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MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Ligi mressaq mill-Onorevoli Eddie Fenech Adami, M.P., Prim Ministru, u moqri għall-Ewwel darba fis-Seduta tal-5 ta' April, 1995.

ATT biex jemenda l-Kostituzzjoni ta' Malta billi jipprovdi li għandhom isiru konsultazzjonijiet kull meta jkollu jinhatar il-President ta' Malta u sabiex jirregola l-mod kif għandu jiġi elett, u sabiex jipprovdi għall-metodu ta' konsultazzjonijiet fin-nomina u l-hatra tal-membri ta' ċerti kummissjonijiet skond l-istess Kostituzzjoni.

RICHARD J. CAUCHI

Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Eddie Fenech Adami, M.P., Prime Minister, and read the First time at the Sitting of the 5th April, 1995.

AN ACT to amend the Constitution of Malta providing for consultations to take place whenever the President of the Republic is to be appointed and to regulate the manner of his election, and to provide for the method of consultations in the nomination and appointment of members of certain commissions under the said Constitution.

RICHARD J. CAUCHI

Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT biex jemenda l-Kostituzzjoni ta' Malta billi jipprovdi li għandhom isiru konsultazzjonijiet kull meta jkollu jinħatar il-President ta' Malta u sabiex jirregola l-mod kif għandu jiġi elett, u sabiex jipprovdi għall-metodu ta' konsultazzjonijiet fin-nomina u l-hatra tal-membri ta' ċerti kummissjonijiet skond l-istess Kostituzzjoni.

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. Dan l-Att jista' jissejjah l-Att ta' l-1995 li jemenda l-Kostituzzjoni ta' Malta (Emenda Nru. 1), u għandu jinqara u jiftiehem haġa waħda mal-Kostituzzjoni ta' Malta, hawnhekk iżjed 'il quddiem imsejha "il-Kostituzzjoni". Titolu fil-qosor.

2. L-artikolu 48 tal-Kostituzzjoni għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 48 tal-Kostituzzjoni.

(a) fis-subartikolu (1) tiegħu minnufih wara l-kliem "tal-Kamra tad-Deputati" għandhom jidhlu l-kliem "jew mill-Kulleġġ Elettorali kif hemm provdut f'dan il-Kapitolu ta' din il-Kostituzzjoni";

(b) fil-paragrafu (b) tas-subartikolu (3) tiegħu, minflok il-kliem "inkapaċità li jaqdi" għandhom jidhlu l-kliem "inkapaċità pruvata li jaqdi", u minflok il-kliem "jew għal imġieba hażina." għandhom jidhlu l-kliem "jew għal imġieba hażina pruvata; jew";
u

(ċ) minnufih wara l-paragrafu (b) tas-subartikolu (3) tiegħu għandu jiżdied dan il-paragrafu ġdid li ġej:

“(ċ) jekk id-detentur tal-kariga jirriżenja jew imut filwaqt li jkun għad għandu dik il-kariga.”.

Zieda ta' l-artikoli
48A, 48B, 48Ċ
u 48D
mal-Kostituzzjoni.

3. Minnufih wara l-artikolu 48 tal-Kostituzzjoni għandhom jiżdiedu dawn l-artikoli ġodda li ġejjin:

“Konsultazzjonijiet.

48A. (1) Mhux aktar kmieni minn sittin jum u mhux aktar tard minn hamsin jum qabel ma l-kariga ta' President ta' Malta tkun se ssir vakanti skond il-paragrafu (a) tas-subartikolu (3) ta' l-artikolu 48 ta' din il-Kostituzzjoni, il-President għandu jlaqqa' u jippresjedi laqgħa bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni li matulha jsiru konsultazzjonijiet bil-ghan li jintlaħaq ftehim dwar il-persuna li għandha tiġi nominata sabiex tiġi eletta bħala President ta' Malta skond ma hemm fl-artikolu 48B ta' din il-Kostituzzjoni.

(2) Jekk il-kariga ta' President issir vakanti skond ma hemm fil-paragrafi (b) jew (ċ) tas-subartikolu (3) ta' l-artikolu 48 ta' din il-Kostituzzjoni, il-laqgħa għandha titlaqqa' u tkun presjeduta mill-persuna li tkun qegħda tagħmilha ta' President skond l-artikolu 49 ta' din il-Kostituzzjoni, fi żmien sebat ijiem minn meta l-kariga ta' President issir vakanti.

(3) Jekk ma jintlaħaqx ftehim bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni dwar il-persuna li għandha tiġi nominata sabiex tiġi eletta bħala President, dik il-persuna li tkun qegħda tlaqqa' dik il-laqgħa għandha tlaqqa' iżjed laqgħat, li ma jkunux anqas minn tnejn fl-għadd, fi żmien it-tletin jum li jiġu minnufih wara, bil-ghan li jintlaħaq ftehim bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni dwar dik in-nomina.

Elezzjoni mill-Kamra tad-Deputati.

48B. (1) Meta, bis-sahha tal-konsultazzjonijiet li jsiru skond ma hemm fl-artikolu 48A ta' din il-Kostituzzjoni, jintlaħaq ftehim bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni dwar il-persuna li tkun se tiġi nominata sabiex tiġi eletta bħala President, il-Prim Ministru u l-Kap ta' l-Oppożizzjoni, għandhom jipprezentaw mozzjoni flimkien halli tingieb rizzoluzzjoni fil-Kamra tad-Deputati dwar il-hatra ta' dik il-persuna bħala President ta' Malta.

(2) Isir id-dibattitu fuq il-mozzjoni mill-Kamra tad-Deputati fil-jum li jiġi minnufih wara.

(3) Jekk ir-rizzoluzzjoni ma tiġix approvata mill-Kamra tad-Deputati l-elezzjoni tal-President issir skond ma hemm fl-artikolu 48Ċ ta' din il-Kostituzzjoni.

Elezzjoni
mill-Kulleġġ
Elettorali.

48C. (1) Meta ma jintlahaqx ftehim bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni fil-laqgħat li jsiru skond l-artikolu 48A ta' din il-Kostituzzjoni, il-Prim Ministru għandu jagħmel stqarrija fil-Kamra tad-Deputati li biha jgħarrafha b'dan il-fatt fi żmien għaxart ijiem mill-iskadenza tal-perijodu msemmi fis-subartikolu (3) ta' l-artikolu 48A ta' din il-Kostituzzjoni.

(2) Fi żmien sebat ijiem mill-istqarrija tal-Prim Ministru imsemmija fis-subartikolu (1) ta' dan l-artikolu, jew fi żmien sebat ijiem mill-vot li bih mozzjoni bħal dik imsemmija fl-artikolu 48B ma tiġix approvata mill-Kamra tad-Deputati, kull għadd ta' membri tal-Kamra tad-Deputati li flimkien jikkostitwixxu mill-inqas tletin fil-mija mill-għadd totali ta' membri tal-Kamra tad-Deputati jista' jinnomina lil persuna li jkollha l-kwalifiki biex tinhatar bħala President skond din il-Kostituzzjoni sabiex tiġi eletta bħala President ta' Malta skond ma hemm fl-artikolu 48D ta' din il-Kostituzzjoni.

(3) Ebda membru tal-Kamra tad-Deputati ma jista' jinnomina iktar minn persuna waħda sabiex tiġi eletta skond ma hemm fis-subartikolu (2) ta' dan l-artikolu.

(4) L-elezzjoni tal-President li ssir mill-Kulleġġ Elettorali għandha tkun permezz tas-sistema tal-vot singlu trasferibbli skond il-proċedura stabbilita fil-Hames Skeda li tinsab ma' din il-Kostituzzjoni.

