta' dan l-Att;

"fornitur ta' servizz liċenzjat" tfisser kwalunkwe persuna jew organizzazzjoni li tkun ingħatat liċenzja valida mill-Awtorità skont it-termini ta' dan l-Att;

"fornitur ta' servizz prospettiv" tfisser kwalunkwe persuna jew organizzazzjoni li tapplika għal liċenzja biex tipprovdi servizz taħt dan l-Att;

"Kodiċi ta' Prattika" tfisser standard, speċifikazzjoni jew kwalunkwe forma oħra ta' gwida prattika, sew jekk miktuba jew impingija, istruzzjoni jew kontroll;

"Ministru" tfisser il-Ministru responsabbli mill-persuni anzjani;

"persuna legalment responsabbli" tfisser kwalunkwe

persuna li qiegħda tippovdi servizz skont it-termini ta' dan l-Att;

"sena finanzjarja" tfisser kwalunkwe perjodu ta' tnax-il (12) xahar li jagħlaq fil-31 ta' Diċembru ta' kwalunkwe sena kalendarja;

Iżda li s-sena finanzjarja li tibda fid-data tad-dhul fis-seħħ ta' dan l-Att għandha tintemm fil-31 ta' Diċembru ta' dik l-istess sena;

"servizz" tfisser servizzi residenzjali, kwalunkwe faċilità ġerjatrika oħra u kwalunkwe servizz ieħor ta' natura ġerjatrika mogħti lill-persuni anzjani skont it-termini ta' dan l-Att;

"standard" tfisser dawk ir-rekwiżiti mandatorji li jinħarġu mill-Awtorità lill-fornituri tas-servizz skont id-dispożizzjonijiet ta' dan l-Att;

"Tribunal" tfisser it-Tribunal ta' Revizjoni Amministrattiva stabbilit bl-artikolu 5 tal-Att dwar il-Ġustizzja Amministrattiva; Kap. 490.

"Uffiċjal Eżekuttiv Ewlieni" tfisser l-Uffiċjal Eżekuttiv Ewlieni maħtur taħt l-artikolu 16;

"uffiċjal pubbliku" tfisser l-istess bħat-tifsira assenjata lilha bl-artikolu 124 tal-Kostituzzjoni;

"Uffiċċju tal-Ispettorat" tfisser l-Uffiċċju tal-Ispettorat fi ħdan l-Awtorità biex iwettaq il-monitoraġġ, l-assessjar, il-valutazzjoni u l-infurzar meħtieġ skont dan l-Att;

"utent tas-servizz" tfisser kwalunkwe persuna anzjana li qed tagħmel użu minn servizz regolat b'dan l-Att.

TAQSIMA II

Dikjarazzjoni ta' Prinċipji

3. Bit-twaqqif tal-Awtorità, il-Gvern għandu jfittex li jippromwovi u jiżviluppa r-regolamentazzjoni ta' kura, assistenza u l-provvista ta' servizz f'Malta fis-servizzi residenzjali, kwalunkwe faċilità ġerjatrika oħra u kwalunkwe servizz ieħor ta' natura ġerjatrika mogħti lill-persuni anzjani. Promozzjoni, regola-mentazzjoni u standard ta' kura.

4. Il-protezzjoni tal-persuni anzjani fis-servizzi regolati b'dan l-Att jew kwalunkwe regolamenti magħmula skont it-termini ta' dan l-Att għandha tkun ikkunsidrata ta' interess pubbliku. Protezzjoni tal-persuni anzjani.

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Prinċipji li
jirregolaw lill-
Awtorità.

5. (1) Skont id-dispożizzjonijiet ta' dan l-Att, il-Gvern għandu jiddetermina l-politika u l-għanijiet ta' Malta fir-regolamentazzjoni ta' kura, assistenza u l-provvista ta' servizz lill-persuni anzjani f'Malta fis-servizzi residenzjali, kwalunkwe faċilitajiet ġerjatriċi oħra u kwalunkwe servizz ieħor ta' natura ġerjatrika mogħti lill-persuni anzjani.

(2) L-Awtorità għandha tikseb dan li ġej:

(a) l-iżvilupp ta' standards regolatorji għall-provvista ta' servizzi u assistenza għall-persuni anzjani li għandhom bżonn il-kura, tiddetermina liema standards huma meħtieġa, konsistenti, immirati lejn iċ-ċentralità tal-persuna, effettivi u proporzjonali;

(b) l-assistenza u sostenn lill-fornituri ta' servizzi liċenzjati sabiex jiksbu kwalità oghla ta' servizz; u

(ċ) l-infurzar b'mod proattiv l-istandards u l-kondizzjonijiet imnizzla fil-liċenzji maħruġa mill-Awtorità lill-fornituri ta' servizz.

(3) L-Awtorità għandha tiżgura l-benesseri holistiku tal-persuni anzjani kollha li jużaw is-servizzi regolati b'dan l-Att, inkluż il-benesseri fiżiku, psikoloġiku u soċjali tal-persuni anzjani u li dawn il-prinċipji huma salvagwardjati minn kull min għandu l-obbligu li jagħmel dan.

(4) L-Awtorità għandha tiżgura li l-livell ta' standards stabbiliti u regolati b'dan l-Att huma miżmuma f'kull hin.

TAQSIMA III

Stabbiliment u Funzjonijiet tal-Awtorità

Stabbiliment u
kompożizzjoni
tal-Awtorità.

6. (1) Għandha tiġi mwaqqfa Awtorità magħrufa bħala l-Awtorità tal-Istandards għall-Persuni Anzjani, li l-funzjonijiet tagħha għandhom ikunu, fost l-oħrajn, it-twaqqif ta' standards regolatorji għas-servizzi kollha mogħtija lill-persuni anzjani skont it-termini ta' dan l-Att u li tiżgura li dawn l-istandards jiġu debitament imħarsa skont id-dispożizzjonijiet ta' dan l-Att.

(2) Għandu jkun hemm Bord ta' Gvernaturi magħmul minn seba' (7) membri li wieħed (1) minnhom għandu jkun Chairperson u membru ieħor għandu jkun Viċi Chairperson.

(3) Mingħajr ebda preġudizzju għal ebda liġi oħra, il-membri tal-Bord tal-Gvernaturi għandhom jinhatru mill-Ministru minn fost persuni li jidhru lilu li jkunu kwalifikati minhabba li jkollhom kwalifiki professjonali, jew kwalifiki akkademiċi, jew esperjenza fi jew ikunu wrew hila fi kwistjonijiet relatati mal-kura tal-persuni anzjani. Il-Kummissarju għall-Anzjani għandu jkun appuntat bħala wieħed (1) mill-membri *ex officio* li, madankollu, ikollu d-dritt li jastjeni minn kwalunkwe deċiżjoni li jista' jidher lilu li tkun ta' preġudizzju għas-setgħat mogħtija lilu skont l-Att dwar il-Kummissarju għall-Anzjani.

Kap. 553.

(4) Il-Ministru għandu jahtar persuna addizzjonali li ma għandhiex ikollha l-ebda dritt għal vot sabiex taġixxi bħala Segretarju tal-Bord.

(5) Iċ-Chairperson u l-membri l-oħra tal-Bord għandhom jokkupaw il-kariga għall-perjodu ta' tliet (3) snin:

Iżda li l-membri hekk appuntati jistgħu jiġu appuntati mill-ġdid wara l-iskadenza tat-terminu tal-inkarigu tagħhom:

Iżda wkoll li l-ebda membru, għajr il-Kummissarju għall-Anzjani, m'għandu jibqa' fil-kariga bħala membru tal-Bord għal iktar minn żewġ (2) termini konsekuttivi:

Iżda wkoll li jekk membru jkun appuntat xi żmien wara li l-membri l-oħra kienu diġà ġew appuntati, it-terminu tan-nomina ta' dak il-membri għandu jiskadi fl-istess data tal-membri l-oħra.

(6) Persuna m'għandhiex tkun kwalifikata sabiex tokkupa l-kariga ta' membru tal-Bord jekk dik il-persuna:

(a) tkun kandidat għall-elezzjoni jew membru tal-Kamra tad-Deputati, tal-Parlament Ewropew, ta' Kunsill Lokali jew Kunsill Reġjonali;

(b) tkun inabilitata jew interdetta legalment;

(ċ) tkun tagħti servizz mod ieħor lill-Awtorità jew impjegata ma' entità jew faċilità li huma regolati mill-istess Bord;

(d) kienet iddikjarata falluta jew tkun għamlet kompożizzjoni jew arrangament mal-kredituri tagħha;

(e) tkun instabet hatja ta' delitt li jaffettwa l-fiduċja pubblika jew ta' serq jew ta' frodi jew li tkun xjentement irċeviet proprjetà miksuba b'serq jew frodi, jew ta' kwalunkwe reat kontra dan l-Att jew kwalunkwe liġi oħra, partikolarment dawk marbuta mal-abbuż tal-persuni anzjani; jew

(f) ikollha interess finanzjarju jew interess ieħor f'xi intrapriża jew attività li x'aktarx taffettwa l-qadi ta' dmirijietha bhala membru tal-Bord:

Iżda l-Ministru jista' jiddetermina illi l-interess tal-persuna taħt dan il-paragrafu x'aktarx li mhux ser jaffettwa l-qadi ta' dmirijietha u meta jiġi hekk determinat dik il-persuna għandha tkun kwalifikata sabiex tokkupa l-kariga ta' membru tal-Bord kemm-il darba l-interess iddikjarat u d-determinazzjoni tal-Ministru jiġu ppubblikati fil-Gazzetta tal-Gvern.

Kariga vakanti ta' membru tal-Bord.

7. Il-kariga ta' membru tal-Bord għandha tiġi vakanti:

(a) mal-iskadenza tat-terminu tal-kariga; jew

(b) jekk jinqalgħu xi ċirkostanzi fejn, li kieku l-persuna ma kinitx membru tal-Bord, iwasslu sabiex dik il-persuna tiġi skwalifikata minn dik il-ħatra.

Tneħħija taç-Chairperson u l-membri tal-Bord mill-kariga.

8. Mingħajr preġudizzju għal ebda liġi oħra, iç-Chairperson, kwalunkwe membru tal-Bord u s-Segretarju tal-Bord, għajr il-Kummissarju għall-Anzjani, jistgħu jitneħħew mill-kariga mill-Ministru jekk, fl-opinjoni tal-Ministru, iç-Chairperson, il-membru jew is-Segretarju tal-Bord mhumiex kapaçi jwettqu dmirijiethom kemm jekk din l-inabilità tiġi minħabba inabilità mentali, imġiba ħażina manifesta jew meta ç-Chairperson, il-membru jew is-Segretarju tal-Bord ma jibqgħux meqjusa idonei sabiex ikomplu fil-kariga.

Vakanza fil-kariga ta' Chairperson.

9. Jekk il-kariga taç-Chairperson tal-Bord tiġi vakanti jew jekk għal xi raġuni ç-Chairperson ma jkunx jista' jaqdi d-dmirijiet tal-kariga tiegħu, il-Ministru jista' jappunta persuna sabiex taġixxi bhala Chairperson temporanju tal-Bord, u kwalunkwe persuna hekk appuntata għandha tieqaf milli taġixxi ta' Chairperson temporanju meta persuna tiġi appuntata sabiex timla l-post vakanti jew, skont il-każ, meta ç-Chairperson li ma kienx jista' jwettaq il-qadi tad-dmirijiet tal-kariga tiegħu jerga' jibda d-dmirijiet tiegħu.

Twettiq tal-funzjonijiet tal-Awtorità.

10. Fit-twettiq tal-funzjonijiet tagħha l-Awtorità m'għandhiex tkun soġġetta għad-direzzjoni jew kontroll ta' kwalunkwe persuna jew awtorità oħra.

Personalità ġuridika u rappreżentanza legali tal-Awtorità.

11. (1) L-Awtorità għandha tkun korp magħqud li jkollu personalità ġuridika distinta u li għandha tkun kapaçi, bla ħsara għad-dispożizzjonijiet ta' dan l-Att, li tagħmel kuntratti, li takkwista, iżzomm u tiddisponi minn kwalunkwe xorta ta' proprjetà għall-finijiet tal-funzjonijiet tagħha, li tħarrek u tiġi mħarrka, u li tagħmel dawk l-affarijiet kollha u tidhol f'dawk it-transazzjonijiet kollha li jkunu inċidentali jew li jwasslu għall-eżerċizzju jew it-twettiq tal-

funzjonijiet tagħha taħt dan l-Att.

(2) Ir-rappreżentanza legali tal-Awtorità għandha tkun vestita fiċ-
Chairperson u fl-Uffiċjal Eżekuttiv Ewlieni kif appuntati skont l-
artikolu 16:

Iżda l-Awtorità tista' taħtar li xi wieħed (1) jew aktar mill-
membri tagħha jew mill-uffiċjali jew l-impjegati tal-Awtorità biex
jidhru f'isem u għan-nom tal-Awtorità fi kwalunkwe proċedimenti
gudizzjarji kif ukoll fi kwalunkwe att, kuntratt, strument jew dokument
ieħor ikun liema jkun.

(3) Kwalunkwe dokument li huwa intiż bħala strument magħmul
jew maħruġ mill-Awtorità u li jiġi ffirmat miċ-Chairperson jew mill-
Uffiċjal Eżekuttiv Ewlieni għandu jiġi riċevut bħala xhieda u għandu,
sakemm ma jiġix pruvat il-kuntrarju, jitqies li jkun strument magħmul
u maħruġ mill-Awtorità.

12. Il-funzjonijiet tal-Awtorità għandhom jinkludu:

Funzjonijiet tal-
Awtorità.

