STATUTORY INSTRUMENTS

1964 No. 1398

MALTA

The Malta Independence Order 1964

Made - - - - 2nd September 1964

At the Court at Buckingham Palace, the 2nd day of September 1964

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the power conferred upon Her by section 1(1) of the Malta Independence Act 1964(a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

Citation and interpretation.

1.—(1) This Order may be cited as the Malta Independence Order 1964.

(2) In sections 1 to 15 (inclusive) of this Order—

" the appointed day " means the day appointed by section 2 of this Order ;

" the Constitution " means the constitution set out in the Schedule to this Order.

(3) Save where the context otherwise requires, the provisions of section 126 of the Constitution shall apply for the purposes of interpreting sections 1 to 15 (inclusive) of this Order, and otherwise in relation thereto, as they apply for the purposes of interpreting, and in relation to, the Constitution.

The appointed day.

2. The appointed day for the purposes of section 1(1) of the Malta Independence Act 1964 shall be 21st September 1964.

Revocation.

3. The Malta (Constitution) Order in Council 1961(b) as amended (c) (which Order, as amended, is hereinafter referred to as " the 1961 Order ") is revoked as from the appointed day ; and the provisions of section 38(2) of the Interpretation Act 1889(d) shall apply in relation to such revocation as they apply in relation to the repeal of an Act of the Parliament of the United Kingdom.

Establishment of Constitution of Malta.

4. The Constitution shall be, and may be cited as, the Constitution of Malta and it shall come into effect on the appointed day.

(a) 1964 c. 86.
(b) S.I. 1961 III, p. 4581.
(c) S.I. 1962 II, pp. 2398, 2414; 1963 II p. 2770; 1964 II, p. 3165.
(d) 52 & 53 Vict. c. 63.

Exercise of powers of Governor-General before appointed day.

5. Where the Governor-General has power under the Constitution to make any appointment or to make any order or to do any other thing for the purposes of the Constitution, that power may be exercised by the Governor of the State of Malta at any time before the appointed day to such extent as may, in his opinion, be necessary or expedient to enable the Constitution to function as from the appointed day.

Existing officers.

6.—(1) Where any office has been established by or under the 1961 Order or any other law in force immediately before the appointed day and the Constitution establishes or provides for the establishment of a similar or an equivalent office, any person who immediately before the appointed day holds or is acting in the former office shall, so far as is consistent with the Constitution, be deemed to have been appointed on the appointed day to hold or to act in the latter office in accordance with the provisions of the Constitution and to have taken any necessary oath under the Constitution:

Provided that where under the Constitution any person is required to vacate his office at the expiration of any period from the date of his appointment that period shall be reckoned from the date of his appointment to the office established by or under the 1961 Order or, as the case may be, that other law.

(2) The provisions of section 112(4) of the Constitution shall not apply to any person on his vacating office as a member of the Public Service Commission if, immediately before he vacated that office, he held it by virtue of the provisions of subsection (1) of this section.

(3) The provisions of this section shall be without prejudice to the provisions of section 7 of this Order.

Parliament.

7.—(1) Notwithstanding any other provision of this Order, the Legislative Assembly established under the 1961 Order shall be the House of Representatives of Malta during the period beginning on the appointed day and ending with the first dissolution of the Parliament of Malta thereafter, and accordingly—

(*a*) the persons who immediately before the appointed day are members of the Legislative Assembly shall as from that day be deemed to have been elected as members of the House of Representatives in pursuance of the provisions of section 53 of the Constitution and to have taken any necessary oath under the Constitution, and, subject to subsection (2) of this section, shall hold their seats in the House in accordance with the provisions of the Constitution; and

(*b*) the persons who immediately before the appointed day are Speaker and Deputy Speaker of the Legislative Assembly shall as from that day be deemed to have been elected as such in pursuance of section 60 of the Constitution and to have taken any necessary oath under the Constitution, and shall hold office in accordance with the provisions of that section.

(2) A member of the House of Representatives to whom the provisions of paragraph (*a*) of subsection (1) of this section apply shall not vacate his seat by reason only of his not being a citizen of Malta if he is entitled under the provisions of the Constitution to be registered

as such a citizen and is so registered within six months of the appointed day.

(3) The Standing Orders of the Legislative Assembly established under the 1961 Order as in force immediately before the appointed day shall, except as may be otherwise provided under section 68(1) of the Constitution, apply for the regulation of the procedure of the House of Representatives but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order.

(4) Notwithstanding anything contained in subsection (2) of section 77 of the Constitution (but subject to the provisions of subsections (3) and (4) of that section) the Parliament of Malta shall, unless sooner dissolved, stand dissolved on 26th April 1966.

(5) Unless altered in accordance with the provisions of the Constitution, the electoral divisions referred to in section 57(1) of the Constitution shall be those set out in the Third Schedule to the 1961 Order; and for the purposes of section 62(1) of the Constitution the Electoral Commission shall be deemed to have reviewed the boundaries of those divisions on the appointed day.

Law as to elections.

8.—(1) The provisions of the Electoral (Franchise, Method of Election and Registration of Voters) Ordinance and the Electoral (Polling) Ordinance and any regulations made thereunder shall (subject to their amendment or replacement by the Parliament of Malta or other competent authority) apply to the registration of voters for the election of members of the House of Representatives and to the election of such members.

(2) The electoral register as revised by virtue of the Electoral (Franchise, Method of Election and Registration of Voters) Ordinance shall continue after the appointed day to be in force as a valid electoral register subject to further revision or to replacement under the said Ordinance or any other law amending or replacing the same.

Transitional provisions relating to appointment and discipline of public officers.

9.—(1) Any power of the Prime Minister which, by virtue of any instrument having effect immediately before the appointed day under, or as if it had been made under, section 86 of the 1961 Order is at that time delegated to a public officer or other authority, shall as from the appointed day be deemed to have been delegated to that officer or authority in accordance with the provisions of the Constitution.

(2) Any matter which immediately before the appointed day is pending before the Public Service Commission established by the 1961 Order or, as the case may be, before any officer or authority to whom the power to deal with such matters has been delegated in the manner mentioned in subsection (1) of this section shall as from the appointed day be continued before the Public Service Commission established by the Constitution or, as the case may be, that officer or authority.

