

CHAPTER 591

MALTA DIGITAL INNOVATION AUTHORITY ACT

AN ACT to provide for the establishment of an Authority to be known as the Malta Digital Innovation Authority, to support the development and implementation of the guiding principles described in this Act and to promote consistent principles for the development of visions, skills and other qualities relating to innovative technology, and to exercise regulatory functions regarding innovative technology and related services and to provide for matters ancillary thereto or connected therewith.

Substituted by:  
XIX.2024.4.

15th July, 2018

[ACT XXXI of 2018.](#), as amended by Act [XIX of 2024.](#)

ARRANGEMENT OF THE ACT

Substituted by:  
XIX.2024.5.

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PART I

Preliminary

1. The short title of this Act is the Malta Digital Innovation Authority Act.

Short title.

2. (1) In this Act, unless the context otherwise requires:

Interpretation.  
Substituted by:  
XIX.2024.6.

"the Act" means the [Malta Digital Innovation Authority Act](#) and includes any regulations and rules made thereunder and any binding guidelines issued thereunder, unless the context otherwise requires;

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"Authority" means the Malta Digital Innovation Authority established by article 5 and any references in the Act or any other law to the Authority shall, unless the context otherwise requires, be construed as including a reference to any person authorised by the Authority to act for or on its behalf;

"Board" means the Board of Governors of the Authority composed of the Chairperson and members appointed in accordance with article 5;

"Chairperson" means the Chairperson of the Authority and includes, in the circumstances mentioned in article 5(3), the Deputy Chairperson or any other person appointed to act as Chairperson;

"decision" includes any directive, determination, direction, condition, measure, requirement or specification, howsoever described, made by the Authority;

"innovative technology" includes any form of digital technology, including but not limited to, any type of digital technology listed in the First Schedule, related products, solutions or services, as well as processes and practices aimed or designed at protecting digital technology and its users;

"Minister" means the Minister responsible for the Authority;

"powers of the Authority" means the powers of the Authority resulting from the Act, any laws that the Authority is appointed or entitled to administer or enforce, any Governmental or ministerial appointment, or by delegation, appointment or engagement by other public entities, regulatory bodies and, or competent authorities;"

"recognition" means any form of recognition including a licence, registration, permission, authorisation, approval, acknowledgment, certification, attestation, or mark of credit, granted or issued by the Authority in accordance with the powers of the Authority;

"small and medium-sized enterprises" shall have the meaning assigned to it under the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (notified under document number C(2003) 1422) or any law enacted in relation thereto;

"Tribunal" means the Administrative Review Tribunal established by article 5 of the [Administrative Justice Act](#);

"user" includes any person who uses or otherwise participates in or engages with innovative technology.

(2) Where reference is made to the powers of the Authority to protect the public interest and users, it shall be construed as a reference to members of the public and users in any country and not exclusively to users in Malta.

(3) The provisions of the Act shall be without prejudice to provisions regarding activities concerning public security, defence, national security and the activities of the State in areas of criminal law.

(4) Unless the context otherwise requires, the provisions of the Act and any regulations made thereunder shall apply in the absence of substantive rules on recognition of innovative technology as may be contained in any laws or in European Union and, or international legislation applicable to Malta.

(5) In the case that the provisions of the Act conflict with the provisions of any other legislation, the provisions of the Act shall prevail.

## PART II

### Guiding Principles

3. The Government shall, through the establishment of the Authority in Malta, seek the progress of the innovative technology sector in Malta and the fostering of innovative technology development in or from Malta through the recognition and regulation of relevant innovative technology and related services, the issuing and promotion of initiatives and incentives aimed at the innovative technology sector and the adoption of standards that add trust in innovative technology. This shall be done:

Promotion and development of the Authority's interests.  
*Substituted by:*  
*XIX.2024.7.*

(a) in full respect of the importance of not hindering innovation and the efforts and potential of small and medium-sized enterprises and the start-up sector in this area of activity;

(b) while considering that the approach to recognition and regulation may be moderated by the pace of changes and developments taking place in this sector;

(c) in a manner ensuring that there are standards in place for the protection of users, the integrity of the market, and the public interest in general;

(d) in a manner that incentivises innovation and innovative technology development in or from Malta;

(e) in a manner that is consistent with European and international laws applicable to Malta; and

(f) in line with the values outlined in the strategy of the Authority or similar document, as may be updated from

time to time.

Main policies and objectives.  
*Amended by:*  
*XIX.2024.8.*

4. (1) The Government shall determine Malta's policies and objectives with regard to innovative technology to support the development of Malta as a centre of excellence for innovative technology and shall appropriate such funds and provide such resources to the Authority as it considers necessary to achieve such aims.

(2) The Authority shall seek to achieve the following main objectives and policies and shall have the power:

- (a) to promote governmental policies that favour the deployment, within the public administration, of innovative technology by the Government where necessary or appropriate;
- (b) to foster, promote and facilitate the advancement and utilisation of innovative technology through, amongst others, programmes and schemes, such as, but not limited to, a controlled regulatory environment for the testing of innovative technology, aimed at incentivising innovative technology development in and from Malta and the creation of trust in innovative technology;
- (c) to assist developers of innovative technology, in particular, but not exclusively, start-ups and small and medium-sized enterprises in meeting their regulatory and other obligations, and to minimise risks to, and posed by, innovative technology, by issuing recognitions and through other programmes and incentives designed for this purpose;
- (d) to promote, through grants, programmes, research, education, use and, or the making available of facilities, hardware or personnel, the use and development of innovative technology and the application of ethical standards in the development and use of such innovative technology:

Provided that the giving of such grants shall not prejudice and, or preclude the Authority's oversight and regulatory functions and powers;

- (e) to promote, and strive to safeguard, maintain and protect the reputation of Malta in relation to innovative technology and the development and use of innovative technology;
- (f) to protect the interest of users of innovative

technology and the public in general and in so doing take any necessary action, including without limitation to disclosure of information and documents which the Authority in its discretion deems that merits disclosure and, or when required by law, to be disclosed to the general public and, or referred to any other competent authority and the pursuance of any further act or collaboration from or with other public entities, regulatory bodies and, or competent authorities and, or regulatory bodies;

- (g) to provide a sound financial basis to the Authority, through, amongst others, the levying of fees by the Authority, including the imposition of interest in the case of late payment at the rate to be determined by the Authority, for the Authority to be able to achieve its purposes;
- (h) to promote harmonised practices and, where applicable, to facilitate the adoption of standards in innovative technology in Malta in conformity with international norms, standards, rules and, or laws and particularly with those of the European Union;
- (i) to assist the competent data protection authorities as required by law;
- (j) to promote and encourage ethical and legitimate criteria in the design and use of innovative technology, and to enforce, as deemed necessary, the quality of services and security of the innovative technology for which a recognition has been granted by the Authority;
- (k) through collaboration with other regulatory bodies and competent authorities with responsibility for the prevention of money laundering and the financing of terrorism and crime in general, to support the prevention of money laundering, terrorist financing and the commission of any other crime in, or by means of the use of innovative technology;
- (l) to promote trust, transparency, reliability, robustness, safety and auditability in the design and use of innovative technology;
- (m) to promote legal certainty in the application of laws, in a national and cross-border context, and the development of appropriate legal principles for the effective application of law to innovative

technology; and

- (n) to promote security by design and security by default criteria with reference to innovative technology.

(3) The Authority shall encourage the development of innovative technology in as wide a manner and for as many uses as possible so as to achieve its benefits in as many economic and social sectors as possible, including, but not limited to, in financial services, health and education, voluntary organisations, public administration, logistics, transport, sports and entertainment.

(4) The Authority shall also encourage the development of regulatory processes in relation to innovative technology to support all national competent authorities regulating different sectors to better administer the laws entrusted to their administration for the public benefit.

(5) The Authority shall be the national focal point for the recognition of innovative technology and shall, when it deems necessary, collaborate with other public entities, regulatory bodies and, or competent authorities in promoting measures to be adopted in meeting and reducing the risks identified with its intended use.

(6) For the purpose of this article:

- (a) "security by design" means measures adopted at the earliest stages of the design and development of innovative technology, and also throughout its lifetime, to protect its security to the highest possible degree; and
- (b) "security by default" means the default configuration of innovative technology to the most secure settings possible.

### PART III

#### Establishment, Functions and Conduct of Affairs of the Authority

Establishment and  
composition of the  
Malta Digital  
Innovation  
Authority.  
Amended by:  
XIX.2024.9.

5. (1) There shall be a body, which shall be referred to as the Malta Digital Innovation Authority, the activities and business of which shall be carried out by a Board composed of a Chairperson and not less than four (4) and not more than eight (8) other members who, in the opinion of the Minister, shall be persons with the relative qualifications and experience *inter alia* in matters relating to innovative technology, financial services, audit and accounting, law, regulation and other subjects which may be relevant to the supervisory and regulatory competence of the Authority.

