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CONSTITUTION OF MALTA

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21st September, 1964*

CHAPTER I

Substituted by: LVIII.1974.2.

The Republic of Malta

The Republic and its territories. *Substituted by: LVIII.1974.3. Amended by: IV.1987.2.*

1. (1) Malta is a democratic republic founded on work and on respect for the fundamental rights and freedoms of the individual.

(2) The territories of Malta consist of those territories comprised in Malta immediately before the appointed day, including the territorial waters thereof, or of such territories and waters as Parliament may from time to time by law determine.

(3) Malta is a neutral state actively pursuing peace, security and social progress among all nations by adhering to a policy of non-alignment and refusing to participate in any military alliance. Such a status will, in particular, imply that:

(*a*) no foreign military base will be permitted on Maltese territory;

(*b*) no military facilities in Malta will be allowed to be used by any foreign forces except at the request of the Government of Malta, and only in the following cases:

(i) in the exercise of the inherent right of self-defence in the event of any armed violation of the area over which the Republic of Malta has sovereignty, or in pursuance of measures or actions decided by the Security Council of the United Nations; or

(ii) whenever there exists a threat to the sovereignty, independence, neutrality, unity or territorial integrity of the Republic of Malta;

(*c*) except as aforesaid, no other facilities in Malta will be allowed to be used in such manner or extent as will amount to the presence in Malta of a concentration of foreign forces;

(*d*) except as aforesaid, no foreign military personnel will be allowed on Maltese territory, other than military personnel performing, or assisting in the performance of, civil works or activities, and other than a reasonable number of military technical personnel

**See* The Malta Independence Order of the 2nd of September, 1964.

assisting in the defence of the Republic of Malta;

(*e*) the shipyards of the Republic of Malta will be used for civil commercial purposes, but may also be used, within reasonable limits of time and quantity, for the repair of military vessels which have been put in a state of non-combat or for the construction of vessels; and in accordance with the principles of non-alignment the said shipyards will be denied to the military vessels of the two superpowers.

Religion. *Substituted by: LVIII.1974.4.*

2. (1) The religion of Malta is the Roman Catholic Apostolic Religion.

(2) The authorities of the Roman Catholic Apostolic Church have the duty and the right to teach which principles are right and which are wrong.

(3) Religious teaching of the Roman Catholic Apostolic Faith shall be provided in all State schools as part of compulsory education.

National Flag. *Substituted by LVIII.1974.5.*

3. (1) The National Flag of Malta consists of two equal vertical stripes, white in the hoist and red in the fly.

(2) A representation of the George Cross awarded to Malta by His Majesty King George the Sixth on the 15th April, 1942 is carried, edged with red, in the canton of the white stripe.

National Anthem.

4. The National Anthem of Malta is "L-Innu Malti" opening with the words "Lil din l-Art ħelwa 1-Omm li tatna isimha".

Language.

5. (1) The National language of Malta is the Maltese language.

(2) The Maltese and the English languages and such other language as may be prescribed by Parliament (by a law passed by not less than two-thirds of all the members of the House of Representatives) shall be the official languages of Malta and the Administration may for all official purposes use any of such languages:

Provided that any person may address the Administration in any of the official languages and the reply of the Administration thereto shall be in such language.

(3) The language of the Courts shall be the Maltese language:

Provided that Parliament may make such provision for the use of the English language in such cases and under such conditions as it may prescribe.

(4) The House of Representatives may, in regulating its own procedure, determine the language or languages that shall be used in Parliamentary proceedings and records.

Constitution to be supreme law. *Substituted by: LVII.1974.2; LVIII.1974.69.*

6. Subject to the provisions of sub-articles (7) and (9) of article 47 and of article 66 of this Constitution, if any other law is inconsistent with this Constitution, this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

CHAPTER II

Declaration of Principles

Right to work.

7. The State recognises the right of all citizens to work and shall promote such conditions as will make this right effective.

Promotion of culture, etc.

8. The State shall promote the development of culture and scientific and technical research.

Safeguarding of landscape and historical and artistic patrimony.

9. The State shall safeguard the landscape and the historical and artistic patrimony of the Nation.

Compulsory and free primary education.

10. Primary education shall be compulsory and in State schools shall be free of charge.

Educational interests.

11. (1) Capable and deserving students, even if without financial resources, are entitled to attain the highest grades of education.

(2) The State shall give effect to this principle by means of scholarships, of contributions to the families of students and other provisions on the basis of competitive examinations.

Protection of work.

12. (1) The State shall protect work.

(2) It shall provide for the professional or vocational training and advancement of workers.

Hours of work.

13. (1) The maximum number of hours of work per day shall be fixed by law.

(2) The worker is entitled to a weekly day of rest and to annual holidays with pay; he cannot renounce this right.

Equal rights of men and women. *Substituted by: XIX.1991.2.*

14. The State shall promote the equal right of men and women to enjoy all economic, social, cultural, civil and political rights and for this purpose shall take appropriate measures to eliminate all forms of discrimination between the sexes by any person, organisation or enterprise; the State shall in particular aim at ensuring that women workers enjoy equal rights and the same wages for the same work as men.

Minimum age for paid labour.

15. The minimum age for paid labour shall be prescribed by law.

Safeguarding labour of minors.

16. The State shall provide for safeguarding the labour of minors and assure to them the right to equal pay for equal work.

Social assistance and insurance.

17. (1) Every citizen incapable of work and unprovided with the resources necessary for subsistence is entitled to maintenance and social assistance.

(2) Workers are entitled to reasonable insurance on a contributory basis for their requirements in case of accident, illness, disability, old-age and involuntary unemployment.

(3) Disabled persons and persons incapable of work are entitled to education and vocational training.

18. The State shall encourage private economic enterprise.

Encouragement of private economic enterprise.

19. The State shall provide for the protection and development of artisan trades.

Protection of artisan trades.

20. The State recognises the social function of co-operatives and shall encourage their development.

Encouragement of co-operatives.

20A. The State shall facilitate the participation of Maltese citizens who live abroad in the political, social, economic and cultural life of Malta.

Participation of Maltese citizens living abroad. *Added by: XX.2011.12.*

21. The provisions of this Chapter shall not be enforceable in any court, but the principles therein contained are nevertheless fundamental to the governance of the country and it shall be the aim of the State to apply these principles in making laws.

Application of the principles contained in this Chapter.

CHAPTER III

Citizenship

22. (1) The acquisition, possession, renunciation and loss of Maltese citizenship shall be regulated by law.

(2) Dual or multiple citizenship is permitted in accordance with any law for the time being in force in Malta.

Citizenship regulated by law. *Substituted by: III.2000.2.*

23. (1) Every person who under this Constitution or any Act of Parliament is a citizen of Malta or under any enactment for the time being in force in any country to which this article applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

(2) Every person who is a British subject without citizenship under the British Nationality Act, 1948 or who continues to be a British subject under article 2 of that Act shall by virtue of that status have the status of a Commonwealth citizen.

(3) The countries to which this article applies are those listed in the Fourth Schedule to this Constitution.

(4) The President may by Proclamation amend, add to, revoke or substitute the list of countries in the Fourth Schedule to this Constitution.

Commonwealth citizens. *Amended by: XLI.1965.3; IX.1967; XXIII.1989.6. Renumbered by: III.2000.4.*

24. (1) A Commonwealth citizen who is not a citizen of Malta or a citizen of the Republic of Ireland who is not a citizen of Malta shall not be guilty of an offence against any law in force in Malta by reason of anything done or omitted in any part of the Commonwealth other than Malta or in the Republic of Ireland or in any foreign country unless -

(*a*) the act or omission would be an offence if he were an alien; and

(*b*) in the case of an act or omission in any part of the Commonwealth or in the Republic of Ireland, it would be an offence if the country in which the act was done

Criminal liability of Commonwealth citizens. *Renumbered and amended by: III.2000.5.*

or the omission made were a foreign country.

(2) In this article -

"alien" means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;

"British Protected Person" means a person who is a British protected person for the purposes of the British Nationality Act, 1948 or any other law of the United Kingdom replacing that Act;

"foreign country" means a country (other than the Republic of Ireland) that is not a part of the Commonwealth.

Acquisition of citizenship by birth or descent by persons born on or after appointed day. *Substituted by: XXIII.1989.3.*

25. *Repealed by Act III of 2000.*

Marriage to citizen of Malta. *Amended by: LVIII.1974.8. Substituted by: XXIII.1989.4.*

26. *Repealed by Act III of 2000.*

Dual citizenship. *Amended by: XXXVII. 1966.2; LVIII.1974.9; XXIII.1989.5.*

27. *Repealed by Act III of 2000.*

28. and **29.** *were renumbered by Act III of 2000.*

Powers of Parliament.

30. *Repealed by Act III of 2000.*

Interpretation. *Amended by: LVIII.1974.10; X.1977.2; XXIII.1989.7.*

31. *Repealed by Act III of 2000.*

CHAPTER IV

Fundamental Rights and Freedoms of the Individual

Fundamental rights and freedoms of the individual. *Amended by: X.2014.2.*

32. Whereas every person in Malta is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed, sex, sexual orientation or gender identity, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely -

(*a*) life, liberty, security of the person, the enjoyment of property and the protection of the law;

(*b*) freedom of conscience, of expression and of peaceful assembly and association; and

(*c*) respect for his private and family life,

the subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and

freedoms, subject to such limitations of that protection as are contained in those provisions being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

Protection of right to life.

33. (1) No person shall intentionally be deprived of his life save in execution of the sentence of a court in respect of a criminal offence under the law of Malta of which he has been convicted.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this article if he dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case -

(*a*) for the defence of any person from violence or for the defence of property;

(*b*) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(*c*) for the purpose of suppressing a riot, insurrection or mutiny; or

(*d*) in order to prevent the commission by that person of a criminal offence,

or if he dies as the result of a lawful act of war.

Protection from arbitrary arrest or detention.

34. (1) No person shall be deprived of his personal liberty save as may be authorised by law in the following cases, that is to say -

(*a*) in consequence of his unfitness to plead to a criminal charge;

(*b*) in execution of the sentence or order of a court, whether in Malta or elsewhere, in respect of a criminal offence of which he has been convicted;

(*c*) in execution of the order of a court punishing him for contempt of that court or of another court or tribunal or in execution of the order of the House of Representatives punishing him for contempt of itself or of its members or for breach of privilege;

(*d*) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law;

(*e*) for the purpose of bringing him before a court in execution of the order of a court or before the House of Representatives in execution of the order of that House;

(*f*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence;

(*g*) in the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;

(*h*) for the purpose of preventing the spread of an infectious or contagious disease;

(*i*) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community; or

(*j*) for the purpose of preventing the unlawful entry of that person into Malta, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Malta or the taking of proceedings relating thereto or for the purpose of restraining that person while he is being conveyed through Malta in the course of his extradition or removal as a convicted prisoner from one country to another.

(2) Any person who is arrested or detained shall be informed at the time of his arrest or detention, in a language that he understands, of the reasons for his arrest or detention:

Provided that if an interpreter is necessary and is not readily available or if it is otherwise impracticable to comply with the provisions of this sub-article at the time of the person's arrest or detention, such provisions shall be complied with as soon as practicable.

(3) Any person who is arrested or detained -

(*a*) for the purpose of bringing him before a court in execution of the order of a court; or

(*b*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence,

and who is not released, shall be brought not later than forty-eight hours before a court; and if any person arrested or detained in such a case as is mentioned in paragraph (*b*) of this sub-article is not tried within a reasonable time, then, without prejudice to any further proceedings which may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(4) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that person.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question authorises the taking during such a period of public emergency as is referred to in paragraph (*a*) or (*c*) of sub-article (2) of article 47 of this Constitution of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency.

(6) If any person who is lawfully detained by virtue only of such a law as is referred to in the last foregoing sub-article so

requests at any time during the period of that detention not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and composed of a person or persons each of whom holds or has held judicial office or is qualified to be appointed to such office in Malta.

(7) On any review by a tribunal in pursuance of the last foregoing sub-article of the case of any detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by whom it was ordered, but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

Protection from forced labour.

35. (1) No person shall be required to perform forced labour.

(2) For the purposes of this article, the expression "forced labour" does not include -

(*a*) any labour required in consequence of the sentence or order of a court;

(*b*) labour required of any person while he is lawfully detained by sentence or order of a court that, though not required in consequence of such sentence or order, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained or, if he is detained for the purpose of his care, treatment, education or welfare, is reasonably required for that purpose;

(*c*) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;

(*d*) any labour required during a period of public emergency or in the event of any other emergency or calamity that threatens the life or well-being of the community.

Protection from inhuman treatment.

36. (1) No person shall be subjected to inhuman or degrading punishment or treatment.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question authorises the infliction of any description of punishment which was lawful in Malta immediately before the appointed day.

(3) (*a*) No law shall provide for the imposition of collective punishments.

(*b*) Nothing in this sub-article shall preclude the imposition of collective punishments upon the members of a disciplined force in accordance with the law regulating the discipline of that force.

Protection from deprivation of property without compensation. *Amended by: LVIII.1974.11.*

37. (1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where provision is made by a law applicable to that taking of possession or acquisition -

(*a*) for the payment of adequate compensation;

(*b*) securing to any person claiming such compensation a right of access to an independent and impartial court or tribunal established by law for the purpose of determining his interest in or right over the property and the amount of any compensation to which he may be entitled, and for the purpose of obtaining payment of that compensation; and

(*c*) securing to any party to proceedings in that court or tribunal relating to such a claim a right of appeal from its determination to the Court of Appeal in Malta:

Provided that in special cases Parliament may, if it deems it appropriate so to act in the national interest, by law establish the criteria which are to be followed, including the factors and other circumstances to be taken into account, in the determination of the compensation payable in respect of property compulsorily taken possession of or acquired; and in any such case the compensation shall be determined and shall be payable accordingly.

(2) Nothing in this article shall be construed as affecting the making or operation of any law so far as it provides for the taking of possession or acquisition of property -

(*a*) in satisfaction of any tax, rate or due;

(*b*) by way of penalty for, or as a consequence of, breach of the law, whether under civil process or after conviction of a criminal offence;

(*c*) upon the attempted removal of the property out of or into Malta in contravention of any law;

(*d*) by way of the taking of a sample for the purposes of any law;

(*e*) where the property consists of an animal upon its being found trespassing or straying;

(*f*) as an incident of a lease, tenancy, licence, privilege or hypothec, mortgage, charge, bill of sale, pledge or other contract;

(*g*) by way of the vesting or administration of property on behalf and for the benefit of the person entitled to the beneficial interest therein, trust property, enemy property or the property of persons adjudged bankrupt or otherwise declared bankrupt or insolvent, persons of unsound mind, deceased persons, or bodies corporate or unincorporate in the course of being wound up or liquidated;

(*h*) in the execution of judgments or orders of courts;

(*i*) by reason of its being in a dangerous state or injurious to the health of human beings, animals or plants;

(*j*) in consequence of any law with respect to the limitation of actions, acquisitive prescription, derelict land, treasure trove, mortmain or the rights of succession competent to the Government of Malta; or

(*k*) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, the carrying out thereon -

(i) of work of soil conservation or the conservation of other natural resources of any description or of war damage reconstruction; or

(ii) of agricultural development or improvement which the owner or occupier of the land has been required and has without reasonable and lawful excuse refused or failed to carry out.

(3) Nothing in this article shall be construed as affecting the making or operation of any law so far as it provides for vesting in the Government of Malta the ownership of any underground minerals, water or antiquities.

(4) Nothing in this article shall be construed as affecting the making or operation of any law for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a body corporate which is established for public purposes by any law and in which no monies have been invested other than monies provided by any legislature in Malta.

Protection for privacy of home or other property.

