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MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Liġi mressaq mill-Onorevoli Michael Falzon, M.P., Ministru għall-Familja, Drittijiet tat-Tfal u Solidarjetà Soċjali, u moqri għall-Ewwel darba fis-Seduta tal-5 ta' Marzu, 2018.

ATT biex jipprovdi għar-regolamentazzjoni tal-harsien soċjali, għajna u servizzi mogħtija lil individwi minn entitajiet privati u pubbliċi Maltin; kif ukoll biex jirregola is-setgħat, dmirijiet u rizersi finanzjarji tal-Awtorità ta' *Standards* ta' Harsien Soċjali imwaqqfa skont dan l-Att; biex jirregola l-eżercizzju tal-funzjonijiet tal-Awtorità, liema funzjonijiet għandhom jinkludu il-hruġ ta' liċenzi u permessi għal minn jipprovdi harsien u wens, li ddaħhal fis-seħh *standards* regolatorji għal oqsma varji ta' kura soċjali, għajna u servizzi mogħtija lil individwi minn entitajiet privati u pubbliċi, li ddaħhal fis-seħh proċeduri għal stharrig ta' lmenti kontra minn jipprovdi l-harsien, li tipprovdi għat-twiddib ta' min jipprovdi l-wens meta ma jkunx mexas mar-regolamenti, biex jgħin lil min jipprovdi l-harsien biex jilhaq kwalità oghla ta' ġid u wens soċjali u biex jagħmel provvedimenti dwar dawk is-setgħat kollha li jistgħu jinhtiegu sabiex l-Awtorità taqdi l-funzjonijiet tagħha skont dan l-Att.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Michael Falzon, M.P., Minister for the Family, Children's Rights and Social Solidarity, and read the First time at the Sitting of the 5 March, 2018.

AN ACT to provide for the regulation of social care, assistance and services provided to individuals by Maltese private or public entities; as well as to provide for the powers, duties and financial resources of the Social Care Standards Authority set up in accordance with the provisions of this Act; to provide for the exercise and performance by the Authority of functions, which functions shall include the issuing of licenses and warrants for care providers, to set regulatory standards for different areas of social care, assistance and services that are provided by private or public entities, to set procedures for the investigation of complaints against providers of care, to provide for reprimands and cautions to those care providers who do not observe such regulations, to assist the providers of care achieve a greater quality of social well-being and to make provisions in respect of all such powers as may be necessary in order for the Authority to fulfil its functions in accordance with this Act.

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT biex jipprovdi għar-regolamentazzjoni tal-ħarsien soċjali, għajjnuna u servizzi mogħtija lil individwi minn entitajiet privati u pubbliċi Maltin; kif ukoll biex jirregola is-setgħat, dmirijiet u riżorsi finanzjarji tal-Awtorità ta' Standards ta' Ħarsien Soċjali imwaqqfa skont dan l-Att; biex jirregola l-eżerċizzju tal-funzjonijiet tal-Awtorità, liema funzjonijiet għandhom jinkludu il-ħruġ ta' licenzi u permessi għal minn jipprovdi ħarsien u wens, li ddaħħal fis-seħħ standards regolatorji għal oqsma varji ta' kura soċjali, għajjnuna u servizzi mogħtija lil individwi minn entitajiet privati u pubbliċi, li ddaħħal fis-seħħ proċeduri għal sħarriġ ta' lmenti kontra minn jipprovdi l-ħarsien, li ttiprovdi għat-twiddib ta' min jipprovdi l-wens meta ma jkunx mexa mar-regolamenti, biex jgħin lil min jipprovdi l-ħarsien biex jilħaq kwalità oġhla ta' ġid u wens soċjali u biex jagħmel provvedimenti dwar dawk is-setgħat kollha li jistgħu jinħtiegu sabiex l-Awtorità taqdi l-funzjonijiet tagħha skont dan l-Att.

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

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TAQSIMA I Preliminari u Tifsiriet

Titolu fil-qosor. **1.** It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2018 dwar l-Awtorità ta' *Standards* ta' Harsien Soċjali.

Tifsir. **2.** F'dan l-Att, sakemm ir-rabta tal-kliem ma teħtieġx xort' oħra:

"aġenzija" tfisser kull aġenzija li tkun responsabbli għall-wens ta' min jista' jkun riferut mill-istess aġenzija għal servizzi ta' għajjnuna soċjali regolati b'dan l-Att;

"assessur" tfisser kull persuna mqabbdha mill-Awtorità biex tagħmel valutazzjonijiet skont id-dispożizzjonijiet ta' dan l-Att u tinkludi kwalunkwe rappreżentant tal-Awtorità kif awtorizzat mill-Uffiċjal Eżekuttiv Ewlieni.

"Awtorità" tfisser l-Awtorità dwar *Standards* ta' Harsien Soċjali, kif stabbilita bl-artikolu 5;

"*Chairperson*" tfisser iċ-*Chairperson* maħtur skont l-artikolu 9;

"Ministru" tfisser il-Ministru responsabbli għall-ħarsien soċjali;

"persuna responsabbli" tfisser is-sid jew kull persuna oħra legalment responsabbli għall-għoti tas-servizz;

"provvidur ta' servizz" tfisser kull persuna jew organizzazzjoni li tipprovdi servizz ta' wens soċjali

"provvidur ta' servizz liċenzjat" tfisser persuna jew organizzazzjoni li tkun ingħatat liċenza mill-Awtorità sabiex topera, tipprovdi u twettaq attività jew xogħol jew biex tipprovdi servizz ta' wens soċjali;

"provvidur ta' servizz prospettiv" tfisser kull persuna jew organizzazzjoni li tapplika għal liċenza biex tipprovdi servizz ta' wens soċjali:

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

"sena finanzjarja" tfisser perijodu ta' tmax-il xahar li jagħlaq fil-31 ta' Diċembru;

"servizz ta' wens soċjali" tfisser servizzi ta' wens mogħtija għall-ġid tal-utenti kemm jekk is-servizz ikun mogħti minn aġenzija jew faċilitajiet residenzjali, kemm fil-komunità jew fid-dar ta' kura u infermerija, kif jista' jkun preskritt permezz ta' regolamenti magħmulin taħt dan l-Att;

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

Kap. 490

"Uffiċjal Eżekuttiv Ewlieni" tfisser l-Uffiċjal Eżekuttiv Ewlieni maħtur taħt l-artikolu 13;

"uffiċjal pubbliku" għandha l-istess tifsira mogħtija lilha bl-artikolu 124 tal-Kostituzzjoni;

"utent tas-servizz" tfisser kull min jagħmel użu minn servizz ta' wens regolat b'dan l-Att, jew regolat bi kwalunkwe regolament ieħor magħmul skont dan l-Att.

TAQSIMA II Prinċipji ta' Gwida

3. Bit-twaqqif tal-Awtorità ta' *Standards* ta' Ħarsien Soċjali, il-Gvern għandu jfittex li jmessi 'l quddiem u jiżviluppa r-regolamentazzjoni tas-servizzi ta' wens soċjali, mogħtija f'Malta minn entitajiet pubbliċi u privati, f'dawk ir-residenzi li l-Ministru jidhirlu li għandhom ikunu regolati, iżda għandhom japplikaw mill-ewwel mad-dhul fis-seħħ ta' dan l-Att għal residenzi ta' tfal li jinsabu taħt ħarsien alternattiv, residenzi għal persuni b'diżabilità u residenzi li joffru servizzi ta' riabilitazzjoni minn vizzji u kull dar ta' kura u infermerija.