(2) The members of the Board shall be appointed by the

Minister for a term of one year or for such longer period as may be specified in the instrument of appointment subject to a maximum of three years and the members so appointed may be re-appointed on the expiration of their term of office.

(3) The Minister may designate one of the members of the Board other than the Chairperson as Deputy Chairperson and the member so designated shall have all the powers and perform all the functions of the Chairperson during the Chairperson's absence or inability to act as Chairperson or during any vacancy in the office of Chairperson.

(4) A person shall not be qualified to hold office as a member of the Board if he -

(a) is a Minister, Parliamentary Secretary or a member of the House of Representatives; or

(b) is a judge or magistrate of the courts of justice;  
or

(c) has a financial or other interest in any enterprise or activity which is likely to affect, in a general manner, the discharge of his functions as a member of the Board as a result of a conflict of interest:

Provided that should any nominee to such a position declare a conflict of interest or potential conflict of interest based on a specific context only and provides full information, this may be reviewed by the Minister and the Board, and if the conflict of interest is not considered one which would disqualify the nominee, this disqualification shall not apply but it shall be the subject of a written guidance on the part of the Minister, and, or the Board which shall apply to the member for as long as such specific context subsists, and this without prejudice to sub-article (9); or

(d) has been convicted of a criminal offence affecting public trust, or of theft or fraud, or of knowingly receiving property obtained by theft or fraud or of bribery or of money laundering, or of a criminal offence under any law, or is being investigated for such criminal offence.

(5) Subject to the provisions of this article, the office of a member of the Board shall become vacant -

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

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

(6) A member of the Board may only be removed from office by the Minister for any one or more of the following reasons:

(a) if the member due to infirmity of mind or of body or for any other cause is effectively unable to continue to discharge his duties as a member;

(b) if the behaviour or performance of the member brings into question his suitability or ability to continue as a member, in particular for behaviour that affects or may affect his reputation, independence or autonomy, or the reputation, independence or autonomy of the Authority;

(c) if any member fails to perform his duties for a continuous period exceeding five (5) months without any valid justification.

(7) If the Minister removes a member of the Board from office, such removal shall be made public by no later than the effective date of removal from office. At the same time, the Minister shall provide the member concerned with a statement of reasons for his removal, and the member shall have the right to request that the statement of reasons for his removal be made public, in which case the Minister shall publish such statement.

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

(9) Any member of the Board who has any direct or indirect interest in any decision or contract made or proposed to be made by the Board, not being an interest which disqualifies such member from remaining a member, shall disclose the nature of his interest at the first meeting of the Board after the relevant facts have come to his knowledge; such disclosure shall then be recorded in the minutes of the Board, and the member having an interest as aforesaid shall withdraw from any meetings at which such decision or contract is discussed. Any such disclosure shall be communicated to the Minister without delay. Where the interest of the member is such as to disqualify him from remaining a member, he shall report the fact immediately to the Minister and tender his resignation.

(10) *Repealed by Act [XIX.2024.9](#).*

6. (1) It shall be the purpose of the Authority to address the development in or from Malta of innovative technology in order to achieve the policies and objectives outlined in article 4.

Purpose, functions and powers of the Authority.  
*Amended by:*  
*XIX.2024.10.*

(2) It shall be the duty of the Authority to exercise such supervisory and regulatory functions in the field of innovative technology in accordance with the powers of the Authority.

(3) The Authority shall, without prejudice to any of the powers of the Authority or functions, and in adherence with article 3, have the powers to:

- (a) publish and administer such programmes, schemes and initiatives that, in its view, are necessary to promote the interests of the innovative technology sector and its users, including, but not limited to, schemes of recognition whereby, amongst others, the innovative technology, and the risks posed by its application are assessed and tested and provided with a certificate or mark of assurance or approval, in any manner that they are referred to:

Provided that the Authority shall publish the terms of such programmes, schemes and initiatives in a clear and transparent manner;

- (b) unless otherwise determined by or under any applicable laws and, or regulations, determine those professional services related to innovative technology that require recognition by the Authority and publish and administer such programmes, schemes and initiatives that, in the view of the Authority, are necessary to foster trust in innovative technology, including services for the auditing and testing of innovative technology, or aspects thereof, and the risks posed by their use or application;
- (c) publish and administer such programmes, schemes and initiatives, including those ensuring that a controlled regulatory environment for the testing of innovative technology is available, for the fostering of the development of innovative technology in or from Malta;
- (d) obtain from the Government, other local authorities or agencies and, or apply to the European Union or other international bodies for the grant of funds to be utilised as grants to be allocated to innovative technology by way of incentives and awards and administer such grants and incentives to applicants

- in accordance with fair, transparent and non-discriminatory conditions to be published by the Authority and which are accessible through the website of the Authority, from time to time;
- (e) perform the functions of the National Cybersecurity Certification Authority in accordance with Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No. 526/2013 (Cybersecurity Act), and advise the Minister on the adoption and publication of laws necessary to implement European and international laws relating to cyber security certification;
  - (f) be consulted on any planned implementation of laws and policies relating to the national imposition of obligations on innovative technology in any area or sector as well as in relation to the implementation of European Union and, or international legislation relating to innovative technology;
  - (g) subject to any limitations that may be imposed on the powers of the Authority, establish and levy fees in relation to innovative technology, including on any recognition and any persons, such as providers of services relating to innovative technology participating in the initiatives and, or schemes published or administered by the Authority, whether acting alone as well as jointly with other public entities, regulatory bodies and, or competent authorities, subject to the publication of such fees in advance and in a transparent fashion and accessible through the website of the Authority, and the Authority shall also have the power to establish and levy fees for services rendered to other public entities, regulatory bodies and, or competent authorities;
  - (h) regulate, issue recognitions and conditions, including in principle temporary or partial recognitions, as may be further elaborated by the Authority pursuant to its guidelines and test, monitor and supervise innovative technology, in or from Malta, in accordance with the Act and any subsidiary legislation made thereunder;

- (i) keep under review all practices, operations and activities relating to any matter regulated by or under the Act or any other law which the Authority is entitled to administer or enforce or any European Union and, or international legislation applicable to Malta;
- (j) promote high standards of conduct and governance throughout the innovative technology industry, corresponding with the levels of risk posed by the use of innovative technology;
- (k) enforce compliance with obligations and, or terms arising from and, or in terms of the law;
- (l) own, manage, supervise and control and as required use, hold, develop and provide, maintain a sub-licence and, or make available any wallet or similar solution or software, any wallet solution, account or other facility, in particular in relation to any form of digital identity, accreditation, data and digital assets;
- (m) engage with facilities, entities and persons, including service providers and carry out transactions as it may consider necessary for the fulfilment of its functions, and enter into any contract for the supply of goods or materials or the execution of work or the rendering of services to, or for the benefit and, or functioning of the Authority, including but not limited to, in pursuance to paragraph (l) and, or the innovative technology sector;
- (n) monitor the effects of laws on the use and operation of innovative technology and undertake or commission such study, research or investigation which it may deem necessary in this regard;
- (o) issue binding documentation such as guidelines and provide information and guidance on any matter, including definitions regulated by, or under the Act, or any other law which the Authority is entitled to administer or enforce, or any European Union and, or international legislation applicable to Malta;
- (p) determine, by virtue of guidelines or other binding documentation, which products, solutions or services may be classified as "innovative technology" as defined in the Act and the purposes, qualities, features, attributes, behaviours or aspects

thereof that shall be recognised by the Authority;

- (q) support and liaise with non-profit organisations and educational institutions in Malta which are established for the promotion of the use and development of innovative technology;
- (r) keep under review developments on relevant subjects relating to innovative technology in order to ensure that activity in Malta is generally consistent with internationally recognised standards and norms of good practice;
- (s) enter into agreements with other public bodies and authorities to better coordinate the effective and efficient exercise of the respective functions of such public bodies and authorities where they have common functions, interests or aims, including the delegation to the Authority by the said public bodies and authorities of certain powers appertaining to them and the delegation by the Authority to such other public bodies and authorities of certain powers of the Authority;
- (t) collect relevant statistical and other information as may be required by the Authority in relation to innovative technology;
- (u) perform such other functions, including functions aimed at promoting innovative technology, as may from time to time be assigned to it by the Minister, or by governmental or ministerial appointment or by engagement by other public entities, regulatory bodies and, or competent authorities;
- (v) impose administrative penalties and, or measures and, or fines in accordance with the powers of the Authority in relation to a breach of the Act, any regulations made thereunder, any law which the Authority is entitled to administer or enforce, or any recognition issued by the Authority or any European Union and, or international legislation applicable to Malta;
- (w) advise the Minister on the formulation of policy in relation to matters regulated by, or under the Act, and in particular in relation to any international obligations;
- (x) otherwise advise the Minister on any matter connected with its functions under the Act or any

other law;