38. (1) Except with his own consent or by way of parental discipline, no person shall be subjected to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision -

(*a*) that is reasonably required in the interest of defence, public safety, public order, public morality or decency, public health, town and country planning, the development and utilisation of mineral resources, or the development and utilisation of any property in such a manner as to promote the public benefit;

(*b*) that is reasonably required for the purpose of promoting the rights or freedoms of other persons;

(*c*) that authorises a department of the Government of Malta, or a local government authority, or a body corporate established by law for a public purpose, to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate or due or in order to carry out work connected with any property or installation which is lawfully on those premises and which belongs to that

Government, that authority, or that body corporate, as the case may be; or

(*d*) that authorises, for the purpose of enforcing a judgment or order of a court, the search of any person or property by order of a court or entry upon any premises by such order, or that is necessary for the purpose of preventing or detecting criminal offences,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Provisions to secure protection of law.

39. (1) Whenever any person is charged with a criminal offence he shall, unless the charge is withdrawn, be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Any court or other adjudicating authority prescribed by law for the determination of the existence or the extent of civil rights or obligations shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, the case shall be given a fair hearing within a reasonable time.

(3) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings relating to the determination of the existence or the extent of a person's civil rights or obligations before any other adjudicating authority, including the announcement of the decision of the court or other authority, shall be held in public.

(4) Nothing in sub-article (3) of this article shall prevent any court or any authority such as is mentioned in that sub-article from excluding from the proceedings persons other than the parties thereto and their legal representatives -

(*a*) in proceedings before a court of voluntary jurisdiction and other proceedings which, in the practice of the Courts in Malta are, or are of the same nature as those which are, disposed of in chambers;

(*b*) in proceedings under any law relating to income tax; or

(*c*) to such extent as the court or other authority -

(i) may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice; or

(ii) may be empowered or required by law to do so in the interests of defence, public safety, public order, public morality or decency, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings.

(5) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved or has pleaded guilty:

Provided that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this sub-article to the extent that the law in question imposes upon any person charged as aforesaid the burden of proving particular facts.

(6) Every person who is charged with a criminal offence -

(*a*) shall be informed in writing, in a language which he understands and in detail, of the nature of the offence charged;

(*b*) shall be given adequate time and facilities for the preparation of his defence;

(*c*) shall be permitted to defend himself in person or by a legal representative and a person who cannot afford to pay for such legal representation as is reasonably required by the circumstances of his case shall be entitled to have such representation at the public expense;

(*d*) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before any court and to obtain the attendance of witnesses subject to the payment of their reasonable expenses, and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

(*e*) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge,

and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.

(7) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(8) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence which is severer in degree or description than the maximum penalty which might have been imposed for that offence at the time when it was committed.

(9) No person who shows that he has been tried by any competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence save upon the order of a superior court made in the

course of appeal or review proceedings relating to the conviction or acquittal; and no person shall be tried for a criminal offence if he shows that he has been pardoned for that offence:

Provided that nothing in any law shall be held to be inconsistent with or in contravention of this sub-article by reason only that it authorises any court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so however that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

(10) No person who is tried for a criminal offence shall be compelled to give evidence at his trial.

(11) In this article "legal representative" means a person entitled to practise in Malta as an advocate or, except in relation to proceedings before a court where a legal procurator has no right of audience, a legal procurator.

Protection of freedom of conscience and worship.
Amended by: LVIII.1974.12.

40. (1) All persons in Malta shall have full freedom of conscience and enjoy the free exercise of their respective mode of religious worship.

(2) No person shall be required to receive instruction in religion or to show knowledge or proficiency in religion if, in the case of a person who has not attained the age of sixteen years, objection to such requirement is made by the person who according to law has authority over him and, in any other case, if the person so required objects thereto:

Provided that no such requirement shall be held to be inconsistent with or in contravention of this article to the extent that the knowledge of, or the proficiency or instruction in, religion is required for the teaching of such religion, or for admission to the priesthood or to a religious order, or for other religious purposes, and except so far as that requirement is shown not to be reasonably justifiable in a democratic society.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of sub-article (1), to the extent that the law in question makes provision that is reasonably required in the interests of public safety, public order, public morality or decency, public health, or the protection of the rights and freedoms of others, and except so far as that provision or, as the case may be, the thing done under the authority thereof, is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of expression.

41. (1) Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from

interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of sub-article (1) of this article to the extent that the law in question makes provision -

(*a*) that is reasonably required -

(i) in the interests of defence, public safety, public order, public morality or decency, or public health; or

(ii) for the purpose of protecting the reputations, rights and freedoms of other persons, or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, protecting the privileges of Parliament, or regulating telephony, telegraphy, posts, wireless broadcasting, television or other means of communication, public exhibitions or public entertainments; or

(*b*) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(3) Anyone who is resident in Malta may edit or print a newspaper or journal published daily or periodically:

Provided that provision may be made by law -

(*a*) prohibiting or restricting the editing or printing of any such newspaper or journal by persons under twenty-one years of age; and

(*b*) requiring any person who is the editor or printer of any such newspaper or journal to inform the prescribed authority to that effect and of his age and to keep the prescribed authority informed of his place of residence.

(4) Where the police seize any edition of a newspaper as being the means whereby a criminal offence has been committed they shall within twenty-four hours of the seizure bring the seizure to the notice of the competent court and if the court is not satisfied that there is a *prima facie* case of such offence, that edition shall be returned to the person from whom it was seized.

(5) No person shall be deprived of his citizenship under any provisions made under article 30(1) (*b*) of this Constitution or of his juridical capacity by reason only of his political opinions.

Protection of freedom of assembly and association. *Amended by: LVIII.1974.13.*

42. (1) Except with his own consent or by way of parental discipline no person shall be hindered in the enjoyment of his freedom of peaceful assembly and association, that is to say, his right peacefully to assemble freely and associate with other persons and in particular to form or belong to trade or other unions or associations for the protection of his interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision -

(*a*) that is reasonably required -

(i) in the interests of defence, public safety, public order, public morality or decency, or public health; or

(ii) for the purpose of protecting the rights or freedoms of other persons; or

(*b*) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(3) For the purposes of this article, any provision in any law prohibiting the holding of public meetings or demonstrations in any one or more particular cities, towns, suburbs or villages shall be held to be a provision which is not reasonably justifiable in a democratic society.

Prohibition of deportation. *Amended by: LVIII.1974.14.*

43. (1) Extradition is only permitted in pursuance of arrangements made by treaty and under the authority of a law.

(2) No person shall be extradited for an offence of a political character.

(3) No citizen of Malta shall be removed from Malta except as a result of extradition proceedings or under any such law as is referred to in article 44(3) (*b*) of this Constitution.

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(4) The provisions made by or under the Extradition Act*, as for the time being in force, for the removal of persons from Malta to another Commonwealth country to undergo trial or punishment in that country in respect of an offence committed in that country and any general arrangements for the extradition of persons between Commonwealth countries to which Malta for the time being adheres shall be deemed, for the purposes of sub-article (1) of this article, to be arrangements made by treaty, and sub-article (2) shall not apply in relation to the removal or extradition of a person under such provisions or arrangements.

Protection of freedom of movement. *Amended by: XIII.2001.2.*

44. (1) No citizen of Malta shall be deprived of his freedom of movement, and for the purpose of this article the said freedom means the right to move freely throughout Malta, the right to reside in any part of Malta, the right to leave and the right to enter Malta.

*This Act has replaced the Extradition (Commonwealth Countries) Act, 1970.

(2) Any restriction on a citizen's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this article.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision -

(*a*) for the imposition of restrictions that are reasonably required in the interests of defence, public safety, public order, public morality or decency, or public health and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;

(*b*) for the imposition of restrictions on the freedom of movement of any citizen of Malta who is not a citizen by virtue of article 3(1) or of article 5(1) of the Maltese Citizenship Act as in force upon the coming into force of the Maltese Citizenship (Amendment) Act, 2000;

(*c*) for the imposition of restrictions upon the movement or residence within Malta of public officers; or

(*d*) for the imposition of restrictions on the right of any person to leave Malta that are reasonably required in order to secure the fulfilment of any obligation imposed on that person by law and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(4) For the purposes of this article, any person -

(*a*) who has emigrated from Malta (whether before, on or after the appointed day) and, having been a citizen of Malta by virtue of article 3(1) or of article 5(1) of the Maltese Citizenship Act as in force upon the coming into force of the Maltese Citizenship (Amendment) Act, 2000, has ceased to be such a citizen; or

(*b*) who emigrated from Malta before the appointed day and, but for his having ceased to be a citizen of the United Kingdom and Colonies before that day, would have become a citizen of Malta by virtue of article 3(1) of the Maltese Citizenship Act as in force upon the coming into force of the Maltese Citizenship (Amendment) Act, 2000; or

(*c*)* who is the spouse of a person mentioned in paragraph (*a*) or (*b*) of this sub-article or of a person who is a citizen of Malta by virtue of article 3(1) or of article 5(1) of the Maltese Citizenship Act as in force upon the coming into force of the Maltese Citizenship (Amendment) Act, 2000, and who has been married to

*see article 5 of Act *XIII of 2001*.

that person for at least five years and is living with that person, or is the child under twenty-one years of age of such a person; or

(*d*) who is the widow or the widower of a person mentioned in paragraph (*a*) or paragraph (*b*) of this subarticle or of a person who at the time of his or her death was a citizen of Malta by virtue of article 3(1) or of article 5(1) of the Maltese Citizenship Act as in force upon the coming into force of the Maltese Citizenship (Amendment) Act, 2000, and who was still living with him or her at the time of his or her death and had been married to that person for at least five years or who would, but for the death of that person, have been so married for at least five years, or is the child under twenty-one years of age of such a person,

shall be deemed to be a citizen of Malta by virtue of article 3(1) or of article 5(1) of the Maltese Citizenship Act as in force upon the coming into force of the Maltese Citizenship (Amendment) Act, 2000:

Provided that if the Minister responsible for matters relating to Maltese citizenship at any time by order declares that it is contrary to the public interest that a spouse as is mentioned in paragraph (*c*), or a widow or widower as is mentioned in paragraph (*d*), or a child over eighteen years of age as is mentioned in paragraph (*c*) or (*d*) is to be so deemed, or to continue to be so deemed, such spouse, widow, widower or child, as the case may be, shall thereupon cease to be deemed to be a citizen of Malta as aforesaid:

Provided further that the Minister responsible for matters relating to Maltese citizenship shall not be required to assign any reason for the issue of any order referred to in the immediately preceding proviso, and the decision of the Minister on any such order shall not be subject to appeal to or review in any court.

(5) If any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in sub-article (3)(*a*) of this article so requests at any time during the period of that restriction not earlier than six months after the order was made or six months after he last made such request, as the case may be, his case shall be reviewed by an independent and impartial tribunal established by law composed of a person or persons each of whom holds or has held judicial office or is qualified to be appointed to such office in Malta:

Provided that a person whose freedom of movement has been restricted by virtue of a restriction which is applicable to persons generally or to general classes of persons shall not make a request under this sub-article unless he has first obtained the consent of the Civil Court, First Hall.

(6) On any review by a tribunal in pursuance of this article of the case of a person whose freedom of movement has been restricted the tribunal may make recommendations concerning the

necessity or expediency of continuing the restriction to the authority by which it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

Protection from discrimination on the grounds of race, etc.
Amended by: LVIII.1974.15; XIX.1991.3; X.2014.3.

45. (1) Subject to the provisions of sub-articles (4), (5) and (7) of this article, no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of sub-articles (6), (7) and (8) of this article, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this article, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour, creed, sex, sexual orientation or gender identity whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Sub-article (1) of this article shall not apply to any law so far as that law makes provision -

(*a*) for the appropriation of public revenues or other public funds; or

(*b*) with respect to persons who are not citizens of Malta; or

(*c*) with respect to adoption, marriage, dissolution of marriage, burial, devolution of property on death or any matters of personal law not hereinbefore specified; or

(*d*) whereby persons of any such description as is mentioned in sub-article (3) of this article may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description and to any other provision of this Constitution, is reasonably justifiable in a democratic society; or

(*e*) for authorising the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency;

Provided that paragraph (*c*) of this sub-article shall not apply to any law which makes any provision that is discriminatory, either of itself or in its effect by affording different treatment to different persons attributable wholly or mainly to their respective description by sex.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of sub-article (1) of this article to the extent that it makes provision:

(*a*) with respect to qualifications for service or conditions of service in any disciplined force; or

(*b*) with respect to qualifications (not being qualifications specifically relating to sex, sexual orientation or gender identity) for service as a public officer or for service of a local government authority or a body corporate established for public purposes by any law.

(6) Sub-article (2) of this article shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in sub-article (4) or (5) of this article.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision (not being provisions specifically relating to sex) whereby persons of any such description as is mentioned in sub-article (3) of this article may be subjected to any restriction on the rights and freedoms guaranteed by articles 38, 40, 41, 42 and 44 of this Constitution, being such a restriction as is authorised by article 38(2), 40(2), 41(2), 42(2) or 44(3).

(8) Nothing in sub-article (2) of this article shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

(9) A requirement, however made, that the Roman Catholic Apostolic Religion shall be taught by a person professing that religion shall not be held to be inconsistent with or in contravention of this article.

(10) Until the expiration of a period of two years commencing on the lst July, 1991, nothing contained in any law made before the 1st July, 1991, shall be held to be inconsistent with the provisions of this article, in so far as that law provides for different treatment to different persons attributable wholly or mainly to their respective description by sex.

(11) Nothing in the provisions of this article shall apply to any law or anything done under the authority of a law, or to any procedure or arrangement, in so far as such law, thing done, procedure or arrangement provides for the taking of special measures aimed at accelerating *de facto* equality between men and women, and in so far only as such measures, taking into account the social fabric of Malta, are shown to be reasonably justifiable in a democratic society.

Enforcement of protective provisions. *Amended by: LVIII.1974.16.*

46. (1) Subject to the provisions of sub-articles (6) and (7) of this article, any person who alleges that any of the provisions of articles 33 to 45 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him, or such other

person as the Civil Court, First Hall, in Malta may appoint at the instance of any person who so alleges, may, without prejudice to any other action with respect to the same matter that is lawfully available, apply to the Civil Court, First Hall, for redress.

(2) The Civil Court, First Hall, shall have original jurisdiction to hear and determine any application made by any person in pursuance of sub-article (1) of this article, and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of the said articles 33 to 45 (inclusive) to the protection of which the person concerned is entitled:

Provided that the Court may, if it considers it desirable so to do, decline to exercise its powers under this sub-article in any case where it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in any proceedings in any court other than the Civil Court, First Hall, or the Constitutional Court any question arises as to the contravention of any of the provisions of the said articles 33 to 45 (inclusive), that court shall refer the question to the Civil Court, First Hall, unless in its opinion the raising of the question is merely frivolous or vexatious; and that court shall give its decision on any question referred to it under this sub-article and, subject to the provisions of sub-article (4) of this article, the court in which the question arose shall dispose of the question in accordance with that decision.

(4) Any party to proceedings brought in the Civil Court, First Hall, in pursuance of this article shall have a right of appeal to the Constitutional Court.

(5) No appeal shall lie from any determination under this article that any application or the raising of any question is merely frivolous or vexatious.

(6) Provision may be made by or under an Act of Parliament for conferring upon the Civil Court, First Hall, such powers in addition to those conferred by this article as are necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by this article.

(7) Rules of Court making provision with respect to the practice and procedure of the Courts of Malta for the purposes of this article may be made by the person or authority for the time being having power to make rules of court with respect to the practice and procedure of those Courts, and shall be designed to secure that the procedure shall be by application and that the hearing shall be as expeditious as possible.

Interpretation of Chapter IV. *Amended by: LVIII.1974.17; XIX.1991.4.*

47. (1) In this Chapter, save where the context otherwise requires, the following expressions shall have the following meanings respectively, that is to say -

"contravention", in relation to any requirement, includes a failure

to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law in Malta other than a court constituted by or under a disciplinary law and in articles 33 and 35 of this Constitution includes, in relation to an offence against a disciplinary law, a court so constituted;

"disciplinary law" means a law regulating the discipline -

(*a*) of any disciplined force; or

(*b*) of persons serving prison sentences;

"disciplined force" means -

(*a*) a naval, military or air force of the Government of Malta;

(*b*) the Malta Police Force;

(*c*) any other police force established by law in Malta;

(*d*) the Malta prison service;

"member", in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline.

