

CHAPTER 438

LOTTERIES AND OTHER GAMES ACT

To make provision for the regulation of lotteries and other games and gaming operations in Malta, for the setting up of a Lotteries and Gaming Authority, and for any other purposes connected therewith including the amendment and consolidation of existing laws relating thereto.

2nd September, 2002;
16th February, 2004;
1st October, 2007

ACT XXIV of 2001, as amended by Act III of 2004, and Legal Notices 426 of 2007 and 168 of 2008.

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PART I - PRELIMINARY

Short title. **1.** The short title of this Act is the Lotteries and Other Games Act.

PART II - DEFINITIONS

Interpretation.
Amended by:
III. 2004.162;
L.N. 426 of 2007.

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

"amusement game" means a game played by means of an amusement machine;

"amusement machine" means any type of machine, whether operated electrically, electronically, mechanically, manually or otherwise, used for the purpose of playing games exclusively for amusement purposes and not for gambling purposes, and which is operated by the insertion of money or any amusement machine token and where in the operation thereof a successful player neither receives nor is offered any benefit other than the opportunity, if any, afforded by the automatic action of the machine to play the game again without the insertion of other money or amusement machine tokens;

"amusement machine token" means a device which can be bought for insertion in amusement machines instead of money, for the operation of such machines;

"approved meeting" means a meeting at which horse races and, or dog races, other than trial races, are held on an approved racecourse with the approval of the respective Racecourse Control Board appointed in respect of such approved racecourse under article 46;

"approved racecourse" means any racecourse and any ground adjacent thereto, in respect of which racecourse and adjacent ground there is a valid certificate of approval issued by the Minister responsible for sport under article 44;

"approved racing club" means a racing club in respect of which there is a valid certificate of approval issued by the Minister responsible for sport under article 45;

"authorised game" means a game authorised by the Authority to be operated by a licensee in terms of its licence or a game operated by persons or other entities exempted from any licencing or authorisation requirement or permitted to operate such game without the need of any licence or authorisation in terms of this Act or regulations made thereunder;

"Authority" means the Lotteries and Gaming Authority established under article 9;

"bet" means a game in which the player is required to forecast any result or outcome in respect of one event or a set of events; and "betting" shall be construed as the playing of a bet;

"broadcasting media game" means any game which is organised by the owner or operator of a radio or television station, or a sub-contractor thereof, where the participation of players therein takes place by or as a result of their presence during the transmission or

the recording of the programme during which such game is organised or by any intervention on their part by any means of distance communication during or after the transmission or the recording of the programme during which such game is organised< and "broadcasting media game licence" means a licence to operate a broadcasting media game granted by the Authority to the owner or operator of a radio or television station or a sub-contractor thereof under article 41, and "broadcasting media game licensee" shall be construed accordingly;

"Chairman" means the Chairman of the Authority, and includes the Deputy Chairman or other person appointed to act as Chairman as mentioned in the circumstances contemplated in article 9(3);

"Chief Executive" means the Chief Executive appointed under article 14(1);

"commercial communication game" means a game which is organised with the purpose to promote or encourage the sale of goods or services, and which does not constitute an economic activity in its own right, and where any payments required to be made by the participant serve only to acquire the promoted goods or services and not to participate in the game, although it may be a condition that a person purchases the promoted goods or services in order to participate in the game; and "commercial communication game licence" means a licence to operate a commercial communication game granted by the Authority to a person under article 40, and "commercial communication game licensee" shall be construed accordingly;

"commercial tombola game" means any tombola game, other than a tombola game operated by a non-profit organization in terms of a non-profit game licence;

"Directorates" means such directorates as the Authority may establish under article 13;

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

Provided that the first financial year of the Authority shall commence on the coming into force of Part IV and shall end on the 31st December of the next following year;

"game" means and includes, except for the purposes of the definitions of "amusement machine" and "amusement game" in this subarticle, a game of chance and a game of chance and skill, but does not include (i) a sport event, although it includes a sport bet and any other game of chance and game of chance and skill the operation or playing of which depends on a sport event or a set of sport events or the result or outcome thereof and (ii) an amusement game;

"game of chance" means a game for money and, or prizes with a monetary value, the results of which are totally accidental;

"game of chance and skill" means a game for money and, or prizes with a monetary value, the results of which are not totally accidental but depend, to a certain extent, on the skill of the participant;

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"gaming device" means any electrical, electronic or mechanical device, ticket or any other thing which is used or intended for use in connection with the operation, promotion or sale of a game and, or in gaming, and includes a totalisator, a VLT, a VLT central computer, a tombola scorecard and a tombola scoresheet;

"information society service" shall have the same meaning assigned to it in article 2(1) of the Electronic Commerce Act;

"inspector" means a person appointed by the Authority under article 17 to be an inspector;

"licensee" means and includes a National Lottery licensee and any other games licensee;

"lottery" means any game of chance where prizes are distributed by lot or chance among participants in the game;

"means of distance communication" includes any means which may be used for the communication, transmission, conveyance and receipt of information (including information in the form of data, text, images, sound or speech) or for the conclusion of a contract between two or more persons; without the simultaneous physical presence of those persons; such means may be unaddressed or addressed printed matter, a standard letter, press advertising with an order form, a catalogue, telephone with human intervention (including phone-ins during radio and television programmes) or without human intervention (such as automatic calling machine, audiotext), radio, videophone (telephone with screen), videotext (microcomputer and television screen) with keyboard or touch screen, electronic mail, facsimile machine (fax), and television (teleshopping), and any other means of communication, transmission, conveyance and receipt of information by wire, radio, optical means, electromagnetic means or by any electronic means;

"Minister" means the Minister of Finance;

"National Lottery" means generally all such games as are prescribed to form part of the National Lottery by virtue of regulations under this Act, and the terms and conditions of which and other matters relating thereto are also prescribed by regulations or in the National Lottery licence; and "National Lottery licence" means a licence to operate the National Lottery granted under article 26(3) to a company registered in Malta, and "National Lottery licensee" shall be construed accordingly;

"non-profit game" means a game organised by a non-profit organization, the net proceeds of which are intended for a religious, sports, philanthropic, cultural, educational, social or civic purpose or for any other purpose as the Minister may by order in the Gazette prescribe; and "non-profit game licence" means a licence to operate a non-profit game granted by the Authority to a non-profit organization under article 37, and "non-profit game licensee" shall be construed accordingly;

"non-profit organization" means any non-profit organization domiciled in Malta such as religious societies, band clubs, youth movements, cultural societies, literary societies, clubs promoting arts, sports clubs and sports associations, charitable societies,

philanthropic societies, political party clubs and political parties, trades union, social clubs or any other association or body of persons or individual person pursuing objectives of a religious, philanthropic, cultural, educational, social or civic nature, and approved in writing as a non-profit organization by the Authority for the purposes of this Act, and in respect of which such approval has not been revoked;

"other games" means and includes non-profit games operated by non-profit game licensees, commercial tombola games operated by tombola (bingo) hall licensees, commercial communication games operated by commercial communication game licensees, broadcasting media games operated by broadcasting media game licensees, VLT games operated by VLT licensees, and racecourse bets and sweepstakes operated by racecourse betting licensees, in terms of their respective licence and under such terms and conditions as may be prescribed by virtue of regulations, or by their respective licence; and "other games licensee" shall be construed accordingly;

"public officer" has the same meaning assigned to it by article 124 of the Constitution, but does not include a judge or a magistrate of the courts;

"qualifying shareholding" means a direct shareholding in a company which represents five *per centum* or more of the share capital issued by such company or of the voting rights attaching to such share capital or which makes it possible to exercise a significant influence over the management of the company, and "qualifying shareholder" shall be construed accordingly;

"racecourse" means any ground used or intended for use for the purpose of racing with horses and, or dogs thereon;

"racecourse bet" means a bet on a horse race or races or on a dog race or races conducted on a racecourse; and "racecourse betting" shall be construed as the playing of a racecourse bet;

"racecourse betting licence" means a licence to operate racecourse bets and, or sweepstakes granted by the Authority to an approved racing club or other person under article 43, and "racecourse betting licensee" shall be construed accordingly;

"Racecourse Control Board" means a Racecourse Control Board appointed in respect of an approved racecourse by the Minister responsible for sport under article 46;

"racing club" means and includes a club, organisation, company or any other association or body of persons which has as its object or as one of its objects the organisation and conduct of horse races and, or dog races on a racecourse, whether such club, organisation, company, association or body is the owner of such racecourse or not, and where a racecourse is owned by an individual, it includes that individual;

"relevant gaming device" means any electrical, electronic or mechanical device which is used or intended for use in connection with the operation, promotion or sale of a game and, or in gaming, and includes a totalisator, a VLT and a VLT central computer;

"seasonal tombola (bingo) hall licence" means a tombola (bingo) hall licence which is issued for such effective term as provided in item 1(2) of the Second Schedule, and which is renewable for such further periods as provided in item 1(3) thereof; and "seasonal tombola (bingo) hall licensee" shall be construed accordingly;

"small game" means any game wherein the aggregate retail value of all prizes which can be won in such game does not exceed the amount of two hundred and thirty-two euro and ninety-four cents (232.94) or such lesser amount as may be prescribed in respect of small games or a specified small game or games by the relevant regulations made under article 78(2)(g);

"sport bet" means a bet on a sport event or a set of sport events and includes a racecourse bet;

"stake" means the economic value which the player of a game, or any third party on his behalf, has to commit in order for the player to participate in such game and which he can lose, wholly or in part, following the result of the game;

"sweepstake" means a game connected with a horse race or races conducted on a racecourse which is played as provided in item 1 of the Sixth Schedule;

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"subsidiary" has the same meaning as is assigned to the term "subsidiary undertaking" by the Companies Act;

"tombola game" means a game of chance, also known as "bingo" in which the player uses a tombola scoresheet or a tombola scorecard or an electronic representation thereof bearing numbers, and is played by marking or covering numbers from one (1) to ninety (90), both numbers inclusive, as are identical to numbers drawn by chance, whether manually or electronically, and won by the player who first marks or covers the "line" which is achieved when, during one game, for the first time all five numbers on one horizontal row on one scorecard are drawn; or the "house" or "bingo" which is achieved when, during one game, for the first time all the fifteen numbers on one scorecard are drawn;

"tombola (bingo) hall" means such premises in respect of which a tombola (bingo) hall licence has been granted to a company registered in Malta to hold commercial tombola games therein; and "tombola (bingo) hall licence" means a licence to operate commercial tombola games in a tombola (bingo) hall granted by the Authority under article 38 to a company registered in Malta and includes a yearly tombola (bingo) hall licence and a seasonal tombola (bingo) hall licence, and "tombola (bingo) hall licensee" shall be construed accordingly;

"tombola (bingo) session" means a pre-established period of time during which a number of tombola games are held;

"tombola scorecard" means the unit of tombola game on which some of the numbers participating in such tombola game are printed or otherwise electronically represented, and by which a player may participate in such tombola game;

"tombola scoresheet" means a combination of tombola scorecards on which all the numbers participating in a tombola

game are printed or otherwise electronically represented, and by which a player participates in such tombola game;

"totalisator" means the contrivance for racecourse betting known as the totalisator of pari-mutuel, or any other device or instrument of a like nature which is used or intended for use in connection with racecourse betting, whether operated electrically, electronically, mechanically, manually or otherwise;

"Video Lottery Terminal" or "VLT" means a gambling machine for the playing of a game or a number of games where the winning chances mainly depend on chance and where the winning combination is determined through a random number or symbol generator installed in the machine itself, which delivers winnings only in the form of VLT payout vouchers, which is connected to a VLT central computer and which contains at least the following components, namely a protective cabinet divided into separate parts (such as the VLT CPU, printer unit, and the cashbox) with unique locking devices to the said different parts, a video display unit, a CPU which processes the game or different games which can be played by means of the VLT, a slot for coins and, or banknotes or other means of receiving payment of the relevant stake, a cashbox, a printer or other means of producing legible data on documentary format and an electronic link to the VLT central computer;

"VLT central computer" means a computer system operated by the VLT licensee to which all activated VLTs in the system must be connected, and which is able to register all gaming taking place through such VLTs and to supervise all operations carried out in or through such VLTs and to store and provide reports and information on the aforesaid matters and any other functions as may be prescribed by regulations made under this Act;

"VLT CPU" means one or several printed circuit cards in the VLT which can be programmed or are equipped with exchangeable programmes or memories;

"VLT game" means a game played by means of a VLT; and "VLT licence" means a licence to operate VLT games and gaming through a VLT or VLTs granted by the Authority under article 42 to a company registered in Malta, and "VLT licensee" shall be construed accordingly;

"VLT payout voucher" means a ticket or other document, containing such information and characteristics as may be prescribed by regulations or in the relevant VLT licence, which is not money and which is produced by the VLT itself to a winner of a VLT game and which is exchanged or redeemed for the actual prize or prizes of such game against presentation of such ticket or document through means which are separate from and not incorporated in the VLT itself after any applicable validation and, or authenticity tests (whether by means of devices installed in the VLT itself or otherwise) are carried out;

"yearly tombola (bingo) hall licence" means a tombola (bingo) hall licence which is issued for such effective term as provided in item 1(1) of the Second Schedule, and which is renewable for further periods of one year each as provided in item 1(3) thereof;

and "yearly tombola (bingo) hall licensee" shall be construed accordingly.

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Cap. 263.

(2) Except as otherwise expressly provided in this Act, nothing in this Act shall prejudice the operation of, or shall be deemed to substitute or to derogate any of the provisions of, the Gaming Act and the Prevention of Corruption (Players) Act.

(3) 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.

PART III - GENERAL PRINCIPLES

Games which can
be played by
persons in Malta.
Substituted by:
L.N. 168 of 2008.

3. (1) Any game which originates from Malta or which is offered from Malta or which involves a transaction that is concluded in Malta, which is not an authorised game, or which is not authorised to be operated under any law in Malta other than this Act and regulations made thereunder, or which is not authorised to be operated under any law enacted by a member state of the European Union or a member state of the European Economic Area or by any other jurisdiction or territory approved by the Authority, is prohibited from being played by any person in Malta.

(2) The provisions of subarticle (1) also apply to any game offered directly or indirectly from abroad or from Malta to persons in Malta through a means of distance communication.

Game based on the
result of games.
Cap. 400.

4. Without prejudice to the provisions of article 78(2)(g), no authorised game may be organised on the results of games operated by the holder of a casino licence issued under the Gaming Act in terms of such licence or by a licensee under this Act in terms of his licence, or on the results of any game which is lawfully organised outside Malta, without the prior approval in writing of the Authority, and if such approval is given, the relevant authorised game may then be organised as aforesaid only subject to such terms and conditions as may be specified by the Authority in its approval, which terms and conditions may *inter alia* make the approval subject to the condition that the person to whom such approval is given seeks and obtains the prior consent to so organise the relevant authorised game from the casino licensee or the licensee operating the game on the results of which such relevant authorised game is to be organised or, as the case may be, from the person lawfully organising the game outside Malta on the results of which game the relevant authorised game is to be organised:

Provided that in the case of authorised games operated by a licensee, the aforesaid approval of the Authority and any relevant terms and conditions may be incorporated in the respective licence issued to such licensee.

Games which can
be operated, etc.,
by persons in
Malta.
Substituted by:
L.N. 168 of 2008.

5. Any game which is not an authorised game, or which is not authorised to be operated under any law in Malta other than this Act and regulations made thereunder, or which is not authorised to be operated under any law enacted by a member state of the European Union or a member state of the European Economic Area or by any other jurisdiction or territory approved by the Authority,

or which is not a game which is operated by the holder of a permit granted under regulations made under article 78(3) in terms of such permit, is prohibited from being operated, promoted or sold by any person in Malta:

Provided that the Authority may impose such proportionate requirements and conditions, in conformity with European Union law, as it may deem necessary in fulfillment of its functions under this Act, or as the Minister may direct the Authority by virtue of article 12, in respect of games authorised under any law enacted by a member state of the European Union or a member state of the European Economic Area or any other jurisdiction or territory approved by the Authority:

Provided further that such requirements and conditions shall be compatible with international obligations.

6. It shall be an offence against this Act for any person to -
 - (a) operate, promote, sell, or participate in, or in any way to aid or abet the operation, promotion or sale of a game in contravention of articles 3 or 4; or
 - (b) operate, promote or sell or in any way to aid or abet the operation, promotion or sale of a game in contravention of article 5:

Offences against this Part.

Provided that the liabilities and obligations of providers of information society services in connection with games shall be regulated by the provisions of articles 22 to 25 of the Electronic Commerce Act, and nothing in this article or in any other provision of this Act shall prejudice the operation of the said articles 22 to 25 of the Electronic Commerce Act.

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7. (1) No person shall place on the market, manufacture, maintain or supply any relevant gaming device, or any part or parts thereof, unless such person is in possession of a valid licence to this effect issued by the Authority or unless such person is exempted from such licensing requirement in respect of such relevant gaming device in terms of regulations made under this Act.

Importation, etc., of relevant gaming devices.
Substituted by:
L.N. 168 of 2008.

(2) An application for a licence to place on the market, manufacture, maintain or supply a relevant gaming device, or any part or parts thereof, shall be made in such form and manner required by the Authority or as prescribed by regulations, and in granting such licence the Authority may subject it to such conditions as it may deem appropriate or as may be prescribed by regulations. The Authority may order the cancellation or suspension of any such licence in such circumstances as may be prescribed by regulations or in the said licence.

(3) Any person who places on the market, manufactures, maintains or supplies, or in any way aids or abets the importation, manufacture, maintenance or supply of , a relevant gaming device in contravention of subarticle (1), shall be guilty of an offence against this Act.

8. (1) Without prejudice to the provisions of article 39, any

Age prohibition.

person who offers for sale or sells any game to a person under the age of sixteen years of age shall be guilty of an offence.

(2) It shall be a defence for any such person as is mentioned in subarticle (1) to prove that he had requested and obtained from the person under the age of sixteen years, documentary evidence relating to his age, and that such evidence tendered by the underaged person *prima facie* showed that he was not under the prescribed age.

PART IV - ESTABLISHMENT AND FUNCTIONS OF THE LOTTERIES AND GAMING AUTHORITY

Establishment and composition of the Lotteries and Gaming Authority.

9. (1) There shall be a body, to be known as the Lotteries and Gaming Authority, which shall consist of a Chairman and four other members.

(2) The Chairman and the other members of the Authority shall be appointed by the Minister for a term, being not more than three years, as may be specified in the instrument of appointment, but the members so appointed may be re-appointed on the expiry of their term of office.

(3) The Minister may designate one of the other members of the Authority as Deputy Chairman and the member so designated shall have all the powers and perform all the functions of the Chairman during his absence or inability to act as chairman or while the Chairman is on vacation or during any vacancy in the office of chairman. The Minister may also, in any of the circumstances mentioned above in this subarticle, appoint another person to act as chairman and in such case, the foregoing provisions of this subarticle shall apply in respect of such person.

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

- (a) is a Minister, Parliamentary Secretary or a member of the House of Representatives;
- (b) is a judge or magistrate of the courts of justice;
- (c) has a financial or other interest in any enterprise or activity directly involving games or gaming, or in a licensee, which is likely to affect the discharge of his functions as a member of the Authority;
- (d) is an undischarged bankrupt;
- (e) has been convicted of an offence punishable by imprisonment for a period of six months or more;
- (f) has been found guilty of an offence under this Act or any other Act relating to lotteries or gaming or of an offence against public trust.

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

- (a) at the expiry of his term of office; or
- (b) if he resigns; or
- (c) if any circumstances arise that disqualify such member

from holding office as a member of the Authority; or

(d) if he is removed from office in terms of this article.

(6) A member of the Authority may be removed from office by the Minister if, in the opinion of the Minister, such member is unfit to continue in office or has become incapable of properly performing his duties as a member.

(7) If a member resigns or if the office of a member of the Authority is otherwise vacant or if a member is for any reason unable to perform the functions of his office, the Minister may appoint a person who is qualified to be appointed as a member, to be a temporary member of the Authority. Any person so appointed shall, subject to the provisions of subarticles (5) and (6), cease to be such a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

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

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

Legal personality
and representation
of the Authority.

(2) Without prejudice to the provisions of article 58, the legal and juridical representation of the Authority shall vest in the Chief Executive:

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

Provided further that in respect of any matter falling within the functions vested in any Directorate by the Authority, the legal and juridical representation of the Authority shall also vest in the head of such Directorate and in such member, officer or employee of the Authority, as the Authority may appoint or authorise for the purpose.

(3) Any document purporting to be an instrument made or issued by the Authority and signed by the Chief Executive, or by a head of a Directorate in relation to any matter falling within the functions vested in the relative Directorate by 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.

Functions of the
Authority.
Amended by:
L.N. 168 of 2008.

11. The functions of the Authority shall be -

- (a) to issue a National Lottery licence and licences to operate other games and to supervise the operation of licensees to ensure that licensees comply with the terms and conditions of their licence and with the provisions of this Act and of regulations made under this Act and with any applicable directives issued by the Authority in terms of this Act or regulations made thereunder;
- (b) to issue permits to sellers of games forming part of the National Lottery in terms of article 36;
- (c) to inquire into the suitability of licensees and the main suppliers thereof, and to ensure that those involved in the operation, promotion or sale of authorised games operated by such licensees are fit and proper persons to carry out their functions relative to such games;
- (d) to ensure that licensees publish the rules of the authorised games operated by them in terms of their licence in such manner as may be deemed appropriate by the Authority;
- (e) to use all powers vested in it by this or any other law to ensure that games and gaming are kept free from criminal activity, and to prevent, detect and ensure the prosecution of any offence against this Act, other than an offence arising under any provision of Part VIII;
- (f) to ensure that authorised games are operated and advertised fairly and in a responsible manner and in accordance with the law;
- (g) to regulate by licence the placing on the market, manufacture, supply and maintenance of relevant gaming devices, and to ensure that they are secure and satisfactory for the use for which they are intended;
- (h) to supervise, attend and validate the draws of the National Lottery and of such other authorised games as it deems necessary;
- (i) to receive and investigate complaints by consumers relating to games;
- (j) to advise the Minister on new developments, needs and risks in gaming and to make such proposals as may be deemed necessary or expedient to respond thereto;
- (k) to advise the Minister on the making of regulations;
- (l) to issue directives it is authorised to issue in terms of this Act or of any other law or of regulations made

thereunder;

- (m) to perform any other function as may from time to time be assigned to it by this Act or any other law or by regulations made thereunder.

12. (1) The Minister may in relation to matters that appear to him to affect the public interest, from time to time give to the Authority directions in writing of a general character, not inconsistent with the provisions of this Act, on the policy to be followed in the carrying out of the functions vested in the Authority by or under this Act, and the Authority shall, as soon as may be, give effect to all such directions.

