CHAPTER 619
EQUESTRIMALTA ACT

AN ACT to provide for the establishment of an Authority to be known as EquestriMalta, to support the development and implementation of the guiding principles described in this Act and to promote consistent principles to defend the integrity and prestige of such racing and to exercise regulatory functions and perform related services and to make provision with respect to matters ancillary thereto or connected therewith.

23rd October, 2020

ACT XLIX of 2020.

ARRANGEMENT OF ACT

		Articles
Part I	Preliminary	1-2
Part II	Guiding Principles	3-4
Part III	Establishment, Functions and Conduct of Affairs of the Authority	5-12
Part IV	Officers and Employees of the Authority	13-14
Part V	Financial Provisions	15-27
Part VI	Permits and Licences	28-33
Part VII	Regulatory Powers	34-37
Part VIII	Enforcement and Sanctions	38-47
Part IX	Administrative Review Tribunal	48-53
Part X	Miscellaneous	54-56

Part I
Preliminary

Short title and commencement.

1. (1) The short title of this Act is the EquestriMalta Act.

(2) Sub-article (1) of article 56 shall come into force on such date as the Minister responsible for sports may by order in the Gazette establish.

Interpretation.

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

Act No. XLIX of 2020.

"the Act" means the EquestriMalta Act, 2020 and includes any regulations made, and rules and guidelines issued thereunder;

"approved meeting" means a meeting at which races are held with the approval of the Board and does not include trial races;

"approved racecourse" means any ground used for the purpose of a racecourse for racing with horses, and in respect of Marsa Horse Racing shall also refer to any ground adjacent thereto, in respect of which ground or adjacent ground, there is a certificate of approval issued by the Authority and published in the Gazette;

"approved racing activity" means a registered horse race as defined in the Act;

"Authority" means EquestriMalta established by article 5 and any references in this 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;

"authorisation" shall include all forms of recognition as defined in this article;

"Board" means the Board of Governors of the Authority composed of the Chairperson and members appointed in accordance with article 5(2);

"Chairperson" means the Chairperson of the Authority as appointed in accordance with article 5;

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

"Deputy Chairperson" means the Deputy Chairperson or any other person appointed to act as a Deputy Chairperson in the circumstances mentioned in article 5(3);

"directive" means a directive issued by the Authority in terms of article 6;

"driver" means a person who holds recognition from the Authority and is on a racetrack or a registered or unregistered racing track for the purposes of driving horse for Harness Racing. A driver also means a person competing in a race from the time that the driver first sits in the sulky of the horse for parading the horse for the race until the reins are taken by a trainer or the trainer’s agent following the finish of a race;

"HOADA" means the Horse Owners and Drivers Association, approved by EquestriMalta;

"jockey" means a person who holds recognition from the Authority and is on a racetrack or a registered or unregistered racing track for the purposes of driving horse for Thoroughbred Racing. A jockey also means a person competing in a race from

the time that the jockey first sits in the saddle of the horse for parading the horse for the race until the reins are taken by a trainer or the trainer's agent following the finish of a race;

"licence" means a permit granted by the Authority to owners, drivers, handlers, trainers, members and horses;

"licence holder" means a person who holds a permit issued in terms of this Act;

"Member State" means a Member State of the European Union;

"Minister" means the Minister responsible for sports;

"operator" means any legal entity which holds a permit or licence from the Authority to operate and manage an approved racecourse;

"racing clubs" means any organisation recognised by the Authority which represents racing clubs or other related bodies which promote or conduct races or approved meetings.

"recognised association, federation or club" means an association, federation or club that administers a sporting discipline that involves the use of horses, and is registered as such with the Government entity responsible for the register for sports persons;

"recognition" means the formal recognition by the Authority which is sought with reference to the suitability of licence holders and others involved in racing to continue to be licensed for the relevant year and which the Authority is entitled to grant through or by the provision, issuance, validation, confirmation, certification or otherwise in writing to an applicant and includes any licence, permission, authorisation, approval, confirmation, certification by or registration with the Authority in terms of any special law which the Authority is entitled to administer or enforce and the terms "authorisation" or "authorisation holder" in the provisions of this Act shall be construed as a reference to the relevant form of recognition, or the holder thereof, as the case may be;

"trainer" means a person holding a licence granted under these rules to train a horse or who does other things which are only done or usually done by trainers;

"Tribunal" means the Administrative Review Tribunal established by article 5 of the Administrative Justice Act. Cap. 490.

(2) The Minister, acting on the advice of the Authority, may by regulations, and the Authority, with the consent of the Minister, may

by guidelines clarify any definition in sub-article (1) or provide additional definitions in support of the definitions in sub-article (1).

(3) In this Act and in any regulations, directives or guidelines made thereunder, if there is any conflict between the English and Maltese texts, the English text shall prevail.

Part II
Guiding Principles

Promotion and development of the Authority's interests.