Promozzjoni u
żvilupp tal-
interessi tal-
Awtorità.

4. (1) Skont id-dispożizzjonijiet ta' dan l-Att, il-Gvern għandu jiddetermina l-politika u l-oġġettivi ta' Malta fir-regolamentazzjoni tas-servizzi ta' ħarsien, wens u servizzi soċjali mogħtija minn persuni jew entitajiet pubbliċi u privati.

Politika u l-
oġġettivi
prinċipali.

(2) Permezz tal-Awtorità, il-Gvern għandu jaħdem biex jikseb *inter alia* dan li ġej:

(a) li jiżviluppa *standards* regulatorji għal servizzi ta' wens soċjali;

(b) li jgħin lill-provdituri ta' servizzi ta' ħarsien, wens u għajnuma sabiex jipprovdu servizzi ta' kwalità għolja;

(ċ) li jinforza l-*istandards* u l-kundizzjonijiet stipulati fil-liċenzi mogħtija mill-Awtorità lill-provdituri ta' servizz.

TAQSIMA III

Twaqqif u Funzjonijiet tal-Awtorità ta' *Standards* ta' Harsien Soċjali

Twaqqif tal-Awtorità ta' *Standards* ta' Harsien Soċjali.

5. (1) Għandu jitwaqqaf korp, magħruf bhala l-Awtorità ta' *Standards* ta' Harsien Soċjali, li l-funzjoni prinċipali tiegħu għandha tkun li jfassal *standards* regolatorji dwar servizzi ta' wens soċjali, u li jiżgura li dawn l-*standards* ikunu mharsa skont id-dispożizzjonijiet ta' dan l-Att.

(2) L-Awtorità tkun enti morali b'personalità ġuridika distinta.

(3) L-Awtorità għandha tkun magħmula miċ-*Chairperson* u mill-Bord imwaqqaf taht l-artikolu 9.

Funzjonijiet tal-Awtorità

6. (1) Mingħajr preġudizzju għal xi funzjonijiet oħra, li jistgħu jkunu mogħtija lilha minn dan l-Att, jew minn xi liġi jew regolamenti oħra, il-funzjonijiet tal-Awtorità għandhom jinkludu:

(a) li tistabbilixxi *standards* regolatorji minimi dwar servizzi ta' wens soċjali u li tinforza dawn l-*standards* kif jista' jkun meħtieġ, biex tiżgura kwalità għolja fis-servizzi ta' wens soċjali;

(b) li tistabbilixxi l-kriterji għall-għoti, iċ-ċaħda, is-sospensjoni u r-revoka ta' licenzi; u

(ċ) li tagħti, tiċhad, tissospendi jew tirrevoka l-licenzi.

(2) Minkejja kull liġi oħra, meta xi funzjoni jew setgħa tal-Awtorità tiġi moqdiya jew eżerċitata permezz ta' agent kif provdut fl-artikolu 12(2), l-azzjonijiet kollha u l-atti u l-proċeduri kollha ġudizzjarji li jinholqu minn, jew għandhom x'jaqsmu ma' kull haġa li dwarha l-agent jimxi għal u f'isem l-Awtorità, għandha tittiehed u ssir minn u kontra dak l-agent f'isem l-Awtorità.

Setgħat tal-Awtorità.

7. Is-setgħat tal-Awtorità għandhom jinkludu:

(a) li tirċievi u tinforma li rċeviet applikazzjonijiet għal licenzjar biex jingħataw servizzi ta' wens soċjali;

(b) li tqis is-servizzi ta' wens soċjali prospettivi;

(ċ) li tqis u tinvestiga provdituri ta' servizz ta' wens soċjali;

(d) li tagħti, tirrifjuta, tissospendi jew tirrevoka licenza biex ikun operat servizz għal wens soċjali, skont il-kriterji stabbiliti;

(e) li tirċievi, tinforma li rċeviet, tinvestiga u tiegħu kull azzjoni meħtieġa dwar kull ilment kontra xi aġenzija jew provditur ta' servizz;

(f) li tirrakkomanda miżuri biex ittejjeb il-kwalità tas-servizzi ta' wens soċjali provduti f'Malta;

(g) li tistabbilixxi u taġġorna reġistru għal persuni jew aġenziji li jipprovdu servizzi ta' wens soċjali skont kif l-Awtorità tista' minn żmien għal żmien tqis li jeħtieġ li jkunu registrati;

(h) li timmodifika jew tneħhi xi kundizzjoni, jew li timponi kundizzjonijiet oħra, wara li tkun tat il-liċenza u, sakemm ma jkunx provdut mod ieħor, dawk il-kundizzjonijiet jidhlu fis-seħħ wara li tgħaddi sena mid-data tad-dhul fis-seħħ tal-kundizzjonijiet godda;

(i) li tagħmel rakkomandazzjonijiet lill-Gvern biex jiżviluppa politika fil-qasam tas-servizzi ta' wens soċjali.

8. (1) Ix-xogħol, negozju u l-qadi tal-funzjonijiet tal-Awtorità għandhom ikunu r-responsabbiltà tal-Bord:

Tmexxija tax-xogħol tal-Awtorità.

Iżda l-Bord jista' jagħti t-tmexxija eżekuttiva tal-Awtorità, l-amministrazzjoni u l-organizzazzjoni u l-kontroll amministrattiv tal-uffiċjali u l-impjegati tagħha, lil xi uffiċjal jew uffiċjali tal-Awtorità, li jkollhom dawk is-setgħat l-oħra li minn żmien għal żmien jigu mogħtija lil jew lilhom mill-Bord.

(2) Mingħajr preġudizzju għal xi funzjoni oħra mogħtija lil minn dan l-Att, jew minn xi liġi oħra jew regolament ieħor, għandha tkun il-funzjoni taç-*Chairperson* li:-

(a) jassumi kull responsabbiltà għas-superviżjoni u l-kontroll fuq kollox tal-Awtorità;

(b) jiżviluppa l-istrategiji meħtieġa għall-implimentazzjoni tal-iskopijiet tal-Awtorità; u

(c) iwettaq dawk id-dmirijiet l-oħra li l-Awtorità tista' tassenja minn żmien għal żmien.

9. (1) Għandu jkun hemm Bord ta' Diretturi tal-Awtorità ta' *Standards* ta' Harsien Soċjal, li jkun magħmul minn seba' membri li wieħed minnhom għandu jkun *Chairperson* u ieħor Viċi *Chairperson*.

Bord ta' Diretturi tal-Awtorità ta' *Standards* ta' Harsien Soċjali.

(2) Il-membri tal-Bord għandhom jinhatru mill-Ministru minn fost persuni li jidhirlu li jkunu kwalifikati minhabba f'li jkollhom

esperjenza u jkunu wrew hila fi hwejjeg li għandhom x'jaqsmu ma' wens soċjali.

(3) Mingħajr preġudizzju għal xi ligijiet oħra, iċ-*Chairperson* tal-Awtorità għandu jkun mahtur mill-Ministru għal dak iż-żmien li l-Ministru jidhirlu xieraq. Il-Ministru għandu wkoll jinnomina membru ieħor tal-Bord bħala viċi *chairperson*, u l-membri li jiġi hekk appuntat ikollu s-setgħat kollha u jaqdi dawk il-funzjonijiet kollha ta' *chairperson* fin-nuqqas tiegħu jew meta dan ma jkunx jista' jagħmilha ta' *chairperson*, jew matul xi żmien li l-kariga ta' *chairperson* tkun battala; u l-Ministru jista' wkoll, f'kull waħda miċ-ċirkostanzi msemmija, jahtar persuna oħra bħala *chairperson* u f'dak il-każ id-dispożizzjonijiet ta' qabel għandhom japplikaw dwar dik il-persuna.