Oath of first Governor-General.

10. The person first appointed to the office of Governor-General shall be deemed to have complied with the provisions of section 51 of the Constitution if he takes and subscribes, in addition to the oath of allegiance, an oath for the due execution of his office in the form set out in the Second Schedule to the 1961 Order.

Continuance and adaptation of laws.

11.—(1) Subject to the provisions of this Order, all laws (including laws made under the 1961 Order) in force in, or otherwise having effect as part of the law of, Malta immediately before the appointed day (hereinafter referred to as " the existing laws ") shall (subject to amendment or repeal by the Parliament of Malta or other competent authority) continue so to have effect on and after that day ; but all such laws shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order or in consequence of the enactment of the Malta Independence Act 1964.

(2) The Governor-General may (without prejudice to the powers of the Parliament of Malta or other competent authority) by order made at any time within twelve months after the appointed day make such amendments to any existing law (other than the Malta Independence Act 1964 and this Order) as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions, or in consequence of the enactment of the Malta Independence Act 1964 ; and any such order shall have effect from such date, not earlier than the appointed day, as may be specified therein.

(3) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by the Parliament of Malta or by any other authority or person is, immediately before the appointed day, prescribed or provided for by or under any existing law (including any amendment to any such law made under this section), that prescription or provision shall, on and after the appointed day, have effect as if it had been made under the Constitution by the Parliament of Malta or, as the case may be, by the other authority or person.

(4) On and after the appointed day no provision of any law subsisting immediately before 3rd March 1962 shall be regarded as having ceased to have effect as part of the law of Malta by reason of any inconsistency with the 1961 Order if that provision is one which, were it a provision having effect immediately before the appointed day, would continue to have effect as aforesaid by virtue of section 48(7) of the Constitution.

Validity of Letters Patent, Orders in Council, Ordinances and Acts.

12. It is hereby declared that—

(*a*) the Letters Patent and Order in Council set out in the First Schedule to the Malta Constitution Act 1932(a) were validly passed and made and were within the powers reserved to His Majesty ;

(*b*) the Acts of the Legislature of Malta so set out were validly enacted and were within the powers of the Legislature ;

(*c*) the Ordinances of the Governor of Malta so set out were validly promulgated and were within the powers of the Governor ;

(a) 22 & 23 Geo. 5. c. 43.

(*d*) all Ordinances of the Governor of Malta enacted and promulgated during the period between the commencement of the Malta Constitution Act 1932 and the commencement of the Malta (Letters Patent) Act 1936(a) were validly enacted and promulgated and were within the powers of the Governor.

Form of application for registration as citizen of Malta.

13. Until Parliament prescribes the manner in which an application shall be made for the purposes of any provision of sections 24, 25 and 27 of the Constitution, an application under that provision need not be in any particular form but the application shall be sufficient if it is made to the Minister responsible for matters relating to citizenship of Malta and if it declares the name, address and national status of the applicant and grounds upon which the applicant is entitled to registration under that provision and is accompanied by such supporting documents as the Minister may require.

Modification of Orders of 1959 and 1963.

14. Section 51(2)(*b*) of the Malta (Constitution) Order in Council 1959(b) and section 2(2) of the Malta (Constitution) (Modification) Order in Council 1963(c) shall be deemed to have had effect—

(*a*) as if for the words " on the date " there were substituted the words " immediately before the date " ; and

(*b*) as if for the words " after that date " there were substituted the words " on or after that date ".

Alteration of this Order.

15. The Parliament of Malta may alter section 7(4) of this Order or this section in the same manner as it may alter the provisions of the Malta Independence Act 1964 under section 67 of the Constitution, and may alter any other provision of sections 3 to 14 of this Order in the same manner as it may alter the provisions of the Constitution mentioned in subsection (2) of that section.

W. G. Agnew.

(a) 26 Geo. 5 & 1 Edw. 8. c. 29. (b) S.I. 1959 II, p. 3475.
(c) S.I. 1963 II, p. 2770.

s.1 (2) SCHEDULE TO THE ORDER

CONSTITUTION OF MALTA

Arrangement of Sections

CHAPTER I

THE STATE

Section
1. Territories.
2. Religion.
3. National Flag.
4. National Anthem.
5. Language.
6. Constitution to be supreme law.

CHAPTER II

DECLARATION OF PRINCIPLES

7. Right to work.
8. Promotion of culture, etc.
9. Safeguarding of landscape and historical and artistic patrimony.
10. Religious teaching in State schools.
11. Compulsory and free primary education.
12. Educational interests.
13. Protection of work.
14. Hours of work.
15. Rights of women workers.
16. Minimum age for paid labour.
17. Safeguarding labour of minors.
18. Social assistance and insurance.
19. Encouragement of private economic enterprise.
20. Protection of artisan trades.
21. Encouragement of co-operatives.
22. Application of the principles contained in this Chapter.

CHAPTER III

CITIZENSHIP

23. Persons who become citizens on appointed day.
24. Persons entitled to be registered as citizens.
25. Persons naturalised or registered as resident before appointed day.
26. Acquisition of citizenship by birth or descent by persons born on or after appointed day.
27. Marriage to citizen of Malta.
28. Dual citizenship.
29. Commonwealth citizens.
30. Criminal liability of Commonwealth citizens.
31. Powers of Parliament.
32. Interpretation.

CHAPTER IV

FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Section
33. Fundamental rights and freedoms of the individual.
34. Protection of right to life.
35. Protection from arbitrary arrest or detention.
36. Protection from forced labour.
37. Protection from inhuman treatment.
38. Protection from deprivation of property without compensation.
39. Protection for privacy of home or other property.
40. Provisions to secure protection of law.
41. Protection of freedom of conscience.
42. Protection of freedom of expression.
43. Protection of freedom of assembly and association.
44. Prohibition of deportation.
45. Protection of freedom of movement.
46. Protection from discrimination on the grounds of race, etc.
47. Enforcement of protective provisions.
48. Interpretation of Chapter IV.

CHAPTER V

THE GOVERNOR-GENERAL

49. Establishment of office of Governor-General.
50. Discharge of Governor-General's functions during vacancy, etc.
51. Oaths to be taken by Governor-General.

