

## CONSTITUTION OF MALTA ARRANGEMENT OF ARTICLES

### CHAPTER VI

#### Parliament PART 1

##### Composition of Parliament

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

**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):

Provided further that:

(i) in the eventuality of an election result as provided for in subparagraph (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 subparagraph (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

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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 foreseen 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.

**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.

**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.

**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-

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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 performance 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.

**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-

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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

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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.

**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.

**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.

**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

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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.

**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

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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.

**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:

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(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; 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

(d) 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 requirements 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

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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.

**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.

**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.

**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.

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

(2) Without prejudice to the provisions of sub-article (6) of article 110 of this Constitution and to any other law applicable to employment in the public sector, and without prejudice to the provisions of sub-article (1) of this article, the Speaker may appoint such officials and employees as may be required for the fulfilment of functions, powers and duties under the Parliamentary Service Act. The said power of appointment includes the power to approve the number of persons who may be appointed under this article both with reference to the total number and with reference to specific duties, salaries and conditions of employment:

Provided that once the number of posts in the Parliamentary Service has been approved by the Minister for Finance and funds are made available, no further administrative approvals shall be required for the Parliamentary Service to conclude contracts of employment in accordance with those approvals.

**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

**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.

**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.

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(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, 96, 96A, 97, 98, 99, 100, 101A, 101B, 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.

**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

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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.

**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.

**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.

**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.

**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.

**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.

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(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.

**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.

**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

**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.

**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

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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.

**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.