(2) In this Chapter "period of public emergency" means any period during which -

(*a*) Malta is engaged in any war; or

(*b*) there is in force a proclamation by the President declaring that a state of public emergency exists; or

(*c*) there is in force a resolution of the House of Representatives supported by the votes of not less than two-thirds of all the Members of the House declaring that democratic institutions in Malta are threatened by subversion.

(3) (*a*) Where any proclamation of emergency has been made, the occasion therefor shall forthwith be communicated to the House of Representatives and, if the House is then separated by such adjournment or prorogation as will not expire within ten days the President shall by proclamation summon it to meet within five days and it shall accordingly meet and sit upon the day appointed by the proclamation and shall continue to sit and act as if it had stood adjourned or prorogued to that day.

(*b*) A proclamation of emergency shall, unless it is sooner revoked by the President, cease to be in force at the expiration of a period of fourteen days beginning on the date on which it was made or such longer period as may be provided under the next following paragraph, but without prejudice to the making of another proclamation of emergency at or before the end of that period.

(*c*) If at any time while a proclamation of emergency is in force (including any time while it is in force by virtue of this paragraph) a resolution is passed by the House of Representatives approving its continuance in force for a further period, not exceeding three months, beginning on the date on which it would otherwise expire,

the proclamation shall, if not sooner revoked, continue in force for that further period.

(4) A resolution such as is referred to in paragraph (*c*) of sub-article (2) of this article shall, unless it is sooner revoked by the House of Representatives, cease to be in force at the expiration of twelve months beginning on the date on which it was passed or such shorter period as may be specified therein, but without prejudice to the passing of another resolution by the House of Representatives in the manner prescribed by that paragraph at or before the end of that period.

(5) In relation to any person who is a member of a disciplined force raised under any law in force in Malta, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than articles 33, 35 and 36.

(6) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in Malta, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

(7) Until the expiration of a period ending on the 30th June, 1993, nothing contained in any such law as is specified in the First Schedule to this Constitution and, until the expiration of a period of three years commencing with the appointed day, nothing contained in any other law made before the appointed day shall be held to be inconsistent with the provisions of articles 33 to 45 (inclusive) of this Chapter and, subject as aforesaid, nothing done under the authority of any such law shall be held to be done in contravention of those articles.

(8) Where any provision of law enacted before the appointed day is held to be inconsistent with any of the provisions of articles 33 to 45 (inclusive) of this Chapter, no person shall be entitled to compensation in respect of anything done under the authority of that provision before it was so held to be inconsistent.

(9) Nothing in article 37 of this Constitution shall affect the operation of any law in force immediately before 3rd March 1962 or any law made on or after that date that amends or replaces any law in force immediately before that date (or such a law as from time to time amended or replaced in the manner described in this sub-article) and that does not -

(*a*) add to the kinds of property that may be taken possession of or the rights over and interests in property that may be acquired;

(*b*) add to the purposes for which or circumstances in which such property may be taken possession of or acquired;

(*c*) make the conditions governing entitlement to compensation or the amount thereof less favourable to any person owning or interested in the property; or

(*d*) deprive any person of any right such as is mentioned in paragraph (*b*) or paragraph (*c*) of article 37(1) of this Constitution.

Substituted by: LVIII.1974.18.

CHAPTER V

The President

Establishment of the office of President. *Substituted by: LVIII.1974.18.*

*__48.__ (1) There shall be a President of Malta who shall be appointed by Resolution of the House of Representatives.

(2) A person shall not be qualified to be appointed to the office of President if -

(*a*) he is not a citizen of Malta; or

(*b*) he holds or has held the office of Chief Justice or other Judge of the Superior Courts; or

(*c*) he is not eligible for appointment to or to act in any public office in accordance with articles 109, 118 and 120 of this Constitution.

(3) The office of President shall become vacant -

(*a*) on the expiration of five years from the date of the appointment to that office; or

(*b*) if the holder of the office is removed from office by Resolution of the House of Representatives on the ground of inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or misbehaviour.

Discharge of President's functions during vacancy, etc. *Substituted by: LVIII.1974.18.*

49. Whenever the office of President is temporarily vacant, and until a new President is appointed, and whenever the holder of the office is absent from Malta or on vacation or is for any reason unable to perform the functions conferred upon him by this Constitution, those functions shall be performed by such person as the Prime Minister, after consultation with the Leader of the Opposition, may appoint or, if there is no person in Malta so appointed and able to perform those functions, by the Chief Justice.

Oath to be taken by the President. *Substituted by: LVIII.1974.18.*

†**50.** A person appointed to or assuming the functions of the office of President shall, before entering upon that office, take and subscribe the oath of office set out in the Second Schedule to this Constitution. Any person appointed to the office of President under sub-article (1) of article 48 of this Constitution shall take the oath of office before the House.

*Note: sub-article (4) of this article has been omitted as it has had its effect.
†The reference to sub-article (4) of article 48 has been omitted in view of the omission of that sub-article.

CHAPTER VI

Parliament

PART 1

Composition of Parliament

Establishment of Parliament. *Amended by: LVIII.1974.19.*

51. There shall be a Parliament of Malta which shall consist of the President and a House of Representatives.

Composition of the House of Representatives. *Amended by: XXVI. 1970.2. Substituted by: LVIII.1974.20. Amended by: IV.1987.3; XI.1996.2; XXI.2007.4.*

52. (1) Subject to the provisions of this Chapter, the House of Representatives shall consist of such number of members, being an odd number and divisible by the number of electoral divisions, as Parliament shall from time to time by law determine. Such members shall be elected in the manner provided by or under any law for the time being in force in Malta in equal proportions from the electoral divisions referred to in article 56 of this Constitution, each division returning such number of members, being not less than five and not more than seven as Parliament shall from time to time by law determine; and such members shall be known as "Members of Parliament":

Provided that where -

(i) at any general election, a political party (hereinafter referred to in this article as the "absolute majority party") obtains in the aggregate more than fifty per centum of all the valid votes cast at that election, as credited to its candidates by the Electoral Commission at the first count of all the votes; or

(ii) at a general election which is contested by more than two political parties and in which only candidates of two of such parties are elected, a political party obtains a percentage of all the valid votes cast at such election, as credited to its candidates by the Electoral Commission at the first count of all the votes (hereinafter also referred to in this article as the "relative majority party"), which is greater than that obtained by any one other party (hereinafter referred to in this article as the "minority party"),

and the proportion which the number of the elected candidates credited to the absolute majority party or to the relative majority party (as the case may be) represents in relation to the total number of elected members of the House of Representatives is less than the proportion which the number of votes credited to such candidates at the first count of all the votes represents in relation to the total of the votes credited at the same first count of all the votes to all the candidates of all the parties electing candidates, the number of the elected candidates of such party shall be increased (as the case may be) by a number of additional candidates in the circumstances as determined by and in accordance with the provisions of Part IV of the General Elections (Sorting of Ballot Papers, Casual Elections and Co-opting) Regulations in the Thirteenth Schedule to the General Elections Act and the Annex to such Schedule (hereinafter referred to as "the relevant regulations") as in force on 30th September 2007 or as subsequently amended or substituted in the manner provided in sub-article (3):

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Provided further that:

(i) in the eventuality of an election result as provided for in sub-paragraph (i) of the first proviso to this subarticle but provided there is only one minority party; or

(ii) in the eventuality of an election result as provided for in sub-paragraph (ii) of the first proviso to this sub-article,

and the proportion which the number of elected candidates credited to the minority party represents in relation to the total number of elected members of the House of Representatives is less than the proportion which the number of votes credited to all its candidates at the first count of all the votes represents in relation to the total of the votes credited at the same first count of all the votes to all the candidates of all the parties electing candidates, the number of the elected candidates of the minority party shall be increased by a number of additional candidates as determined by the relevant regulations as in force on 30th September 2007 or as subsequently amended or substituted in the manner provided in sub-article (3).

In any case as forseen in the first and second proviso to this sub-article, such persons shall be declared by the Electoral Commission to be elected to fill the additional seats created by the said provisos who, being candidates of the party which is to be credited with the additional seats, were credited by the Electoral Commission at the last count with the highest or next higher number of votes without being elected, irrespective of the division in which such highest or higher number of votes occurs.

(2) If any person who is not a member of the House of Representatives is elected to be Speaker of the House he shall, by virtue of holding the office of Speaker, be a member of the House in addition to the other members:

Provided that in any such case the Speaker shall not be treated as a member of the House for the purpose of establishing the number of votes required to support a bill for any of the

purposes of article 66 of this Constitution.

(3) The provisions of Part IV of the General Elections (Sorting of Ballot Papers, Casual Elections and Co-opting) Regulations, in the Thirteenth Schedule to the General Elections Act and the Annex to such Schedule, as in force on the coming into force of this sub-article may only be deleted, amended or substituted by a bill for an Act of Parliament passed in the manner specified in sub-article (2) of article 66 of this Constitution.

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Qualifications for membership of House of Representatives.

53. Subject to the provisions of article 54 of this Constitution, a person shall be qualified to be elected as a member of the House of Representatives if, and shall not be qualified to be so elected unless, he has the qualifications for registration as a voter for the election of members of the House of Representatives mentioned in article 57 of this Constitution.

Disqualifications for membership of House of Representatives. *Amended by: LVIII.1974.21; XXXVIII.1976.2; XXI.2007.5.*

54. (1) No person shall be qualified to be elected as a member of the House of Representatives -

(*a*) if he is a citizen of a country other than Malta having become such a citizen voluntarily or is under a declaration of allegiance to such a country;

(*b*) save as otherwise provided by Parliament, if he holds or is acting in any public office or is a member of the armed forces of the Government of Malta;

(*c*) if he is a party to, or is a partner with unlimited liability in a partnership or a director or manager of a company which is a party to, a contract with the Government of Malta being a contract of works or a contract for the supply of merchandise to be used in the service of the public and has not, within one month before the date of election, published in the Gazette a notice setting out the nature of any such contract, and his interest, or the interest of any such partnership or company, therein;

(*d*) if he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Malta;

(*e*) if he is interdicted or incapacitated for any mental infirmity or for prodigality by a court in Malta, or is otherwise determined in Malta to be of unsound mind;

(*f*) if he is under sentence of death imposed on him by any court in Malta or is serving a sentence of imprisonment (by whatever name called), exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;

(*g*) if he holds or is acting in any office the functions of which involve any responsibility for, or in connection with, the conduct of any election of members of the House of Representatives or the compilation or revision of any electoral register;

(*h*) if he is disqualified for membership of the House of Representatives by or under any law for the time being in force in Malta by reason of his having been convicted of any offence connected with the election of members of the House of Representatives.

(2) For the purposes of paragraph (*f*) of sub-article (1) of this article -

(*a*) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them exceeds twelve months, but if any one of them exceeds that term they shall be regarded as one sentence; and

(*b*) no account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

(3) A person shall not be treated as holding, or acting in, a public office for the purpose of paragraph (*b*) of sub-article (1) of this article -

(*a*) if he is on leave of absence pending relinquishment of a public office;

(*b*) if he is a teacher at the University of Malta who is not by the terms of his employment prevented from the private practice of his profession or called upon to place his whole time at the disposal of the Government of Malta.

Tenure of office of members.
Amended by: XXXVIII.1976.3; XXIV.2015.46.

55. (1) The seat of a member of Parliament shall become vacant-

(*a*) upon the next dissolution of Parliament after his election;

(*b*) if he resigns his seat by writing under his hand addressed to the Speaker or, if the office of Speaker is vacant or the Speaker is absent from Malta, to the Deputy Speaker;

(*c*) if he becomes a party to a contract with the Government of Malta being a contract of works or a contract for the supply of merchandise to be used in the service of the public, or if any partnership in which he is a partner with unlimited liability or a company of which he is a director or manager becomes a party to any such contract, or if he becomes a partner with unlimited liability in a partnership or a director or manager of a company that is a party to any such contract:

Provided that he shall not vacate his seat under the provisions of this paragraph if before becoming a party to the contract or before, or as soon as practicable after, becoming otherwise interested in the contract (whether as a partner with unlimited liability in a partnership or as a director or manager of a company)

he discloses to the Speaker the nature of the contract and his interest or the interest of the partnership or company therein and the House of Representatives by resolution exempts him from the provisions of this paragraph;

(*d*) if he is absent from the sittings of the House of Representatives for such period and in such circumstances as may be prescribed by the Standing Orders of the House;

(*e*) if he ceases to be a citizen of Malta;

(*f*) if he ceases to be qualified for registration as a voter for the election of members of the House of Representatives;

(*ff*) if the Constitutional Court decides that an elected candidate has given information which is false in the return of election expenses or that an elected candidate has incurred election expenses in an amount exceeding the amount permissible by law;

(*g*) subject to the provisions of sub-article (2) of this article, if any circumstances arise that if he were not a member of the House of Representatives, would cause him to be disqualified for election thereto.

(2) (*a*) If circumstances such as are referred to in paragraph (*g*) of sub-article (1) of this article arise because any member of the House of Representatives is under sentence of death or imprisonment, interdicted or incapacitated or adjudged to be of unsound mind, adjudged or otherwise declared bankrupt or convicted of an offence connected with elections and if it is open to the member to appeal against the decision (either with the leave of a court or other authority or without such leave), he shall forthwith cease to perform his functions as a member of the House but, subject to the provisions of this article, he shall not vacate his seat until the expiration of a period of thirty days thereafter:

Provided that the Speaker may, from time to time, extend that period for further periods of thirty days to enable the member to pursue an appeal against the decision, so however that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the House.

(*b*) If, on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the member, or if, by reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave to appeal or for any other reason, it ceases to be open to the member to appeal, he shall forthwith vacate his seat.

(*c*) If at any time before the member vacates his seat such circumstances as aforesaid cease to exist, his seat shall not become vacant on the expiration of the period referred to in paragraph (*a*) of this sub-article and he may resume the perfor-mance of his functions as a member of the House of Representatives.

(*d*) For the purposes of this sub-article "appeal" means, in the case of an order by a court of voluntary jurisdiction for the interdiction or incapacitation of a member of the House of Representatives, the taking of any action for the review of that order before the Civil Court, First Hall.

Voting at Elections. *Substituted by: LVIII.1974.22. Amended by: IV.1987.4; XXI.2007.6.*

56. (1) The members of the House of Representatives shall be elected upon the principle of proportional representation by means of the single transferable vote from such number of electoral divisions, being an odd number and not less than nine and not more than fifteen, as Parliament shall from time to time determine.

(2) The election of members of the House of Representatives shall be free of illegal or corrupt practices and foreign interference.

(3) It shall be the duty of the Electoral Commission to suspend the election, either in all electoral divisions or in any one or more of such divisions, if it has reasonable ground to believe that illegal or corrupt practices or other offences connected with the elections have been committed or there has been foreign interference and such practices, offences or interference have so extensively prevailed or have been of such nature that they may reasonably be expected to affect the result of the election, in all or in any one or more of the electoral divisions.

(4) In any case in which an election is suspended under sub-article (3) of this article, the Chief Electoral Commissioner shall forthwith refer the matter to the Constitutional Court for its decision.

(5) Where any of the grounds on which an election may be suspended under sub-article (3) of this article exist and the election has not been suspended, or where illegal or corrupt practices or other offences or foreign interference as are referred to in that sub-article may reasonably be supposed to have affected the result of an election, in all or in any one or more of the electoral divisions, any person entitled to vote at that election may, not later than three days after the publication of the official result of the election, refer the matter to the Constitutional Court for its decision.

(6) Any reference to the Constitutional Court under either sub-article (4) or sub-article (5) of this article shall be made and shall be determined by that Court in accordance with any law for the time being in force in Malta. On any such reference the Court shall, without prejudice to any other powers, have power to annul the election, in all or in any one or more of the electoral divisions, on any of the grounds mentioned in the said sub-articles, and to give such directions and orders and to provide such redress and other remedies as it may deem appropriate in the circumstances and in particular to ensure that a free election, in place of any one that may have been annulled, be held at the earliest possible opportunity.

(7) Where an election has been annulled under sub-article (6) of this article, the result of the election shall not be complete before the publication of the official result of a valid election in all electoral divisions.