CHAPTER VI

PARLIAMENT

PART 1

Composition of Parliament

52. Establishment of Parliament.
53. Composition of the House of Representatives.
54. Qualifications for membership of House of Representatives.
55. Disqualifications for membership of House of Representatives.
56. Tenure of office of members.
57. Voting at Elections.
58. Qualification of voters.
59. Disqualification of voters.
60. Speaker and Deputy Speaker.
61. Establishment of Electoral Commission.
62. Electoral divisions.
63. Filling of vacancies.
64. Determination of questions as to membership.
65. Clerk to House of Representatives and his staff.

PART 2

Powers and Procedure of Parliament

Section
66. Power to make laws.
67. Alteration of this Constitution.
68. Regulation of procedure in House of Representatives.
69. Oath to be taken by members of House of Representatives.
70. Presiding in House of Representatives.
71. Quorum in House of Representatives.
72. Voting.
73. Mode of exercising legislative powers.
74. Restriction with regard to certain financial measures.
75. Language of Laws.

PART 3

Summoning, prorogation and dissolution

76. Sessions of Parliament.
77. Prorogation and dissolution of Parliament.
78. General elections.

CHAPTER VII

THE EXECUTIVE

79. Executive authority of Malta.
80. The Cabinet.
81. Appointment of Ministers.
82. Tenure of office of Ministers.
83. Allocation of portfolios to Ministers.
84. Acting Prime Minister.
85. Temporary Ministers.
86. Exercise of functions of Governor-General.
87. Exercise of Prime Minister's functions.
88. Governor-General to be informed concerning matters of government.
89. Parliamentary Secretaries.
90. Oaths to be taken by Ministers.
91. Leader of the Opposition.
92. Crown Advocate-General.
93. Permanent Secretaries and heads of government departments.
94. Prerogative of mercy.
95. Secretary to the Cabinet.

CHAPTER VIII

THE JUDICIARY

PART 1

Courts

96. Superior Courts.
97. Appointment of judges.
98. Tenure of office of judges.
99. Acting Chief Justice and acting judges.
100. Inferior Courts.
101. Magistrates.
102. Oaths to be taken by judges and magistrates.

PART 2

Appeals

Section
103. Appeals to Her Majesty in Council.
104. Appeals from Superior Courts in criminal matters.

CHAPTER IX

FINANCE

105. Consolidated Fund.
106. Authorisation of expenditure from Consolidated Fund.
107. Authorisation of expenditure before appropriation.
108. Contingencies Fund.
109. Public debt.
110. Remuneration of the Governor-General and certain other officers.
111. Director of Audit.

CHAPTER X

THE PUBLIC SERVICE

112. Public Service Commission.
113. Appointment, etc., of public officers.
114. Principal representatives of Malta abroad.
115. Appointment on transfer in respect of certain offices.
116. Protection of pension rights.
117. Grant and withholding of pensions, etc.
118. Protection of Public Service Commission from legal proceedings.

CHAPTER XI

MISCELLANEOUS

119. Actions on validity of laws.
120. Prohibition of certain associations.
121. Broadcasting Authority.
122. Function of the Broadcasting Authority.
123. Powers and procedure of Commissions.
124. Resignations.
125. Reappointments, etc.
126. Interpretation.

SCHEDULES TO THE CONSTITUTION

FIRST SCHEDULE.

SECOND SCHEDULE: Oath of Allegiance.

CONSTITUTION OF MALTA

CHAPTER I

THE STATE

Territories

1. Until otherwise provided by law the territories of Malta consist of those territories comprised in Malta immediately before the appointed day, including the territorial waters thereof.

Religion

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

(2) The State guarantees to the Roman Catholic Apostolic Church the right freely to exercise her proper spiritual and ecclesiastical functions and duties and to manage her own affairs.

National Flag

3. The National Flag of Malta consists of two equal vertical stripes white in the hoist and red in the fly. A representation of the George Cross awarded to Malta by His Majesty King George the Sixth on 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 helwa l-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

6. Subject to the provisions of sections 48(7) and (9) and 67 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.

Religious teaching in State schools

10. Religious teaching of the Roman Catholic Apostolic faith shall be provided in all State schools.

Compulsory and free primary education

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

Educational interests

12.—(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

13.—(1) The State shall protect work.

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

Hours of work

14.—(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.

Rights of women workers

15. The State shall aim at ensuring that women workers enjoy equal rights and the same wages for the same work as males.

Minimum age for paid labour

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

Safeguarding labour of minors

17. 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

18.—(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.

Encouragement of private economic enterprise

19. The State shall encourage private economic enterprise.

Protection of artisan trades

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

Encouragement of co-operatives

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

Application of the principles contained in this Chapter

22. 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.

CHAPTER III

CITIZENSHIP

Persons who become citizens on appointed day

23.—(1) Every person who, having been born in Malta, is on the day before the appointed day a citizen of the United Kingdom and Colonies shall become a citizen of Malta on the appointed day.

Provided that a person shall not become a citizen of Malta by virtue of this subsection if neither of his parents was born in Malta.

(2) Every person who, having been born outside Malta, is on the day before the appointed day a citizen of the United Kingdom and Colonies shall, if his father becomes, or would but for his death have become, a citizen of Malta in accordance with the provisions of sub-section (1) of this section, become a citizen of Malta on the appointed day.

Persons entitled to be registered as citizens

24.—(1) Any person who, but for the proviso to subsection (1) of section 23 of this Constitution, would be a citizen of Malta by virtue of that subsection shall be entitled, upon making application before the expiration of two years from the appointed day in such manner as may be prescribed, to be registered as a citizen of Malta:

Provided that a person who has not attained the age of eighteen years (other than a woman who is or has been married) may not himself make an

application under this subsection, but an application may be made on his behalf by the person who according to law has authority over him.

(2) Any woman who on the day before the appointed day is or has been married to a person—

(*a*) who becomes a citizen of Malta by virtue of section 23 of this Constitution ; or

(*b*) who having died before the appointed day would, but for his death, have become a citizen of Malta by virtue of that section,

shall be entitled, upon making application in such manner as may be prescribed and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Malta.

(3) Any woman who on the day before the appointed day is or has been married to a person who becomes a citizen of Malta by registration under subsection (1) of this section shall be entitled, upon making application within such time and in such manner as may be prescribed and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Malta.