(5) Meta l-proċeduri għall-elezzjoni tal-President mill-Kulleġġ Elettorali jkunu inkonklusivi l-President għandu jinhatar b'riżoluzzjoni tal-Kamra u d-dispożizzjonijiet ta' l-artikoli 48A u 48B ma għandhomx ikunu japplikaw għal dik ir-riżoluzzjoni.

Il-Kulleġġ
Elettorali.

48D. Ikun hemm Kulleġġ Elettorali magħmul minn:

(a) il-membri kollha tal-Kamra tad-Deputati;

(b) tnejn u tletin membri iehor eletti minn fost sindki tal-kunsilli lokali bil-mod provdut fis-Sitt Skeda li tinsab ma' din il-Kostituzzjoni.”.

4. L-artikolu 60 tal-Kostituzzjoni għandu jiġi emendat kif ġej:

(a) minflok is-subartikoli (2) u (3) tiegħu għandu jidhol dan li ġej:

“(2) Il-Kummissjoni Elettorali tkun magħmula minn *Chairman* u minn tmien membri oħra.

Emenda ta'
l-artikolu 60
tal-Kostituzzjoni.

(3) (a) Iċ-*Chairman* u l-membri l-oħra tal-Kummissjoni Elettorali għandhom jinhatru mill-President skond dak il-ftehim li jista' jintlahaq bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni wara li jsiru l-konsultazzjonijiet kif hemm provdut fl-artikolu 120A ta' din il-Kostituzzjoni, u fin-nuqqas ta' ftehim bħal dak skond ma hemm fil-paragrafu (b) ta' dan is-subartikolu.

(b) Meta ma jintlahaqx ftehim bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni fuq il-hatra tal-membri kollha jew xi wiehed minnhom tal-Kummissjoni Elettorali kif hemm provdut fl-artikolu 120A ta' din il-Kostituzzjoni il-President għandu jahtar lill-membri ta' dik il-Kummissjoni kif ġej:

(i) fil-każ ta' *Chairman* il-President jaġixxi skond il-ġudizzju deliberat tiegħu stess u jahtar persuna minn fuq lista ta' tliet persuni li tkun inghatatlu mill-Prim Ministru; u

(ii) fil-każ tal-membri l-oħra l-President jahtar żewġ membri hekk kif jidhirlu xieraq skond il-ġudizzju deliberat tiegħu stess; tliet membri skond il-parir tal-Prim Ministru u tliet membri skond il-parir tal-Kap ta' l-Oppożizzjoni.”; u

(b) is-subartikoli (6), (7) u (8) ta' dak l-artikolu għandhom jithassru u s-subartikolu (9) tiegħu għandu jiġi enumerat mill-ġdid bhala s-subartikolu (6) tiegħu.

Emenda ta' l-artikolu 66 tal-Kostituzzjoni.

5. Fil-paragrafi (b) tas-subartikolu (2) ta' l-artikolu 66 tal-Kostituzzjoni, minflok il-kliem “l-artikoli minn 32 sa 48 (it-tnejn inklużi),” għandhom jidhru l-kliem “l-artikoli minn 32 sa 48D (it-tnejn inklużi),” u minflok il-kliem “l-artikoli 113, 114, 118, 119 jew 120 ta' din il-Kostituzzjoni” għandhom jidhru l-kliem “l-artikoli 113, 114, 118, 119, 120, 120A jew 120B ta' din il-Kostituzzjoni”.

Emenda ta' l-artikolu 85 tal-Kostituzzjoni.

6. Is-subartikolu (1) ta' l-artikolu 85 tal-Kostituzzjoni għandu jiġi emendat kif ġej:

(a) il-kelma “u” fi tmiem il-paragrafu (d) tiegħu għandha tithassar;

(b) minflok il-kliem “fil-persunal tiegħu.” fil-paragrafu (e) tiegħu għandhom jidhru l-kliem “fil-persunal tiegħu; u”; u

(ċ) minnufih wara l-paragrafu (e) tiegħu għandu jidded dan il-paragrafu (f) ġdid li ġej:

“(f) fil-kazijiet imsemmija fl-artikoli 60, 109, 118, 120, 120A u 120B ta’ din il-Kostituzzjoni.”.

7. L-artikolu 109 tal-Kostituzzjoni ghandu jigi emendat kif ġej: Emenda ta’ l-artikolu 109 tal-Kostituzzjoni.

(a) fis-subartikolu (1) tieghu minflok il-kliem “u minn membru wiehed sa tliet membri ohra” ghandhom jidhlu l-kliem “u tliet membri ohra”;

(b) minflok is-subartikolu (2) tieghu ghandu jidhol dan li ġej:

“(2) (a) *Ic-chairman, deputy chairman* u l-membri l-ohra tal-Kummissjoni dwar is-Servizz Pubbliku ghandhom jinhatru mill-President li jagixxi skond dak il-ftehim li jista’ jintlahaq bejn il-Prim Ministru u l-Kap ta’ l-Oppożizzjoni wara li jsiru konsultazzjonijiet skond ma hemm provdut fl-artikolu 120A ta’ din il-Kostituzzjoni u fin-nuqqas ta’ ftehim bhal dak skond il-paragrafu (b) ta’ dan is-subartikolu.

(b) Meta ma jintlahaqx ftehim bejn il-Prim Ministru u l-Kap ta’ l-Oppożizzjoni fuq il-hatra tal-membri kollha jew xi wiehed minnhom tal-Kummissjoni dwar is-Servizz Pubbliku skond ma hemm provdut fl-artikolu 120A ta’ din il-Kostituzzjoni l-President ghandu jahtar lill-membri ta’ dik il-Kummissjoni kif ġej:

(i) fil-hatra taç-*chairman* il-President jagixxi fuq il-parir tal-Prim Ministru;

(ii) fil-każ tad-*deputy chairman* u tal-membri l-ohra il-President ghandu jahtar lid-*deputy chairman* u lil membru wiehed hekk kif jidhirlu xieraq filwaqt li jagixxi skond il-ġudizzju deliberat tieghu stess, lil membru wara li jagixxi fuq il-parir tal-Prim Ministru u membru wara li jagixxi fuq il-parir tal-Kap ta’ l-Oppożizzjoni.”; u

(c) is-subartikoli (6) u (7) tieghu ghandhom jithassru.

8. L-artikolu 118 tal-Kostituzzjoni ghandu jigi emendat kif ġej: Emenda ta’ l-artikolu 118 tal-Kostituzzjoni.

(a) minflok il-kliem “Awtorità dwar ix-Xandir” kull fejn jinsabu ghandhom jidhlu l-kliem “Kummissjoni dwar ix-Xandir”;

(b) minflok is-subartikoli (1) u (2) tieghu ghandu jidhol dan li ġej:

“(1) Ghandu jkun hemm Kummissjoni dwar ix-Xandir ghal Malta li tkun maghmula minn *chairman* u minn erba’ membri ohra.

(2) (a) *Iċ-chairman* u l-membri l-oħra tal-Kummissjoni dwar ix-Xandir jinhatru mill-Prim Ministru skond dak il-ftehim li jista' jintlahaq bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni wara konsultazzjonijiet skond kif hemm provdut fl-artikolu 120A ta' din il-Kostituzzjoni, u fin-nuqqas ta' ftehim bhal dak skond ma hemm fil-paragrafu (b) ta' dan is-subartikolu.