3. The Government shall, through the establishment of the Authority, seek the development of the horse racing sector in Malta through proper recognition and regulation with the guiding principle of harnessing integrity of the said sport whilst at the same time securing the horses' welfare. This shall be done by the following means:

(a) promoting Malta as a hub of excellence in sports racing activities by ensuring the highest integrity standards for approved racecourse and approved racing activity;

(b) in a manner ensuring that there are international standards in place for the protection of the horses' welfare, the integrity of the sport and the public interest in general to be protected against abuse and non-compliance with mandatory laws intended for such purposes;

(c) approving or otherwise deciding on the racing programme and setting a calendar year for approved meetings in collaboration with the operator;

(d) determining the entrance fees of the general public to attend such sporting events;

(e) maintaining an online register of separately identifiable approved meetings, providing details on horses, drivers, veterinarians and other information that the Authority deems necessary;

(f) registering third country licence or permit holders in accordance with and subject to the Act and who shall be subject to the rules, obligations, penalties and offences under this Act and the regulations and directives issued thereunder; and

(g) representing the interest of the local sports at international fora and exchanging relevant information with international competent authorities to safeguard the public interest and sports integrity.

Policies.

4. The Government shall determine Malta's policies and objectives with regard to the horse racing sector and shall appropriate

such funds and provide such resources as it considers necessary to achieve such aims.

Part III
Establishment, Functions and Conduct of Affairs of the Authority

Establishment and composition of the Authority and Malta Racing Board.

5. (1) There shall be a body, to be known as EquestriMalta, the affairs and business of which shall be carried out by a Board to be known as the Malta Racing Board, consisting of a Chairperson and twelve (12) other members, who shall be persons of integrity who are fit and proper to assume the responsibilities of the Authority under this Act or under any special law which the Authority is entitled to administer or enforce.

(2) Members of the Board shall be appointed by the Minister, and shall hold office for such term not exceeding three (3) years, and under such conditions as may be set out in their respective letter of appointment:

Provided that on the expiration of the term for which a person is appointed under this sub-article, the person shall be eligible for re-appointment.

(3) The Board shall consist of:

(a) a Chairperson and six (6) members nominated by the Minister;

(b) three (3) members nominated by HOADA;

(c) one (1) member nominated by the operators;

(d) one (1) member nominated by the recognised association, federation or club for the sport of Polo; and

(e) one (1) member nominated by the recognised association, federation or club for equestrian sport.

(4) The Chairperson may designate one (1) of the members of the Board as Deputy Chairperson and the member so designated shall have all the powers and perform all the functions of the Chairperson during the Chairperson's absence or inability to act as Chairperson or during any vacancy in the office of Chairperson.

(5) The number of members present at meetings of the Board necessary to form a quorum shall be the Chairperson or Deputy Chairperson and three (3) other members, but, subject to the presence of a quorum, the Board may act notwithstanding any vacancy among its members.

(6) The Board may also designate a suitably qualified person to act as a secretary, but the secretary shall not have a vote.

(7) The Board may invite such professionals or other persons to attend meetings of the Board and to provide information and documentation as the Board may deem appropriate.

(8) In order to carry out its functions, the Board shall make use of such funds as the Minister may from time to time make available to it; as well as such funds as it may under regulations made under this Act collect as fees or otherwise.

The Board may make its own rules and regulate its own procedure.

(9) 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; or

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

(c) fails the due diligence checks as may be established by order of the Minister from time to time; 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 is being investigated for such criminal offence; or

(e) owns, runs, administers, has an interest in or is employed in a company licensed by the Malta Gaming Authority, or similar authority in any other country, that offers games of chance or gambling to the consumer.

(10) 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.

(11) 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; or

(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; or

(c) if the member fails to perform his duties for a prolonged period without any valid justification and it shall be a cause for the removal of a member if that member for any reason fails to perform his duties, including attending Board meetings, for a continuous period exceeding six (6) months.

(12) 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.

(13) 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.

(14) 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, if deemed necessary by the Chairperson. Any such disclosure shall be communicated to the Minister without delay. Where the interest of the member is such as to disqualify the person from remaining a member, the person shall report the fact immediately to the Minister and tender his resignation.

(15) With reference to conflicts of interest, the Board shall, with the consent of the Minister, issue guidelines which shall determine which conflicts of interest require a Board member's resignation.

Purpose, functions and powers of the Authority.

6. (1) It shall be the purpose of the Authority to achieve the principles and objectives outlined in Part II entitled "Guiding Principles".

(2) It shall also be the duty of the Authority to exercise such supervisory and regulatory functions in horse racing and related sport activity as may from time to time be assigned to the Authority by any

special law.

(3) The Authority shall, without prejudice to any other power or function conferred upon it by this Act or any other law, and in accordance with any laws which may be applicable to it, be responsible to:

(a) establish procedures for the registration of horses to participate in approved meetings;

(b) keep an up to date register of horses that may participate in approved meetings;

(c) coordinate and formulate a programme of approved meetings in collaboration with the operator;

(d) publish the annual fixture list and associated programme details of approved meetings in collaboration with the operator;

(e) determine the prize monies for each race in an approved meeting in collaboration and in agreement with the operator;

(f) administer races, and to appoint stewards and judges and make regulations relating to the conduct for horse racing on an approved racecourse;

(g) determine the entrance fees for the attendance of the general public for approved meetings as it may establish from time to time;

(h) approve applications for the issuance of all applicable permits and licences in terms of this Act;

(i) determine and collect all applicable permits and licence fees due as it may establish from time to time;

(j) carry out all such things as may be necessary to protect the integrity of the sport, including but not limited to doping control and the appropriate treatment of horses and by making and continually updating the regulations related to the governance and ethics of racing;

