

Nru. 49

7. 7. 2000

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Austin Gatt, M.P., Ministru tal-Gustizzja u Gvern Lokali, u moqri għall-Ewwel darba fis-Seduta ta' l-1 ta' Novembru, 1999.

A BILL introduced by the Honourable Austin Gatt, M.P., Minister for Justice and Local Government, and read the First time at the Sitting of the 1st November, 1999.

ATT biex jemenda l-Kostituzzjoni ta' Malta.

AN ACT further to amend the Constitution of Malta.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

RICHARD J. CAUCHI
Clerk to the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT biex jemenda l-Kostituzzjoni ta' Malta.

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

1. It-titolu ta' dan l-Att hu l-Att ta' l-2000 li jemenda l-Kostituzzjoni ta' Malta (Emenda Nru. 2), u għandu jinqara u jftiehem haġa waħda mal-Kostituzzjoni ta' Malta, hawnhekk iżjed 'il quddiem imsejjha "il-Kostituzzjoni". Titolu fil-qosor.

2. L-artikolu 44 tal-Kostituzzjoni għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 44 tal-Kostituzzjoni.

(a) fil-paragrafu (b) tas-subartikolu (3) tiegħu, minflok il-kliem "ta' l-artikolu 22 (1) jew 25 (1) ta' din il-Kostituzzjoni" għandhom jidhlu l-kliem "tas-subartikolu (1) ta' l-artikolu 3 jew tas-subartikolu (1) ta' l-artikolu 5 ta' l-Att dwar iċ-Ċittadinanza Maltija kif ikun fis-seħħ mal-bidu fis-seħħ ta' l-Att ta' l-2000 li jemenda l-Att dwar iċ-Ċittadinanza Maltija";

(b) is-subartikolu (4) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafi (a), (b) u (ċ) tiegħu, minflok il-kliem "ta' l-artikolu 22 (1) jew 25 (1) ta' din il-Kostituzzjoni" kull fejn dawn jinsabu għandhom jidhlu l-kliem "tas-subartikolu (1) ta' l-artikolu 3 jew tas-subartikolu (1) ta' l-artikolu 5 ta' l-Att dwar iċ-Ċittadinanza Maltija kif ikun fis-seħħ mal-bidu fis-seħħ ta' l-Att ta' l-2000 li jemenda l-Att dwar iċ-Ċittadinanza Maltija";

(ii) fil-paragrafu (ċ) tieghu, minflok il-kliem “li tkun il-mara” ghandhom jidhlu l-kliem “li tkun il-konjuġi”, u minflok il-kliem “u tkun qed tghix ma’ dik il-persuna jew tkun l-iben jew il-bint taht il-wiehed u ghoxrin sena ta’ età ta’ dik il-persuna,” ghandhom jidhlu l-kliem “u li tkun miżżewġa lil dik il-persuna ghal mill-inqas hames snin u li tkun tghix ma’ dik il-persuna, jew tkun l-iben jew il-bint taht il-wiehed u ghoxrin sena ta’ età ta’ dik il-persuna; jew”;

(iii) minnufih wara l-paragrafu (ċ) tieghu ghandu jizdied dan il-paragrafu ġdid li ġej:-

“(d) li tkun l-armla jew l-armel ta’ persuna msemija fil-paragrafu (a) jew fil-paragrafu (b) ta’ dan is-subartikolu jew ta’ persuna li fil-waqt tal-mewt tieghu jew taghha kienet ċittadin ta’ Malta bis-sahha tas-subartikolu (1) ta’ l-artikolu 3 jew tas-subartikolu (1) ta’ l-artikolu 5 ta’ l-Att dwar iċ-Ċittadinanza Maltija kif ikun fis-sehħ mal-bidu fis-sehħ ta’ l-Att ta’ l-2000 li jemenda l-Att dwar iċ-Ċittadinanza Maltija, u li kienet ghadha tghix mieghu jew jghix maghha fil-waqt tal-mewt tieghu jew taghha u li kienet ilha miżżewġa lil dik il-persuna ghal mill-inqas hames snin, jew li kieku kienet, li ma kienx ghall-mewt ta’ dik il-persuna, tkun ilha hekk miżżewġa ghal mill-inqas hames snin, jew tkun l-iben jew il-bint taht l-età ta’ wiehed u ghoxrin sena ta’ dik il-persuna,”; u