Relations between the Minister and the Authority.

(2) The Authority shall afford to the Minister facilities for obtaining information with respect to its property and activities and furnish him with returns, accounts and other 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.

13. (1) Subject to the other provisions of this Act, the affairs and business of the Authority shall be the responsibility of the Authority itself but save as aforesaid, the executive conduct of the Authority, its administration and organisation and the administrative control of its officers and employees, shall be the responsibility of the Chief Executive of the Authority, who shall also have such other powers as may from time to time be delegated to him by the Authority.

Conduct of the affairs of the Authority.

(2) The Authority may exercise its functions through Directorates which may be established by it from time to time and, for such purpose, it may vest in each of the Directorates so established, and subject to the overall supervision and control of the Chief Executive, such of its functions as relate or are ancillary to the matters for which the said Directorate is responsible so as to enable the said Directorate to give effect to the policies of the Authority and to otherwise discharge effectively and efficiently the functions of the Authority in its respective area of operation.

(3) Each of the Directorates so established shall be headed by a person who shall either be a public officer detailed for duty with the Authority or an employee of the Authority or a person detailed to work for the Authority in accordance with an agreement made between the Authority and a public or private undertaking, in either case having adequate experience and knowledge in the area of operation of the said Directorate.

(4) The Authority and each of the Directorates may exercise any one or more of their functions either directly or through any of the Authority's officers or employees or agents or through an agency authorised for the purpose, or through any 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 subarticle shall authorise the Authority to contract out any of its regulatory or licensing functions, although the Authority may contract out any other of its

functions, or procure from any person any services, for the purposes of carrying out its regulatory or licensing functions.

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

Appointment of
Chief Executive
and heads of
Directorates.

14. (1) The Chief Executive and the heads of the Directorates shall be appointed by the Authority after consultation with the Minister for such period as may be established by the Authority in their letter of appointment:

Provided that the first Chief Executive shall be appointed by the Minister.

(2) The conditions pertaining to the qualification for the appointment of persons and to their holding office as members of the Authority in article 9 shall also pertain to the appointment of, and to the holding of office as, the Chief Executive and the heads of the Directorates.

(3) The Chief Executive shall attend such meetings of the Authority as requested by the said Authority, but shall not vote at such meetings.

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

- (a) assume full responsibility for the overall supervision and control of the Directorates;
- (b) assign to each Directorate such duties which are by, or in accordance with, the provisions of this Act vested in such Directorate;
- (c) co-ordinate the workings of the Directorates;
- (d) develop the necessary strategies for the implementation of the objectives of the Authority;
- (e) advise the Authority on any matter it may refer to him or on any matter which he considers necessary or expedient; and
- (f) perform such other duties as the Authority may assign to him from time to time.

Provisions with
respect to
proceedings of the
Authority.

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

(2) The Chairman and at least two other members of the Authority shall form a quorum. Decisions shall be adopted by a

simple majority of the votes of the members present and voting. The Chairman 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 Authority.

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

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

(5) All acts done by any person acting in good faith, as a member of the Authority 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 9(8).

16. (1) Without prejudice to any power exercisable by virtue of the provisions of this Act or of any other law, the Authority may at any time serve on a licensee a notice requiring him, in such manner and within such reasonable time as may be specified in the notice, to produce or supply for inspection by or on behalf of the Authority, any books, documents, information or any other thing which the Authority knows, or has reasonable cause to believe, to be in the possession of, or to be known to, the licensee for the purpose of carrying out any of its functions under article 11.

Powers of the Authority.

(2) If without reasonable excuse any requirement imposed by a notice served by virtue of subarticle (1) is not complied with, the licensee shall be guilty of an offence under this Act.

17. (1) The Authority shall, in consultation with the Minister, appoint inspectors who shall have such powers and functions as are or may be assigned to them by or under this Act or any other law or by or under regulations made thereunder. Inspectors may, in carrying out their functions and in exercising their powers, be assisted by or accompanied with such experts as the Authority may direct.

Inspectors.

(2) Inspectors so appointed shall be officers of the Authority and shall act under the instructions of the Authority, acting through the Chief Executive.

(3) The Authority shall cause to be issued to each inspector an identity card which shall specify the name and appointment of the inspector and contain a recent photograph of the inspector.

(4) A person appointed to be an inspector shall, upon ceasing to be an inspector, return his identity card to the Authority.

18. (1) An inspector shall, for the purpose of ascertaining that the provisions of this Act, or of any regulations made thereunder, or that the conditions of any licence issued thereunder are being complied with, and that the full amount of fees, duty, tax or any other sums payable under this Act or regulations made thereunder

Powers of inspectors.

are being paid, have the following powers and any other powers as may from time to time be given by the Authority in consultation with the Minister, namely:

- (a) to require, in writing or orally as he deems appropriate, any person whom the inspector believes, on reasonable grounds, to be in possession or have under his control, any gaming device, books or any other documents whatsoever related to games, the operation of games or, generally, gaming -
 - (i) to produce such device, books or other documents to the inspector for inspection or testing; or
 - (ii) to attend before the inspector at a reasonable time and place specified by the inspector and there to answer such questions, or to supply such information, relating to the gaming device, books or documents as the inspector specifies;
- (b) to require, in writing or orally as he deems appropriate, a licensee or a person acting on behalf of a licensee -
 - (i) to produce to the inspector for inspection such book or document or any other thing in his custody or control relating to the operation of authorised games as the inspector specifies; or
 - (ii) to attend before the inspector at a reasonable time and place specified by the inspector and there to answer such questions, to supply such information, or to produce such book or document or any other thing relating to the operation of authorised games as the inspector specifies;
- (c) to inspect or test any gaming device, inspect such book or document, and take copies of, or make notes in relation to, such book or document, relating to the operation of games as the inspector considers necessary;
- (d) to direct a licensee, in writing or orally as he deems appropriate, not to use in relation to the operation, promotion or sale of authorised games, any gaming device that the inspector considers to be unsatisfactory for the use for which it is intended;
- (e) to receive and, if the inspector thinks that it is appropriate so to do, investigate a complaint with respect to any aspect of the operation of a game and to make a report of the result of such investigation to the Authority;
- (f) to call to his assistance -
 - (i) another inspector; or
 - (ii) an employee of a licensee who, in the belief of the inspector, is competent to assist the inspector

in the exercise of his powers or in the performance of his duties; and

- (g) to require any person entering or to be found at any place where a game is offered for sale, or where games are being organised or operated, or where gaming takes place, to produce identification documents and, or evidence of his age,

and a direction given by an inspector to a licensee in terms of paragraph (d) shall be deemed to be a directive issued by the Authority in terms of this Act for the purposes of this Act.

(2) An inspector shall make a report on the exercise of his functions under this Act to the Authority.

(3) Any person who, without reasonable excuse, hinders or fails to assist an inspector in the exercise of his functions and powers and the discharge of his duties under subarticle (1) or under article 19, shall be guilty of an offence under this Act.

19. An inspector may at reasonable times, upon production of his identity card, enter and remain in any place where games are offered for sale, or where games are being organised or operated, or where gaming takes place, for the purposes of -

Rights of inspectors.

- (a) viewing gaming;
- (b) observing any of the operations of licensees or of sellers of games or, generally, of gaming;
- (c) ascertaining whether the operation of licensees or of sellers of games or of games is being properly conducted, supervised and managed;
- (d) ascertaining whether the provisions of this Act, or of regulations made thereunder, or of any licences issued thereunder, are being complied with; and
- (e) in any other respect, exercising his powers or performing his duties.

20. Without prejudice to the provisions of the Professional Secrecy Act, any information disclosed to the Authority or any member, officer or employee thereof, the Chief Executive, any Directorate or any inspector, and any document produced in pursuance of the provisions of this Act, shall be secret and confidential and may not be disclosed or produced other than for the purposes of this Act, or to the police for the purposes of any investigation or prosecution of an offence against this Act or when requested to do so by a court of law in any criminal proceedings for an offence against this Act or in any civil proceedings relating to the operation, promotion or sale of any game, or generally, to gaming.

Professional secrecy.
Cap. 377.

PART V - OFFICERS AND EMPLOYEES OF THE AUTHORITY

21. Without prejudice to the other provisions of this Act, the appointment of officers and other employees of the Authority shall be made by the same Authority. The terms and conditions of

Staff appointments.

	employment shall be established by the Authority.
Appointment and functions of officers and employees of the Authority.	<p>22. The Authority shall appoint and employ, at such remuneration and upon such terms and conditions as it may in accordance with article 21 determine, 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.</p>
Detailing of public officers for duty with the Authority.	<p>23. (1) The Prime Minister may, at the request of the Authority, from time to time direct that any public officer shall be detailed for duty with the Authority in such capacity and with effect from such date as may be specified in the Prime Minister's direction.</p> <p>(2) The period during which a direction as aforesaid shall apply to any officer specified therein shall, unless the officer retires from the public service or otherwise ceases to hold office at an earlier date, or unless a different date is specified in such direction, cease to have effect after one year from the effective date of such direction unless the direction is revoked earlier by the Prime Minister.</p>
Status of public officers detailed for duty with the Authority.	<p>24. (1) Where any officer is detailed for duty with the Authority under any of the provisions of article 23, such officer shall, during the time in which such direction has effect in relation to him, be under the administrative authority and control of the Authority but he shall, for other intents and purposes, remain and be considered and treated as a public officer.</p> <p>(2) Without prejudice to the generality of the foregoing, an officer detailed for duty as aforesaid -</p> <p>(a) shall not during the time in respect of which he is so detailed -</p> <p>(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at a date on which he is so detailed for duty; or</p> <p>(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Authority; and</p> <p>(b) shall be entitled to have his service with the Authority considered as service with the Government for the purposes of any pension, gratuity or benefit under the Pensions Ordinance and the Widows' and Orphans' Pension Act and of any other right or privilege to which he would be entitled, and shall be liable to any liability to which he would be liable, but for the fact of his being detailed for duty with the Authority.</p>
Cap. 93. Cap. 58.	

(3) Where an application is made as provided in subarticle (2)(a)(i), the same consideration shall be given thereto as if the applicant had not been detailed for service with the Authority.

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

25. (1) The Authority may, with the approval of the Prime Minister, offer to any officer detailed for duty with the Authority under the provisions of article 23, permanent employment with the Authority at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

Offer of permanent employment with the Authority to public officers detailed for duty with the Authority.

(2) The terms and conditions comprised in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister offer substantially equivalent or greater benefits.

(3) Every officer who accepts permanent employment with the Authority offered to him under the provisions of subarticle (1) shall, for all purposes other than those of the Pensions Ordinance and of the Widows' and Orphans' Pension Act, be deemed to have ceased to be in service with the Government and to have entered into service with the Authority on the date of his acceptance, and for the purposes of the said Ordinance and of the said Act, insofar as this applies in his case, service with the Authority shall be deemed to be service with the Government within the meanings thereof respectively.

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

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

PART VI - THE NATIONAL LOTTERY

26. (1) The Minister may operate the National Lottery or may decide to concede the operation of the National Lottery to another person in accordance with the provisions of this Act:

Operation or concession for the operation of the National Lottery.

Provided that the Minister may not operate the National Lottery at a time while a National Lottery licence is still in force:

Provided further that the Minister may operate the National

Lottery for such time during which a National Lottery licence is suspended in terms of article 35.

(2) Where the National Lottery is operated by the Minister, the Minister shall exercise all such powers as may be necessary or expedient for the purposes of such operation and the provisions of this Act relating to the National Lottery, other than those relating to licensing and the National Lottery licence, shall apply and have effect with any necessary modifications or adaptations as they apply and have effect in relation to the National Lottery as operated by a National Lottery licensee.

(3) Where the Minister decides to concede the operation of the National Lottery to another person, the Authority, and for the first time after the entry into force of this Part the Minister, may by licence authorise a person to operate the National Lottery. Only one person may be licensed to operate the National Lottery at any one time. No person, other than the Minister, may operate the National Lottery unless such person is in possession of a valid National Lottery licence.

(4) The functions of the Authority relating to the National Lottery and to the National Lottery licensee under this Act shall come into effect immediately after the grant of a National Lottery licence by the Minister for the first time after the entry into force of this Part.

Duration of
National Lottery
licence.

27. (1) The National Lottery licence shall be issued for such term as the Authority after consultation with the Minister, and for the first time after the entry into force of this Part as the Minister, may specify in the licence, which term shall commence to run on such day as may be specified in the licence as the date from when the licence shall become effective. Such date may be subsequent to, but not preceding, the date of issue of the licence.

(2) Unless a National Lottery licence is previously cancelled, it may be renewed by the Authority for one further period as the Authority after consultation with the Minister may determine.

(3) The renewal of the licence by the Authority shall be subject to the compliance by the National Lottery licensee, during the original term of such licence, with the provisions of this Act and of regulations made thereunder applicable to it and with the terms and conditions of such licence and with any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to such licensee, and subject to the acceptance by the Authority of the written application for such renewal made by the licensee to the Authority -

- (a) by such date before the expiry of the original term of the licence as specified in the licence; and
- (b) containing such information as specified in the licence to be necessary or expedient to enable the Authority to determine whether to renew the said licence.

(4) After the submission of an application for the renewal of a National Lottery licence, the Authority may require the applicant to provide such other information, in addition to that provided

together with the application, as may be deemed necessary for the purpose of determining the said application.

28. (1) An application for a National Lottery licence shall be made by, or on behalf of, or in respect of a company registered or to be registered in Malta the sole object of which is or shall be the operation of the National Lottery pursuant to a National Lottery licence under this Act and the doing of all such other things as are incidental or conducive to the attainment of such object and the carrying out of other activities as may be authorised in the licence by the Authority and, for the first time after the entry into force of this Part, by the Minister. Such application shall be made in the form and manner required by the Authority, and for the first time after the entry into force of this Part by the Minister, and such application shall furthermore contain or be accompanied by such information, documents and particulars as the Authority, and for the first time after the entry into force of this Part the Minister, may require or as may be prescribed by regulations.

Application for the National Lottery licence.

(2) In the case of an application for the grant of a National Lottery licence to a company which is not yet registered in Malta, the application shall be accompanied by an undertaking by the applicant to register a company in Malta as provided in subarticle (1) as soon as information is imparted by the Authority, and for the first time after the entry into force of this Part by the Minister, that the licence will be granted to such company when formed.

(3) After the submission of an application for the granting of a National Lottery licence, the Authority, and for the first time after the entry into force of this Part the Minister, may require the applicant to provide such other information, in addition to that provided together with the application, as may be deemed necessary for the purpose of determining the said application.

29. (1) The Authority, and for the first time after the entry into force of this Part the Minister, shall not issue a National Lottery licence to a person unless such person is a company registered in Malta the sole object of which is the operation of the National Lottery pursuant to a National Lottery licence under this Act and the doing of all such other things as are incidental or conducive to the attainment of such object and the carrying out of other activities as may be authorised in the licence by the Authority and, for the first time after the entry into force of this Part, by the Minister, and unless the Authority or, as the case may be, the Minister is satisfied that -

Grant of National lottery licence.

- (a) all persons holding or owning a qualifying shareholding in the company are fit and proper to benefit from the operation by the company of the National Lottery and to exercise their rights of membership in such manner as to ensure the proper operation by the company of the National Lottery;
- (b) the director or directors of the company are fit and proper to manage the affairs of the company and to exercise their functions and duties as directors in such manner as to ensure the proper operation by the

company of the National Lottery;

- (c) all persons who appear to the Authority to be likely to manage the business or any part of the business of the operation of the National Lottery are fit and proper persons to do so;
- (d) the company has, or will have upon the issue of the licence, the financial and technical means and the expertise necessary to properly operate the National Lottery and to fulfil all its obligations under this Act;
- (e) the company will take out, within seven days from the date of issue of the licence, and will thereafter maintain, the bank guarantee referred to in article 31(5) as provided and in accordance with the said article 31(5) and (6); and
- (f) the company is a fit and proper person to be the holder of the National Lottery licence and to operate the National Lottery, and will comply in all respects with the provisions of this Act and of any regulations made thereunder and applicable to it and with the terms and conditions of the licence and with directives issued by the Authority in terms of this Act or of regulations made thereunder and applicable to it.

(2) When the Authority, and for the first time after the entry into force of this Part the Minister, makes a preliminary decision to issue a National Lottery licence to a particular company registered in Malta, the Authority or, as the case may be, the Minister shall, before the issue of such licence, cause a notice to be published in the Gazette of the intended issue of the said licence, thereby calling upon any interested party to make representations, if any, objecting to the issue of the licence to such company.

(3) Such objection as is mentioned in subarticle (2) shall be in writing and shall contain a reasoned justification therefor, and is to be received by the Authority or the Minister, as the case may be, within twenty-one days from the date of the publication of the notice in the Gazette.

(4) The Authority or the Minister, as the case may be, shall consider any objection made and received by it as aforesaid before making any final decision as to the issue of the licence.

(5) The grant of a National Lottery licence shall not exonerate the licensee from obtaining any other licence, permit or authorization which may be required under any other law.

Form of the
National Lottery
licence.

30. The National Lottery licence shall be in such form as may be approved by the Authority, and for the first time after the entry into force of this Part by the Minister, and shall *inter alia* specify:

- (a) its date of issue;
- (b) its effective term;
- (c) the name, registered office and registration number of the licensee;
- (d) the address in Malta specified by the licensee for the

- purpose of the service of documents on it;
- (e) the name and address of the qualifying shareholders, directors and managers of the licensee;
 - (f) the type and particulars of games that can be operated under the licence;
 - (g) such matters relating to the gaming devices allowed to be used under the licence as the Authority considers necessary or expedient to specify;
 - (h) the minimum number, specifications and type of places from where games that can be operated under the licence may be offered for sale, and the minimum number of opening hours of such places;
 - (i) such other particulars as the Authority, and for the first time after the entry into force of this Part the Minister, considers necessary or expedient, or as may be prescribed in regulations.

The National Lottery licence need not specify any of the matters listed in paragraphs (f) or (h) when and to the extent that such matters are already specified in regulations made under this Act.

31. (1) In granting a National Lottery licence the Authority, and for the first time after the entry into force of this Part the Minister, may subject it to such conditions as it may deem appropriate, and after the grant of such licence the Authority may from time to time vary or revoke any condition so imposed, or impose new conditions:

National Lottery licence conditions and variations and revocations thereof.

Provided that the Authority may not vary any condition or impose any new condition in the National Lottery licence without the consent of the licensee if the licence provides that any such condition may only be varied, or that any such new condition may only be imposed, with the consent of the licensee:

Provided further that, without prejudice to the immediately preceding proviso, whenever the Authority deems it appropriate to vary any condition or impose any new condition in the National Lottery licence, the Authority shall, unless such variation or imposition of a new condition has been requested by the licensee himself, inform the licensee, by notice in writing, of its intention to vary the said condition or impose the said new condition, and call upon the said licensee to show cause, within such period as it may establish in the notice and which shall not be less than twenty-one days after the issue of the said notice, why such condition should not be varied or imposed, and it shall be the duty of the Authority to consider any response made by the licensee before varying the condition or imposing the new condition.

(2) Conditions in a National Lottery licence may impose such requirements as may be deemed to be necessary to be complied with by the licensee after the licence has ceased to have effect.

(3) A National Lottery licence may impose conditions requiring the licensee -

- (a) to obtain the consent of the Authority before doing anything specified, or of a description specified, in the licence; and
- (b) to refer matters specified, or of a description specified, in the licence to the Authority for approval.

(4) A National Lottery licence shall include a condition requiring the licensee to pay to the Authority, at such times as may be determined by or under the licence, such sums out of the proceeds of sale of any games forming part of the National Lottery and, or any other sums, fees, duties and, or taxes as may be so determined, which sums, fees, duties and, or taxes shall be in addition to those which the National Lottery licensee may be required to pay under any law other than this Act.

(5) A National Lottery licence shall include a condition requiring the licensee to take out, not later than seven days from the date of issue of the licence, a bank guarantee issued by a bank or credit or financial institution acceptable to the Authority, in favour of the Authority and on its own behalf and on behalf of the Government, in such amount as may be specified in the licence or as may be prescribed by regulations, for securing -

- (a) the payment and distribution of prizes by the licensee to winners of games forming part of the National Lottery;
- (b) the payment of fees, taxes, duties or any other sums payable by the licensee to the Authority in terms of the licence; and
- (c) the payment by the licensee of any fines or administrative penalties imposed on it under Part XII or under regulations made under this Act.

(6) Such bank guarantee as mentioned in subarticle (5) shall become payable to the Authority on its first demand and it shall not be incumbent upon the relative bank, credit or financial institution which issued the bank guarantee to verify whether such demand is justified. The bank guarantee shall remain valid until the expiry of one year after the expiry of the licence, and shall be subject to such other terms and conditions as may be specified in the licence or as may be prescribed by regulations.

(7) A National Lottery licence shall also include a condition requiring the licensee to submit to the Authority and, or publish, in such manner and at such times as may be specified in the licence, the audited accounts of the licensee and such other accounts, reports, returns and statements as may be specified in the licence.

(8) A National Lottery licence shall be deemed to include a condition that the licensee shall at all times during the period of operation of the licence have as its sole object the operation of the National Lottery pursuant to a National Lottery licence under this Act and the doing of all such other things as are incidental or conducive to the attainment of such object and the carrying out of other activities as may be authorised in the licence by the Authority and, for the first time after the entry into force of this Part, by the

Minister.

32. (1) Without prejudice to the following subarticles of this article, it shall be the duty of the National Lottery licensee and of the qualifying shareholders and directors thereof to notify the Authority forthwith of -

Changes in ownership or management of the licensee, etc.

- (a) any change in the Board of Directors or management of the licensee, or any material changes in the information and documentation provided in terms of article 28(1) and (3) or any other information or documentation provided by the licensee in terms of any other provision of this Act or of regulations made thereunder or in terms of conditions attached to the National Lottery licence; and
- (b) any resolution or intended resolution, or any application or intended application to the Court, or any other action, for the dissolution and winding up of the National Lottery licensee,

as soon as they become aware of such changes, resolutions or intended resolutions, applications or intended applications or actions.

(2) Where owing to a change as is referred to in subarticle (1)(a), whether the Authority has been notified of such change in accordance with the said subarticle or not, a situation arises that had it existed at the time of the application for the grant of the National Lottery licence, it would have disqualified the licensee from obtaining a licence in accordance with article 29(1), the Authority shall by notice inform the licensee accordingly, and if the situation shall not have been remedied to the satisfaction of the Authority within one calendar month from the notice given to that effect by the Authority, the Authority shall cancel the licence without complying with the provisions of article 35(1) to (3) and the provisions of article 35(4) and (5) shall *mutatis mutandis* apply in such circumstances:

Provided that the Authority shall not issue a notice as aforesaid later than three calendar months after being notified by the licensee or its qualifying shareholders or directors of the change in accordance with subarticle (1).