(4) Any woman who on the day before the appointed day has been married to a person who becomes, or would, but for his death, have become entitled to be registered as a citizen of Malta under subsection (1) of this section, but whose marriage has been terminated by death or by such dissolution as is valid under the law of Malta shall be entitled, upon making application before the expiration of two years from the appointed day and in such manner as may be prescribed and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Malta.

(5) The provisions of subsections (2), (3) and (4) of this section shall be without prejudice to the provisions of section 23 of this Constitution.

Persons naturalised or registered as resident before appointed day

25.—(1) Any person who on the day before the appointed day was a citizen of the United Kingdom and Colonies—

(*a*) having become such a citizen under the British Nationality Act 1948(a) by virtue of his having been naturalised in Malta as a British subject before that Act came into force ; or

(*b*) having become such a citizen by virtue of his having been naturalised or registered in Malta under that Act,

shall be entitled, upon making application before the expiration of two years from the appointed day in such manner as may be prescribed, to be registered as a citizen of Malta :

Provided that a person who has not attained the age of eighteen years (other than a woman who is or has been married) may not himself make an application under this subsection, but an application may be made on his behalf by the person who according to law has authority over him.

(2) Any person who on the day before the appointed day—

(*a*) was a Commonwealth citizen or a citizen of the Republic of Ireland, and

(*b*) is descended in the male line from a person born in Malta,

(a) 11 & 12 Geo. 6. c. 56.

and was on the day before the appointed day ordinarily resident in Malta and had been so resident throughout the period of five years immediately preceding that day shall be entitled, upon making application before the expiration of two years from the appointed day in such manner as may be prescribed, to be registered as a citizen of Malta:

Provided that a person who has not attained the age of eighteen years (other than a woman who is or has been married) may not himself make an application under this subsection, but an application may be made on his behalf by the person who according to law has authority over him.

Acquisition of citizenship by birth or descent by persons born on or after appointed day

26.—(1) Every person born in Malta on or after the appointed day shall become a citizen of Malta at the date of his birth:

Provided that a person shall not become a citizen of Malta by virtue of this subsection if at the time of his birth—

(*a*) neither of his parents was a citizen of Malta and his father possessed such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Malta; or

(*b*) his father was an enemy alien and the birth occurred in a place then under occupation by the enemy.

(2) A person born outside Malta on or after the appointed day shall become a citizen of Malta at the date of his birth if at that date his father is a citizen of Malta otherwise than by virtue of this subsection or subsection (2) of section 23 of this Constitution.

Marriage to citizen of Malta

27. Any woman who on or after the appointed day marries a person who is or becomes a citizen of Malta shall be entitled, upon making application in such manner as may be prescribed and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Malta.

Dual citizenship

28.—(1) Any person who, upon his attainment of the age of eighteen years, is a citizen of Malta and also a citizen of some country other than Malta shall cease to be a citizen of Malta upon his attainment of the age of nineteen years (or, in the case of a person of unsound mind, at such later date as may be prescribed) unless he has renounced his citizenship of that other country and, in the case of a person who is a citizen of Malta by virtue of subsection (2) of section 23 of this Constitution, has made and registered such declaration of his intentions concerning residence or employment as may be prescribed.

(2) A person who—

(*a*) has attained the age of eighteen years before the appointed day; and

(*b*) becomes a citizen of Malta on that day by virtue of the provisions of section 23 of this Constitution; and

(*c*) is immediately after that day also a citizen of some country other than Malta,

shall cease to be a citizen of Malta on the expiration of two years from the appointed day (or, in the case of a person of unsound mind, at such later

date as may be prescribed) unless he has renounced his citizenship of that other country and, in the case of a person who is a citizen of Malta by virtue of subsection (2) of section 23 of this Constitution, has made and registered such declaration of his intentions concerning residence or employment as may be prescribed.

(3) A citizen of Malta shall cease to be such a citizen if—

(*a*) having attained the age of eighteen years, he acquires the citizenship of some country other than Malta by a voluntary act (other than marriage); or

(*b*) having attained the age of eighteen years, he otherwise acquires the citizenship of some country other than Malta and has not, before the expiration of one year after the date on which he acquired the citizenship of that other country, renounced his citizenship of that other country and made and registered such declaration of his intentions concerning residence or employment as may be prescribed.

(4) A person who—

(*a*) becomes a citizen of Malta by registration under section 24, 25 or 27 of this Constitution; and

(*b*) is immediately after the day on which he becomes a citizen of Malta also a citizen of some other country,

shall cease to be a citizen of Malta on the expiration of six months after the date on which he acquired citizenship of Malta (or, in the case of a person of unsound mind, at such later date as may be prescribed) unless he has renounced his citizenship of that other country, and made and registered such declaration of his intentions concerning residence or employment as may be prescribed.

(5) For the purposes of this section, where, under the law of a country other than Malta, a person cannot renounce his citizenship of that other country, he may instead make such declaration concerning such citizenship as may be prescribed.

(6) Provision may be made by or under an Act of Parliament extending beyond the period specified in any provision of this section the period in which any person may make a renunciation of citizenship, or make or register a declaration for the purposes of that provision of this section, and if such provision is made that person shall not cease to be a citizen of Malta upon the expiration of the period specified in this section but shall cease to be such a citizen upon the expiration of the extended period if he has not then made the renunciation, or made or registered the declaration, as the case may be.

Commonwealth citizens

29.—(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 section 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 section 2 of that Act shall by virtue of that status have the status of a Commonwealth citizen.

(3) Save as may be otherwise provided by Parliament, the countries to which this section applies are the United Kingdom and Colonies, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, Malaysia, the Federation of Nigeria, the Republic of Cyprus, Sierra Leone, Southern Rhodesia, the United Republic of Tanganyika and Zanzibar, Jamaica, Trinidad and Tobago, Uganda, Kenya and Malawi.

Criminal liability of Commonwealth citizens

30.—(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 or the omission made were a foreign country.

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

Powers of Parliament

31.—(1) Parliament may make provision—

(*a*) for the acquisition of citizenship of Malta by persons who do not become citizens of Malta by virtue of the provisions of this Chapter;

(*b*) for depriving of his citizenship of Malta any person who is a citizen of Malta otherwise than by virtue of—

(i) section 23 or subsection (1) of section 26 of this Constitution; or

(ii) subsection (2) of section 26 of this Constitution in relation to a person born outside Malta whose father at the date of that person's birth is a citizen of Malta by virtue of subsection (1) of section 23 or subsection (1) of section 26 of this Constitution;

(*c*) for the renunciation by any person of his citizenship of Malta.

