I assent.

(L.S.)

EDWARD FENECH ADAMI
President

1st February, 2008

ACT No. V of 2008

An Act to amend the Malta Transport Authority Act, Cap. 332.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives in this present Parliament assembled, and by the authority of the same, as follows: -

Short title.

1. The short title of this Act is the Malta Transport Authority (Amendment) Act, 2008 and this Act shall be read and construed as one with the Malta Transport Authority Act, hereinafter referred to as "the principal Act".

Amendment of article 2 of the principal Act.

2. In article 2 of the principal Act, immediately after the definition "Chief Executives" there shall be inserted the following:

""conductors of public transport vehicles" means persons who collect fares and issue and or check tickets;".

Amendment of article 3 of the principal Act.

3. subarticle (1) of article 3 of the principal Act, immediately after the words "other members" there shall be added the words ", to perform the functions assigned to it by or under this Act".

Amendment of article 4 of the principal Act.

4. Article 4 of the principal Act shall be amended as follows:

(a) for the marginal note thereto there shall be substituted the words"Functions and powers of the Authority.";

(b) sub-article (1) shall be amended as follows:

(a) in paragraph (b) thereof, immediately after the words "to occupy," there shall be added the words "plan, design,";

(b) in paragraph (d) thereof, the words "and car park attendants" shall be deleted;

(c) paragraphs (f) to (n) shall be renumbered (j) to (r) respectively;

(d) immediately after paragraph (e) there shall be added the following new paragraphs:

"(f) to plan, install, construct and maintain bus stops, fare stages, bus termini, taxi stands, *karrozzini* stands and other commuter facilities, and to regulate the installation of bus shelters;

(g) to plan, design, regulate and authorize road traffic signs or signals, road markings and traffic calming measures, the installation of traffic control equipment and related lighting equipment, the construction of road ramps, and the installation of speed cameras and other road traffic facilities for the purposes of traffic management and control;

(h) to provide and regulate parking places for motor vehicles in public areas and streets, and to regulate and issue licences to car park attendants;

(i) to establish weights, dimensions and equipment requirements for motor vehicles;

(c) immediately after sub-article (2) there shall be added the following new sub-articles (3) and (4):

"(3) The Authority shall have the power to:

(a) grant, renew, refuse, suspend or revoke a licence in accordance with article 34 of this Act and any regulations made under this Act, and to establish the conditions under which such licence may be granted and the fees which may be payable for the grant of such licence;

(b) appoint Enforcement Officers charged with the management, supervision and enforcement of traffic and transport laws, who shall have the power to stop vehicles, issue prohibition notices and enter any registered premises of an authorised road transport operator and detain any document thereof, and to carry out such other functions and duties in accordance with regulations made under this Act;

(c) establish codes of conduct for the respective passenger road services provided for hire or reward;

(d) to establish, by regulations, and impose administrative penalties.

(4) The Authority shall also have the power to fund transport services, invest in transport systems and enter into negotiations and arrangements with other bodies to develop, improve and coordinate the provision of transport services.".

Amendment of article 5 of the principal Act.

5. In subarticle (2) of article 5 of the principal Act, for the words "in the Schedule" there shall be substituted the words "in the First Schedule".

Renumbering articles 31 and 32 of the principal Act.

6. Articles 31 and 32 of the principal Act shall be renumbered as articles 32 and 33 respectively.

Adds new article 31 to the principal Act.

7. Immediately after article 30 of the principal Act there shall be added the following new article 31 and heading:

"TRANSPORT APPEALS BOARD

Appointment of Appeals Board.

31. (1) There shall be established a Transport Appeals Board to hear and determine -

(a) appeals made by any person aggrieved by any decision of the Authority not to grant or renew, or to suspend or to revoke a licence, or to impose conditions, limitations or exclusions therein or therefor; and

(b) appeals made by any person aggrieved by an administrative or any other penalty imposed on that person.

(2) The Appeals Board shall consist of a lawyer who has been practising for not less than seven years, who shall preside, and two members versed in land transport.

(3) The chairperson and members of the Appeals Board shall be appointed by the Minister.

(4) A person shall not be qualified to be appointed as, or to remain, a member of the Appeals Board if that person is a:

(a) member of the House of Representative; or

(b) public officer.

(5) The chairperson and the members of the Appeals Board shall hold office for a period of three years and shall be eligible for re-appointment.

(6) The chairperson or a member of the Appeals Board may resign by letter addressed to the Minister.

(7) The chairperson or a member of the Appeals Board may be removed from office by the Minister -

(a) if the chairperson or member becomes incapable, through ill-health, of effectively performing his or her functions,

(b) for stated misbehaviour or gross negligence, or

(c) for conflict of interest, or

(d) if the chairperson's or member's removal appears to be necessary for the effective performance of the Appeals Board's functions.

(8) The Appeals Board shall have an independent administrative secretariat consisting of at least a secretary to the Appeals Board and any such other employees as may be necessary for the prompt and efficient determination of the matters within its jurisdiction and, for the proper execution of its functions, may also seek the advice of technical experts on any matter which is the subject of an appeal being heard.

(9) The Secretary and other administrative support required by the Appeals Board shall be provided by the Authority.

(10) The chairperson and members of the Appeals Board shall be paid such allowances for expenses as the Minister may determine.

(11) The Appeals Board shall give an advance notice of not less than sixteen calendar days of its hearings in such manner as it may deem appropriate.

(12) In hearing and determining an appeal, the Appeals Board shall act in accordance with such procedures as may be determined from time to time by it.

(13) The Appeals Board shall be independent in the performance of its functions.