(3) In the circumstances mentioned in subarticle (1)(b), whether the Authority has been notified of such circumstances in accordance with the said subarticle or not, the Authority may issue such directives to the National Lottery licensee, its qualifying shareholders and, or its directors as it may deem appropriate in such circumstances.

(4) Failure by the licensee or the qualifying shareholders or directors thereof to comply with the provisions of subarticle (1), or with any directive issued to them by the Authority in terms of subarticle (3), shall constitute an offence against this Act.

(5) Notwithstanding anything contained in any other law, the approval in writing of the Authority shall be required before any person may lawfully -

- (a) acquire a qualifying shareholding in the National Lottery licensee;
- (b) increase an existing holding which is not a qualifying shareholding so as to cause it to become a qualifying shareholding in such licensee;
- (c) increase an existing qualifying shareholding in such licensee so as to cause it to equal or exceed ten *per centum* or twenty *per centum* or thirty *per centum* or forty *per centum* or fifty *per centum* of the share capital issued by the licensee or of the voting rights attaching to such share capital, or to cause the licensee to become that person's subsidiary;
- (d) reduce an existing qualifying shareholding in such licensee so as to cause it to fall below fifty *per centum* or forty *per centum* or thirty *per centum* or twenty *per centum* or ten *per centum* of the share capital issued by the licensee or of the voting rights attaching to such share capital, or to cause the licensee to cease to be that person's subsidiary;
- (e) reduce an existing qualifying shareholding in such licensee so as to cause it to cease to be a qualifying shareholding; or
- (f) divest itself of a qualifying shareholding in such licensee.

(6) The Minister may by order in the Gazette or by regulations vary or remove any of the percentages mentioned in subarticle (5)(c) and (d).

(7) Subarticle (5) shall apply whether or not any of the relevant shares are shares listed on any Stock Exchange.

(8) It shall be the duty of the National Lottery licensee and of the directors thereof to notify the Authority forthwith upon becoming aware that any person intends to take any of the actions set out in subarticle (5), and they shall refrain from registering the relevant action according to law or from taking any other action in respect thereof pending instructions from the Authority. Failure by the National Lottery licensee and the directors thereof to comply with the provisions of this subarticle shall constitute an offence against this Act.

(9) Notwithstanding anything contained in any other law, the approval in writing of the Authority shall be required before the National Lottery licensee may lawfully -

- (a) sell or dispose of its business in whole or in part;
- (b) merge with any other company;
- (c) undergo any reconstruction, division or any conversion of its status from a company into any other kind of commercial partnership; or
- (d) increase or reduce its nominal or issued share capital or effect any material change in voting rights.

(10) It shall be the duty of the directors and qualifying

shareholders of the National Lottery licensee to notify the Authority forthwith upon becoming aware that the licensee intends to take any of the actions set out in subarticle (9), and in default they shall be guilty of an offence against this Act.

(11) Any person intending to take any of the actions set out in subarticle (5) and the National Lottery licensee who intends to take any of the actions set out in subarticle (9) shall notify the Authority in writing in such form and manner, and such notification shall be accompanied with such information, as may be required by the Authority.

(12) Within two months of receipt of such notification or receipt of such information as the Authority may require, whichever be the later, the Authority shall issue a notice -

- (a) granting unconditional approval to the taking of the action;
- (b) granting approval to the taking of the action subject to such terms and conditions as the Authority may deem appropriate; or
- (c) refusing approval to the taking of the action, informing the person concerned or, as the case may be, the National Lottery licensee of the reasons of the refusal,

and if the Authority fails to issue any such notice within the said period of two months, it shall be deemed that the Authority has issued a notice in terms of paragraph (a).

(13) If any person or the National lottery licensee takes any action set out in subarticles (5) and (9) without obtaining the prior approval of the Authority in terms of this article, or takes any such action without complying with any term and condition specified by the Authority in granting such approval in terms of subarticle (12)(b), he shall be guilty of an offence against this Act. Furthermore, if any person or the National Lottery licensee takes or intends to take any of the said actions without obtaining the said approval or without complying with the said terms and conditions, then, without prejudice to the power of the Authority to suspend or revoke the National Lottery licence in terms of article 35, where applicable, and without prejudice to any other penalty which may be imposed under this Act, the Authority shall have the power -

- (a) to issue a directive declaring the action to be void and of no effect, which directive shall be effective against all persons involved in such action notwithstanding the provisions of any other law; or
- (b) to issue a directive to such person or, as the case may be, to the National Lottery licensee -
 - (i) restraining the person or the said licensee from taking the action;
 - (ii) requiring the person or the said licensee to take such steps or other action as may be necessary to restore the position existing immediately before the action was taken, within such period as may be specified by the Authority in the directive;

- (iii) restraining the person or the said licensee from exercising any rights resulting from the action, including the right to receive payments; or
- (iv) restraining the person or the said licensee from taking any similar action or any action within the categories set out in subarticles (5) and (9),

and such person or, as the case may be, the National Lottery licensee shall comply with any such directive issued to it by the Authority in terms of this paragraph (b), failing which it shall be guilty of an offence against this Act.

Licensee may not assign or transfer the licence.

33. (1) A National Lottery licence may not be assigned or transferred by the National Lottery licensee to any other person.

(2) The National Lottery licensee may not surrender the National Lottery licence during the licence term.

(3) The transfer or assignment of the National Lottery licence by the licensee to any other person shall be considered null and void.

(4) A National Lottery licensee who acts in breach of the provisions of this article shall be guilty of an offence against this Act.

Grounds for the cancellation or suspension of the National Lottery licence.

34. The Authority may order the cancellation or suspension of the National Lottery licence if -

- (a) any qualifying shareholder or director or manager of the licensee is convicted of an offence against this Act or of theft, receiving stolen property, fraud or any crime affecting public trust, or is in breach of any directive issued by the Authority in terms of this Act or regulations made thereunder and applicable to it;
- (b) the licensee contravenes any provision of this Act or of any regulations made thereunder applicable to it, or is in breach of any condition in the National Lottery licence or any directive issued by the Authority in terms of this Act or regulations made thereunder and applicable to it;
- (c) the licensee knowingly or recklessly supplies to the Authority material information that is false or misleading;
- (d) the licensee fails to fulfil the licensee's financial commitments when they become due and payable;
- (e) the licensee fails to take out and maintain the required bank guarantee as provided and in accordance with article 31(5) and (6);
- (f) the licensee is being wound up; or
- (g) the Authority is reasonably satisfied that any person holding or owning a qualifying shareholding in the licensee is not, or has ceased to be, a fit and proper person to benefit from the operation of the National Lottery by the licensee or to exercise his rights of

membership in such manner as to ensure the proper operation of the National Lottery by the licensee;

- (h) the Authority is reasonably satisfied that any director of the licensee is not, or has ceased to be, a fit and proper person to manage the affairs of the licensee and to exercise his functions and duties as director in such manner as to ensure the proper operation of the National Lottery by the licensee;
- (i) the Authority is reasonably satisfied that any person who is managing the business or any part of the business of the operation of the National Lottery is not, or has ceased to be, a fit and proper persons to do so;
- (j) the Authority is reasonably satisfied that the licensee is not, or has ceased to be, a fit and proper person to be the holder of the National Lottery licence and to operate the National Lottery, or it reasonably deems it necessary in the national interest to cancel or suspend the National Lottery licence.

35. (1) Where a ground for cancellation or suspension of the National Lottery licence arises under article 34, the Authority, by notice in writing, shall request the licensee, and may request any other person who in its opinion has an interest in the licence, to show cause, within such period as may be established in the same notice being not less than twenty-one days after the issue of the notice, why the licence should not be cancelled or suspended on such ground as stated in the notice.

Procedures for the cancellation or suspension of the National Lottery licence.

(2) The Authority shall consider any response made under subarticle (1) and -

- (a) where the matter is resolved to its satisfaction, it shall take no further action and shall inform the licensee in writing accordingly;
- (b) where, although the matter is not resolved to its satisfaction, it considers that no further action is warranted, it shall caution the licensee in writing; or
- (c) where the matter is not resolved to its satisfaction, and it considers that further action is warranted, it may -
 - (i) by notice in writing, give such direction to the licensee as it considers appropriate; or
 - (ii) suspend for such period as it thinks fit, or cancel, the licence.

(3) Where a direction given by the Authority under subarticle (2)(c)(i) is not complied with within the time limit specified in the notice, the Authority shall cancel the licence.

(4) The Authority shall immediately inform the Minister about the existence of a ground for cancellation or suspension of the National Lottery licence and keep him continuously informed of all measures being adopted in that regard.

(5) The Authority shall also immediately inform the Minister

Permit for person
to sell games
forming part of the
National Lottery.

about its decision to suspend or cancel the licence and shall take all reasonable measures which are necessary or expedient to guarantee the uninterrupted operation of the National Lottery.

36. (1) No person may sell games forming part of the National Lottery unless such person is in possession of a valid permit issued by the Authority.

(2) Application for such permit shall be made to the Authority by the proposed seller in such form and manner, and shall contain or be accompanied with such information, documents and particulars, including evidence of the authority or appointment of the applicant given or made by the National Lottery licensee to sell games forming part of the National Lottery, as the Authority may require or as may be prescribed by regulations.

(3) The Authority shall not issue any such permit unless it is satisfied that the applicant is a fit and proper person to sell games forming part of the National Lottery and that he satisfies any other requirement and has any other qualifications as may be prescribed by regulations.

(4) In granting any such permit the Authority may subject the permit to such conditions as the Authority may deem appropriate, and after the grant of such permit the Authority may from time to time vary or revoke any condition so imposed or impose new conditions:

Provided that whenever the Authority deems it appropriate to vary any condition or impose any new condition in any such permit, the Authority shall, unless such variation or imposition of a new condition has been requested by the permit holder himself, by notice in writing inform the permit holder and the National Lottery licensee of its intention to vary the said condition or to impose the said new condition, calling upon the said permit holder and licensee to show cause, within such period being not less than seven days after the issue of the notice as may be specified in the same notice, why such condition should not be varied or such new condition should not be imposed, and the Authority shall consider any response made by the permit holder and the licensee within the period specified in the notice, before varying the condition or before imposing the new condition.

(5) Without prejudice to the provisions of subarticle (6), any such permit shall cease to have effect upon the revocation or termination of the authority or appointment of the permit holder given or made by the National Lottery licensee to sell games forming part of the National Lottery or in the event that a National Lottery licence ceases to have effect for any reason whatsoever and the holder of any new National Lottery licence issued in terms of this Part does not authorise or appoint the permit holder to sell games forming part of the National Lottery.

(6) The Authority may order the cancellation or the suspension of such permit -

- (i) if the permit holder contravenes any provision of this Act or any regulations made thereunder

- applicable to it, or is in breach of any condition in the permit;
 - (ii) if the Authority is reasonably satisfied that the permit holder is not or has ceased to be a fit and proper person to sell games forming part of the National Lottery;
 - (iii) in any other circumstance prescribed by regulations made under this Act.
- (7) (a) Where a ground for cancellation or suspension of the permit arises under subarticle (6), the Authority, by notice in writing, shall request the permit holder and the National Lottery licensee, and may request any other person who in its opinion has an interest in the permit, to show cause, within such period as may be established in the same notice being not less than twenty-one days after the issue of the notice, why the permit should not be cancelled or suspended on such ground as stated in the notice.
- (b) The Authority shall consider any response made by the permit holder, the National Lottery licensee or any other person as aforesaid within the period specified in the notice, and -
- (i) where the matter is resolved to its satisfaction, it shall take no further action and shall inform the permit holder in writing accordingly;
 - (ii) where, although the matter is not resolved to its satisfaction, it considers that no further action is warranted, it shall caution the permit holder in writing; or
 - (iii) where the matter is not resolved to its satisfaction, and it considers that further action is warranted, it may -
 - (1) by notice in writing, give such direction to the permit holder as it considers appropriate; or
 - (2) suspend for such period as it thinks fit, or cancel, the permit.
- (c) Where a direction given by the Authority under paragraph (b)(iii)(1) is not complied with within the time limit specified in the notice, the Authority shall cancel the permit.
- (8) A permit referred to in subarticle (1) shall be considered null and void if the holder of such permit assigns or transfers the permit to any other person.
- (9) Any person who sells games forming part of the National Lottery in contravention of subarticle (1) shall be guilty of an offence under this Act.

PART VII - OTHER GAMES

Requirement of a non-profit game licence.

37.* (1) The Authority may grant a licence to a non-profit organization to operate a non-profit game in terms of the provisions of the First Schedule.

(2) No person may operate a non-profit game unless such person is in possession of a valid non-profit game licence. Any person who acts in breach of the provisions of this subarticle shall be guilty of an offence against this Act.

Requirement of a tombola (bingo) hall licence.

38.* (1) The Authority may grant a licence to a company registered in Malta to operate commercial tombola games in a tombola (bingo) hall in terms of the provisions of the Second Schedule.

(2) Without prejudice to the provisions of item 5(4) of the Second Schedule, no person may operate commercial tombola games in a tombola (bingo) hall unless such person is in possession of a valid tombola (bingo) hall licence. Any person who acts in breach of the provisions of this subarticle shall be guilty of an offence against this Act.

Age limit in a tombola (bingo) hall.
Cap. 400.

39.† If the tombola (bingo) hall forms part of a casino complex, where casino gaming is allowed to be operated in terms of a casino licence granted in terms of the Gaming Act, the age limit and prohibitions as laid down in article 26 of the Gaming Act, shall apply. Failure by either a casino licensee or a tombola (bingo) hall licensee to comply with this article shall constitute an offence against this Act.

Requirement of a commercial communication game licence.

40.* (1) The Authority may grant a licence to a person to operate a commercial communication game in terms of the provisions of the Third Schedule.

(2) No person may operate a commercial communication game unless such person is in possession of a valid commercial communication game licence. Any person who acts in breach of the provisions of this subarticle shall be guilty of an offence against this Act.

(3) Whenever a person, in agreement with the National Lottery licensee, utilizes tickets or other means of participation in a game or games forming part of the National Lottery as the prizes which can be won in a commercial communication game, such commercial communication game shall be exempt from the requirement of a commercial communication game licence under this article.

Requirement of a broadcasting media game licence.

41.* (1) The Authority may grant a licence to the owner or operator of a radio or television station, or a sub-contractor thereof, to operate a broadcasting media game in terms of the provisions of the Fourth Schedule.

(2) No person may operate a broadcasting media game unless

*This article is not yet in force.

†This article is not yet in force.

such person is in possession of a valid broadcasting media game licence. Any person who acts in breach of the provisions of this subarticle shall be guilty of an offence against this Act.

42. (1) The Authority may grant a licence to a company registered in Malta to operate VLT games and gaming through a VLT or VLTs in terms of the provisions of the Fifth Schedule.

Requirement of a VLT licence.

(2) Without prejudice to the provisions of item 5(4) of the Fifth Schedule, no person may operate VLT games and, or gaming through a VLT or VLTs unless such person is in possession of a valid VLT licence, and no person shall operate or keep a VLT, or shall exchange or redeem a VLT payout voucher for a VLT game prize, or shall operate or keep the means of exchanging or redeeming VLT payout vouchers for VLT game prizes, in any premises other than premises authorised to be used for such purposes under the relevant VLT licensee. Any person who acts in breach of the provisions of this subarticle shall be guilty of an offence against this Act.

43.* (1) The Authority may grant a licence to an approved racing club or other person to operate -

Requirement of a racecourse betting licence.

- (a) racecourse bets on horse races and, or dog races conducted on an approved racecourse or approved racecourses at approved meetings; and, or
- (b) sweepstakes in connection with horse races conducted on an approved racecourse or approved racecourses at approved meetings,

in terms of the provisions of the Sixth Schedule.

(2) No person may operate racecourse bets or sweepstakes unless such person is in possession of a valid racecourse betting licence. Any person who acts in breach of the provisions of this subarticle shall be guilty of an offence against this Act.

PART VIII - APPROVAL OF RACECOURSES AND RACING CLUBS AND APPOINTMENT OF RACECOURSE CONTROL BOARDS

- 44.†** (1) (a) The Minister responsible for sport may grant a certificate of approval in respect of any racecourse and any ground adjacent thereto for the purpose of conducting therein horse races and, or dog races and activities ancillary to such races.
- (b) The said Minister may grant such certificate of approval in respect of any racecourse and any ground adjacent thereto which is owned by the Government of Malta, in which case the following provisions of this article 44 shall apply to the said Government only to such extent as the said Minister may, on the advice of the Cabinet,

Approval of racecourses.

*This article is not yet in force.

†This article is not yet in force

determine in the certificate of approval.

(2) An application for a certificate of approval referred to in subarticle (1) shall be made by the owner of the racecourse and any ground adjacent thereto which are the subject of the application, in such form and manner required by the Minister responsible for sport or as prescribed by regulations made by the said Minister under article 78(6), and shall furthermore contain or be accompanied by such information, documents and particulars as the said Minister may require or as may be prescribed by regulations made by the said Minister under article 78(6).

(3) The Minister responsible for sport shall not grant any such certificate of approval unless he is satisfied that the applicant and, or the racecourse and any ground adjacent thereto which are the subject of the application, satisfy or meet, and will after the grant of the certificate continue to satisfy or meet, such requirements, specifications and criteria as may be prescribed by regulations made by the said Minister under article 78(6), and unless the said Minister is satisfied that the applicant will comply in all respects with the provisions of this Part and of any regulations made under article 78(6) and applicable to it and with the terms and conditions of the certificate of approval.

(4) In granting such certificate of approval, the Minister responsible for sport may subject it to such conditions as he may deem appropriate or as may be prescribed by regulations made by him under article 78(6), and after the grant of such certificate the said Minister may from time to time vary or revoke any condition so imposed or impose new conditions:

Provided that whenever the Minister responsible for sport deems it appropriate to vary any condition or impose any new condition in any such certificate of approval, the said Minister shall, unless such variation or imposition of a new condition has been requested by the holder of the certificate himself, by notice in writing inform such holder of his intention to vary the said condition or to impose the said new condition, calling upon such holder to show cause, within such period being not less than seven days after the issue of the notice as may be specified in the same notice, why such condition should not be varied or such new condition should not be imposed, and the said Minister shall consider any response made by the holder of the certificate within the period specified in the notice, before varying the condition or before imposing the new condition.

(5) The Minister responsible for sport may revoke a certificate of approval referred to in subarticle (1) -

- (i) if the holder of such certificate contravenes any provision of this Part and of any regulations made under article 78(6) and applicable to it, or is in breach of any condition in the certificate;
- (ii) if the said Minister is reasonably satisfied that the holder of the certificate of approval and, or the racecourse and any ground adjacent thereto to which the certificate relates, no longer satisfy

or meet the requirements, specifications and criteria referred to in subarticle (3), or if the said Minister reasonably deems it necessary in the national interest or in the interest of the horse and, or dog breed to revoke the certificate of approval; and

- (iii) in any other circumstance prescribed by regulations made by the said Minister under article 78(6).

(6) Before revoking a certificate of approval referred to in subarticle (1) on any of the grounds referred to in subarticle (5), the Minister responsible for sport shall, by notice in writing, request the holder of the certificate to show cause, within such period as may be established in the same notice being not less than twenty-one days after the issue of the notice, why the certificate should not be revoked on such ground as stated in the notice, and the said Minister shall consider any response made by such holder within the period specified in the notice before revoking the certificate.

(7) The holder of a certificate of approval referred to in subarticle (1) shall forthwith inform the Minister responsible for sport upon becoming aware of any material changes in the information, documents and particulars provided by such holder in terms of subarticle (2) or in terms of any other provision of this Part or of regulations made under article 78(6), and in default he shall be guilty of an offence against this Part.

(8) The holder of a certificate of approval referred to in subarticle (1) may not assign or transfer to any person the said certificate, or the ownership of the whole or any part of the racecourse and any ground adjacent thereto to which the certificate relates, without the prior approval in writing of the Minister responsible for sport, and if such approval is given, such holder may then take any of the aforesaid actions subject to such terms and conditions as may be specified by the said Minister in its approval. A certificate of approval referred to in subarticle (1) shall be considered null and void if the holder thereof takes any of the aforesaid actions without the prior approval in writing of the Minister responsible for sport, or in breach of any terms and conditions specified by the said Minister in any such approval. The holder of the said certificate of approval shall not be required to seek and obtain the prior approval of the Minister responsible for sport before transferring the ownership of the whole or any part of the racecourse and any ground adjacent thereto to which the certificate relates if, before effecting any such transfer, he surrenders the said certificate of approval. The holder of such certificate of approval who acts in breach of the provisions of this subarticle shall be guilty of an offence against this Part.

(9) The grant of a certificate of approval referred to in subarticle (1) shall not exonerate the holder of such certificate from obtaining any other licence, permit or authorization which may be required under any other law.

(10) The owner of any place which is not an approved racecourse and who uses or knowingly permits the use of such

place for the purpose of conducting therein horse races and, or dog races and, or activities ancillary to such races shall be guilty of an offence against this Part.

(11) Any person who organises or conducts, or who in any way participates in the organisation or conduct of, or who acts as a judge, steward, runner or in any other way participates in, horse races or dog races in any place which is not an approved racecourse shall be guilty of an offence against this Part.

Approval of racing clubs.

45.* (1) The Minister responsible for sport may grant a certificate of approval to any racing club for the purposes of organising and conducting horse races and, or dog races on an approved racecourse or approved racecourses:

Provided that where the racing club is an individual who owns an approved racecourse in accordance with the definition of "racing club" in article 2(1), the Minister may only grant such certificate of approval to such individual for the purpose of organising and conducting horse races and, or dog races only on the said approved racecourse owned by such individual.

(2) An application for a certificate of approval referred to in subarticle (1) shall be made by the racing club concerned, in such form and manner required by the Minister responsible for sport or as prescribed by regulations made by the said Minister under article 78(6), and shall furthermore contain or be accompanied by such information, documents and particulars as the said Minister may require or as may be prescribed by regulations made by the said Minister under article 78(6).

(3) The Minister responsible for sport shall not grant any such certificate of approval unless he is satisfied that the applicant satisfies or meets, and will after the grant of the certificate continue to satisfy or meet, such requirements and criteria as may be prescribed by regulations made by the said Minister under article 78(6), and unless the said Minister is satisfied that the applicant will comply in all respects with the provisions of this Part and of any regulations made under article 78(6) and applicable to it, with the terms and conditions of the certificate of approval and with any rules and regulations made by any Racecourse Control Board in terms of this Part or regulations made under article 78(6) and applicable to it.