(b) Meta ma jintlahaqx ftehim bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni fuq il-hatra tal-membri kollha jew xi wiehed minnhom tal-Kummissjoni dwar ix-Xandir il-President ghandu jahtar il-membri ta' dik il-Kummissjoni kif ġej:

(i) fil-każ taċ-*chairman* u ta' żewġ membri oħra l-President ghandu jaġixxi skond il-ġudizzju deliberat tiegħu stess u jahtar tliet persuni hekk kif jidhirlu xieraq; u

(ii) fil-każ taż-żewġ membri li jifdal il-President ghandu jahtar membru wiehed wara li jaġixxi fuq il-parir tal-Prim Ministru u membru wiehed wara li jaġixxi fuq il-parir tal-Kap ta' l-Oppożizzjoni.”; u

(ċ) is-subartikoli (6) u (7) tiegħu ghandhom jithassru, u s-subartikolu (8) tiegħu ghandu jiġi enumerat mill-ġdid bhala s-subartikolu (6) tiegħu.

Emenda ta' l-artikolu 119 tal-Kostituzzjoni.

9. Fl-artikolu 119 tal-Kostituzzjoni, minflok il-kliem “Awtorità dwar ix-Xandir” kull fejn jinsabu ghandhom jidhlu l-kliem “Kummissjoni dwar ix-Xandir”.

Emenda ta' l-artikolu 120 tal-Kostituzzjoni.

10. L-artikolu 120 tal-Kostituzzjoni ghandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (2) tiegħu ghandu jidhol dan li ġej:

“(2) (a) *Iċ-chairman* u l-membri l-oħra tal-Kummissjoni dwar l-Impiegi jkunu mahtura mill-President skond dak il-ftehim li jista' jintlahaq bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni wara konsultazzjoni skond kif hemm provdut fl-artikolu 120A ta' din il-Kostituzzjoni, u fin-nuqqas ta' ftehim bhal dak, skond ma hemm fil-paragrafu (b) ta' dan is-subartikolu.

(b) Meta ma jintlahaqx ftehim bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni fuq il-hatra tal-membri kollha jew ta' xi wiehed minnhom tal-Kummissjoni dwar l-Impiegi skond kif provdut fl-

artikolu 120A ta' din il-Kostituzzjoni, il-President jahtar il-membri ta' dik il-Kummissjoni kif ġej:

(i) fil-każ taç-*chairman* u ta' żewġ membri oħra l-President jaġixxi skond il-ġudizzju deliberat tiegħu stess u jahtar tliet persuni skond ma jidhirlu xieraq; u

(ii) fil-każ taż-żewġ membri l-oħra l-President jahtar membru wiehed wara li jaġixxi fuq il-parir tal-Prim Ministru u membru wiehed wara li jaġixxi fuq il-parir tal-Kap ta' l-Oppożizzjoni.”; u

(b) fis-subartikoli (6) u (7), minflok il-kliem “li jaġixxi skond il-parir tad-detentur tal-kariga li fuq il-parir tiegħu jkun ġie mahtur dak il-membri, mogħti, meta jkun il-każ, kif provdut fis-subartikolu (2) ta' dan l-artikolu,” kull fejn jinsabu, għandhom jidhlu l-kliem “li jaġixxi skond il-ġudizzju deliberat tiegħu stess.”.

11. Minnufih wara l-artikolu 120 tal-Kostituzzjoni għandhom jidhlu dawn l-artikoli 120A u 120B ġodda li ġejjin:

Zieda ta' l-artikoli 120A u 120B ġodda mal-Kostituzzjoni.

“Hatra ta' ċerti kummissjonijiet.

120A. (1) Kull meta ż-żmien tal-kariga tal-membri ta' kummissjoni jkun se jiskadi, u f'kull każ mhux aktar kmieni minn 35 jum u mhux aktar tard minn 24 jum qabel id-data meta dak iż-żmien ikollu jiskadi, il-President għandu jsejjah laqgħa bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni sabiex isiru l-konsultazzjonijiet mahsubin biex iwasslu għal ftehim dwar il-persuni li jkollhom jinhatru membri tal-Kummissjoni.

(2) Meta f'dik il-laqgħa l-Prim Ministru u l-Kap ta' l-Oppożizzjoni jaqblu dwar il-hatra taç-*chairman* u tal-membri l-oħra kollha tal-Kummissjoni, il-President jahtar liç-*chairman* u l-membri l-oħra kollha tal-Kummissjoni skond dak il-ftehim.

(3) Meta l-Prim Ministru u l-Kap ta' l-Oppożizzjoni jaqblu dwar il-persuna li jkollha tinhatar *chairman* iżda ma jaqblux fuq il-hatra tal-membri l-oħra kollha tal-Kummissjoni, il-President jaġixxi skond dak il-ftehim u jahtar lil dik il-persuna bhala *chairman* tal-Kummissjoni.

(4) Meta l-Prim Ministru u l-Kap ta' l-Oppożizzjoni jaqblu fuq il-hatra tal-membri kollha tal-Kummissjoni minbarra ç-*chairman*, il-President jaġixxi skond dak il-ftehim u jahtar lill-persuni li dwarhom ikun hemm qbil biex isiru membri tal-Kummissjoni.

(5) Meta waqt laqgħa li ssir skond ma hemm fis-subartikolu (1) ta' dan l-artikolu ma jintlahaqx ftehim bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni fuq il-hatra taç-*chairman* u tal-membri l-oħra kollha tal-Kummissjoni l-President jaġġorna l-laqgħa għal data oħra li ma tkunx iktar tard minn sebat ijiem wara.

(6) Id-dispożizzjonijiet tas-subartikoli (2), (3) u (4) għandhom ikunu japplikaw ukoll għal kull ftehim hemm imsemmi li jintlahaq waqt laqgħa li tkun għet aġġornata skond ma hemm provdut fis-subartikolu (5).

(7) Meta waqt il-laqgħat qabel imsemmija ma jintlahaqx ftehim bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni dwar:

(a) il-hatra taç-*chairman* u tal-membri l-oħra kollha tal-Kummissjoni;

(b) il-hatra, biss, taç-*chairman* tal-Kummissjoni;

(c) il-hatra tal-membri kollha, minbarra taç-*chairman* tal-Kummissjoni,

il-hatra ssir mill-President skond id-dispożizzjonijiet applikabbli fl-artikoli 60, 109, 118 u 120 ta' din il-Kostituzzjoni.

(8) Il-membri kollha tal-Kummissjoni, inkluż iç-*chairman*, għandhom jinhatru għall-istess żmien ta' kariga.

(9) Ebda haġa f'dan l-artikolu jew fl-artikoli 60, 109, 118 jew 120 ta' din il-Kostituzzjoni ma għandha tiftiehem bhala li tipprekludi lill-Prim Ministru jew lill-Kap ta' l-Oppożizzjoni milli jaġhti parir lill-President li jahtar bhala *chairman* jew membru ieħor tal-Kummissjoni, persuna li ma jkunx intlahaq ftehim dwar il-hatra tagħha waqt il-laqgħat imsemmija f'dan l-artikolu, jew bhala li tipprekludi l-President, meta jkun qed jaġixxi skond il-għudizzju deliberat tiegħu, milli jahtar lil xi persuna li waqt dawk il-laqgħat kienet għet sugġerita mill-Prim Ministru jew mill-Kap ta' l-Oppożizzjoni.

(10) F'dan l-artikolu "Kummissjoni" tfisser il-Kummissjoni Elettorali mwaqqfa bl-artikolu 60 ta' din il-Kostituzzjoni, il-Kummissjoni dwar is-Servizz Pubbliku mwaqqfa bl-artikolu 109 ta' din il-Kostituzzjoni, il-Kummissjoni dwar ix-Xandir mwaqqfa bl-artikolu 118 ta' din il-Kostituzzjoni u l-Kummissjoni dwar l-Impiegi mwaqqfa bl-artikolu 120 ta' din il-Kostituzzjoni.