(a) li tistabbilixxi standards regolatorji minimi għas-
servizzi regolati b'dan l-Att u tinforza dawn l-istandards skont
kif jista' jkun meħtieġ sabiex tiżgura livell ta' servizzi ta'
kwalità mogħtija lill-persuni anzjani;

(b) li tistabbilixxi l-kriterji u l-kondizzjonijiet għall-
għoti, rifjut, sospensjoni u revoka ta' liċenzji;

(ċ) li tagħti, tirrifjuta, tissospendi jew tirrevoka kwalunkwe
liċenzja;

(d) li timplimenta d-dispożizzjonijiet ta' dan l-Att u
kwalunkwe regolamenti jew ordnijiet oħra hekk magħmula
taħtu;

(e) li twettaq dawk il-funzjonijiet oħra li jistgħu jiġu
assenjati lilha skont id-dispożizzjonijiet ta' dan l-Att jew xi liġi
oħra;

u dana mingħajr preġudizzju għal xi funzjonijiet oħra li jistgħu jkunu
mogħtija lilha taħt dan l-Att, jew minn xi liġi jew regolamenti oħra.

13. Is-setgħa mogħtija lill-Awtorità li tagħmel, tadotta u
tippubblika standards regolatorji għandha tinftiehem bħala li tinkludi
s-setgħa li tista' tiġi eżerċitata biex bl-istess mod tvarja, tissostitwixxi
jew tirrevoka dak l-istandard.

Setgħat dwar l-
istandards
regolatorji.

14. Is-setgħat tal-Awtorità għandhom jinkludu:

Setgħat tal-
Awtorità.

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(a) li tirċievi u tirrikonoxxi applikazzjonijiet għal liċenzjar biex jopera kwalunkwe servizz marbut mal-kura ta' persuni anzjani;

(b) li tikkonsidra s-servizzi prospettivi għall-persuni anzjani;

(ċ) li tivverifika u tinvestiga fornituri ta' servizzi;

(d) li tagħti, tirrifjuta, tissospendi jew tirrevoka liċenzja, kif ukoll li tordna kondizzjonijiet fil-liċenzja, biex jingħata servizz skont il-kriterji stabbiliti;

(e) li tirċievi, tirrikonoxxi, tinvestiga u tiegħu kwalunkwe azzjoni meħtieġa dwar kwalunkwe ilment kontra xi aġenzija jew fornitur ta' servizz jew entitajiet pubbliċi jew privati jew kwalunkwe entità jew persuna oħra;

(f) li timponi miżuri biex ittejjeb il-kwalità tas-servizzi għall-persuni anzjani;

(g) li tistabilixxi u taġġorna reġistru pubbliku għal aġenziji liċenzjati jew fornituri ta' servizz jew entitajiet pubbliċi jew privati jew kwalunkwe entità jew persuna ġuridika oħra li jipprovdu servizzi għall-persuni anzjani skont kif l-Awtorità tista' tqis meħtieġ minn żmien għal żmien:

Iżda li għal finijiet ta' dan il-paragrafu, dan ir-reġistru pubbliku ma għandux jinkludi data personali;

(h) li tibdel jew tneħhi xi kondizzjoni, jew li timponi kondizzjonijiet addizzjonali, jew tbiddel it-tip ta' liċenzja, wara li tkun tat il-liċenzja u, sakemm ma jkunx provdut mod ieħor, daww il-kondizzjonijiet għandhom jidhlu fis-seħh fit-terminu impost mill-Awtorità;

(i) li tagħmel rakkomandazzjonijiet lill-Gvern biex jiżviluppa politika fil-qasam tas-servizzi għall-persuni anzjani.

Laqgħat.

15. (1) Il-laqgħat tal-Bord għandhom jissejnhu miċ-Chairperson kemm-il darba jista' jkun meħtieġ, iżda tal-inqas darbtejn (2) fix-xahar fuq inizjattiva personali taċ-Chairperson jew fuq talba ta' mill-inqas tnejn (2) mill-membri tal-Bord.

(2) Il-Bord jista' jaġixxi minkejja xi vakanza fost il-membri tiegħu.

(3) Nofs l-għadd tal-membri tal-Bord għandhom jiffurmaw

kworum. Id-deċiżjonijiet għandhom jittieħdu b'maġġoranza sempliċi tal-voti tal-membri preżenti u li jivvotaw.

(4) Iċ-Chairperson għandu jkollu vot oriġinali u, f'każ ta' parità fil-voti, vot deċiżiv. Fl-assenza taċ-Chairperson, il-Viċi Chairperson għandu jippresjedi l-laqgħa u waqt din il-laqgħa għandu jkollu l-istess drittijiet taċ-Chairperson.

(5) Membru tal-Bord li jista' b'xi mod ikun direttament jew indirettament interessat f'deċiżjoni meħuda jew maħsuba li ssir mill-Bord għandu jiżvela n-natura tal-interess fl-ewwel laqgħa tal-Bord minnufih wara li ċ-ċirkostanzi rilevanti jkunew għall-konozzenza tiegħu.

(6) Kwalunkwe żvelar li jkun sar taħt is-subartikolu (5) għandu jitniżżel fil-minuti tal-laqgħa tal-Bord, u dak il-membru:

(a) m'għandux jieħu sehem fi kwalunkwe deliberazzjoni u deċiżjoni fir-rigward ta' dik id-deliberazzjoni u d-deċiżjoni tal-Bord wara li jkun żvela l-interess; u

(b) m'għandux jitqies għall-fini ta' kostituzzjoni ta' kworum tal-Bord għal dik id-deliberazzjoni jew deċiżjoni.

(7) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, il-Bord jista' jirregola l-proċeduri tiegħu nnifsu.

(8) Il-Bord għandu jkollu s-setgħa li jikkonsulta professjonisti jew persuni oħra li għandhom għarfien u esperjenza fil-qasam ta' servizzi għall-persuni anzjani.

(9) Fit-twettiq tal-funzjonijiet tiegħu, il-Bord jista', fir-rigward ta' kwalunkwe kwistjoni li taqa' taħt id-dispożizzjonijiet ta' dan l-Att, jitlob lil kwalunkwe persuna sabiex tipprovdi kwalunkwe informazzjoni u tipproduċi kwalunkwe dokumentazzjoni.

(10) Il-membri tal-Bord, is-Segretarju u kull persuna impjegata mal-Awtorità għandhom ikunu marbuta b'konfidenzjalità u m'għandhomx jiżvelaw lil terzi persuni kwalunkwe informazzjoni li setgħet tkun għall-għarfien tagħhom waqt il-qadi ta' dmirijiethom, sakemm ma jkunux meħtieġa li jagħmlu dan skont il-ligi.

(11) L-Awtorità għandha tqiegħed fuq il-Mejda tal-Kamra rapport annwali tal-attivitajiet kollha tagħha tas-sena kalendarja preċedenti sa mhux iktar tard mill-15 ta' April ta' kull sena.

16. (1) Bla ħsara għad-dispożizzjonijiet l-oħra ta' dan l-Att, l-

Tmexxija tal-affarijiet tal-Awtorità.

tal-Awtorità nnifisha. Madankollu, it-tmexxija eżekuttiva tal-Awtorità, l-amministrazzjoni u l-organizzazzjoni tagħha, u l-kontroll amministrattiv tal-uffiċjali u impjegati tagħha għandhom ikunu taħt ir-responsabbiltà tal-Uffiċjal Eżekuttiv Ewlieni tal-Awtorità, li barra minn dawk ir-responsabbiltajiet preskritti mil-liġi, għandu jkollu wkoll dawk is-setgħat l-oħra li jistgħu minn żmien għal żmien jiġu delegati lil mill-Awtorità.

(2) L-Uffiċjal Eżekuttiv Ewlieni għandu jiġi appuntat mill-Bord tal-Gvernaturi u għandu jstabilixxi l-istruttura meħtieġa bis-setgħat u r-responsabbiltajiet kollha li l-Awtorità tista' tiddeċiedi u li jistgħu jinbidlu minn żmien għal żmien, b'dan illi l-Uffiċjal Eżekuttiv Ewlieni għandu jkollu kwalifiki professjonali jew kwalifiki akkademiċi jew esperjenza fi jew ikun wera ħila fi kwistjonijiet relatati mal-kura tal-persuni anzjani.

(3) L-istruttura hekk stabbilita għandha titmexxa mill-Uffiċjal Eżekuttiv Ewlieni appuntat mill-Bord tal-Gvernaturi kif provdut fis-subartikolu (2) u hu għandu jkollu esperjenza u għarfien adegwat fil-qasam.

(4) L-Awtorità tista' teżerċita xi wieħed (1) jew iktar mill-funzjonijiet tagħha direttament permezz tal-istruttura tagħha u wkoll permezz tal-uffiċjali jew impjegati tagħha jew permezz ta' aġenzija awtorizzata għal dak il-għan, jew permezz ta' kuntrattur jew persuna oħra li magħhom isir ftehim għat-twettiq ta' xi waħda jew aktar minn dawk il-funzjonijiet:

Iżda l-ebda haġa f'dan is-subartikolu m'għandha tawtorizza lill-Awtorità sabiex tagħti b'kuntratt xi funzjonijiet regolatorji jew ta' liċenzjar.

(5) Meta f'dan l-Att xi haġa jkollha ssir minn jew kontra jew għar-rigward tal-Awtorità, jew xi avviz ikollu jingħata jew jista' jingħata lill-Awtorità, kwalunkwe haġa jew avviz jistgħu wkoll isiru minn jew kontra jew għar-rigward ta' jew jingħataw lill-istruttura li l-kwistjoni tkun taqa' taħt il-ġurisdizzjoni tagħhom minhabba xi delega ta' funzjoni lil dik l-istruttura; u għall-għanijiet hawn qabel imsemmija kwalunkwe referenza f'dan l-Att għall-Awtorità għandha tinkludi referenza għall-istruttura xierqa.

(6) L-Uffiċjal Eżekuttiv Ewlieni għandu jkun responsabbli għall-implimentazzjoni tal-għanijiet tal-Awtorità fl-eżerċizzju tal-funzjonijiet tagħha u, mingħajr preġudizzju għall-generalità ta' dak li hawn qabel imsemmi, għandu:

(a) jmexxi lill-Awtorità lejn it-twettiq tal-obbligi tagħha

skont il-liġi;

(b) jesegwixxi d-direzzjoni strateġika tal-Awtorità;

(ċ) jiżgura li jkun hemm struttura organizzattiva tajba fis-seħh sabiex twassal l-obbligi tagħha skont il-liġi u l-implimentazzjoni tal-istrateġiji mfassla mill-Awtorità;

(d) jiżgura li d-deċiżjonijiet meħuda mill-Awtorità jigu mwettqa kif suppost mill-istruttura tal-Awtorità.

(7) Iċ-Chairperson għandu jiżgura li revoka ta' liċenzja tkun sanzjonata mill-maġġoranza tal-membri tal-Bord preżenti għal-laqgħa.

(8) F'każijiet ta' urġenza, iċ-Chairperson jista' jordna sabiex isiru spezzjonijiet mill-Uffiċċju tal-Ispettorat fi ħdan l-Awtorità fi kwalunkwe sit fejn huwa maħsub li servizz li qiegħed jiġi provdut huwa ta' preġudizzju jew ta' ħsara għall-utent tas-servizz:

Iżda fit-twettiq ta' din il-funzjoni, iċ-Chairperson jista' jitlob l-assistenza addizzjonali tal-Pulizija Eżekuttiva sabiex jitwettqu dawk l-ispezzjonijiet.

(9) Meta tirriżulta irregolarità wara spezzjoni urġenti mwettqa skont is-subartikolu (8), iċ-Chairperson għandu:

(a) jirrapporta dawk is-sejbiet lill-Kummissarju tal-Pulizija; jew

(b) jressaq il-materjal quddiem il-Bord fi żmien tlett (3) ijiem tax-xogħol biex jiddeċiedi dwar kwalunkwe azzjoni amministrattiva.

(10) L-Awtorità għandha tittratta kull talba relatata mal-liċenzjar ta' servizzi għall-persuni anzjani u l-ilmenti dwar is-servizz jew tmexxija tal-fornituri tas-servizzi.

(11) Fit-twettiq ta' xi waħda mill-funzjonijiet tagħha, l-Awtorità tista' titlob l-assistenza tal-Pulizija Eżekuttiva u, jew kwalunkwe entità u, jew awtorità oħra skont il-ħtieġa u kull fejn ikun meħtieġ.

TAQSIMA IV

Dispożizzjonijiet dwar Liċenzjar

17. (1) L-ebda persuna, aġenzija jew entità pubblika jew privata li tipprovdi servizz regolat b'dan l-Att m'għandha tipprovdi ebda servizz mingħajr liċenzja valida meħtieġa għall-provvista ta' dak is-servizz maħruġa mill-Awtorità, u l-ebda persuna ma tista' tipprovdi xi

Provvista ta' servizzi mingħajr liċenzja valida.

servizz minn kwalunkwe post jew stabbiliment sakemm ma tkunx fil-pussess ta' liċenzja valida għal dak l-għan mahruġa mill-Awtorità:

Iżda meta aġenziji jew entitajiet pubbliċi jew privati jew kwalunkwe entità jew persuna oħra li jkunu beħsiebhom jipprovdu l-istess tip ta' servizz imma minn bini differenti, għandha titressaq applikazzjoni separata għal kull servizz.

(2) L-ebda liċenzja taht is-subartikolu (1) m'għandha tingħata jew tiġġedded meta is-sit, tagħmir u faċilitajiet kif ukoll il-persunal, sew jekk mediku jew xort'oħra, mhumiex tali li jipprovdu dak l-istandard ta' kura ġerjatrika jew servizz li l-Awtorità tqis li huma sodisfaċenti.

(3) L-Awtorità tista', meta tagħti jew iġġedded xi liċenzja taht is-subartikolu (1), timponi kwalunkwe kondizzjonijiet u tariffi li tista' tqis li huma xierqa u tista' tirrestringi s-servizzi jew l-attivitajiet li jistgħu jiġu provduti jew imwettqa fis-sit liċenzjat.