(4) In granting such certificate of approval, the Minister responsible for sport may subject it to such conditions as he may deem appropriate or as may be prescribed by regulations made by him under article 78(6), and after the grant of such certificate the said Minister may from time to time vary or revoke any condition so imposed or impose new conditions:

Provided that whenever the Minister responsible for sport deems it appropriate to vary any condition or impose any new condition in any such certificate of approval, the said Minister shall, unless such variation or imposition of a new condition has been requested by the holder of the certificate himself, by notice in

*This article is not yet in force.

writing inform such holder of his intention to vary the said condition or to impose the said new condition, calling upon the holder to show cause, within such period being not less than seven days after the issue of the notice as may be specified in the same notice, why such condition should not be varied or such new condition should not be imposed, and the said Minister shall consider any response made by the holder of the certificate within the period specified in the notice, before varying the condition or before imposing the new condition.

(5) The Minister responsible for sport may revoke a certificate of approval referred to in subarticle (1) -

- (i) if the holder of such certificate contravenes any provision of this Part and of any regulations made under article 78(6) and applicable to it, or is in breach of any condition in the certificate or of any rules and regulations made by any Racecourse Control Board in terms of this Part or regulations made under article 78(6) and applicable to it;
- (ii) if the said Minister is reasonably satisfied that the holder of the certificate of approval no longer satisfies or meets the requirements and criteria referred to in subarticle (3), or if the said Minister reasonably deems it necessary in the national interest or in the interest of the horse and, or dog breed to revoke the certificate of approval; and
- (iii) in any other circumstance prescribed by regulations made by the said Minister under article 78(6).

(6) Before revoking a certificate of approval referred to in subarticle (1) on any of the grounds referred to in subarticle (5), the Minister responsible for sport shall, by notice in writing, request the holder of the certificate to show cause, within such period as may be established in the same notice being not less than twenty-one days after the issue of the notice, why the certificate should not be revoked on such ground as stated in the notice, and the said Minister shall consider any response made by such holder within the period specified in the notice before revoking the certificate.

(7) The holder of a certificate of approval referred to in subarticle (1) shall forthwith inform the Minister responsible for sport upon becoming aware of any material changes in the information, documents and particulars provided by such holder in terms of subarticle (2) or in terms of any other provision of this Part or of regulations made under article 78(6), and in default he shall be guilty of an offence against this Part.

(8) The holder of a certificate of approval referred to in subarticle (1) may not assign or transfer the said certificate to any person without the prior approval in writing of the Minister responsible for sport, and if such approval is given, such holder may then assign or transfer such certificate subject to such terms

and conditions as may be specified by the said Minister in its approval. A certificate of approval referred to in subarticle (1) shall be considered null and void if the holder thereof transfers or assigns the same to any person without the prior approval in writing of the Minister responsible for sport, or in breach of any terms and conditions specified by the said Minister in any such approval. The holder of such certificate of approval who acts in breach of the provisions of this subarticle shall be guilty of an offence against this Part.

(9) The grant of a certificate of approval referred to in subarticle (1) shall not exonerate the holder of such certificate from obtaining any other licence, permit or authorization which may be required under any other law.

(10) Any person who is not an approved racing club and who organises or conducts any horse race or dog race shall be guilty of an offence against this Part.

(11) The owner of any place who knowingly permits the use of such place for the purpose of the organisation or conduct therein of any horse race and, or dog race by a person who is not an approved racing club shall be guilty of an offence against this Part.

Appointment of
Racecourse
Control Boards.

46.* (1) The Minister responsible for sport shall appoint in respect of each approved racecourse a Racecourse Control Board which shall be constituted and the proceedings of which shall be conducted in accordance with the provisions of the Ninth Schedule.

(2) The functions of a Racecourse Control Board shall be -

- (a) to supervise the conduct of horse races and dog races on the approved racecourse in respect of which such Board has been appointed to ensure that such races are conducted fairly and properly and in accordance with the provisions of this Part and of regulations made by the Minister responsible for sport under article 78(6) and in accordance with rules and regulations made by such Board itself in terms of this Part or regulations made under article 78(6);
- (b) to approve the holding of meetings at which horse races and, or dog races, other than trial races, are to be conducted on the approved racecourse in respect of which such Board has been appointed;
- (c) to advise the Minister responsible for sport on new developments in, and any matter relating to, horseracing and dog racing and the conduct thereof and racecourses;
- (d) to perform any other function as may from time to time be assigned to it by this Part or regulations made under article 78(6).

(3) Subject to any relevant regulations made by the Minister responsible for sport under article 78(6), a Racecourse Control

*This article is not yet in force.

Board may appoint judges and stewards in respect of horse races and dog races taking place on the approved racecourse in respect of which such Board has been appointed and may make rules and regulations relating to -

- (a) the conduct of horse races and dog races on the approved racecourse in respect of which such Board has been appointed;
- (b) the payments to be made by the approved racing club or approved racing clubs organising and conducting horse races and, or dog races on the approved racecourse in respect of which such Board has been appointed to -
 - (i) the judges and stewards appointed by the Board as provided in this subarticle; and
 - (ii) the Board itself in respect of the performance of its functions;
- (c) such other matters as may be prescribed by regulations made by the Minister responsible for sport under article 78(6).

(4) A Racecourse Control Board shall also have such other powers as may be prescribed by regulations made by the Minister responsible for sport under article 78(6).

PART IX - PROVISION OF MONEY FOR GAMING

47. (1) It shall not be lawful, and shall constitute an offence against this Act, for a licensee or an operator of a game exempt from licence under this Act or regulations made thereunder, or any person acting on behalf of such licensee or operator or under any arrangement with him, to make any loan or otherwise provide or allow any credit to any person for enabling such person to participate in authorised games.

Restriction on credit.

(2) It shall likewise not be lawful, and shall constitute an offence against this Act, for the holder of a permit granted under regulations made under article 78(3) or any person acting on his behalf or under any arrangement with him to make any loan or otherwise provide or allow any credit to any person for enabling such person to participate in games operated in terms of the said permit.

48. Article 1716 of the Civil Code shall not apply with respect to an authorised game and to a game operated in terms of a permit granted under regulations made under article 78(3).

Applicability of the Civil Code. Cap. 16.

49. (1) Subject to any regulations made by the Minister or any relevant directive that may be issued by the Authority, a licensee, or operator of a game exempted from licence under this Act or regulations made thereunder, or the holder of a permit granted under regulations made under article 78(3), or any person acting on behalf of such licensee, operator or permit holder or under any arrangement with him, may -

Payment of stakes and prizes.

- (a) accept payment of a stake in respect of an authorised

game or, as the case may be, in respect of a game operated in terms of the said permit -

- (i) in cash; or
 - (ii) except where he has reasonable cause to believe that such means of payment will not be honoured upon presentation or claim therefor, by cheque, credit card, debit card or any other lawful means of payment, whether documentary or electronic; and
- (b) effect payment of any monetary prize won in an authorised game or, as the case may be, in a game operated in terms of the said permit, by any of the means of payment referred to in subarticle (1)(a)(i).

(2) The acceptance of payment of stakes in accordance with the provisions of subarticle (1)(a) shall not be deemed to be contrary to the provisions of article 47.

Cap. 16.

(3) The provisions of article 1713 of the Civil Code shall not prejudice -

- (a) the right of a licensee, operator, permit holder or person referred to in subarticle (1), to recover a debt arising from the acceptance of payment of a stake by any of the means of payment referred to in subarticle (1)(a) in accordance with the provisions of the said subarticle (1)(a); or
- (b) the right of a winner of a monetary prize under an authorised game or, as the case may be, under a game operated in terms of a permit granted under regulations made under article 78(3), to recover any debt arising from acceptance of payment of such prize by any of the means of payment referred to in subarticle (1)(b).

PART X - FINANCIAL PROVISIONS

Authority to meet expenditure out of revenue and constitution of National Lottery Good Causes Fund.

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

(2) For such purpose as is mentioned in subarticle (1) the Authority shall levy all fees, rates, taxes, duties and other payments prescribed or deemed to be prescribed by or under this Act or any other law or regulations made thereunder related to the powers and functions of the Authority.

(3) The Authority shall also be paid by Government out of the Consolidated Fund such sums as the House may from time to time authorise to be appropriated to meet the costs of specified works to be continued or otherwise carried out by the Authority, being works of infrastructure or a similar capital nature.

(4) Any funds of the Authority, other than funds standing to the credit of the Gaming Authority National Lottery Reserve Fund referred to in subarticle (6), which are not immediately required to

meet expenditure may be invested in such manner as may from time to time be approved by the Minister.

(5) Any excess of revenue over expenditure shall, subject to such directions as the Minister may from time to time give and subject to the provisions of subarticle (6), 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 subarticle, 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, taxes and duties and other payments levied in accordance with subarticle (2) or any such excess as aforesaid.

(6) Without prejudice to the powers of the Minister under subarticle (5), the Authority shall create and maintain a reserve fund, to be styled as the "Gaming Authority National Lottery Reserve Fund", to which there shall be credited and paid by the Authority, immediately upon receipt thereof -

- (a) such percentage of the gross sums, fees, duties and, or taxes paid by the National Lottery licensee to the Authority in terms of article 31(4) as may be prescribed by regulations made by the Minister under this Act;
- (b) the gross amounts paid by the National Lottery licensee to the Authority in terms of article 59(2); and
- (c) any other amounts which the Authority is required to credit and pay into the Gaming Authority National Lottery Reserve Fund under any other provision of this Act or of any other law or of regulations made thereunder,

and all funds standing to the credit of the Gaming Authority National Lottery Reserve Fund after the end of each financial year shall, not later than six weeks from the end of such financial year, be paid by the Authority into the Treasury and shall be credited to the National Lottery Good Causes Fund created by subarticle (7). The Authority shall not dispose of or use any funds from time to time standing to the credit of the Gaming Authority National Lottery Reserve Fund in any manner or for any purpose other than as provided in this subarticle.

(7) There shall be created and kept in the Treasury Department an account to be styled "National Lottery Good Causes Fund" to which there shall be credited and paid the credit balance in the Gaming Authority National Lottery Reserve Fund paid by the Authority to the Treasury in terms of subarticle (6). The funds from time to time standing to the credit of the National Lottery Good Causes Fund shall be paid out by the Minister, without any further appropriation other than this Act, to such persons, organisations, bodies or other entities pursuing objectives of a religious, philanthropic, cultural, sports, educational, social or civic nature or in support of other deserving causes, and in such amounts, in such manner and at such times, as may be determined by the Minister

from time to time after consultation with an Advisory Board appointed by him for the purpose.

Cap. 174.

(8) A statement of the receipts and expenditure of the National Lottery Good Causes Fund shall, as soon as possible after the close of each financial year and in any case not later than three months after the close of such year, be forwarded by the Accountant General to the Auditor General, and article 65(2) of the Financial Administration and Audit Act shall apply to such statement. The Minister shall, at the earliest opportunity and not later than four weeks after such statement has been certified by the Auditor General as provided in this subarticle, or if at any time during that period the House is not in session, within four weeks from the beginning of the next following session, cause a copy of such statement to be laid on the Table of the House.

Power to borrow or raise capital.

51. For the purpose of carrying out any of its functions under this Act, the Authority may, with the approval in writing of the Minister, borrow or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister may approve in writing.

Advances from Government.

52. The Minister may 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, and may make such advances on such terms and conditions as he may deem appropriate. Any such advance may be made by the Minister 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.

53. (1) The Minister 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 as soon as possible.

(3) Pending the raising of any such loan as is mentioned in subarticle (1), or for the purpose of providing the Authority with working capital, the Minister may, by warrant under his hand, and without further appropriation other than this Act, authorise the Accountant General to make advances to the Authority out of the Treasury Clearance Fund under such terms as may be specified by the Minister upon the making thereof.

(4) The proceeds of any loan raised for the purposes of making advances to the Authority, and any other moneys to be advanced to the Authority under this article, shall be paid into a fund specially established for the purpose and which shall be known as the "Malta Lotteries and Gaming Loan Fund".

(5) Sums received by the Accountant General from the Authority, in respect of advances made to the Authority under

subarticle (3) shall be paid, as respects of amounts received by way of repayment into the Treasury Clearance Fund and, as respects of amounts received by way of interest into the Consolidated Fund.

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

Estimates of the Authority.

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

(2) In the preparation of such estimates, the Authority shall take account of any funds and other monies that may be due to be paid to it out of the Consolidated Fund during the relevant financial year, whether by virtue of this Act or an appropriation Act or of any other law; and the Authority shall so prepare the said estimates 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 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 six weeks after he has received a copy of the estimates from the Authority, approve the same with or without amendment.

55. (1) No expenditure shall be made or incurred by the Authority unless it has been approved by the Minister as provided in article 54.

Expenditure to be according to approved estimates.

(2) Notwithstanding the provisions of subarticle (1) -

- (a) until the expiry of six months from the beginning of a financial year, or until the approval of the estimates for that year by the Minister, whichever is the earlier date, the Authority may make or incur expenditure for carrying on its functions under this Act 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, 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 may allow;
- (d) if in respect of any financial year it is found that the amount approved by the Minister is not sufficient or a need has arisen for expenditure for a purpose not

provided for in the estimates, the Authority may adopt supplementary estimates for approval by the Minister and in any such case the provisions of this Act applicable to the estimates shall as near as practicable apply to the supplementary estimates.

Publication of approved estimates.

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

Accounts and audit.

57. (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 require the books and accounts of the Authority to be audited or examined by the Auditor General who shall for the purpose have all the powers set out in the Auditor General and National Audit Office Act.

Cap. 396.

(3) After the end of each financial year, and not later than the date on which the estimates of the Authority are forwarded to the Minister under article 54, the Authority shall cause a copy of the statement of account 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 eight weeks after he has received a copy of every such statement and report, or if at any time during that period the House is not in session, within eight weeks 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 payments by the Authority.

58. (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 same 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 Chairman, or such other member 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.

59. (1) The National Lottery licensee shall maintain a reserve, to be styled as the Unclaimed Prizes Reserve, to which there shall be credited and paid by such licensee an amount equal to the value of any monetary prize or to the retail value of any non-monetary prize in an authorised game operated by such licensee in terms of the National Lottery licence, which remains unclaimed at the end of the period for claiming such prize set out in the rules of the said authorised game. Such payment into the Unclaimed Prizes Reserve shall be made by the National Lottery licensee within seven days from the end of the period for claiming the prize referred to above.

Unclaimed Prizes Reserve.

(2) All funds standing to the credit of the Unclaimed Prizes Reserve of the National Lottery licensee after the 31st May and 30th November of each financial year of the licensee shall, not later than two weeks from each of the aforesaid two dates of each financial year of the licensee, be paid by the licensee to the Authority and shall be credited and paid by the Authority into the Gaming Authority National Lottery Reserve Fund referred to in article 50(6): provided that in the case of termination or cancellation of the National Lottery licence, all funds standing to the credit of the Unclaimed Prizes Reserve on the eighth day after the date of such termination or cancellation shall be paid by the National Lottery licensee to the Authority by not later than two weeks from such date of termination or cancellation. The National Lottery licensee shall not distribute to its shareholders or otherwise dispose of or use any funds from time to time standing to the credit of the Unclaimed Prizes Reserve in any manner or for any purpose other than as provided in this subarticle.

(3) A National Lottery licensee who acts in breach of any of the provisions of the foregoing subarticles of this article shall be guilty of an offence against this Act. Furthermore, compliance by the National Lottery licensee with the said provisions shall be deemed to be a condition attached to the National Lottery licence for the purposes of this Act.

(4) The Minister may by regulations apply the provisions of this article to other games licensees or to such categories of other games licensees as may be specified in the same regulations.

60. Without prejudice to any directions communicated by the Minister under article 12(1), the Authority shall not, except with the approval of the Minister granted for special reasons, award or

Contracts of supply or works.
Amended by:
L.N. 426 of 2007.

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 six thousand and nine hundred and eighty-eight euro and twelve cents (6,988.12) in value, or such other amount as the Minister may by regulations prescribe, except after notice of the intention of the Authority to enter into the contract has been published and competitive tenders have been issued.

Money laundering.
Cap. 373.

61. (1) Without prejudice to the provisions of the Prevention of Money Laundering Act, hereinafter in this article called "the Act", the Minister with the concurrence of the Minister responsible for justice, may by order provide guidelines relating to the conduct of a licensee or officers or employees thereof or persons acting on his behalf or under an arrangement with him, or the Authority or members, officers or employees thereof, in relation to certain transactions that may give rise to any suspicion of money laundering, and may in particular provide that the provisions of article 9(1) of the Act shall apply with regard to licensees, gaming and operation of games with such modifications and adaptations as may be specified.

(2) Where a member, officer or employee of the Authority or an officer or employee of a licensee or other person acting on behalf of a licensee or under an arrangement with him, has reason to suspect that a transaction, or a proposed transaction, could involve money laundering, he shall act in accordance with the regulations made under the Act and any regulations made under this Act, as applicable thereto.

Annual report.

62. The Authority shall, not later than six weeks after the end of each financial year, make and transmit to the Minister 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 the Minister may from time to time require. The Minister shall, at the earliest opportunity and not later than eight weeks 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 eight weeks from the beginning of the next following session, cause a copy of every such report to be laid on the Table of the House.

PART XI - TRANSFER OF CERTAIN ASSETS TO THE AUTHORITY

Transfer of assets
to the Authority.

63.* (1) (a) The property and undertakings owned by the Government and used by it, immediately before the date of the coming into force of this Part, for the operation of any of the functions which by this Act are being transferred to or vested in the Authority shall, on the date aforesaid, by virtue of this Act and without further assurance, be transferred to and vested in the Authority under the same title by which they were held by the

*This article is not yet in force.

Government immediately before the said date. The provisions of this paragraph shall not apply to immovable property.

- (b) The immovable assets from time to time specified in an Order made by the President of Malta and published in the Gazette (hereinafter referred to as "the immovable assets") being immovable assets which immediately before the coming into force of this Part were owned by the Government and used by it for the operation of any of the functions which by this Act are being transferred to or vested in the Authority or otherwise for the operation of any of the functions prescribed by any law being repealed in terms of article 80, shall, with effect from such day as may be specified in any such order, and by virtue of this Act and without any further assurance, be transferred to and vested in the Authority under the same title by which they were held by the Government before such day.

(2) The transfer and vesting aforesaid shall, subject to the provisions of subarticle (1)(a) and (b), extend to the whole of such property and undertakings or assets and, without prejudice to the generality aforesaid, shall include all plant, equipment, apparatus, instruments, vehicles, craft, buildings, structures, installations, land, roads, works, stocks and other property, movable or immovable, assets, powers, rights and privileges and all things necessary or ancillary thereto which are held or enjoyed in connection therewith or appertaining thereto, as well as all obligations affecting or relating to any of the aforesaid property and undertakings or assets or other thing included therein as aforesaid.

64.* Subject to the provisions of this Act, all laws, rules, regulations, orders, judgements, decrees, awards, deeds, bonds, contracts, agreements, instruments, documents, warrants and other arrangements, subsisting immediately before the date of the coming into force of this Part affecting or relating to the properties and undertakings transferred to the Authority by virtue of article 63(1)(a), or those affecting or relating to any immovable asset referred to in article 63(1)(b) in respect of which an Order as referred to in the said article 63(1)(b) has been published and subsisting immediately before the date specified in such Order as the date with effect from which the said immovable asset shall be transferred to the Authority by virtue of the said article 63(1)(b), shall have full force and effect against or in favour of the Authority, and shall be enforceable freely and effectually, as if instead of the Government or government department or authority, the Authority had been named therein or had been a party thereto, and otherwise in substitution of the Government or government department or authority.

Construction of laws, etc.

*This article is not yet in force.

Transitory provisions relating to the transfer of assets.

65.* (1) When anything has been commenced by or under the authority of the Government prior to the date of the coming into force of this Part and such thing relates to any of the properties and undertakings referred to in article 63(1)(a) or to any right or liability related thereto transferred to the Authority by or under this Act, such thing may be carried on and completed by or as authorised by the Authority.

(2) Where immediately before the date of the coming into force of this Part, any legal proceedings are pending to which the Government is, or is entitled, to be a party, and such proceedings are related to any of the properties and undertakings referred to in article 63(1)(a) or to any right or liability related thereto transferred to the Authority by or under this Act, the Authority shall, as from the date aforesaid, be substituted in such proceedings for the Government, or shall be made a party thereto in like manner as the Government could have become, and such proceedings shall not abate by reason of the substitution.

(3) When anything has been commenced by or under the authority of the Government prior to the date specified in an Order as referred to in article 63(1)(b) relating to an immovable asset as referred to in the said article 63(1)(b) as the date with effect from which the said immovable asset shall be transferred to the Authority by virtue of the said article 63(1)(b), and such thing relates to the said immovable asset or any right or liability related to such asset transferred to the Authority by or under this Act, such thing may be carried on and completed by or as authorised by the Authority.

(4) Where immediately before the date specified in an Order as referred to in article 63(1)(b) relating to an immovable asset as referred to in the said article 63(1)(b) as the date with effect from which the said immovable asset shall be transferred to the Authority by virtue of the said article 63(1)(b), any legal proceedings are pending to which the Government is or is entitled to be a party, and such proceedings are related to the said immovable asset or any right or liability related to such asset transferred to the Authority by or under this Act, the Authority shall, as from the date aforesaid, be substituted in such proceedings for the Government, or shall be made a party thereto in like manner as the Government could have become, and such proceedings shall not abate by reason of the substitution.

Minister may make provisions to determine assets transferred to the Authority.

66.* The Minister may by order make such incidental, consequential and supplemental provisions as he may deem necessary or expedient for the purpose of determining, as appropriate, the properties, undertakings or assets, rights or liabilities transferred to the Authority by this Act and securing and giving full effect to the transfer of any such property, undertaking or asset or any right or liability to the Authority by this Act and make such orders as may be necessary to make any powers and duties exercisable by the Government in relation to any of the transferred properties, undertakings, assets, rights or liabilities

*This article is not yet in force.

exercisable by or on behalf of the Authority.

PART XII - OFFENCES AND PENALTIES

67. (1) Any person guilty of an offence against this Act or any Part thereof shall, on conviction, be liable to a fine (*multa*) of not less than six thousand and nine hundred and eighty-eight euro and twelve cents (6,988.12) and not more than two hundred and thirty-two thousand and nine hundred and thirty-seven euro and thirty-four cents (232,937.34) or to imprisonment for a term of not more than two years, or to both such fine and imprisonment:

Penalty for offences against this Act.
Amended by:
L.N. 426 of 2007.