(2) Provision may be made by or under an Act of Parliament for extending the period in which any person may make an application for registration as a citizen of Malta, make a renunciation of citizenship, take an oath or make or register a declaration for the purposes of the provisions of this Chapter.

Interpretation

32.—(1) In this Chapter—

"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;

"prescribed" means prescribed by or under any Act of Parliament.

(2) For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) Any reference in this Chapter to the father of a person shall, in relation to a person born out of wedlock and not legitimated, be construed as a reference to the mother of that person and, in relation to an adopted child whose adoption has been registered under any law in force in Malta, be construed as a reference to the adopter or, in the case of a joint adoption, the male adopter, and references to the parent of such person shall be construed accordingly.

(4) Any reference in this Chapter to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the national status of the father at the time of the father's death; and where that death occurred before the appointed day and the birth occurred on or after the appointed day, the national status that the father would have had if he had died on the appointed day shall be deemed to be his national status at the time of his death.

CHAPTER IV

FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Fundamental rights and freedoms of the individual

33. 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 or sex, 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

34.—(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 section 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

35.—(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 subsection 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 subsection 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 section 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 subsection (2) of section 48 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 subsection 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 subsection 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

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

(2) For the purposes of this section, 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

37.—(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 section 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 subsection 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

38.—(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.

(2) Nothing in this section 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 Crown; 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 section 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 section 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

39.—(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 section 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

40.—(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 subsection (3) of this section shall prevent any court or any authority such as is mentioned in that subsection 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 subsection 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 subsection 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 section "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

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

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (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

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 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 subsection (1) of this section 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 section 31 (1) (b) of this Constitution or of his juridical capacity by reason only of his political opinions.

Protection of freedom of assembly and association

43.—(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 section 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.

Prohibition of deportation

44.—(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 section 45(3)(*b*) of this Constitution.

(4) The provisions made by or under the Fugitive Offenders Act 1881(a), as for the time being in force in Malta, for the removal of persons from Malta to another 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 subsection (1) of this section, to be arrangements made by treaty, and subsection (2) shall not apply in relation to the removal or extradition of a person under such provisions or arrangements.

Protection of freedom of movement

45.—(1) No citizen of Malta shall be deprived of his freedom of movement, and for the purpose of this section 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.

(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 section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section 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 section 23(1) or 26(1) of this Constitution;

(*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 section 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 section 23(1) or 26(1) of this Constitution, 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

(a) 44 & 45 Vict. c. 69.

before that day, would have become a citizen of Malta by virtue of section 23(1) of this Constitution; or

(*c*) who is the wife of a person mentioned in paragraph (*a*) or (*b*) of this subsection or of a person who is a citizen of Malta by virtue of section 23(1) or 26(1) of this Constitution and is living with that person 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 section 23(1) or 26(1) of this Constitution.

(5) If any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in subsection (3)(*a*) of this section 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 subsection unless he has first obtained the consent of the Civil Court, First Hall.

(6) On any review by a tribunal in pursuance of this section 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.

46.—(1) Subject to the provisions of subsections (4), (5) and (7) of this section, no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (6), (7) and (8) of this section, 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 section, 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 or creed 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) Subsection (1) of this section 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 subsection (3) of this section 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.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision with respect to qualifications for service as a public officer or as a member of a disciplined force or for the service of a local government authority or a body corporate established for public purposes by any law.

(6) Subsection (2) of this section 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 subsection (4) or (5) of this section.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 39, 41, 42, 43 and 45 of this Constitution, being such a restriction as is authorised by section 39(2), 41(2), 42(2), 43(2) or 45(3).

(8) Nothing in subsection (2) of this section 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) Notwithstanding any other provision of this Constitution, no person not professing the Roman Catholic Apostolic Religion shall hold any office entailing the teaching of that religion.

Enforcement of protective provisions

47.—(1) Subject to the provisions of subsections (6) and (7) of this section, any person who alleges that any of the provisions of sections 34 to 46 (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 subsection (1) of this section, 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 sections 34 to 46 (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 subsection 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 sections 34 to 46 (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 subsection and, subject to the provisions of subsection (4) of this section, and of section 103(2) of this Constitution, 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 section shall have a right of appeal to the Constitutional Court.

(5) No appeal shall lie from any determination under this section 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 section as are necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by this section.

(7) Rules of court making provision with respect to the practice and procedure of the Courts of Malta for the purposes of this section 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

48.—(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 sections 34 and 36 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 Crown in right 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 Governor-General 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 Governor-General 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 Governor-General, 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 subsection (2) of this section 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 sections 34, 36 and 37.

(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) 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 sections 34 to 46 (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 sections.

(8) Where any provision of law enacted before the appointed day is held to be inconsistent with any of the provisions of sections 34 to 46 (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 section 38 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 subsection) 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 section 38(1) of this Constitution.

CHAPTER V

THE GOVERNOR-GENERAL

Establishment of office of Governor-General

49. There shall be a Governor-General of Malta who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in Malta.

Discharge of Governor-General's functions during vacancy, etc.

50. Whenever the office of Governor-General is vacant or the holder of the office is absent from Malta 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 Her Majesty may appoint or, if there is no person in Malta so appointed and able to perform those functions, by the Chief Justice.

Oaths to be taken by Governor-General

51. A person appointed to or assuming the functions of the office of Governor-General shall, before entering upon that office, take and subscribe 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.

CHAPTER VI

PARLIAMENT

PART 1

Composition of Parliament

Establishment of Parliament

52. There shall be a Parliament of Malta which shall consist of Her Majesty and a House of Representatives.

Composition of the House of Representatives

53.—(1) Subject to the provisions of this Chapter, the House of Representatives shall consist of fifty members who 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 and who 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 said fifty members.

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

55.—(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 Crown ;

(*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 Royal 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

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 ten electoral divisions.

(2) 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.

(3) 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 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.