(iv) minflok il-kliem “ ta’ l-artikolu 22 (1) jew 25 (1) ta’ din il-Kostituzzjoni.” ghandhom jidhlu l-kliem “tas-subartikolu (1) ta’ l-artikolu 3 jew tas-subartikolu (1) ta’ l-artikolu 5 ta’ l-Att dwar iċ-Ċittadinanza Maltija kif ikun fis-sehħ mal-bidu fis-sehħ ta’ l-Att ta’ l-2000 li jemenda l-Att dwar iċ-Ċittadinanza Maltija;”, u minnufih fi tmiem is-subartikolu ghandhom jizdiedu dawn il-provisos li ġejjin:-

“Izda jekk il-Ministru responsabbli ghall-hwejjeġ li ghandhom x’jaqsmu maċ-ċittadinanza Maltija f’xi żmien b’ordni jiddikjara li jkun kontra l-interess pubbliku li konjuġi kif hemm imsemmi fil-paragrafu (ċ) ta’ dan is-subartikolu, jew armla jew armel kif hemm imsemmi fil-paragrafu (d) ta’ dan is-subartikolu, jew iben jew bint li jkollhom ’il fuq minn tmintax il-sena ta’ età kif hemm imsemmi fil-paragrafu (ċ) jew (d) ta’ dan is-subartikolu ghandhom hekk jitqiesu, jew ikomplu hekk jitqiesu, dawk il-konjuġi, armla, armel, iben jew bint, skond il-

każ, ghandhom ma' dan itemmu milli jitqiesu bhala ċittadini ta' Malta kif imsemmi qabel;

Iżda wkoll, il-Ministru responsabbli għall-hwejjeg li ghandhom x'jaqsmu maċ-ċittadinanza Maltija ma ghandux ikun meħtieġ li jagħti ebda raġuni għall-hruġ ta' xi ordni msemmi fil-proviso li jiġi minnufih qabel, u d-deċiżjoni tal-Ministru dwar xi ordni bħal dan ma ghandha tkun suġġetta għal appell jew stharrig f'ebda qorti.”.

3. Fil-paragrafu (b) tas-subartikolu (2) ta' l-artikolu 66 tal-Kostituzzjoni, minflok il-kliem “l-artikoli 113, 114, 118, 119 jew 120”, ghandhom jidhlu l-kliem “l-artikoli 113, 114, 115A, 118, 119 jew 120”. Emenda ta' l-artikolu 66 tal-Kostituzzjoni.

4. Minnufih wara l-artikolu 115 tal-Kostituzzjoni ghandu jidhol dan li ġej: Żieda tal-Kapitolu XA għdid mal-Kostituzzjoni.

“KAPITOLU XA

GVERN LOKALI

Gvern Lokali.

115A. L-Istat, filwaqt li jirrikonoxxi l-prinċipji ta' sussidjarjetà, għandu jadotta sistema ta' gvern lokali li biha t-territorju ta' Malta jinqasam f'dak l-għadd ta' lokalitajiet hekk kif jista' minn żmien għal żmien jiġi stabbilit b'ligi, b'dan li kull lokalità tkun amministrata minn Kunsill Lokali elett mir-residenti tal-lokalità u li jitwaqqaf u jithaddem skond dik il-ligi li tista' minn żmien għal żmien tkun fis-sehh.”.

Għanijiet u Raġunijiet

L-għan ta' l-Abbozz hu li jżid Kapitolu XA għdid mal-Kostituzzjoni li jipprovdi illi għandu jkun hemm gvern lokali f'Malta u jemenda l-artikolu 66 tal-Kostituzzjoni biex jipprovdi illi l-istess Kapitolu XA ikun jista' jiġi emendat biss jekk Abbozz ta' Ligi li jipproponi dik l-emenda jkollu favur tiegħu l-voti ta' mhux anqas minn żewġ terzi tal-membri kollha tal-Kamra.