120B. (1) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw dwar il-Kummissjoni Elettorali, il-Kummissjoni dwar is-Servizz Pubbliku u l-Kummissjoni dwar ix-Xandir, li kull waħda minhom f'dan l-artikolu qed tissejjaħ "Kummissjoni".

(2) *Iċ-chairman* jew membru ieħor ta' Kummissjoni jista' biss jitnehha mill-kariga mill-President minhabba f'inkapaċità li jaqdi l-funzjonijiet tal-kariga tiegħu (kemm jekk għal mard korporali jew mentali jew għal xi raġuni oħra) jew imġieba hażina.

(3) Meta l-kariga ta' membru ta' Kummissjoni tkun vakanti jew meta xi membru għal xi raġuni ma jkunx jista' jaqdi l-funzjonijiet tal-kariga tiegħu, il-President jista' jahtar persuna, li jkollha l-kwalifiki meħtieġa għal dik il-hatra, biex toqghod bhala membru temporanju ta' dik il-Kummissjoni, u kull min jiġi hekk mahtur għandu jieqaf, salv kull dispożizzjoni oħra ta' din il-Kostituzzjoni, milli jibqa' jagħmilha ta' membru meta tkun inhatret persuna biex tokkupa dik il-vakanza jew meta dak il-membru li kellu inkapaċità biex jaqdi l-funzjonijiet tal-kariga tiegħu jerga' lura għall-qadi ta' dawk il-funzjonijiet, skond il-każ.

(4) Meta l-kariga ta' membru ta' Kummissjoni ssir vakanti minhabba fil-mewt jew fir-riżenja tad-detentur tagħha, jew għal xi raġuni oħra, il-President għandu jahtar persuna oħra minflok għall-perijodu li jifdal miż-żmien tal-kariga oriġinali.

(5) Bla hsara għad-dispożizzjonijiet tas-subartikolu (6) ta' dan l-artikolu, fil-qadi tal-funzjonijiet tiegħu skond is-subartikoli (2), (3) u (4) ta' dan l-artikolu l-President jaġixxi skond il-parir tad-detentur tal-kariga li fuq il-parir tiegħu dak il-membru jew il-membru li tkun giet vakata l-kariga tiegħu jkun inhatar.

(6) Meta membru msemmi fis-subartikoli (2), (3) jew (4) ta' dan l-artikolu jkun inhatar mill-President li jaġixxi skond il-ftehim bejn il-Prim Ministru u l-Kap ta' l-Oppożizzjoni skond ma hemm provdut fl-artikolu 120A ta' din il-Kostituzzjoni, il-President għandu –

(a) isejjaħ laqgħa mal-Prim Ministru u l-Kap ta' l-Oppożizzjoni sabiex jaslu għal ftehim dwar x'għandu jsir; u

(b) fin-nuqqas a' ftehim, jaġixxi, meta jkun possibbli, skond id-dispożizzjoni relevanti ta' l-artikoli 60, 118 jew 119 ta' din il-Kostituzzjoni; jew

(ċ) meta ma jkunx jista' jaġixxi skond ma hemm fil-paragrafu (b) ta' dan is-subartikolu, jaġixxi skond il-gudizzju deliberat tiehu stess.”.

Emenda ta'
l-artikolu 121
tal-Kostituzzjoni.

12. Is-subartikoli (4) u (5) ta' l-artikolu 121 tal-Kostituzzjoni ghandhom jithassru.

Żieda tal-Hames
u s-Sitt Skedi
mal-Kostituzzjoni.

13. Minnufih wara r-Raba' Skeda li tinsab mal-Kostituzzjoni ghandhom jiziedu dawn il-Hames u s-Sitt Skedi li ġejjin:

“IL-HAMES SKEDA

(Artikolu 48C)

Proċedura waqt il-laqgħat tal-Kulleġġ Elettorali

(1) L-*iSpeaker* tal-Kamra tad-Deputati għandu jippresjedi l-Kulleġġ Elettorali:

Iżda meta l-*iSpeaker* jiġi elett minn fost persuni li mhumiex membri tal-Kamra tad-Deputati skond is-subartikolu (2) ta' l-artikolu 52 ta' din il-Kostituzzjoni, l-*iSpeaker* ma għandux jitqies li jkun membru tal-Kulleġġ Elettorali u jippresjedi biss il-laqgħat tal-Kulleġġ iżda ma jkollu ebda vot f'dawk il-laqgħat.

(2) Ma għandhom isiru ebda laqgħat tal-Kulleġġ Elettorali kemm-il darba ma jkunux saru l-elezzjonijiet għall-membri msemmija fil-paragrafu (b) ta' l-artikolu 48D tal-Kostituzzjoni, iżda l-proċedimenti tal-Kulleġġ Elettorali jkunu validi jekk ikun hemm preżenti *quorum* li jkun jikkonsisti f'għadd mill-membri tal-Kulleġġ li ma jkunx inqas minn terz ta' l-għadd kollu ta' membri li jistgħu jaġmlu l-Kulleġġ Elettorali skond l-artikolu 48D tal-Kostituzzjoni, minkejja kull vakanza fl-għadd ta' membri fil-Kamra tad-Deputati jew in-nuqqas li jiġi elett l-għadd ta' membri msemmi fil-paragrafu (b) ta' l-imsemmi artikolu 48D f'elezzjoni li ssir skond is-Sitt Skeda li tinsab mal-Kostituzzjoni ta' Malta.

(3) Meta fil-hin u d-data li tissejjah laqgħa tal-Kulleġġ Elettorali fihom ma jkunx hemm *quorum* preżenti, u dak il-*quorum* ma jinkisibx fi żmien siegħa mill-hin meta kellha tissejjah il-laqgħa, l-*iSpeaker* għandu jiddikjara li l-proċeduri għall-Elezzjoni tal-President mill-Kulleġġ Elettorali kienu inkonklusivi u jgħarraf lill-Kamra tad-Deputati b'li jkun gara.

(4) In-nomini msemmija fis-subartikoli (2) u (3) ta' l-artikolu 48C tal-Kostituzzjoni ta' Malta għandhom jingħataw f'idejn l-*iSpeaker* tal-Kamra tad-Deputati li għandu jsejjah il-Kulleġġ Elettorali għall-elezzjoni tal-President fi żmien sebat ijiem

mill-iskadenza tal-perijodu li fih jistghu isiru n-nomini kif imsemmi qabel.

(5) Hadd ma ghandu jiġi dikjarat elett ma' l-ewwel votazzjoni kemm-il darba fl-ahhar ghadd tal-voti f' dik il-votazzjoni huwa jkun ġie akkreditat b' maġġoranza tal-voti tal-membri kollha tal-Kulleġġ Elettorali.

(6) Jekk hadd ma jkun kiseb il-maġġoranza mehtieġa sabie x jiġi elett bhala President ma' l-ewwel votazzjoni ghandu jkun hemm votazzjoni ohra:

Iżda meta iktar minn żewġ persuni jkunu ikkontestaw l-ewwel votazzjoni, ikunu dawk iż-żewġ persuni biss, li jkunu l-persuni akkreditati bl-oghla ghadd ta' voti fl-ahhar ghadd, li jikkontestaw it-tieni u t-tielet votazzjoni.

(7) Meta l-ewwel votazzjoni tkun ġiet kontestata minn iktar minn żewġ persuni, hadd ma ghandu jiġi dikjarat elett fit-tieni votazzjoni kemm-il darba fl-ahhar ma jkunx ġie akkreditat lil xi persuna maġġoranza tal-voti tal-membri kollha tal-Kulleġġ Elettorali. Meta l-ewwel votazzjoni tkun ġiet kontestata minn żewġ persuni biss, min ikollu l-maġġoranza tal-voti fl-ahhar ghadd tat-tieni votazzjoni ghandu jiġi dikjarat elett minkejja li jista' ma jkunx kiseb maġġoranza tal-voti tal-membri kollha tal-Kulleġġ Elettorali.