(8) Except by a bill for an Act of Parliament passed in the manner specified in sub-article (2) of article 66 of this Constitution, no alteration in any law shall be made -

(*a*) whereby any act or omission shall cease to be an illegal or corrupt practice or other offence relating to the election of members of the House of Representatives or foreign interference; or

(*b*) which alters or adds to the circumstances or conditions in which or under which an act or omission is such a practice or other offence or foreign interference; or

(*c*) reduces the punishment to which from time to time any such practice or other offence or interference renders the offender liable;

and for the purposes of this sub-article the provisions of sub-article (7) of article 66 of this Constitution shall apply as if references to the alteration to any of the provisions of this Constitution were references to the alteration of any law.

(9) No person shall vote at the election of members of the House of Representatives for any electoral division who is not registered under any law for the time being in force in Malta as a voter in that division.

(10) At the election of members of the House of Representatives-

(*a*) voting shall be by ballot and shall be carried out in such a manner as not to disclose the way in which the vote of any particular voter is given; and

(*b*) no person shall be permitted to vote on behalf of another:

Provided that provision may be made by law whereby, if a person is unable, by reason of blindness, other physical cause or illiteracy to mark on his ballot paper, his ballot paper may be marked on his behalf and on his directions by some other person officially supervising the poll at the place of voting.

Provided that where a person is by reason of blindness unable to mark on his ballot paper, provision may be made by law requiring that at the request of any such person adequate and special means are to be provided which will enable that person to mark on his ballot paper independently and without the need of assistance.

(11) Ballot papers shall be drawn up in such a manner as to enable illiterates to distinguish between the political parties to which candidates belong.

(12) Candidates and their agents shall be given facilities to watch the transportation of ballot boxes and the sealing and unsealing thereof.

(13) The expressions "corrupt practice", "offences connected with the election of members of the House of Representatives" and

"foreign interference" have the meaning assigned to them by a law for the time being in force regulating the conduct of elections or foreign interference with respect to elections, and any such law shall be deemed for the purposes of this article and of articles 32 to 47 (inclusive) of this Constitution to be reasonably required in the interest of public order and reasonably justifiable in a democratic society.

Qualification of voters.
Amended by: LVIII.1974.23.

57. Subject to the provisions of article 58 of this Constitution, a person shall be qualified to be registered as a voter for the election of members of the House of Representatives if, and shall not be qualified to be so registered unless -

(*a*) he is a citizen of Malta;

(*b*) he has attained the age of eighteen years; and

(*c*) he is resident in Malta and has during the eighteen months immediately preceding his registration been a resident for a continuous period of six months or for periods amounting in the aggregate to six months:

Provided that this paragraph shall not apply to a person who is ordinarily resident in Malta but has not been resident in Malta as required by this paragraph by reason of service abroad in the public service, including service in the offices referred to in sub-article (3) of article 124 of this Constitution, or by reason of service abroad in, or as a member of, a disciplined force as defined in article 47 of this Constitution.

Disqualification of voters.
Amended by: VII.2014.3.

58. No person shall be qualified to be registered as a voter for the election of members of the House of Representatives if -

(*a*) he is interdicted or incapacitated for any mental infirmity by a court in Malta or is otherwise determined in Malta to be of unsound mind;

(*b*) he is under sentence of death imposed on him by any court in Malta or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court; or

(*c*) he is disqualified for registration as a voter by or under any law for the time being in force in Malta by reason of his having been convicted of any offence connected with the election of members of the House of Representatives.

Speaker and Deputy Speaker.

59. (1) When the House of Representatives first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a person to be the Speaker of the House; and if the office of Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as practicable, elect another person to that office.

(2) The Speaker may be elected either -

(*a*) from among persons who are members of the House of Representatives, but are not Ministers or Parliamentary Secretaries, or

(*b*) from among persons who are not members of the House of Representatives and are qualified for election as members thereof.

(3) When the House of Representatives first meets after any general election and before it proceeds to the despatch of any other business except the election of the Speaker, the House shall elect a member of the House, who is not a Minister or a Parliamentary Secretary, to be Deputy Speaker of the House; and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as convenient, elect another such member to that office.

(4) A person shall vacate the office of Speaker or Deputy Speaker -

(*a*) in the case of a Speaker elected from among the members of the House of Representatives or in the case of the Deputy Speaker -

(i) if he ceases to be a member of the House:

Provided that the Speaker shall not vacate his office by reason only that he has ceased to be a member of the House on a dissolution of Parliament, until the House first meets after that dissolution;

(ii) if he is appointed to be a Minister or a Parliamentary Secretary;

(*b*) in the case of a Speaker elected from among persons who are not members of the House of Representatives-

(i) when the House first meets after any dissolution of Parliament;

(ii) if any circumstances arise that would cause him to be disqualified for election as a member of the House of Representatives;

(*c*) if he announces his resignation of his office to the House of Representatives or if by writing under his hand addressed, in the case of the Speaker to the Clerk of the House and in the case of the Deputy Speaker to the Speaker (or, if the office of Speaker is vacant or the Speaker is absent from Malta, to the Clerk of the House) he resigns that office; or

(*d*) in the case of the Deputy Speaker, if he is elected to be Speaker.

(5) (*a*) If, by virtue of sub-article (2) of article 55 of this Constitution, the Speaker or Deputy Speaker is required to cease to perform his functions as a member of the House of Representatives he shall also cease to perform his functions as Speaker or Deputy Speaker, as the case may be, and those functions shall until he vacates his seat in the House or resumes the performance of the

functions of his office, be performed -

(i) in the case of the Speaker, by the Deputy Speaker or, if the office of Deputy Speaker is vacant or the Deputy Speaker is required to cease to perform his functions as a member of the House of Representatives by virtue of sub-article (2) of article 55 of this Constitution, by such member of the House (not being a Minister or Parliamentary Secretary) as the House may elect for the purpose;

(ii) in the case of the Deputy Speaker, by such member of the House (not being a Minister or Parliamentary Secretary) as the House may elect for the purpose.

(*b*) If the Speaker or Deputy Speaker resumes the performance of his functions as a member of the House, in accordance with the provisions of sub-article (2) of article 55 of this Constitution, he shall also resume the performance of his functions of Speaker or Deputy Speaker, as the case may be.

Establishment of Electoral Commission. *Amended by: LVIII.1974.24.*

60. (1) There shall be an Electoral Commission for Malta.

(2) The Electoral Commission shall consist of a Chairman, who shall be the person for the time being holding the office of Chief Electoral Commissioner and who shall be appointed to that office from the public service, and such number of members not being less than four as may be prescribed by any law for the time being in force in Malta.

(3) The members of the Electoral Commission shall be appointed by the President, acting in accordance with the advice of the Prime Minister, given after he has consulted the Leader of the Opposition.

(4) A person shall not be qualified to hold office as a member of the Electoral Commission if he is a Minister, a Parliamentary Secretary, a member of, or a candidate for election to, the House of Representatives or a public officer.

(5) Subject to the provisions of this article, a member of the Electoral Commission shall vacate his office -

(*a*) at the expiration of three years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed; or

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

(6) Subject to the provisions of sub-article (7) of this article, a member of the Electoral Commission may be removed from office by the President acting in accordance with the advice of the Prime Minister.

(7) A member of the Electoral Commission shall not be removed from office except for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any

other cause) or for misbehaviour.

(8) If the office of a member of the Electoral Commission is vacant or if a member is for any reason unable to perform the functions of his office, the President, acting in accordance with the advice of the Prime Minister, given after he has consulted the Leader of the Opposition, may appoint a person who is qualified to be appointed to be a member to be a temporary member of the Commission; and any person so appointed shall, subject to the provisions of sub-articles (5), (6) and (7) of this article cease to be such a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

(9) In the exercise of its functions under this Constitution the Electoral Commission shall not be subject to the direction or control of any other person or authority.

Electoral divisions. *Amended by: LVIII.1974.25; XXI.2007.2.*

61. (1) The Electoral Commission shall review the boundaries of the electoral divisions referred to in article 56(1) of this Constitution at intervals of not less than two nor more than five years and may, in accordance with the provisions of this article, alter such boundaries to such extent as it considers desirable in the light of the review:

Provided that the Commission shall carry out such a review and, in accordance with the provisions of this article, alter the said boundaries whenever Parliament has made provision altering the number of electoral divisions; and in addition the Commission may at any time carry out such a review and, in accordance with the provisions of this article, alter the said boundaries to such extent as it considers desirable in consequence of the holding of a census of the population in pursuance of any law.

(2) Any provision by Parliament altering the number of electoral divisions shall come into effect when the alteration of the boundaries of the electoral divisions that, in accordance with the provisions of sub-article (1) of this article, is consequential thereon comes into effect.

(3) Whenever an alteration of boundaries is made by the Commission under this article the following provisions shall have effect:

(*a*) the Chief Electoral Commissioner shall, as soon as practicable after it is made, communicate the alteration to the Prime Minister and to the Leader of the Opposition;

(*b*) not later than two months from the receipt of such communication, the Prime Minister shall cause the alteration to be placed before the House of Representatives for consideration by it;

(*c*) not later than five months from the receipt of the said communication by the Prime Minister, the House may, by resolution, either approve the alteration or refer it back to the Commission for reconsideration;

(*d*) upon the expiration of six months from the date on which the alteration was communicated to the Prime Minister, or, if the alteration is approved by the House, upon such approval, or, if the alteration is referred back to the Commission, upon the expiration of two months from such reference, the Chief Electoral Commissioner shall cause the alteration to be published in the Gazette either in its original form or, if it has been modified by the Commission, as so modified; and

(*e*) any such alteration shall come into effect upon the next dissolution of Parliament after the alteration is published in the Gazette under paragraph (*d*) of this sub-article:

Provided that nothing in this paragraph shall be construed as preventing the publication of any electoral register or any other requirments connected with the registration of voters from being carried out in accordance with the alteration, under any law for the time being in force in Malta, before that dissolution.

(4) An alteration of the boundaries of any electoral division under this article shall be made in such manner as secures that, at the time when the Commission carries out its review, the number obtained by dividing the total electorate in the division (as ascertained by reference to the electoral register in force at that time) by the number of members to be returned to the House of Representatives from that division is as nearly equal to the electoral quota as is reasonably practicable:

Provided that any such alteration may be made in such manner that the number of voters in that division is, at the time when the Commission carries out its review, greater or less than the electoral quota multiplied by the number of members to be so returned, but in no case by more than five *per centum*, in order to take account of geographical vicinity, differences in density of population and other relevant factors:

Provided further that the Island of Gozo and the islands of the Maltese Archipelago other than the Island of Malta shall together be treated as one electoral division and may not be divided between two or more electoral divisions.

(4A) The boundaries of electoral divisions for the purpose of any general elections to be held after the dissolution of Parliament after the 1st of September 2007 shall be those boundaries as existing on that date with such adjustments made in accordance with the provisions of the proviso to sub-article (4B) of this article as may be necessary in order that the electoral divisions for those elections shall comply with the provisions of the second proviso of sub-article (4) of this article and of article 61A of this Constitution.

(4B) Notwithstanding the provisions of sub-article (1) of this article, the Electoral Commission shall not review the boundaries of the electoral divisions as existing on the 1st of September 2007

except until after the general elections to be held immediately after the dissolution of Parliament immediately after that date which review shall take place at such intervals from the date of the publication of the official result of those elections as provided in sub-article (1) of this article or as otherwise required by the provisions of the same sub-article:

Provided that the Electoral Commission shall by the 30th September 2007 review the boundaries of the electoral divisions to the extent necessary, and only to such extent, to make such adjustments to the said boundaries in order that the electoral divisions for the purpose of those elections shall comply with the provisions of sub-article (4) of this article; and these adjustments shall, notwithstanding any other provision of this article, come into force upon the publication of the register as correct on the 30th September, 2007.

(5) For the purposes of any review carried out under this article, "electoral quota" means the number obtained by dividing the total electorate of Malta (as ascertained from the electoral register in force at the time when the Commission carries out that review) by the total number of members to be returned to the House of Representatives at the general election following the next dissolution of Parliament.

(6) The conduct of elections in every electoral division and of any vote taken under the provisions of article 66(3) of this Constitution shall be subject to the direction and supervision of the Electoral Commission.

Gozo and the islands of the Maltese Archipelago other than the Island of Malta not to be divided. *Added by: XXI.2007.3.*

61A. (1) The following provisions of this article shall apply if, when reviewing the boundaries of the electoral divisions in accordance with the provisions of article 61 of this Constitution, the Electoral Commission would, but for the provisions of the second proviso of sub-article (4) of the same article, have had to divide the Island of Gozo and the islands of the Maltese Archipelago other than the Island of Malta, or any part thereof, between two or more electoral divisions.

(2) The Electoral Commission shall:

(*a*) establish the Island of Gozo together with the islands of the Maltese Archipelago other than the Island of Malta as one electoral division; and

(*b*) apply the provisions of sub-articles (4) and (5) of article 61 of this Constitution only with reference to the voters and divisions on the Island of Malta without including in its calculations the division consisting of Gozo and the other islands of the Maltese Archipelago or the voters therein.

(3) For the purposes of paragraph (*b*) of subarticle (2) of this article, when calculating the number of voters in each electoral division on the Island of Malta the total number of electoral divisions shall be the number of electoral divisions established by article 17 of the General Elections Act minus one.

Cap. 354.

Filling of vacancies.

62. Whenever the seat of any member of the House of Representatives becomes vacant the vacancy shall be filled in the manner provided by or under any law for the time being in force in Malta.

Determination of questions as to membership. *Amended by: XLVII.1972.2; XXIV.2015.47.*

63. Any question whether -

(*a*) any person has been validly elected as a member of the House of Representatives;

(*b*) any member of the House has vacated his seat therein or is required, under the provisions of sub-article (2) of article 55 of this Constitution, to cease to perform his functions as a member;

(*c*) any person has been validly elected as Speaker from among persons who are not members of the House or, having been so elected, has vacated the office of Speaker; or

(*d*) the seat of a Member of Parliament has become vacant in terms of paragraph (*ff*) of sub-article (1) of article 55,

shall be referred to and determined by the Constitutional Court in accordance with the provisions of any law for the time being in force in Malta.

Clerk to House of Representatives and his staff.

64. (1) There shall be a Clerk to the House of Representatives.

(2) The office of the Clerk to the House of Representatives and the offices of the members of his staff shall be public offices.

Office of Ombudsman. *Added by: XIV.2007.2.*

64A. (1) There shall be a Commissioner for Administrative Investigations to be called the Ombudsman who shall have the function to investigate actions taken by or on behalf of the Government, or by such other authority, body or person as may be provided by law (including an authority, body or office established by this Constitution), being actions taken in the exercise of their administrative functions.

(2) The manner of appointment, the term of office, and the manner of removal or suspension from office of the Ombudsman together with any other matter ancillary or incidental thereto or considered necessary or expedient for the carrying out of the function referred to in sub-article (1) shall be provided for by an Act of Parliament.

PART 2

Powers and Procedure of Parliament

Power to make laws. *Amended by: V.2003.7.*

65. (1) Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Malta in conformity with full respect for human rights, generally accepted principles of international law and Malta's international and regional obligations in particular those assumed by the treaty of accession to the European Union signed in Athens on the 16th April, 2003.

(2) Without prejudice to the generality of sub-article (1) and subject to the provisions of sub-articles (3), (4) and (5) of this article, Parliament may by law determine the privileges, immunities and powers of the House of Representatives and the members thereof.

(3) No civil or criminal proceedings may be instituted against any member of the House of Representatives for words spoken before, or written in a report to, the House or a committee thereof or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise.

(4) For the duration of any session members of the House of Representatives shall enjoy freedom from arrest for any civil debt except a debt the contraction of which constitutes a criminal offence.

(5) No process issued by any court in the exercise of its civil jurisdiction shall be served or executed within the precincts of the House of Representatives while the House is sitting or through the Speaker, the Clerk or any officer of the House.