(k) deal, through disciplinary committees appointed under article 11 of this Act, with cases of misconduct and other disciplinary proceedings in respect of licence or permit holders including cases leading to the suspension or withdrawal of any licence or permit issued under this Act. This includes the Authority's power to initiate and conduct investigations in relation to permit and licence holders and the right of the Authority to take appropriate action, wherever necessary;

(l) maintain, update and enforce the list of approved horse racing activities established in this Act;

(m) operate an appropriate system of quality assurance and to uphold the integrity of the sports and in particular operators in adherence to this Act;

(n) inform any authority that it deems appropriate of any sanctions or restrictions imposed by it or of any other matters which the Board considers necessary to protect the public interest, in respect of any licence holder;

(o) carry out all such things as may be necessary to meet the obligations arising from the Mutual Recognition of Permits and Licences in other countries;

(p) cooperate with other competent authorities;

(q) publish guidelines on the interpretation of this Act and the regulations and directives issued thereunder;

(r) take such measures as may be reasonably necessary to protect the public interest and the integrity of the sports racing activity including the placing of restrictions, the imposition of fines and other similar measures on licence or permit holders; and

(s) advise, or make recommendations or otherwise express its views to the Minister on any matter on which the Minister is to consult with the Board or on which the Board is to make recommendations to the Minister or on which the views of the Board are sought by the Minister:

Provided that it shall be the responsibility of the operator to distribute prize monies and to receive and process racing entries at approved meetings:

Provided further that if there is disagreement between the Authority and the operator regarding paragraphs (c), (d) and (e) above, the Authority shall give its decision which decision may be appealed by the operator in terms of the Act.

(4) It shall be the duty of the Authority to carry out its functions as established by or under this Act or any other law in an impartial, transparent and timely manner and to ensure compliance therewith. Without prejudice to the generality of the foregoing, it shall also be the duty of the Authority to ensure that, to the extent they are so bound, persons comply with this Act and with any other special law which the Authority is entitled to administer or enforce, and with any decisions issued by or under this Act or any such other special law.

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

(6) 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 and the aims which such measures are intended to achieve.

Conduct of the affairs of the Authority.

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

Provided that the Board may delegate or devolve all or part of the executive conduct of the Authority, its administration and organisation and the administrative control of its officers and employees, to a Chief Executive Officer or any other officer or officers of the Authority, who shall also have such other powers as may from time to time be delegated or devolved to him or to them by the Board.

(2) The Authority shall exercise its functions through such officer or officers as the Board may from time to time designate in accordance with the provisions of sub-article (1).

(3) 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 out or delegate any of:

(a) its regulatory functions; or

(b) its recognition or authorisation functions, unless such functions are expressly delegated to another public authority established by law.

Autonomy of the Authority and relations between the Minister and the Authority.

8. (1) Except as expressly provided for in other provisions of this Act, the Authority shall act independently and shall not seek or take instructions from any other body or person.

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

(b) In determining policies which are the subject of a Ministerial direction, the Board shall respect the principles reflected by the policy direction given to it by the Minister.

The Authority shall afford to the Minister facilities for obtaining information with respect to its property and activities, other than matters which are confidential to any applicant or regulated person, and furnish the Minister with returns, accounts and other statistical information with respect thereto, and afford to him facilities for the verification of information furnished, in such manner and at such times as he may reasonably require.

Legal personality and representation of the Authority.

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.

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

Provided that the Authority may appoint one (1) or more members of the Board, the Chief Executive Officer, if any, or one (1) 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 such other member of the Board, the Chief Executive Officer, if any, 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.

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

(2) Decisions shall be adopted by a simple majority of the votes of the members present and voting. The Chairperson, or in his absence the Deputy Chairperson or other person appointed to act as Chairperson, shall have an initial vote and, in the event of an equality of votes, a casting vote. Without prejudice to the other requirements of this Act, no decision shall be valid which is not supported by at least two members of the Board.

(3) 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.

(4) 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).

Committees.

11. (1) The Board of the Authority 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.

(2) The Board may also establish a National Sports Racing Ethics and Disciplinary Committee for the purpose of ensuring that the proper standards of ethics are reflected in the area of sports racing which are recognised by the Authority. The Sports Racing Ethics and Disciplinary Committee shall have the functions and shall be composed of the persons as may be determined by the Board.

Authority to be run with respect to the characteristics of equine sport.

12. In carrying out its functions under this Act and any special law that the Authority is entitled to administer or enforce, the Authority shall pay regard to the nature and features of the sport which fall within its competence and shall seek to reflect such elements in its policies and administration.

Part IV
Officers and Employees of the Authority

Officers of the Authority.

13. 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, 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. Employees include starters, stewards, dope testing personnel and paddock officers who are responsible to ensure the integrity of racing on the race day and any other technical, administration and finance employees as necessary for the efficient operation of the Authority.

Public Officers.

Cap. 595.

Cap. 9.

14. 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 of a criminal nature.

Part V

Financial Provisions

Authority to meet expenditure out of revenue.

15. (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 including the contributions from the operators.

(2) In furtherance of the provisions of sub-article (1), the Authority shall levy all fees, rates and other payments prescribed under this Act or any other law related to the powers and functions of the Authority.