(4) Meta xi siti jintużaw jew isiru xi atti b'kontravvenzjoni ta' xi kondizzjoni jew restrizzjoni previsti fil-liċenzja mogħtija jew imġedda taht is-subartikolu (1), kwalunkwe sit li ntuża hekk u kwalunkwe att hekk magħmul għandhom jitqiesu li ntużaw u saru mingħajr il-liċenzja meħtieġa skont dan l-artikolu.

(5) Kwalunkwe liċenzja mogħtija skont is-subartikolu (1) għandha tiskadi wara sena (1) li tkun inħarġet iżda tista' tiġi mġedda mill-Awtorità minn sena għal sena. Dik il-liċenzja għandha tiskadi wkoll jekk ikun hemm dikjarazzjoni ta' htija taht it-Taqsima X.

Applikazzjoni
għal liċenzja.

18. (1) Fornitur tas-servizz prospettiv jista' japplika għand l-Awtorità, fil-forma preskritta, sabiex jingħata liċenzja biex jopera servizz għall-persuni anzjani skont it-termini ta' dan l-Att.

(2) L-Awtorità tista', fi kwalunkwe hin waqt l-ipproċessar tal-applikazzjoni, tobbliga lill-fornitur tas-servizz prospettiv sabiex jipprovdi kwalunkwe dokumenti u, jew kwalunkwe informazzjoni oħra li hi tqis meħtieġa u għandha żżur is-sit li huwa intenzjonat li jintuża għall-provvista tas-servizz sabiex tagħmel l-evalwazzjoni tagħha u tivverifika jekk il-liċenzja għandhiex tingħata.

(3) Fin-nuqqas li fornitur jipprovdi dokumenti u, jew informazzjoni mitluba mill-Awtorità fiż-żmien stipulat, dik l-applikazzjoni għandha taqa'.

Hruġ ta'
liċenzja.

19. L-Awtorità għandha tohroġ liċenzja lill-fornitur tas-servizz prospettiv jekk tkun sodisfatta li l-fornitur ta' servizz prospettiv:

(a) jikkonforma mal-kriterji ta' eligibilità stabbiliti mill-Awtorità;

(b) jikkonforma mal-istandards rilevanti għas-servizzi proposti u kwalunkwe regolamenti magħmula taht dan l-Att; u

(c) ma jkunx kiser xi liġijiet oħra jew regolamenti applikabbli oħrajn.

20. (1) L-Awtorità tista' tagħti liċenzja temporanja jew ta' emerġenza, skont il-każ, lill-fornitur ta' servizz prospettiv li huwa fil-proċess li jwaqqaf servizz regolat b'dan l-Att però li jkun għadu ma jilħaqx l-istandards kollha stabbiliti taht dan l-Att jew xi regolamenti oħra magħmula tahtu.

Liċenzji
temporanji jew
ta' emerġenza.

(2) L-Awtorità għandha toħroġ liċenzji temporanji biss meta tkun sodisfatta li l-livell ta' servizzi mogħtija huma ta' kwalità u wara li tkun approvat pjan ta' azzjoni pprezentat mill-fornitur li jikkonforma mal-istandards kollha stabbiliti taht dan l-Att jew xi regolamenti oħra magħmula tahtu.

(3) L-Awtorità tista' tagħti liċenzja ta' emerġenza lill-fornitur ta' servizz prospettiv meta jispeċifika l-qagħda kritika li tkun żviluppat li hija ta' natura temporanja.

(4) L-Awtorità tista' wkoll toħroġ liċenzji ta' emerġenza mar-revoka jew sospensjoni ta' liċenzja f'każijiet ta' ċirkostanzi kritiċi li huma ta' natura temporanja li jolqtu s-saħħa u, jew is-sigurtà tal-persuni anzjani:

Iżda liċenzja temporanja jew ta' emerġenza tista' tingħata biss jekk dan huwa previst fir-regolamenti rilevanti u l-fornitur tas-servizz ikun jikkonforma mal-istandards stipulati fir-regolamenti rilevanti:

Iżda wkoll dik il-liċenzja temporanja jew ta' emerġenza tista' tingħata biss għal perjodu ta' tliet (3) xhur u tista' tiġi estiża biss għal perjodu massimu ieħor ta' tliet (3) xhur.

21. Mal-għoti ta' liċenzja lill-fornitur tas-servizz prospettiv, l-Awtorità għandha toħroġ ċertifikat tal-liċenzja li għandu jkun validu għal perjodu ta' sena (1) mid-data li fiha jkun inħareġ, sakemm ma jkunx provdut xort'oħra fit-termini u kondizzjonijiet imsemmija fil-liċenzja.

Ċertifikat tal-
liċenzja.

22. (1) Liċenzja tista' tiġi mġedda mill-Awtorità kemm-il darba l-fornitur tas-servizz liċenzjat ikun ikkonforma mad-dispożizzjonijiet ta' dan l-Att jew kwalunkwe regolamenti magħmula tahtu.

Tiġdid tal-
liċenzja.

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(2) Detentur ta' liċenzja li jkollu intenzjoni li jgħedded liċenzja li waslet biex tiskadi għandu japplika lill-Awtorità sabiex dik il-liċenzja tiġi mġedda tal-inqas erba' (4) xhur qabel dik il-liċenzja tiskadi. L-Awtorità għandha għedded il-liċenzja jekk tkun sodisfatta li s-servizzi jkunu qegħdin jingħataw skont id-dispożizzjonijiet ta' dan l-Att u wara evalwazzjoni mmexxija mill-Awtorità li tikkonferma l-aderenza mar-regolamenti maħruġa skont it-termini ta' dan l-Att.

(3) Id-deċiżjoni tal-Awtorità dwar it-tiġdid tal-liċenzja għandha tiġi notifikata lill-fornitur tas-servizz liċenzjat bil-posta reġistrata fi żmien tletin (30) jum mid-data tad-deċiżjoni.

(4) Il-fornitur tas-servizz liċenzjat għandu jiżgura li l-liċenzja oriġinali tinżamm imwahnha f' post prominenti fl-uffiċju prinċipali tas-sit li minnu s-servizz jiġi provdut. Il-fornitur tas-servizz liċenzjat għandu, fuq talba ta' utent tas-servizz, jipprovdi aċċess għal-liċenzja lill-utenti tas-servizz jew utenti potenzjali tas-servizz.

(5) Il-ħruġ u t-tiġdid ta' liċenzja għandu jkun bla ħsara għar-rekwizit ta' xi liċenzja jew awtorizzazzjoni oħra meħtieġa taħt xi ligi oħra.

Rifjut ta' ħruġ ta' liċenzja.

23. (1) L-Awtorità tista' tirrifjuta applikazzjoni biex tingħata jew tiġġedded liċenzja skont din it-Taqsima jekk jidhrilha li l-fornitur tas-servizz prospettiv jew il-fornitur tas-servizz liċenzjat mhuwiex tajjeb biex iwettaq jew jopera s-servizz. Ir-rifjut, flimkien mar-raġunijiet għal dak ir-rifjut, għandu jiġi notifikat bil-miktub permezz ta' posta reġistrata lill-fornitur tas-servizz prospettiv jew lill-fornitur tas-servizz liċenzjat li jkun applika għal-liċenzja fi żmien ħamsin (50) jum mid-data tal-applikazzjoni u l-validazzjoni ta' dokumenti.

(2) Fornitur tas-servizz prospettiv jew fornitur tas-servizz liċenzjat għandu jkollu d-dritt li jitlob reviżjoni tad-deċiżjoni tal-Awtorità billi jippreżenta appell skont it-Taqsima VII.

(3) Fornitur tas-servizz prospettiv jew fornitur tas-servizz liċenzjat li kellu l-liċenzja revokata għandu jkollu d-dritt li japplika mill-ġdid lill-Awtorità għal-liċenzja jekk ir-raġuni tar-rifjut ma tibqax tissussisti.

Revoka ta' liċenzja.

24. L-Awtorità għandu jkollha d-dritt li tirrevoka liċenzja mogħtija skont it-termini ta' dan l-Att fi kwalunkwe hin jekk il-fornitur tas-servizz liċenzjat:

(a) jippreżenta talba bil-miktub għar-revoka;

(b) jieqaf jikkonforma mal-kriterji ta' eliġibilità tal-liċenzjar;

(ċ) ma jibqax jitqies adatt biex jipprovdi s-servizz li għalih huwa liċenzjat jew jekk id-detentur tal-liċenzja kien instab ħati għal reat taħt dan l-Att;

(d) ikun qed jikser il-kondizzjonijiet għal-liċenzjar skont id-dispożizzjonijiet ta' dan l-Att jew kwalunkwe liġi oħra, jew xjentement jimpedixxi, jostakola jew ixekkel lil kwalunkwe persuna inkarigata milli twettaq id-dmirijiet u r-responsabbiltajiet taħt dik il-liċenzja.

25. (1) L-Awtorità għandha tirrevoka il-liċenzja skont il-paragrafi 24(b), (ċ) jew (d) wara li tfassal rapport li jkun fih ir-rakkomandazzjonijiet tagħha dwar jekk liċenzja għandhiex tkun revokata jew xort'oħra. Dan ir-rapport għandu jinkludi prova tat-twissija dovuta lill-fornitur tas-servizz liċenzjat li l-liċenzja tista' tiġi revokata sakemm ma tittehidx azzjoni xierqa.

Rapport dwar revoka ta' liċenzja.

(2) Ir-revoka bil-miktub, flimkien mar-raġunijiet tagħha, għandha tkun notifikata lill-fornitur tas-servizz liċenzjat permezz ta' posta reġistrata. Din ir-revoka għandu jkollha effett mid-data tan-notifika.

(3) Jekk il-liċenzja tal-fornitur tas-servizz liċenzjat tkun revokata, iċ-ċertifikat ta' liċenzja u r-rekords u d-dokumenti kollha relatati mas-servizz għandhom isiru l-proprjetà tal-Awtorità:

Iżda jekk liċenzja tiġi revokata minħabba kwalunkwe raġuni skont dan l-Att, l-Awtorità għandha d-dritt titlob mingħand il-fornitur tas-servizz pjan ta' migrazzjoni għat-twassil tas-servizz lill-utenti tas-servizz sabiex tiżgura li s-servizzi jkomplu jiġu mogħtija. Dan il-pjan għandu jiġi provdut fi żmien jumejn (2) tax-xogħol mid-data finali tar-revoka tal-liċenzja. Fin-nuqqas li l-fornitur tas-servizz jipprovdi dan il-pjan, l-Awtorità għandha tiegħu kwalunkwe azzjoni meħtieġa sabiex tissalvagwardja l-interessi tal-utenti tas-servizz u l-kontinwità tal-provvista tas-servizz lill-utenti tas-servizz skont dan l-Att. Dan għandu jkun mingħajr preġudizzju għal kwalunkwe azzjoni legali jew miżuri punitivi li jistgħu jkunu applikabbli skont iċ-ċirkostanzi.

26. (1) Matul ix-xahar ta' Jannar ta' kull sena, l-Awtorità għandha tippubblika fil-Gazzetta tal-Gvern:

Pubblikazzjoni fil-Gazzetta tal-Gvern.

(a) elenku tal-fornituri tas-servizz liċenzjati; u

(b) elenku tal-fornituri tas-servizz liċenzjati li l-liċenzja tagħhom tkun giet revokata matul is-sena kalendarja preċedenti u kwalunkwe bidliet fil-kondizzjonijiet meħtieġa għal-liċenzjar jew tiġdid.

(2) L-Awtorità għandha tiżgura li tippubblika online l-istess

elenku kif ukoll taġġorna l-istess elenku online fl-aħħar ta' kull xahar.

TAQSIMA V Standards Regolatorji

Responsabbiltà
tal-istandards
regolatorji.

27. (1) L-Awtorità għandha tkun responsabbli li tistabbilixxi, tippubblika u tirrevedi l-istandards regolatorji għal servizzi għall-persuni anzjani skont id-dispożizzjonijiet ta' dan l-Att.

(2) Għall-finijiet tas-subartikolu (1), l-Awtorità għandha tikkonsulta ma' kwalunkwe persuna jew grupp ta' persuni li jidhrilha xieraq.

(3) L-għan tal-istandards regolatorji għandu jkun li:

(a) jtejbu u jistandardizzaw ir-regolamentazzjoni tas-servizzi mogħtija lill-persuni anzjani;

(b) jagħmlu r-regolamentazzjoni essenzjali tas-servizzi aktar effettiva;

(ċ) jiżguraw mill-ġdid lill-utenti tas-servizz li s-servizzi għall-persuni anzjani huma xierqa għall-ħtiġijiet tagħhom u jirrispettaw id-drittijiet u d-dinjità tagħhom; u

(d) jenfasizzaw illi l-benesseri, wens u kura tal-utenti tas-servizz għandu jitqies li huwa suprem:

Iżda l-istandards u kwalunkwe tibdil tagħhom għandu jkun magħmul permezz ta' regolamenti maħruġa mill-Ministru wara konsultazzjoni mal-Awtorità:

Iżda wkoll, mingħajr preġudizzju għad-dispożizzjonijiet l-oħra ta' dan l-Att jew ta' xi liġi oħra, l-elenku tal-istandards u kwalunkwe tibdil lilhom mill-Awtorità għandu jsir, jiġi publikat, jiġi preskritt u jiġi magħmul disponibbli lill-pubbliku kemm bil-lingwi bil-Malti kif ukoll bl-Ingliż. Fejn termini tekniċi bil-lingwa Ingliża ma jkunux jistgħu jiġi tradotti b'mod preċiż bil-lingwa Maltija, il-lingwa Ingliża għandha tiġi użata.

TAQSIMA VI Infurzar ta' Standards

Dritt tad-dhul.