- (y) formulate and implement the policies and strategies with short-term and long-term objectives in relation to the matters connected with its functions under the Act or any other law;
- (z) encourage users of innovative technology to establish places of business in Malta;
- (aa) advise the Minister on the planning and development of the innovative technology industry as well as on the infrastructure supporting the innovative technology industry;
- (bb) promote and advance Malta as a destination for high value commercial users of innovative technology to establish places of business in Malta;
- (cc) prescribe any forms relating to any of the applications and processes involved in the recognition of innovative technology;
- (dd) establish or participate in the establishment and operation of entities whose function shall be necessary, ancillary or conducive to the attainment of the functions and, or objectives of the Authority under the Act or any regulations made thereunder or any law which the Authority has the power to administer or enforce or any European Union and, or international legislation applicable to Malta;
- (ee) perform the functions of a competent authority in accordance with Regulation (EU) 2022/868 of the European Parliament and of the Council of 30 May 2022 on European data governance and amending Regulation (EU) 2018/1724 (Data Governance Act) for data altruism services and data intermediation services;
- (ff) carry out functions in line with cooperation mechanisms with other national competent authorities; and
- (gg) appoint a qualified person or otherwise require that the person concerned appoints a qualified person in the case that he considers this to be appropriate or expedient to perform those tasks in terms of those terms and conditions that the Authority may order. The fees and expenses incurred by the qualified person in this respect or which are incidental to

such an appointment shall be paid by the person in respect of whom the qualified person was appointed, unless determined otherwise by the Authority. The Authority may issue guidelines that establish the procedures or requisites related with this appointment and these guidelines may also establish the powers, duties and obligations of the qualified person.

(4) (a) Without prejudice or limitation to any of the powers of the Authority, the Authority shall have the power, strictly for the purposes of carrying out its functions, to request any person or any person who may have in her possession relevant documentation to provide it with any information, documents and reports, including financial information, that the Authority considers necessary:

Provided that the information requested by the Authority shall be proportionate to the performance of its functions and obligations under the Act or any regulations made thereunder or any law which the Authority has the power to administer or enforce or any European Union and, or international legislation applicable to Malta, and in requiring any information as aforesaid, the Authority shall specify the reason for such request.

- (b) Where the Authority requires information relating to the intellectual property, trade secrets or commercially sensitive information related to any innovative technology, it shall only demand that information which is strictly necessary for its purposes and shall keep such information confidential.
- (c) A person who is notified with a request for information shall comply promptly with the request and within the timeframes and according to any level of detail, as may be required by the Authority.
- (d) Any person who has any information requested by the Authority in terms of the Act and its officers or employees shall, on a written request from the Authority, provide expeditiously to the Authority any information required by the Authority in terms of the Act, may not raise in this regard, an exception or defence including any obligation with regard to the prohibition or the confidentiality that arise from contractual law or in any other manner refuses to conform with such a request from the Authority. No action for a breach of contractual law or disciplinary action may be taken in a direct or

indirect manner by a person in regard to officers and employees due to the fact that they provided the Authority with any required information by the Authority as provided in sub-article (4) and any such contractual or disciplinary measure shall be deemed as null and void:

Provided that any such person shall, in complying with the provisions of this sub-article, specify clearly to the Authority if any information provided by him is to be considered as confidential for commercial reasons. Also said person shall specify clearly his reasons to the Authority. The Authority shall decide whether the information shall be treated as such:

Provided further that the provisions of this sub-article relating to confidentiality shall apply to any information provided to the Authority for whatever reason whether under the Act or any other law which the Authority is entitled to administer or enforce.

(5) (a) The Authority may opt to publish information and, or guidelines relating to its rulings and determinations which are accessible through the website of the Authority when said rulings and determinations affect applications, the interpretation of the provisions of the Act, or any law which it has the power to administer or enforce or any European Union and, or international legislation applicable to Malta, in order to ensure that applicants and the public in general are aware of the position taken by the Authority on matters of general interest relating to innovative technology.

(b) The publication of such information and, or guidelines shall not in any way limit the freedom of the Authority to vary its policies or approach on any issue based on further review and experience or development of innovative technology or law generally. When such variations take place the Authority shall notify in later publications the connection and review to previous publications.

(c) The Authority shall have the power to determine when any of its publications, or part thereof, shall become binding.

(6) The Authority shall also have such other functions, responsibilities and powers as are set out by or under the Act or as may be assigned to it by or under any other law including all such powers as are necessary for, or incidental to the performance of its functions and powers.

(7) The Authority shall in the carrying out of its functions seek to ensure that the measures taken are proportionate having regard also to the objectives of the Authority.

(8) *Repealed by Act [XIX.2024.10](#).*

(9) *Repealed by Act [XIX.2024.10](#).*

Enforcement  
powers.  
Added by:  
*XIX.2024.11.*

**6A.** (1) Without prejudice to any other law, for the purpose of carrying out market surveillance, investigation and enforcement in accordance with Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No. 765/2008 and (EU) No. 305/2011 and other European Union legislation, the Authority shall have the powers listed in such Regulation and other European Union legislation, with regard to functions where the Authority has been designated as market surveillance authority, including the power to:

(a) require economic operators to provide relevant documents, technical specifications, data or information on compliance and technical aspects of the product, including access to embedded software in so far as such access is necessary for the purpose of assessing the product's compliance with applicable European Union harmonisation legislation, in any form or format and irrespective of the medium of storage or the place where such documents, technical specifications, data or information are stored, and to take or obtain copies thereof;

(b) require economic operators to provide relevant information on the supply chain, on the details of the distribution network, on quantities of products on the market and on other product models that have the same technical characteristics as the product in question, where relevant for compliance with the applicable requirements under European Union harmonisation legislation;

(c) require economic operators to provide relevant information required for the purpose of ascertaining the ownership of websites, where the information in question is related to the subject matter of the investigation;

(d) carry out unannounced on-site inspections and physical verifications;

(e) enter any premises, land or means of transport that the economic operator in question used for purposes related to the economic operator's trade, business, craft or profession, in order to identify non-compliance and to obtain evidence;

(f) start investigations on its own initiative in order to identify non-compliance and ensure that the situation is rectified;

(g) require economic operators to take appropriate

action to stop circumstances of non-compliance or to eliminate the risk;

(h) take appropriate measures where an economic operator fails to take appropriate corrective action or where the non-compliance or the risk persists, including by prohibiting or restricting the making available of a product on the market or by ordering that the product is withdrawn or recalled;

(i) impose administrative penalties in accordance with Article 41 of Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No. 765/2008 and (EU) No. 305/2011 and according to European Union legislation;

(j) acquire product samples, including under a cover identity, to inspect those samples and reverse engineer them in order to identify non-compliance and to obtain evidence;

(k) where no other effective means are available to eliminate a serious risk:

(i) to require the removal of content referring to the related products from an online interface or require the explicit display of a warning to end users when they access an online interface; or

(ii) where a request according to subparagraph (i) has not been complied with, to require information society service providers to restrict access to the online interface, including by requesting a relevant third party to implement such measures; and

(l) use any information, document, finding, statement, or any intelligence as evidence for the purpose of its investigations, irrespective of the format in which and medium on which they are stored.

(2) For the purposes of this article, "economic operator" shall have the same meaning assigned to it in Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No. 765/2008 and (EU) No. 305/2011.

7. (1) The affairs and business of the Authority shall be the responsibility of the Board, which responsibility shall be exercised through the Chairperson.

(2) The first Chief Executive Officer shall be appointed by the

Conduct of the  
affairs of the  
Authority.  
*Substituted by:*  
*XIX.2024.12.*

Minister.

(3) The day-to-day administration, recruitment, and organisation of the Authority, and the administrative control of its officers and employees shall be under the control of the Chief Executive Officer of the Authority who shall also have such other powers, as may from time to time, be delegated to him by the Board.

(4) The Chief Executive Officer shall be tasked with the implementation of the objectives of the Authority in the exercise of its functions at law, as set out by the Board, and without prejudice to the generality of the foregoing he shall:

(a) have control of the general administration, supervision and operations of the Authority and any ancillary activity related to it;

(b) develop the necessary strategies for the implementation of the objectives of the Authority and implement such strategies as directed by the Board;

(c) advise the Board on any matter it may refer to him or any matter he considers necessary or expedient;

(d) perform such other duties as the Board may assign to him from time to time; and

(e) at the end of each financial year, present to the Board estimates of the income and expenditure of the Authority for the following financial year for the Board's approval.

(5) The Chief Executive Officer shall attend all the meetings of the Board but shall not vote at such meetings.

(6) The Authority may exercise any one or more of its functions either directly or through any of its officers or employees or through an agency authorised for that purpose, or through a contractor or other person with whom an agreement for the performance of any one or more of such functions has been entered into:

Provided that nothing in this sub-article shall authorise the Authority to contract or delegate any of:

(a) its regulatory functions; or

(b) its recognition functions, unless such functions are expressly delegated to another public entity, regulatory body and, or competent authority established by law.