(3) The Authority shall be paid by Government out of the Consolidated Fund such sums as Parliament may from time to time authorise to be appropriated to meet the operational costs and other costs to enable the Authority to carry out its functions.

(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 by the Authority in such manner as may from time to time be approved by the Minister.

Power to borrow or raise capital.

16. (1) For the purpose of carrying out any of its functions under this Act or any other special law which the Authority is entitled to administer or enforce, the Authority may, with the approval in writing of the Minister given with the concurrence of 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 approve in writing.

(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 special law which the Authority is entitled to administer or enforce.

Advances from Government.

17. 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 special 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.

18. (1) The Minister, with the concurrence of 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 and the relative documentation shall be laid on the Table of the House as soon as practicable.

Estimates of the Authority.

19. (1) The Authority shall cause to be prepared in every financial year and shall, not later than three (3) 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 of 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 (3) months after receiving a copy of the estimates from the Authority, approve the same with or without amendment.

Expenditure to be according to approved estimates.

20. (1) No expenditure shall be made or incurred by the Authority unless it has been approved by the Minister as provided in article 15.

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

(a) until the expiration of six (6) 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 special 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 with the concurrence of 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 mutatis mutandis apply and as near as practicable apply to the supplementary estimates.

Publication of approved estimates.

21. The Minister shall, at the earliest opportunity and not later than three (3) months after receiving a copy of the estimates and supplementary estimates of the Authority, or if at any time during that period the House is not in session, within three (3) months from the beginning of the next following session, cause such estimates to be laid on the Table of the House.

Accounts and audit.

22. (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 and approved by the Minister:

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 (3) 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 (3) months after receiving a copy of every such statement and report, or if at any time during that period the House is not in session, within three (3) months from the beginning of the next following session, cause every such statement and report to be laid on the Table of the House.

Deposit of revenues and payment by the Authority.

23. (1) All monies accruing to the Authority shall be paid into a bank or banks appointed as bankers of the Authority by a resolution of the Authority. 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 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.

Contracts of supply of works.

24. Without prejudice to any directions communicated by the Minister under article 8(2)(a), the Authority shall not, except with the approval of the Minister granted for special reasons and after consultation with the Minister responsible for finance, award or enter into any contract for the supply of goods or materials or for the execution of works, or for the rendering of services, to or for the benefit of the Authority, which is estimated by the Authority to exceed one hundred and forty-four thousand euro (€144,000) in value, or such other amount as the Minister responsible for finance may by regulations prescribe, except after notice of the intention of the Authority to enter into the contract has been published and in conformity with the provisions of the Public Finance Management Act and regulations made thereunder.

Cap. 601.

Annual Report.

25. The Authority shall, not later than three (3) 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 (3) months after he has received a copy of every such report, or if at any time during that period the House is not in session, within three (3) 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.

Money laundering.

26. (1) An authorisation holder or persons acting on his behalf or under an arrangement with him shall fulfil any prevention of money laundering and the combating of funding of terrorism obligations as may be imposed on them by means of regulations made under article 12 of the Prevention of Money Laundering Act.

Cap. 373.

(2) Where the Authority discovers facts or obtains information that is related to transactions which are known or suspected to be related to proceeds of criminal activity or the funding of terrorism, or to a person who may have been, is or may be connected with money laundering or the funding of terrorism, the Authority shall disclose those facts or that information, supported by the relevant documentation that may be available, to the Financial Intelligence Analysis Unit in a timely manner.

(3) Where through its monitoring, or through any other means, the Authority notices that there are areas of arrangements and services which are vulnerable to money laundering or the funding of terrorism, the Authority shall inform the National Coordinating Committee on Combating Money Laundering and the Funding of Terrorism established under article 12A of the Prevention of Money Laundering Act of its concerns and provide it with any analysis, statistics, studies, or any other information relative thereto.

Cap. 373.

Exclusion of liability.

27. 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 special 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 under this Act, or any other special law which the Authority is entitled to administer or enforce, or rules or regulations aforesaid, unless the act or omission is shown to have been done or omitted to be done in bad faith.

Part VI
Permits and licences

Power of Authority to issue certificates for approved racecourses or racing clubs and to issue licences.

28. (1) No person shall use any premises as a racecourse or racing club by whatever name called, unless there is in respect of such premises a valid licence for the purpose issued by the Authority and no person may open or carry on any activity for any of the purposes aforesaid unless he is in possession of licence and a certificate of approval for the purpose issued by the Authority.

(2) No licence or certificate of approval shall be granted or renewed under sub-article (1) if the premises, equipment and facilities as well as the personnel, do not reach the standard as the Authority deems to be satisfactory.

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

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

(5) Any licence or certificate of approval granted under the provision of sub-article (1) shall lapse on the 31st December of the year in which it is issued but may be renewed by the Authority from year to year.

Applications.

29. (1) A person may apply to the Authority, in the prescribed form in order to be granted a licence to practice sports racing.

(2) When an application for a licence is received in terms of sub-article (1) the Authority shall inspect the premises to ensure the suitability of the premises.

(3) The Authority may, at any time during the processing of the

application, require the prospective service provider to provide any documents and information deemed necessary and shall visit the premises intended to be used for the provision of service in order to make its assessment and ascertain whether the licence should be granted or not.

(4) Upon granting a licence to practice sports racing, the Authority shall issue a Licence Certificate.