28. (1) L-Awtorità għandu jkollha d-dritt li tidhol fi kwalunkwe sit tal-fornitur tas-servizz liċenzjat sabiex tispezzjona u tevalwa s-servizz li jkun qed jiġi offrut. L-ispezzjonijiet u l-evalwazzjonijiet għandhom isiru mill-impjegati tal-Awtorità nominati mill-Uffiċċju tal-Ispettorat u għandhom is-setgħa li:

(a) jidhlu fi kwalunkwe sit mingħajr avviż bil-quddiem fi kwalunkwe hin raġonevoli sabiex iwettqu spezzjoni skont it-termini ta' dan l-Att;

(b) jwettqu f'kull wieħed minn dawn is-siti kwalunkwe tfittxija, eżami, test jew inkjesta li jistgħu jqisu li jkunu meħtieġa biex jiżguraw li d-dispożizzjonijiet ta' dan l-Att, jew ta' xi regolamenti jew ordnijiet magħmula taħtu, u kull standard rikonoxxut ikunu qegħdin jiġu mharsa, u b'mod partikolari:

(i) jintervistaw, fil-preżenza ta' xhieda, lil kwalunkwe persuna li jidhrilhom li kellha x'taqsam mal-provvista tas-servizz skont it-termini ta' dan l-Att u lil kwalunkwe persuna li huma jikkonsidraw li tkun għamlet użu minn dak is-servizz;

(ii) jeħtieġu l-produzzjoni ta' kwalunkwe kotba, reġistri jew dokumenti oħra miżmumin mill-fornitur tas-servizz u li jagħmlu kopja ta' dawk il-kotba, reġistri jew dokumenti jew jieħdu estratt minnhom;

(iii) jeħtieġu kwalunkwe informazzjoni kif jista' raġonevolment ikun meħtieġ fir-rigward tal-investigazzjoni;

(ċ) jieħdu ritratti, filmati, video recordings jew immaġni f'format diġitali;

(d) jeħtieġu l-assistenza tal-Pulizija kull meta jqisu li tkun meħtieġa;

(e) jispezzjonaw kull tagħmir, strumenti, reġistri finanzjarji, reġistri mediċi, manwali proċedurali u kwalunkwe reġistri oħrajn miżmuma mill-fornitur tas-servizz fit-twettiq tal-obbligi tagħhom taħt dan l-Att u kwalunkwe regolamenti magħmula taħt dan l-Att;

(f) jieħdu kwalunkwe azzjoni li tista' tkun meħtieġa biex jiżguraw u jivverifikaw il-kwalità tas-servizz provdut minn kullfornitur tas-servizz liċenzjat; u

(g) iwettqu kwalunkwe attività oħra li tista' titqies meħtieġa skont id-dispożizzjonijiet ta' dan l-Att jew taħt xi regolamenti magħmula taħtu.

(2) Wara li tingħalaq investigazzjoni, l-Awtorità tista':

(a) tibgħat rapport lill-Pulizija Eżekuttiva għal

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investigazzjoni ulterjuri f'kull każ li jinvolvi reat kriminali;

(b) tieġu kwalunkwe azzjoni amministrattiva li jidhrilha xieraq skont iċ-ċirkostanzi tal-każ;

(ċ) tieġu kwalunkwe azzjoni oħra kif jidhrilha xieraq fiċ-ċirkostanzi tal-każ.

Setgħa li titlob informazzjoni.

29. L-Awtorità għandha tordna, fi kwalunkwe hin, lill-fornitur tas-servizz liċenzjat jew xi persuna oħra direttament jew indirettament involuta fil-provvista ta' servizz liċenzjat li tingħata kwalunkwe informazzjoni u, jew dokumenti relatati mas-servizz li hija tikkonsidra meħtieġa jew spedjenti għall-finijiet li jitwettqu l-funzjonijiet tagħhom taħt dan l-Att u kwalunkwe regolamenti magħmula tahtu.

Dritt ta' spezzjonar u verifika.

30. (1) Wara l-ħruġ ta' liċenzja, l-Awtorità għandha jkollha d-dritt li, fi kwalunkwe hin, tispezzjona u tivverifika s-servizz u s-siti minn fejn qiegħed jiġi pprovdut is-servizz. Jekk l-uffiċjali li jispezzjonaw jidhrilhom li s-servizz mhuwiex konformi mad-dispożizzjonijiet ta' dan l-Att, jew mal-kondizzjonijiet tal-liċenzja, l-uffiċjali li jispezzjonaw għandhom ifasslu rapport li jirrakkomanda xi bidliet li għandhom isiru mill-fornitur tas-servizz liċenzjat. L-Awtorità għandha mbagħhad tikkompila rapport li għandu jiġi notifikat lill-fornitur tas-servizz liċenzjat.

(2) Il-fornitur tas-servizz liċenzjat għandu jwettaq il-bidliet indikati fir-rapport fiż-żmien stabbilit mill-Awtorità. F'każ illi l-fornitur tas-servizz ma jikkonformax mal-bidliet meħtieġa fiż-żminijiet speċifikati, l-Awtorità għandha tieġu kwalunkwe azzjoni li tqis li hija xierqa.

Protezzjoni tad-data.

31. (1) L-Awtorità fil-kapaċità tagħha ta' kontrollur skont l-Artikolu 4(7) tar-Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' data personali u dwar il-moviment liberu ta' tali data, u li jhassar id-Direttiva 95/46/KE (Regolament Ġenerali dwar il-Protezzjoni tad-Data), għandha twettaq l-operazzjonijiet tal-ipproċessar tad-data rilevanti limitatament sabiex jintlaħqu l-għanijiet ta' dan l-Att, u għal dak li huwa meħtieġ u proporzjonat biex l-Awtorità tkun tista' twettaq il-funzjonijiet u setgħat tagħha.

(2) L-ebda dispożizzjoni taħt dan l-Att ma għandha tippregudika l-applikabilità tar-Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' data personali u dwar il-moviment liberu ta' tali data, u li jhassar id-Direttiva 95/46/KE (Regolament Ġenerali dwar il-Protezzjoni tad-Data), inklużi r-regolamenti magħmula tahtu u d-drittijiet u libertajiet fundamentali tas-sugġetti tad-data.

(3) L-ipproċessar ta' data personali, inkluż kwalunkwe pproċessar ta' kategoriji speċjali ta' data personali għandu, għall-finijiet ta' dan l-Att, inkun konformi mal-prinċipji marbuta mal-ipproċessar ta' data personali skont l-Artikolu 5 tar-Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' data personali u dwar il-moviment liberu ta' tali data, u li jhassar id-Direttiva 95/46/KE (Regolament Ġenerali dwar il-Protezzjoni tad-Data).

32. (1) L-Awtorità għandha timplimenta dawk il-miżuri tekniċi u organizzattivi xierqa sabiex tassigura livell adegwat ta' sigurtà li hu xieraq għar-riskju pprezentat, u partikolarment biex tipprevjeni żvelar mhux awtorizzat jew aċċess illegali ta' informazzjoni marbuta ma' suġġetti tad-data. Fl-implimentazzjoni tal-miżuri msemmija, għandhom jiġu kkonsidrati n-natura, skop, kuntest u hteieġa tal-ipproċessar.

Miżuri adegwati ta' protezzjoni.

(2) L-uffiċjal responsabbli mill-protezzjoni tad-data indikat mill-kontrollur skont l-Artikolu 37 tar-Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' data personali u dwar il-moviment liberu ta' tali data, u li jhassar id-Direttiva 95/46/KE (Regolament Ġenerali dwar il-Protezzjoni tad-Data) għandu jkun involut u kkonsultat adegwament u fil-hin dwar kull haġa marbuta mal-protezzjoni tad-data personali pproċessata għall-għanijiet ta' dan l-Att.

(3) Il-kontrollur għandu jimplementa dawk il-policies adegwati kollha għall-protezzjoni ta' data u dan sabiex jiġi assigurat u jista' juri li l-ipproċessar tad-data personali qed issir skont id-dispożizzjonijiet tar-Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' data personali u dwar il-moviment liberu ta' tali data, u li jhassar id-Direttiva 95/46/KE (Regolament Ġenerali dwar il-Protezzjoni tad-Data) u l-policies imsemmija għandhom jiġu riveduti u aġġornati minn żmien għal żmien skont il-hteieġa.

33. (1) L-Awtorità għandha jkollha d-dritt li tispezzjona s-siti kollha minn fejn qed jiġu pprovduti s-servizzi għall-persuni anzjani mingħajr il-liċenzja meħtieġa taht dan l-Att. Wara dik l-ispezzjoni, l-Awtorità għandha:

Spezzjonar tas-siti.

- (a) tfassal rapport dwar is-sejbiet tagħha;
- (b) fejn possibbli, taħdem mal-fornitur tas-servizz mhux registrat sabiex l-organizzazzjoni tiġi konformi mad-

dispożizzjonijiet ta' dan l-Att;

(ċ) tagħti lill-fornitur tas-servizz żmien raġonevoli sabiex jirregolarizza l-pożizzjoni tiegħu;

(d) tispezzjona mill-ġdid is-servizzi offruti mill-fornitur tas-servizz fl-aħħar tal-perjodu mogħti lilu sabiex tivvaluta:

(i) jekk il-fornitur tas-servizz jissodisfax il-kriterji meħtieġa għal-liċenzjar temporanju, f'liema każ għandha toħroġ liċenzja temporanja; jew

(ii) jekk il-fornitur tas-servizz jeħtieġx iktar żmien biex jissodisfa l-kriterji meħtieġa għall-ħruġ tal-liċenzja temporanja, f'liema każ l-Awtorità tista' tidderiegi lill-fornitur tas-servizz biex iwaqqaf l-attività kollha sakemm dawk il-kriterji jiġu sodisfatti:

Iżda f'każijiet eċċezzjonali, u fejn l-Awtorità jidhrilha li mhu ser ikun hemm l-ebda preġudizzju serju li jaffettwa l-utent tas-servizz, l-Awtorità tista' tippermetti lill-fornitur tas-servizz ikompli joffri s-servizz sakemm il-fornitur tas-servizz jilħaq l-istandards meħtieġa fiż-żmien stabbilit mill-Awtorità.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1), fornitur tas-servizz mhux registrat għandu xorta jehel il-multi u l-penalitajiet li jistgħu jkunu imposti minħabba n-nuqqas ta' konformità mad-dispożizzjonijiet ta' dan l-Att.

(3) Fejn l-Awtorità tqis li xi servizz ma jkunx konformi mad-dispożizzjonijiet ta' dan l-Att, jew mat-termini tal-liċenzja, għandu jitfassal rapport li jinkludi evalwazzjoni flimkien mar-rakkomandazzjonijiet, fejn applikabbi, għat-tibdil li l-fornitur ta' servizz liċenzjat għandu jagħmel.

TAQSIMA VII

Appelli

Appelli minn
deċiżjonijiet tal-
Awtorità.

34. (1) Jista' jsir appell quddiem it-Tribunal minn kwalunkwe deċiżjoni tal-Awtorità skont id-dispożizzjonijiet ta' dan l-Att u kwalunkwe regolamenti magħmula tahtu. Kwalunkwe persuna li thoss ruħha aggravata b'xi deċiżjoni bħal dik għandu jkollha l-jedd li tagħmel appell fi żmien għaxart (10) ijiem mid-data tan-notifika tad-deċiżjoni.

Kap. 490.

(2) Id-dispożizzjonijiet tal-Att dwar il-Ġustizzja Amministrattiva għandhom japplikaw għall-kompożizzjoni tat-Tribunal fi kwalunkwe appell li jsir quddiem it-Tribunal, jew f'kull każ li ssir referenza minn

dan l-Att għat-Tribunal.

(3) It-Tribunal jista' jissospendi l-eżekuzzjoni tad-deċiżjoni tal-Awtorità li qiegħda tiġi appellata jekk jiġu mressqa raġunijiet validi.

35. Kwalunkwe parti fil-proċedimenti quddiem it-Tribunal li tħossha aggravata b' deċiżjoni tat-Tribunal, tista' tappella quddiem il-Qorti tal-Appell skont id-dispożizzjonijiet tal-Att dwar il-Ġustizzja Amministrattiva.

Appelli minn deċiżjoni tat-Tribunal.

Kap. 490.

TAQSIMA VIII

Uffiċjali u Impjegati tal-Awtorità

36. (1) L-Awtorità għandha taħtar u timpjega, b'dik ir-rimunerazzjoni u b'dawk il-pattijiet u kondizzjonijiet lil dawk l-uffiċjali u l-impjegati tal-Awtorità li jistgħu minn żmien għal żmien ikunu meħtieġa għat-twertiq dovut u effiċjenti tal-funzjonijiet tal-Awtorità.

Ħatra u funzjonijiet tal-uffiċjali u l-impjegati tal-Awtorità.

(2) Il-Prim Ministru jista', fuq talba tal-Awtorità, minn żmien għal żmien jordna li kwalunkwe uffiċjal pubbliku għandu jiġi assenjat biex jaqdi dmirijietu mal-Awtorità f'dik il-kapaċità u b'effett minn dik id-data li tista' tiġi speċifikata fl-ordni tal-Prim Ministru.

Assenjament ta' uffiċjali pubbliċi biex jaqdu dmirijiet mal-Awtorità.

(3) Il-perjodu li matulu ordni bħal dik hawn qabel imsemmija għandha tapplika għal xi uffiċjal li jkun speċifikat fiha, għandu, kemm-il darba l-uffiċjal ma jkunx irtira mis-servizz pubbliku, jew xort'oħra temm milli jibqa' fil-kariga f'data li tiġi qabel, jew kemm-il darba ma tiġix speċifikata data differenti f'dik l-ordni, itemm milli jibqa' jseħħ wara sena (1) mid-data effettiva ta' dik l-ordni kemm-il darba l-ordni ma tiġix aktar kmieni revokata mill-Prim Ministru.

(4) Meta uffiċjal jiġi assenjat għal dmirijiet mal-Awtorità, dak l-uffiċjal għandu, matul iż-żmien li fih dik l-ordni jkollha effett dwaru, ikun taħt l-awtorità u l-kontroll amministrattiv tal-Awtorità iżda huwa għandu għal kull għan u raġuni oħra jibqa' u jitqies u jiġi trattat bħala uffiċjal pubbliku.