(7) The Board may establish committees of the Board, composed of members of the Board and other persons who may be invited to participate in the committee, to address particular issues as

may be assigned to it by the Board.

(8) The Board may also establish a National Technology Ethics Committee for the purpose of ensuring that proper standards of ethics are upheld in the use of innovative technologies which are recognised by the Authority and to assist upon their request other authorities established in Malta where innovative technology is being used in their areas of competence. The said National Technology Ethics Committee shall have such functions and shall be composed of such members as may be determined by the Board.

8. (1) Except as expressly provided for in other provisions of the Act, the Authority shall act independently, impartially and without bias in the exercise of its regulatory, supervisory, market surveillance and enforcement functions at law, including in the development of guidelines and binding documentation, its internal procedures and the organisation of its staff. In doing so the Authority shall not seek or take instructions from any other person in relation to the exercise of the tasks assigned to it by law, and this without prejudice to any supervision, however so described, that may be undertaken in accordance with the Constitution.

Independence of the Authority and its relations with the Minister.  
*Substituted by:*  
XIX.2024.13.

(2) The Minister, in relation to matters that affect the public interest, may give to the Authority, from time to time, policy directions in writing of a general character, not inconsistent with the provisions of the Act and, on the policies to be followed in the carrying out of the functions vested in the Authority by or under the Act.

(3) The provisions of article 77 of the [Public Finance Management Act](#) shall not apply to the Authority.

Cap. 601.

9. (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, including the lending or borrowing of money.

Legal personality and representation of the Authority.  
*Amended by:*  
XIX.2024.14.

(2) The legal and judicial representation of the Authority shall vest in any one of the Chairperson, the Chief Executive Officer, or such other member or members of the Board or officer of the Authority as the Board may appoint:

Provided that the Board may appoint one or more members of the Board, or one or more officers of the Authority to appear in the name or on behalf of the Authority in any judicial proceedings and 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 the Chief Executive Officer or such other member of the Board, or officer of the Authority as may, in accordance with sub-article (2), be vested by the Board with the legal and judicial representation of the Authority, shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Authority.

Meetings.  
Amended by:  
XIX.2024.15.

**10.** (1) The meetings of the Board shall be called by the Chairperson as often as may be necessary but at least once a month either on his own initiative or at the request of any two of the other members of the Board.

(2) Half the number of members constituting the Board at any given time shall form a quorum. A decision shall be adopted by a simple majority of the votes of the members present and who may vote. The Chairperson, or in the absence of the Chairperson, the Deputy Chairperson or any other person appointed to act as Chairperson, shall have an initial vote and, in the event of an equality of votes, a casting vote.

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

(4) Subject to the foregoing provisions of this article, no act or proceeding of the Authority shall be invalidated merely by reason of the existence of any vacancy among the members of the Board.

(5) All acts done by any person acting in good faith as a member of the Board shall be valid as if he were a member notwithstanding that some defect in his appointment or qualification be afterwards discovered. No act or proceeding of the Authority shall be questioned on the ground of the contravention, by a member, of the provisions of article 5(9).

## PART IV

### Officers and Employees of the Authority

Officers of the  
Authority.

**11.** Without prejudice to the other provisions of this Act, the Authority shall appoint and employ, at such remuneration and upon such terms and conditions as it may establish with the concurrence of the Minister, 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.

Officers and  
employees deemed  
to be public  
employees and  
public officers.  
Cap. 595.  
Cap. 9.

**12.** All officers and employees of the Authority shall be deemed to be public employees within the meaning of the [Public Administration Act](#) and shall be considered to be public officers as defined in article 124 of the Constitution for the purposes of the [Criminal Code](#) or any other law.

## PART V

## Financial Provisions

**13.** (1) Without prejudice to the following provisions of this article, the Authority shall so conduct its affairs so that the expenditure required for the proper performance of its functions shall, as far as practicable, be met out of its revenue.

Authority to meet expenditure out of revenue.  
*Amended by:*  
*XIX.2024.16.*

(2) In furtherance of the provisions of sub-article (1), the Authority shall levy all fees, rates and other payments prescribed under the Act or any other law administered by the Authority, or set by the Authority in accordance with the powers of the Authority or any European Union and, or international legislation applicable to Malta.

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

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

(4) Any excess of revenue over expenditure shall, subject to such directives as the Minister, after consultation with the Minister responsible for finance may from time to time give, be applied by the Authority to the formation of reserve funds to be used for the purposes of the Authority; and without prejudice to the generality of the powers given to the Minister by this sub-article, any direction given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the direction, of any part of the fees, rates and other payments levied in accordance with sub-article (2) or any such excess as aforesaid.

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

**13A.** The Authority shall be exempt from any liability for the payment of income tax, duty on documents and transfers, and customs and excise duty, under any law.

Exemption from taxes.  
*Added by:*  
*XIX.2024.17.*

**14.** (1) For the purpose of carrying out any of its functions under this Act or any other law which the Authority is entitled to administer or enforce, the Authority may, with the approval in writing of the Minister given after consultation with the Minister responsible for finance, borrow or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister, after consultation as aforesaid, may in writing approve.

Power to borrow or raise capital.

(2) The Authority may also, from time to time, borrow, by way of overdraft or otherwise, such sums as it may require for carrying out its functions under this Act or any other law which the Authority is entitled to administer or enforce:

Provided that for any amount in excess of one hundred and forty-four thousand euro (€144,000), there shall be required the approval of the Minister in writing.

Advances from  
Government.

**15.** The Minister responsible for finance may, after consultation with the Minister, make advances to the Authority of such sums as he may agree to be required by the Authority for carrying out any of its functions under this Act or any other law which the Authority is entitled to administer or enforce, and may make such advances on such terms and conditions as he may, after consultation as aforesaid, deem appropriate. Any such advance may be made by the Minister responsible for finance out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorising the Accountant General to make such advance.

Borrowing from  
Government.

**16. (1)** The Minister, after consultation with the Minister responsible for finance, may, for any requirements of the Authority of a capital nature, contract or raise loans, or incur liabilities, for such periods and on such terms and conditions as he may deem appropriate; and any sums due in respect of or in connection with any such loan or liability shall be a charge on the Consolidated Fund.

(2) Notice of any loans, liabilities or advances made or incurred under the foregoing provisions of this article shall be given to the House of Representatives as soon as practicable.

Estimates of the  
Authority.

**17. (1)** The Authority shall cause to be prepared in every financial year, and shall not later than three months after the end of each such year, adopt estimates of the income and expenditure of the Authority for the next following financial year:

Provided that the estimates for the first financial year of the Authority shall be prepared and adopted within such time as the Minister may by notice in writing to the Authority specify.

(2) In the preparation of such estimates the Authority shall take account of any funds and other monies that may be due to be paid to it out of the Consolidated Fund during the relevant financial year, whether by virtue of this Act or an appropriation Act or of any other law; and the Authority shall prepare the said estimates so as to ensure that the total revenues of the Authority are at least sufficient to meet all sums properly chargeable to its revenue account including, but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form and shall contain such information and such comparison with previous years as the Minister responsible for finance may direct.

(4) A copy of the estimates shall, upon their adoption by the Authority, be sent forthwith by the Authority to the Minister.

(5) The Minister shall, at the earliest opportunity and not later than three months after he has received a copy of the estimates from the Authority, approve the same with or without amendment.

**18.** (1) No expenditure shall be made or incurred by the Authority unless it has been approved by the Minister as provided in article 17.

Expenditure to be according to approved estimates.

(2) Notwithstanding the provisions of sub-article (1) -

(a) until the expiration of six months from the beginning of a financial year, or until the approval of the estimates for that year by the Minister, whichever is the earlier date, the Authority may make or incur expenditure for carrying out its functions under this Act or any other law which the Authority is entitled to administer or enforce not exceeding in the aggregate one-half of the amount approved by the Minister for the preceding financial year;

(b) expenditure approved in respect of a head or sub-head of the estimates may, with the approval of the Minister, given after consultation with the Minister responsible for finance, be made or incurred in respect of another head or sub-head of the estimates;

(c) in respect of the first financial year, the Authority may make or incur expenditure not exceeding in the aggregate such amounts as the Minister responsible for finance may, after consultation with the Minister, allow;

(d) if in respect of any financial year it is found that the amount approved by the Minister is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Authority may adopt supplementary estimates for approval by the Minister and in any such case the provisions of this Act applicable to the estimates shall as near as practicable apply to the supplementary estimates.

**19.** The Minister shall, at the earliest opportunity and not later than three months after he has received a copy of the estimates and supplementary estimates of the Authority, or if at any time during that period the House of Representatives is not in session, within three months from the beginning of the next following session, cause such estimates to be laid on the Table of the House of

Publication of approved estimates.

Representatives.