(5) The licence may be renewed by the Authority provided that the person has complied with the provisions of this Act and of any regulation made thereunder.

(6) A licensee wishing to renew a licence which is due to expire, shall at least six (6) months before such expiry apply to the Authority for such license to be renewed.

(7) The Authority shall renew the licence if it is satisfied that the premises are being used in accordance with the provisions of this Act and following an assessment conducted by the Authority confirming adherence with the provisions of the Act.

(8) The decision of the Authority on the renewal of the licence shall be served on the licensee by registered mail, not later than thirty (30) days from the application for renewal.

(9) The licensee shall ensure that the licence, or a copy of it, is kept affixed in a prominent place in the principal office of the premises from which the sports racing is provided. The licensee shall provide access to the license to service users or potential service users upon request.

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

(11) An authorisation, permit or licence granted by the Authority cannot be assigned or transferred.

Refusal to grant a licence.

30. (1) The Authority may refuse an application to grant a licence in terms of this Part of the Act if it deems that the applicant or licensed person is not fit to carry out the activity regulated by the Act. The refusal, together with reasons for such refusal, shall be served in writing by registered mail to the applicant or licensed person applying for the licence within one (1) month from the date of application.

(2) The applicant or licensed person shall have the right to request a reversal of the decision of the Authority by filing an appeal before the Tribunal.

(3) The applicant or licensed person shall have the right to re-apply to the Authority for a licence if the reason for the refusal no

longer subsists.

Revocation of a licence.

31. The Authority shall have the right to revoke a licence granted in terms of the Act at any time, if the licensed person:

(a) files a request in writing for revocation;

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

(c) is no longer deemed suitable to provide the service for which he is licensed and if the licensee has been convicted of an offence for which the penalty is imprisonment or for any offences contemplated under this Act;

(d) is in breach of the conditions for licensing in accordance with the provisions of his Act or wilfully neglects or refuses to comply with any of the provisions of this Act or any other Act, or obstructs, impedes or hinders any person carrying out duties or responsibilities thereunder.

Method of revocation.

32. (1) The Authority shall revoke the licence in accordance with paragraphs (b), (c) or (d) of article 31 after drawing up a report containing its recommendations on whether the licence should be revoked. The report shall include evidence of due warning to the licensed person that the licence may be revoked unless appropriate action is taken, in accordance with a procedure established under this Act.

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

(3) If the licence of a licensed person is revoked, the Licence Certificate and all the records and documentation relating to the social welfare service shall become the property of the Authority.

Publication in the Gazette.

33. During the month of January of every year the Authority shall publish in the Gazette:

(a) a list of licensed persons including their full name, registered address and other relevant contact details; and

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

Part VII
Regulatory Powers

Power of competent authority to revoke, cancel or suspend authorisations, licences and permits.

34. (1) The Authority may at any time revoke, cancel or suspend certificates of approval in respect of racecourses or in respect of an operator or any other permit or licence issued to a driver, jockey, trainer or racing clubs in accordance with the provisions of this Act or any other special law which the Authority is entitled to administer or enforce.

(2) The Authority may revoke, cancel or suspend certificates of approval in accordance with sub-article (1) thereto:

(a) if it considers it desirable to cancel or suspend the approval for the protection of the general public and the reputation of Malta; or

(b) if it considers that the standard of the track is not fit and proper to hold an approved racing activity; or

(c) if it considers that the requirements of any provision of this Act, or any other special law which the Authority is entitled to administer or enforce, are not being fulfilled, or there has been a contravention of any such provision as aforesaid, or an obligation or condition to which the authorisation is subject by virtue of or under this Act, or any other special law which the Authority is entitled to administer or enforce, has not been satisfied or complied with.

(3) The Authority may revoke, cancel or suspend certificates of approval in respect of an operator who manages racecourses and ground adjacent thereto:–

(a) if it considers that the persons who assume any responsibility towards the Authority with reference to the approved racecourse are not fit and proper persons to carry out the functions required of them in connection with the arrangement or if there are no such persons in office as stipulated or required by the racecourse ground authorisation; or

(b) if it considers that the requirements of any provision of this Act, or any other special law which the Authority is entitled to administer or enforce, are not being fulfilled, or there has been a contravention of any such provision as aforesaid, or an obligation or condition to which the authorisation is subject by virtue of or under this Act, or any other special law which the Authority is entitled to administer or enforce, has not been satisfied or complied with; or

(c) if information has been furnished to the Authority by or on behalf of or in relation to the approved racecourse which is false, inaccurate or misleading; or

(d) if the operator has not commenced the activities within the time provided for in the authorisation or has ceased to carry on such activities; or

(e) at the request of the operator; or

(f) in any of the circumstances under which the Authority would have been precluded from issuing the authorisation to act as an operator under this Act or any other special law which the Authority is entitled to administer or enforce or where under this Act or any other special law which the Authority is entitled to administer or enforce it would have been entitled to refuse the grant of such authorisation; or

(g) after proper communication and investigation, at the written request of another national competent authority which is carrying out regulatory functions in relation to regulated and other activities carried out by the operator at the racecourses and ground adjacent thereto simultaneously with the Authority.