(8) Meta fit-tieni votazzjoni hadd ma jiġi dikjarat elett, ghandha ssir it-tielet votazzjoni li fiha min ikollu l-maġġoranza tal-voti mitfughin fl-ahhar ghadd ghandu jiġi dikjarat elett minkejja li seta' ma kisibx il-maġġoranza tal-voti tal-membri kollha tal-Kulleġġ Elettorali.

(9) Ir-regoli li jirregolaw l-ghadd, it-trasferiment u l-akkreditar tal-voti li jinsabu f'kull liġi dwar it-tmexxija ta' elezzjonijiet ta' membri tal-Kamra tad-Deputati ghandhom ikunu *mutatis mutandis* japplikaw ghal mod li bih il-voti li jintefghu waqt votazzjoni tal-Kulleġġ Elettorali ghandhom jinghaddu, jiġu trasferiti u akkreditati lil xi persuna.

(10) Meta mat-tieni ghadd tat-tielet votazzjoni żewġ persuni jkollhom akkreditat favur taghhom ghadd indaqs ta' voti, il-persuna li jkollha l-oghla ghadd ta' voti lilha akkreditat fl-ewwel ghadd ghandha titqies li jkollha l-oghla ghadd ta' voti fit-tieni ghadd. Meta l-voti akkreditati lil dawk il-persuni fl-ewwel ghadd ikun indaqs, l-*Speaker* jiddikajra li l-proċeduri ghall-Elezzjoni tal-President mill-Kulleġġ Elettorali kienu inkonkluzivi u jgharraf b'dan lill-Kamra.

(11) Meta l-voti akkreditati lil żewġ persuni fl-ewwel ghadd fl-ewwel votazzjoni jkunu ndaqs u ma jkun hemm ebda persuna

ohra li jkollha għadd inqas ta' voti lilha akkreditat, il-Kulleġġ Elettorali għandu jgħaddi biex jagħmel it-tieni votazzjoni bejn dawk iż-żewġ persuni.

(12) It-tieni u t-tielet votazzjoni għandhom isiru wara intervall ta' mhux inqas minn tletin minuta u mhux iktar minn siegħa wara l-ewwel votazzjoni u t-tieni votazzjoni rispettivament.

(13) Meta skond dawn ir-regoli l-Kulleġġ Elettorali jonqos milli jeleġġi President ta' Malta, l-*Speaker* jiddikkjara l-proċeduri għall-Elezzjoni tal-President mill-Kulleġġ Elettorali inkonklużivi u jgħarraf b'dan lill-Kamra.

IS-SITT SKEDA

(Artikolu 48D)

Regoli li Jirregolaw l-elezzjoni ta' Membri tal-Kulleġġ Elettorali

1. Fi żmien is-sebat ijiem imsemmija fis-subartikolu (2) ta' l-artikolu 48C ta' din il-Kostituzzjoni l-*Speaker* tal-Kamra tad-Deputati għandu jlaqqa' żewġ laqgħat separati, laqgħa għal sindki ta' lokalitajiet li jkollhom popolazzjoni bil-jedd ta' vot ta' 6,000 abitant (jew dak l-għadd akbar li l-Kamra tista' b'Riżoluzzjoni minn żmien għal żmien tistabilixxi) jew aktar, u laqgħa għal sindki ta' lokalitajiet li jkollhom popolazzjoni bil-jedd ta' vot ta' anqas minn 6000 abitant (jew dak l-għadd akbar li l-Kamra tista' b'Riżoluzzjoni tistabilixxi kif imsemmi qabel):

Iżda ebda riżoluzzjoni bħal dik ma tista' titressaq matul is-sebat ijiem imsemmija fis-subartikolu (2) ta' l-artikolu 48C ta' din il-Kostituzzjoni.

2. Dawk il-laqgħat għandhom jissejhu permezz ta' avviż li jiġi pubblikat fil-*Gazzetta* tal-Gvern u li jitwassal fl-uffiċċju tal-Kunsill Lokali tas-sindki rispettivi.

3. F'kull wiehed minn dawk il-laqgħat is-sindki li jkunu hemm preżenti jeleġġu minn fosthom permezz tas-sistema tal-vot singlu trasferibbli sittax-il pesuna li jsiru membri tal-Kulleġġ Elettorali kif provdūt fl-artikolu 48D ta' din il-Kostituzzjoni:

Iżda ebda persuna ma tista' tkun preżenti jew tiġi eletta f'xi wahda minn dawk il-laqgħat jekk ma tkunx ċittadin ta' Malta.

4. Biex tiġi stabbilita l-popolazzjoni bil-jedd ta' vot ta' lokalità għandu jitqies l-għadd ta' votanti li jkunu registrati fir-Registru Elettorali tal-Kunsilli Lokali l-aħhar pubblikat fiż-żmien meta jitlaqqgħu dawk il-laqgħat:

Iżda ma ghandhomx jitqiesu dawk il-votanti li għalkemm ikunu jinsabu reġistrati fuq dawk ir-reġistri ma jkunux ċittadini ta' Malta.

5. F'kull wiehed mill-laqgħat imsemmija fir-regoli ta' qabel is-sindki kollha preżenti, kemm-il darba ma jkunux iddikjaraw fil-laqgħa li ma kienx bi hsiebhom ikunu kandidati għall-elezzjoni bhala membri tal-Kulleġġ Elettorali, għandhom ikunu kandidati għall-elezzjoni fil-Kulleġġ Elettorali.

6. L-*Speaker* tal-Kamra tad-Deputati jippresjedi dawk il-laqgħat u jirregola l-proċedura fihom.

7. Il-proċedura għall-ghadd u trasferiment ta' voti li tinsab f'kull liġi li f'dak iż-żmien tkun tirregola l-elezzjonijiet ta' membri għall-Kamra tad-Deputati għandha *mutatis mutandis* tapplika għall-ghadd u trasferiment ta' voti f'dawk il-laqgħat:

Iżda meta skond dik il-liġi jkollha tinqata' bix-xorti l-kwistjoni dwar min miż-żewġ kandidati jkollu l-oghla għadd ta' voti, il-kandidat li jkun is-sindku tal-lokalità li jkollha l-oghla popolazzjoni bil-jedd ta' vot jitqies li jkun akkreditat bl-oghla għadd ta' voti, u minn naha l-oħra l-kandidat li jkun is-sindku tal-lokalità li jkollha l-anqas jew l-iċken popolazzjoni bil-jedd ta' vot jitqies li jkun akkreditat bl-inqas jew l-iċken għadd ta' voti, u dik il-kwistjoni għandha biss tinqata' bix-xorti meta ż-żewġ kandidati jkunu sindki ta' żewġ lokalitajiet li jkollhom l-istess għadd ta' voti:

Iżda wkoll kull regola f'dawk il-liġijiet li tkun tillimita t-trasferibilità tal-voti minn persuna li tkun tappartjeni għal partit politiku għal persuna oħra li ma tkunx tappartjeni għal dak il-partit, ma għandhiex tkun tapplika f'dawk l-elezzjonijiet.