(4) Persuna tkun skwalifikata milli tinħatar u tibqa' membru tal-Bord tad-Diretturi' tal-Awtorità jekk:

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

(b) ikollha dak l-interess finanzjarju jew dak l-interess ieħor f'xi impriża jew attività li x'aktarx ma jhallihex taqdi sewwa dmirietha bħala membru tal-Bord tad-Diretturi' tal-Awtorità; jew

(c) tkun inkapaċitata jew interdotta legalment; jew

(d) kienet iġġudikata falluta jew tkun għamlet ftehim jew arrangament mal-kredituri tagħha; jew

(e) tkun instabet hatja ta' reat li jolqot il-fiduċja pubblika jew ta' serq jew ta' frodi jew li tkun xjentement irċeviet proprjetà miksuba b'serq jew frodi.

(5) Bla ħsara għad-dispożizzjonijiet ta' dan l-artikolu, il-membri tal-Bord tad-Diretturi' tal-Awtorità għandhom iżommu l-kariga għal perjodu ta' tliet snin.

(6) Membru tal-Bord jista', meta jispiċċa minn membru, jinħatar mill-ġdid.

(7) Mingħajr preġudizzju għal xi ligijiet oħra, membru jista' jitneħħa mill-kariga mill-Ministru jekk, fil-fehma tiegħu, dak il-membri ma jkunx tajjeb biex ikompli fil-kariga; jew ma jkunx baqa' kapaċi biex jaqdi, jew ma jkunx qed jaqdi b'mod xieraq id-dmirijiet tiegħu bħala membru; jew f'kull waħda miċ-ċirkostanzi li

jiskwalifikaw lil dik il-persuna milli tibqa' membru.

(8) Jekk membru jirriżenja jew jivvaka l-kariga tiegħu qabel ma jispiċċa ż-żmien tal-ħatra, jew jitneħħa mill-kariga skont is-subartikolu ta' qabel dan, il-persuna maħtura minflok għandha tinħatar għaż-żmien li jkun għadu ma skadiex tal-ħatra oriġinali.

(9) Fl-eżerċizzju tal-funzjonijiet tagħha l-Awtorità ta' *Standards* ta' Harsien Soċjal m'għandhiex tkun sugġetta għad-direzzjoni jew kontroll ta' xi persuna jew awtorità oħra.

10. (1) Il-Bord għandu jiltaqa' kull meta jkun meħtieġ, iżda f'ebda każ inqas spiss minn darbtejn fix-xahar. Il-laqgħat tal-Bord għandhom jissejġu miċ-*Chairperson* jew fuq l-inizjattiva tiegħu stess jew fuq talba ta' tnejn mill-membri l-oħra. Bla ħsara għall-ħtiġijiet l-oħra ta' dan l-Att, ebda deċiżjoni tal-Bord ma tkun valida jekk ma jkollhiex l-approvazzjoni ta' maġġoranza tal-membri tal-Bord.

Proċedura tal-
laqgħat tal-
Awtorità.

(2) Nofs in-numru tal-membri li għal dak iż-żmien ikunu jiffurmaw il-Bord għandhom jagħmlu *quorum* f'kull laqgħa tal-Bord. Id-deċiżjonijiet jittiehdu b'maġġoranza sempliċi tal-voti tal-membri preżenti u li jivvotaw. Iċ-*Chairperson*, jew membru ieħor li jkun qed jippresiedi fil-laqgħa, ikollu vot oriġinali u, fil-każ ta' voti ndaqs, vot deċiżiv.

(3) Fin-nuqqas taċ-*Chairperson* f'xi laqgħa tal-Bord, il-viċi *chairperson*, jew persuna oħra maħtura biex tagħmilha ta' *chairperson* skont l-artikolu 9(3), jew, jekk ma jkun hemm ebda membru ieħor jew persuna oħra hekk imsemmija jew maħtura, il-membru tal-Bord li jingħażel għal hekk mill-membri l-oħra preżenti, għandu jippresiedi f'dik il-laqgħa tal-Bord.

(4) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (1), ebda għemil jew proċediment tal-Bord ma jkun invalidat biss minħabba f'xi vakanza fost il-membri.

(5) Membru tal-Bord li jkun b'xi mod direttament jew indirettament interessat f'deċiżjoni magħmula jew maħsuba li tiġi magħmula, mill-Awtorità, għandu, kemm jista' jkun malajr wara li ċ-ċirkostanzi relattivi jiġu għal konjizzjoni tiegħu, juri x-xorta tal-interess tiegħu f'laqgħa tal-Bord.

(6) Kull wiri magħmul skont is-subartikolu ta' qabel dan għandu jiġi reġistrat fil-minuti tal-laqgħa li jsir fiha, u l-membru li jagħmel wiri bħal dak:

(a) għandu, wara l-wiri, jirtira mis-seduta li fiha dik id-deċiżjoni hi maħsuba li tiġi magħmula; u

(b) ma għandux, jekk id-deċiżjoni tkun magħmula, jittiehed kont tiegħu dwar il-kostituzzjoni ta' *quorum* tal-Bord għal dik id-deċiżjoni.

(7) Għandhom jinżammu l-minuti tal-proċeduri tal-Bord u ta' kull kumitat tiegħu. Għal dan il-fini u biex jinżammu d-dokumenti rilevanti, il-Ministru għandu jinnomina persuna biex taġixxi bħala segretarju tal-Bord għal dak il-perjodu u b'dawk il-pattijiet li l-Ministru jista' jqis xierqa. Is-segretarju tal-Bord ma jkollux vot.

(8) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att u ta' kull regolament magħmul tahtu, l-Awtorità tista' tirregola l-proċeduri tagħha stess.

(9) Fl-eżerċizzju tal-funzjonijiet tal-Awtorità taht dan l-Att, il-Bord jista' jikkonsulta ma' dawk il-professjonisti, jew dawk il-persuni oħra, li jkollhom għarfien u esperjenza rilevanti fil-qasam ta' servizzi ta' wens soċjali, kif jista' jqis xieraq. Għal dan il-fini, il-Bord jista' jsejjaħ quddiemu kull persuna biex tipprovi t-tagħrif mitlub u tipproduci kull dokumentazzjoni meħtieġa.

(10) Il-membri tal-Bord, is-Segretarju tal-Bord jew kull min ikun involout fil-proċedimenti tal-Bord, huma marbuta bil-kunfidenzjalità u ma jistgħux jgħaddu lil terzi informazzjoni li jistgħu jsiru jafu biha waqt il-proċedimenti.

(11) Il-Bord għandu jzomm kopja vera u korretta tal-proċedimenti tiegħu kollha u l-Bord għandu jagħti kull informazzjoni mitluba mill-Ministru.

(12) Il-Bord għandu jqiegħed fuq il-Mejda tal-Kamra tad-Deputati rapport annwali dwar il-ħidma tal-Awtorità ta' *Standards* ta' Ħarsien Soċjali sa mhux aktar tard minn erba' xhur wara t-tmiem ta' kull sena finanzjarja.

Rappreżentanza
ġuridika tal-
Awtorità.

11. Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 8(2), ir-rappreżentanza ġuridika tal-Awtorità tkun vestita fiċ-*Chairperson* u/ jew fl-Uffiċjal Eżekuttiv Ewlieni.

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

12. (1) L-Awtorità għandha tahtar u timpjega, b'dik ir-rimunerazzjoni u b'dawk il-pattijiet u kondizzjonijiet ta' żmien hekk kif tista', skont l-artikolu 9, tistabbilixxi, lil dawk l-uffiċjali u l-impjegati tal-Awtorità bħalma jistgħu minn żmien għal żmien ikunu meħtieġa għat-twertiq dovut u effiċjenti tal-funzjonijiet tal-Awtorità.

Assenjament ta'
uffiċjali pubbliċi
biex jaqdu
dmirijiet mal-
Awtorità

(2) l-Prim Ministru jista', fuq talba tal-Awtorità, minn żmien għal żmien jordna li uffiċjal pubbliku għandu jiġi assenjat biex jaqdi dmirijietu mal-Awtorità f'dik il-kapaċità u b'seħħ minn dik id-data li

tista' tiġi speċifikata fl-ordni tal-Prim Ministru.

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

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

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

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

13. (1) L-Awtorità tista' taħtar Uffiċjal Eżekuttiv Ewlieni u tagħtih, taħt is-superviżjoni u kontroll totali tagħha, dawk il-funzjonijiet, dmirijiet u setgħat hekk li dak l-Uffiċjal ikun jista' jagħti seħh lil kull politika tal-Awtorità u xort'ohra jwettaq b'mod effettiv u effiċjenti l-funzjonijiet tal-Awtorità.

Delega ta' funzjonijiet.

(2) L-Awtorità u l-Uffiċjal Eżekuttiv Ewlieni jistgħu jeżerċitaw waħda jew iktar mill-funzjonijiet tagħhom jew permezz tal-uffiċjali jew l-impjegati jew permezz ta' persuna jew entità oħra li magħha jkun sar ftehim għat-twettiq ta' xi waħda jew iżjed minn dawk il-funzjonijiet.

(3) Meta f'dan l-Att għandha ssir xi haġa minn jew kontra jew għar-rigward tal-Awtorità, jew xi avviż għandu jew jista' jingħata lill-Awtorità, dik il-haġa jew avviż jistgħu wkoll isiru minn jew kontra jew għar-rigward ta' jew jingħataw lill-Uffiċjal Eżekuttiv Ewlieni; u għall-għanijiet hawn qabel imsemmija kull riferenza f'dan l-Att għall-Awtorità, tinkludi riferenza għall-Uffiċjal Eżekuttiv Ewlieni.

TAQSIMA IV

Liċenzjar

14. (1) Kull persuna jew organizzazzjoni tista' tapplika lill-Awtorità għal liċenzja, fil-forma approvata u mogħtija minn dik l-Awtorità, biex tkun tista' topera servizz ta' wens soċjali.

Applikazzjoni għal hruġ ta' liċenzja.

(2) Meta persuna jew organizzazzjoni tkun bi hsiebha topera iktar

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minn servizz ta' wens soċjali wiehed, jew topera l-istess servizz ta' wens soċjali iżda minn aktar minn lok wiehed, dik il-persuna jew organizzazzjoni għandu jressaq applikazzjoni separata għal kull servizz ta' wens soċjali.

(3) L-Awtorità tista', f'kull żmien tul l-ipproċessar tal-applikazzjoni, titlob lill-provditur ta' servizz prospettiv jgħaddilha aktar dokumenti u tagħrif li hi tqis meħtieġa u żżur il-bini minn fejn ikun maħsub li jingħata s-servizz ta' wens soċjali biex tagħmel l-evalwazzjoni tagħha u taċċerta ruħha jekk il-liċenzja għandhiex tinhareġ jew le.

Hruġ ta' liċenzja
biex jopera.

15. L-Awtorità għandha toħroġ liċenzja lil provditur ta' servizz prospettiv jekk tkun sodisfatta li l-provditur ta' servizz prospettiv:

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

(b) jikkonforma mal-*standards* rilevanti għas-servizz ta' wens soċjali propost u kull regolament magħmul taħt dan l-Att; u

(ċ) ma jkunx jikser xi liġijiet oħra jew regolamenti applikabbli oħrajn.

Hruġ ta' liċenzja
temporanja.

16. L-Awtorità tista' toħroġ liċenzja temporanja lil provditur ta' servizz prospettiv li ma jkunx jissodisfa l-kriterji ta' eliġibilità u *standards* meħtieġa skont dan l-Att jew kull regolament ieħor magħmul taħt dan l-Att:

Iżda din il-liċenzja temporanja tista' tinhareġ biss jekk ir-regolament rilevanti jahseb għaliha u l-provditur ta' servizz prospettiv ikun jikkonforma mal-*standards* stipulati f'dak l-istess regolament.

Ċertifikat ta'
Liċenzja u
tiġdid.

17. (1) Meta toħroġ liċenzja lill-provditur ta' servizz, l-Awtorità għandha toħroġ Ċertifikat ta' Liċenzja li jkun validu għal perjodu ta' sena mid-data li fiha jkun inhareġ sakemm ma jkunx provdut xort'oħra fit-termini u kundizzjonijiet imsemmija fil-liċenzja.

(2) Il-liċenzja msemmija fis-subartikolu (1) tista' tiġġedded mill-Awtorità jekk il-provditur ta' servizz japplika għal tiġdid sa mhux aktar tard minn xahrejn qabel ma tiskadi l-liċenzja u t-tiġdid jingħata biss jekk il-provditur ta' servizz ikun għadu konformi mad-dispożizzjonijiet ta' dan l-Att u ma' kull regolament magħmul taħt dan l-Att. Id-deċiżjoni tal-Awtorità dwar it-tiġdid tal-liċenzja għandha tkun notifikata lill-provditur tas-servizz liċenzjat bil-posta registrata fi żmien ħamsin jum mid-data tal-applikazzjoni għat-tiġdid.

(3) Il-provditur ta' servizz liċenzjat għandu jiżgura li l-liċenzja,

jew kopja tagħha, tinzamm f'post prominenti fl-uffiċċju prinċipali tal-bini li minnu jkun qed joffri s-servizz ta' wens soċjali.

(4) Il-ħruġ u t-tiġdid ta' liċenzja għandu jsir bla preġudizzju għall-ħtiġiet ta' kwalunkwe liċenzja jew awtorizzazzjoni oħra meħtieġa skont xi liġi oħra.

18. (1) L-Awtorità għandu jkollha l-jedd li tiċhad applikazzjoni għal liċenzja jekk jidhrilha li l-provditur prospettiv ta' servizz, jew il-provditur ta' servizz liċenzjat, ma jkunx kapaċi joffri dak s-servizz ta' wens soċjali. Iċ-ċaħda, flimkien mar-raġunijiet dettaljati għaliha, għandha tkun notifikata lill-provditur prospettiv ta' servizz jew lill-provditur ta' servizz liċenzjat li japplika għal-liċenzja, bil-posta registrata fi żmien ħamsin jum mid-data tal-applikazzjoni.

Ċaħda ta' applikazzjoni.

(2) Il-provditur prospettiv ta' servizz jew provditur ta' servizz liċenzjat għandu l-jedd li jitlob bdil fid-deċiżjoni tal-Awtorità billi jippreżenta appell skont it-Taqsima VII ta' dan l-Att.