Accounts and  
audit.

*Amended by:  
XIX.2024.18.*

**20.** (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.

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

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

(3) The Authority shall, not later than three months after the end of each financial year, cause a copy of the statement of accounts duly audited to be transmitted to the Minister together with a copy of any report made by the auditors on that statement or on the accounts of the Authority.

(4) The Minister shall, at the earliest opportunity and not later than three months after he has received a copy of every such statement and report, or if at any time during that period the House of Representatives is not in session, within three months from the beginning of the next following session, cause every such statement and report to be laid on the Table of the House of Representatives.

Deposit of  
revenues and  
payment by the  
Authority.

*Amended by:  
XIX.2024.19.*

**21.** (1) All monies accruing to the Authority shall be paid into a bank or banks appointed as bankers of the Authority by resolution of the Board. Such monies shall, as far as practicable, be paid into any such banks from day to day, except such sum as the Authority may authorise to be retained to meet petty disbursements and immediate cash payments.

(2) All payments out of the funds of the Authority, other than petty disbursements not exceeding a sum fixed by the Authority, shall be made by such officer or officers of the Authority as the Authority shall appoint or designate for that purpose.

(3) Cheques against and withdrawals from any bank account of the Authority shall be signed by such officer of the Authority as may be appointed or designated by the Authority for that purpose and shall be countersigned by the Chairperson or Chief Executive Officer, or such other member of the Board or officer of the Authority as may be authorised by the Authority for that purpose.

(4) The Authority shall also make provision with respect to

(a) the manner in which and the officer or officers by whom payments are to be authorised or approved;

(b) the title of any account held with the bank or banks into which the monies of the Authority are to be paid, and the transfer of funds from one account to the other;

(c) the method to be adopted in making payments out of funds of the Authority,

and generally with respect to any matter which is relevant to the proper keeping and control of the accounts and books, and the control of the finance, of the Authority.

**22.** Repealed by Act [XIX.2024.20](#).

Contracts of supply or works.

**23.** The Authority shall, not later than three months 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. The Minister shall, at the earliest opportunity and not later than three months after he has received a copy of every such report, or if at any time during that period the House of Representatives is not in session, within three months from the beginning of the next following session, cause a copy of every such report to be laid on the Table of the House of Representatives.

Annual Report.

**24.** Repealed by Act [XIX.2024.21](#).

Money laundering.

**25.** The Authority and any Board member, officer or employee of the Authority, and any other person appointed to perform a function under this Act or any other law which the Authority is entitled to administer or enforce, or under any rules or regulations made thereunder, shall not be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any functions in accordance with the powers of the Authority unless the act or omission is proven to have been done or omitted to be done in bad faith.

Exclusion of liability.  
*Amended by:*  
*XIX.2024.22.*

## PART VI

*Substituted by:*  
*XIX.2024.23.*

### Principles relating to Recognition

**26.** (1) The Authority shall establish and prescribe rules, in the form of binding documentation such as guidelines, in relation to the forms of recognition it shall grant or issue and in relation to recognition programmes, initiatives and schemes it shall administer in

Conditions for the issue of recognitions.  
*Substituted by:*  
*XIX.2024.24.*

accordance with the powers of the Authority, laying down the terms and requirements that applicants shall satisfy.

(2) The Authority may also determine when innovative technology which may be the subject of requirements under any law which the Authority is entitled to administer or enforce, or under terms and conditions of recognition, programmes, initiatives and schemes issued and, or administered by the Authority, is exempt from such requirements.

(3) Where the Authority deems necessary, the Authority shall keep a register containing a list of recognition holders and recognitions issued by the Authority. This register, which may be publicly available at the discretion of the Authority, including on the Authority's website, shall in particular indicate:

- (a) the form of recognition and the programme, initiative and, or scheme under which it is granted;
- (b) each innovative technology product, solution or service which is recognized;
- (c) all such details as the Authority shall consider necessary to identify the relevant recognition holder; and
- (d) the information on all matters which is required to be entered into the register for public information in accordance with the provisions of the Act, any other applicable law, or which the Authority deems to be in the public interest and such information shall be updated on a regular basis.

Power of the  
Authority to grant  
or refuse  
recognition.  
*Amended by:  
XIX.2024.25.*

**27.** (1) The Authority shall have the power to grant or refuse to grant an innovative technology recognition in accordance with the Act or under any law which the Authority is entitled to administer or enforce or any European and, or international legislation applicable to Malta, in accordance with the requirements and conditions relating to the particular programme, initiative or scheme for the recognition of the particular innovative technology that shall be accessible through the website of the Authority, subject to its reasoned decision being communicated to the applicant and subject to the applicant's right of appeal, as provided for hereunder.

(2) (a) The Authority, when granting a recognition, may subject it to such conditions as it may deem appropriate, and having granted such recognition it may, from time to time, vary or revoke any condition so imposed or impose new conditions.

- (b) For the better carrying out of the provisions of the Act, the Authority may, from time to time, issue and publish recognition conditions, rules and guidelines which shall be binding on recognition

holders as may be specified therein.

- (c) In the interest of transparency and market awareness, such recognition, conditions, rules and guidelines may lay down, amongst others, additional requirements and conditions in relation to the activities of applicants and recognition holders and any other matters as the Authority may consider appropriate.

(3) When considering whether to grant or refuse to grant recognition, the Authority shall, amongst others, but without prejudice to the generality of the powers of the Authority, have regard to:

- (a) the protection of the general public and organisations;
- (b) the protection of the reputation of Malta taking into account Malta's international commitments;
- (c) the promotion of innovation, competition and choice; and
- (d) the reputation and suitability of the applicant and all other connected parties.

(4) *Repealed by Act [XIX.2024.25](#).*

(5) *Repealed by Act [XIX.2024.25](#).*

**28.** (1) Without prejudice to the generality of the powers of the Authority, the Authority may issue guidelines or otherwise specify those instances in which it may refuse to grant a recognition, which instances may include the following:

Refusal to grant  
recognition.  
*Amended by:*  
*XIX.2024.26.*

- (a) if the application is not submitted in accordance with the established form or in accordance with applicable procedure; or
- (b) if the applicable fees have not been paid; or
- (c) if the Authority, in its discretion, is not satisfied that the applicant, any relevant persons, including persons with delegated authority of representation, possess the required qualities and, or competencies and, or qualifications, including those relating to security features and automated technology systems used and those related to fit and proper requirements, imposed by the Authority; or
- (d) *Repealed by Act [XIX.2024.26](#).*

(e) if it transpires that any information or submission made to the Authority is false, misleading, inaccurate or incomplete in a material respect; or

(f) if the Authority, in its discretion is not satisfied in accordance with the circumstances of the case that:

- (i) the applicant is capable of sustainably financing the innovative technology;
  - (ii) the applicant has the necessary competence, technical know-how and resources to develop the innovative technology or provide the service;
  - (iii) the applicant has a business model to develop and, or maintain the innovative technology or provide the service in a viable manner which is compliant with the applicable regulatory instruments in force; and
  - (iv) the applicant shall comply with all requirements and obligations applicable should a recognition be issued by the Authority, including but not limited to financial safeguards; or
- (g) if the Authority believes that the applicant's proposal is not compliant with the regulatory instruments in force;
- (h) if the Authority believes that granting a recognition to the applicant may pose a risk to the reputation of Malta or is otherwise not in the public interest or contrary to regulatory objectives established by the Act;
- (i) if the Authority believes that the innovative technology may be used in a manner that is contrary to public morality, or third party personal rights or is considered a potential security threat, or may pose a risk to the reputation of Malta, or is considered to be not in the public interest; or
- (j) if the Authority, in its reasonable discretion, is not satisfied that the applicant has complied with and, or has satisfied the required conformity assessment procedure, where applicable and, or other procedures of the Authority.

(2) *Repealed by Act [XIX.2024.26](#).*

(3) *Repealed by Act [XIX.2024.26](#).*

**29.** The Authority shall, within a time period to be established through guidelines, which period may vary depending on the type of recognition, notify an applicant in writing of its decision to refuse an application for recognition.

Notice of refusal of a recognition.  
*Substituted by:*  
*XIX.2024.27.*

**30.** (1) The Authority may at any time revoke, cancel or suspend a recognition if, following the issuing of a recognition:

Power of the Authority to revoke, cancel or suspend a recognition.  
*Substituted by:*  
*XIX.2024.28.*

(a) one of the grounds for which the Authority may have rejected the recognition holder's application arises;

(b) where the recognition is issued based on incorrect or false information provided to the Authority;

(c) where at the discretion of the Authority, this is in the interest of the users of the innovative technology concerned, public safety or morality, or the reputation of Malta;

(d) where this is necessary as a result of a change in the legal framework which necessitates such a revocation, cancellation or suspension of recognition; or

(e) where this is necessary on the basis of European Union and international laws applicable to Malta:

Provided that without prejudice to any other breaches under any other law that this may give rise to, the providing of false information to the Authority shall constitute an offence in accordance with the Act and shall be punishable in accordance with the provisions of the Act.