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

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

Qualification of voters

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 twenty-one years ; and

(*c*) he is resident in Malta and has during the two years immediately preceding his registration been so resident for a continuous period of one year or for periods amounting in the aggregate to one year.

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.

(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 as Speaker or Deputy Speaker, as the case may be.

Establishment of Electoral Commission

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 Governor-General, 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 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 Governor-General 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 Governor-General, 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

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 or altering the number of the members of the House of Representatives in such a way that that number is not divisible by 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 or altering the number of the members of the House of Representatives in such a way that that number is not divisible by 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) Any alteration of boundaries under this section shall come into effect upon the next dissolution of Parliament after the alteration has been approved by the House of Representatives:

Provided that nothing in this subsection 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 fifteen per centum, in order to take account of means of communication, differences in density of population, parish boundaries 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

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, and the determination by the Constitutional Court of any such question shall be final.

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

67.—(1) Subject to the provisions of this section, Parliament may alter any of the provisions of this Constitution or (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*) section 5, sections 33 to 48 (inclusive), sections 57, 61, 62, subsection (3) of section 66, sections 92, 96 (other than subsection (2) thereof), 97, 98, 99, 100, 101, 105 to 113 (inclusive), 116, 117, 121 or 122 of this Constitution; or

(*b*) section 103 of this Constitution at any time within five years from the appointed day; or

(*c*) section 126 of this Constitution in its application to any of the provisions specified in paragraph (*a*) or, subject to the limitation therein contained, paragraph (*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 section;

(*b*) sections 2, 3, 4, 49, 52, 58, subsection (2) of section 76, section 77, section 78, subsection (1) of section 79, section 81, and subsection (2) of section 96 of this Constitution;

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

(*d*) any of the provisions of the Malta Independence Act 1964,

a bill for an Act of Parliament under this section shall not be presented to the Governor-General 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 Represensentatives and the majority of the electors voting have approved the bill.

(4) The provisions of section 57(3) of this Constitution shall apply to the voting on a bill submitted to the electors under subsection (3) of this section as they apply to voting at the election of members of the House of Representatives, and subject as aforesaid the vote on such a 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 subsections (2) and (3) of this section or, after five years from the appointed day, section 103 of this Constitution, 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 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 section—

(*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

68.—(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 subsection (1) of this section for setting up Committees of the House to enquire into matters of general public importance shall be designed to secure that, so far as 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

69. 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 section) 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

70.—(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 section 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

71.—(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 section—

(*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

72.—(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

73.—(1) The power of Parliament to make laws shall be exercised by bills passed by the House of Representatives and assented to by the Governor-General.

(2) When a bill is presented to the Governor-General 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 Governor-General 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

74. Except upon the recommendation of the Governor-General 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

75. 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

76.—(1) Each session of Parliament shall be held at such place within Malta and shall commence at such time as the Governor-General may by proclamation 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 Governor-General.

Prorogation and dissolution of Parliament

77.—(1) The Governor-General may at any time by proclamation prorogue or dissolve Parliament.

(2) Subject to the provisions of subsection (3) of this section, 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 subsection (2) of this section for not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this subsection 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 Governor-General may by proclamation summon the Parliament that has been dissolved to meet, and that Parliament shall thereupon be deemed (except for the purpose of section 78 and, in relation to the next ensuing general election, sections 62(3) and 67(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 section the Governor-General 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 Governor-General may dissolve Parliament;

(*b*) if the office of Prime Minister is vacant and the Governor-General 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 Governor-General may dissolve Parliament; and

(*c*) if the Prime Minister recommends a dissolution and the Governor-General 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 Governor-General may refuse to dissolve Parliament.

General elections

78. 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 Governor-General, acting in accordance with the advice of the Prime Minister, shall by proclamation appoint.

CHAPTER VII
THE EXECUTIVE

Executive authority of Malta

79.—(1) The executive authority of Malta is vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of Malta may be exercised on behalf of Her Majesty by the Governor-General either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent Parliament from conferring functions on persons or authorities other than the Governor-General.

The Cabinet

80.—(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 section 81 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

81. Wherever there shall be occasion for the appointment of a Prime Minister, the Governor-General 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

82.—(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 Governor-General may remove the Prime Minister from office:

Provided that the Governor-General shall not do so unless three days have elapsed and he has decided not to dissolve Parliament under section 77 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 Governor-General that the Governor-General 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 subsection (2) of section 56 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 Governor-General, 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 subsection (2) of section 56 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

83.—(1) Subject to the provisions of this Constitution, the Governor-General, 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 section shall empower the Governor-General 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

84.—(1) Whenever the Prime Minister is unable, by reason of his illness or absence from Malta, to perform the functions of his office, the Governor-General may authorise any other member of the Cabinet to perform those functions (other than the functions conferred by this section) and that member may perform those functions until his authority is revoked by the Governor-General.

(2) The powers of the Governor-General under this section shall be exercised by him in accordance with the advice of the Prime Minister:

Provided that if the Governor-General 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

85.—(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 Governor-General 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 section 82 of this Constitution, a temporary Minister shall hold office until he is notified by the Governor-General 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 Governor-General under this section shall be exercised by him in accordance with the advice of the Prime Minister.

Exercise of functions of Governor-General

86.—(1) In the exercise of his functions the Governor-General 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 Governor-General 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 subsection (5) of section 77 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 section 81 and subsection (1) of section 82 of this Constitution;

(*c*) in the exercise of the powers conferred upon him by section 84 of this Constitution (which relates to the performance of the functions of the Prime Minister during absence or illness) in the circumstances described in the proviso to subsection (2) of that section;

(*d*) in the exercise of the power to appoint the Leader of the Opposition and to revoke any such appointment conferred upon him by section 91 of this Constitution; and

(*e*) in signifying his approval for the purposes of subsection (4) of section 113 of this Constitution of an appointment to an office on his personal staff.

(2) Where by this Constitution the Governor-General 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 subsection (1) of this section to the functions of the Governor-General 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 Governor-General by or under this Constitution or any other law.

Exercise of Prime Minister's functions

87.—(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 subsection 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.

Governor-General to be informed concerning matters of government

88. The Prime Minister shall keep the Governor-General fully informed concerning the general conduct of the government of Malta and shall furnish the Governor-General with such information as he may request with respect to any particular matter relating to the government of Malta

Parliamentary Secretaries

89.—(1) The Governor-General, 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 subsection (3) of section 82 of this Constitution shall apply to Parliamentary Secretaries as they apply to Ministers.