8. Hadd ma għandu jiġi dikjarat elett kemm-il darba persuna ma tkunx gābet favur tagħha kwota ta' voti li tinhadem billi jinqasam l-ghadd totali ta' sindki eligibbli li jkunu preżenti f'dik il-laqgħa u wiehed iktar magħhom:

Iżda meta l-ghadd ta' sindki preżenti li jkunu jridu jiġu eletti jkun ta' sittax jew anqas, dawk il-membri hemm preżenti u jridu li jiġu eletti għandhom jitqiesu li jkunu l-membri tal-Kulleġġ Elettorali li jkun gie elett f'dik il-laqgħa:

Iżda wkoll meta f'xi għadd, l-ghadd ta' kandidati li jkunu għandhom ma ġewx eliminati jkun daqs l-ghadd ta' persuni li jkunu għandhom jenhtieġu li jiġu eletti f'dik il-laqgħa, dawk il-persuni għandhom jiġu dikjarati eletti minkejja li ma jkunux gābu favur tagħhom il-kwota ta' voti msemmija f'din ir-Regola.

9. Ma ghandu jkun hemm ebda appell minn xi deċiżjoni ta' l-*Speaker* f'xi laqgħa msemmija f'dan l-artikolu, u ma ghandu jkun hemm ebda kontestazzjoni kontra xi deċiżjoni bħal dik quddiem ebda awtorità.”.

Dispożizzjonijiet
transitorji.

14. (1) Jekk meta jibda jsehh dan l-Att, il-membri ta' Kummissjoni jkunu ġew mahtura għal żminijiet ta' kariga differenti, iż-żmien ta' kariga tal-membri kollha għandu jitqies li jiskadi fid-data ta' l-iskadenza taż-żmien ta' dak il-membri li ż-żmien ta' kariga tiegħu jiskadi fl-eqreb data wara l-bidu fis-sehh ta' dan l-Att.

(2) Jekk meta jibda jsehh dan l-Att il-kariga tal-membri kollha ta' xi kummissjoni tkun vakanti, il-President isejjah il-laqgħa msemmija fis-subartikolu (1) ta' l-artikolu 120A tal-Kostituzzjoni, mhux iktar tard minn hmistax-il jum wara l-bidu fis-sehh ta' dan l-Att.

(3) Jekk meta jibda jsehh dan l-Att il-kariga ta' xi membru ta' xi Kummissjoni tkun vakanti, iżda l-kariga tal-membri kollha tkun għadha ma saritx vakanti, il-President għandu jahtar skond l-artikolu 120B tal-Kostituzzjoni membri temporanji ta' dik il-Kummissjoni li jibqgħu fil-kariga sakemm jiskadi ż-żmien ta' kariga tal-membri kollha tal-Kummissjoni skond ma hemm fis-subartikolu (1) ta' dan l-artikolu.

(4) Għall-ghanijiet ta' dan l-artikolu “Kummissjoni” tfisser il-Kummissjoni Elettorali, il-Kummissjoni dwar is-Servizz Pubbliku, il-Kummissjoni dwar ix-Xandir u l-Kummissjoni dwar l-Impiegi mwaqqfa bl-artikoli 60, 109, 118 u 120 tal-Kostituzzjoni, rispettivament.

Adattar ta'
Liġijiet.

15. (1) Kull referenza f'xi liġi għall-Awtorità dwar ix-Xandir għandha titqies bħala referenza għall-Kummissjoni dwar ix-Xandir mwaqqfa bl-artikolu 118 tal-Kostituzzjoni kif emendata b'dan l-Att.

(2) Mingħajr preġudizzju għas-subartikolu (1) ta' dan l-artikolu, il-Prim Ministru jista' b'ordni magħmul f'kull żmien matul perijodu ta' tnax-il xahar mill-bidu fis-sehh ta' dan l-Att jagħmel dawk l-emendi f'kull liġi li tkun fis-sehh li bihom jibdel kull referenza li hemm għall-Awtorità dwar ix-Xandir f'dawk il-liġijiet għal referenza għall-Kummissjoni dwar ix-Xandir.

Ghanijiet u Raġunijiet

L-Għan ta' l-Abbozz huwa sabiex jipprovdi metodu li bih jinkiseb kunsens iktar wiesgħa dwar il-hatra tal-membri ta' ċerti kummissjonijiet kostituzzjonali. L-Abbozz jipprovdi wkoll li għandu jkun hemm konsultazzjonijiet qabel ma ssir l-elezzjoni ta' President ta' Malta, u sabiex jitwaqqaf Kullegġ Elettorali, u sabiex l-elezzjoni tal-President tibda ssir f'ċerti ċirkostanzi mill-imsemmi Kullegġ Elettorali.

**A BILL
entitled**

AN ACT to amend the Constitution of Malta providing for consultations to take place whenever the President of the Republic is to be appointed and to regulate the manner of his election, and to provide for the method of consultations in the nomination and appointment of members of certain commissions under the said Constitution.

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:—

1. This Act may be cited as The Constitution of Malta Short title. (Amendment) (No. 1) Act, 1995 and shall be read and construed as one with the Constitution of Malta hereinafter referred to as "The Constitution".

2. Section 48 of the Constitution shall be amended as follows: Amendment of section 48 of the Constitution.

(a) in subsection (1) thereof immediately after the words "the House of Representatives" there shall be added the words "or by the Electoral College as provided in this Chapter of this Constitution";

(b) in paragraph (b) of subsection (3) thereof, for the words "inability to perform" there shall be substituted the words "proved inability to perform", and for the words "or misbehaviour." there shall be substituted the words "or proved misbehaviour; or"; and

(c) immediately after paragraph (b) of subsection (3) thereof there shall be added the following new paragraph:

“(c) if the holder of the office resigns or dies in office.”.

Addition of sections 48A, 48B, 48C and 48D to the Constitution.

3. Immediately after section 48 of the Constitution there shall be added the following new sections:

“Consultations. 48A. (1) Not earlier than sixty days and not later than fifty days before the office of President of Malta is due to become vacant in terms of paragraph (a) of subsection (3) of section 48 of this Constitution, the President shall convene and preside over a meeting between the Prime Minister and the Leader of the Opposition wherein consultations are held with the purpose of reaching agreement on the person to be nominated for election as President of Malta in accordance with section 48B of this Constitution.

(2) If the office of President becomes vacant in terms of paragraphs (b) or (c) of subsection (3) of section 48 of this Constitution, the meeting shall be convened and shall be presided by the person performing the functions of President in accordance with section 49 of this Constitution, within seven days of the date when the office of President becomes vacant.

(3) If agreement is not reached between the Prime Minister and the Leader of the Opposition on the person to be nominated for election as President, the person presiding the meeting shall convene further meetings, not being less than two in number, within the next following thirty days, with the aim of reaching agreement between the Prime Minister and the Leader of the Opposition on such nomination.

Election by the House of Representatives.

48B. (1) Where, through the consultations held in accordance with section 48A of this Constitution, agreement is reached between the Prime Minister and the Leader of the Opposition on the person to be nominated for election as President, the Prime Minister and the Leader of the Opposition shall jointly present a motion for a resolution in the House of Representatives for the appointment of such person as President of Malta.

(2) The motion shall be debated by the House of Representatives on the next following day.

(3) If the resolution is not approved by the House of Representatives the election of the President shall be held in accordance with section 48C of this Constitution.

Election by
Electoral
College.

48C. (1) Where agreement is not reached between the Prime Minister and the Leader of the Opposition at the meetings held in accordance with section 48A of this Constitution the Prime Minister shall make a statement in the House of Representatives informing it of such fact within ten days of the expiration of the period referred to in subsection (3) of section 48A of this Constitution.

(2) Within the seven days following the statement of the Prime Minister referred to in subsection (1) of this section, or within seven days of the vote whereby a motion as is referred to in section 48B is not approved by the House of Representatives, any number of members of the House of Representatives who together constitute at least thirty *per centum* of the total number of members of the House of Representatives may nominate a person qualified for election as President in accordance with this Constitution for election as President of Malta by the Electoral College established in accordance with section 48D of this Constitution.