Provided that where the person convicted of an offence against this Act is a recidivist, he shall be liable to a fine (*multa*) of not less than eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) and not more than three hundred and forty-nine thousand and four hundred and six euro and one cent (349,406.01), or to imprisonment for a term of not less than six months and of not more than three years, or to both such fine and imprisonment:

Provided further that where the person so found guilty is the president, director, manager, secretary or other similar officer of a company or other undertaking, organisation, club, society or other association or body of persons, the said person shall, for the purpose of this article, be deemed to be vested with the legal representation of the same company or other undertaking, organisation, club, society or other association or body of persons, which shall accordingly be liable *in solidum* with the person found guilty for the payment of the said fine:

Provided further that where the Attorney General in the sanction issued in accordance with article 74(2), certifies that the offence will be adequately punished with a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) and not more than six thousand and nine hundred and eighty-eight euro and twelve cents (6,988.12), the applicable penalty shall be a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) and not more than six thousand and nine hundred and eighty-eight euro and twelve cents (6,988.12).

(2) The fine referred to in subarticle (1) shall be recoverable by the Minister responsible for sport as a civil debt in favour of the Government where the relevant offence arises under any provision of Part VIII, and where the relevant offence arises under any other provision of this Act the said fine shall be recoverable by the Chief Executive as a civil debt in favour of the Government.

(3) The provisions of the Probation Act and of article 21 and 28A to 28I of the Criminal Code shall not apply with respect to offences referred to in subarticle (1).

Cap. 446.
Cap. 9.

68. (1) The Authority may with the concurrence of any licensee or holder of a permit issued in terms of article 36 who contravenes a condition of his licence or, as the case may be, of his permit, or any directive issued by the Authority in terms of this Act

Administrative penalty.
Amended by:
L.N. 426 of 2007.

or of regulations made thereunder and applicable to such licensee or, as the case may be, to such permit holder where such contravention amounts to an offence against this Act, impose administrative fines or sanctions upon such licensee or holder of a permit as an alternative to proceedings in court.

(2) For the purposes of subarticle (1), where the Authority decides to exercise its powers under the said subarticle (1), the Authority shall enter into an agreement in writing with the offender whereby the said offender pays a sum which shall not exceed two hundred and thirty-two thousand and nine hundred and thirty-seven euro and thirty-four cents (232,937.34) and shall not be less than six thousand and nine hundred and eighty-eight euro and twelve cents (6,988.12) as the Authority shall determine, and upon the signing of any such agreement by the Authority and the offender all criminal liability of the offender under this Act, with regard to the offence or offences in relation to which the agreement has been entered, shall be extinguished:

Provided that any forfeiture contemplated in this Act as a consequence to the offence to which the agreement relates shall, notwithstanding such agreement still take effect:

Provided further that any such agreement and the provisions of this article shall be without prejudice to the power of the Authority, where applicable, to cancel or suspend the licence or permit held by the offender in terms of the provisions of this Act relating to cancellation or suspension of the relevant licence or permit.

(3) The provisions of subarticle (2) shall apply also in any case where the offender has been charged before a Court in relation to the offence, but before final judgement has been given in the case.

(4) Any sum due in virtue of an agreement entered into in terms of subarticle (2) shall be due to the Authority as a civil debt. The Authority shall not enter into an agreement as is referred to in subarticle (2), unless such agreement is accompanied by the payment of the sum due or an adequate and sufficient security for its payment.

Counterfeit gaming
devices and
forgery of licences.

69. (1) It shall not be lawful for a person to use, or have in his possession, any gaming device or a licence issued under, used or to be used for the purposes of this Act, which the person knows to have been forged, counterfeited or otherwise tampered with.

(2) It shall not be lawful for a person -

- (a) to forge, counterfeit or tamper with any gaming device or any licence issued under, used or to be used for the purposes of this Act; or
- (b) knowingly to utter any such forged, counterfeit or tampered with gaming device or licence.

(3) Whosoever shall contravene subarticles (1) or (2) shall be guilty of an offence against this Act. Furthermore, any gaming device or licence referred to in the said subarticles shall be seized and forfeited in favour of the Government.

70. (1) Any person who knowingly permits the use of any place for the purpose of the operation, promotion, sale or playing of any game in contravention of any provision of this Act or of regulations made thereunder or in breach of any conditions attached to a licence issued under this Act or in breach of any directive issued by the Authority in terms of this Act or of regulations made thereunder or for the purpose of storage of a relevant gaming device imported, manufactured or supplied in contravention of the provisions of article 7 or in breach of the conditions attached to a licence issued in terms of the said article 7 or for the purpose of manufacturing or carrying out maintenance of a relevant gaming device in contravention of the provisions of article 7 or in breach of the conditions attached to a licence in terms of the said article 7, or who wilfully prevents any Police Officer who is lawfully authorised to enter into any place suspected of being used as aforesaid, from entering into such place or any part thereof, or obstructs or delays any such officer in so entering, or by any bolt, bar or other contrivance secures any external or internal door or means of access to any such place or part thereof, or uses any means or contrivance whatsoever for the purposes of preventing, obstructing or delaying the entry of such officer into any such place or any part thereof or for giving an alarm or warning in case of such entry, shall be guilty of an offence against the Act.

Place used for unlawful gaming.

(2) Where any Police officer who is lawfully authorised to enter any place suspected of being used for any of the unlawful purposes mentioned in subarticle (1) is wilfully prevented from or obstructed or delayed in entering the same or any part thereof, or where any bolt, bar or other contrivance or means whatsoever is found in such place for securing any external or internal door or means of access to any such place or for preventing, delaying or obstructing the entry into the same by such officer or for giving alarm or warning in case of such entry, it shall be evidence, until the contrary is made to appear, that such place is used for the said unlawful purposes and that the persons found therein were taking part in the relevant unlawful activities.

(3) In addition to any penalty under any other provision of this Act the money and effects representing the stakes as well as any other money and gaming devices found in any place referred to under subarticle (1) shall be seized and forfeited in favour of the Government.

71.* (1) A person shall not, for the purposes of a game other than a game forming part of the National Lottery, make use of the names "National Lottery" or "Maltese National Lottery" or of any name so closely resembling either of those names as to be reasonably capable of leading to the belief that either of those names is being referred to.

The use of the name "National Lottery" and false representations as to the National Lottery.

(2) It shall not be lawful for a person advertising, or selling, or offering for sale, or offering the opportunity to participate in, a game not forming part of the National Lottery to give, by whatever means, a false indication that it is a game forming part of the

*This article is not yet in force.

National Lottery.

(3) Whosoever shall contravene subarticles (1) or (2) shall be guilty of an offence against this Act.

Forfeiture in favour of the Government.

72. In addition to any penalty under any other provision of this Act, any gaming device and any moneys relating to or used in the commission of any offence against this Act or any Part thereof, or which has served or was intended to serve for the commission of any such offence, shall be seized and forfeited in favour of the Government.

Saving as to higher punishments established in the Criminal Code.

73. Where the fact which constitutes an offence under any provision of this Act also constitutes an offence under any other law and is liable to a higher punishment under such law, such higher punishment shall be applied in lieu of the punishment established in this Act.

Offences to be tried by the Court of Magistrates and sanction of the Attorney General.

74. (1) The Court of Magistrates, in its criminal jurisdiction, shall be the competent court to take cognizance of offences against this Act or any Part thereof.

(2) No proceedings for any offence against this Act or any Part thereof shall be commenced without the sanction of the Attorney General.

PART XIII - SUPPLEMENTAL PROVISIONS

Persons deemed public officers.
Cap. 9.

75. (1) The members of the Authority and all officers and employees of the Authority shall be deemed to be public officers for the purposes of the Criminal Code.

(2) The members of the Authority and its officers shall not for a period of one year following the termination of their appointment or office engage in any activity which in accordance with the provisions of article 9(4)(c) would disqualify a person from holding office as a member of the Authority.

Codes of conduct and rules about responsible gaming.

76. (1) The Authority may establish such codes of conduct as it may deem necessary and useful from time to time with regard to, among other things, the advertising of authorised games, the prevention of illegal gaming and gaming by underaged persons, and the prevention of the gaming addiction.

(2) The Authority may also conduct arrangements, and may also involve any licensees it deems fit in arrangements, involving the organization of any programme or information campaign, including by the issuing of brochures, publications or other documents, the display of notices, signs, labels or pictures, or by way of sound broadcasting or television or other means of communication, with an aim of combating irresponsible or illegal gaming or gaming by underaged persons.

(3) The Authority may make any codes of conduct or arrangements referred to in subarticles (1) or (2) binding on licensees or categories of licensees by means of conditions attached to their licences or by means of directives issued by it.

77. Without prejudice to any relevant licensing requirements under the Investment Services Act and to the provisions of that Act or of any other law, contracts of differences, interest cap agreements, swap agreements, foreign currency exchange or other similar agreements, the purpose or intended purpose of which is to secure a profit or avoid a loss (by reference to fluctuations in the value or price of property of any description or in an index or other factor designated for such purpose in the contract), and debts or other obligations arising from such contracts or agreements, shall not be prohibited, void or unenforceable by reason of any provision of this Act.

Derivatives.
Cap. 370.

78. (1) The Minister may, after consultation with the Authority, make regulations for carrying out the provisions of this Act, except the provisions of Part VIII.

Power to make
regulations.
Amended by:
L.N. 426 of 2007;
L.N. 168 of 2008..

(2) Without prejudice to the generality of the provisions of the previous subarticle, the Minister may by such regulations -

- (a) regulate the issue, suspension and cancellation of a licence under this Act and other matters connected therewith, including measures to be taken in case of the cancellation or suspension of any licence;
- (b) regulate games, including the payment of stakes and, or prizes in games;
- (c) regulate the placing on the market, manufacture, supply and maintenance of relevant gaming devices and the use, operation, control and supervision of gaming devices and any other matter relating to gaming devices;
- (d) exempt all persons or specified categories of persons from the licensing requirement under article 7(1) in respect of all relevant gaming devices or specified categories of relevant gaming devices or specified relevant gaming devices;
- (e) empower the Authority to exempt all persons or such categories of persons as may be specified in such regulations or as may be determined by the Authority itself from the licensing requirement under article 7(1) in respect of all relevant gaming devices or in respect of such categories of relevant gaming devices or particular relevant gaming devices as may be specified in such regulations or as may be determined by the Authority itself;
- (f) prescribe the records and accounts to be kept by a licensee and other matters and obligations of licensees relating to such records and accounts;
- (g) exempt all persons or specified categories of persons from any licensing or authorization requirement in respect of the operation of small games or of a specified small game or games and, or permit all persons or specified categories of persons to operate small games or a specified small game or games without the need of any licence or authorisation and,

notwithstanding the provisions of article 4, such regulations may permit such persons or specified categories of persons or any of such categories to operate such small games or specified small game or games or any of them on the results of games operated by licensees or specified categories of licensees or specified licensees without the need of the prior approval of the Authority in terms of article 4:

Provided that such regulations may limit such exemption or permission to a specified number of small games per year in respect of any particular person:

Provided further that such regulations may make provision for an obligation on the part of the person operating the small game to produce to the Authority such evidence as to the value of the prizes and other matters relating to the game, and in such manner and at such time or times, as may be prescribed by such regulations or as may be required by the Authority:

- (h) exempt from any licensing requirement or authorization specified government departments or authorities in respect of the operation of specified games for the purpose of furthering the objectives of the respective departments or authorities and, or permit specified government departments or authorities to operate specified games for the purpose of furthering their objectives without the need of any licence or authorisation, and such regulations may provide for the payment of prize funds in respect of such games out of the Consolidated Fund by warrant under the hand of the Minister authorising the Accountant General to make such payment and without further appropriation other than such regulations, provided that the amount of the prize fund in respect of any such game shall not exceed the sum of one million and one hundred and sixty-four thousand and six hundred and eighty-six euro and seventy cents (1,164,686.70) per year;
- (i) limit the number of tombola (bingo) hall licences which may be granted and be in force at any time; and
- (j) prescribe anything that is to be prescribed under any other provision of this Act, other than a provision under Part VIII.

(3) The Minister may, after consultation with the Authority, by regulations regulate the giving of permits for the operation of offices in Malta wherefrom specified games are provided through all or specified means of distance communication, and which establish the manner of running such offices and, without prejudice to the generality of the foregoing, he may by such regulations -

- (a) provide that such offices be under the supervision of the Authority and of inspectors;

- (b) provide for the prevention against money laundering;
- (c) establish the tax which shall be paid on such games provided from such offices; and
- (d) make any other provision which will ensure that such games provided from such offices are played fairly and that such offices are run by suitable persons and that a proper account be held of the activities of such offices,

and such regulations may contain transitional provisions in respect of permits issued in terms of the Operation of Betting Offices Regulations, made under the Public Lotto Ordinance, which Regulations will be repealed on the date of coming into force of article 80(3)(a) pursuant to the repeal of the said Ordinance.

S.L.70.04

(4) The Minister may, after consultation with the Authority, make regulations in respect of the functions and powers of the Authority and the exercise of such functions and powers.

(5) The Minister may, after consultation with the Authority, make regulations to regulate the placing on the market, manufacture, supply, maintenance, use, operation, control and supervision of, and other matters relating to, amusement machines or specified categories of amusement machines or specified amusement machines and, without prejudice to the generality of the foregoing provisions of this subarticle, he may by such regulations -

- (a) provide that such amusement machines may only be placed on the market, manufactured, supplied, maintained and, or operated by a person who holds a licence to this effect issued by the Authority and subject to such terms and conditions as may be imposed in any such licence by the Authority;
- (b) regulate the term, issue, suspension and cancellation of, the fees, duties taxes and, or other sums leviable under, and other matters connected to, any licence referred to in paragraph (a): provided that such regulations may empower the Authority to prescribe all or any of such matters itself in the licence;
- (c) provide that such amusement machines and, or the placing on the market, manufacture, supply, maintenance, use and, or operation thereof be, or be made, under the supervision of the Authority and of inspectors;
- (d) provide for fees, duties, taxes and, or other sums leviable in respect of the placing on the market, manufacture, supply, maintenance, use and, or operation of such amusement machines;
- (e) regulate the sale, purchase, placing on the market, supply and, or manufacture of amusement machines tokens;
- (f) prescribe the maximum and, or minimum price to be paid to play an amusement game;
- (g) prescribe the type of premises where such amusement

machines can be kept, operated or used and other matters relating to such premises and the maximum and, or minimum number of amusement machines which can be kept, operated or used in any such premises; and

- (h) make any other provision which will ensure that amusement machines are operated by suitable persons and that a proper account be held of the activities of such persons in respect of the operation of amusement machines and that amusement games are played fairly.

(6) The Minister responsible for sport may make regulations for carrying out the provisions of Part VIII and, without prejudice to the generality of the foregoing, he may by such regulations -

- (a) regulate the issue and revocation of the certificates of approval referred to in articles 44 and 45 and other matters connected therewith;
- (b) regulate the conduct of horse races and dog races on approved racecourses and regulate approved racing clubs and their operations;
- (c) regulate the functions of Racecourse Control Boards, confer powers on such Boards and regulate the exercise of such functions and powers;
- (d) prescribe matters in respect of which Racecourse Control Boards may make rules and regulations in terms of article 46(3);
- (e) regulate payments to be made by approved racing clubs as are mentioned in article 46(3)(b) and other payments as he may deem necessary or desirable;
- (f) regulate payments to be made by members of the public to be admitted to approved racecourses for the purpose of attending and watching horse races and, or dog races; and
- (g) prescribe anything that is to be prescribed under any other provision of Part VIII.

(7) The Minister may by regulations amend the First, Second, Third, Fourth, Fifth and Sixth Schedules and the Minister responsible for sport may by regulations amend the Ninth Schedule.

(8) Any regulation made under this Act may provide for any matter relating to liability for the observance of such regulations, and the persons who may be liable, or for any matter relating to the enforcement of the said regulations, including, but not limited to, the imposition of a fine (*multa*) not exceeding two hundred and thirty-two thousand and nine hundred and thirty-seven euro and thirty-four cents (232,937.34) in respect of any contravention of, or failure to comply with, the provisions of such regulations.

Serving of notices.

79. Where any notice or other instrument or document whatsoever is required or authorised to be served or given by or under this Act, it may be served or given in any of the following

manners:

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
- (b) by leaving it at the usual or last known place of abode of that person or, if such person has furnished an address for service, at that address; or
- (c) by sending it by registered mail addressed to that person at the place of abode or the address for service aforesaid; or
- (d) in the case of a body corporate or other body of persons, by delivering it to an officer or employee thereof at the registered or principal office, or by sending it by registered mail addressed to the body aforesaid at that office; or
- (e) in any case in which it is not reasonably possible to effect service or give notice in any of the foregoing manners whether on all or on any one or more of the persons on whom service is to be made or notice is to be given, by affixing the document to be served or given in a conspicuous place on the premises to which it relates and keeping it so affixed for a period of not less than seven working days and by publishing the contents thereof in the Gazette.

80. (1) With effect from the date of coming into force of this subarticle^{*}, the enactments shown in the First Column of the Seventh Schedule shall have effect subject to the amendments shown in the Second Column of the said Schedule.

Amendments,
repeals and
savings.

(2) With effect from the date of coming into force of this subarticle[†], the enactments shown in the First Column of the Eighth Schedule shall have effect subject to the amendments shown in the Second Column of the said Schedule and, with effect from such date, the Gaming Board established by article 5 of the Gaming Act shall stand dissolved.

Cap. 400.

(3) The following Acts are hereby repealed:

- (a)[‡] Public Lotto Ordinance; Cap. 70.
- (b)[§] Racecourse Betting Ordinance; Cap. 78.
- (c)^{**} Director of Public Lotto (Constitution of Office) Act; Cap. 122.
- (d) Maltese Government Forecast Pools Act; Cap. 131.
- (e)^{††} Director of Public Lotto (Powers and Functions) Act; Cap. 137.
- (f) Government Home Lotteries Act; Cap. 150.
- (g) Government Tombola Act; Cap. 238.

^{*}2nd September, 2002 - vide Legal Notice 240 of 2002.

[†]2nd September, 2002 - vide Legal Notice 240 of 2002.

[‡]this paragraph is not yet in force.

[§]this paragraph is not yet in force.

^{**}this paragraph is not yet in force.

^{††}this paragraph is not yet in force.

Cap. 292.

*(h)** Government Lotteries Act.

S.L.70.05

(4) A permission granted to a company registered in Malta to hold tombola (bingo) sessions (as defined in the Tombola (Bingo) Regulations, hereinafter in this subarticle referred to as "the Tombola Regulations") of a commercial nature in a tombola (bingo) hall (as defined in the Tombola Regulations) in terms of the Tombola Regulations and still in force on the date of the coming into force of article 38, shall continue in force thereafter as if it were a tombola (bingo) hall licence granted under the said article 38, with such modifications, adaptations and limitations as may be necessary or appropriate for the purpose; and any such permission as aforesaid shall, with effect from the aforesaid date, be subject to the provisions of the said article 38 and be treated and dealt with accordingly.

Cap. 78.

(5) A certificate of approval issued by the Minister responsible for the Police in respect of a racecourse and ground adjacent thereto in terms of article 3 of the Racecourse Betting Ordinance and still in force on the date of the coming into force of article 44, shall continue in force thereafter as if it were a certificate of approval granted by the Minister responsible for sport under the said article 44, with such modifications, adaptations and limitations as may be necessary or appropriate for the purpose; and any such certificate of approval as aforesaid and the holder thereof shall, with effect from the aforesaid date and subject to the provisions of article 44(1)(b), be subject to the provisions of the said article 44 and be treated and dealt with accordingly.

*this paragraph is not yet in force.

FIRST SCHEDULE

*Amended by:
L.N. 426 of 2007.*

Article 37

Non-profit games

Application for a licence.

1. (1) An application for a non-profit game licence shall be made by or on behalf of the non-profit organization which intends to operate the non-profit game, in the form and manner required by the Authority.

(2) Such application shall at least contain the following information:

- (a) the name and address of the applicant and the address in Malta where any documents may be served on the applicant;
- (b) the type of the non-profit game which the applicant wants to operate, and such particulars relating to the rules and regulations regarding the procedures for operating and playing such non-profit game as the Authority may require or as may be prescribed by regulations;
- (c) the dates, times and places when and wherefrom the relevant non-profit game will be operated and offered to the public and, where applicable, the date or dates, time or times and place or places for the drawing or drawings of the non-profit game; and
- (d) the purpose for which the net proceeds of the relevant non-profit game are intended.

(3) The application shall also contain or be accompanied with such other information, documents and particulars as the Authority may require or as may be prescribed by regulations.

(4) An application for a non-profit game licence has to be made in respect of each and every non-profit game which a non-profit organization wants to operate, although a non-profit game licence may be granted in respect of a non-profit game which is to be operated on different days or at different times or for a specified period. Except where the game to be operated under the non-profit game licence is a tombola game, the Authority may not grant a non-profit game licence to the same non-profit organisation more than -

- (a) twelve times in any calendar year; or
- (b) such number of times in any calendar year as would ensure that the aggregate retail value of all prizes which can be won in all non-profit games operated by such non-profit organisation under all non-profit game licences granted to such organisation in such year does not exceed the amount of twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73),

whichever is the lesser.

(5) After the submission of an application for a non-profit game licence, the Authority shall have the power to require the applicant to provide such other information in addition to that given with the application as the Authority may deem necessary for the purpose of determining the said application.

Grant of licence.

2. The Authority shall not issue a non-profit game licence to a person unless that person is a non-profit organization and the Authority is satisfied that -

- (a) the proposed licensee is a fit and proper person so as to ensure, or where the proposed licensee is not an individual, the persons who exercise effective control and management of the affairs of the proposed licensee are fit and proper to carry out their functions and duties in relation to the proposed licensee in such manner as to ensure, the proper operation of the relevant non-profit game by the proposed licensee;
- (b) the proposed licensee will comply in all respects with the provisions of this Act and of any regulations made thereunder applicable to it, and with the terms and conditions of the non-profit game licence and with any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to it.

Form of licence.

3. (1) The non-profit game licence shall be in such form as the Authority may determine or as may be prescribed by regulations.

(2) The grant of a non-profit game licence does not exonerate the licensee from obtaining any other licence, permit or authorization which may be required under any other law.

Licence conditions and variations and revocations thereof.

4. (1) In granting a non-profit game licence, the Authority may subject it to such conditions as it may deem appropriate, and having granted such licence the Authority may, from time to time, vary or revoke any condition so imposed or impose new conditions:

Provided that whenever the Authority deems it appropriate to vary any condition or impose any new condition in the non-profit game licence, the Authority shall, unless such variation or imposition of a new condition has been requested by the licensee himself, inform the licensee by notice in writing of its intention to vary the said condition or to impose the said new condition, calling upon the said licensee to show cause, within such period being not less than seven days after the issue of the notice as may be specified in the same notice, why such condition should not be varied or such new condition should not be imposed, and the Authority shall consider any response made by the licensee within the period specified in the notice, before varying the condition or before imposing the new condition.