Alteration of this Constitution. *Substituted by: LVIII.1974.26. Amended by: IV.1987.5; XIII.2001.3; XIV.2007.3.*

66. (1) Subject to the provisions of this article, Parliament may alter any of the provisions of this Constitution and (in so far as it forms part of the law of Malta) any of the provisions of the Malta Independence Act, 1964.

(2) In so far as it alters -

(*a*) this article; or

(*b*) article 1, sub-article (2) of article 2, sub-article (1) of article 3, sub-article (1) of article 5, article 6, articles 32 to 48 (inclusive), articles 51, 52, 56, 57, 60, 61 and 64A, sub-article (3) of article 65, sub-article (2) of article 75, article 76 (other than sub-article (2) thereof), articles 77 and 78, article 80, article 91, articles 95 to 100 (inclusive), articles 102 to 110 (inclusive), articles 113, 114, 115A, 118, 119 or 120 of this Constitution; or

(*c*) article 124 of this Constitution in its application to any of the provisions specified in paragraph (*a*) or (*b*) of this sub-article,

a bill for an Act of Parliament under this article shall not be passed in the House of Representatives unless at the final voting thereon in that House it is supported by the votes of not less than two-thirds of all the members of the House.

(3) In so far as it alters -

(*a*) this sub-article or sub-article (4) of this article; or

(*b*) sub-article (2) of article 76 of this Constitution,

a bill for an Act of Parliament under this article shall not be presented to the President for his assent unless not less than three nor more than six months after its passage through the House in the manner specified in sub-article (2) of this article it has been submitted to the electors qualified to vote for the election of

members of the House of Representatives and the majority of the electors voting have approved the bill.

(4) The provisions of sub-article (10) of article 56 of this Constitution shall apply to the voting on a bill submitted to the electors under sub-article (3) of this article as they apply to voting at the election of members of the House of Representatives, and subject as aforesaid the vote on such bill shall be taken in such manner as Parliament may prescribe.

(5) In so far as it alters any of the provisions of this Constitution other than those specified in sub-articles (2) and (3) of this article, a bill for an Act of Parliament under this article shall not be passed in the House of Representatives unless at the final voting thereon in that House it is supported by the votes of a majority of all the members of the House.

(6) An Act of Parliament altering the number of members of the House of Representatives shall not affect the membership of the House before the dissolution of Parliament next following its enactment.

(7) In this article -

(*a*) references to any of the provisions of this Constitution or of the Malta Independence Act, 1964 include references to any law that amends or replaces that provision; and

(*b*) references to the alteration of any of the provisions of this Constitution or of the Malta Independence Act, 1964 include references to the amendment, modification or re-enactment, with or without amendment or modification, of that provision, the suspension or repeal of that provision and the making of a different provision in lieu of that provision.

Regulation of procedure in House of Representatives.

67. (1) Subject to the provisions of this Constitution, the House of Representatives may regulate its own procedure.

(2) The House of Representatives may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets on or after the appointed day or after any dissolution of Parliament) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

(3) Any provision made in pursuance of sub-article (1) of this article for setting up Committees of the House to enquire into matters of general public importance shall be designed to secure that, so far as it appears practicable to the House, any such Committee is so composed as fairly to represent the House.

Oath to be taken by members of House of Representatives.

68. No member of the House of Representatives shall be permitted to take part in the proceedings of the House (other than proceedings necessary for the purposes of this article) until he has taken and subscribed before the House the oath of allegiance:

Provided that the election of the Speaker and Deputy Speaker

may take place before the members of the House have taken and subscribed such oath.

Presiding in House of Representatives.

69. (1) There shall preside at any sitting of the House of Representatives -

(*a*) the Speaker; or

(*b*) in the absence of the Speaker, the Deputy Speaker; or

(*c*) in the absence of the Speaker and the Deputy Speaker, such member of the House (not being a Minister or a Parliamentary Secretary) as the House may elect for that purpose.

(2) References in this article to circumstances in which the Speaker or the Deputy Speaker is absent include references to circumstances in which the office of Speaker or Deputy Speaker is vacant.

Quorum in House of Representatives.

70. (1) If at any sitting of the House of Representatives any member who is present draws the attention of the person presiding at the sitting to the absence of a quorum and, after such interval as may be prescribed in the Standing Orders of the House, the person presiding at the sitting ascertains that a quorum of the House is still not present, the House shall be adjourned.

(2) For the purposes of this article -

(*a*) a quorum of the House of Representatives shall consist of fifteen members; and

(*b*) the person presiding at the sitting of the House shall not be included in reckoning whether there is a quorum present.

Voting.

71. (1) Save as otherwise provided in this Constitution, all questions proposed for decision in the House of Representatives shall be determined by a majority of the votes of the members thereof present and voting.

(2) The Speaker shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

(3) Any other person shall, when presiding in the House of Representatives, retain his original vote as a member and, if upon any question, the votes are equally divided, shall also have and exercise a casting vote.

Mode of exercising legislative powers.*Amended by: LVIII.1974.27.*

72. (1) The power of Parliament to make laws shall be exercised by bills passed by the House of Representatives and assented to by the President.

(2) When a bill is presented to the President for assent, he shall without delay signify that he assents.

(3) A bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

(4) When a law has been assented to by the President it shall

without delay be published in the Gazette and shall not come into operation until it has been so published, but Parliament may postpone the coming into operation of any such law and may make laws with retrospective effect.

Restriction with regard to certain financial measures. *Amended by: LVIII.1974.28.*

73. Except upon the recommendations of the President signified by a Minister, the House of Representatives shall not -

(*a*) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes, that is to say, for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of Malta or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to Malta;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of the purposes aforesaid; or

(*c*) receive any petition which, in the opinion of the person presiding, requests that provision be made for any of the purposes aforesaid.

Language of Laws.

74. Save as otherwise provided by Parliament, every law shall be enacted in both the Maltese and English languages and, if there is any conflict between the Maltese and the English texts of any law, the Maltese text shall prevail.

PART 3

Summoning, prorogation and dissolution

Sessions of Parliament. *Amended by: LVIII.1974.29.*

75. (1) Each session of Parliament shall commence at such time as the President may by proclamation appoint and shall be held at such place or places as the President by proclamation, or as the House of Representatives in any manner it may deem appropriate, may from time to time appoint.

(2) There shall be a session of Parliament once at least in every year, so that a period of twelve months shall not intervene between the last sitting of Parliament in one session and the first sitting thereof in the next session.

(3) The House of Representatives shall meet not later than two months after the publication of the official result of any general election by the Electoral Commission on a day appointed by the President.

Prorogation and dissolution of Parliament. *Amended by: LVIII.1974.30.*

76. (1) The President may at any time by proclamation prorogue or dissolve Parliament.

(2) Subject to the provisions of sub-article (3) of this article, Parliament, unless sooner dissolved, shall continue for five years from the date of its first sitting after any dissolution and shall then stand dissolved.

(3) At any time when Malta is at war, Parliament may from time to time extend the period of five years specified in sub-article (2) of this article for not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this sub-article for more than five years.

(4) If between a dissolution of Parliament and the next ensuing general election of members of the House of Representatives an emergency arises of such a nature that, in the opinion of the Prime Minister it is necessary to recall Parliament, the President may by proclamation summon the Parliament that has been dissolved to meet, and that Parliament shall thereupon be deemed (except for the purpose of article 77 and, in relation to the next ensuing general election, article 61(3) and 66(6) of this Constitution) not to have been dissolved but shall be deemed (except as aforesaid) to be dissolved on the date on which the polls are concluded in the next ensuing general election.

(5) In the exercise of his powers under this article the President shall act in accordance with the advice of the Prime Minister:

Provided that -

(*a*) if the House of Representatives passes a resolution, supported by the votes of a majority of all the members thereof, that it has no confidence in the Government, and the Prime Minister does not within three days either resign from his office or advise a dissolution, the President may dissolve Parliament;

(*b*) if the office of Prime Minister is vacant and the President considers that there is no prospect of his being able within a reasonable time to appoint to that office a person who can command the support of a majority of the members of the House of Representatives, the President may dissolve Parliament; and

(*c*) if the Prime Minister recommends a dissolution and the President considers that the Government of Malta can be carried on without a dissolution and that a dissolution would not be in the interests of Malta, the President may refuse to dissolve Parliament.

General elections. *Amended by: LVIII.1974.31.*

77. A general election of members of the House of Representatives shall be held at such time within three months after every dissolution of Parliament as the President acting in accordance with the advice of the Prime Minister, shall by proclamation appoint.

CHAPTER VII

The Executive

Executive authority of Malta. *Substituted by: LVIII.1974.32.*

78. (1) The executive authority of Malta is vested in the President.

(2) The executive authority of Malta shall be exercised by the President, either directly or through officers subordinate to him, in

accordance with the provisions of this Constitution.

(3) Nothing in this article shall prevent Parliament from conferring functions on persons or authorities other than the President.

The Cabinet.

79. (1) There shall be a Cabinet for Malta which shall consist of the Prime Minister and such number of other Ministers as may be appointed in accordance with article 80 of this Constitution.

(2) The Cabinet shall have the general direction and control of the Government of Malta and shall be collectively responsible therefor to Parliament.

Appointment of Ministers.
Amended by: LVIII.1974.33.

80. Wherever there shall be occasion for the appointment of a Prime Minister, the President shall appoint as Prime Minister the member of the House of Representatives who, in his judgment, is best able to command the support of a majority of the members of that House and shall, acting in accordance with the advice of the Prime Minister, appoint the other Ministers from among the members of the House of Representatives:

Provided that if occasion arises for making an appointment to the office of Prime Minister or any other Minister while Parliament is dissolved, a person who was a member of the House of Representatives immediately before the dissolution may be appointed as Prime Minister or any other Minister as if, in each case, such person were still a member of the House of Representatives, but any person so appointed shall vacate office at the beginning of the next session of Parliament if he is not then a member thereof.

Tenure of office of Ministers.
Amended by: LVIII.1974.34.

81. (1) If the House of Representatives passes a resolution, supported by the votes of a majority of all the members thereof, that it has no confidence in the Government, the President may remove the Prime Minister from office:

Provided that the President shall not do so unless three days have elapsed and he has decided not to dissolve Parliament under article 76 of this Constitution.

(2) The office of Prime Minister shall also become vacant -

(*a*) when, after any dissolution of Parliament, the Prime Minister is informed by the President that the President is about to re-appoint him as Prime Minister or to appoint another person as Prime Minister;

(*b*) if he ceases to be a member of the House of Representatives otherwise than by a dissolution of Parliament; or

(*c*) if, under the provisions of sub-article (2) of article 55 of this Constitution, he is required to cease to perform his functions as a member of the House of Representatives.

(3) The office of a Minister, other than the office of Prime Minister shall become vacant -

(*a*) upon the appointment or re-appointment of any person to the office of Prime Minister;

(*b*) if his appointment to his office is revoked by the President, acting in accordance with the advice of the Prime Minister;

(*c*) if he ceases to be a member of the House of Representatives otherwise than by a dissolution of Parliament; or

(*d*) if, under the provisions of sub-article (2) of article 55 of this Constitution, he is required to cease to perform his functions as a member of the House of Representatives.

Allocation of portfolios to Ministers. *Amended by: LVIII.1974.35.*

82. (1) Subject to the provisions of this Constitution, the President, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister or any other Minister responsibility for any business of the Government of Malta including the administration of any department of government.

(2) Nothing in this article shall empower the President to confer on any Minister authority to exercise any power or to discharge any duty that is conferred or imposed by this Constitution or any other law on any person or authority other than that Minister.

Acting Prime Minister. *Substituted by: LVIII.1974.36.*

83. (1) Whenever the Prime Minister is absent from Malta or on vacation, or is unable by reason of illness to perform the functions of his office, the President may authorise any other member of the Cabinet to perform those functions (other than the functions conferred by this article) and that member may perform those functions until his authority is revoked by the President.

(2) The powers of the President under this article shall be exercised by him in accordance with the advice of the Prime Minister:

Provided that if the President considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness he may exercise those powers without that advice.

Temporary Ministers. *Amended by: LVIII.1974.37.*

84. (1) Whenever a Minister other than the Prime Minister is unable, by reason of his illness or absence from Malta, to perform the functions of his office, the President may appoint another member of the House of Representatives to be a temporary Minister:

Provided that if occasion arises for making an appointment while Parliament is dissolved, a person who, immediately before the dissolution, was a member of the House of Representatives may be appointed as a temporary Minister as if he were still a member of that House, but any person so appointed shall vacate office at the beginning of the next session of Parliament if he is not then a member thereof.

(2) Subject to the provisions of article 81 of this Constitution, a temporary Minister shall hold office until he is notified by the

President that the Minister on account of whose inability to perform the functions of his office he was appointed is again able to perform those functions or until that Minister vacates his office.

(3) The powers of the President under this article shall be exercised by him in accordance with the advice of the Prime Minister.

Exercise of functions of President. *Amended by: LVIII.1974.38.*

85. (1) In the exercise of his functions the President shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution or any other law to act in accordance with the advice of any person or authority other than the Cabinet:

Provided that the President shall act in accordance with his own deliberate judgment in the performance of the following functions-

(*a*) in the exercise of the powers relating to the dissolution of Parliament conferred upon him by the proviso to sub-article (5) of article 76 of this Constitution;

(*b*) in the exercise of the power to appoint the Prime Minister or remove the Prime Minister from office conferred upon him by article 80 and sub-article (1) of article 81 of this Constitution;

(*c*) in the exercise of the powers conferred upon him by article 83 of this Constitution (which relates to the performance of the functions of the Prime Minister during absence, vacation or illness) in the circumstances described in the proviso to sub-article (2)of that article;

(*d*) in the exercise of the power to appoint the Leader of the Opposition and to revoke any such appointment conferred upon him by article 90 of this Constitution; and

(*e*) in signifying his approval for the purposes of sub-article (4) of article 110 of this Constitution of an appointment to an office on his personal staff.

(2) Where by this Constitution the President is required to act in accordance with the advice of any person or authority, the question whether he has in any case received, or acted in accordance with, such advice shall not be enquired into in any court.

(3) The reference in sub-article (1) of this article to the functions of the President shall be construed as a reference to his powers and duties in the exercise of the executive authority of Malta and to any other powers and duties conferred or imposed on him as President by or under this Constitution or any other law.

Exercise of Prime Minister's functions.

86. (1) Where by this Constitution the Prime Minister is required to exercise any function on the recommendation of any person or authority he shall exercise that function in accordance with such recommendation:

Provided that -

(*a*) before he acts in accordance therewith he may once refer that recommendation back for reconsideration by the person or authority concerned; and

(*b*) if that person or authority, having reconsidered the original recommendation under the preceding paragraph, substitutes therefor a different recommendation, the provisions of this sub-article shall apply to that different recommendation as they apply to the original recommendation.

(2) Where by this Constitution the Prime Minister is required to perform any function after consultation with any person or authority, he shall not be obliged to perform that function in accordance with the advice of that person or authority.

(3) Where by this Constitution the Prime Minister is required to perform any function in accordance with the recommendation of, or after consultation with, any person or authority, the question whether he has in any case received, or acted in accordance with such recommendation or whether he has consulted with such person or authority shall not be enquired into in any court.

The President to be informed concerning matters of government. *Substituted by: LVIII.1974.39.*

87. The Prime Minister shall keep the President fully informed concerning the general conduct of the Government of Malta and shall furnish the President with such information as he may request with respect to any particular matter relating to the Government of Malta.

Parliamentary Secretaries. *Amended by: LVIII.1974.40.*

88. (1) The President, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the members of the House of Representatives to assist Ministers in the performance of their duties:

Provided that if occasion arises for making an appointment while Parliament is dissolved, a person who immediately before the dissolution was a member of the House of Representatives may be appointed as a Parliamentary Secretary as if he were still a member of that House, but any person so appointed shall vacate office at the beginning of the next session of Parliament if he is not then a member thereof.

(2) The provisions of sub-article (3) of article 81 of this Constitution shall apply to Parliamentary Secretaries as they apply to Ministers.

Oath to be taken by Ministers. *Substituted by: LVIII.1974.41.*

89. A Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and the oath of office set out in the Third and in the Second Schedule to this Constitution.