(14) The decisions of the Appeals Board shall be final except with respect to points of law and equity and, or breaches of principles of natural justice, decided by the Appeals Board from which an appeal shall lie to the Court of Appeal (Inferior Jurisdiction).

(15) Subject to the above, appeals to the Appeals Board and the conduct of the business of the Appeals Board shall be made in accordance with the rules contained in the Second Schedule to this Act; and in the absence of such rules on any matter, the Appeals Board may regulate its own procedure.

(16) The decisions of the Appeals Board shall be binding if they are supported by the opinion of two of its members, and the dissenting member, if any, may express his or her opinion separately; and all decisions of the Appeals Board shall be delivered in public and shall be published as soon as practicable after the sitting at which they are given ".

Amendment of article 33, as renumbered, of the principal Act.

8. Subarticle (2) of article 33, as renumbered, of the principal Act shall be amended as follows:

(a) in paragraph (a) for the words "motor-cars", wherever they appear, there shall be substituted the words "motor vehicles", for the words "the conductors of motor buses" there shall be substituted the words "conductors of public transport vehicles", and immediately after the words "car hire garages," there shall be added the words "transport of passengers or goods for hire or reward,";

(b) in paragraphs (g), (h), (i), (k) and (m) for the words "motor-cars", wherever they appear, there shall be substituted the words "motor vehicles";

(c) paragraphs (v) and (w) shall be renumbered (w) and (x) respectively; and

(d) immediately after paragraph (u) there shall be added the following new paragaph:

"(v) for the powers and duties of Enforcement Officers appointed by the Authority;".

Addition of new article 34 to the principal Act.

9. Immediately after article 33, as renumbered, of the principal Act, there shall be added the following new article 34:

"Refusal to grant or to renew, suspend or revoke a licence.

34. (1) The Authority may refuse to grant or renew a licence or, at any time, suspend a licence for a specified period or revoke it.

(2) The Authority may refuse to grant a licence if it is satisfied, on reasonable grounds, that -

(a) there exists a serious and potentially enduring excess over supply, or

(b) the applicant has supplied information in or in connection with the application for the licence that was false or misleading, or

(c) the applicant has contravened any provision of this Act or any other Act regulating land transport and traffic or regulations thereunder.

(3) The Authority may refuse to renew a licence if it is satisfied, on reasonable grounds, that the licensee –

(a) supplied information in or in connection with the application for the renewal of the licence that was false or misleading, or

(b) has contravened any provision of this Act or any other Act regulating land transport and traffic or regulations thereunder,

(c) is no longer a fit and proper person to provide a service for which such person is licensed.

(4) Where the Authority is satisfied that a licensee has been guilty of misconduct in the course of providing a service or has contravened any provision of this Act or any other Act regulating land transport and traffic or regulations thereunder, it may suspend the licence for a specified period or revoke the licence.

(5) Where the Authority proposes to refuse to grant or renew a licence, or to suspend or revoke a licence, it shall notify the applicant or licensee of its proposal, giving the reasons for such refusal, suspension or revocation, and shall consider any representations that are made to it in writing by the applicant or licensee within 14 days after the said notification.

(6) If the Authority, having considered any such representations, decides to refuse to grant or renew a licence or to suspend or revoke it, it shall notify the applicant or licensee of the decision and the ground leading to such suspension or revocation and of the procedure for appealing against it.".

Amendment of the Schedule to the principal Act.

10. For the word "Schedule" in the title of the Schedule to the principal Act, there shall be substituted the words "First Schedule".

Addition of new Schedule to the principal Act.

11. Immediately after the First Schedule, as renamed, to the principal Act, there shall be added the following new Second Schedule:

"SECOND SCHEDULE

(ARTICLE 31(12))

Proceedings before the Transport Appeals Board and appeals therefrom

1. Any person who feels aggrieved by a decision of the Authority, as provided in article 31(1), may appeal to the Transport Appeals Board, on payment of an appeal's fee of Lm50, within thirty days from the date the decision on which the appeal is entered is communicated to the person concerned.

2. The application shall state the grounds for the appeal and the request of the appellant, and a copy of it shall be communicated to the Authority before the appeal is heard.

3. The appellant shall appear before the Appeals Board either in person or through an agent on the day and at the time fixed for the hearing, make his submissions and produce such evidence as the Appeals Board may permit:

Provided that the Appeals Board may postpone the hearing of the appeal if it is satisfied that the appellant was prevented from appearing before it owing to illness or absence from Malta or other similar reasonable cause.

4. The appellant or his or her agent shall have the right to appear before the Appeals Board duly assisted.

5. The Appeals Board shall give the Authority an opportunity to make its submissions in justification of its decisions, and bring such evidence as the Appeals Board may consider necessary.

6. The Appeals Board shall have the power to summon witnesses and to administer the oath to any person appearing before it.

7. The Appeals Board shall have power to confirm, revoke or alter the decision appealed against and give such directions as it may deem appropriate.

8. All members of the Appeals Board shall be present for a hearing of an appeal.

9. The decisions of the Appeals Board shall be final and no appeal shall lie therefrom except on a point of law.

10. If the appellant or the Authority, as the case may be, are dissatisfied with any point of law decided by the Appeals Board, they may appeal to the Court of Appeal (Inferior Jurisdiction) by an application filed within thirty days from the day of the decisions is delivered by the Appeals Board.

11. All hearings of the Appeals Board shall be held in public and all decisions of the Appeals Board shall be given in public.

12. Subject to the foregoing provisions and to the provisions of this Act, the Appeals Board shall regulate its own procedure.

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Passed by the House of Representatives at Sitting No. 613 of 29th January, 2008.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives

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