(3) No member of the House of Representatives may nominate more than one person for election in accordance with subsection (2) of this section.

(4) The election of the President by the Electoral College shall be by means of the system of single transferable vote in accordance with the procedure set out in the Fifth Schedule to this Constitution.

(5) Where the procedures for election of the President by the Electoral College are inconclusive the President shall be appointed by resolution of the House and the provisions of sections 48A and 48B shall not apply to such resolution.

The
Electoral
College.

48D. There shall be an Electoral College which shall consist of:

(a) all the members of the House of Representatives;

(b) thirty two other members elected from among mayors of local councils in the manner provided in the Sixth Schedule to this Constitution.”.

Amendment of section 60 of the Constitution.

4. Section 60 of the Constitution shall be amended as follows:

(a) for subsections (2) and (3) thereof there shall be substituted the following:

“(2) The Electoral Commission shall consist of a Chairman and eight other members.

(3) (a) The Chairman and other members of the Electoral Commission shall be appointed by the President in accordance with such agreement as may be reached between the Prime Minister and the Leader of the Opposition following consultations as provided for in section 120A of this Constitution, and failing such agreement in accordance with paragraph (b) of this subsection.

(b) Where agreement is not reached between the Prime Minister and the Leader of the Opposition on the appointment of all or any of the members of the Electoral Commission as provided in section 120A of this Constitution the President shall appoint the members of the said Commission as follows:

(i) in the case of the chairman the President acting on his own deliberate judgement shall appoint a person from a list of three persons submitted to him by the Prime Minister; and

(ii) in the case of the other members the President shall appoint two members as he deems fit acting on his own deliberate judgement; three members acting on the advice of the Prime Minister and three members acting on the advice of the Leader of the Opposition.”; and

(b) subsections (6), (7) and (8) thereof shall be deleted and subsection (9) thereof shall be renumbered as subsection (6) thereof.

Amendment of section 66 of the Constitution.

5. In paragraph (b) of subsection (2) of section 66 of the Constitution, for the words “sections 32 to 48 (inclusive),” there shall

be substituted the words “32 to 48D (inclusive)”, and for the words “sections 113, 114, 118, 119 or 120 of this Constitution,” there shall be substituted the words “sections 113, 114, 118, 119, 120, 120A or 120B of this Constitution.”.

6. Subsection (1) of section 85 of the Constitution shall be amended as follows:

Amendment of
section 85 of
the Constitution.

(a) the word “and” at the end of paragraph (d) thereof shall be deleted;

(b) for the words “his personal staff.” in paragraph (e) thereof there shall be substituted the words “his personal staff; and”; and

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

“(f) in the cases mentioned in sections 60, 109, 118, 120, 120A and 120B of this Constitution.”.

7. Section 109 of the Constitution shall be amended as follows:

Amendment of
section 109 of
the Constitution.

(a) in subsection (1) thereof for the words “and one to three other members” there shall be substituted the words “and three other members”;

(b) for subsection (2) thereof there shall be substituted the following:

“(2) (a) The chairman, deputy chairman and other members of the Public Service Commission shall be appointed by the President acting in accordance with such agreement as may be reached between the Prime Minister and the Leader of the Opposition following consultations as provided for in section 120A of this Constitution and failing such agreement in accordance with paragraph (b) of this subsection.

(b) Where agreement is not reached between the Prime Minister and the Leader of the Opposition on the appointment of all or of any of the members of the Public Service Commission as provided in section 120A of this Constitution the President shall appoint the members of the said Commission as follows:

(i) in the appointment of the Chairman the President shall act on the advice of the Prime Minister:

(ii) in the case of the deputy chairman and the other members the President shall appoint the deputy chairman and one member as he deems fit acting on his own deliberate judgement, one member acting on the advice of the Prime Minister and one member acting on the advice of the Leader of the Opposition.”; and

(c) subsections (6) and (7) thereof shall be deleted.

Amendment of
section 118 of
the Constitution.

8. Section 118 of the Constitution shall be amended as follows:

(a) for the words “Broadcasting Authority” whenever they appear, there shall be substituted the words “Broadcasting Commission”;

(b) for subsections (1) and (2) thereof there shall be substituted the following:

“(1) There shall be a Broadcasting Commission for Malta which shall consist of a chairman and four other members.

(2) (a) The chairman and other members of the Broadcasting Commission shall be appointed by the Prime Minister in accordance with such agreement as may be reached between the Prime Minister and the Leader of the Opposition following consultations as provided for in section 120A of this Constitution, and failing such agreement in accordance with paragraph (b) of this subsection.

(b) Where agreement is not reached between the Prime Minister and the Leader of the Opposition on the appointment of all or any of the members of the Broadcasting Commission the President shall appoint the members of the said Commission as follows:

(i) in the case of the chairman and two other members the President shall act on his own deliberate judgement and appoint three persons as he deems fit; and

(ii) in the case of the remaining two members the President shall appoint one member acting on the advice of the Prime Minister and one member acting on the advice of the Leader of the Opposition.”; and

(c) subsections (6) and (7) thereof shall be deleted, and subsection (8) thereof shall be renumbered as subsection (6) thereof.

9. In section 119 of the Constitution, for the words “Broadcasting Authority” wherever they appear there shall be substituted the words “Broadcasting Commission”. Amendment of section 119 of the Constitution.

10. Section 120 of the Constitution shall be amended as follows: Amendment of section 120 of the Constitution.

(a) for subsection (2) thereof, there shall be substituted the following:

“(2) (a) The chairman and other members of the Employment Commission shall be appointed by the President in accordance with such agreement as may be reached between the Prime Minister and the Leader of the Opposition following consultations as provided for in section 120A of this Constitution, and failing such agreement in accordance with paragraph (b) of this subsection.

(b) Where agreement is not reached between the Prime Minister and the Leader of the Opposition on the appointment of all or any of the members of the Employment Commission as provided in section 120A of this Constitution the President shall appoint the members of the said Commission as follows:

(i) in the case of the Chairman and two other members the President acting on his own deliberate judgement shall appoint three persons as he thinks fit; and

(ii) in the case of the other two members the President shall appoint one member acting on the advice of the Prime Minister and one member acting on the advice of the Leader of the Opposition.”; and

(b) in subsections (6) and (7) thereof, the words "acting in accordance with the advice of the holder of the office on whose advice such member was appointed, given, where applicable, as provided in subsection (2) of this section," wherever they appear, shall be substituted by the words "acting on his own deliberate judgement."

Addition of new sections 120A and 120B to the Constitution.

11. Immediately after section 120 of the Constitution there shall be inserted the following new sections 120A and 120B:

"Appointment of certain commissions.

120A. (1) Whenever the term of office of the members of a commission is about to lapse, and in any case not earlier than 35 days and not later than 24 days before the date when such term is due to lapse, the President shall convene a meeting between the Prime Minister and the Leader of the Opposition, for consultations aimed at achieving agreement on the persons to be appointed members of the Commission.

(2) Where at such meeting the Prime Minister and the Leader of the Opposition agree on the appointment of the chairman and all the other members of the Commission, the President shall appoint the chairman and all the other members of the commission in accordance with such agreement.

(3) Where the Prime Minister and the Leader of the Opposition agree on the person to be appointed chairman but do not agree on the appointment of all the other members of the commission, the President shall act in accordance with such agreement and appoint such person as chairman of the Commission.

(4) Where the Prime Minister and the Leader of the Opposition agree on the appointment of all the members of the Commission other than the chairman, the President shall act in accordance with such agreement and appoint the persons so agreed upon to be members of the Commission.