(2) The Authority shall have the power to publicise the revocation, cancellation or suspension of its recognitions and the reasons thereof, should it consider that this is necessary.

(3) No action shall lie against the Authority in terms of the [Media and Defamation Act](#), or any other law relating to defamation or slander, for the issuing of *bona fide* public statements in terms of this article.

Cap. 579.

(4) The Authority may further specify those circumstances which may lead to a suspension, cancellation or revocation of a recognition.

(5) In addition to the above mentioned measures relating to the suspension, cancellation or revocation of a recognition, the Authority shall have the power to impose administrative penalties for breaches of the conditions or obligations imposed on applicants, recognition

holders or third parties by the Authority in accordance with the powers of the Authority or the Act or any other law which the Authority is empowered to administer or enforce.

(6) Such administrative penalties as may be imposed by the Authority under the previous sub-article shall be in accordance with article 42 and may be imposed by the Authority in addition or in substitution of any other measures imposed by the Authority.

Procedure when taking a measure in accordance with article 30.  
Substituted by:  
XIX.2024.29.

**31.** (1) The Authority shall inform the recognition holder and establish the procedure to be adopted, prior to taking any of the measures in accordance with article 30, which procedure may vary depending on the type of recognition it is granting.

(2) Notwithstanding the provisions of sub-article (1), where the Authority has *prima facie* evidence that the infringement:

(a) represents an immediate and serious threat to the users of the innovative technology, the public interest or to the application of mandatory rules of law;

(b) creates or may create serious economic or operational problems for third parties, in particular other providers or users of innovative technology; and, or

(c) would result in harm to Malta and, or the European Union and, or the welfare of users and, or competition, including within the innovative technology sector,

the Authority may take urgent measures including ordering the immediate cessation of the act or omission giving cause to the infringement and the imposition of administrative penalties and the suspension, revocation or cancellation of the recognition.

Decisions of the Authority.  
Substituted by:  
XIX.2024.30.

**32.** (1) The Authority shall give its reasons for any decision taken in accordance with the Act.

(2) Subject to the rights of the appellant in an appeal filed before the Tribunal in accordance with the Act, the notification of a decision taken by the Authority in accordance with the Act shall, if no such appeal has been filed in terms of the law, and upon the service of a judicial act on the person indicated in the notice, constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the [Code of Organization and Civil Procedure](#).

Cap. 12.

(3) Notwithstanding the provisions of any other law, no precautionary warrant or order shall be issued by any court restraining the Authority from taking any measure under the Act, or under any regulations issued hereunder or any other law.

(4) Unless otherwise provided for by law decisions taken by the

Authority shall only be suspended or reversed by the competent Court or Tribunal, as prescribed in terms of this Act.

33. Repealed by Act [XIX.2024](#).31.

Transferability.

## PART VII

### Regulatory Powers

34. Repealed by Act [XIX.2024](#).32.

Power of competent authority to revoke, cancel or suspend innovative technology arrangement authorisations and innovative technology services authorisations.

35. Repealed by Act [XIX.2024](#).32.

Procedure when taking a measure under article 34.

36. Repealed by Act [XIX.2024](#).32.

Notification of proposed refusal, revocation, cancellation or suspension of an innovative technology authorisation.

37. Repealed by Act [XIX.2024](#).32.

Publication of policy guidelines.

38. Repealed by Act [XIX.2024](#).32.

Exemptions.

## PART VIII

### Enforcement and Sanctions

39. Repealed by Act [XIX.2024](#).33.

Provision of information.

40. (1) For the purposes of the exercise by the Authority of any of its functions under this Act or under any other law which the Authority is entitled to administer or enforce, the Authority may, as may be applicable in the context and subject to the limitations in the applicable laws on professional secrecy:

Enforcement powers of the Authority.  
*Amended by: XIX.2024.34.*

(a) enter, at any reasonable time, any premises or any other place or any vehicle or vessel where any activity regulated by or under this Act or any other law which the Authority is entitled to administer or enforce, takes place, or in the opinion of the Authority takes place, and search and inspect the premises, place, vehicle or vessel and any books, documents or records found therein;

(b) require any person to produce for inspection and take extracts or copies from any books, documents or records relating to any activities regulated by or under this Act or any other law which the Authority is entitled to administer or enforce, which are under the control of that person and, in the case of information in a non-legible form to reproduce it in a legible form, and to give to the Authority such information as the Authority may reasonably require in relation to any entries in such books, documents or records;

(c) remove and retain such books, documents or records for such period as may be reasonable for further examination;

(d) require any person to maintain such books, documents or records for such period as may be reasonable as the Authority directs;

(e) require any person to give to the Authority any information that may be required with regard to any matter regulated by or under this Act or any other law the Authority is entitled to administer or enforce;

(f) make such inspections, including site inspections, to enable the Authority to carry out its functions at law and in doing so the Authority may also undertake tests and measurements of any machinery, apparatus, appliances and other equipment at any place as the Authority may consider necessary;

Provided that where the person concerned fails to abide with any requirements made by the Authority under this sub-article, the Authority may then take any such measures as it may consider appropriate in the circumstances including the switching off or modification of the use of any such apparatus; and

(g) investigate any suspected breach of any obligations arising under the Act or any other law which the Authority is entitled to administer or enforce or any European and, or international legislation which is applicable in Malta:

Provided that the Authority may initiate investigations on its own initiative.

(2) Any officer of the Authority or any other person duly authorised by the Authority to act on its behalf, when exercising a power conferred by this Act or by any other law which the Authority is entitled to administer or enforce, shall, if requested by any person thereby affected, produce to that person for inspection a certificate issued by the Authority stating that he is duly authorised to act for

and on behalf of the Authority.

(3) In the course of the exercise of any of the powers conferred by this Act or by any other law which the Authority is entitled to administer or enforce the Authority may request the assistance of the Police.

(4) Any persons who are or have been in charge of the innovative technology falling under the supervisory or regulatory functions of the Authority, including their representatives and employees, shall assist and shall collaborate with the Authority in order to enable it to discharge its functions, and shall collate and transmit without any undue delay such information and documentation as the Authority may reasonably request from time to time.

(5) Any person who -

(a) obstructs, impedes or assaults an officer of the Authority or any other person duly authorised by the Authority to act on its behalf in the exercise of any of the powers conferred by this Act or by any other law which the Authority is entitled to administer or enforce;

(b) fails or refuses to comply with a requirement under this article;

(c) alters, suppresses or destroys any books, documents or records which the person concerned has been required to produce, or may reasonably expect to be required to produce;

(d) falsely represents himself to be an officer of the Authority or a person authorised by the Authority to act on its behalf; or

(e) furnishes any information to the Authority which it may require in the exercise of its functions under the Act or any law it is entitled to administer or enforce, which he knows, or has reasonable cause to believe to be false or misleading,

shall be guilty of an offence against this Act, and shall on conviction be liable to a fine (*multa*) not exceeding twelve thousand euro (€12,000) or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

(6) *Repealed by Act [XIX.2024.34](#).*

**41.** (1) Except where otherwise provided by law, a person shall not knowingly disclose confidential information obtained by him while performing the duties of a member of the Board, or of an officer or employee of the Authority or of an adviser

Disclosure of  
confidential  
information.  
*Amended by:*  
*XIX.2024.35.*

or consultant to the Authority, unless he is duly authorised by the Authority to do so:

Provided that any such person shall remain bound by the requirements of this article even after his appointment or employment, howsoever described, with the Authority has come to an end.

(2) In this article "confidential information" means any information, howsoever described, which is considered by the Authority to be confidential, or has been notified of such status by the person providing it, and in relation to which the Authority has notified the persons concerned of their duty of non-disclosure.

(3) A person who contravenes the provisions of this article shall be guilty of an offence against this Act and shall on conviction be liable to a fine (*multa*) not exceeding ten thousand euro (€10,000).

(4) Nothing in this article shall prevent the disclosure of any information to the Authority or, by or on behalf of the Authority to the Minister, or within the context of legal proceedings in court or arbitration proceedings, or as may be required at law.

Administrative  
penalties.  
Amended by:  
[XIX.2024.36](#).

**42.** (1) An administrative penalty imposed shall not, unless provided otherwise by or under this Act or any law which the Authority is entitled to enforce, exceed three hundred and fifty thousand euro (€350,000) for each infringement or failure to comply and, or twelve thousand euro (€12,000) for each day of infringement or non-compliance as the case may be:

Provided that if the act or omission which constitutes an infringement is considered by the Authority as having significant effects on the market to the detriment of users, the stated amount that may be imposed as an administrative penalty may be increased to an amount that is not more than five per cent (5%) of the turnover of the undertaking in the calendar year immediately preceding the year when the infringement was committed:

Provided further that any daily administrative penalty imposed may be back-dated to the date of the commission or commencement of the infringement.