(4) The Authority may revoke, cancel or suspend a permit or licence issued to a driver, jockey, trainer or racing club:–

(a) if it considers that the holder thereof is not a fit and proper person to continue practicing the sport services that he is authorised to provide through a licence or permit; or

(b) if it considers that the holder thereof does not fulfil the requirements of, or has contravened, any of the provisions of this Act or any other special law which the Authority is entitled to administer or enforce or of any racing services rules or regulations made thereunder, or has failed to satisfy or comply with any obligation or condition to which he is subject by virtue of or under this Act or any other special law which the Authority is entitled to administer or enforce, or any conditions established by the Authority in the particular case; or

(c) if the Authority has been furnished with information which is false, inaccurate or misleading, or if the driver, jockey, trainer or racing club has obtained the permit or licence authorisation by making false statements or by any other irregular means; or

(d) if the driver, jockey, trainer or racing club has not provided the service he has been authorised to provide within the time provided for in the permit or licence authorisation, if any, or has ceased to provide such service; or

(e) if it considers it desirable to revoke, cancel or suspend the driver, jockey, trainer or racing club for the

protection of the general public, and the reputation of Malta; or

(f) at the request of the driver, jockey, trainer or racing club; or

(g) in any of the circumstances under which the Authority would have been precluded from issuing the permit or licence authorisation under this Act to driver, trainer or racing club or any other special law which the Authority is entitled to administer or enforce or where under such Act or any other special law which the Authority is entitled to administer or enforce it would have been entitled to refuse the grant of such permit and licence authorisation; or

(h) after proper communication and investigation, at the written request of another national competent authority, which is carrying out regulatory functions in relation to the driver, jockey, trainer or club racing authorisation holder simultaneously with the Authority.

(5) Revocations, cancellations and suspensions shall be reflected in the register of authorisations appearing on the website of the Authority. The Authority shall have the power to publicise more widely the revocation, cancellation or suspension of its authorisations should it consider that this would be necessary for the protection of the general public.

(6) No action shall lie against the Authority in terms of law, or any other law relating to defamation or slander, for the issuing of bona fide public statements in terms of this article.

(7) The Authority may issue guidelines on how this article is to apply.

Procedure when taking a measure under article 34.

35. (1) The Authority shall, before proceeding to take any of the measures under article 34, write to the person concerned, warning the person of the measure that may be taken and the specific reason why it may be taken, requiring the person to cease or rectify such acts or omissions and, or to make his submissions thereto within such period not being less than twenty-five (25) days which period, without prejudice to the provisions of sub-article (4), may be abridged if the Authority considers that the continuance of the infringement impacts negatively the effective exercise by the Authority of its regulatory functions and, or warrants the immediate intervention of the Authority:

Provided that where the measure is an administrative fine the person concerned shall also be informed of the amount of the fine:

Provided further that when issuing a warning under this sub-article, the Authority may impose such conditions as it may consider reasonable in the circumstances.

(2) If the person concerned remedies the infringement within the period established by the Authority in accordance with sub-article (1), and agrees in writing to abide with any condition that the Authority may impose, the Authority may at its discretion desist from proceeding any further, this without prejudice to any regulatory measures that may have already been imposed.

(3) If, after the lapse of the period mentioned in sub-article (1), the Authority considers that the person concerned has not given any valid reasons to demonstrate why no measure should be taken against him, the Authority shall notify the person concerned in writing, specifying the nature of the infringement, stating the measure being taken, and if the measure is an administrative fine, stating the amount of the fine being imposed.

(4) 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 public interest or to the application of mandatory rules of law; or

(b) creates or may create serious economic or operational problems for other providers or users of racing track arrangements; or

(c) would result in significant harm to competition, including in the racing track sector,

the Authority may take urgent interim measures to remedy the situation in advance of reaching a final decision, including ordering the immediate cessation of the act or omission giving cause to the infringement and the imposition of administrative fines:

Provided that the person against whom such measures are contemplated shall, thereafter, be given a reasonable opportunity to state his view and propose any remedies:

Provided further that the interim measures shall be valid for a maximum of three (3) months, subject to extension for a further period of three (3) months, in circumstances where enforcement procedures have not been completed.

(5) The notification as referred to in sub-article (3) shall, upon the expiry of the time limit for appeal therefrom, upon the service of a copy thereof by means of a judicial act on the person indicated in the notice, constitute an executive title for all effects and the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure:

Cap. 12.

Provided that if the person against whom the notice has been issued files an appeal before the Tribunal within the twenty (20) day

period referred to under article 34, and concurrently with or before the filing of his appeal requests the Tribunal to suspend the effects of the notice, then the Authority shall desist from issuing a judicial act as referred to in this sub-article until such time as the request for suspension has been determined, withdrawn or otherwise dealt with:

Provided further that the Tribunal shall determine any requests for suspension referred to in this sub-article expeditiously. Before determining any such request the Tribunal shall give the Authority a reasonable opportunity to reply and make its submissions.

(6) The Authority shall give its reasons for any decision taken under this article.

(7) The provisions of this article shall continue to apply to the person concerned with reference to their actions and those related thereto, having been done prior to the issue of any warning hereunder, notwithstanding the revocation or the unilateral surrender of the relevant permit or licence or authorisation where applicable.