(2) Conditions in a non-profit game licence may impose requirements to be complied with by the licensee after the licence has ceased to have effect.

(3) A non-profit game licence may impose conditions requiring the licensee:

- (a) to obtain the consent of the Authority before doing anything specified, or of a description specified, in the licence; and
- (b) to refer matters specified, or of a description specified, in the licence to the Authority for approval.

(4) A non-profit game licence shall include a condition requiring the licensee to pay to the Authority, at such times as may be prescribed by regulations, such fees, duties, taxes and, or other sums as may be so prescribed, which fees, duties, taxes and, or sums shall be in addition to those which the licensee may be required to pay under any law other than this Act.

(5) Where the non-profit game being the subject of the non-profit game licence is not a tombola game, the non-profit game licence shall be deemed to include a condition that -

- (a) the prize or prizes which can be won in such game shall not consist of money or a cheque or similar document entitling the holder to convert it into money;
 - (b) the aggregate retail value of all prizes which can be won in such game shall not exceed the amount of twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73) or such lesser amount as is necessary to ensure that the provisions of item 1(4) of this Schedule are complied with; and
 - (c) the amount of each stake in such game shall not exceed one euro and sixteen cents (1.16).
- (6) Where the non-profit game being the subject of the non-profit game licence is a tombola game, the non-profit game licence shall be deemed to include a condition that -
- (a) the price for each tombola scoresheet participating in the relevant tombola game shall not exceed seventy cents (0.70), and when the said tombola game can be played by a tombola scorecard or a number of tombola scorecards which fall short of a whole tombola scoresheet, the price for each such tombola scorecard shall not exceed such proportion of seventy cents (0.70) equivalent to the proportion which the total number of numbers, symbols or pictures printed or otherwise electronically represented on such tombola scorecard bears to the total number of numbers, symbols or pictures participating in the relevant tombola game and printed or otherwise electronically represented on a tombola scoresheet participating in such game;
 - (b) not less than sixty *per centum* of the amount collected in sales of tombola scoresheets and tombola scorecards participating in the relevant tombola game shall be distributed in prizes in respect of such game.

Changes in effective control and management etc.

5. (1) (a) If the non-profit game licensee is not an individual, such licensee shall within five days of any change in the persons who exercise effective control and management of the affairs of the licensee inform the Authority of such change. The licensee shall also inform the Authority of any material changes in the information and documentation provided by the licensee in terms of item 1(2), (3) and (5) of this Schedule or in terms of any other provision of this Act or of regulations made thereunder or in terms of conditions attached to the non-profit game licence, as soon as it becomes aware of such changes.

(b) Where owing to any change as is referred to in paragraph (a) hereof, whether the Authority has been informed of such change in accordance with the said paragraph (a) or not, a situation is brought about that, had it existed at the time of the application for the non-profit game licence, it would have disqualified the licensee from obtaining a licence in terms of item 2 of this Schedule, the Authority shall by notice inform the licensee accordingly, and if the situation shall not have been remedied to the satisfaction of the Authority within five days from the notice to that effect by the Authority, the Authority shall cancel such licence without complying with the provisions of item 8 of this Schedule:

Provided that the Authority shall not issue a notice as aforesaid any later than one month after being informed by the licensee of the change in accordance with paragraph (a) hereof.

(2) Failure by the licensee to comply with the provisions of sub-item (1) hereof shall constitute an offence against this Act.

Assignment or surrender of licence.

6. (1) A non-profit game licence may not be assigned or transferred by the non-profit game licensee to any other person.

(2) The non-profit game licensee may not surrender the non-profit game licence during the licence term without the prior approval in writing of the Authority, and if such approval is given, the licence may then be surrendered only subject to such terms and conditions as may be specified by the Authority in its approval.

(3) If a non-profit game licence is assigned or transferred by the non-profit game licensee to any other person -

- (a) such licence shall be considered null and void; and
- (b) the Authority may issue a directive to such licensee to do or restrain from doing any act which the Authority may deem appropriate in the circumstances, and such licensee shall comply with any such directive, failing which it shall be guilty of an offence against this Act.

(4) A non-profit game licensee who acts in breach of the provisions of this item 6 shall be guilty of an offence against this Act.

Grounds for cancellation or suspension of licence.

7. The Authority may order the cancellation or suspension of a non-profit game licence on any of the following grounds:

- (a) the licensee, or any person who exercises effective control and management of the affairs of the licensee, is convicted of an offence against this Act, or of theft, receiving stolen property, fraud or any crime affecting public trust;
- (b) the licensee contravenes any provision of this Act or of any regulations made thereunder applicable to it, or is in breach of any condition in the non-profit game licence or any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to it;
- (c) the licensee knowingly or recklessly supplies to the Authority material information that is false or misleading;
- (d) the licensee fails to fulfil his financial commitments when they become due and payable;
- (e) the intended purpose of the net proceeds of the relevant non-profit game in respect of which the licence has been granted, no longer exists;
- (f) the licensee is being wound up; or
- (g) the Authority is reasonably satisfied that the licensee is not, or has ceased to be, a suitable person to hold the non-profit game licence, or it reasonably deems it necessary in the national interest to cancel or suspend the non-profit game licence.

Procedures for the cancellation or suspension of the licence.

8. (1) Where a ground for cancellation or suspension of a non-profit game licence arises under item 7 of this Schedule, the Authority shall, by notice in writing, request the licensee, and may request any other person who in its opinion has an interest in the licence, to show cause, within such period being not less than five days after the issue of the notice as specified in the same notice, why the licence

should not be cancelled or suspended on such ground as is stated in the notice.

(2) The Authority shall have regard to any response made under sub-item (1) hereof in such manner that -

- (a) where the matter is resolved to its satisfaction, it shall take no further action, and shall inform the licensee in writing accordingly;
- (b) where, although the matter is not resolved to its satisfaction, it considers that further action is not warranted, it shall caution the licensee in writing; or
- (c) where the matter is not resolved to its satisfaction and it is satisfied that further action is warranted, it may -
 - (i) by notice in writing give such direction to the licensee as it considers appropriate; or
 - (ii) suspend the licence for such period as it thinks fit, or cancel such licence.

(3) Where a direction given by the Authority under sub-item (2)(c)(i) hereof is not complied with within the time specified in the notice, the Authority shall cancel the licence.

Non-profit games not to be held in a tombola (bingo) hall.

9. A non-profit game licensee may not hold a non-profit game in a tombola (bingo) hall, and failure by a non-profit game licensee or by a tombola (bingo) hall licensee to comply with this item 9 shall constitute an offence against this Act.

Net proceeds of non-profit game to be applied only for stated purpose.

10. A non-profit game licensee who, without the prior approval of the Authority, applies the net proceeds of the non-profit game in respect of which the non-profit game licence has been granted for any purpose other than that indicated in the application for the licence, shall be guilty of an offence against this Act.

SECOND SCHEDULE

Article 38

*Amended by:
L.N. 426 of 2007.*

Commercial tombola games in tombola (bingo) halls

Duration and renewal of licence.

1. (1) A yearly tombola (bingo) hall licence shall be issued for an effective term of one year.

(2) A seasonal tombola (bingo) hall licence shall be issued for an effective term of six months.

(3) Unless it is previously cancelled, a yearly tombola (bingo) hall licence may be renewed by the Authority for further periods of one year each, and a seasonal tombola (bingo) hall licence may be renewed by the Authority for further periods of six months each.

(4) Any such renewal as is mentioned in sub-item (3) hereof is subject to compliance by the tombola (bingo) hall licensee, during the immediately preceding original or renewed term of the licence, with the provisions of this Act and of any

regulations made thereunder, and with the terms and conditions of the licence and with any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to such licensee, and subject to the acceptance by the Authority of the written application for such renewal made by the licensee to the Authority by such date before the expiry of the immediately preceding original or renewed term of the licence as the Authority has specified in the licence, and containing such information as the Authority has specified therein as necessary or expedient to enable it determine whether to renew the said licence.

(5) After the submission of an application for the renewal of a tombola (bingo) hall licence, the Authority may require the applicant to provide such other information, in addition to that provided together with the application, as may be deemed necessary for the purpose of determining the said application.

Application for a licence.

2. (1) An application for a tombola (bingo) hall licence shall be made by, or on behalf of, the company registered in Malta which intends to operate commercial tombola games in a tombola (bingo) hall, in the form and manner required by the Authority.

(2) Such application shall at least contain the following information:

- (a) the name, registered office and registration number of the applicant company and the address in Malta for the service of documents on the applicant company;
- (b) a description of the location, layout and specifications of the premises in respect of which the application is made;
- (c) the dates or days of the week, and the tombola (bingo) sessions or times during such dates or days, on and during which commercial tombola games are to be operated; and
- (d) the rules and regulations regarding the procedures for operating and playing the commercial tombola game, the winning combinations, the elements of the tombola game, the proposed procedures for the printing, procurement, distribution, use and sale of tombola scorecards and tombola scoresheets, the number, type and specifications of gaming devices to be used in operating and playing the game, the selling price of tombola scorecards and tombola scoresheets proposed to be applied, the proposed prizes, the proposed procedures for payment and distribution of prizes, the proposed procedures for making reimbursements to players, the proposed procedures for keeping registers recording the tombola games played and the proposed measures to ensure the regular operation and playing of the tombola game.

(3) Such application shall contain or be accompanied by -

- (a) a copy of the certificate of registration and of the memorandum and articles of association of the applicant company;
- (b) a site plan of the premises in respect of which the application is made;
- (c) a certificate indicating the safety of the premises against fire and other accidents; and
- (d) such other information, documents and particulars as the Authority may require or as may be prescribed by regulations.

(4) After the submission of an application for a tombola (bingo) hall licence, the

Authority shall have the power to require the applicant to provide such other information in addition to that provided together with the application as it shall deem necessary for the purpose of determining the said application.

Grant of a licence.

3. The Authority shall not issue a tombola (bingo) hall licence to a person unless that person is a company registered in Malta and the Authority is satisfied that -

- (a) the voting share capital of the company is owned directly or indirectly by a person or persons who are fit and proper to benefit from the operation by the company of commercial tombola games and to exercise their rights of membership in such manner as to ensure the proper operation by the company of commercial tombola games;
- (b) the director or directors of the company are fit and proper to manage the company and to exercise their functions and duties as directors in such manner as to ensure the proper operation by the company of commercial tombola games;
- (c) the company has the financial and technical means and the expertise necessary to properly operate commercial tombola games and to fulfil all its obligations under this Act;
- (d) the company will, prior to the commencement of operations, take out and thereafter maintain, the bank guarantee referred to in item 6 of this Schedule as provided and in accordance with the said item 6; and
- (e) the company will comply in all respects with the provisions of this Act and of any regulations made thereunder applicable to it, and with the terms and conditions of the licence and with any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to it.

Form of licence.

4. (1) The tombola (bingo) hall licence shall be in such form as the Authority may determine or as may be prescribed by regulations.

(2) The grant of a tombola (bingo) hall licence does not exonerate the licensee from obtaining any other licence, permit or authorization which may be required under any other law.

Licence conditions and variations or revocations thereof.

5. (1) In granting a tombola (bingo) hall licence the Authority may subject it to such conditions as it may deem appropriate, including conditions relating to the maintenance of a tombola game centralised control system, and having granted such licence the Authority may, from time to time, vary or revoke any condition so imposed or impose new conditions:

Provided that whenever the Authority deems it appropriate to vary any condition or impose any new condition in a tombola (bingo) hall licence, the Authority shall, unless such variation or imposition of a new condition has been requested by the licensee himself, inform the licensee by notice in writing of its intention to vary the said condition or to impose the said new condition, and call upon the said licensee to show cause, within such period being not less than twenty-one days after the issue of the notice as may be specified in the same notice, why such condition should not be varied or such new condition should not be imposed, and the Authority shall consider any response made by the licensee within the period

specified in the notice before varying the condition or before imposing the new condition.

(2) Conditions in a tombola (bingo) hall licence may impose requirements to be complied with by the licensee after the licence has ceased to have effect.

(3) A tombola (bingo) hall licence may impose conditions requiring the licensee -

- (a) to obtain the consent of the Authority before doing anything specified, or of a description specified, in the licence; and
- (b) to refer matters specified, or of a description specified, in the licence to the Authority for approval.

(4) A tombola (bingo) hall licence shall be deemed to include a condition requiring the licensee to obtain the consent of the Authority before entering into any arrangement with any person, other than an employee of the licensee, for the operation of commercial tombola games within the tombola (bingo) hall in respect of which the tombola (bingo) hall licence has been granted to such licensee.

(5) A tombola (bingo) hall licence shall include a condition requiring the licensee to pay to the Authority, at such times as may be prescribed by regulations, such fees, duties, taxes and, or other sums as may be so prescribed, which fees, duties, taxes and, or sums shall be in addition to those which the licensee may be required to pay under any law other than this Act.

Requirement of bank guarantee.

6. (1) A tombola (bingo) hall licence shall include a condition requiring the licensee to take out, prior to the commencement of operations, a bank guarantee, to be issued by a bank or by a credit or financial institution acceptable to the Authority, in favour of the Authority and on its own behalf and on behalf of the Government, to the amount of twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73), for securing -

- (a) the payment and distribution of prizes by the licensee to winners of commercial tombola games operated under the licence;
- (b) the payment of fees, taxes, duties or any other sums payable by the licensee to the Authority in terms of item 5(5) of this Schedule;
- (c) the payment by the licensee of any fines or administrative penalties imposed on it under Part XII or under regulations made under this Act.

(2) The bank guarantee shall become payable to the Authority on its first demand, and it shall not be incumbent upon the relative bank, credit or financial institution which issued the bank guarantee to verify whether such demand is justified.

(3) The bank guarantee shall remain valid until the expiry of one year from the expiry of the licence or until such time as the Authority considers and notifies the licensee in writing that such bank guarantee is no longer required, whichever is the earlier.

(4) The bank guarantee shall be subject to such other terms and conditions as may be specified in the licence or as may be prescribed by regulations made under this Act.

Changes in ownership and management etc.

7. (1) (a) Without prejudice to the provisions of item 8 of this Schedule, it

shall be the duty of the tombola (bingo) hall licensee and of the directors thereof, to inform the Authority of any change in, or in the direct or indirect ownership of, the voting share capital of the licensee, or of any change in the management or Board of Directors of the licensee, within five days of such change. It shall also be the duty of the licensee and of its directors to inform the Authority of any material changes in the information and documentation provided by the licensee in terms of item 2(2), (3) and (4) of this Schedule or in terms of any other provision of this Act or of regulations made thereunder or in terms of conditions attached to the tombola (bingo) hall licence, as soon as they become aware of such changes.

(b) Where owing to any change as is referred to in paragraph (a) hereof, whether the Authority has been informed of such change in accordance with the said paragraph (a) or not, a situation is brought about that, had it existed at the time of the application for the tombola (bingo) hall licence, it would have disqualified the licensee from obtaining a licence in terms of item 3 of this Schedule, the Authority shall by notice inform the licensee accordingly, and if the situation shall not have been remedied to the satisfaction of the Authority within one calendar month from the notice to that effect by the Authority, the Authority shall cancel such licence without complying with the provisions of item 10 of this Schedule:

Provided that the Authority shall not issue a notice as aforesaid any later than three calendar months after being informed by the licensee or its directors of the change in accordance with paragraph (a) hereof.

(2) Failure by the licensee or the directors thereof to comply with the provisions of sub-item (1)(a) hereof shall constitute an offence against this Act.

Assignment or surrender of licence and transfer of controlling interests.

8. (1) It shall be the duty of a tombola (bingo) hall licensee to obtain the prior approval in writing of the Authority before taking any of the actions set out in paragraphs (a) to (f) of sub-item (2) of this item 8, and if such approval is given, the licensee may then take any of the said actions only subject to such terms and conditions as may be specified by the Authority in its approval. A tombola (bingo) hall licensee who acts in breach of the provisions of this sub-item (1) shall be guilty of an offence against this Act. It shall be the duty of all the directors of the licensee to inform the Authority forthwith upon becoming aware that the licensee intends to take any of the said actions, and in default they shall be guilty of an offence against this Act.

(2) The actions referred to in sub-item (1) of this item 8 are:

- (a) the transfer or assignment of the tombola (bingo) hall licence by the tombola (bingo) hall licensee to any other person;
- (b) the sale or other disposition by the tombola (bingo) hall licensee of its business, whether in whole or in part;
- (c) the merger by the tombola (bingo) hall licensee with any other company;
- (d) the tombola (bingo) hall licensee undergoing any reconstruction, division or any conversion of its status from a company into any other kind of commercial partnership;
- (e) the reduction of the nominal or issued share capital of the tombola (bingo) hall licensee or the increase or reduction of its voting share capital or any material change in voting rights in such licensee; or
- (f) the surrender of the tombola (bingo) hall licence by the tombola (bingo)

hall licensee during the licence term.

(3) It shall be the duty of any person who holds or owns a controlling interest in a tombola (bingo) hall licensee to obtain the prior approval in writing of the Authority before transferring such controlling interest to any other person, or such part thereof as would cause him to cease to hold or own a controlling interest in the licensee or as would cause the transferee to acquire a controlling interest in the licensee, and if such approval is given, the said person may then transfer such controlling interest or part thereof as aforesaid only subject to such terms and conditions as may be specified by the Authority in its approval. A person who acts in breach of the provisions of this sub-item (3) shall be guilty of an offence against this Act. It shall be the duty of the tombola (bingo) hall licensee and of all the directors thereof to inform the Authority forthwith upon becoming aware that any person who holds or owns a controlling interest in the licensee intends to transfer such controlling interest or part thereof as aforesaid to any other person, and in default they shall be guilty of an offence against this Act.

(4) For the purposes of this sub-item (3) and of any other provision of this Schedule which makes reference to this sub-item (3), "controlling interest in a tombola (bingo) hall licensee" means a direct shareholding in a tombola (bingo) hall licensee which represents at least twenty *per centum* of the voting share capital issued by such licensee.

If a tombola (bingo) hall licensee takes any of the actions set out in paragraphs (a) to (e) of sub-item (2) of this item 8, or if a person referred to in sub-item (3) of this item 8 effects a transfer of a controlling interest in the licensee or part thereof as referred to in the said sub-item (3) to any other person, without the prior approval in writing of the Authority, or in breach of any terms and conditions specified by the Authority in any such approval, the Authority may, without prejudice to its powers under items 9 and 10 of this Schedule -

issue a directive declaring such action or transfer to be void and of no effect, which directive shall be effective against all persons involved in such action or transfer notwithstanding the provisions of any other law< and, or

issue a directive to such licensee or, as the case may be, to such person to do or restrain from doing any act which the Authority may deem appropriate in the circumstances,

and such licensee or, as the case may be, such person shall comply with any such directive issued to it by the Authority in terms of paragraph (b) of this sub-item (4), failing which it shall be guilty of an offence against this Act.

Grounds for cancellation or suspension of licence.

9. The Authority may order the cancellation or suspension of a tombola (bingo) hall licence on any of the following grounds:

- (a) any director or manager of the licensee is convicted of an offence against this Act, or of theft, receiving stolen property, fraud or any crime affecting public trust;
- (b) the licensee contravenes any provision of this Act or of any regulations made thereunder applicable to it, or is in breach of any condition in the tombola (bingo) hall licence or any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to it;
- (c) the licensee knowingly or recklessly supplies to the Authority material information that is false or misleading;

- (d) the licensee fails to fulfil his financial commitments when they become due and payable;
- (e) the licensee fails to take out and maintain the required bank guarantee as provided and in accordance with item 6 of this Schedule;
- (f) the licensee is being wound up;
- (g) any person as is referred to in item 8(3) of this Schedule transfers a controlling interest in the licensee or such part thereof as referred to in the said item 8(3) to any other person, without the prior approval in writing of the Authority as required by the said item 8(3), or in breach of any terms and conditions specified by the Authority in any such approval; or
- (h) the Authority is reasonably satisfied that the licensee is not, or has ceased to be, a suitable person to hold the tombola (bingo) hall licence, or it reasonably deems it necessary in the national interest to cancel or suspend the tombola (bingo) hall licence.

Procedures for the cancellation or suspension of licence.

10. (1) Where a ground for cancellation or suspension of a tombola (bingo) hall licence arises under item 9 of this Schedule, the Authority shall, by notice in writing, request the licensee, and may request any other person who in its opinion has an interest in the licence, to show cause, within such period being not less than twenty-one days after the issue of the notice as specified in the same notice, why the licence should not be cancelled or suspended on such ground as is stated in the notice.

(2) The Authority shall have regard to any response made under sub-item (1) hereof in such manner that -

- (a) where the matter is resolved to its satisfaction, it shall take no further action and shall inform the licensee in writing accordingly;
- (b) where, although the matter is not resolved to its satisfaction, it considers that further action is not warranted, it shall caution the licensee in writing; or
- (c) where the matter is not resolved to its satisfaction and it is satisfied that further action is warranted, it may -
 - (i) by notice in writing give such direction to the licensee as it considers appropriate; or
 - (ii) suspend the licence for such period as it thinks fit, or cancel such licence.

(3) Where a direction given by the Authority under sub-item (2)(c)(i) hereof is not complied with within the time specified in the notice, the Authority shall cancel the licence.

Other operations in a tombola (bingo) hall.

11. A tombola (bingo) hall may not be used for the conduct of operations other than the operation of commercial tombola games without the Authority's prior approval in writing of such other operations. Failure by a tombola (bingo) hall licensee to comply with the provisions of this item 11 shall constitute an offence against this Act.

*Amended by:
L.N. 426 of 2007.*

THIRD SCHEDULE

Article 40

Commercial communication games

Application for a licence.

1. (1) An application for a commercial communication game licence shall be made by or on behalf of the person who intends to operate the commercial communication game, in the form and manner required by the Authority.

(2) Such application shall at least contain the following information:

- (a) the name and address of the applicant and the address in Malta where any documents may be served on the applicant;
- (b) the type of the commercial communication game which the applicant wants to operate, and such particulars relating to the rules and regulations regarding the procedures for operating and playing such commercial communication game as the Authority may require or as may be prescribed by regulations;
- (c) the dates, times and places when and wherefrom the commercial communication game will be operated and offered to the public and, where applicable, the date or dates, time or times and place or places for the drawing or drawings of the commercial communication game; and
- (d) the goods or services the sale of which is intended to be promoted through the operation of the commercial communication game.

(3) The application shall also contain or be accompanied with such other information, documents and particulars as the Authority may require or as may be prescribed by regulations.