Oaths to be taken by Ministers

90. 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 such oath for the due execution of his office as may be prescribed by any law for the time being in force in Malta.

Leader of the Opposition

91.—(1) There shall be a Leader of the Opposition who shall be appointed by the Governor-General.

(2) Whenever there shall be occasion for the appointment of a Leader of the Opposition, the Governor-General 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 subsection, the member of the House who, in the judgment of the Governor-General, 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 Governor-General that the Governor-General 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 subsection (2) of section 56 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 subsection (4) of this section.

(4) If, in the judgment of the Governor-General, 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 Governor-General shall revoke the appointment of the Leader of the Opposition.

(5) Subsection (4) of this section shall not have effect while Parliament is dissolved.

Crown Advocate-General

92.—(1) There shall be a Crown Advocate-General whose office shall be a public office and who shall be appointed by the Governor-General acting in accordance with the advice of the Prime Minister.

(2) A person shall not be qualified to hold office as Crown Advocate-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 Crown Advocate-General shall not be subject to the direction or control of any other person or authority.

(4) Subject to the provisions of subsection (5) of this section, the Crown Advocate-General shall vacate his office when he attains the age of sixty years.

(5) Subsections (2) and (3) of section 98 of this Constitution shall apply to the Crown Advocate-General.

Permanent Secretaries and heads of government departments

93.—(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 Governor-General 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

94.—(1) The Governor-General may, in Her Majesty's name and on Her Majesty's behalf—

(*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 Governor-General 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 Governor-General 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 Governor-General whether he should grant the offender a pardon or respite in the exercise of the powers conferred on him by this section.

Secretary to the Cabinet

95.—(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

PART 1

Courts

Superior Courts

96.—(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 the Chief Justice and four other judges of the Superior Courts, shall be known as the Constitutional Court and shall have jurisdiction to hear and determine—

(*a*) such questions as are referred to in section 64 of this Constitution;

(*b*) appeals from decisions of the Civil Court, First Hall, under section 47 of this Constitution;

(*c*) appeals from decisions of any court of original jurisdiction in Malta on questions as to the interpretation of this Constitution other than those which may fall under section 47 of this Constitution; and

(*d*) 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 section 47 of this Constitution:

Provided that if any such question as is referred to in paragraph (*c*) or (*d*) of this subsection 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 this subsection and of section 103(2) of this Constitution, the court in which the question arose shall dispose of the question in accordance with that decision.

(3) The provisions of subsections (6) and (7) of section 47 of this Constitution shall apply to the Constitutional Court and for that purpose references to that section in the said subsections shall be construed as references to this section.

(4) 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.

(5) The Chief Justice shall be the President of the Constitutional Court, and there shall be a Vice-President of the Court, who shall be appointed from among the other judges of the Superior Courts in such manner as may be provided by law; and the Vice-President shall among those judges take precedence next to the Chief Justice.

(6) If the Chief Justice is precluded by law from performing the functions of President of the Constitutional Court or is otherwise unable to perform those functions, those functions shall be performed by the Vice-President.

(7) If the office of Vice-President is vacant or if the Vice-President is for any reason unable to perform the functions of his office, those functions shall be performed by such one of the other judges of the Superior Courts as may be designated in that behalf in such manner as may be provided by law.

Appointment of judges

97.—(1) The judges of the Superior Courts shall be appointed by the Governor-General 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

98.—(1) Subject to the provisions of this section, 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 Governor-General 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 subsection.

Acting Chief Justice and acting judges

99.—(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 Governor-General, 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 Governor-General, 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 subsection (2) of this section 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 Governor-General acting in accordance with the advice of the Prime Minister.

Inferior Courts

100. 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

101.—(1) Magistrates of the inferior courts shall be appointed by the Governor-General 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 subsection (4) of this section, a magistrate of the inferior courts shall vacate his office when he attains the age of sixty years.

(4) The provisions of subsections (2) and (3) of section 98 of this Constitution shall apply to magistrates of the inferior courts.

Oaths to be taken by judges and magistrates

102. 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.

PART 2

Appeals

Appeals to Her Majesty in Council

103.—(1) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council as of right in the following cases—

(*a*) where the matter in dispute on the appeal to Her Majesty in Council is of the value of five hundred pounds or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of five hundred pounds or upwards, final decisions in any civil proceedings; and

(*b*) such other cases as may be prescribed by Parliament.

(2) Subject to the provisions of section 64 of this Constitution, an appeal shall lie from decisions of the Constitutional Court to Her Majesty in Council as of right.

(3) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases—

(*a*) where in the opinion of the Court of Appeal the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty in Council, decisions in any civil proceedings; and

(*b*) such other cases as may be prescribed by Parliament.

(4) Nothing in this section shall affect any right of Her Majesty to grant special leave to appeal from decisions of the Court of Appeal or the Criminal Court to Her Majesty in Council in any civil, criminal or other matter.

Appeals from Superior Courts in criminal matters

104.—(1) As from such date as may be prescribed by law, not being later than three years after the appointed day, there shall be a right of appeal to a Superior Court against any judgment, other than a judgment of acquittal, of any Superior Court given in its original jurisdiction in any criminal matter.

(2) Any such right of appeal shall be exercisable in accordance with such procedure as may be prescribed by law.

CHAPTER IX

FINANCE

Consolidated Fund

105.—(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 section 107 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

106.—(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 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

107. 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

108.—(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 subsection (1) of this section 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

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

(2) In this section 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 of Governor-General and certain other officers

110.—(1) There shall be paid to the holders of the offices to which this section 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 section applies shall be a charge on the Consolidated Fund.

(3) The salary payable to the holder of any office to which this section 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

subsection, 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 section applies to the offices referred to in sections 49, 92, 96(4), 101, 111 and 112 of this Constitution.

Director of Audit

111.—(1) There shall be a Director of Audit for Malta, whose office shall be a public office and who shall be appointed by the Governor-General acting in accordance with the advice of the Prime Minister.

(2) Subject to the provisions of subsection (4) of this section, the Director of Audit shall vacate his office when he attains the age of sixty years.