(8) Notwithstanding the provisions of any law, no precautionary warrant or order shall be issued by any court restraining the Authority from taking any material prevention or management measure under this Act, or under any regulations issued hereunder or any other law. Without prejudice to the power of the Authority to declare to the court that a measure is one contemplated by this article, the Minister may from time to time make regulations to better define what constitutes a material prevention or management measure for the purpose of this Act.

(9) An administrative fine imposed under this article shall not exceed two thousand euro (€2,000) for each infringement.

Notification of proposed refusal, revocation, cancellation or suspension of a permit or licence or authorisation.

36. (1) Where the Authority proposes to refuse an application for a permit or licence or authorisation or to cancel or suspend a permit or licence or authorisation, it shall give the applicant or, as the case may be, the permit or licence or authorisation holder, notice in writing of its intention to do so, setting out the reasons for the decision it proposes to take.

(2) Every notice given under sub-article (1) shall state that the recipient of the notice may, within such reasonable period after the service thereof as may be stated in the notice (being a period of not less than forty-eight (48) hours, make representations in writing to the Authority giving reasons why the proposed decision should not be taken, and the Authority shall consider any representation so made before arriving at a final decision.

(3) The Authority shall as soon as practicable notify its final decision in writing to any of the persons to whom notice is to be given under sub-article (1).

Publication of policy guidelines.

37. (1) Save any other law relative to the protection of data, matters of the Authority shall seek to regularly publish information relating to its rulings, determinations and policy positions when they affect applications, interpretation of the provisions of this Act, or any special law which it is entitled to administer or enforce, so as 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 the racing activities.

(2) The publication of such information 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 technology or law generally. When such variations take place the Authority shall notify in later publications the connection and review to previous publications.

Part VIII
Enforcement and Sanctions

Provision of information.

38. (1) Without prejudice to the enforcement powers that it has at law, the Authority may require any approved racecourse operator to provide it with any information, including financial information, that the Authority considers necessary for the purpose of ensuring the quality and integrity standards required by this Act for purposes of recognition or compliance with the provisions of this Act or any other special law which the Authority is entitled to administer or enforce, or decisions or directives made in accordance with this Act or such other special law.

(2) Any information required by the Authority under sub-article (1) shall be proportionate to the performance of its functions and obligations under this Act or any other special law which the Authority is entitled to administer or enforce and, in requiring any information as aforesaid, the Authority shall state why it requires the information requested.

(3) Except in cases where the recipient of a request may refuse to provide such information, which refusal shall be in writing and shall state the basis for such refusal, a person who is notified with a requirement under sub-article (2) shall comply promptly with the requirement within the time-scales and according to any level of detail as may be required by the Authority:

Provided that any such person may, in complying with the provisions of this sub-article, state clearly to the Authority if any information provided by him is to be considered as confidential for commercial reasons and the Authority shall respect the confidentiality requested subject to the provisions of the Professional Secrecy Act.

Cap. 377.

(4) The same rules stated above shall apply to the permit and licence holders who, in carrying out the authorised services, may

review or receive information as described in the proviso to sub-article (1). Such permit and licence holder shall not be required to provide information to the Authority if such information was obtained under confidence or under non-disclosure obligations whilst carrying out his functions for the benefit of any applicant.

Enforcement powers of the Authority.

39. (1) For the purposes of the exercise by the Authority of any of its functions under this Act or under any other special 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:

(a) enter, at any reasonable time, any premises open to the public other than a place of residence, or any other place or any racing track where any activity regulated by or under this Act or any other special 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 special 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 arrangement regulated by or under this Act or any other special 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.

(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 special 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 special 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 racing track arrangement falling under the supervisory or regulatory functions of the Authority 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 special law which the Authority is entitled to administer or enforce; or

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

(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; or

(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 any special law it is entitled to administer or enforce, which he knows, or has reasonable cause to believe to be false or misleading,

is found guilty of an offence under this article shall, on conviction, be liable to a fine (multa) not exceeding five thousand euro (€5,000), in the case of a continuing offence, to a further fine (multa) not exceeding fifty euro (€50) for each day during which the offence continues.

Disclosure of confidential information.

40. (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 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 acts in violation of the provisions of sub-article (1) shall be guilty of an offence and shall be liable, on conviction, to a fine (multa) not exceeding five thousand euro (€5,000).

(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 as may be required at law.

Quantum of an administrative fine.

41. (1) An administrative fine imposed shall not, unless provided otherwise by or under this Act or any special law which the Authority is entitled to enforce, exceed the amount of two thousand five hundred euro (€2,500) for each breach and twenty-five euro (€25) for each day during which failure to observe the provisions of this Act or of any regulation made thereunder persists.

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

(3) The Minister may, by regulations made under this Act, establish the administrative fines that may be imposed by the Authority for breaches of the said regulations:

Provided that the amount of the fines that may be so prescribed shall not exceed the maximum amounts referred to under sub-article (1).

Administrative infringements by bodies corporate.

42. Where an administrative infringement of any provision of this Act or any other special 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.

Prescription for offences and administrative infringements.

43. The prosecution of a criminal offence or the initiation of proceedings to impose an administrative fine under this Act or under any other special law which the Authority is entitled to administer or enforce shall be prescribed by the lapse of two (2) years from the date on which the offence or administrative infringement is alleged to have been committed.

Service of notices.