(2) In determining the amount of an administrative penalty, regard shall be had in particular to the nature and the gravity of the infringement, its duration and its impact on the market and on users.

(3) *Repealed by Act [XIX.2024.36](#).*

Infringements.  
Amended by:  
[XIX.2024.37](#).

**43.** Where an infringement of any provision of the Act or any other law which the Authority is entitled to administer or enforce is committed by a body corporate and is proved to have been committed with the consent or involvement of or to be attributable to

the gross negligence on the part of a person being an administrator of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be liable to be proceeded against and punished as if he was responsible for the said infringement.

**44.** The prosecution of a criminal offence or the initiation of proceedings to impose an administrative penalty under the Act or under any other law which the Authority is entitled to administer or enforce shall be prescribed by the lapse of two years from the date on which the offence or infringement is alleged to have been committed.

Prescription for offences and infringements.  
*Amended by:*  
*XIX.2024.38.*

## PART IX

### Administrative Review Tribunal

**45.** (1) The Administrative Review Tribunal shall be competent to hear and determine appeals from decisions of the Authority as provided in this Act or in any law which the Authority is entitled to administer or enforce or in any European Union and, or international legislation applicable to Malta.

Administrative Review Tribunal.  
*Amended by:*  
*XIX.2024.39.*

(2) The provisions of the [Administrative Justice Act](#), in so far as they apply to the Administrative Review Tribunal, shall apply to any proceedings before the said Tribunal and the words "public administration" in the said enactment shall be construed as a reference to the Authority.

Cap. 490.

**46.** (1) Unless otherwise provided by law, an appeal shall lie to the Tribunal from a decision of the Authority made under this Act, any other decisions that the Authority may take under any other law which the Authority is entitled to administer or enforce, and any decision taken by or on behalf of Government or by any public authority in relation to or having a substantial bearing on innovative technology.

Appeals from decisions of the Authority other than the imposition of administrative penalties.  
*Amended by:*  
*XIX.2024.40.*

(2) The right of appeal to the Tribunal shall be competent to any person aggrieved by the decision:

Provided that in any case, a person making an appeal to the Tribunal shall also explain his juridical interest in impugning the decision appealed from.

(3) An appeal from a decision of the Authority shall be made by application and shall be filed with the Secretary of the Tribunal within twenty (20) days from the date on which the said decision has been notified.

(4) *Repealed by Act [XIX.2024.40.](#)*

Appeals against an administrative penalty imposed by the Authority.  
*Amended by:*  
*XIX.2024.41.*

**47.** (1) Without prejudice to the provisions of this Part, the procedure to be followed in relation to appeals against administrative penalties imposed by the Authority shall be regulated by the provisions of this article.

(2) A person who is notified with a notice in writing given under article 35 may, within twenty (20) days from the date of such notification, lodge an appeal before the Tribunal objecting to the administrative penalty so fixed.

(3) The Tribunal shall not annul an administrative penalty as aforesaid unless it results to it that such penalty could not at law be imposed in the circumstances of the case, or could not at law be fixed in the amount established by the Authority due account being given to the principle of proportionality.

(4) The Tribunal shall, without delay, set down the appeal for hearing at an early date, which date shall in no case be later than forty (40) days from the date of the service of the appeal on the Authority.

(5) The appeal, and the notification of the date fixed for hearing, shall be notified to the Authority without delay, and the Authority shall file its reply thereto within twenty (20) days from the date of the notification of the appeal.

(6) The decision of the Tribunal upon an appeal referred to in sub-article (2), confirming the imposition of a fine established by the Authority or reducing any such fine, shall upon becoming *res judicata* be deemed to be a decision of the Tribunal.

(7) *Repealed by Act [XIX.2024.41](#).*

Decisions of the Administrative Review Tribunal.  
*Amended by:*  
*XIX.2024.42.*

**48.** In determining an appeal the Tribunal shall take into account the merits of the appeal, and may, in whole or in part, confirm or annul the decision appealed from, giving in writing the reasons for its decision and shall cause such decision to be made public and communicated to the parties to the appeal.

Procedure of the Tribunal.  
*Amended by:*  
*XIX.2024.43.*

**49.** (1) The Tribunal shall endeavour to determine an appeal within one hundred and twenty (120) days from the lapse of the period by when the Authority may file its reply to the aforesaid appeal and in any case to deliver its final decision not later than sixty (60) days from when the parties declare that they have concluded with their evidence and made their final submissions.

(2) The Tribunal may, in order to assist it in the exercise of its functions, appoint independent and impartial experts to advise it on any issue that may be relevant to any appeal lodged before it. In such cases the Tribunal shall be entitled to make both provisional and final orders in respect of the payment of the costs and fees of such experts by any of the parties to the appeal.

(3) The Minister may, subject to the provisions of this Act, by regulations prescribe the procedure to be followed before the Tribunal, and subject thereto and to any other provisions of this Act, the Tribunal may regulate its own procedure.

(4) The Minister may by regulation amend any of the periods stated in sub-article (1).

**49A.** Any party, who feels aggrieved by a decision of the Tribunal, may on a point of law and, or of fact appeal to the Court of Appeal in accordance with article 22 of the [Administrative Justice Act](#).

Appeal to the Court of Appeal.  
Added by:  
XIX.2024.44.  
Cap. 490.

**50.** (1) The decision of the Authority, pending an appeal whether before the Tribunal or the Court of Appeal, shall stand and shall be adhered to by all the parties to whom the decision applies.

Status of decision or directive pending an appeal before the Tribunal or the Court of Appeal.  
Amended by:  
XIX.2024.45.

(2) The Tribunal or the Court of Appeal, as the case may be, where it considers it to be appropriate, may, on the application of a party to the appeal, suspend in whole or in part the decision which is the subject of the appeal pending the final determination of the appeal. The Tribunal or the Court of Appeal in deciding whether or not to suspend the decision shall state its reasons and shall take into account all the relevant circumstances, including -

- (a) the urgency of the matter;
- (b) the effect on the party making the request if the application for suspension is not upheld; and
- (c) the effect on competition and, or on users of innovative technology if the application is upheld:

Provided that a party, in making an application under this article, shall state the factual and legal grounds establishing a *prima facie* case for the suspension of the decision. The Tribunal or the Court of Appeal, as the case may be, shall on receipt of any such application order the notification thereof to the other party or parties to the appeal affording them reasonable opportunity to make their response thereto:

Provided further that the Tribunal, in determining any such application, may include such conditions as it considers necessary in the circumstances.

**50A.** In cases where the Tribunal or the Court of Appeal, as the case may be, after having upheld an application to suspend an administrative penalty imposed by the Authority pending proceedings, decides that the administrative penalty is due, such administrative penalty shall be due together with any interests accrued thereon as from the date specified by the Authority for payment, including the period during which the payment of the said

Accrual of interest.  
Added by:  
XIX.2024.46.

administrative penalty was suspended.

Service of notices.  
*Amended by:*  
*XIX.2024.47.*

**51.** Where a notice, howsoever described, is required to be given by the Authority to any person whether under this Act or under any other law administered by the Authority, the notice shall be addressed to that person and shall be given to the person in any of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or carries on business;
- (c) by sending it by registered post to the person at the address at which the person ordinarily resides or carries on business;
- (d) if an address for the service of notices has been provided by the person, by leaving it at such address, or sending it by registered post addressed to the person to that address;
- (e) in any case that the Authority deems it necessary to send the notice by means of electronic mail, to the electronic mail address provided by the addressee to the Authority, provided that the notice shall not be deemed as delivered if the Authority receives an automated electronic mail delivery failure message, indicating that the electronic mail was not delivered:

Provided that the provisions of this paragraph shall not apply to the service of documents filed before the Tribunal or any Court.

Proceedings for  
debts due to the  
Authority.  
*Amended by:*  
*XIX.2024.48.*

**52.** (1) When the Authority wants to sue for the recovery of a debt due to the Authority under the Act or any other law which it is entitled to administer or enforce or under European Union and, or international legislation applicable to Malta, the Chairperson or the Chief Executive Officer or an officer of the Authority duly authorised by the Authority to act on its behalf may make a declaration on oath before the registrar of the Courts, a Judge or a Magistrate wherein he specifies the nature of the debt and the details of the debtor and confirms that the debt is due.

(2) The declaration referred to in sub-article (1) shall be served upon the debtor by means of a judicial act and it shall have the same effect as a final judgement of the competent court unless the debtor shall, within a period of twenty (20) days from service upon him of the said declaration, oppose the claim by filing an application demanding that the court declare the claim unfounded.

(3) The application filed in terms of sub-article (2) shall be served upon the Authority, which shall be entitled to file a reply

within a period of twenty (20) days. The court shall appoint the application for hearing on a date after the lapse of that period.