Status ta' uffiċjali pubbliċi assenjati biex jaqdu dmirijiet mal-Awtorità.

(5) Mingħajr preġudizzju għall-ġeneralità ta' dak hawn qabel imsemmi, uffiċjal li jkun assenjat għal dmirijiet kif hawn qabel imsemmi:

(a) m'għandux waqt iż-żmien li matulu huwa jkun hekk assenjat:

(i) ikun prekluz milli japplika għal trasferiment f'xi dipartiment tal-Gvern skont it-termini u l-kondizzjonijiet tas-servizz konnessi mal-ħatra tiegħu mal-

Gvern li jkollu fid-data meta huwa jigi hekk assenjat għal dmirijietu; jew

(ii) ikun hekk impjegat li r-remunerazzjoni u l-kondizzjonijiet tas-servizz tiegħu jkunu inqas favorevoli minn dawk li jkunu konnessi mal-ħatra tiegħu mal-Gvern li jkollu fid-data hawn qabel imsemmija jew li kienu jkunu konnessi ma' dik il-ħatra, matul dak iż-żmien, li kieku dak l-uffiċjal ma jkunx gie assenjat biex jaqdi dmirijietu mal-Awtorità; u

Kap. 93.

Kap. 58.

(b) għandu jkollu d-dritt li s-servizz tiegħu mal-Awtorità jigi kkonsidrat bħala servizz mal-Gvern għall-għanijiet ta' kwalunkwe pensjoni, gratwità, jew benefiċċju taht l-Ordinanza dwar il-Pensjonijiet u l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema u ta' kwalunkwe dritt jew privileġġ ieħor li huwa jkollu d-dritt għalih, u responsabbli għal kwalunkwe obligazzjoni li dwarha hu jkun responsabbli, hlief għall-fatt li huwa jkun gie assenjat biex iwettaq dmirijietu mal-Awtorità.

(6) Meta ssir applikazzjoni kif provdut fis-subartikolu (5)(a)(i) għandha tingħatalha l-istess konsiderazzjoni daqsliekeku l-applikant ma jkunx gie assenjat għal servizz mal-Awtorità.

(7) L-Awtorità għandha tħallas lill-Gvern dawk il-kontribuzzjonijiet li jistgħu minn żmien għal żmien jigu stabbiliti mill-Ministru responsabbli għall-finanzi dwar l-ispiza ta' pensjonijiet u gratwitajiet li jaqla' uffiċjal li jkun assenjat għal dmirijiet mal-Awtorità kif hawn qabel imsemmi matul il-perjodu li fih huwa jkun hekk assenjat.

(8) L-Awtorità tista', bl-approvazzjoni tal-Prim Ministru, toffri lil kwalunkwe uffiċjal assenjat għal dmirijiet mal-Awtorità taht xi waħda mid-dispożizzjonijiet ta' dan l-Att impieg permanenti mal-Awtorità b'dik ir-rimunerazzjoni u b'dawk it-termini u l-kondizzjonijiet li ma jkunux inqas favorevoli minn dawk li jgawdi dak l-uffiċjal fid-data ta' dik l-offerta.

(9) It-termini u l-kondizzjonijiet f'xi offerta magħmula kif hawn qabel imsemmi m'għandhomx jitqiesu bħala inqas favorevoli biss għaliex ma jkunux għalkollox identiċi jew superjuri għal dawk li l-uffiċjal involut ikun qed igawdi fid-data ta' dik l-offerta, jekk dawk it-termini u l-kondizzjonijiet, ikkunsidrati flimkien, fil-fehma tal-Prim Ministru, ikunu joffru benefiċċji sostanzjalment ekwivalenti jew akbar.

(10) Kull uffiċjal li jaċċetta impieg permanenti mal-Awtorità li jiġi offrut lilu, taht id-dispożizzjonijiet tas-subartikolu (8), għandu għall-għanijiet kollha minbarra dawk tal-Ordinanza dwar il-Pensjonijiet u l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, jitqies bħala li temm is-servizz tal-Gvern u li jkun daħal fis-servizz mal-Awtorità fid-data meta hu jaċċetta, u għall-finijiet tal-imsemmija Ordinanza u tal-imsemmi Att, sakemm applikabbli għalih, servizz mal-Awtorità għandu jitqies bħala servizz mal-Gvern fi hdan it-tifsiriet tagħhom rispettivament.

Kap. 93.

Kap. 58.

(11) Kull uffiċjal bħal dak hawn qabel imsemmi li, minnufih qabel ma jaċċetta impieg permanenti mal-Awtorità, kellu d-dritt li jikseb benefiċċju taht l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, għandu jibqa' jkollu dak id-dritt li jibbenefika taht u għal kull skop bħallikieku s-servizz tiegħu mal-Awtorità kien servizz mal-Gvern.

Kap. 58.

(12) L-Awtorità għandha tħallas lill-Gvern dawk il-kontribuzzjonijiet li jistgħu minn żmien għal żmien jiġu stabbiliti mill-Ministru responsabbli għall-finanzi għar-rigward tal-ispiza ta' pensjonijiet u gratwitajiet li jinqalgħu minn uffiċjal li jkun aċċetta li jwettaq impieg mal-Awtorità kif hawn qabel imsemmi matul il-perjodu li jibda fid-data meta dak l-uffiċjal hekk jaċċetta.

(13) L-uffiċjali u l-impjegati tal-Awtorità m'għandu jkollhom l-ebda interess dirett jew indirett f'xi kuntratt magħmul jew li jkun maħsub li jsir mill-Awtorità, jew f'xi intrapriża li għandha jew li jkun se jkollha xi relazzjonijiet kummerċjali mal-Awtorità.

(14) Impjegati li fid-data tad-dhul fis-sehħ ta' dan l-Att ikunu jaħdmu mal-Awtorità ta' Standards ta' Farsien Soċjali u li jixtiequ jiġu assenjati mal-Awtorità għandhom jitqiesu bħala impjegati tal-Awtorità taht dawk it-termini u kondizzjonijiet li jkunu fis-sehħ meta dan l-Att jidhul fis-sehħ.

TAQSIMA IX

Dispożizzjonijiet Finanzjarji

37. (1) L-Awtorità għandha tkun regolata mid-dispożizzjonijiet tal-Att dwar il-Ġestjoni tal-Finanzi Pubbliċi.

Finanzi tal-Awtorità.
Kap. 601.

(2) L-Awtorità għandha timponi t-tariffi, ir-rati u l-pagamenti l-oħrajn kollha preskritti jew meqjusa bħala preskritti minn jew taht 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:

Izda kwalunkwe sovvenzjoni riċevuta mill-Gvern għandha 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-għanijiet tal-Awtorità u mingħajr preġudizzju għall-generalità 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 minnufih meħtieġ biex jissodisfa n-nefqa jista' jiġi investit b'tali mod kif jista' minn żmien għal żmien jiġi approvat mill-Ministru.

Rapport
annwali.

38. L-Awtorità għandha, mhux aktar tard minn sitt (6) ġimgħat wara tmiem kull sena finanzjarja, tagħmel u tibgħat lill-Ministru u lill-Ministru responsabbli għall-finanzi rapport li jkun ġeneralment jittratta dwar l-attivitajiet tal-Awtorità matul dik is-sena finanzjarja u li jkun fih dik l-informazzjoni relatata mal-proċedimenti u l-politika tal-Awtorità b'dak il-mod li xi wiehed mill-Ministri msemmija jista' minn żmien għal żmien jeħtieġ.

Kontijiet u
verifika.

39. (1) L-Awtorità għandha tara li jinżammu kontijiet xierqa u records oħra dwar l-operat tagħha, u għandha tara li jitlestha prospett ta' kontijiet dwar kull sena finanzjarja.

(2) Il-kontijiet tal-Awtorità għandhom jiġu verifikati minn awditur jew awdituri li jinħatru mill-Awtorità u approvati mill-Ministru:

Izda l-Ministru responsabbli għall-finanzi jista', wara konsultazzjoni mal-Ministru, jeħtieġ li l-kotba u l-kontijiet tal-Awtorità jiġu verifikati jew eżaminati mill-Awditur Ġenerali li għal dan il-għan ikollu s-setgħa li jagħmel kull verifika fiżika u verifiki oħra li jidhirlu meħtieġa.

(3) L-Awtorità għandha, skont ir-regolamenti ppubblikati mill-Ministru, tara li kopja tad-dikjarazzjoni tal-kontijiet verifikati kif imiss

tintbagħat flimkien ma' kopja ta' kwalunkwe rapport magħmul mill-awdituri fuq dak il-prospett jew il-kontijiet tal-Awtorità.

(4) Il-Ministru għandu jara li kopja ta' kull dikjarazzjoni u rapport jitqiegħdu fuq il-Mejda tal-Kamra kemm jista' jkun malajr.

(5) L-Awtorità għandha tiżgura li jinżamm rendikont ta' kull inkartament, inklużi dokumenti u rapporti:

Iżda l-fajls, id-dokumentazzjonijiet u r-rapporti jistgħu jigu digitizzati u l-Bord jista', wara d-digitizzazzjoni, jiddisponi minn kopji stampati tal-fajls, dokumentazzjonijiet u rapporti wara perjodu ta' mill-anqas sitt (6) xhur mid-data tal-prezentazzjoni lill-Awtorità jew mid-deċiżjoni tagħha jew lil kwalunkwe entità oħra preċedenti li twettaq l-istess funzjonijiet.

40. L-Awtorità m'għandhiex tagħti jew tidhol f'xi kuntratt għall-provvista ta' oġġetti jew materjali jew għall-eżekuzzjoni ta' xogħlijiet, jew għall-ghoti ta' servizzi, lil jew għall-benefiċċju tal-Awtorità, ħlief skont ir-regolamenti fis-seħħ li jirregolaw l-akkwist tal-oġġetti u servizzi kollha fis-settur pubbliku.

Kuntratti ta' servizzi, provvista jew xogħlijiet.

TAQSIMA X

Reati u Penalitajiet

41. (1) Kwalunkwe persuna li tikser id-dispożizzjonijiet ta' dan l-Att, jew xi dispożizzjonijiet ta' xi regolamenti magħmula taħt dan l-Att, jew kwalunkwe persuna li tassocja ruħha, tipprova, tgħin, tħajjar, tagħti parir jew tqabbad lil xi persuna oħra, biex tikser id-dispożizzjonijiet hawn qabel imsemmija, għandha tkun ħatja ta' reat kontra dan l-Att.

Reati kontra dan l-Att.

(2) Kwalunkwe persuna li b'xi mod tfixkel jew tostakola lill-Awtorità jew xi wieħed mill-uffiċjali tagħha fil-qadi ta' kwalunkwe mid-dmirijiet tagħhom għandha tkun ħatja ta' reat u għandha tehel, meta tinstab ħatja mill-Qorti kompetenti, prigunerija għal żmien ta' mhux aktar minn tliet (3) xhur jew multa ta' mhux anqas minn mitt euro (€100) iżda mhux aktar minn ħamest elef euro (€5,000) jew dik il-prigunerija u multa flimkien.

42. F'każi ta' nuqqas ta' konformità, l-Awtorità tista' timponi penalitajiet amministrattivi ta' mhux anqas minn mitt euro (€100) iżda mhux aktar minn għaxart elef euro (€10,000), jew f'każ ta' kontinwazzjoni tan-nuqqas ta' konformità, għal penali ta' kuljum ta' mhux inqas minn ħamsin euro (€50) iżda mhux aktar minn tliet mija u ħamsin euro (€350) għal kull jum ta' nuqqas ta' konformità.

Penalitajiet amministrattivi.

43. (1) Kwalunkwe penali stabbilita għal kwalunkwe reat f'din

Reati oħra.

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it-Taqsima għandha tkun bla ħsara għal kwalunkwe penali oħra għal kwalunkwe reat ieħor taħt kwalunkwe liġi applikabbli oħra jew taħt kwalunkwe regolamenti oħra magħmula taħt dan l-Att.

(2) L-Awtorità għandha jkollha s-setgħa li tistabbilixxi kriterji għad-dispożizzjoni tal-penalitajiet li għandhom jiġu imposti minnha skont iċ-ċirkostanzi tal-każijiet preskritti inkluż is-sospensjoni u, jew revoka tal-liċenzja.

TAQSIMA XI

Mixxellanji

Setgħat tal-Ministru li johroġ ordnijiet.

44. Il-Ministru jista' b'ordni jagħmel dawk id-dispożizzjonijiet inċidentali, konsegwenzjali jew supplimentari li jistgħu jkunu meħtieġa jew spediti għall-finijiet li jiġi żgurat u jingħata effett sħiħ għat-trasferiment ta' kwalunkwe intrapriża jew ta' kwalunkwe dritt, setgħa, responsabbiltà jew obbligu lill-Awtorità b'dan l-Att jew taħtu u jista' jagħmel dawk l-ordnijiet li jistgħu jkunu meħtieġa biex kwalunkwe setgħat jew dmirijiet eżercitati mill-Gvern, fir-rigward ta' kwalunkwe haġa trasferita lill-Awtorità bis-saħħa ta' dan l-Att, ikunu eżercitabbli minn jew f'isem l-Awtorità.

Setgħat tal-Ministru li jagħmel regolamenti.

45. Il-Ministru, fuq parir tal-Awtorità, jista' jagħmel regolamenti biex jagħti effett aħjar għad-dispożizzjonijiet ta' dan l-Att.

TAQSIMA XII

Trasferiment ta' Setgħat u Responsabbilitajiet

Setgħat vestiti fl-Awtorità u fl-Uffiċjal Eżekuttiv Ewlieni.