(3) Subsections (2) and (3) of section 98 of this Constitution shall apply to the Director of Audit.

(4) The accounts of all departments and offices of the Government of Malta, including the office of the Public Service Commission, and the office of the Clerk to the House of Representatives, and of all Superior and Inferior Courts in Malta shall be audited and reported on annually by the Director of Audit and for that purpose the Director of Audit or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(5) The Director of Audit shall submit his reports made under subsection (4) of this section to the Minister responsible for finance, who shall cause them to be laid before the House of Representatives within thirty days of the receipt thereof by him, or, if the House of Representatives is not sitting, within thirty days of the commencement of the next sitting of the House of Representatives.

(6) If the Minister fails to lay any reports before the House of Representatives in accordance with subsection (5) of this section, the Director of Audit shall, forthwith on the expiration of the period mentioned in the said subsection, transmit copies of such reports to the Speaker of the House of Representatives (or, if the office of Speaker is vacant or the Speaker is for any reason unable to perform the functions of his office, to the Deputy Speaker) who shall, as soon as practicable, lay them before the House of Representatives.

(7) In the exercise of his functions under the provisions of subsections (4) and (5) of this section the Director of Audit shall not be subject to the direction or control of any other person or authority.

(8) Nothing in this section shall prevent the performance by the Director of Audit of—

(*a*) such other functions in relation to the accounts of the Government of Malta and the accounts of other public authorities and other bodies administering public funds in Malta as may be prescribed by or under any law for the time being in force in Malta ; or

(*b*) such other functions in relation to the supervision and control of expenditure from public funds in Malta as may be so prescribed.

CHAPTER X

THE PUBLIC SERVICE

Public Service Commission

112.—(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 Governor-General, 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 section, 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 Governor-General, 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 Governor-General, 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) and (6) 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.

Appointment, etc., of public officers

113.—(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 recommendation 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 subsection to such public officer or other authority as may be specified in that instrument.

(2) A delegation of a power under this section—

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

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

(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 subsection (1) of this section:

Provided that such right of appeal shall be without prejudice to any such other right of appeal as may be provided under section 123(1) of this Constitution in respect of the exercise of any other power delegated under subsection (1) of this section.

(*b*) A right of appeal under this section shall be exercised in accordance with such provision relating to procedure as may be prescribed by the Public Service Commission under section 123(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 subsection 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 section to or to act in any office on the personal staff of the Governor-General except with the approval of the Governor-General.

(5) The provisions of this section shall not apply in relation to—

(*a*) the offices referred to in sections 92, 93 (other than subsection (4) thereof), 95, 96(4), 101, 111, 114 and 115 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 sectior 93(4).

Principal representatives of Malta abroad

114.—(1) Power to appoint persons to hold or act in the offices to which this section applies and to remove persons so appointed from any such office shall vest in the Governor-General, 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

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the provisions of this section, consult with the Public Service Commission and, on being removed from the office to which he has been appointed under the provisions of this section, 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 section 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

115.—(1) Power to make appointments on transfer to and from the offices to which this section 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 section 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 section 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

116.—(1) Subject to the provisions of section 117 of this Constitution, the law applicable to any benefits to which this section 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 section "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 section, be deemed to be more favourable to him than the other law or laws.

(4) Any benefit to which this section 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 section 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 section 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.

Grant and withholding of pensions, etc.

117.—(1) Where any benefits to which this section 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.

(2) The Public Service Commission shall not concur under subsection (1) of this section in action taken on the ground that any person who holds or has held any of the offices referred to in sections 92, 96(4), 101 and 111 of this Constitution has been guilty of misbehaviour unless he has been removed from office by reason of such misbehaviour.

(3) This section 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

118. 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 subsection (1) of section 113 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.

CHAPTER XI

MISCELLANEOUS

Actions on validity of laws

119. A right of action for a declaration that any law is invalid on any grounds other than inconsistency with the provisions of sections 34 to 46 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

120.—(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 section shall be enforced in such manner as may be provided by Parliament.

Broadcasting Authority

121.—(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 Governor-General, 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 section, 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 Governor-General, 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 Governor-General, 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 subsections (5) and (6) 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.

(8) In the exercise of its functions under section 122(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

122.—(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 subsection (1) of this section 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.

Powers and procedure of Commissions

123.—(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 subsection (3) of this section, 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 section shall apply to the Broadcasting Authority established by this Constitution.

Resignations

124.—(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution (including the office of 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.

125.—(1) 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) 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 subsection, 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

126.—(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 section 80 of this Constitution;

"the Commonwealth" means Malta, any country to which section 29 of this Constitution applies and any dependency of any such country;

"the Consolidated Fund" means the Consolidated Fund established by section 105 of this Constitution;

"Constitutional Court" means the Constitutional Court established by section 96 of this Constitution;

"financial year" means the period of twelve months ending on the thirty-first day of March 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 section 52 of this Constitution;

"law" includes any instrument having the force of law and any unwritten rule of 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 Second 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 a person appointed to act in any such office;

"the public service" means, subject to the provisions of subsections (2) and (3) of this section, the service of the Crown in a civil capacity in respect of the Government of Malta;

"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 "the Deputy Speaker" mean respectively the Speaker and the Deputy Speaker elected under section 60 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 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 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 subsection shall be construed as conferring on any person or authority power to require any person holding any of the offices referred to in sections 92, 96(4), 101 or 111 of this Constitution to retire from the public service; and

(*b*) the provisions of this subsection 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) The Interpretation Act 1889 as in force on the appointed day shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament of the United Kingdom.

SCHEDULES TO THE CONSTITUTION

First Schedule

Section 48 (7)

Criminal Code (Chapter 12)
Code of Police Laws (Chapter 13)
Code of Organization and Civil Procedure (Chapter 15)
Commercial Code (Chapter 17)
Civil Code (Chapter 23)

Second Schedule

Oath of Allegiance

Section 126 (1)

1. Oath of Allegiance

I, ... do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.

2. Affirmation of Allegiance

I, ... do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law.

EXPLANATORY NOTE

(This note is not part of this Order, but is intended to indicate its general purport.)

This Order appoints 21st September 1964 as the appointed day for the purposes of section 1(1) of the Malta Independence Act 1964 and provides a new constitution for Malta coming into effect on that day.