(4) Any debts due to the Authority in accordance with this article shall be prescribed by the lapse of the period of five (5) years from the date on which the debt was due.

**53.** (1) No person shall make or cause to be made any advertisement or other representation, in any visual or aural form, whether the advertisement is made in Malta or otherwise, either specifically or by implication, to the effect that:

Name of the Authority not to be used in any advertisement and prohibition of misrepresentation.  
*Amended by:*  
*XIX.2024.49.*

(a) any innovative technology has the recognition of the Authority, if this is not the case;

(b) any activity carried out by any person or provided by or on an innovative technology has the recognition or is conducted with the co-operation or assistance of the Authority, if this is not the case; or

(c) any activity is being carried out in, or from Malta in accordance with the regulatory framework applicable to innovative technology when the relevant product, solution or service is not recognised by the Authority;

or similar statements based on the circumstances from time to time, and in case of breach such person shall be guilty of an offence under this article.

Cap. 592.

(2) In relation to persons recognised by the Authority, the provisions of sub-article (1) shall not apply when an advertisement or other representation is issued with the prior written consent or instructions of the Authority, or is permitted in general guidelines issued by the Authority on the subject matter, and shall constitute an offence only if a misrepresentation is made regarding the Authority, or any recognition granted by it, to an innovative technology.

(3) It shall be incumbent on the issuer of an advertisement to expressly state in such advertisement that the product, solution or service does not enjoy recognition by the Authority and shall not give the contrary impression under any circumstances if:

(a) an innovative technology is being administered and operated in or from Malta, or is being provided in or from Malta;

(b) reference is made to such fact in an advertisement; and

(c) the product, solution or service is not recognised by the Authority in any form, as the case may be.

(4) Should the Authority become aware of a breach of sub-article (3), the Authority shall have the power to issue a notice under this article to the issuer of the advertisement or the persons involved in relation to the relevant innovative technology, demanding compliance with the said sub-article and the relevant person shall be obliged to correct the same within the time stipulated by the Authority failing which he shall be guilty of an offence under this article.

(5) Where the name, trade name, trademark or the designation of any innovative technology appears in relation to a representation referred to in sub-article (1) or (2), that person shall be deemed for the purposes of this article to have caused the representation to be made unless such person proves that the representation was made without his knowledge or connivance.

(6) A person convicted under this article shall be liable to a fine (*multa*) of:

(a) not less than five thousand euro (€5,000) and not more than ten thousand euro (€10,000) if the person enjoys recognition by the Authority; and

(b) not less than fifty thousand euro (€50,000) and not more than one hundred thousand euro (€100,000) if the person does not enjoy recognition by the Authority.

Exemption from taxes.

**54.** *Repealed by Act [XIX.2024.50](#).*

## PART X

### Co-ordination with other Competent Authorities; Simplification

Co-ordination with other national competent authorities.

**55.** *Repealed by Act [XIX.2024.51](#).*

No duplication of controls and simplification of procedures.

**56.** *Repealed by Act [XIX.2024.51](#).*

Joint Regulatory Efficiency Board.

**57.** *Repealed by Act [XIX.2024.51](#).*

## PART XI

### Miscellaneous Provisions

Power of the Minister to make regulations and of the Authority to issue guidelines.  
*Amended by: XIX.2024.52.*

**58.** (1) The Minister may, without prejudice to the powers of the Authority, and acting on the advice of the Authority make regulations to give fuller effect to the provisions of the Act, or to prescribe anything that is to be or which may be prescribed in terms of the Act, any law which the Authority is entitled to administer or enforce or any European Union and, or international

legislation which is applicable to Malta or any other regulatory instrument and to provide for any matter consequential, incidental to or connected therewith.

(2) Without prejudice to the generality of the foregoing, the Minister may, by such regulations:

(a) (i) define and empower the Authority to define products, solutions and services that may be regulated under the Act;

(ii) regulate recognition processes in accordance with the Act or any other law which the Authority is entitled to administer or enforce or any European Union and, or international legislation applicable to Malta; and the overall requirements and conditions for such recognitions, their grant, amendment, renewal, suspension, revocation and termination and other similar actions and to further empower the Authority to lay down any such requirements and conditions;

(b) empower the Authority to regulate and issue recognition to persons engaged in activities falling within the competence of the Authority, the Act or any other law which the Authority has the power to administer or enforce or any European Union and, or international legislation, and all matters relating thereto, including the qualifications and elements to provide innovative technology as well as the exemption of certain persons or categories of persons from any or all of the requirements for recognition;

(c) establish methods of review relating to the processes and procedures adopted by the Authority in carrying out its functions;

(d) provide for any administrative penalties that may be imposed by the Authority for any breach of the provisions of the Act or any other law which the Authority is entitled to administer or enforce or any European Union and, or international legislation applicable to Malta;

(e) implement any international convention or any EU Regulation or Directive, to the extent necessary, to which Malta has adhered to in the context of the innovative technology sector;

(f) lay down rules establishing any fees and tariffs which may be levied by the Authority;

(g) lay down rules, provide for and clarify the

powers of the Authority for the better carrying out of any of the provisions of this Act;

(h) amend, repeal, add to and, or vary any of the Schedules to the Act and any regulations made thereunder;

(i) establish rules and empower the Authority to prescribe rules and to achieve the purposes of the Act, and the effective administration of the Act and, or any other law which the Authority is empowered to administer or enforce or any European Union and, or international legislation having effect in Malta;

(j) establish rules and empower the Authority to prescribe rules for the mutual recognition of recognitions issued by other national, foreign or international authorities or bodies;

(k) issue further guidance and empower the Authority to issue further guidance regarding the form, accessibility and minimum contents of information that shall be made available to users of innovative technology;

(l) define and empower the Authority to define different levels of recognition that may be obtained in relation to innovative technology;

(m) further regulate recognitions of innovative technology

(n) further regulate the recognition of innovative technology service providers, including the level of independence and other qualities, if any, that are required for the carrying out of their functions and the definition of such terms;

(o) define the criteria for determining whether the systems and security access protocols of applicants or recognition holders, as applicable, meet or are maintained to the appropriate international standards that may be established from time to time;

(p) prescribe rules for the notification of any activities in or from Malta, or relating to innovative technology which are accessible through the website of the Authority, including when the innovative technology already has the recognition in another country;

(q) establish the circumstances and empower the Authority to establish the circumstances in which any person involved in connection with a recognition holder, including

any service provider is obliged to communicate information to the Authority, prescribe regulations governing the disclosure of information by service providers and establish supervisory and disciplinary procedures for service providers in respect of their duties;

(r) extend any provisions of the Act, including but not limited to, the right to an effective judicial remedy to any form of innovative technology;

(s) by regulations made under the Act amend any Schedule made under the Act;

(t) clarify by means of guidelines any definition in sub-article (1) of article 2;

(u) empower and designate the Authority as a competent authority and, or supervisory authority and, or market surveillance authority in relation to innovative technology, data or any other area, as may be prescribed by the Minister;

(v) grant to the Authority the power to issue recognitions, create processes and structures, facilitate and generate data sharing by natural or legal persons and the public sector; and

(w) prescribe fees in consultation with the Minister responsible for finance.

The Minister may direct or authorise the Authority to establish all necessary details to meet any of the above requirements and conditions by way of guidelines and other binding regulatory instruments to be issued by the Authority under article 6 which shall be ancillary to or independent of any regulations made under the above powers.

(3) Regulations made under this article may be made subject to such exemptions or conditions as may be specified therein, may make different provision for different cases, circumstances or purposes and may give to the Authority such powers of adaptation of the regulations as may also be so specified.

(4) Where regulations have been made in terms of this article, the Authority may issue guidelines for the better carrying out and to better implement the provisions of such regulations.

(5) Without prejudice to the generality of the foregoing, the Minister may, acting on the advice of the Authority, and in conjunction with the Minister for Finance, make regulations providing for the taxation of the activities of and transactions

involving innovative technology and any other matter related thereto.

(6) The Minister shall, with the support of the Authority, promote initiatives, including the establishment of structures dedicated to the purpose, for the review of all the laws of Malta in order to ensure that such laws are rendered compatible and consistent with innovative technology in order to achieve the best outcomes and ecosystem for the use of such innovative technology.

(7) Regulations made under this Act, and any amendment or revocation of such regulations, may be published in the English language only.

Conflict between  
texts.

**59.** In this Act and in any regulations made thereunder, if there is any conflict between the English and Maltese texts, the English text shall prevail.

*Substituted by:  
XIX.2024.53.*

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#### FIRST SCHEDULE

(article 2)

##### Innovative Technology

- (a) artificial intelligence;
- (b) "distributed ledger technology" and "decentralised ledger technology (DLT)";
- (c) internet of things.

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#### SECOND SCHEDULE

[Article 5(4)(d)]

##### Regulatory laws

*Repealed by Act [XIX.2024.54.](#)*

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