(3) Il-provditur prospettiv ta' servizz jew provditur ta' servizz liċenzjat għandu l-jedd li japplika mill-ġdid lill-Awtorità għal ħruġ ta' liċenzja kemm-il darba r-raġunijiet għaċ-ċaħda ma jkunux għadhom jeżistu.

19. (1) L-Awtorità għandha l-jedd tirrevoka liċenzja ta' provditur ta' servizz f'kull waqt, jekk il-provditur ta' servizz:

Revoka ta' liċenzja.

- (a) iressaq talba bil-miktub għar-revoka;
- (b) ma jibqax konformi mal-kriterji ta' eligibilità għal-liċenzja;
- (ċ) jitqies li m'għadux kapaċi joffri daww is-servizzi ta' wens soċjali li għalihom kien liċenzjat;
- (d) ikun qed jikser il-kundizzjonijiet tal-liċenzja.

(2) L-Awtorità għandha tinnotifika lill-provditur tas-servizz, bil-posta registrata, bir-revoka li tingħata bil-miktub flimkien mar-raġunijiet għaliha u din ir-revoka għandha tidhol fis-seħħ mid-data tan-notifika.

(3) Fil-każijiet imsemmija fil-paragrafi (a), (b), (ċ) u (d) tas-subartikolu (1), iċ-Ċertifikat ta' Liċenzja u d-dokumentazzjoni kollha relatati mas-servizz ta' wens soċjali jsiru proprjetà tal-Awtorità.

20. Matul ix-xahar ta' Jannar ta' kull sena l-Awtorità għandha tippubblika fil-Gazzetta:

Pubblikazzjoni fil-Gazzetta.

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(a) lista tal-provdituri ta' servizz liċenzjati kollha li tispeċifika t-tip ta' servizz ta' wens soċjali li jkun offrut, isimhom komplut, l-indirizz registrat u dettalji oħra ta' kuntatt rilevanti;

(b) lista tal-provdituri ta' servizz li l-liċenzja tagħhom kienet revokata matul is-sena kalendarja ta' qabel u kull tibdil fil-kondizzjonijiet meħtieġa għall-ħruġ ta' liċenzja jew it-tiġdid tagħha; u

(ċ) kull bidla fil-kondizzjonijiet meħtieġa għal-liċenzja jew għat-tiġdid.

TAQSIMA V

Dispożizzjonijiet dwar *Standards*

Standards u
Kodiċijiet ta'
Mġiba.

21. (1) L-Awtorità għandha r-responsabbiltà li tistabbilixxi, tippubblika u tirrevedi *Standards* Regulatorji għal servizzi ta' wens soċjali.

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

(3) L-għan tal-*Standards* Regulatorji għandu jkun li:

(a) itejbu u jistandardizzaw ir-regolamentazzjoni tas-servizzi tal-wens soċjali;

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

(ċ) jiżguraw lill-utenti tas-servizz li s-servizzi ta' wens soċjali huma xierqa għall-ħtiġiet tagħhom u jirrispettaw il-jeddijiet u d-dinjità tagħhom; u

(d) jenfasizzaw illi l-wens tal-utenti tas-servizz għandu jitqies li hu suprem.

TAQSIMA VI

Infurzar ta' *Standards*

Dritt ta'
spezzjoni.

22. (1) L-Awtorità għandha ssegwi u teżamina l-operat kollu li jinvolvi l-għoti ta' servizzi ta' wens soċjali sabiex ikun żgurat li dawk l-operati huma mwettqa skont id-dispożizzjonijiet ta' dan l-Att, jew xi liġijiet jew regolamenti magħmula taħt u b'konformità ma' kull deċiżjoni magħmula taħt dan l-Att, jew dawk il-liġijiet jew regolamenti oħra.

(2) Għall-fini tas-subartikolu ta' qabel dan, l-Awtorità jkollha s-setgħa:

(a) li tidhol mingħajr avviż, f'kull ħinijiet raġonevoli, f'kull post soġġett għal spezzjoni taħt dan l-Att;

(b) li twettaq f'kull wieħed minn dawn il-postijiet kull verifika, test jew att li tista' tqis li jkunu meħtieġa biex tiżgura li d-dispożizzjonijiet ta' dan l-Att, jew ta' xi regolamenti jew ordnijiet magħmula tahtu, u kull *standard* rikonoxxut dwar il-wens soċjali jkunu qegħdin jiġu mharsa u b'mod partikolari -

(i) li tintervista, fil-preżenza ta' xhieda, lil kull persuna li jidhrilha li kellha x'taqsam mal-ġhoti tas-servizz ta' wens soċjali u kif ukoll lil kull persuna li jidhrilha li tkun għamlet użu minn dak is-servizz;

(ii) li teħtieġ li jingieb kull ktieb, registru jew dokument ieħor miżmumin mill-provditur tas-servizz u li tagħmel kopja ta' daww il-kotba, registri jew dokumenti jew tieħu estratt minnhom;

(iii) li teħtieġ kull informazzjoni kif jista' raġonevolment ikun meħtieġ dwar l-investigazzjoni;

(c) li tieħu ritratti, filmati, *video recordings* u immaġini f'format diġitali; u

(d) li teħtieġ l-assistenza tal-Pulizija kull meta tqis li tkun meħtieġa.

(3) Meta tingħalaq l-investigazzjoni, l-Awtorità tista':-

(i) tibgħat rapport lill-Pulizija Eżekuttiva għal investigazzjoni ulterjuri f'kull każ li jinvolvi reat kriminali;

(ii) tieħu azzjoni amministrattiva;

(iii) tieħu kull azzjoni oħra kif jidhrilha xieraq fiċ-ċirkostanzi tal-każ.

23. L-Awtorità tista' f'kull ħin tordna lil provditur ta' servizz liċenzjat, jew lil kull persuna, jew aġenzija, oħra, direttament jew indirettament involuta fl-ġhoti ta' servizz ta' wens soċjali liċenzjat, li jgħaddulha kull tagħrif kif jista' jkun raġonevolment meħtieġ, relatat mas-servizz, bl-għan li twettaq il-funzjonijiet tagħha skont dan l-Att, jew kull regolament li jista' jkun magħmul taħt dan l-Att. Ġbir ta' tagħrif.

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Nuqqas ta' konformità.

24. (1) Fejn l-assessur iqis li xi servizz ma jkunx konformi mad-dispożizzjonijiet ta' dan l-Att, jew mal-kundizzjonijiet tal-liċenza, l-assessur għandu jagħmel rapport tal-valutazzjonijiet tiegħu u għandu jirrakkomanda, fejn applikabbli, it-tibdil li l-provditur ta' servizz liċenzjat għandu jagħmel. L-assessur għandu jibgħat kopja tar-rapport, flimkien mar-rakkomandazzjonijiet, lill-Awtorità għad-deċiżjoni tagħha u l-Awtorità tinnotifika lill-provditur b'kopja tad-deċiżjoni bil-posta reġistrata.

(2) Il-provditur ta' servizz liċenzjat għandu jagħmel dak it-tibdil elenkat fir-rapport fiż-żmien mogħti lill-Awtorità. Fil-każ illi l-provditur ta' servizz liċenzjat ma josservax it-tibdil meħtieġ fiż-żmien lill-Awtorità għandha tiegħu dawk il-passi li jidhrilha xierqa, skont id-dispożizzjonijiet taht dan l-Att.

TAQSIMA VII

Appelli

Dritt ta' appell minn deċiżjonijiet tal-Awtorità.