Leader of the Opposition. *Amended by: LVIII.1974.42.*

90. (1) There shall be a Leader of the Opposition who shall be appointed by the President.

(2) Whenever there shall be occasion for the appointment of a Leader of the Opposition, the President shall appoint -

(*a*) if there is one opposition party whose numerical

strength in the House of Representatives is greater than the strength of any other opposition party, the member of the House of Representatives who is the Leader of that party; or

(*b*) if, by reason of an equality in the numerical strength of the opposition parties in the House or by reason that there is no opposition party, no person is qualified for appointment under paragraph (*a*) of this sub-article, the member of the House who, in the judgment of the President, commands the support of the largest single group of members of the House in opposition to the Government who are prepared to support one leader.

(3) The office of Leader of the Opposition shall become vacant -

(*a*) if after any dissolution of Parliament, he is informed by the President that the President is about to appoint another person as Leader of the Opposition;

(*b*) if he ceases to be a member of the House of Representatives otherwise than by a dissolution of Parliament;

(*c*) if, under the provisions of sub-article (2) of article 55 of this Constitution, he is required to cease to perform his functions as a member of the House of Representatives; or

(*d*) if his appointment is revoked under the provisions of sub-article (4) of this article.

(4) If, in the judgment of the President, a member of the House of Representatives other than the Leader of the Opposition, has become the Leader in the House of the opposition party having the greatest numerical strength in the House or, as the case may be, the Leader of the Opposition has ceased to command the support of the largest single group of members in opposition to the Government, the President shall revoke the appointment of the Leader of the Opposition.

(5) Sub-article (4) of this article shall not have effect while Parliament is dissolved.

Attorney General.
Amended by: LVIII.1974.43; XIV.2007.4.

91. (1) There shall be an Attorney General whose office shall be a public office and who shall be appointed by the President acting in accordance with the advice of the Prime Minister.

(2) A person shall not be qualified to hold office as Attorney General unless he is qualified for appointment as a judge of the Superior Courts.

(3) In the exercise of his powers to institute, undertake and discontinue criminal proceedings and of any other powers conferred on him by any law in terms which authorise him to exercise that power in his individual judgment the Attorney General shall not be subject to the direction or control of any other person or authority.

(4) Subject to the provisions of sub-article (5) of this article, the Attorney General shall vacate his office when he attains the age of sixty-five years.

(5) Sub-articles (2) and (3) of article 97 of this Constitution shall apply to the Attorney General.

Permanent Secretaries and heads of government departments. *Amended by: LVIII.1974.44.*

92. (1) Where any Minister has been charged with responsibility for any department of government, he shall exercise general direction and control over that department; and, subject to such direction and control, the department may be under the supervision of a Permanent Secretary:

Provided that two or more departments of government may be placed under the supervision of one Permanent Secretary.

(2) The Prime Minister shall be responsible for assigning departments of government to Permanent Secretaries.

(3) Power to appoint public officers to hold or act in the office of Permanent Secretary and to remove from office persons holding or acting in such office shall vest in the President acting in accordance with the advice of the Prime Minister given after the Prime Minister has consulted with the Public Service Commission.

(4) Heads of departments of government other than those whose manner of appointment is specifically provided for in this Constitution shall be appointed from amongst senior public officers by the Prime Minister acting after consultation with the Public Service Commission.

Prerogative of mercy. *Amended by: LVIII.1974.45.*

93. (1) The President shall have power to -

(*a*) grant to any person concerned in or convicted of any offence a pardon, either free or subject to lawful conditions;

(*b*) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence passed on that person for any offence;

(*c*) substitute a less severe form of punishment for any punishment imposed on any person for any offence; or

(*d*) remit the whole or part of any sentence passed on any person for an offence or for any penalty or forfeiture otherwise due to the State on account of any offence.

(2) (*a*) Where any person has been sentenced to death by any court in Malta, the President shall cause a written report of the case from the trial judge, or, in the case of a court-martial the person presiding, and such other information derived from the record of the case or elsewhere as the President may require, to be sent to the Minister responsible for justice.

(*b*) The said Minister shall send such written report and information (if any) to the Cabinet, and the Cabinet shall advise the President whether he should grant the offender a pardon or respite in the exercise of the powers conferred on him by this article.

Secretary to the Cabinet.

94. (1) There shall be a Secretary to the Cabinet who shall be a public officer designated in that behalf by the Prime Minister.

(2) The Secretary to the Cabinet shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for arranging the business for, and keeping the minutes of, the meetings of the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority, and shall have such other functions as the Prime Minister may from time to time direct.

CHAPTER VIII

The Judiciary

Superior Courts. *Substituted by: LVIII.1974.46.*

95. (1) There shall be in and for Malta such Superior Courts having such powers and jurisdiction as may be provided by any law for the time being in force in Malta.

(2) One of the Superior Courts, composed of such three judges as could, in accordance with any law for the time being in force in Malta, compose the Court of Appeal, shall be known as the Constitutional Court and shall have jurisdiction to hear and determine -

(*a*) such questions as are referred to in article 63 of the Constitution;

(*b*) any reference made to it in accordance with article 56 of this Constitution and any matter referred to it in accordance with any law relating to the election of members of the House of Representatives;

(*c*) appeals from decisions of the Civil Court, First Hall, under article 46 of this Constitution;

(*d*) appeals from decisions of any court of original jurisdiction in Malta as to the interpretation of this Constitution other than those which may fall under article 46 of this Constitution;

(*e*) appeals from decisions of any court of original jurisdiction in Malta on questions as to the validity of laws other than those which may fall under article 46 of this Constitution; and

(*f*) any question decided by a court of original jurisdiction in Malta together with any of the questions referred to in the foregoing paragraphs of this sub-article on which an appeal has been made to the Constitutional Court:

Provided that nothing in this paragraph shall preclude an appeal being brought separately before the Court of Appeal in accordance with any law for the time being in force in Malta.

(3) Notwithstanding the provisions of sub-article (2) of this article, if any such question as is referred to in paragraph (*d*) or (*e*) of that sub-article arises for the first time in proceedings in a court

of appellate jurisdiction, that court shall refer the question to the court which gave the original decision, unless in its opinion the raising of the question is merely frivolous or vexatious, and that court shall give its decision on any such question and, subject to any appeal in accordance with the provisions of sub-article (2) of this article, the court in which the question arose shall dispose of the question in accordance with that decision.

(4) The provisions of sub-articles (6) and (7) of article 46 of this Constitution shall apply to the Constitutional Court and for that purpose references to that article in the said sub-articles shall be construed as references to this article.

(5) If at any time during an election of members of the House of Representatives and the period of thirty days following any such election, the Constitutional Court is not constituted as provided in this article, the said Court shall, thereupon and until otherwise constituted according to law, be constituted by virtue of this sub-article and shall be composed of the three more senior of the judges then in office, including, if any is in office, the Chief Justice or other judge performing the functions of Chief Justice; and if at any other time the said Court is not constituted as provided in this article for a period exceeding fifteen days, such Court shall, upon the expiration of the said period of fifteen days and until otherwise constituted according to law, be constituted by virtue of this sub-article and shall be composed of the three more senior judges as aforesaid.

(6) The judges of the Superior Courts shall be a Chief Justice and such number of other judges as may be prescribed by any law for the time being in force in Malta:

Provided that the office of a judge of the Superior Courts shall not, without his consent, be abolished during his continuance in office.

Appointment of judges.
Amended by: LVIII.1974.47.

96. (1) The judges of the Superior Courts shall be appointed by the President acting in accordance with the advice of the Prime Minister.

(2) A person shall not be qualified to be appointed a judge of the Superior Courts unless for a period of, or periods amounting in the aggregate to, not less than twelve years he has either practised as an advocate in Malta or served as a magistrate in Malta, or has partly so practised and partly so served.

Tenure of office of judges.
Amended by: LVIII.1974.48.

97. (1) Subject to the provisions of this article, a judge of the Superior Courts shall vacate his office when he attains the age of sixty-five years.

(2) A judge of the Superior Courts shall not be removed from his office except by the President upon an address by the House of Representatives supported by the votes of not less than two-thirds of all the members thereof and praying for such removal on the ground of proved inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or proved misbehaviour.

(3) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the inability or misbehaviour of a judge of the Superior Courts under the provisions of the last preceding sub-article.

Acting Chief Justice and acting judges. *Amended by: LVIII.1974.49.*

98. (1) If the office of Chief Justice is vacant or if the Chief Justice is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the Chief Justice has resumed those functions, as the case may be, those functions shall (except to such extent, if any, as other provision is made by law) be performed by such one of the other judges of the Superior Courts as may be designated in that behalf by the President, acting in accordance with the advice of the Prime Minister.

(2) If the office of any judge of the Superior Courts (other than the Chief Justice) is vacant or if any such judge is appointed to act as Chief Justice or is for any reason unable to perform the functions of his office, the President, acting in accordance with the advice of the Prime Minister, may appoint a person qualified for appointment as a judge of the Superior Courts to act as a judge of those Courts:

Provided that a person may be so appointed notwithstanding that he has attained the age of sixty-five years.

(3) Any person appointed under sub-article (2) of this article to act as a judge of the Superior Courts shall continue so to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the President acting in accordance with the advice of the Prime Minister.

Inferior Courts.

99. There shall be in and for Malta such inferior courts having such powers and jurisdiction as may be provided by any law for the time being in force in Malta.

Magistrates. *Amended by: LVIII.1974.50; XIV.2007.5.*

100. (1) Magistrates of the inferior courts shall be appointed by the President acting in accordance with the advice of the Prime Minister.

(2) A person shall not be qualified to be appointed to or to act in the office of magistrate of the inferior courts unless he has practised as an advocate in Malta for a period of, or periods amounting in the aggregate to, not less than seven years.

(3) Subject to the provisions of sub-article (4) of this article, a magistrate of the inferior courts shall vacate his office when he attains the age of sixty-five years.

(4) The provisions of sub-articles (2) and (3) of article 97 of this Constitution shall apply to magistrates of the inferior courts.

Oaths to be taken by judges and magistrates.

101. A judge of the Superior Courts or a magistrate of the inferior courts shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by any law for the time being in force in Malta.

Commission for the Administration of Justice.
Added by: IX.1994.2.

101A. (1) There shall be a Commission for the Administration of Justice which shall consist of the President, who shall be the Chairman, and nine other members as follows:

(*a*) the Chief Justice who shall be Deputy Chairman and shall preside over the Commission in the absence of the Chairman;

(*b*) the Attorney General, *ex officio*;

(*c*) two members elected for a period of four years by the judges of the Superior Court from among themselves;

(*d*) two members elected for a period of four years by the magistrates of the Inferior Courts from among themselves;

(*e*) two members appointed for a period of four years as to one by the Prime Minister and as to the other by the Leader of the Opposition, being in each case, a person of at least forty-five years of age, and who enjoys the general respect of the public and a reputation of integrity and honesty;

(*f*) the President of the Chamber of Advocates, *ex officio*.

(2) The President shall only have a casting vote; when the Deputy Chairman presides over a meeting of the Commission he shall retain his original vote together with the casting vote.

(3) The members elected to the Commission for the Administration of Justice shall be elected in accordance with such rules as may be prescribed by the person or authority referred to in sub-article (7) of article 46 of this Constitution.

(4) (*a*) A person shall not be qualified to be appointed or continue to hold office as a member of the Commission for the Administration of Justice:

(i) if he is a Minister, a Parliamentary Secretary, a Member of the House of Representatives or a member of a local government authority; or

(ii) if he has been convicted of any crime punishable by imprisonment for any term; or

(iii) if he is disqualified to be elected as a member of the House of Representatives for any of the reasons stated in paragraphs (*a*), (*c*), (*d*), (*e*), (*f*), (*g*) or (*h*) of sub-article (1) of article 54 of this Constitution.

(*b*) The office of a member of the Commission for the Administration of Justice shall become vacant if any circumstances arise that if he were not a member of the Commission he would not qualify for membership thereof, and a member of the Commission may abstain or be challenged in the same circumstances as a judge of the superior courts.

(5) (*a*) Where a person fills a vacancy caused by a member of the Commission for the Administration of Justice ceasing to be such a member for any reason, other than the expiration of the

period of office, such person shall hold office for the unexpired period of office of the member he replaces.

(*b*) Where a member of the Commission has been challenged or has abstained, the President acting in accordance with his own deliberate judgement shall appoint as a substitute member to sit on the Commission, a person who in his opinion has as far as may be the same qualities and qualifications as the member substituted.

(*c*) Where the members who, are to be elected under paragraph (*c*) and (*d*) of sub-article (1) of this article, or who are to be appointed under paragraph (*e*) of the same sub-article, are not so elected or appointed within two weeks from a call for the purpose by the President, the President who in making such appointment shall act in accordance with his own deliberate judgement shall himself appoint members in their stead who where possible in his opinion shall have the same qualities and qualifications as such members.

(6) (*a*) The Commission for the Administration of Justice shall at all times have a committee for Advocates and Legal Procurators which shall have such composition, functions, powers and duties as may be assigned to it by law. The Commission shall in the exercise of any of its functions in relation to the professions of Advocates and Legal Procurators act through the said committees in such manner and subject to such review as may by the said law be provided.

(*b*) Notwithstanding the provisions of paragraph (*a*) of this sub-article, the Commission shall refer to the Committee for Advocates and Legal Procurators (hereinafter in this article referred to as "the Committee") any matter concerning the misconduct of an advocate or legal procurator in the exercise of their profession, and, saving in the case of an appeal, the Commission shall not act otherwise than on receipt of, and in accordance with, the findings of the Committee in any such matter. So however that, where a report of findings by the Committee has not been submitted to the Commission within two months from the day on which the matter was brought before the Committee, or within such further period or periods as the Commission may allow, which shall in no case, except for very exceptional reasons, exceed a further four months, the Commission shall thereupon itself investigate and determine the matter.

(*c*) Without prejudice to the provisions of the foregoing paragraph the Commission may appoint such other committees to assist it on any matter falling within its functions as it may deem fit.

(7) In the exercise of their functions the members of the Commission and of any of its committees shall act on their individual judgement and shall not be subject to the direction or control of any person or authority.

(8) Sub-articles (2) and (3) of article 121 of this Constitution shall apply to any committee of the Commission.

(9) There shall be a secretary of the Commission for the Administration of Justice who shall also act as secretary of any committee of the Commission. The Secretary of the Commission shall be appointed by the Commission from among public officers assigned to the Courts or from among members of the legal professions. The Secretary shall hold office until such time as his appointment is terminated by the Commission.

(10) A person appointed as a member of the Commission for the Administration of Justice or any of its committees may be removed from office by the President, acting in accordance with the advice of the body or the holder of the office appointing such member, but he may be removed only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(11) The functions of the Commission for the Administration of Justice shall be:

(*a*) to supervise the workings of all the superior and inferior courts and to make such recommendations to the Minister responsible for justice as to the remedies, which appear to it, conductive to a more efficient functioning of such courts;

(*b*) to advise the Minister responsible for justice on any matter relating to the organisation of the administration of justice;

(*c*) when so requested by the Prime Minister, to advise on any appointment to be made in terms of articles 96, 98 or 100 of this Constitution;

(*d*) to draw up a code or codes of ethics regulating the conduct of members of the judiciary;

(*e*) on the advice of the Committee for Advocates and Legal Procurators to draw up a code or codes of ethics regulating the professional conduct of members of those professions:

Provided that where such advice is not given within such time as the Commission may establish, the Commission may draw up such code or codes without the necessity of such advice;

(*f*) to draw the attention of any judge or magistrate on any matter, in any court in which he sits, which may not be conducive to an efficient and proper functioning of such court, and to draw the attention of any judge or magistrate to any conduct which could affect the trust conferred by their appointment or to any failure on his part to abide by any code or codes of ethics relating to him;

(*g*) to exercise, in accordance with any law, discipline over advocates and legal procurators practising their profession; and

(*h*) such other function as may be assigned to it by law.

(12) The Commission for the Administration of Justice shall each year make a report to the Minister responsible for justice on its activities during the previous calendar year, and shall at any time, when it deems fit or as may be required by the said Minister, make a report on any particular matter to the said Minister.

