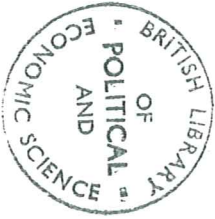


CONSTITUTION
of the
REPUBLIC OF MALTA

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Discharge of President's functions during vacancy, etc.

50. 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 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

51. 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. The person holding the office of President under subsection (4) of section 49 of this Constitution and any person appointed to the office of President under subsection (1) of that section, shall take the oath of office before the House.

CHAPTER VI PARLIAMENT

PART I

Composition of Parliament

Establishment of Parliament ⁽¹⁹⁾

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

Composition of the House of Representatives ⁽²⁰⁾

53. (1) Subject to the provisions of this Chapter, the House of Representatives shall consist of such number of

⁽¹⁹⁾ Amended by: LVIII.1974.19.

⁽²⁰⁾ Amended by: XXVI.1970.2. Substituted by: LVIII.1974.20.*

* On the coming into effect of changes concerning the number of members see section 67(6) of the Constitution.

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 section 57 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".

(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 section 67 of this Constitution.

Qualifications for membership of House of Representatives

54. Subject to the provisions of section 55 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 section 58 of this Constitution.

Disqualifications for membership of House of Representatives ⁽²¹⁾

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

† The House of Representatives is to consist of sixty-five members and each electoral division is to return five members (Section 12 of Cap. 157 as amended by Act XII of 1975).

⁽²¹⁾ Amended by: LVIII.1974.21.

(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, any contract with the Government of Malta for or on account of the public service 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, or is under such a sentence of imprisonment the execution of which has been suspended;

(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 subsection (1) of this section —

(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 subsection (1) of this section —

(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

56. (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 any contract with the Government of Malta for or on account of the public service, 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;

(g) subject to the provisions of subsection (2) of this section, 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 subsection (1) of this section 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 section, 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 subsection and he may resume the performance of his functions as a member of the House of Representatives.

(d) For the purposes of this subsection "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 ⁽²²⁾

57. (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 corrupt practices.

⁽²²⁾ *Substituted by: LVIII.1974.22.**

* On the coming into effect of changes concerning the number of divisions, see Section 62(2) and (3) of the Constitution.

† The number of electoral divisions is thirteen in accordance with section 12 of Cap. 157 as amended by Act XII of 1975.

(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 corrupt practices or other offences connected with the elections have been committed and 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 subsection (3) of this section, 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 subsection (3) of this section exist and the election has not been suspended, or where corrupt practices or other offences as are referred to in that subsection 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 subsection (4) or subsection (5) of this section 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 subsections, 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 subsection (6) of this section, 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 subsection (2) of section 67 of this Constitution, no alteration in any law shall be made —

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

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

and for the purposes of this subsection the provisions of subsection (7) of section 67 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 an other:

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.

(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.

Qualification of voters ⁽²³⁾

58. Subject to the provisions of section 59 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 a 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 subsection (3) of section 126 of this Constitution, or by reason of service abroad in, or as a member of a disciplined force as defined in section 48 of this Constitution.

Disqualification of voters

59. 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 is under such a sentence of imprisonment the execution of which has been suspended; 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

60. (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.

⁽²³⁾ Amended by: LVIII, 1974.23.

(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 subsection (2) of section 56 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 subsection (2) of section 56 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 subsection (2) of section 56 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 ⁽²⁴⁾

61. (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.

⁽²⁴⁾ Amended by: LVIII.1974.24.

(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 section, 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 subsection (7) of this section, 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 subsections (5), (6) and (7) of this section, 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 ⁽²⁵⁾

62. (1) The Electoral Commission shall review the boundaries of the electoral divisions referred to in section 57 (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 section, 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 section, 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 section, 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 subsection (1) of this section, is consequential thereon comes into effect.

(3) Whenever an alteration of boundaries is made by the Commission under this section 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 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 altera-

⁽²⁵⁾ Amended by: LVIII.1974.25.

tion 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 subsection:

Provided that nothing in this paragraph shall be construed as preventing the publication of any electoral register or any other requirement 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 section 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.

(5) For the purposes of any review carried out under this section, "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 section 67 (3) of this Constitution shall be subject to the direction and supervision of the Electoral Commission.

Filling of vacancies

63. 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 ⁽²⁶⁾

64. 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 subsection (2) of section 56 of this Constitution, to cease to perform his functions as a member; or

(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,

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.

⁽²⁶⁾ Amended by: XLVIII.1972.2.

Clerk to House of Representatives and his staff

65. (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.

PART 2

Powers and Procedure of Parliament

Power to make laws

66. (1) Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Malta.

(2) Without prejudice to the generality of subsection (1) and subject to the provisions of subsections (3), (4) and (5) of this section, 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⁽²⁷⁾

67. (1) Subject to the provisions of this section 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 section; or

(b) subsection (2) of section 2, subsection (1) of section 3, subsection (1) of section 5, section 6, sections 33 to 49 (inclusive), sections 52, 53, 57, 58, 61 and 62, subsection (3) of section 66, subsection (2) of section 76, section 77 (other than subsection (2) thereof), sections 78 and 79, section 81, section 92, sections 96 to 101 (inclusive), sections 105 to 113 (inclusive), sections 116, 117, 121, 122 or 122A of this Constitution; or

(c) section 126 of this Constitution in its application to any of the provisions specified in paragraph (a) or (b) of this subsection,

a bill for an Act of Parliament under this section 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 subsection or subsection (4) of this section; or

(b) subsection (2) of section 77 of this Constitution,

a bill for an Act of Parliament under this section 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 subsection (2) of this section 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.

⁽²⁷⁾ Substituted by: LVIII.1974.26.