25. (1) Kull persuna li tħosha aggravata b'xi deċiżjoni tal-Awtorità tista' tappella quddiem it-Tribunal fi żmien għaxart ijiem mid-data tan-notifika ta' dik id-deċiżjoni.

Kap. 490.

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

(3) It-Tribunal jista', meta jidher li jkun hemm raġunijiet tajba, iwaqqaf l-eżekuzzjoni tad-deċiżjoni appellata.

Appell lill-Qorti tal-Appell.

26. Kull parti fil-proċedimenti quddiem it-Tribunal ta' Reviżjoni Amministrattiva li tħoss ruħha aggravata bid-deċiżjoni tat-Tribunal tista' tappella quddiem il-Qorti tal-Appell fil-ġurisdizzjoni tagħha inferjuri, fi żmien għaxart ijiem mid-data tad-deċiżjoni.

TAQSIMA VIII

Reati u Pieni

Tfixkil.

27. Kull min b'xi mod ifixkel jew jostakola lill-Awtorità jew xi wieħed mill-uffiċjali tagħha fil-qadi tal-funzjonijiet tagħhom ikun hati ta' reat u jeħel, meta jinstab hati mill-qorti kompetenti, prigunerija għal żmien ta' mhux aktar minn tliet xhur jew multa ta' mhux anqas minn mitt euro (€100) iżda mhux aktar minn ħamest elef euro (€5,000) jew dik il-prigunerija u multa flimkien.

Penali amministrattivi imposti għal nuqqas ta' konformità.

28. F'każi ta' nuqqas ta' konformità l-Awtorità tista' timponi penali amministrattiva ta' mhux anqas minn mitt euro (€100) iżda mhux aktar minn għaxart elef euro (€10,000), jew f'każ fejn in-nuqqas ta' konformità jibqa' jissussisti, għal penali ta' mhux inqas minn

ħamsin euro (€50) iżda mhux aktar minn tliet mija u ħamsin euro (€350) għal kull jum ta' nuqqas ta' konformità.

29. Kull penali stabbilita għal xi reat f'din it-Taqsima tkun bla Reati oħra. ħsara għal xi penali oħra stabbiliti f'xi liġi oħra jew regolamenti oħra magħmula taħt dan l-Att.

Taqsima IX Mixxellanji

30. (1) Meta xi att jew xi proċess ikun inbeda minn jew taħt l-awtorità tal-Gvern qabel id-data tal-bidu fis-seħħ ta' dan l-Att u dak l-att jew proċess għandu x'jaqsam ma' xi ħaġa trasferita lill-Awtorità bis-saħħa ta' dan l-Att, dak l-att jew proċess jista' jitkompla u jintemm minn jew taħt dik l-awtorità tal-Gvern. Trasferiment ta' setgħat u responsabbiltajiet.

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

(3) Il-Ministru jista' b'ordni jagħmel dawk id-dispożizzjonijiet inċidentali, konsegwenzjali jew supplimentari li jkunu meħtieġa jew spedjenti għall-finijiet li jiġi żgurati u jingħata effett sħiħ għat-trasferiment ta' kull intrapriża jew ta' kull dritt, setgħa, responsabbiltà jew obbligu lill-Awtorità b'dan l-Att jew taħtu u jista' jagħmel dawk l-ordnijiet li jistgħu jkunu meħtieġa biex kull setgħa jew dmir eżerċitati mill-Gvern, fir-rigward ta' kull ħaġa trasferita lill-Awtorità bis-saħħa ta' dan l-Att, ikunu eżerċitabbli minn jew f'isem l-Awtorità.

(4) Il-Ministru jista' jagħmel regolamenti biex jagħti effett aħjar għad-dispożizzjonijiet ta' dan l-Att.

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz ta' Liġi hu sabiex tiġi stabbilita Awtorità ta' *Standards* ta' Ħarsien Soċjali u biex jirregola l-eżerċizzju tal-funzjonijiet tal-Awtorità, liema funzjonijiet għandhom jinkludu il-ħruġ ta' liċenzi u permessi għal min jipprovdi ħarsien u wens; l-Abbozz ta' Liġi jaħseb ukoll għal *standards regolatorji* għal oqsma varji ta' kura soċjali, għajnuna u servizzi mogħtija lil individwi minn entitajiet privati u pubbliċi, u għal affarijiet oħra inċidentali, konsegwenzjali jew supplementali għal dan.

**A BILL
entitled**

AN ACT to provide for the regulation of social care, assistance and services provided to individuals by Maltese private or public entities; as well as to provide for the powers, duties and financial resources of the Social Care Standards Authority set up in accordance with the provisions of this Act; to provide for the exercise and performance by the Authority of functions, which functions shall include the issuing of licenses and warrants for care providers, to set regulatory standards for different areas of social care, assistance and services that are provided by private or public entities, to set procedures for the investigation of complaints against providers of care, to provide for reprimands and cautions to those care providers who do not observe such regulations, to assist the providers of care achieve a greater quality of social well-being and to make provisions in respect of all such powers as may be necessary in order for the Authority to fulfil its functions in accordance with this Act.

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

ARRANGEMENT OF ACT

		Articles
Part I	Preliminary and Interpretation	1 - 2
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PART I
Preliminary and General

1. The short title of this Act is the Social Care Standards Authority Act, 2018. Short title.

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

"agency" means any agency which is responsible for the welfare of the service user who may be referred by such agency for social welfare services regulated by this Act;

"assessor" means any person who is engaged by the Authority to carry out assessments in accordance with the provisions of this Act and may include any representative of the Authority as authorised by the Chief Executive Officer;

"Authority" means the Social Care Standards Authority, as established under article 5;

"Chairperson" means the Chairperson appointed by article 9;

"Chief Executive Officer" means the Chief Executive Officer appointed under article 13;

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

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

"licensed service provider" means any person or organisation that has been granted a licence by the Authority to operate, provide or carry out an activity or operation or to provide a service relating to social welfare;

"Minister" means the Minister responsible for social welfare;

"prospective service provider" means any person who, or organization that, applies for a license to operate a social welfare service;

"public officer" shall have the meaning assigned to it by article 124 of the Constitution of Malta;

"responsible person" means the owner, or any other person, legally responsible for the service provision; Cap. 468

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"service provider" means any person who, or organisation that provides a social welfare service;

"service user" means any person or entity who makes use of a social welfare service;

"social welfare service" means care services, provided in relation to the well-being of service users, whether by a person, agency or residential facility, or in the community or in a care and nursing home or in the home, as well as may be prescribed by regulations made under this Act;

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

PART II Guiding Principles

Promotion and development of the Authority's interests.

3. The Government shall, through the establishment of the Social Care Standards Authority, seek to promote and develop the regulation of social care services, provided in Malta by public and private entities, in all such residences that the Minister determines shall be regulated, but shall immediately apply, upon entry into force of this Act in relation to residences for children under alternative care, residences for persons with disabilities, residences providing rehabilitation services and in care and nursing homes.

Main policies and objectives.

4. (1) In accordance with the provisions of this Act, the Government shall determine Malta's policies and objectives in the regulation of social welfare services provided by private and public persons or entities.

(2) The Government shall endeavour, through the Authority, to *inter alia*, achieve the following:

- (a) develop regulatory standards for social welfare services;
- (b) assist the service providers to achieve a higher quality of service;
- (c) enforce the standards and conditions set in the licences granted by the Authority to service providers.