(13) The powers of the President under any law with regard to the subrogation of judges and magistrates and to the assignment of duties of judges and magistrates shall be exercised on the advice of the Minister responsible for justice, so however that, the Minister shall, in advising the President, act in accordance with any recommendation on the matter by the Chief Justice:

Provided that where the Chief Justice fails to make a recommendation to the Minister, and in any case where the Minister deems it so appropriate, the Minister may advise the President on the matter, in any manner which, in the circumstances, he considers appropriate:

Provided further that in any such case he shall immediately publish in the Gazette, a notice of that fact together with the reasons therefor, and he shall make a statement of such fact in the House of Representatives not later than the second sitting immediately after he has so advised the President.

(14) The question whether the Commission for the Administration of Justice has validly performed any function vested in it by or under this Constitution shall not be enquired into in any court.

CHAPTER IX

Finance

Consolidated Fund.

102. (1) All revenues and other moneys raised or received by Malta (not being revenues or other moneys payable into some other fund, being a fund established by or under any law for the time being in force in Malta for a specific purpose) shall, unless Parliament otherwise provides, be paid into and form one Consolidated Fund.

(2) No moneys shall be withdrawn from the Consolidated Fund except to meet expenditure that is charged upon the Fund by this Constitution or any other law for the time being in force in Malta or where the issue of those moneys has been authorised by an Appropriation Act or under article 104 of this Constitution.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorised by or under any law for the time being in force in Malta.

(4) No moneys shall be withdrawn from the Consolidated Fund or any other public fund except in the manner prescribed by or under any law.

(5) The costs, charges and expenses incidental to the collection and management of the Consolidated Fund shall be a charge on the Fund.

Authorisation of expenditure from Consolidated Fund.

103. (1) The Minister responsible for finance shall cause to be prepared and laid before the House of Representatives before, or not later than thirty days after, the commencement of each financial year estimates of the revenues and expenditure of Malta for that year.

(2) The heads of expenditure contained in the estimates (other than the expenditure charged upon the Consolidated Fund by this Constitution or any other law for the time being in force in Malta) shall be included in a bill, to be known as an appropriation bill, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found -

(*a*) that the amount appropriated by the Appropriation Act for any purpose is insufficient, or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act; or

(*b*) that any moneys have been expended for any purpose in excess of the amount (if any) appropriated for the purpose by that Act,

a supplementary estimate showing the sums required or spent shall be laid before the House of Representatives and the heads of any such expenditure shall be included in a supplementary appropriation bill.

Authorisation of expenditure before appropriation.

104. Parliament may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister responsible for finance may authorise the withdrawal of moneys from the Consolidated Fund for the purpose of meeting such expenditure as he may consider necessary to carry on the government of Malta until the expiration of four months from the beginning of that financial year or the coming into operation of the Act, whichever is the earlier.

Contingencies Fund.

105. (1) Parliament may provide for the establishment of a Contingencies Fund and for authorising the Minister responsible for finance, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.

(2) Where any advance is made in accordance with sub-article (1) of this article a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as practicable for the purpose of replacing the amount so advanced.

Public debt.

106. (1) The public debt of Malta shall be a charge upon the Consolidated Fund and other public funds of Malta.

(2) In this article references to the public debt of Malta include references to the interest on that debt, sinking fund payments and redemption moneys in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

Remuneration in respect of certain offices.
Amended by: LVIII.1974.52; XVII.1997.2.

107. (1) There shall be paid to the holders of the offices to which this article applies such salaries as may be prescribed by or under any law.

(2) The salaries and any allowances payable to the holders of the offices to which this article applies shall be a charge on the Consolidated Fund.

(3) The salary payable to the holder of any office to which this article applies and his terms of office, other than allowances, shall not be altered to his disadvantage after his appointment, and for the purposes of this sub-article, in so far as the salary or the terms of service of any person depend upon the option of that person, the salary or terms for which he opts shall be deemed to be more advantageous to him than any others for which he might have opted.

(4) This article applies to the offices referred to in articles 48, 91, 95(6), 100, 109, 118 and 120 of the Constitution.

Auditor General.
Amended by: LVIII.1974.53. Substituted by: XVII.1997.3.

108. (1) There shall be an Auditor General whose office shall be a public office who shall have the functions as provided in the following provisions of this article.

(2) The Auditor General shall be an officer of the House of Representatives and shall be appointed by the President acting in accordance with a resolution of the House of Representatives supported by the votes of not less than two-thirds of all the members in the House:

Provided that when a person who is not a member of the House of Representatives is elected to be the Speaker of the House of Representatives, he shall not be treated as a member of the House for the purpose of establishing the majority required by this sub-article.

(3) (*a*) Subject to the provisions of sub-article (4) of this article the Auditor General shall hold office for a period of five years from the date of his appointment and shall be eligible for reappointment for one further period of five years.

(*b*) Where the Auditor General has been appointed from among public officers and at the end of his appointment is below the retiring age in the public service, the person so appointed shall revert to the public service and shall continue to enjoy the salary and allowances referred to in sub-article (6).

(*c*) It shall not be lawful for the Auditor General, during his tenure of such office, to hold any other office of profit or otherwise with the Government of Malta or with any commercial or professional venture whatsoever.

(4) (*a*) The Auditor General may at any time be removed or suspended from his office by the President, upon an address from the House of Representatives supported by the votes of not less than two-thirds of all members

in the House, praying for such removal on the ground of proved inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or proved misbehaviour, and the provisions of paragraph (*a*) of the proviso to sub-article (2) of this article shall also apply for the purpose of establishing the majority required under this sub-article.

(*b*) At any time when Parliament is not in session, the Auditor General may be suspended from his office by the President, acting in accordance with his own deliberate judgement, for inability to perform the functions of his office or misbehaviour proved to the satisfaction of the President; but any such suspension shall not continue in force beyond two months after the beginning of the next session of Parliament.

(5) The accounts -

(*a*) of all departments and offices of the Government of Malta, including the office of the Public Service Commission, and the office of the Clerk of the House of Representatives and of all Superior and Inferior Courts of Malta, and

(*b*) of such other public authorities or other bodies administering, holding, or using funds belonging directly or indirectly to the Government of Malta as may be prescribed by or under any law for the time being in force in Malta,

shall be audited and reported upon annually by the Auditor General to the House of Representatives and for that purpose the Auditor General or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(6) (*a*) There shall be paid to the Auditor General such salary and such allowances as may from time to time be prescribed or allowed for a Judge of the Superior Courts.

(*b*) Such salary and allowances shall be a charge on the Consolidated Fund and the provisions of sub-article (3) of article 107 of the Constitution shall apply to such salary.

(7) The Auditor General shall not enter upon the duties of his office unless he has taken and subscribed before the President the oath of allegiance and such oath for the due execution of his office as may be prescribed by any law for the time being in force in Malta.

(8) Parliament may by law from time to time provide for the manner in which the reports of the Auditor General shall be made.

Deputy Auditor General.

(9) (*a*) There shall also be a Deputy Auditor General whose office shall be a public office and who shall have such

functions as the Auditor General may from time to time delegate to him and who shall, whenever the office of Auditor General is temporarily vacant, and until a new Auditor General is appointed, and whenever the holder of the office is absent from Malta or on vacation or is for any reason unable to perform the functions of his office, perform the functions of Auditor General.

(*b*) The provisions of sub-article (2), paragraphs (*a*) and (*c*) of sub-article (3), sub-article (4), paragraph (*b*) of sub-article (6) and sub-article (7) of this article shall apply to the Deputy Auditor General.

(*c*) There shall be paid to the Deputy Auditor General such salary and such allowances as may from time to time be prescribed or allowed to a Magistrate of the Inferior Courts.

(*d*) Where the Deputy Auditor General has been appointed from among public officers and at the end of his appointment is below the retiring age in the public service, the person so appointed shall revert to the public service and shall continue to enjoy the salary and allowances referred to in this sub-article.

National Audit Office.

(10) (*a*) There shall be a National Audit Office consisting of the Auditor General, who shall be the head of that office, the Deputy Auditor General and such other officers, appointed by the Auditor General, as the Auditor General may consider necessary to assist him in the proper discharge of his office, and the provisions of article 110 of this Constitution shall not apply to the officers appointed to the National Audit Office.

(*b*) Parliament may from time to time by law provide for the manner in which funds shall be allocated to the National Audit Office and in the manner whereby the accounts of the National Audit Office shall be audited and reported upon.

(11) Nothing in this article shall be construed as precluding the grant of any other functions or powers on the Auditor General or the National Audit Office by or under any law for the time being in force.

(12) In the exercise of their functions under the Constitution the Auditor General and the Deputy Auditor General shall not be subject to the authority or control of any person.

CHAPTER X

The Public Service

Public Service Commission. *Amended by: LVIII.1974.54.*

109. (1) There shall be a Public Service Commission for Malta which shall consist of a chairman, a deputy chairman and from one to three other members.

(2) The members of the Public Service Commission shall be appointed by the President, acting in accordance with the advice of the Prime Minister given after he has consulted the Leader of the Opposition.

(3) A person shall not be qualified to hold office as a member of the Public Service Commission if he is a Minister, a Parliamentary Secretary, a member of, or a candidate for election to, the House of Representatives, a member of a local government authority or if he is a public officer.

(4) A member of the Public Service Commission shall not, within a period of three years commencing with the day on which he last held office as a member, be eligible for appointment to or to act in any public office.

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

(*a*) at the expiration of five years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed; or

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

(6) A member of the Public Service Commission may be removed from office by the President, acting in accordance with the advice of the Prime Minister, but he may be removed only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(7) If the office of a member of the Public Service Commission is vacant or if a member is for any reason unable to perform the functions of his office, the President, acting in accordance with the advice of the Prime Minister, given after he has consulted the Leader of the Opposition, may appoint a person who is qualified to be appointed to be a member to be a temporary member of the Commission; and any person so appointed shall, subject to the provisions of sub-articles (5) and (6) of this article, 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.

Appointment, etc., of public officers. *Amended by: LVIII.1974.55.*

110. (1) Subject to the provisions of this Constitution, power to make appointments to public offices and to remove and to exercise disciplinary control over persons holding or acting in any such offices shall vest in the Prime Minister, acting on the recommendation of the Public Service Commission:

Provided that the Prime Minister may, acting on the recommen-dation of the Public Service Commission, delegate in writing, subject to such conditions as may be specified in the instrument of delegation, any of the powers referred to in this sub-article to such public officer or other authority as may be specified in that instrument.

(2) A delegation of a power under this article -

(*a*) shall be without prejudice to the exercise of that power by the Prime Minister acting on the recommendation of the Public Service Commission;

(*b*) may authorise the public officer or other authority concerned to exercise that power either with or without reference to the Public Service Commission; and

(*c*) in respect of recruitment to public offices from outside the public service, shall, unless such recruitment is made after a public examination advertised in the Gazette, be exercised only through an employment service provided out of public funds which ensures that no distinction, exclusion or preference is made or given in favour or against any person by reason of his political opinion and which provides opportunity for employment solely in the best interests of the public service and of the nation generally.

(3) (*a*) An appeal shall lie to the Prime Minister, acting in accordance with the recommendation of the Public Service Commission, from any decision of a public officer or authority to remove any person from a public office in exercise of power delegated under sub-article (1) of this article:

Provided that such right of appeal shall be without prejudice to any such other right of appeal as may be provided under article 121(1) of this Constitution in respect of the exercise of any other power delegated under sub-article (1) of this article.

(*b*) A right of appeal under this article shall be exercised in accordance with such provision relating to procedure as may be prescribed by the Public Service Commission under article 121(1) of this Constitution:

Provided that any procedure so prescribed shall be the same for all classes of public officers.

(*c*) Where an appeal is brought under paragraph (*b*) of this sub-article by any public officer he shall, upon the consideration of the appeal by the Public Service Commission, have the right to be heard by the Commission in person and to be assisted by a representative of any trade union to which he belongs.

(4) No person shall be appointed under this article to or to act in any office on the personal staff of the President except with the approval of the President.

(5) The provisions of this article shall not apply in relation to -

(*a*) the offices referred to in articles 91, 92 (other than sub-article (4) thereof), 94, 95(6), 100, 108 and 111 of this Constitution; or

(*b*) appointments to act in any public office for two months or less in so far as the recommendation of the Public Service Commission is required for any such appointment; or

(*c*) appointments to the offices referred to in article 92(4) and appointments on transfer to and from the offices referred to in article 112 of this Constitution.

(6) Recruitment for employment with any body established by the Constitution or by or under any other law, or with any partnership or other body in which the Government of Malta, or any such body as aforesaid, have a controlling interest or over which they have effective control, shall, unless such recruitment is made after a public examination duly advertised, be made through an employment service as provided in sub-article (2) of this article.

Principal representatives of Malta abroad. *Amended by: LVIII.1974.56.*

111. (1) Power to appoint persons to hold or act in the offices to which this article applies and to remove persons so appointed from any such office shall vest in the President, acting in accordance with the advice of the Prime Minister:

Provided that in respect of any person selected for appointment from the public service the Prime Minister shall, before giving his advice under the provisions of this article, consult with the Public Service Commission and, on being removed from the office to which he has been appointed under the provisions of this article, the person so appointed shall revert to the rank which he held in the public service immediately before such appointment.

(2) The offices to which this article applies are the offices of any Ambassador, High Commissioner or other principal representative of Malta in any other country.

Appointment on transfer in respect of certain offices.

112. (1) Power to make appointments on transfer to and from the offices to which this article applies shall vest in the Prime Minister acting after consultation with the Public Service Commission:

Provided that the person appointed to any such office under the provisions of this article shall, on being transferred from that office, revert to the rank which he held in the public service immediately before his appointment to that office.

(2) The offices to which this article applies are -

(*a*) offices the holders of which are required to reside outside Malta for the proper discharge of their functions; and

(*b*) such offices in the Ministry responsible for the external affairs of Malta as may, from time to time, be designated by the Prime Minister.

Protection of pension rights. *Amended by: LVIII.1974.57.*

113. (1) Subject to the provisions of article 114 of this Constitution the law applicable to any benefits to which this article applies shall, in relation to any person who has been granted or who is eligible for the grant of such benefits be that in force on the relevant date or any later law that is not less favourable to that person.

(2) In this article "the relevant date" means -

(*a*) in relation to any benefits granted before the appointed day, the date on which those benefits were granted;

(*b*) in relation to any benefits granted or to be granted on or after the appointed day to or in respect of any person who was a public officer before that date, the day before the appointed day; and

(*c*) in relation to any benefits granted or to be granted to or in respect of any person who becomes a public officer on or after the appointed day, the date on which he becomes a public officer.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall, for the purposes of this article, be deemed to be more favourable to him than the other law or laws.

(4) Any benefit to which this article applies (not being a benefit that is a charge upon some other public fund of Malta) shall be a charge upon the Consolidated Fund.

(5) This article applies to any benefits payable under any law providing for the grant of pensions, gratuities or compensation to persons who are or have been public officers in respect of their service in the public service or to the widows, children, dependants or personal representatives of such persons in respect of such service.

(6) References to the law applicable to any benefits to which this article applies include (without prejudice to their generality) references to any law relating to the time at which and the manner in which any person may retire in order to become eligible for those benefits.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision whereby any benefits to which this article applies are or may be reduced or withheld -

(*a*) until the person eligible therefor reaches the age of sixty years, or such lower age as may be determined by or under a law, if such person is in receipt of any income to which this sub-article applies and such provision is made in order that any such income together with any uncommuted benefits aforesaid do not in the aggregate exceed such amount as may be determined by, under or in accordance with any law, being an amount not less than the salary from time to time payable in respect of the post held by such person on retirement, taking account only, if such salary is incremental, of the corresponding increments earned prior to retirement; or

(*b*) in order to ensure compliance with any legal requirements relating to any of the purposes of paragraph (*a*) of this sub-article; or

(*c*) if the person eligible therefor ceases to be a citizen of Malta.