(4) An application for a commercial communication game licence has to be made in respect of each and every commercial communication game which the applicant wants to operate, although a broadcasting media game licence may be granted in respect of a broadcasting media game which is to be operated on different days or at different times or for a specified period.

(5) After the submission of an application for a commercial communication game licence, the Authority shall have the power to require the applicant to provide such other information in addition to that given with the application as the Authority may deem necessary for the purpose of determining the said application.

Grant of a licence.

2. The Authority shall not issue a commercial communication game licence to a person unless the Authority is satisfied that -

- (a) the proposed licensee is a fit and proper person so as to ensure, or where the proposed licensee is not an individual, the persons who exercise effective control and management of the affairs of the proposed licensee are fit and proper to carry out their functions and duties in relation to the proposed licensee in such manner as to ensure, the proper operation of the relevant commercial communication game by the proposed licensee;
- (b) the proposed licensee will comply in all respects with the provisions of this Act and of any regulations made thereunder applicable to it, and

with the terms and conditions of the commercial communication game licence and with any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to it.

Form of licence.

3. (1) The commercial communication game licence shall be in such form as the Authority may determine or as may be prescribed by regulations.

(2) The grant of a commercial communication game licence does not exonerate the licensee from obtaining any other licence, permit or authorization which may be required under any other law.

Licence conditions and variations or revocations thereof.

4. (1) In granting a commercial communication game licence, the Authority may subject it to such conditions as it may deem appropriate, and having granted such licence the Authority may, from time to time, vary or revoke any condition so imposed or impose new conditions:

Provided that whenever the Authority deems it appropriate to vary any condition or impose any new condition in the commercial communication game licence, the Authority shall, unless such variation or imposition of a new condition has been requested by the licensee himself, inform the licensee by notice in writing of its intention to vary the said condition or to impose the said new condition, calling upon the said licensee to show cause, within such period being not less than seven days after the issue of the notice as may be specified in the same notice, why such condition should not be varied or such new condition should not be imposed, and the Authority shall consider any response made by the licensee within the period specified in the notice, before varying the condition or before imposing the new condition.

(2) Conditions in a commercial communication game licence may impose requirements to be complied with by the licensee after the licence has ceased to have effect.

(3) A commercial communication game licence may impose conditions requiring the licensee -

- (a) to obtain the consent of the Authority before doing anything specified, or of a description specified, in the licence; and
- (b) to refer matters specified, or of a description specified, in the licence to the Authority for approval.

(4) A commercial communication game licence shall include a condition requiring the licensee to pay to the Authority, at such times as may be prescribed by regulations, such fees, duties, taxes and, or other sums as may be so prescribed, which fees, duties, taxes and, or sums shall be in addition to those which the licensee may be required to pay under any law other than this Act.

(5) A commercial communication game licence shall be deemed to include a condition that -

- (a) the prize or prizes which can be won in such game shall not consist of money or a cheque or similar document entitling the holder to convert it into money; and
- (b) the aggregate retail value of all prizes which can be won in such game shall not exceed the amount of fifty-eight thousand and two hundred and thirty-four euro and thirty-three cents (58,234.33).

Changes in effective control and management etc.

5. (1) (a) If the commercial communication game licensee is a person other than an individual, such licensee shall within five days of any change in the persons who exercise effective control and management of the affairs of the licensee inform the Authority of such change. The licensee shall also inform the Authority of any material changes in the information and documentation provided by the licensee in terms of item 1(2), (3) and (5) of this Schedule or in terms of any other provision of this Act or of regulations made thereunder or in terms of conditions attached to the commercial communication game licence, as soon as it becomes aware of such changes.

(b) Where owing to any change as is referred to in paragraph (a) hereof, whether the Authority has been informed of such change in accordance with the said paragraph (a) or not, a situation is brought about that, had it existed at the time of the application for the commercial communication game licence, it would have disqualified the licensee from obtaining a licence in terms of item 2 of this Schedule, the Authority shall by notice inform the licensee accordingly, and if the situation shall not have been remedied to the satisfaction of the Authority within five days from the notice to that effect by the Authority, the Authority shall cancel such licence without complying with the provisions of item 8 of this Schedule:

Provided that the Authority shall not issue a notice as aforesaid any later than one month after being informed by the licensee of the change in accordance with paragraph (a) hereof.

(2) Failure by the licensee to comply with the provisions of sub-item (1) hereof shall constitute an offence against this Act.

Assignment or surrender of licence.

6. (1) A commercial communication game licence may not be assigned or transferred by the commercial communication game licensee to any other person.

(2) The commercial communication game licensee may not surrender the commercial communication game licence during the licence term without the prior approval in writing of the Authority, and if such approval is given, the licence may then be surrendered only subject to such terms and conditions as may be specified by the Authority in its approval.

(3) If a commercial communication game licence is assigned or transferred by the commercial communication game licensee to any other person -

(a) such licence shall be considered null and void and

(b) the Authority may issue a directive to such licensee to do or restrain from doing any act which the Authority may deem appropriate in the circumstances, and such licensee shall comply with any such directive, failing which it shall be guilty of an offence against this Act.

(4) A commercial communication game licensee who acts in breach of the provisions of this item 6 shall be guilty of an offence against this Act.

Grounds for cancellation or suspension of licence.

7. The Authority may order the cancellation or suspension of a commercial communication game licence on any of the following grounds:

(a) the licensee, or any person who exercises effective control and management of the affairs of the licensee, is convicted of an offence

against this Act, or of theft, receiving stolen property, fraud or any crime affecting public trust;

- (b) the licensee contravenes any provision of this Act or of any regulations made thereunder applicable to it, or is in breach of any condition in the commercial communication game licence or any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to it;
- (c) the licensee knowingly or recklessly supplies to the Authority material information that is false or misleading;
- (d) the licensee fails to fulfil his financial commitments when they become due and payable;
- (e) the licensee is being wound up; or
- (f) the Authority is reasonably satisfied that the licensee is not, or has ceased to be, a suitable person to hold the commercial communication game licence, or it reasonably deems it necessary in the national interest to cancel or suspend the commercial communication game licence.

Procedures for the cancellation or suspension of licence.

8. (1) Where a ground for cancellation or suspension of a commercial communication game licence arises under item 7 of this Schedule, the Authority shall, by notice in writing, request the licensee, and may request any other person who in its opinion has an interest in the licence, to show cause, within such period being not less than five days after the issue of the notice as specified in the same notice, why the licence should not be cancelled or suspended on such ground as is stated in the notice.

(2) The Authority shall have regard to any response made under sub-item (1) hereof in such manner that -

- (a) where the matter is resolved to its satisfaction, it shall take no further action and shall inform the licensee in writing accordingly;
- (b) where, although the matter is not resolved to its satisfaction, it considers that further action is not warranted, it shall caution the licensee in writing; or
- (c) where the matter is not resolved to its satisfaction and it is satisfied that further action is warranted, it may -
 - (i) by notice in writing give such direction to the licensee as it considers appropriate; or
 - (ii) suspend the licence for such period as it thinks fit, or cancel such licence.

(3) Where a direction given by the Authority under sub-item (2)(c)(i) hereof is not complied with within the time specified in the notice, the Authority shall cancel the licence.

*Amended by:
L.N. 426 of 2007.*

FOURTH SCHEDULE

Article 41

Broadcasting media games

Application for a licence.

1. (1) An application for a broadcasting media game licence shall be made by or on behalf of the owner or operator of a radio or television station, or the sub-contractor thereof, who intends to operate the broadcasting media game, in the form and manner required by the Authority.

(2) Such application shall at least contain the following information:

- (a) the name and address of the applicant and the address in Malta where any documents may be served on the applicant;
- (b) the type of the broadcasting media game which the applicant wants to operate, and such particulars relating to the rules and regulations regarding the procedures for operating and playing such broadcasting media game as the Authority may require or as may be prescribed by regulations; and
- (c) the dates, times, channels, frequencies and transmitting or recording studios when, on which and wherefrom the broadcasting media game will be operated and offered to the public and, where applicable, the date or dates, time or times and place or places for the drawing or drawings of the broadcasting media game.

(3) The application shall also contain or be accompanied with such other information, documents and particulars as the Authority may require or as may be prescribed by regulations.

(4) An application for a broadcasting media game licence has to be made in respect of each and every broadcasting media game which the applicant wants to operate, although a broadcasting media game licence may be granted in respect of a broadcasting media game which is to be operated on different days or at different times or for a specified period.

(5) After the submission of an application for a broadcasting media game licence, the Authority shall have the power to require the applicant to provide such other information in addition to that given with the application as the Authority may deem necessary for the purpose of determining the said application.

Grant of a licence.

2. The Authority shall not issue a broadcasting media game licence to a person unless that person is the owner or operator of a radio or television station or a sub-contractor thereof and the Authority is satisfied that:

- (a) the proposed licensee is a fit and proper person so as to ensure, or where the proposed licensee is not an individual, the persons who exercise effective control and management of the affairs of the proposed licensee are fit and proper to carry out their functions and duties in relation to the proposed licensee in such manner as to ensure, the proper operation of the relevant broadcasting media game by the proposed licensee;
- (b) the proposed licensee will comply in all respects with the provisions of this Act and of any regulations made thereunder applicable to it, and with the terms and conditions of the broadcasting media game licence

and with any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to it.

Form of licence.

3. (1) The broadcasting media game licence shall be in such form as the Authority may determine or as may be prescribed by regulations.

(2) The grant of a broadcasting media game licence does not exonerate the licensee from obtaining any other licence, permit or authorization which may be required under any other law.

Licence conditions and variations or revocations thereof.

4. (1) In granting a broadcasting media game licence, the Authority may subject it to such conditions as it may deem appropriate, and having granted such licence the Authority may, from time to time, vary or revoke any condition so imposed or impose new conditions:

Provided that whenever the Authority deems it appropriate to vary any condition or impose any new condition in the broadcasting media game licence, the Authority shall, unless such variation or imposition of a new condition has been requested by the licensee himself, inform the licensee by notice in writing of its intention to vary the said condition or to impose the said new condition, calling upon the said licensee to show cause, within such period being not less than seven days after the issue of the notice as may be specified in the same notice, why such condition should not be varied or such new condition should not be imposed, and the Authority shall consider any response made by the licensee within the period specified in the notice, before varying the condition or before imposing the new condition.

(2) Conditions in a broadcasting media game licence may impose requirements to be complied with by the licensee after the licence has ceased to have effect.

(3) A broadcasting media game licence may impose conditions requiring the licensee -

- (a) to obtain the consent of the Authority before doing anything specified, or of a description specified, in the licence; and
- (b) to refer matters specified, or of a description specified, in the licence to the Authority for approval.

(4) A broadcasting media game licence shall include a condition requiring the licensee to pay to the Authority, at such times as may be prescribed by regulations, such fees, duties, taxes and, or other sums as may be so prescribed, which fees, duties, taxes and, or sums shall be in addition to those which the licensee may be required to pay under any law other than this Act.

(5) A broadcasting media game licence shall be deemed to include a condition that -

- (a) the prize or prizes which can be won in such game shall not consist of money or a cheque or similar document entitling the holder to convert it into money; and
- (b) the aggregate retail value of all prizes which can be won in such game shall not exceed the amount of fifty-eight thousand and two hundred and thirty-four euro and thirty-three cents (58,234.33).

Changes in effective control and management etc.

5. (1) (a) If the broadcasting media game licensee is a person other than an individual, such licensee shall within five days of any change in the persons who exercise effective control and management of the affairs of the licensee inform the Authority of such change. The licensee shall also inform the Authority of any material changes in the information and documentation provided by the licensee in terms of item 1(2), (3) and (5) of this Schedule or in terms of any other provision of this Act or of regulations made thereunder or in terms of conditions attached to the broadcasting media game licence, as soon as it becomes aware of such changes.

(b) Where owing to any change as is referred to in paragraph (a) hereof, whether the Authority has been informed of such change in accordance with the said paragraph (a) or not, a situation is brought about that, had it existed at the time of the application for the broadcasting media game licence, it would have disqualified the licensee from obtaining a licence in terms of item 2 of this Schedule, the Authority shall by notice inform the licensee accordingly, and if the situation shall not have been remedied to the satisfaction of the Authority within five days from the notice to that effect by the Authority, the Authority shall cancel such licence without complying with the provisions of item 8 of this Schedule:

Provided that the Authority shall not issue a notice as aforesaid any later than one month after being informed by the licensee of the change in accordance with paragraph (a) hereof.

(2) Failure by the licensee to comply with the provisions of sub-item (1) hereof shall constitute an offence against this Act.

Assignment or surrender of licence.

6. (1) A broadcasting media game licence may not be assigned or transferred by the broadcasting media game licensee to any other person.

(2) The broadcasting media game licensee may not surrender the broadcasting media game licence during the licence term without the prior approval in writing of the Authority, and if such approval is given, the licence may then be surrendered only subject to such terms and conditions as may be specified by the Authority in its approval.

(3) If a broadcasting media game licence is assigned or transferred by the broadcasting media game licensee to any other person -

(a) such licence shall be considered null and void; and

(b) the Authority may issue a directive to such licensee to do or restrain from doing any act which the Authority may deem appropriate in the circumstances, and such licensee shall comply with any such directive, failing which it shall be guilty of an offence against this Act.

(4) A broadcasting media game licensee who acts in breach of the provisions of this item 6 shall be guilty of an offence against this Act.

Grounds for cancellation or suspension of licence.

7. The Authority may order the cancellation or suspension of a broadcasting media game licence on any of the following grounds:

(a) the licensee, or any person who exercises effective control and management of the affairs of the licensee, is convicted of an offence against this Act, or of theft, receiving stolen property, fraud or any crime affecting public trust;

(b) the licensee contravenes any provision of this Act or of any regulations

made thereunder applicable to it, or is in breach of any condition in the broadcasting media game licence or any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to it;

- (c) the licensee knowingly or recklessly supplies to the Authority material information that is false or misleading;
- (d) the licensee fails to fulfil his financial commitments when they become due and payable;
- (e) the licensee is being wound up; or
- (f) the Authority is reasonably satisfied that the licensee is not, or has ceased to be, a suitable person to hold the broadcasting media game licence, or it reasonably deems it necessary in the national interest to cancel or suspend the broadcasting media game licence.

Procedures for the cancellation or suspension of the licence.

8. (1) Where a ground for cancellation or suspension of a broadcasting media game licence arises under item 7 of this Schedule, the Authority shall, by notice in writing, request the licensee, and may request any other person who in its opinion has an interest in the licence, to show cause, within such period being not less than five days after the issue of the notice as specified in the same notice, why the licence should not be cancelled or suspended on such ground as is stated in the notice.

(2) The Authority shall have regard to any response made under sub-item (1) hereof in such manner that -

- (a) where the matter is resolved to its satisfaction, it shall take no further action and shall inform the licensee in writing accordingly;
- (b) where, although the matter is not resolved to its satisfaction, it considers that further action is not warranted, it shall caution the licensee in writing; or
- (c) where the matter is not resolved to its satisfaction and it is satisfied that further action is warranted, it may -
 - (i) by notice in writing give such direction to the licensee as it considers appropriate; or
 - (ii) suspend the licence for such period as it thinks fit, or cancel such licence.

(3) Where a direction given by the Authority under sub-item (2)(c)(i) hereof is not complied with within the time specified in the notice, the Authority shall cancel the licence.

FIFTH SCHEDULE

Article 42

VLT games and VLTs

Duration and renewal of licence.

1. (1) A VLT licence shall be issued for such term, not exceeding three years, as the Authority may specify in the licence.

(2) Unless it is previously cancelled, a VLT licence may be renewed by the Authority for a further period or further periods, each of which shall not exceed three years, as the Authority may determine.

(3) Any such renewal as is mentioned in sub-item (2) hereof is subject to compliance by the VLT licensee, during the immediately preceding original or renewed term of the licence, with the provisions of this Act and of any regulations made thereunder, and with the terms and conditions of the licence and with any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to such licensee, and subject to the acceptance by the Authority of the written application for such renewal made by the licensee to the Authority by such date before the expiry of the immediately preceding original or renewed term of the licence as the Authority has specified in the licence and containing such information as the Authority has specified therein as necessary or expedient to enable it determine whether to renew the said licence.

(4) After the submission of an application for the renewal of a VLT licence, the Authority may require the applicant to provide such other information, in addition to that provided together with the application, as may be deemed necessary for the purpose of determining the said application.

Application for a licence.

2. (1) An application for a VLT licence shall be made by, or on behalf of, the company registered in Malta which intends to operate VLT games and gaming through a VLT or VLTs, in the form and manner required by the Authority.

(2) Such application shall at least contain the following information:

- (a) the name, registered office and registration number of the applicant company and the address in Malta for the service of documents on the applicant company;
- (b) the number of VLTs which the applicant company wants to operate in terms of the licence;
- (c) a description of the location, layout and specifications of -
 - (i) the premises where the VLT central computer will be situated;
 - (ii) if different from the premises referred to in sub-paragraph (i) hereof, the premises or, if more than one, each of the premises, where the VLT or VLTs to be connected to the VLT central computer and to be operated in terms of the licence will be situated; and
 - (iii) if different from the premises referred to in sub-paragraphs (i) and (ii) hereof, the premises where the VLT payout vouchers will be exchanged or redeemed for prizes of VLT games;
- (d) the dates or days of the week, and the times during such dates or days, on and during which VLT games may be played and VLT payout vouchers may be exchanged or redeemed for prizes of VLT games in each of the premises referred to in sub-item (2)(c)(ii) and (iii) hereof; and
- (e) the type of VLT games which the applicant company wants to operate and offer to the public on the relevant VLT or VLTs in terms of the licence, the rules and regulations regarding the procedures for operating and playing the VLTs and the VLT games, the win determination process, the elements of the VLT games, the proposed procedures for the printing, validation and authentication of VLT payout vouchers, the

number, type and specifications of all gaming devices to be used in operating and playing the VLTs and the VLT games, the proposed stake or range of stakes for each VLT game, the proposed prizes, the proposed procedures for the exchange or redemption of VLT payout vouchers for prizes, the proposed payout percentage or range of payout percentages for each VLT game, the proposed procedures for registering and recording on the VLT central computer all gaming taking place and all operations carried out through the VLTs and the proposed measures to ensure the regular operation and playing of the VLTs and VLT games.

(3) Such application shall contain or be accompanied by -

- (a) a copy of the certificate of registration and of the memorandum and articles of association of the applicant company;
- (b) if the person legally entitled to the use of, and responsible for the activities conducted within, any of the premises referred to in sub-item (2)(c)(ii) and (iii) of this item 2 is a person other than the applicant company, a copy of the agreement or, where there is no written agreement, written particulars of any verbal agreement or arrangement between such person and the applicant company regulating their relationship and respective rights and obligations in respect of the VLT or VLTs to be kept in such premises and their operation and, or the exchange or redemption of VLT payout vouchers for prizes of VLT games;
- (c) such other information, documents and particulars as the Authority may require or as may be prescribed by regulations.

(4) After the submission of an application for a VLT licence, the Authority shall have the power to require the applicant to provide such other information in addition to that provided together with the application as it shall deem necessary for the purpose of determining the said application.

Grant of a licence.

3. The Authority shall not issue a VLT licence to a person unless that person is a company registered in Malta and the Authority is satisfied that -

- (a) the voting share capital of the company is owned directly or indirectly by a person or persons who are fit and proper to benefit from the operation by the company of VLT games and gaming through VLTs and to exercise their rights of membership in such manner as to ensure the proper operation by the company of such games and gaming;
- (b) the director or directors of the company are fit and proper to manage the company and to exercise their functions and duties as directors in such manner as to ensure the proper operation by the company of VLT games and gaming through VLTs;
- (c) the company has the financial and technical means and the expertise necessary to properly operate VLT games and gaming through VLTs and to fulfil all its obligations under this Act;
- (d) the company will, prior to the commencement of operations, take out and thereafter maintain, the bank guarantee referred to in item 6 of this Schedule as provided and in accordance with the said item 6; and
- (e) the company will comply in all respects with the provisions of this Act and of any regulations made thereunder applicable to it, and with the terms and conditions of the licence and with any directive issued by the

Authority in terms of this Act or of regulations made thereunder and applicable to it.

Form of licence.

4. (1) The VLT licence shall be in such form as the Authority may determine or as may be prescribed by regulations, and shall *inter alia* specify:

- (a) its date of issue and effective term;
- (b) the name, registered office and registration number of the licensee;
- (c) the address in Malta specified by the licensee for the purpose of the service of documents on it;
- (d) the type and particulars of VLT games that can be operated under the licence;
- (e) the number of VLTs that can be operated under the licence and such matters relating to such VLTs (including the maximum number thereof which can be kept in any one of the premises referred to in paragraph (f) hereof) as the Authority considers necessary or expedient to specify;
- (f) the premises or, if more than one, each of the premises where the VLTs referred to in paragraph (e) hereof will be situated and, or where the VLT payout vouchers will be exchanged or redeemed for prizes of VLT games; and
- (g) such other particulars as the Authority considers necessary or expedient, or as may be prescribed by regulations.

(2) The grant of a VLT licence does not exonerate the licensee from obtaining any other licence, permit or authorization which may be required under any other law.

Licence conditions and variations or revocations thereof.

5. (1) In granting a VLT licence the Authority may subject it to such conditions as it may deem appropriate, and having granted such licence the Authority may, from time to time, vary or revoke any condition so imposed or impose new conditions:

Provided that whenever the Authority deems it appropriate to vary any condition or impose any new condition in a VLT licence, the Authority shall, unless such variation or imposition of a new condition has been requested by the licensee himself, inform the licensee by notice in writing of its intention to vary the said condition or to impose the said new condition, and call upon the said licensee to show cause, within such period being not less than twenty-one days after the issue of the notice as may be specified in the same notice, why such condition should not be varied or such new condition should not be imposed, and the Authority shall consider any response made by the licensee within the period specified in the notice before varying the condition or before imposing the new condition.

(2) Conditions in a VLT licence may impose requirements to be complied with by the licensee after the licence has ceased to have effect.

(3) A VLT licence may impose conditions requiring the licensee -

- (a) to obtain the consent of the Authority before doing anything specified, or of a description specified, in the licence; and
- (b) to refer matters specified, or of a description specified, in the licence to the Authority for approval.

(4) A VLT licence shall be deemed to include a condition requiring the licensee to obtain the consent of the Authority before entering into any arrangement with any person, other than an employee of the licensee, for the operation by such person of VLTs connected or to be connected to the same VLT central computer of the licensee and, or for the exchange or redemption by such person of VLT payout vouchers produced by VLTs operated by the licensee in terms of his licence for prizes of VLT games played by means of such VLTs.