PART III

Establishment and Functions of the Social Care Standards Authority

5. (1) There shall be established a body, to be known as the Social Care Standards Authority, whose function is to set regulatory standards in relation to social welfare services and to ensure that such standards are duly complied with, in accordance with the provisions of this Act.

Establishment
of the Social
Care Standards
Authority.

(2) The Authority shall be a body corporate having a distinct legal personality.

(3) The Authority shall be composed of the Chairperson and the Board established under article 9.

6. (1) Without prejudice to any other functions, which may be assigned to it by this Act, or by any other law or regulations, the functions of the Authority shall include:

Functions of the
Authority

(a) to establish minimum regulatory standards for social welfare services and to enforce such standards as may be necessary to ensure a quality level of social welfare services;

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

(c) to grant, refuse, suspend or revoke any license.

(2) Notwithstanding any other law, where any function or power of the Authority is performed or exercised through an agent as provided in article 12(2), all judicial actions, acts and proceedings arising from or relating to any matter in respect of which an agent acts for and on behalf of the Authority shall be taken or be made by or against such agent in the name of the Authority.

7. The powers of the Authority shall include:

Powers of the
Authority

(a) receiving and acknowledging applications for licensing to operate a social welfare service;

(b) assessing the proposed social welfare services;

(c) assessing and investigating social welfare service providers;

(d) granting, refusing, suspending or revoking a license to operate a social welfare service in accordance with established criteria

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(e) receiving, acknowledging, investigating and taking any necessary action in relation to any complaint against any agency or service provider;

(f) recommending measures to improve the quality of social welfare services provided in Malta;

(g) establishing and updating a Register for persons or agencies providing social welfare services as the Authority may from time to time consider that require registration;

(h) to modify or remove any of the conditions, or to impose additional conditions, after the licence has been granted and unless otherwise prescribed such conditions have effect after the lapse of one year from date of entry into force of new conditions;

(i) to make recommendations to the Government to develop policies in the field of social welfare services.

Conduct of the affairs of the Authority.

8. (1) The affairs, business and the carrying out of the functions of the Authority shall be the responsibility of the Board:

Provided that the Board may delegate the executive conduct of the Authority, its administration and organization and the administrative control of its officers and employees, to any officer or officers of the Authority, who shall also have such other powers as may from time to time be delegated to him or to them by the Board.

(2) Without prejudice to any other function conferred to him by this Act or any other law or regulation, it shall be the function of the Chairperson to –

(a) assume full responsibility for the overall control and supervision of the Authority;

(b) develop the necessary strategies for the implementation of the objectives of the Authority; and

(c) perform such other duties as the Authority may assign to him from time to time.

Board of Directors of the Social Care Standards Authority.

9. (1) There shall be a Board of Directors of the Social Care Standards Authority, which shall be composed of seven members of whom one shall be the Chairperson and one other the Deputy Chairperson.

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

from among persons who appear to him to be qualified by reason of having had experience of, and shown capacity in, matters relating to social welfare.

(3) The Chairperson of the Authority shall be appointed by the Minister for such period as the Minister shall deem appropriate. The Minister may also designate another member of the Board as deputy chairperson, and the member so designated shall have all the powers and perform all the functions of the Chairperson during his absence or inability to act as chairperson, or while he is on vacation, or during any vacancy in the office of Chairperson; and the Minister may also, in any of the circumstances aforesaid, appoint another person to act as Chairperson and in such case the foregoing provisions shall apply in respect of such person.

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

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

(b) has such a financial or other interest in any enterprise or activity, as is likely to affect prejudicially the discharge by him of his functions as a member of the Board; or

(c) is legally incapacitated or interdicted; or

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

(e) has been convicted of a crime affecting public trust or of theft or of fraud or of knowingly receiving property obtained by theft or fraud.

(5) Subject to the provisions of this article, the members of the Board shall hold office for a period of three years.

(6) A member of the Board may, on ceasing to be a member, be eligible for reappointment.

(7) A member of the Board may be removed from office by the Minister if, in his opinion, such member is unfit to continue in office; or has become incapable of, or is not, properly performing his duties as a member; or in the event of any of the circumstances which disqualify such person from remaining a member of the Board.

(8) If a member resigns or vacates his office before completing

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the appointed term, or is removed in terms of the preceding sub-article, the person appointed in his stead shall be appointed for the unexpired period of the original appointment.

(9) In the exercise of its functions the Social Care Standards Authority shall not be subject to the direction or control of any other person or authority.

Proceeding of
the meeting of
the Authority.

10. (1) The Board of the Authority shall meet as often as necessary, but in no case not less than twice a month. The meetings of the Board shall be called by the Chairperson either on his own initiative or at the request of any two of the other members. Without prejudice to the other requirements of this Act, no decision of the Board shall be valid which is not supported by a majority of the members of the Board present at the meeting.

(2) Half the number of the members for the time being constituting the Board shall form a quorum at any meeting of the Board. Decisions shall be adopted by a simple majority of the votes of the members present and voting. The Chairperson, or other member presiding at the meeting, shall have an initial vote and, in the event of an equality of votes, a casting vote.

(3) In the absence of the Chairperson at any meeting of the Board, the deputy chairperson, or other person appointed to act as chairperson as nominated in terms of article 9(3), or, if no other member or person has been designated or appointed as such, a member of the Board chosen for that purpose by the other members present, shall preside at that meeting of the Board.

(4) Subject to the provisions of sub-article (1), no act or proceeding of the Board shall be invalidated merely by reason of any vacancy among the members.

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

(6) Any disclosure made under sub-article (5) shall be recorded in the minutes of the meeting at which it is made, and the member making any such disclosure -

(a) shall, after the disclosure, withdraw from the meeting at which that decision is proposed to be made; and

(b) shall, if the decision has been made, be disregarded for the purpose of constituting a quorum for any such decision.

(7) Minutes of the proceedings of the Board and of any committee thereof shall be kept. For this purpose and for the keeping of the relevant records, the Minister shall designate a person to act as secretary to the Board for such period and on such terms as the Minister may deem appropriate. The Secretary to the Board shall not have a vote.

(8) Subject to the provisions of this Act, or to any regulation made thereunder, the Board may regulate its own procedure.

(9) In the exercise of its functions under this Act, the Board may consult with such professionals, or such other persons having relevant knowledge and experience in the field of social welfare services, as it may deem appropriate. For such purpose, the Board may invite such professionals or other persons to attend meetings of the Board and to provide such information and documentation as it may deem appropriate.

(10) The members of the Board, the Secretary to such Board, and any person involved in the proceedings of the Board, shall be bound by confidentiality and shall not disclose to any third party any information which may come to their knowledge during the proceedings.

(11) The Board shall keep a true and correct record of all its proceedings and the Board shall give to the Minister such information as he may require.

(12) The Board shall lay on the Table of the House of Representatives the annual report of the workings of the Social Care Standards Authority, by not later than four months after the end of each financial year.

11. Without prejudice to the provisions of article 8(2), the legal representation of the Authority shall jointly vest in the Chairperson and/or the Chief Executive Officer.

Legal representative of the Authority.

12. (1) The Authority shall appoint and employ, at such remuneration and upon such time terms and conditions as it may, in accordance with article 9, 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.

Appointment and functions of officer and employees of the Authority.

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Detailing of public officers for duty with the Authority.

(2) 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.

(3) 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.

Status of public officers detailed for duty with the Authority.

(4) Where any officer is detailed for duty with the Authority, 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.

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

Delegation of functions.