(8) The income to which sub-article (7) of this article applies is any remuneration in respect of, or other income deriving from, any employment, work, service, office, trade, business, profession or vocation, or from any pension, allowance, gratuity or similar payment in respect of any such employment or other source of income.

Grant and withholding of pensions, etc. *Amended by: LVIII.1974.58.*

114. (1) Where any benefits to which this article applies can be withheld, reduced in amount or suspended by any person or authority under any law those benefits shall not be so withheld, reduced in amount or suspended without the concurrence of the Public Service Commission, unless such benefits are reduced or withheld in accordance with any law referred to in sub-article (7) of article 113 of this Constitution.

(2) The Public Service Commission shall not concur under sub-article (1) of this article in action taken on the ground that any person who holds or has held any of the offices referred to in articles 91, 95(6), 100 and 108 of this Constitution has been guilty of misbehaviour unless he has been removed from office by reason of such misbehaviour.

(3) This article applies to any benefits payable under any law providing for the grant of pensions, gratuities or compensation to persons who are or have been public officers in respect of their service in the public service or to the widows, children, dependants or personal representatives of such persons in respect of such service.

Protection of Public Service Commission from legal proceedings.

115. The question whether -

(*a*) the Public Service Commission has validly performed any function vested in it by or under this Constitution;

(*b*) any member of the Public Service Commission or any public officer or other authority has validly performed any function delegated to such member, public officer or authority in pursuance of the provisions of sub-article (1) of article 110 of this Constitution; or

(*c*) any member of the Public Service Commission or any public officer or other authority has validly performed any other function in relation to the work of the Commission or in relation to any such function as is referred to in the preceding paragraph,

shall not be enquired into in any court.

Added by: XIII.2001.4.

CHAPTER XA

Local Councils

Local Councils.

115A. The State shall adopt a system of local government whereby the territory of Malta shall be divided into such number of localities as may by law be from time to time determined, each locality to be administered by a Local Council elected by the residents of the locality and established and operating in terms of such law as may from time to time be in force.

CHAPTER XI

Miscellaneous

Actions on validity of laws.

116. A right of action for a declaration that any law is invalid on any grounds other than inconsistency with the provisions of articles 33 to 45 of this Constitution shall appertain to all persons without distinction and a person bringing such an action shall not be required to show any personal interest in support of his action.

Prohibition of certain associations.

117. (1) It shall be unlawful to establish, maintain or belong to any association of persons who are organised and trained or organised and equipped for the purpose of enabling them to be employed for the use or display of physical force in promoting any political object.

(2) The provisions of this article shall be enforced in such manner as may be provided by Parliament.

Broadcasting Authority. *Amended by: LVIII.1974.59.*

118. (1) There shall be a Broadcasting Authority for Malta which shall consist of a chairman and such number of other members not being less than four as may be prescribed by any law for the time being in force in Malta.

(2) The members of the Broadcasting Authority shall be appointed by the President, acting in accordance with the advice of the Prime Minister given after he has consulted the Leader of the Opposition.

(3) A person shall not be qualified to hold office as a member of the Broadcasting Authority if he is a Minister, a Parliamentary Secretary, a member of, or candidate for election to, the House of Representatives, a member of a local government authority or if he is a public officer.

(4) A member of the Broadcasting Authority shall not, within a period of three years commencing with the day on which he last held office or acted as a member, be eligible for appointment to or to act in any public office.

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

(*a*) at the expiration of five years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed; or

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

(6) A member of the Broadcasting Authority may be removed from office by the President, acting in accordance with the advice of the Prime Minister, but he may be removed only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(7) If the office of a member of the Broadcasting Authority is vacant or if a member is for any reason unable to perform the functions of his office, the President, acting in accordance with the

advice of the Prime Minister, given after he has consulted the Leader of the Opposition, may appoint a person who is qualified to be appointed to be a member to be a temporary member of the Authority; and any person so appointed shall, subject to the provisions of sub-articles (5) and (6) of this article, 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) In the exercise of its functions under article 119 (1) of this Constitution the Broadcasting Authority shall not be subject to the direction or control of any other person or authority.

Function of the Broadcasting Authority.

119. (1) It shall be the function of the Broadcasting Authority to ensure that, so far as possible, in such sound and television broadcasting services as may be provided in Malta, due impartiality is preserved in respect of matters of political or industrial controversy or relating to current public policy and that broadcasting facilities and time are fairly apportioned between persons belonging to different political parties.

(2) The function of the Broadcasting Authority referred to in sub-article (1) of this article shall be without prejudice to such other functions and duties as may be conferred upon it by any law for the time being in force in Malta.

Employment Commission. *Added by: LVIII.1974.60.*

120. (1) There shall be an Employment Commission for Malta which shall consist of a chairman and four other members.

(2) The members of the Employment Commission shall be appointed by the President who, in appointing the chairman shall act in accordance with the advice of the Prime Minister given after he has consulted the Leader of the Opposition, in appointing two of the four other members shall act in accordance with the advice of the Prime Minister, and in appointing the other two members shall act in accordance with the advice of the Leader of the Opposition.

(3) A person shall not be qualified to hold office as a member of the Employment Commission if he is a Minister, a Parliamentary Secretary, a member of, or a candidate for election to, the House of Representatives, a member of a local government authority, or if he is a public officer.

(4) A member of the Employment Commission shall not, within a period of three years commencing with the day on which he last held office or acted as a member, be eligible for appointment to or to act in any public office.

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

(*a*) at the expiration of three years from the date of his appointment; or

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

(6) A member of the Employment Commission may be

removed from office by the President, acting in accordance with the advice of the holder of the office on whose advice such member was appointed, given, where applicable, as provided in sub-article (2) of this article, but such member may be removed only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(7) If the office of a member of the Employment Commission is vacant or if a member is for any reason unable to perform the functions of his office, the President, acting in accordance with the advice of the holder of the office on whose advice such member was appointed, given, where applicable, as provided in sub-article (2) of this article, may appoint a person who is qualified to be appointed to be a member to be a temporary member of the Commission; and any person so appointed shall, subject to the provisions of sub-articles (5) and (6) of this article, 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) It shall be the function of the Employment Commission to ensure that, in respect of employment, no distinction, exclusion or preference that is not justifiable in a democratic society is made or given in favour or against any person by reason of his political opinions.

(9) Any person who alleges that any distinction, exclusion or preference as aforesaid has been made or given to his prejudice may apply to the Employment Commission, in such manner and within such time as may be prescribed, for redress.

(10) Parliament shall make provision conferring upon the Employment Commission such powers as are necessary or desirable for the purpose of enabling the Commission effectively to afford adequate redress and generally to carry out its function under this Constitution.

Powers and procedure of Commissions.

121. (1) Any Commission established by this Constitution may, with the consent of the Prime Minister or such other Minister as may be authorised in that behalf by the Prime Minister by regulation or otherwise regulate its own procedure and confer powers and impose duties on any public officer or authority of the Government of Malta for the purpose of the discharge of its functions.

(2) Any Commission established by this Constitution may act notwithstanding any vacancy in its membership or the absence of any member and any proceedings thereof shall be valid notwithstanding that some person who was not entitled so to do took part therein.

(3) Any question proposed for decision at any meeting of any Commission established by this Constitution shall be determined by a majority of the votes of all the members thereof, and if on any such question the votes are equally divided the member presiding shall have and exercise a casting vote.

(4) For the purposes of sub-article (3) of this article, the references to a member of the Electoral Commission shall be construed as including a reference to the Chairman of that Commission.

(5) The provisions of this article shall apply to the Broadcasting Authority established by this Constitution.

Resignations.

122. (1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution (including the office of the Prime Minister or other Minister or Parliamentary Secretary) may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected.

(2) The resignation of any person from any such office as aforesaid shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorised by that person or authority to receive it.

Reappointments, etc.
Amended by: LVIII.1974.61; XXIII.1989.8; XVII.1997.4.

123. (1) Save as otherwise provided in this Constitution, where any person has vacated any office established by this Constitution including the office of Prime Minister or other Minister or Parliamentary Secretary, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Sub-article (1) of this article shall not apply to the office of President, but shall apply to a person appointed to perform the functions of President in accordance with article 49 of the Constitution.

(3) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any public office, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this sub-article, then for the purposes of any function conferred upon the holder of that office the person last appointed shall be deemed to be the sole holder of the office.

Interpretation.
Amended by: LVIII.1974.62; XXIX.1979.2; XVII.1997.5.

124. (1) In this Constitution, unless the context otherwise requires -

"Act of Parliament" means any law made by Parliament;

"the appointed day" means 21st September 1964;

"the Cabinet" means the Cabinet established by article 79 of this Constitution;

"the Commonwealth" means Malta, any country to which article 23 of this Constitution applies and any dependency of any such country;

"the Consolidated Fund" means the Consolidated Fund

established by article 102 of this Constitution;

"Constitutional Court" means the Constitutional Court established by article 95 of this Constitution;

"financial year" means the period of twelve months ending on the thirty-first day of December in any year or on such other date as may be prescribed by Parliament;

"Gazette" means the Malta Government Gazette or any other official journal substituted therefor published by order of the Government of Malta;

"House" means the House of Representatives established by article 51 of this Constitution;

"law" includes any instrument having the force of law and any unwritten law and "lawful" and "lawfully" shall be construed accordingly;

"Malta" means the Island of Malta, the Island of Gozo and the other islands of the Maltese Archipelago, including the territorial waters thereof;

"oath of allegiance" means the oath of allegiance set out in the Third Schedule to this Constitution or such other oath as may be prescribed by Parliament;

"Parliament" means the Parliament of Malta;

"public office" means an office of emolument in the public service;

"public officer" means the holder of any public office or of a person appointed to act in any such office;

"the public service" means, subject to the provisions of sub-articles (2) and (3) of this article, the service of the Government of Malta in a civil capacity;

"session" means the sittings of the House of Representatives beginning when it first meets after the commencement of this Constitution or after the prorogation or dissolution of Parliament at any time and terminating when Parliament is prorogued or is dissolved without having been prorogued; `

"sitting" means a period during which the House of Representatives is sitting continuously without adjournment and includes any period during which the House is in committee;

"the Speaker" and "Deputy Speaker" mean respectively the Speaker and the Deputy Speaker elected under article 59 of this Constitution.

(2) In this Constitution, unless the context otherwise requires, "the public service" includes service in the office of judge of the Superior Courts, service in the office of Auditor General and Deputy Auditor General, service in the office of magistrate of the Inferior Courts and service in the office of a member of the Malta Police Force.

(3) In this Constitution "the public service" does not include

service in the office of -

(i) Prime Minister or other Minister, a Parliamentary Secretary, Speaker, Deputy Speaker, a member of the House of Representatives, a member of a Commission established by this Constitution;

(ii) save where the holder of the office is selected from the public service, an Ambassador, High Commissioner or other principal representative of Malta in any other country; or

(iii) save in so far as may be prescribed by Parliament, a member of any council, board, panel, committee or other similar body established by or under any law.

(4) For the purposes of this Constitution a person shall not be regarded as holding a public office by reason only of the fact that he is in receipt of a pension or other like allowance in respect of public service.

(5) In this Constitution, unless the context otherwise requires -

(*a*) a reference to an appointment to any office shall be construed as including a reference to an appointment on promotion or transfer to that office and to the appointment of a person to perform the functions of that office during any period during which it is vacant or during which the holder thereof is on vacation or unable (whether by reason of absence or infirmity of body or mind or any other cause) to perform those functions; and

(*b*) a reference to the holder of an office by the term designating his office or by reference to the provision of this Constitution establishing that office shall be construed as including a reference to any person for the time being lawfully performing the functions of that office.

(6) Where power is vested by this Constitution in any person or authority to appoint any person to act in or perform the functions of any office if the holder thereof is himself unable to perform those functions, no such appointment shall be called in question on the ground that the holder of the office was not unable to perform those functions.

(7) References in this Constitution to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service:

Provided that -

(*a*) nothing in this sub-article shall be construed as conferring on any person or authority power to require any person holding any of the offices referred to in articles 91, 95(6), 100 or 108(1) or (9) of this

Constitution to retire from the public service; and

(*b*) the provisions of this sub-article shall not apply to any power conferred by any law to permit a person to retire from the public service where that person has requested permission to retire from the public service on proved medical grounds.

(8) Any provision in this Constitution that vests in any person or authority power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officers on attaining an age specified therein.

(9) Where any power is conferred by this Constitution to make any proclamation, order, rules or regulations or to give any directions or to make any designation, the power shall be construed as including a power, exercisable in like manner, to amend or revoke any such proclamation, order, rules, regulations, directions or designation.

(10) No provision of this Constitution that any person or authority, shall not be subject to the direction or control of any other person or authority in exercising any functions under this Constitution shall be construed as precluding a court from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.

(11) Where a person is required by this Constitution to make an oath he shall be permitted, if he so desires, to comply with that requirement by making an affirmation.

(12) Any reference in this Constitution to a law made before the commencement of this Constitution shall, unless the context otherwise requires, be construed as a reference to that law as in force immediately before the appointed day.

(13) Any reference in this Constitution to a law that amends or replaces any other law shall be construed as including a reference to a law that modifies, re-enacts, with or without amendment or modification, or makes different provisions in lieu of that other law.

(14) Where Parliament has by law provided for the interpretation of Acts of Parliament, the provisions of any such law, even if expressed to apply to laws passed after the commencement thereof, shall apply for the purposes of interpreting this Constitution, and otherwise in relation thereto, as they apply for the purpose of interpreting and otherwise in relation to Acts of Parliament as if this Constitution were an Act of Parliament passed after the commencement of any such law as aforesaid:

Provided that, until such time as Parliament has made provision as aforesaid, the law applicable for the interpretation of this Constitution and otherwise in relation thereto shall be the law which was applicable for that purpose on the appointed day.

SCHEDULES TO THE CONSTITUTION

FIRST SCHEDULE

Article 47(7)

Criminal Code (Chapter 9)

Code of Police Laws (Chapter 10)

Code of Organization and Civil Procedure (Chapter 12)

Commercial Code (Chapter 13)

Civil Code (Chapter 16)

SECOND SCHEDULE

Substituted by: LVIII.1974.63.

Articles 50 and 89

Oaths of Office

(*a*) *Oath for the due execution of the office of President.*

I..... solemnly swear/affirm that I will faithfully execute the office of President (perform the functions of the President) of Malta, and will, to the best of my ability preserve, protect and defend the Constitution of Malta. (So help me God).

(*b*) *Oath for the due execution of the office of Prime Minister or other Minister or Parliamentary Secretary.*

I ..... solemnly swear/affirm that I will faithfully and conscientiously perform my duties as (Prime Minister/Minister/Parliamentary Secretary) in accordance with the Constitution and the laws of Malta, without fear or favour. (So help me God).

THIRD SCHEDULE

Added by: LVIII.1974.64.

Article 124(1)

Oath of allegiance

I ..... solemnly swear/affirm that I will bear true faith and allegiance to the people and the Republic of Malta and its Constitution. (So help me God).

Added by: *XXIII.1989.9.* *Amended by:* *Proc. No. II of 1990;* *Proc. No. VI of 1990;* *Proc. No. IV of 1995;* *Proc. No. III of 1996;* *III.2000.6.*

FOURTH SCHEDULE

(Article 23)

List of Commonwealth Countries other than Malta

Antigua and Barbuda
Australia
Bahamas
Bangladesh
Barbados
Belize
Botswana
Brunei Darussalam
Cameroon
Canada
Cyprus
Dominica
The Gambia
Ghana
Grenada
Guyana
India
Jamaica
Kenya
Kiribati
Lesotho
Malawi
Malaysia
Maldives
Mauritius
Mozambique
Namibia
Nauru
New Zealand
Nigeria
Pakistan
Papua New Guinea
St. Kitts and Nevis
St. Lucia
St. Vincent and the Grenadines
Seychelles
Sierra Leone
Singapore
Solomon Islands
South Africa
Sri Lanka
Swaziland
Tanzania
Tonga
Trinidad and Tobago
Tuvalu
Uganda
United Kingdom of Great Britain and Northern Ireland, and Colonies

Vanuatu
Western Samoa
Zambia
Zimbabwe.