(5) A VLT licence shall include a condition requiring the licensee to pay to the Authority, at such times as may be prescribed by regulations, such fees, duties, taxes and, or other sums as may be so prescribed, which fees, duties, taxes and, or sums shall be in addition to those which the licensee may be required to pay under any law other than this Act.

Requirement of bank guarantee.

6. (1) A VLT licence shall include a condition requiring the licensee to take out, prior to the commencement of operations, a bank guarantee, to be issued by a bank or by a credit or financial institution acceptable to the Authority, in favour of the Authority and on its own behalf and on behalf of the Government, in such amount as may be specified in the licence or as may be prescribed by regulations, for securing -

- (a) the payment and distribution of prizes by the licensee to winners of VLT games operated under the licence;
- (b) the payment of fees, taxes, duties or any other sums payable by the licensee to the Authority in terms of item 5(5) of this Schedule;
- (c) the payment by the licensee of any fines or administrative penalties imposed on it under Part XII or under regulations made under this Act.

(2) The bank guarantee shall become payable to the Authority on its first demand, and it shall not be incumbent upon the relative bank, credit or financial institution which issued the bank guarantee to verify whether such demand is justified.

(3) The bank guarantee shall remain valid until the expiry of one year from the expiry of the licence or until such time as the Authority considers and notifies the licensee in writing that such bank guarantee is no longer required, whichever is the earlier.

(4) The bank guarantee shall be subject to such other terms and conditions as may be specified in the licence or as may be prescribed by regulations made under this Act.

Changes in ownership and management etc.

7. (1) (a) Without prejudice to the provisions of item 8 of this Schedule, it shall be the duty of the VLT licensee and of the directors thereof, to inform the Authority of any change in, or in the direct or indirect ownership of, the voting share capital of the licensee, or of any change in the management or Board of Directors of the licensee, within five days of such change. It shall also be the duty of the licensee and of its directors to inform the Authority of any material changes in the information and documentation provided by the licensee in terms of item 2(2), (3) and (4) of this Schedule or in terms of any other provision of this Act or of regulations made thereunder or in terms of conditions attached to the VLT licence, as soon as they become aware of such changes.

(b) Where owing to any change as is referred to in paragraph (a) hereof, whether the Authority has been informed of such change in accordance with the said paragraph (a) or not, a situation is brought about that, had it existed at the time of the application for the VLT licence, it would have disqualified the licensee from obtaining a licence in terms of item 3 of this Schedule, the Authority shall by notice inform the licensee accordingly, and if the situation shall not have been remedied to the satisfaction of the Authority within one calendar month from the notice to that effect by the Authority, the Authority shall cancel such licence, without complying with the provisions of item 10 of this Schedule:

Provided that the Authority shall not issue a notice as aforesaid any later than three calendar months after being informed by the licensee or its directors of the change in accordance with paragraph (a) hereof.

(2) Failure by the licensee or the directors thereof to comply with the provisions of sub-item (1)(a) hereof shall constitute an offence against this Act.

Assignment or surrender of licence and transfer of controlling interests.

8. (1) It shall be the duty of a VLT licensee to obtain the prior approval in writing of the Authority before taking any of the actions set out in paragraphs (a) to (f) of sub-item (2) of this item 8, and if such approval is given, the licensee may then take any of the said actions only subject to such terms and conditions as may be specified by the Authority in its approval. A VLT licensee who acts in breach of the provisions of this sub-item (1) shall be guilty of an offence against this Act. It shall be the duty of all the directors of the licensee to inform the Authority forthwith upon becoming aware that the licensee intends to take any of the said actions, and in default they shall be guilty of an offence against this Act.

(2) The actions referred to in sub-item (1) of this item 8 are:

- (a) the transfer or assignment of the VLT licence by the VLT licensee to any other person;
- (b) the sale or other disposition by the VLT licensee of its business, in whole or in part;
- (c) the merger by the VLT licensee with any other company;
- (d) the VLT licensee undergoing any reconstruction, division or any conversion of its status from a company into any other kind of commercial partnership;
- (e) the reduction of the nominal or issued share capital of the VLT licensee or the increase or reduction of its voting share capital or any material change in voting rights in such licensee; or
- (f) the surrender of the VLT licence by the VLT licensee during the licence term.

(3) It shall be the duty of any person who holds or owns a controlling interest in a VLT licensee to obtain the prior approval in writing of the Authority before transferring such controlling interest to any other person, or such part thereof as would cause him to cease to hold or own a controlling interest in the licensee or as would cause the transferee to acquire a controlling interest in the licensee, and if such approval is given, the said person may then transfer such controlling interest or part thereof as aforesaid only subject to such terms and conditions as may be specified by the Authority in its approval. A person who acts in breach of the provisions of this sub-item (3) shall be guilty of an offence against this Act. It shall be the duty of the VLT licensee and of all the directors thereof to inform the Authority forthwith upon becoming aware that any person who holds or owns a

controlling interest in the licensee intends to transfer such controlling interest or part thereof as aforesaid to any other person, and in default they shall be guilty of an offence against this Act.

For the purposes of this sub-item (3) and of any other provision of this Schedule which makes reference to this sub-item (3), "controlling interest in a VLT licensee" means a direct shareholding in a VLT licensee which represents at least twenty *per centum* of the voting share capital issued by such licensee.

(4) If a VLT licensee takes any of the actions set out in paragraphs (a) to (e) of sub item (2) of this item 8, or if a person referred to in sub-item (3) of this item 8 effects a transfer of a controlling interest in the licensee or part thereof as referred to in the said sub-item (3) to any other person, without the prior approval in writing of the Authority, or in breach of any terms and conditions specified by the Authority in any such approval, the Authority may, without prejudice to its powers under items 9 and 10 of this Schedule -

- (a) issue a directive declaring such action or transfer to be void and of no effect, which directive shall be effective against all persons involved in such action or transfer notwithstanding the provisions of any other law; and, or
- (b) issue a directive to such licensee or, as the case may be, to such person to do or restrain from doing any act which the Authority may deem appropriate in the circumstances,

and such licensee or, as the case may be, such person shall comply with any such directive issued to it by the Authority in terms of paragraph (b) of this sub-item (4), failing which it shall be guilty of an offence against this Act.

Grounds for cancellation or suspension of licence.

9. The Authority may order the cancellation or suspension of a VLT licence on any of the following grounds:

- (a) any director or manager of the licensee is convicted of an offence against this Act, or of theft, receiving stolen property, fraud or any crime affecting public trust;
- (b) the licensee contravenes any provision of this Act or of any regulations made thereunder applicable to it, or is in breach of any condition in the VLT licence or any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to it;
- (c) the licensee knowingly or recklessly supplies to the Authority material information that is false or misleading;
- (d) the licensee fails to fulfil his financial commitments when they become due and payable;
- (e) the licensee fails to take out and maintain the required bank guarantee as provided and in accordance with item 6 of this Schedule;
- (f) the licensee is being wound up;
- (g) any person as is referred to in item 8(3) of this Schedule transfers a controlling interest in the licensee or such part thereof as referred to in the said item 8(3) to any other person, without the prior approval in writing of the Authority as required by the said item 8(3), or in breach of any terms and conditions specified by the Authority in any such approval; or
- (h) the Authority is reasonably satisfied that the licensee is not, or has

ceased to be, a suitable person to hold the VLT licence, or it reasonably deems it necessary in the national interest to cancel or suspend the VLT licence.

Procedures for the cancellation or suspension of licence.

10. (1) Where a ground for cancellation or suspension of a VLT licence arises under item 9 of this Schedule, the Authority shall, by notice in writing, request the licensee, and may request any other person who in its opinion has an interest in the licence, to show cause, within such period being not less than twenty-one days after the issue of the notice as specified in the same notice, why the licence should not be cancelled or suspended on such ground as is stated in the notice.

(2) The Authority shall have regard to any response made under sub-item (1) hereof in such manner that -

- (a) where the matter is resolved to its satisfaction, it shall take no further action and shall inform the licensee in writing accordingly;
- (b) where, although the matter is not resolved to its satisfaction, it considers that further action is not warranted, it shall caution the licensee in writing; or
- (c) where the matter is not resolved to its satisfaction and it is satisfied that further action is warranted, it may -
 - (i) by notice in writing give such direction to the licensee as it considers appropriate; or
 - (ii) suspend the licence for such period as it thinks fit, or cancel such licence.

(3) Where a direction given by the Authority under sub-item (2)(c)(i) hereof is not complied with within the time specified in the notice, the Authority shall cancel the licence.

SIXTH SCHEDULE

Article 43

Racecourse Bets and sweepstakes

Method of operating and playing a sweepstake

1. For the purposes of the definition of "sweepstake" in article 2(1), a sweepstake is a game connected with a horse race or races conducted on a racecourse which is played -

- (a) by two or more persons not exceeding in number the number of horses or runners participating in any horse race in connection with which the game is operated and played (hereinafter in this paragraph referred to as "the relevant horse race"), each of which persons participates in the game by paying a monetary stake to the person operating the game (hereinafter in this paragraph referred to as "the operator") in return for a ticket drawn by lot by the operator, previously to the start of the relevant horse race, from among tickets not exceeding in number the number of horses or runners participating in the relevant horse race and each of which tickets is matched to a different horse or runner

participating in the relevant horse race, and which is won by the person or persons whose ticket or tickets are matched to the horse or runner or horses or runners placing in such places in the relevant horse race which are prescribed to be winning places by the rules of the game, and whereby the prize in such game consists of the whole of the monies staked in such game less such amount thereof as may, subject to the provisions of this Schedule, be deducted and kept by the operator in accordance with the rules of such game, which prize is distributed to the winners of such game in the proportions set out in, and according to, the rules of the game; or

- (b) by means of tickets each bearing a different number, symbol or picture, which tickets are purchased by participants in such game against payment of a monetary stake to the person operating the game (hereinafter in this paragraph referred to as "the operator") previously to the start of any horse race in connection with which the game is operated and played (hereinafter in this paragraph referred to as "the relevant horse race"), and whereby the operator draws by lot, previously to the start or after the termination of the relevant horse race a number of numbers, symbols or pictures equal to the number of horses or runners participating in the relevant horse race and is won by the holders of the tickets bearing the same numbers, symbols or pictures as those drawn as aforesaid, and whereby the prize in such game consists of the whole of the monies staked in such game less such amount thereof as may, subject to the provisions of this Schedule, be deducted and kept by the operator in accordance with the rules of such game, which prize is distributed to the holders of the winning tickets in the proportions set out in, and according to, the rules of the game.

Duration and renewal of licence.

2. (1) A racecourse betting licence shall be issued for such term, not exceeding one year as the Authority may specify in the licence.

(2) Unless it is previously cancelled, a racecourse betting licence may be renewed by the Authority for a further period or further periods, each of which shall not exceed one year, as the Authority may determine.

(3) Any such renewal as is mentioned in sub-item (2) hereof is subject to compliance by the racecourse betting licensee, during the immediately preceding original or renewed term of the licence, with the provisions of this Act and of any regulations made thereunder, and with the terms and conditions of the licence and with any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to such licensee, and subject to the acceptance by the Authority of the written application for such renewal made by the licensee to the Authority by such date before the expiry of the immediately preceding original or renewed term of the licence as the Authority has specified in the licence, and containing such information as the Authority has specified therein as necessary or expedient to enable it determine whether to renew the said licence.

(4) After the submission of an application for the renewal of a racecourse betting licence, the Authority may require the applicant to provide such other information, in addition to that provided together with the application, as may be deemed necessary for the purpose of determining the said application.

Application for a licence.

3. (1) An application for a racecourse betting licence shall be made by or on

behalf of the approved racing club or other person who intends to operate racecourse bets and, or sweepstakes, in the form and manner required by the Authority.

(2) Such application shall at least contain the following information:

- (a) the name and address of the applicant and the address in Malta where any documents may be served on the applicant;
- (b) the type of racecourse bets and, or sweepstakes which the applicant wants to operate, and such particulars relating to the rules and regulations regarding the procedures for operating and playing such bets and, or sweepstakes as the Authority may require or as may be prescribed by regulations;
- (c) the approved racecourse or approved racecourses in which there will be conducted the horse races and, or dog races on or in connection with which the applicant wants to operate the relevant racecourse bets and, or sweepstakes.

(3) The application shall also contain or be accompanied with such other information, documents and particulars as the Authority may require or as may be prescribed by regulations.

(4) After the submission of an application for a racecourse betting licence, the Authority shall have the power to require the applicant to provide such other information in addition to that given with the application as the Authority may deem necessary for the purpose of determining the said application.

Grant of licence.

4. The Authority shall not issue a racecourse betting licence to a person unless the Authority is satisfied that -

- (a) the proposed licensee is a fit and proper person so as to ensure, or where the proposed licensee is not an individual, the persons who exercise effective control and management of the affairs of the proposed licensee are fit and proper to carry out their functions and duties in relation to the proposed licensee in such manner as to ensure, the proper operation of the relevant racecourse bets and, or sweepstakes by the proposed licensee;
- (b) the proposed licensee will comply in all respects with the provisions of this Act and of any regulations made thereunder applicable to it, and with the terms and conditions of the racecourse betting licence and with any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to it.

Form of licence.

5. (1) The racecourse betting licence shall be in such form as the Authority may determine or as may be prescribed by regulations.

(2) The grant of a racecourse betting licence does not exonerate the licensee from obtaining any other licence, permit or authorization which may be required under any other law.

Licence conditions and variations and revocations thereof.

6. (1) In granting a racecourse betting licence, the Authority may subject it to such conditions as it may deem appropriate, and having granted such licence the Authority may, from time to time, vary or revoke any condition so imposed or impose new conditions:

Provided that whenever the Authority deems it appropriate to vary any condition or impose any new condition in the racecourse betting licence, the Authority shall, unless such variation or imposition of a new condition has been requested by the licensee himself, inform the licensee by notice in writing of its intention to vary the said condition or to impose the said new condition, calling upon the said licensee to show cause, within such period being not less than seven days after the issue of the notice as may be specified in the same notice, why such condition should not be varied or such new condition should not be imposed, and the Authority shall consider any response made by the licensee within the period specified in the notice, before varying the condition or before imposing the new condition.

(2) Conditions in a racecourse betting licence may impose requirements to be complied with by the licensee after the licence has ceased to have effect.

(3) A racecourse betting licence may impose conditions requiring the licensee -

- (a) to obtain the consent of the Authority before doing anything specified, or of a description specified, in the licence; and
- (b) to refer matters specified, or of a description specified, in the licence to the Authority for approval.

(4) A racecourse betting licence shall include a condition requiring the licensee to pay to the Authority, at such times as may be prescribed by regulations, such fees, duties, taxes and, or other sums as may be so prescribed, which fees, duties, taxes and, or sums shall be in addition to those which the licensee may be required to pay under any law other than this Act.

(5) A racecourse betting licence to operate racecourse bets shall be deemed to include a condition that:

- (a) the licensee shall only operate racecourse bets on horse races and, or dog races conducted on the approved racecourse or approved racecourses indicated in the licence at approved meetings, by means of a totalisator set up, kept and operated on the approved racecourse and at the approved meeting on and during which there is being conducted the relevant horse or dog race in respect of which the said licensee is operating any particular racecourse bet; and
- (b) not less than eighty-three *per centum* of the whole of the monies staked in respect of any particular racecourse bet operated by the licensee shall be distributed by such licensee among the persons winning such racecourse bet in accordance with the rules of the said racecourse bet.

(6) A racecourse betting licence to operate sweepstakes shall be deemed to include a condition that:

- (a) the licensee shall only operate sweepstakes on horse races conducted on the approved racecourse or approved racecourses indicated in the licence at approved meetings, by means of tickets sold only on the approved racecourse on which there is being conducted the relevant horse race in respect of which the said licensee is operating any particular sweepstake to persons who have been admitted to such approved racecourse on payment of the applicable admission fee and, or by means of tickets sold only to such other persons as may be specified in the licence or as may be prescribed in regulations; and
- (b) not less than eighty-five *per centum* of the whole of the monies staked in respect of any particular sweepstake operated by the licensee shall be

distributed by such licensee among the persons winning such sweepstake in accordance with the rules of the said sweepstake.

Changes in effective control and management etc.

7. (1) (a) If the racecourse betting licensee is not an individual, such licensee shall within five days of any change in the persons who exercise effective control and management of the affairs of the licensee inform the Authority of such change. The licensee shall also inform the Authority of any material changes in the information and documentation provided by the licensee in terms of item 3(2), (3) and (4) of this Schedule or in terms of any other provision of this Act or of regulations made thereunder or in terms of conditions attached to the racecourse betting licence, as soon as it becomes aware of such changes.

(b) Where owing to any change as is referred to in paragraph (a) hereof, whether the Authority has been informed of such change in accordance with the said paragraph (a) or not, a situation is brought about that, had it existed at the time of the application for the racecourse betting licence, it would have disqualified the licensee from obtaining a licence in terms of item 4 of this Schedule, the Authority shall by notice inform the licensee accordingly, and if the situation shall not have been remedied to the satisfaction of the Authority within five days from the notice to that effect by the Authority, the Authority shall cancel such licence without complying with the provisions of item 10 of this Schedule:

Provided that the Authority shall not issue a notice as aforesaid any later than one month after being informed by the licensee of the change in accordance with paragraph (a) hereof.

(2) Failure by the licensee to comply with the provisions of sub-item (1) hereof shall constitute an offence against this Act.

Assignment or surrender of licence.

8. (1) A racecourse betting licence may not be assigned or transferred by the racecourse betting licensee to any other person.

(2) The racecourse betting licensee may not surrender the racecourse betting licence during the licence term without the prior approval in writing of the Authority, and if such approval is given, the licence may then be surrendered only subject to such terms and conditions as may be specified by the Authority in its approval.

(3) If a racecourse betting licence is assigned or transferred by the racecourse betting licensee to any other person -

(a) such licence shall be considered null and void; and

(b) the Authority may issue a directive to such licensee to do or restrain from doing any act which the Authority may deem appropriate in the circumstances, and such licensee shall comply with any such directive, failing which it shall be guilty of an offence against this Act.

(4) A racecourse betting licensee who acts in breach of the provisions of this item 8 shall be guilty of an offence against this Act.

Grounds for cancellation or suspension of licence.

9. The Authority may order the cancellation or suspension of a racecourse betting licence on any of the following grounds:

(a) the licensee, or any person who exercises effective control and

management of the affairs of the licensee, is convicted of an offence against this Act, or of theft, receiving stolen property, fraud or any crime affecting public trust;

- (b) the licensee contravenes any provision of this Act or of any regulations made thereunder applicable to it, or is in breach of any condition in the racecourse betting licence or any directive issued by the Authority in terms of this Act or of regulations made thereunder and applicable to it;
- (c) the licensee knowingly or recklessly supplies to the Authority material information that is false or misleading;
- (d) the licensee fails to fulfil his financial commitments when they become due and payable;
- (e) the licensee is being wound up; or
- (f) the Authority is reasonably satisfied that the licensee is not, or has ceased to be, a suitable person to hold the racecourse betting licence, or it reasonably deems it necessary in the national interest to cancel or suspend the racecourse betting licence.

Procedures for the cancellation or suspension of the licence.

10. (1) Where a ground for cancellation or suspension of a racecourse betting licence arises under item 9 of this Schedule, the Authority shall, by notice in writing, request the licensee, and may request any other person who in its opinion has an interest in the licence, to show cause, within such period being not less than five days after the issue of the notice as specified in the same notice, why the licence should not be cancelled or suspended on such ground as is stated in the notice.

(2) The Authority shall have regard to any response made under sub-item (1) hereof in such manner that -

- (a) where the matter is resolved to its satisfaction, it shall take no further action, and shall inform the licensee in writing accordingly;
- (b) where, although the matter is not resolved to its satisfaction, it considers that further action is not warranted, it shall caution the licensee in writing; or
- (c) where the matter is not resolved to its satisfaction and it is satisfied that further action is warranted, it may -
 - (i) by notice in writing give such direction to the licensee as it considers appropriate; or
 - (ii) suspend the licence for such period as it thinks fit, or cancel such licence.

(3) Where a direction given by the Authority under sub-item (2)(c)(i) hereof is not complied with within the time specified in the notice, the Authority shall cancel the licence.

SEVENTH SCHEDULE

Article 80(1)

This Schedule came into force on 2nd September, 2002, and the relative amendments to enactments inserted accordingly.

EIGHTH SCHEDULE

Article 80(2)

This Schedule came into force on 2nd September, 2002, and the relative amendments to enactments inserted accordingly.

NINTH SCHEDULE

Article 46

Constitution and Proceedings of a Racecourse Control Board

1. A Racecourse Control Board shall consist of a chairman and four other members to be appointed by the Minister responsible for sport.
2. The chairman shall be such person as the Minister responsible for sport shall appoint in that behalf.
3. A person shall not be qualified to hold office as a member of a Racecourse Control Board if he -
 - (a) is a member of the House of Representatives;
 - (b) is a judge or magistrate of the courts of justice;
 - (c) has a financial or other material interest in any approved racecourse or in any approved racing club which is likely to affect the discharge of his functions as a member of such Board;
 - (d) he has been convicted of an offence punishable by imprisonment for a period of six months or more;
 - (e) he has been convicted of an offence against Part VIII.
4. The members of a Racecourse Control Board shall hold office for such time as may be specified in their respective appointments:

Provided that any member of such Board may be removed at any time by the Minister responsible for sport.
5. Any person ceasing to be an appointed member of a Racecourse Control Board shall be eligible for reappointment unless there exists in respect of such person any of the grounds for disqualification to hold office as such member listed in item 3 of this Schedule.
6. The quorum of a Racecourse Control Board shall be three, but subject to such quorum such Board may act notwithstanding any vacancy among its members.
7. A Racecourse Control Board may appoint a member of the Board to be vice-chairman of the Board, and in the absence of the chairman or during any vacancy in the office of the chairman, the vice-chairman so appointed shall preside at meetings of the Board.

8. Decisions at meetings of a Racecourse Control Board shall be adopted by a simple majority of the votes of the members present and voting, provided that no decision shall be valid unless it is supported by at least two members of the Board. In case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

9. Subject to any relevant regulations made by the Minister responsible for sport under article 78(6), a Racecourse Control Board may appoint and, or employ, at such remuneration and upon such terms and conditions as it may determine, such officers, employees and agents as may from time to time be necessary for the due and efficient discharge of the functions of the Board, and the Board shall prescribe the duties of each of such officers, employees and agents.

10. Subject to any relevant regulations made by the Minister responsible for sport under article 78(6), a Racecourse Control Board may regulate its own procedure and make standing orders governing the conduct of its business.

11. No act or proceeding of a Racecourse Control Board shall be questioned on account of any vacancy among its members or on account of the appointment of any member having been defective.