13. (1) The Authority may appoint a Chief Executive Officer and delegate to him, subject to its overall supervision and control, such functions, duties and powers so as to enable the said Officer to give effect to the policies of the Authority and to otherwise discharge effectively and efficiently the functions of the Authority.

(2) The Authority and the Chief Executive Officer may exercise any one or more of its functions, either through any of its officers or employees, or through any other person or entity with whom an agreement for the performance of any one or more of such functions has been entered into.

(3) Where in this Act anything is to be done by or against or with respect to the Authority, or any notice is to be or may be given to the Authority, any such thing or notice may also be done by or against or with respect to or be given to the Chief Executive Officer; and for the purposes aforesaid any reference in this Act to the Authority includes a reference to the Chief Executive Officer.

PART IV Licensing

Applications for the issue of licences.

14. (1) Any person or organization may apply to the Authority for a licence, in the form approved and provided for by the Authority, in order to be able to operate a social welfare service.

(2) Where the person or organization intends to operate more than one social welfare service, or to operate the same kind of social welfare service but from different premises, the said person or organization shall make a separate application in respect of each social welfare service/ premises.

(3) The Authority may, at any time during the processing of the application, require the prospective service provider to provide any documents and information deemed necessary and shall visit the premises intended to be used for the provision of the social welfare service in order to make its assessment and ascertain whether the licence should be granted or not.

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

Granting of licence to operate.

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

(b) complies with any Standards relevant to the proposed social welfare service and any regulations issued under this Act; and

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

16. The Authority may grant a temporary licence to a prospective service provider who does not meet the criteria of eligibility and standards required by this Act, or any other regulation made thereunder:

Granting of temporary licence.

Provided that a temporary licence may only be granted if it is provided for in the relevant regulation and the unlicensed service provider is in conformity with the standards stipulated in the relevant regulation.

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

Licence Certificate and Renewal.

(2) The licence referred to in sub-article (1) may be renewed by the Authority if the service provider applies for renewal by not later than two months prior to the expiration of the licence and renewal shall only be granted if the licensed service provider is still in compliance with the provisions of this Act and of any regulation made thereunder. The decision of the Authority regarding the renewal of a licence shall be served on the licensed service provider by registered mail, within fifty days from the application for renewal.

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(3) The licensed service provider shall ensure that the licence, or a copy of it, is kept affixed in a prominent place in the principal office of the premises from which the social welfare service is provided.

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

Refusal of an application.

18. (1) The Authority shall have the right to refuse an application for licensing if it deems the prospective service provider or licensed service provider not fit to carry out social welfare services. The refusal together with detailed reasons therefor shall be served in writing by registered mail, to the prospective service provider or licensed service provider applying for licensing within fifty days from the date of application.

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

(3) The prospective service provider or licensed service provider shall have the right to re-apply to the Authority for a licence if the reason for the refusal no longer subsists.

Revocation of a license.

19. (1) The Authority shall have the right to revoke the licence of a licensed service provider at any time, if the licensed service provider:

- (a) files a request in writing for revocation;
- (b) ceases to comply with the criteria of eligibility for licensing;
- (c) is no longer deemed suitable to provide the licensed social welfare services;
- (d) is in breach of the conditions for licensing in accordance with the provisions of this Act.

(2) The Authority shall serve the service provider, by registered mail, with the written revocation together with the reasons therefor and such revocation shall have effect from date of service.

(3) In all cases mentioned in paragraphs (a), (b), (c) and (d) of sub-article (1), the Licence Certificate and all the records and documentation relating to the social welfare service shall become the property of the Authority.

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

(a) a list of all licensed service providers specifying the type of social welfare service being offered, their full name, registered address and other relevant contact details;

(b) a list of licensed service providers whose licence has been revoked throughout the previous calendar year; and

(c) any changes in the conditions required for licensing or renewal.

PART V Setting of Standards

21. (1) The Authority shall be responsible for establishing, publishing and reviewing Regulatory Standards for social welfare services. Standards and Codes of Conduct.

(2) For the purposes of sub-article (1), the Authority shall consult such persons or groups of persons as it considers appropriate.

(3) The purpose of Regulatory Standards shall be to:

(a) improve and standardize the regulation of social welfare services;

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

(c) reassure the service users that social welfare services are appropriate to their needs and respect their rights and dignity; and

(d) emphasize that the welfare of the service users is to be considered as paramount.

PART VI Enforcing of Standards

22. (1) The Authority shall monitor and review all operations involving the provision of social welfare services, to ensure that such operations are carried out in accordance with this Act, or any other law or regulations prescribed thereunder and in compliance with any decision made under this Act, or such other law or regulations. Powers of entry and inspection.

(2) For the purposes of the preceding sub-article, the Authority shall have the power to:

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(a) enter any premises at any reasonable time and without prior notice and inspect any operation involving the provision of social welfare services;

(b) to carry out in any such premises any search, examination, test or inquiry which it may consider necessary in order to satisfy itself that the provisions of this Act, or of any regulations or orders made thereunder, and any recognised social welfare standards are being observed, and in particular –

(i) to interview, in the presence of witnesses, any person whom it considers was involved in the provision of the social welfare service and any person whom it considers has made use of such service;

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

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

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

(d) to require the assistance of the Police whenever deemed necessary.

(3) On the conclusion of an investigation, the Authority may:

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

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

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

Provision of
Information

23. The Authority may at any time require a licensed service provider, or any other person, or agency directly, or indirectly, involved in the provision of the licensed social welfare service, to supply them with any information as may be reasonably required in relation to the service for the purposes of fulfilling its functions under this Act and any regulations, which may be made thereunder.

24. (1) Where the assessor deems that a service is not compliant with the provisions of this Act, or with the terms of the licence, the assessor shall make a report of his assessment and shall recommend, where applicable, the changes which the licensed service provider should undertake. The assessor shall remit a copy of the report, together with his recommendations, to the Authority for its decision and the Authority shall serve on the licensed service provider a copy of its decision by means of registered post.

Non-Compliance.

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

PART VII Appeals

25. (1) Any person who feels aggrieved by a decision of the Authority may appeal before the Tribunal within ten days from the date of service of the decision.

Right of appeal from decisions of the Authority.

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

Cap. 490.

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

26. Any party to the proceedings before the Administrative Review Tribunal who feels aggrieved by a decision of the Tribunal, may appeal to the Court of Appeal in its inferior jurisdiction within ten days from the date of service of the decision.

Appeal to the Court of Appeal.

PART VIII Offences and penalties

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

Hindrance.

28. In the event of non-compliance the Authority may impose an administrative penalty of not less than one hundred euro (€100) but not exceeding ten thousand euro (€10,000), or in the case of continuance

Administrative penalties to be imposed for non-compliance.

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of non-compliance a daily penalty of not less than fifty euro (€50) but not more than three hundred and fifty euro (€350) for each day that the non-compliance continues.

Other offences. **29.** Any penalty established for any offence in this Part shall be without prejudice to any other penalty established under any other laws or regulations prescribed under this Act.

PART IX Miscellaneous

Transfer of
powers and
responsibilities.

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

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

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

(4) The Minister may make regulations to give better effect to the provisions of this Act.

Objects and Reasons

The objects of this Bill are to provide for the setting up of the Social Care Standards Authority and to regulate the exercise and performance by the Authority of functions, which functions shall include the issuing of licenses and warrants for social care providers; the Bill also provides for the setting up of regulatory standards for different areas of social care, assistance and services that are provided by private or public entities, and for other matters which are incidental, consequential or supplemental thereto.