46. (1) Is-setgħat kollha ta' liċenzjar u kull dmirijiet u funzjonijiet oħra tal-Awtorità ta' Standards ta' Harsien Soċjali u s-servizzi l-oħra kollha marbuta mal-persuni anzjani għandhom, meta jidhol fis-seħħ dan l-Att, jiġu vestiti fl-Awtorità u fl-Uffiċjal Eżekuttiv Ewlieni rispettivament, stabbiliti taħt dan l-Att:

Iżda kwalunkwe deċiżjoni jew liċenzja mogħtija mill-Awtorità ta' Standards ta' Harsien Soċjali qabel id-dhul fis-seħħ ta' dan l-Att għandhom jibqgħu fis-seħħ daqslikieku d-deċiżjoni jew il-liċenzja ġew mogħtija taħt id-dispożizzjonijiet relattivi ta' dan l-Att bla ħsara għall-osservanza tal-kondizzjonijiet kollha stipulati f'dan l-Att.

(2) Id-dispożizzjonijiet u regolamenti kollha magħmula u marbuta *inter alia* mas-servizzi ta' kura għall-persuni anzjani b'kondizzjonijiet kroniċi u b'dipendenza għolja, servizzi residenzjali għall-anzjani u servizzi residenzjali għall-persuni li jgħixu bid-dimensja fid-djar tal-anzjani skont it-termini tar-Regolamenti dwar Standards Soċjali Regolatorji għal Servizzi ta' Kura għal Anzjani b'Kundizzjonijiet Kroniċi u b'Dipendenza Għolja, tar-Regolamenti dwar Miżuri Mandatorji għal Servizzi Residenzjali għal Anzjani, tar-Regolamenti dwar Standards Soċjali Regolatorji għal Servizzi Residenzjali għall-Anzjani, tar-Regolamenti dwar Standards Soċjali Regolatorji għal Servizzi Residenzjali għal Persuni li jgħixu bid-Dimensja fid-Djar tal-Anzjani u kwalunkwe regolamenti oħra marbuta u, jew relevanti għall-provvista tas-servizzi marbuta mal-persuni anzjani u li huma direttament marbuta mal-irwol tal-Awtorità għandhom jiġi vestiti f'din l-istess Awtorità hekk kif tiġi mwaqqfa skont id-dispożizzjonijiet ta' dan l-Att fid-dhul fis-sehħ ta' dan l-Att.

L.S. 582.09.

L.S. 582.14.

L.S. 582.15.

L.S. 582.16.

47. Is-setgħat kollha ta' liċenzjar għal djarr għall-persuni anzjani skont l-artikolu 98 tal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha għandhom, meta jidhol fis-sehħ dan l-Att, jiġu vestiti fl-Awtorità stabbilita taht dan l-Att:

Setgħat ta' liċenzjar skont it-termini tal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha. Kap. 31.

Izda kwalunkwe deċiżjoni jew liċenzja mogħtija taht l-artikolu 98 tal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha qabel id-dhul fis-sehħ ta' dan l-Att għandhom jibqgħu fis-sehħ bħallikieku d-deċiżjoni jew il-liċenzja ġew mogħtija taht id-dispożizzjonijiet relattivi ta' dan l-Att bla ħsara għall-osservanza tal-kondizzjonijiet kollha stipulati f'dan l-Att.

48. (1) Meta xi att jew xi proċess ikun inbeda minn jew taht l-awtorità tal-Gvern qabel id-data tad-dhul fis-sehħ ta' dan l-Att u dak l-att jew proċess għandu x'jaqsam ma' xi haġa trasferita lill-Awtorità bis-saħħa ta' dan l-Att, dak l-att jew proċess jista' jitkompla u jintemm minn jew taht dik l-awtorità tal-Gvern.

Dispożizzjonijiet tranżitorji.

(2) Meta fid-data tad-dhul fis-sehħ ta' dan l-Att ikun għad hemm pendenti xi proċedura legali li fiha l-Gvern ikun parti jew ikollu d-dritt li jkun parti, u dik il-proċedura tirrigwarda xi haġa trasferita lill-Awtorità bis-saħħa ta' dan l-Att, l-Awtorità għandha tiġi sostitwita għall-Gvern f'dik il-proċedura u għandu jkollha d-dritt li tiġi hekk sostitwita.

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TAQSIMA XIII

Emendi għall-Att dwar l-Amministrazzjoni Pubblika

Emendi għall-Att dwar l-Amministrazzjoni Pubblika. Kap. 595.

49. Din it-Taqsima temenda l-Att dwar l-Amministrazzjoni Pubblika u għandha tinqara u tinftiehem haġa waħda mal-Att dwar l-Amministrazzjoni Pubblika, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-Ħames Skeda li tinsab mal-Att prinċipali.

50. Fit-Tieni Parti tal-Ħames Skeda li tinsab mal-Att prinċipali, minnufih wara l-kliem "Iċ-Chairperson ta' EquestriMalta" għandhom jiġu miżjuda l-kliem "Iċ-Chairperson tal-Awtorità tal-Istandards għall-Persuni Anzjani".

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 175 tal-21 ta' Novembru, 2023.

ANĠLU FARRUGIA

Speaker

RAYMOND SCICLUNA

Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

24th November, 2023

ACT No. XXXVIII of 2023

AN ACT to provide for the establishment of an Authority to be known as the Older Persons Standards Authority and for the exercise of that Authority of regulatory functions regarding the establishment of the standards for residential services, any other geriatric facility and any other service of a geriatric nature; as well as to regulate for the powers, duties and financial resources of the Older Persons Standards Authority set up in accordance with the provisions of this Act; to regulate the service providers and establish regulatory standards for different services that are provided to older persons by agencies or public or private entities or any other entity or person; establish procedures for the investigation of complaints against service providers and to make provisions in respect of all such powers as may be necessary in order for the Authority to fulfil its functions in accordance with this Act.

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 ACT

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PART I

Preliminary

Short title. **1.** The short title of this Act is the Older Persons Standards Authority Act, 2023.

Interpretation. **2.** In this Act, unless the context otherwise requires:

"Authority" means the Older Persons Standards Authority;

"Board" means the Board of Governors appointed in terms of article 6(2);

"Chairperson" means the Chairperson of the Authority;

"Chief Executive Officer" means the Chief Executive Officer appointed in terms of article 16;

"Code of Practice" means a standard, specification or any other written or illustrated form of practical guidance, instruction or control;

"Inspectorate Office" means the Inspectorate Office within the Authority to conduct the monitoring, assessment, evaluation and enforcement required by this Act;

"financial year" means any period of twelve (12) months ending on the 31st December of any calendar year:

Provided that the financial year commencing upon the date of entry into force of this Act shall terminate on the 31st December of the same year;

"legally responsible person" means any person who is providing the service in terms of this Act;

"licensed service provider" means any person or

organisation that has been granted a valid licence by the Authority in terms of this Act;

"Minister" means the Minister responsible for older persons;

"prospective service provider" means any person or organisation who applies for a licence to provide a service under this Act;

"public officer" has the same meaning as that assigned to it by article 124 of the Constitution;

"service" means residential services, any other geriatric facility and any other service of a geriatric nature provided to older persons in terms of this Act;

"service provider" means the person or organisation who is providing the service in terms of this Act;

"service user" means any older person who is using a service that is regulated by this Act;

"standard" means those mandatory requirements that are issued by the Authority to service providers in accordance with the provisions of this Act;

"Tribunal" means the Administrative Review Tribunal established by article 5 of the Administrative Justice Act.

Cap. 490.

PART II

Declaration of Principles

3. The Government shall, through the establishment of the Authority, seek to promote and develop the regulation of care, assistance and service provision in Malta in residential services, any other geriatric facilities and any other service of a geriatric nature provided to older persons. Promotion, regulation and standard of care.
4. The protection of older persons in services regulated by this Act or any regulations made in terms of this Act shall be considered of public interest. Protection of older persons.
5. (1) In accordance with the provisions of this Act, the Government shall determine Malta's policies and objectives in the regulation of care, assistance and service provision to older persons in Malta in residential services, any other geriatric facilities and any other service of a geriatric nature provided to older persons. Principles governing the Authority.

(2) The Authority shall achieve the following:

(a) the development of regulatory standards for the provision of services and assistance to older persons who are in need of care, determine which standards are necessary, consistent, person-centred, effective and proportionate;

(b) the assistance and support of the licensed service providers to achieve a higher quality of service; and

(c) the proactive enforcement of the standards and conditions set in the licences awarded by the Authority to service providers.

(3) The Authority shall ensure the holistic well-being of all older persons using the services regulated by this Act, including the physical, psychological and social well-being of the older persons and that these principles are safeguarded by whoever is so obliged to do.

(4) The Authority shall ensure that the level of standards established and regulated by this Act are maintained at all times.

PART III

Establishment and Functions of the Authority

Establishment
and composition
of the Authority.

6. (1) There shall be established an Authority to be known as the Older Persons Standards Authority, whose functions shall be, amongst others, to set regulatory standards for all the services provided to older persons in terms of this Act and to ensure that such standards are duly complied with in accordance with the provisions of this Act.

(2) There shall be a Board of Governors consisting of seven (7) members of whom one (1) shall be the Chairperson and another member shall be the Deputy Chairperson.

(3) Without prejudice to any other law, the members of the Board of Governors shall be appointed by the Minister from among persons who appear to him to be qualified by reason of having professional qualifications, or academic qualifications, or experience in or having shown capacity in matters relating to care of older persons. The Commissioner for Older Persons shall be appointed as one (1) of the members *ex officio*, however, he shall have the right to abstain from any decision that he thinks it may be prejudicial to the powers given to him under the Commissioner for Older Persons Act.

Cap. 553.

(4) The Minister shall appoint an additional person who shall not have any voting rights to act as Secretary to the Board.

(5) The Chairperson and the other members of the Board shall hold office for a period of three (3) years:

Provided that the members so appointed may be re-appointed on the expiration of their term of office:

Provided further that no members, except for the Commissioner for Older Persons, shall hold office as a member of the Board for more than two (2) consecutive terms:

Provided further that if a member is appointed at any time after the other members have already been appointed, the term of appointment of such member shall end on the same date as that of the other members.

(6) A person shall not be qualified to hold office as a member of the Board if such person:

(a) is a candidate for election to or a member of the House of Representatives, the European Parliament, a Local Council or a Regional Council;

(b) is legally incapacitated or interdicted;

(c) is otherwise providing a service to the Authority or employed with an entity or facility that is regulated by the same Board;

(d) has been declared bankrupt or has made a composition or arrangement with his creditors;

(e) has been convicted of a crime affecting public trust or theft or fraud or knowingly receiving property obtained by theft or fraud, or of any offence against this Act or against any other law, particularly those relating to the abuse against older persons; or

(f) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of the functions as a member of the Board:

Provided that the Minister may determine that the interest of the person under this paragraph is not likely to affect the discharge of his functions and upon such determination that person shall be qualified to hold office of member of the Board provided that the declared interest and the determination of the Minister are published in the Government Gazette.

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Vacancy in the office of a member of the Board.

7. The office of a member of the Board shall become vacant:

(a) at the expiration of the term of office; or

(b) if any circumstances arise that, if that person were not a member of the Board, would cause that person to be disqualified for such appointment.

Removal of the Chairperson and Board members from office.

8. Without prejudice to any other law, the Chairperson, any other member of the Board and the Secretary to the Board, but with the exception of the Commissioner for Older Persons, may be removed from the office by the Minister if, in the opinion of the Minister, the Chairperson, member or the Secretary to the Board is unable to discharge their functions whether the inability arises from infirmity of mind, manifest behaviour or when the Chairperson, member or the Secretary to the Board are no longer fit to continue in office.

Vacancy in the office of Chairperson.

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

Exercise of the functions of the Authority.

10. In the exercise of its functions the Authority shall not be subject to the direction or control of any other person or authority.

Juridical personality and legal representation of the Authority.

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

(2) The legal representation of the Authority shall vest in the Chairperson and the Chief Executive Officer as appointed in terms of article 16:

Provided that the Authority may appoint any one (1) or more of its members or of the officers or employees of the Authority to appear in the name and on behalf of the Authority in any judicial proceedings as well as in any act, contract, instrument or other document whatsoever.

(3) Any document purporting to be an instrument made or issued by the Authority and signed by the Chairperson or by the Chief

Executive Officer shall be received in evidence and shall, unless the contrary is proved, be deemed to be an instrument made or issued by the Authority.

12. The functions of the Authority shall include:

Functions of the Authority.

(a) to establish the minimum regulatory standards for services regulated by this Act and to enforce such standards as may be necessary to ensure a quality level of services provided to older persons;

(b) to establish the criteria and conditions for the granting, refusal, suspension and revocation of licences;

(c) to grant, refuse, suspend or revoke any licence;

(d) to implement the provisions of this Act and any other regulations or orders made thereunder;

(e) to perform such other functions as may be assigned to it under the provisions of this Act or of any other law;

and this without prejudice to any other functions which may be assigned to it by this Act or by any other law or regulations.

13. The power conferred on the Authority to make, adopt and publish regulatory standards shall be construed as including the power which may be exercisable in like manner to vary, substitute or revoke any such standard.

Powers related to regulatory standards.

14. The powers of the Authority shall include:

Powers of the Authority.

(a) to receive and acknowledge applications for licensing to operate any service related to the care of older persons;

(b) to consider the proposed services for older persons;

(c) to verify and investigate service providers;

(d) to grant, refuse, suspend or revoke a licence, as well as imposing conditions in the licence, to operate a service in accordance with established criteria;

(e) to receive, acknowledge, investigate and take any necessary action in relation to any complaint against any agency or service provider or public or private entities or any other entity or person;

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(f) to impose measures to improve the quality of services for older persons;

(g) to establish and update a public register of licensed agencies or service providers or public or private entities or any other entity or legal person providing services for older persons as the Authority may deem necessary from time to time:

Provided that for the purposes of this paragraph this public register shall not contain personal data;

(h) to modify or remove any of the conditions, or to impose additional conditions, or change the type of licence, after the licence has been granted and, unless otherwise prescribed, such conditions shall become effective within the time limit imposed by the Authority;

(i) to make recommendations to the Government to develop policies in the field of services for older persons.

Meetings.