Dan l-Abbozz qiegħed ukoll jipproponi li r-raġel barrani ta' mara li tkun ċittadin ta' Malta ikun jista' jgawdi libertà ta' moviment ġewwa Malta bl-istess mod bħal mara barranija li tizzewweg ċittadin Malti. Iżda fiż-żewġ każijiet dak il jedd ikun biss operattiv wara li jgħaddu hames snin mid-data taż-żwieġ. L-Abbozz jagħti s-setgħa lill-Ministru responsabbli għall-affarijiet ta' ċittadinanza li jnehhi dan l-istat ta' libertà ta' moviment meta jkun hekk jenhtieg fl-interess pubbliku, ukoll wara li persuna tikseb dak il-jedd.

**A BILL
entitled**

AN ACT further to amend the Constitution of Malta.

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

Short title
and
commencement.

1. The title of this Act may be cited as the Constitution of Malta (Amendment) (No. 2) Act, 2000, and shall be read and construed as one with the Constitution of Malta, hereinafter referred to as "the Constitution".

Amendment of
article 44 of the
Constitution.

2. Article 44 of the Constitution shall be amended as follows:

(a) in paragraph (b) of subarticle (3) thereof, for the words "article 22 (1) or 25 (1) of this Constitution" there shall be substituted the words "subarticle (1) of article 3 or subarticle (1) of article 5 of the Maltese Citizenship Act as in force upon the coming into force of the Maltese Citizenship (Amendment) Act, 2000";

(b) subarticle (4) thereof shall be amended as follows:

(i) in paragraphs (a), (b) and (c) thereof, for the words "article 22 (1) or 25 (1) of this Constitution" wherever these occur there shall be substituted the words "subarticle (1) of article 3 or subarticle (1) of article 5 of the Maltese Citizenship Act as in force upon the coming into force of the Maltese Citizenship (Amendment) Act, 2000";

(ii) in paragraph (c) thereof, for the words “who is the wife” there shall be substituted the words “who is the spouse”, and for the words “and is living with that person or is the child under twenty-one years of age of such a person,” there shall be substituted the words “and who has been married to that person for at least five years and is living with that person, or is the child under twenty-one years of age of such a person; or”;

(iii) immediately after paragraph (c) thereof there shall be added the following new paragraph:

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

(iv) for the words “article 22 (1) or 25 (1) of this Constitution.” there shall be substituted the words “subarticle (1) of article 3 or subarticle (1) of article 5 of the Maltese Citizenship Act as in force upon the coming into force of the Maltese Citizenship (Amendment) Act, 2000:”, and immediately thereafter there shall be added the following provisos:

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

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

Amendment of article 66 of the Constitution.

3. In paragraph (b) of subarticle (2) of article 66 of the Constitution for the words “articles 113, 114, 118, 119 or 120” there shall be substituted the words “articles 113, 114, 115A, 118, 119 or 120”.

Addition of new Chapter XA to the Constitution.

4. Immediately after article 115 of the Constitution there shall be inserted the following:

“CHAPTER XA

LOCAL GOVERNMENT

Local Government.

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

Objects and Reasons

The object of the Bill is to add a new Chapter XA to the Constitution providing that there should be a system of local government in Malta and amends article 66 of the Constitution to provide that the said Chapter XA may only be amended if a Bill proposing such amendment obtains the support of not less than two thirds of all the members of the House.

This Bill also proposes that a foreign husband of a citizen of Malta would enjoy freedom of movement in Malta in the same manner as a foreign female married to a Maltese citizen. But in both cases such right shall only be operative after the lapse of five years from the date of marriage. The Bill empowers the Minister responsible for citizenship matters to remove this status of freedom of movement when it is so deemed necessary in the public interest, even after a person becomes so entitled.