44. Unless otherwise provided in the Act, 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; or

(b) by leaving it at the address at which the person ordinarily resides or carries on business; or

(c) by sending it by registered post to the person at the address at which the person ordinarily resides or carries on business; or

(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; or

(e) in any case where the Authority considers that the immediate giving of the notice is required, by sending it by electronic mail to a device or facility for the reception of electronic mail located at the address at which the person ordinarily resides or carries on business or, if an address for the service of notices has been furnished by the person, that address, provided that the facility of the sender for the reception of electronic mail generates a message confirming receipt of the electronic mail:

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

Proceedings for debts due to the Authority.

45. (1) Where the Authority desires to sue for the recovery of a debt due to the Authority under any other special law which it is entitled to administer or enforce for any fee or charge howsoever described that may be due, the Chairperson 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 states the nature of the debt and the name of the debtor and confirm that it 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.

Name of the Authority not to be used in any advertisement and prohibition of misrepresentation.

46. (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:

(a) any racing track arrangement authorisation or permit or licence have the recognition or approval of the Authority when it is not the case; or

(b) any activity carried out by any person or provided by the racing track operator, driver, trainer or club has the recognition or approval or is conducted with the co-operation or assistance of the Authority when it is not the case; or

(c) any activity is being carried out in or from Malta in accordance with the regulatory framework applicable to horse racing arrangements or services when the relevant arrangement is not certified or the relevant service provider is not registered under the Act, 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.

(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 racing track operator, driver, jockey, trainer or club.

(3) Where the name, trade name, trademark or the designation of any racing track operator, driver, jockey, trainer or club 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.

(4) A person convicted under this article shall be liable in accordance with this Act, unless provided otherwise by or under this Act or any special law which the Authority is entitled to enforce, to an administrative fine which shall not exceed the amount of two thousand five hundred euro (€2,500) for each breach and twenty-five euro (€25) for each day during which failure to observe the provisions of this Act or of any regulation made thereunder persists.

Exemption from taxes.

47. 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 for the time being in force.

Part IX
Administrative Review Tribunal

Administrative Review Tribunal.

48. (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 or regulations.

Cap. 490.

(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.

Appeals from decisions of the Authority other than the imposition of administrative fines.

49. (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 special 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 services or arrangements.

(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) There shall be a right of appeal from decisions of the Tribunal to the Court of Appeal in accordance with the provisions of Part IV of the Administrative Justice Act. Cap. 490.

Appeals against an administrative fine imposed by the Authority.

50. (1) Without prejudice to the provisions of this Part, the procedure to be followed in relation to appeals against administrative fines 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(3) may, within twenty (20) days from the date of such notification, lodge an appeal before the Tribunal objecting to the administrative fine so fixed.

(3) The Tribunal shall not annul an administrative fine as aforesaid unless it results to it that such fine 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 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) There shall be a right of appeal on points of law to the Court of Appeal (Inferior Jurisdiction) in terms of the Administrative Justice Act to any of the parties to the proceedings before the Tribunal. Cap. 490.

Decisions of the Appeals Tribunal.

51. 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.

52. (1) The Tribunal shall endeavour to determine an appeal expeditiously.

(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.

Decisions.

53. (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.

(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 the integrity of racing 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.

Part X
Miscellaneous

Power of the Minister to make regulations and of the Authority to issue guidelines.

54. (1) The Minister may, acting on the advice of the Authority, make regulations to give effect to the provisions of this Act, or to prescribe anything that is to be or which may be prescribed in terms of this Act, any special law which the Authority is entitled to administer or enforce or any other regulatory instrument and 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) regulate recognition and authorisation processes under this Act or any other special law which the Authority is entitled to administer or enforce; and the overall requirements and conditions for such recognition and authorisations, their grant, amendment, renewal, suspension, revocation and termination and other similar actions;

(b) regulate persons involved in activities regulated by or under this Act or any other special law which the Authority is entitled to administer or enforce; and all matters related thereto including the exemption of certain persons or categories of persons from any or all requirements of recognition and authorisations;

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

(d) lay down any penalties for any breaches of the provisions of this Act and for such purpose such regulations may impose punishments in respect of any breach, not exceeding a fine (*multa*) of twenty-five thousand euro (€25,000) and not exceeding one thousand five hundred euro (€1,500);

(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 horse racing sector;

(f) lay down rules establishing any licence, fees and tariffs which may be levied by the Authority in relation to the recognition of any arrangements or services under the provisions of this Act or any special law which the Authority is entitled to administer or enforce;

(g) to prescribe administrative fines for breaches of any regulations made under this Act, and for this purpose such regulations may impose administrative fines not exceeding twenty five thousand euro (€25,000) and not exceeding daily fine of one thousand five hundred euro (€1,500);

(h) lay down rules for the better carrying out of any of the provisions of this Act; and

(i) lay down rules which are to apply to the operation of the horse racing track; and determine, in the particular case,

the manner in which the rules applicable to drivers, owners and others involved in the horse racing industry.

(3) 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.

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

Conflict between texts.

55. 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.

Repeal and savings. Cap. 78

56. * (1) The following provisions of the Racecourse Betting Ordinance shall be repealed:

(a) articles 4 and 5; and

(b) paragraphs (a) to (c), (e) and (f) of article 14.

(2) The provisions of this article shall only come into force on such date as the Minister responsible for sport may, by notice in the Government Gazette, prescribe.

*Not yet in force.