15. (1) The meetings of the Board shall be called by the Chairperson as often as may be necessary, but at least twice (2) a month on the Chairperson's own initiative or at the request of at least two (2) of the members of the Board.

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

(3) Half of the number of members of the Board shall form a quorum. Decisions shall be adopted by a simple majority of the votes of the members present and voting.

(4) The Chairperson shall have an original vote and, in the event of an equality of votes, a casting vote. In the absence of the Chairperson, the Deputy Chairperson shall preside over the meeting and during such meeting shall have the same rights as the Chairperson.

(5) A member of the Board who may in any way be directly or indirectly interested in a decision made or proposed to be made by the Board shall immediately after the relevant circumstances have come to his knowledge, disclose the nature of the interest at the first meeting of the Board.

(6) Any disclosure made under sub-article (5) shall be recorded in the minutes of the meeting of the Board, and that member:

(a) shall not take part in any deliberation and decision

with respect to that deliberation and decision of the Board after the interest has been disclosed; and

(b) shall be disregarded for the purpose of constituting a quorum of the Board for that deliberation or decision.

(7) Subject to the provisions of this Act, the Board may regulate its own procedure.

(8) The Board shall have the power to consult professionals or other persons having knowledge and experience in the field of services to older persons.

(9) In the exercise of its functions, the Board may, in relation to any matter that falls under the provisions of this Act, request any person to provide any information and produce any documentation.

(10) The members of the Board, the Secretary and every person employed with the Authority shall be bound by confidentiality and shall not disclose to third parties any information which may come to their knowledge in the exercise of their functions, unless required to do so by law.

(11) The Authority shall lay on the Table of the House an annual report of all its activities during the preceding calendar year by no later than the 15th April of each year.

16. (1) Subject to the other provisions of this Act, the affairs and business of the Authority shall be the responsibility of the Authority itself. However, the executive conduct of the Authority, its administration and organisation, and the administrative control of its officers and employees shall be the responsibility of the Chief Executive Officer of the Authority, who, in addition to those responsibilities prescribed by law, shall also have such other powers as may from time to time be delegated to him by the Authority.

Conduct of the affairs of the Authority.

(2) The Chief Executive Officer shall be appointed by the Board of Governors and shall establish the necessary structure vested with all the powers and responsibilities as the Authority may decide and which it may vary from time to time, so however, that the Chief Executive Officer shall have professional qualifications or academic qualifications or experience in or having shown capacity in matters relating to care of older persons.

(3) The structure so established shall be headed by the Chief Executive Officer appointed by the Board of Governors as provided for in sub-article (2), and he shall have adequate experience and knowledge in the sector.

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(4) The Authority may exercise any one (1) or more of its functions directly through its structure and also through any of its officers or employees or through an agency authorised for the purpose, or through a contractor or other person with whom an agreement for the performance of any one or more of such functions is made:

Provided that nothing in this sub-article shall authorise the Authority to contract out any of its regulatory or licensing functions.

(5) Where in this Act anything is to be done by or against or with respect to the Authority, or any notice is to be or may be given to the Authority, any such thing or notice may also be done by or against or with respect to or be given to the structure under whose jurisdiction the matter falls by reason of a delegation of function to such structure; and for the purposes aforesaid any reference in this Act to the Authority shall include a reference to the appropriate structure.

(6) The Chief Executive Officer shall be responsible for the implementation of the objectives of the Authority in the exercise of its functions and, without prejudice to the generality of the foregoing, shall:

- (a) lead the Authority towards fulfilling its obligations at law;
- (b) execute the strategic direction of the Authority;
- (c) ensure that the proper organisational structure is in place to deliver the obligations at law and the implementation of the strategy as set by the Authority;
- (d) ensure that the decisions taken by the Authority are properly carried out by the structure of the Authority.

(7) The Chairperson shall ensure that revocation of a licence is sanctioned by the majority of the members of the Board present at the meeting.

(8) In cases of urgency, the Chairperson may order that inspections be carried out by the Inspectorate Office of the Authority at any premises wherein it is believed that a service which is being provided is prejudicial or harmful to the service user:

Provided that in the exercise of this function, the Chairperson may request the additional assistance of the Executive Police in order for such inspections to be carried out.

(9) When an irregularity is found following an urgent inspection carried out in accordance with sub-article (8), the Chairperson shall:

- (a) report the findings to the Commissioner of Police; or
- (b) bring the matter before the Board within three (3) working days so as to decide upon any administrative action.

(10) The Authority shall handle all requests relating to the licensing of services to older persons and the complaints about the service or conduct of the service providers.

(11) In carrying out any of its functions, the Authority may request the assistance of the Executive Police and, or any other entity and, or authority as may be necessary and wherever so required.

PART IV Provisions on Licensing

17. (1) No person, agency or public or private entity that provides a service regulated by this Act shall provide any service without a valid licence required for the provision of that service issued by the Authority, and no person may provide any service from any place or establishment unless he is in possession of a valid licence for that purpose issued by the Authority:

Provision of services without a valid licence.

Provided that when the agencies or the public or private entities or any other entity or person intends to provide the same kind of service but from different premises, a separate application shall be made for each service.

(2) No licence shall be granted or renewed under sub-article (1) when the premises, equipment and facilities as well as the personnel, whether medical or otherwise, are not such as to provide such standard of geriatric care or service as the Authority deems to be satisfactory.

(3) The Authority may, in granting or renewing any licence under sub-article (1), impose any conditions and fees as it may deem fit and it may restrict the services and the activities that may be provided or carried on in the licensed premises.

(4) Where any premises are used or any act is done in contravention of any condition or restriction provided for in a licence granted or renewed under sub-article (1), any premises so used and any act so done shall be deemed to have been used and done without the licence required by this article.

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(5) Any licence granted in accordance with sub-article (1) shall lapse after one (1) year of issue but may be renewed by the Authority from year to year. Any such licence shall also lapse if there is a declaration of guilt under Part X.

Application for a licence.

18. (1) A prospective service provider may apply to the Authority, in the prescribed form, in order to be granted a licence to operate a service for older persons in terms of this Act.

(2) The Authority shall, at any time during the processing of the application, require the prospective service provider to provide any documents and, or any other information which it deems necessary and shall visit the premises intended to be used for the provision of service in order to make its assessment and ascertain whether the licence should be granted.

(3) When a provider fails to provide the documents and, or information requested by the Authority in the stipulated time period, that application shall become null.

Granting of a licence.

19. The Authority shall grant a licence to a prospective service provider if it is satisfied that the prospective service provider:

(a) complies with the eligibility criteria established by the Authority;

(b) complies with the standards relevant to the proposed services and any regulations issued under this Act; and

(c) is not in violation of any other applicable law or regulation.

Temporary or emergency licences.

20. (1) The Authority may grant a temporary or an emergency licence, as the case may be, to a prospective service provider who is in the process of setting up a service regulated under this Act but who still does not meet all the standards established under this Act or any other regulations made thereunder.

(2) The Authority shall only grant temporary licences when it is satisfied that the level of services provided is of quality and after it has approved a plan of action presented by the provider that conforms with all the standards established under this Act or any other regulation made thereunder.

(3) The Authority may grant an emergency licence to the prospective service provider when he specifies the emerging critical situation which is of a temporary nature.-

(4) The Authority may also issue emergency licences when a licence is revoked or suspended in critical situations of a temporary nature which affect the health and, or safety of older persons:

Provided that a temporary or emergency licence may only be granted if it is provided for in the relevant regulations and the prospective service provider is in conformity with the standards stipulated in the relevant regulations:

Provided further that such temporary or emergency licence may only be issued for a period of three (3) months and may only be further extended for another maximum period of three (3) months.

21. Upon granting a licence to a prospective service provider, the Authority shall issue a licence certificate which shall be valid for a period of one (1) year from the date of issue, unless otherwise prescribed in the terms and conditions laid down in the licence.

Licence
certificate.

22. (1) A licence may be renewed by the Authority provided that the licensed service provider has complied with the provisions of this Act and of any regulations made thereunder.

Renewal of
licence.

(2) A licensee who intends to renew a licence which is due to expire shall, at least four (4) months before such expiry, apply to the Authority for such licence to be renewed. The Authority shall renew the licence if it is satisfied that the services are being provided in accordance with the provisions of this Act and following an assessment conducted by the Authority confirming adherence with the regulations issued in terms of this Act.

(3) The decision of the Authority on the renewal of the licence shall be served on the licensed service provider by registered mail not later than thirty (30) days from date of decision.

(4) The licensed service provider shall ensure that the original licence is kept affixed in a prominent place in the principal office of the premises from which the service is provided. The licensed service provider shall, upon a request by a service user, provide access to the licence to the service users or potential service users.

(5) The issuing and renewal of a licence shall be without prejudice to the requirement of any other licence or authorization required under any other law.

23. (1) The Authority may refuse an application to grant or renew a licence in terms of this Part if it deems that the prospective service provider or licensed service provider is not fit to carry out or operate the service. The refusal, together with the reasons thereof,

Refusal to grant
a licence.

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shall be served in writing by registered mail to the prospective service provider or licensed service provider applying for the licence within fifty (50) days from the date of application and validation of documents.

(2) A prospective service provider or a licensed service provider shall have the right to request a review of the decision of the Authority by filing an appeal in terms of Part VII.

(3) A prospective service provider or a licensed service provider who has had a licence revoked shall have the right to reapply to the Authority for a licence if the reason for refusal no longer subsists.

Revocation of a licence.

24. The Authority shall have the right to revoke a licence granted in terms of this Act at any time if the licensed service provider:

(a) files a request in writing for revocation;

(b) ceases to comply with the criteria of eligibility for licensing;

(c) is no longer deemed suitable to provide the service for which he was licensed or if the licensee has been found guilty of an offence contemplated under this Act;

(d) is in breach of the conditions for licensing in accordance with the provisions of this Act or any other law, or knowingly obstructs, impedes or hinders any person entrusted with the carrying out of duties and responsibilities under that licence.

Report on the revocation of a licence.

25. (1) The Authority shall revoke the licence in accordance with paragraphs 24(b), (c) or (d) after drawing up a report containing its recommendations on whether the licence should be revoked or otherwise. This report shall include evidence of due warning to the licensed service provider that the licence may be revoked unless appropriate action is taken.

(2) The written revocation, together with the reasons thereof, shall be served on the licensed service provider by registered mail. Such revocation shall have effect from date of notification.

(3) If the licence of a licensed service provider is revoked, the licence certificate and all the records and documentation relating to the service shall become the property of the Authority:

Provided that if a licence is revoked for any reason whatsoever under this Act, the Authority shall have the right to

demand a migration plan from the service provider of service delivery to service users so as to ensure the continuity of service delivery. This plan shall be provided within two (2) working days from the final date of revocation of licence. Should the service provider fail to provide this plan, the Authority shall take any action required to safeguard the interests of service users and continuity of service provision to service users in terms of this Act. This shall be without prejudice to any legal action or punitive measures which may be applicable to the circumstances.

26. (1) During the month of January of every year, the Authority shall publish in the Government Gazette:

Publication in
the Government
Gazette.

(a) a list of the licensed service providers; and

(b) a list of the licensed service providers whose licence has been revoked throughout the previous calendar year and any changes in the conditions required for licensing or renewal.

(2) The Authority shall ensure to publish online the same lists and also to update the said lists online at the end of every month.

PART V

Regulatory Standards

27. (1) The Authority shall be responsible for establishing, publishing and reviewing regulatory standards for services for older persons in accordance with the provisions of this Act.

Responsibility
of the regulatory
standards.

(2) For the purpose of sub-article (1), the Authority shall consult any person or group of persons as it deems appropriate.

(3) The purpose of the regulatory standards shall be to:

(a) improve and standardise the regulation of the services provided to older persons;

(b) render effective the essential regulation of the services;

(c) re-assure the service users that the services for older persons are appropriate to their needs and respect their rights and dignity; and

(d) emphasize that the welfare, well-being and care of the service users is to be considered as paramount:

Provided that the standards and any amendments thereto shall

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be made by regulations issued by the Minister after consulting the Authority:

Provided further that, without prejudice to the other provisions of this Act or of any other law, the list of standards and any amendment thereto by the Authority shall be made, published, prescribed or made available to the public in both the Maltese and English languages. Where technical terms in the English language cannot be translated into the Maltese language in a precise manner, the English language shall be used.

PART VI

Enforcement of Standards

Right of entry.

28. (1) The Authority shall have the right to enter any premises of a licensed service provider in order to inspect and assess the service being offered. Inspections and assessments shall be carried out by the employees of the Authority nominated by the Inspectorate Office and shall have the power to:

(a) enter any premises without prior notice at any reasonable time to carry out an inspection in terms of this Act;

(b) carry out in all such premises any search, examination, test or inquiry which may be deemed necessary to ensure that the provisions of this Act, or of any regulations or orders made thereunder, and all recognised standards are being observed, and in particular:

(i) to interview, in the presence of witnesses, any person whom they consider was involved in the provision of the service in terms of this Act and any person whom they consider has made use of such service;

(ii) to require the production of any books, registers or other documents being kept by the service provider and to make a copy of such books, registers or documents or take extracts therefrom;

(iii) to require any information as may be reasonably required in relation to the investigation;

(c) take photographs, films, video recordings or electronic images;

(d) require the assistance of the Police whenever deemed necessary;

(e) inspect all equipment, instruments, financial records, medical records, procedural manuals and any other records kept by the service provider in fulfilment of their obligations under this Act and any regulations made under this Act;

(f) take any action as may be necessary to ensure and audit the quality of the service provided by each licensed service provider; and

(g) carry out any other activity which may be deemed necessary in accordance with the provisions of this Act or any regulations made thereunder.

(2) Following the conclusion of an investigation, the Authority may:

(a) submit a report to the Executive Police for further investigation in all cases involving a criminal offence;

(b) take any administrative action which it deems appropriate in the circumstances of the case;

(c) take any such other action as it deems appropriate in the circumstances of the case.

29. The Authority shall request, at any time, a licensed service provider or any other person directly or indirectly involved in the provision of the licensed service to supply it with any information and, or documents relating to the service which are deemed necessary or expedient to require for the purposes of fulfilling their functions under this Act and any regulations made thereunder.

Power to request information.

30. (1) Following the issue of a licence, the Authority shall have the right to inspect and audit the service and the premises from which it is offered at any time. If the inspecting officers deem that the service is not compliant with the provisions of this Act, or with the terms of the licence, the inspecting officers shall draw up a report recommending any changes required to be undertaken by the licensed service provider. The Authority shall then compile a report which shall be notified to the licensed service provider.

Right of inspection and audit.

(2) The licensed service provider shall effect the changes indicated in the report within the time frame established by the Authority. In the event that the service provider does not comply with the required changes within the specified time frames, the Authority shall take any action it deems fit.

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Data protection. **31.** (1) The Authority acting in its capacity of controller in terms of Article 4(7) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), shall perform the relevant data processing operations which are limited to the attainment of the purposes of this Act, and to that which is necessary and proportionate so the Authority may exercise its functions and powers.

(2) Nothing in this Act shall prejudice the applicability of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), including the regulations made thereunder and the fundamental rights and freedoms of data subjects

(3) The processing of personal data, including any processing of special categories of personal data shall, for the purposes of this Act, comply with the principles relating to the processing of personal data pursuant to Article 5 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

Adequate protection measures.

32. (1) The Authority shall implement those appropriate technical and organised measures to ensure an adequate level of security which is appropriate to the risk posed, and in particular to prevent unauthorized disclosure of or unlawful access to information pertaining to data subjects. In the implementation of the mentioned measures the nature, scope, context and purposes of the processing shall be considered.

(2) The data protection officer designated by the controller in terms of Article 37 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) shall be involved and consulted properly and in a timely manner on all issues in relation to the protection of personal data processed for the purposes of this Act.

(3) For the purpose of ensuring and in order to be able to demonstrate that the processing of personal data is performed in accordance with the provisions of Regulation (EU) 2016/679 of the

European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), the controller shall implement all appropriate data protection policies, which policies shall be periodically reviewed and updated where necessary.

33. (1) The Authority shall have the right to inspect all premises where the services for older persons are provided without the licence required under this Act. Following such inspection, the Authority shall:

Inspection of the premises.

- (a) draw up a report of its findings;
- (b) where possible, work with the non-registered service provider so the organisation complies with the provisions of this Act;
- (c) allow the service provider reasonable time within which to regularize his position;
- (d) re-inspect the services offered by the service provider at the end of the period given in order to assess:
 - (i) whether the service provider meets the necessary criteria for temporary licensing, in which case it shall issue such a temporary licence; or
 - (ii) whether the service provider requires more time to meet the necessary criteria for the issue of a temporary licence, in which case the Authority may direct the service provider to cease all activity until such criteria are met:

Provided that in exceptional cases, and where the Authority deems that no serious prejudice will affect the service user, the Authority may allow the service provider to continue offering the service until the service provider meets the required standards within a time frame established by the Authority.

(2) Notwithstanding the provisions of sub-article (1), a non-registered service provider shall still be liable to fines and penalties that may be imposed for non-compliance with the provisions of this Act.

(3) Where the Authority deems that the service is not compliant with the provisions of this Act, or with the terms of the licence, a report shall be drawn up including an assessment together with

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recommendations, where applicable, about changes that the licensed service provider should undertake.

PART VII

Appeals

Appeal from decisions of the Authority.

34. (1) An appeal shall lie to the Tribunal on any decision of the Authority in accordance with the provisions of this Act and any regulations made thereunder. Any person who feels aggrieved by any such decision shall have the right to appeal within ten (10) days from the date of service of the decision.

Cap. 490.

(2) The provisions of the Administrative Justice Act shall apply to the composition of the Tribunal in any appeal made to the Tribunal, or in all cases where a reference by this Act is made to the Tribunal.

(3) The Tribunal may, upon good grounds being shown, stay the execution of the decision of the Authority appealed from.

Appeals from a decision by the Tribunal.
Cap. 490.

35. Any party to the proceedings before the Tribunal who feels aggrieved by a decision of the Tribunal, may appeal to the Court of Appeal in accordance with the provisions of the Administrative Justice Act.

PART VIII

Officers and Employees of the Authority

Appointment and functions of the officers and employees of the Authority.

36. (1) The Authority shall appoint and employ, at such remuneration and upon such terms and conditions such officers and employees of the Authority as may from time to time be necessary for the due and efficient discharge of the functions of the Authority.

Detailing of public officers to perform duties with the Authority.

(2) The Prime Minister may, at the request of the Authority, from time to time order that any public officer shall be detailed for duty with the Authority in such capacity and with effect from such date as may be specified in the Prime Minister's order.

(3) The period during which an order as aforesaid shall apply to any officer specified therein, shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier date, or unless a different date is specified in such order, cease to have effect after one (1) year from the effective date of such order unless the order is revoked earlier by the Prime Minister.

Status of public officers detailed to perform duties with the Authority.

(4) Where an officer is detailed for duty with the Authority, such officer shall, during the time in which such order has effect in relation to him, be under the administrative authority and control of the Authority but he shall for other intents and purposes remain and be considered and treated as a public officer.

(5) Without prejudice to the generality of the foregoing, an officer detailed to perform duties as aforesaid:

(a) shall not during the time in respect of which he is so detailed:

(i) be precluded from applying for a transfer to any department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at a date on which he is so detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Authority; and

(b) shall have the right to have his service with the Authority considered as service with the Government for the purposes of any pension, gratuity, or benefit under the Pensions Ordinance and the Widows' and Orphans' Pensions Act and of any other right or privilege to which he would be entitled, and liable to any liability to which he would be liable, but for the fact of his being detailed for duty with the Authority.

Cap. 93.
Cap. 58.

(6) Where an application is made as provided for in sub-article (5)(a)(i) the same consideration shall be given thereto as if the applicant had not been detailed for service with the Authority.

(7) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed to perform duties with the Authority as aforesaid during the period in which he is so detailed.

(8) The Authority may, with the approval of the Prime Minister, offer to any officer detailed for duty with the Authority under any of the provisions of this Act permanent employment with the Authority at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

(9) The terms and conditions comprised in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and

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conditions, taken as a whole, in the opinion of the Prime Minister, offer substantially equivalent or greater benefits.

Cap. 93.

Cap. 58.

(10) Every officer who accepts permanent employment with the Authority offered to him, under the provisions of sub-article (8), shall for all purposes other than those of the Pensions Ordinance and of the Widows' and Orphans' Pensions Act, be deemed to have ceased to be in service with the Government and to have entered into service with the Authority on the date of his acceptance, and for the purposes of the said Ordinance and of the said Act, so far as applicable to him, service with the Authority shall be deemed to be service with the Government within the meanings thereof respectively.

Cap. 58.

(11) Every such officer as aforesaid who, immediately before accepting permanent employment with the Authority, was entitled to benefit under the Widows' and Orphans' Pensions Act, shall continue to be so entitled to benefit thereunder and for all intents as if his service with the Authority were service with the Government.

(12) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer who has accepted performance of employment with the Authority as aforesaid during the period commencing on the date of such officer's acceptance.

(13) The officers and employees of the Authority shall not have any direct or indirect interest in any contract made or proposed to be made by the Authority, or in any enterprise which has or proposes to have any business relations with the Authority.

(14) Employees who, on the date of coming into force of this Act are performing duties with the Social Care Standards Authority and who wish to be deployed with the Authority shall be regarded as employees of the Authority under the same terms and conditions prevailing at the date of coming into force of this Act.

PART IX

Financial Provisions

Finances of the
Authority.
Cap. 601.

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

(2) The Authority shall levy all the tariffs, 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 that shall 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 which shall 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 part of the tariffs, 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.

38. The Authority shall, not later than six (6) weeks after the end of each financial year, make and transmit to the Minister and to the Minister responsible for finance a report dealing generally with the activities of the Authority during that financial year and containing such information relating to the proceedings and policy of the Authority as either of the said Ministers may from time to time require. Annual report.

39. (1) The Authority shall cause to be kept proper accounts and other records in respect of its operations, and shall cause to be prepared a statement of accounts in respect of each financial year. Accounts and audit.

(2) The accounts of the Authority shall be audited by an auditor or auditors to be appointed by the Authority and approved by the Minister:

Provided that the Minister responsible for finance may, after consultation with the Minister, require the books and accounts of the Authority to be audited or examined by the Auditor General who shall for that purpose have the power to carry out such physical checking and other verifications as he may deem necessary.

(3) The Authority shall, in accordance with regulations published by the Minister, cause a copy of the statement of accounts duly audited to be transmitted together with a copy of any report made by the auditors on that statement or on the accounts of the Authority.

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(4) The Minister shall cause a copy of every such statement and report laid before the House as soon as practicable.

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

Provided that the 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 six (6) months from date of submission to or decision of the Authority or to any other previous entity carrying out the same functions.

Contracts of services, supply or works.

40. The Authority shall not award or enter into any contract for the supply of goods or materials or for the execution of works, or for the rendering of services, to or for the benefit of the Authority, except in accordance with regulations in force regulating the procurement of all goods and services in the public sector.

PART X

Offences and Penalties

Offences against this Act.

41. (1) Any person who acts in contravention of the provisions of this Act, or in contravention of any of the provisions of any regulations made under this Act, and any person who conspires, attempts, aids, abets, counsels or procures any other person, to contravene the provisions aforementioned, shall be guilty of an offence against this Act.

(2) Any person who in any way hinders or obstructs the Authority or any of its officers in the performance of any of their functions shall be guilty of an offence and shall, on conviction by the competent Court, be liable to imprisonment for a term of not more than three (3) months or to a fine (*multa*) of not less than one hundred euro (€100) but not exceeding five thousand euro (€5,000), or to both such imprisonment and fine.

Administrative penalties.

42. In the event of non-compliance, the Authority may impose an administrative penalty of not less than one hundred euro (€100) but not exceeding ten thousand euro (€10,000), or in the case of continuance of non-compliance a daily penalty of not less than fifty euro (€50) but not more than three hundred and fifty euro (€350) for each day that the non-compliance continues.

Other offences.

43. (1) Any penalty established for any offence in this Part shall be without prejudice to any other penalty established for any other offence under any other applicable law or regulations prescribed under this Act.

(2) The Authority shall have the power to establish criteria for the provision of penalties that shall be imposed by it in accordance to the circumstances of the prescribed cases including the suspension and, or revocation of licence.

PART XI Miscellaneous

44. The Minister may by order make such incidental, consequential or supplemental provisions as may be necessary or expedient for the purpose of securing and giving full effect to the transfer of any undertaking or any right, power, liability or obligation to the Authority by or under this Act and may make such orders as may be necessary to make any powers or duties exercised by the Government, in relation to anything transferred to the Authority by virtue of this Act, exercisable by and on behalf of the Authority.

Power of the Minister to issue orders.

45. The Minister, acting on the advice of the Authority, may make regulations to give better effect to the provisions of this Act.

Power of the Minister to make regulations.

PART XII Transfer of Powers and Responsibilities

46. (1) All licensing powers and all other duties and functions of the Social Care Standards Authority and all other services for older persons shall, upon the coming into force of this Act, be vested in the Authority and the Chief Executive Officer respectively, established under this Act:

Powers vested in the Authority and the Chief Executive Officer.

Provided that any decision or licence granted by the Social Care and Standards Authority before the coming into force of this Act shall continue to have effect as though the decision or licence had been given under the relative provisions of this Act subject to the satisfaction of all conditions stipulated in this Act.

(2) All provisions and regulations made and relating to *inter alia* high dependancy chronic care services for older persons, residential services for senior citizens and residential services for persons living with dementia in homes for senior citizens in terms of the Social Regulatory Standards for High Dependency Chronic Care Services for Older Persons Regulations, the Mandatory Measures for Residential Services for Older Persons Regulations, the Social Regulatory Standards for Residential Services for Senior Citizens Regulations, the Social Regulatory Standards for Residential Services for Persons Living with Dementia in Homes for Senior Citizens Regulations and any other regulations relating and, or relevant to services provision of older persons and which are directly related to the remit of the Authority shall upon the coming into force of this Act be vested in the

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said Authority established under this Act.

Licensing powers in terms of the Medical and Kindred Professions Ordinance. Cap. 31.

47. All licensing powers of homes for older persons in terms of article 98 of the Medical and Kindred Professions Ordinance shall, upon the coming into force of this Act, be vested in the Authority established under this Act:

Cap. 31.

Provided that any decision or licence granted under article 98 of the Medical and Kindred Professions Ordinance before the coming into force of this Act shall continue to have effect as if the decision or licence had been given under the relative provisions of this Act subject to the satisfaction of all conditions stipulated in this Act.

Transitory provisions.

48. (1) Where any act or process has been commenced by or under the authority of the Government prior to the date of entry into force of this Act and such act or process is in relation to anything transferred to the Authority by virtue of this Act, such act or process may be carried on and completed by or under that authority of the Government.

(2) Where on the date of entry into force of this Act any legal proceeding is pending to which the Government is a party or is entitled to be a party, and such proceeding relates to anything transferred to the Authority by virtue of this Act, the Authority shall be substituted in such proceeding for the Government and shall be entitled to be so substituted.

PART XIII

Amendments to the Public Administration Act

Amendments to the Public Administration Act. Cap. 595.

49. This Part amends the Public Administration Act and it shall be read and construed as one with the Public Administration Act, hereinafter in this Part referred to as "the principal Act".

Amendment of the Fifth Schedule to the principal Act.

50. In the Second Part of the Fifth Schedule to the principal Act, immediately after the words "The Chairperson of EquestriMalta" there shall be added the words "The Chairperson of the Older Persons Standards Authority".

Passed by the House of Representatives at Sitting No. 175 of the
21st November, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