(5) Where at a meeting held in accordance with subsection (1) of this section agreement is not reached between the Prime Minister and the Leader of the Opposition on the appointment of the chairman and all the other members of the Commission the President shall adjourn the meeting for a date not later than seven days.

(6) The provisions of subsections (2), (3) and (4) shall also apply to any agreement therein referred to reached at a meeting adjourned as provided in subsection (5).

(7) Where at the meetings above referred to agreement is not reached between the Prime Minister and the Leader of the Opposition on:

(a) the appointment of the chairman and all the other members of the Commission;

(b) the appointment, only, of the chairman of the Commission;

(c) the appointment, of all the members, other than the chairman, of the Commission

the appointment shall be made by the President in accordance with the applicable provisions in sections 60, 109, 118 and 120 of this Constitution.

(8) All the members of a Commission, including the chairman, shall be appointed for the same term of office.

(9) Nothing in this section or in sections 60, 109, 118 or 120 of this Constitution shall be construed as precluding the Prime Minister or the Leader of the Opposition from advising the President to appoint as a chairman or other member of the Commission, a person on whose appointment agreement was not reached at the meetings referred to in this section, or as precluding the President, when acting on his own deliberate judgement, from appointing any person who at such meetings had been suggested by the Prime Minister or the Leader of the Opposition.

(10) In this section "Commission" means the Electoral Commission established by section 60 of this Constitution, the Public Service Commission established by section 118 of this Constitution, the Broadcasting Commission established by section 119 of this Constitution and the employment Commission established by section 120 of this Constitution.

120B. (1) The provisions of this section shall apply with respect to the Electoral Commission, the Public Service Commission and the Broadcasting Commission, each referred to in this section as "a Commission".

(2) The chairman or other member of a Commission may only be removed from office by the President, on the ground of inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or misbehaviour.

(3) Where the office of a member of a Commission is vacant or where a member is for any cause unable to perform the functions of his office, the President may appoint a person, who has the qualifications necessary for such appointment, as a temporary member of the Commission, and any person so appointed shall, saving any other provision of this Constitution, cease to be such a member where a person has been appointed to fill such vacancy or where the member who was unable to perform the functions of his office resumes those functions, as the case may be.

(4) Where the office of a member of a commission becomes vacant through the death or resignation of the holder, or for any other cause, the President shall appoint another person in his stead for the remaining period of the original term of office.

(5) Subject to the provisions of subsection (6) of this section, in the discharge of his functions under subsections (2), (3) and (4) of this section the President shall act in accordance with the advice of the holder of the office on whose advice such member or the member whose office is vacated was appointed.

(6) Where a member referred to in subsections (2), (3) or (4) of this section had been appointed by the President acting in accordance with the agreement of the Prime Minister and the Leader of the Opposition as provided in section 120A of this Constitution the President shall –

(a) convene a meeting of the Prime Minister and the Leader of the Opposition in order to seek agreement on the action to be taken; and

(b) failing an agreement, act, where possible, in accordance with the relevant provision of sections 60, 118 or 119 of this Constitution; or

(c) where it is not possible to act as provided in paragraph (b) hereof, act in accordance with his own deliberate judgement.”.

12. Subsection (4) and (5) of section 121 of the Constitution shall be deleted. Amendment of section 121 of the Constitution.

13. Immediately after the Fourth Schedule to the Constitution there shall be added the following Fifth and Sixth Schedules: Addition of Fifth and Sixth Schedules to the Constitution.

“FIFTH SCHEDULE

(Section 48C)

Procedure at meeting of the Electoral College

(1) The Speaker of the House of Representatives shall preside over the Electoral College:

Provided that where the Speaker is elected from among persons who are not members of the House of Representatives in accordance with subsection (2) of section 52 of this Constitution, the Speaker shall not be considered as being a member of the Electoral College and shall only preside over its meetings but shall not vote thereat.

(2) No meetings of the Electoral College shall be held unless elections for the members referred to in paragraph (b) of section 48D of the Constitution have been held, but proceedings of the Electoral College shall be valid if a quorum consisting of a number of its members being not less than one third of all the total number of members that may compose the Electoral College in accordance with section 48D of the Constitution is present, notwithstanding any vacancy in the membership of the House of Representatives or failure to return the number of members referred to in paragraph (b) of the said section 48D in the election held in accordance with the Sixth Schedule to the Constitution of Malta.

(3) Where at the time and date on which a meeting of the Electoral College a quorum is not present, and such quorum is not reached within an hour of the time for which the meeting is convened the Speaker shall declare that the procedures for the Election of the President by the Electoral College are inconclusive and inform the House of Representatives accordingly.

(4) Nominations referred to in subsections (2) and (3) of section 48C of the Constitution of Malta shall be handed to the Speaker of the House of Representatives who shall convene the

Electoral College for the election of the President within seven days of the expiration of the period within which nominations may be made as aforesaid.

(5) No person shall be declared elected in the first ballot unless in the last count of the votes in that ballot he shall have credited to him a majority of the votes of all the members of the Electoral College.

(6) If no person shall have obtained the required majority for election as President in the first ballot a further ballot shall be held:

Provided that where more than two persons had contested the first ballot, only the two persons, being the persons credited with the higher number of votes in the last counts shall contest the second and third ballots.

(7) Where the first ballot was contested by more than two persons, no person shall be declared elected in the second ballot unless in the last count he shall have credited to him a majority of the votes of all the members of the Electoral College. Where the first ballot was contested by only two persons, the person having the majority of votes in the last count of the second ballot shall be declared elected notwithstanding that he may not have obtained a majority of votes of all the members of the Electoral College.

(8) Where in the second ballot no person is declared elected, a third ballot shall be held in which the person having the majority of votes cast credited to him in the last count shall be declared elected notwithstanding that he may not have obtained the majority of votes of all the members of the Electoral College.

(9) The rules governing the counting, transfer and crediting of votes contained in any law for the conduct of elections of members of the House of Representatives shall *mutatis mutandis* apply to the manner whereby votes during a ballot by the Electoral College are counted, transferred and credited to any person.

(10) Where at the second count of the third ballot two persons have credited in their favour an equal number of votes, the person with the higher number of votes credited to him in the first count shall be deemed to have the higher number of votes in the second count. Where the votes credited to such persons in the

first count are equal, the Speaker shall declare that the procedures for the Election of the President by the Electoral College are inconclusive and inform the House accordingly.

(11) Where the votes credited to two persons in the first count in the first ballot is equal and there is no other person having a lower number of votes credited to him, the Electoral College shall proceed to a second ballot between those persons.

(12) The second and third ballots shall be held after an interval of not less than thirty minutes and not more than one hour after the first ballot and second ballot respectively.

(13) Where in accordance with these rules the Electoral College fails to elect a person President of Malta the Speaker shall declare the procedure for the Election of the President by the Electoral College inconclusive and inform the House accordingly.

SIXTH SCHEDULE

(Section 48D)

Rules Governing Election of Members of the Electoral College

1. Within the seven days referred to in subsection (2) of section 48C of this Constitution the Speaker of the House of Representatives shall convene two separate meetings one for mayors of localities with a voting population of 6000 inhabitants (or such greater number as the House may by Resolution from time to time determine) and over and one for mayors of localities with a voting population of less than 6000 inhabitants (or such greater number as the House may by resolution as aforesaid determine):

Provided that no such resolution may be moved at any time within the said seven days referred to in subsection (2) of section 48C of this Constitution.

2. The said meetings shall be summoned by a notice which shall be published in the Government Gazette and which shall be delivered to the office of the Local Council of the respective mayors.

3. At each of the said meetings the mayors therein present shall elect from among themselves by means of the system of the

single transferable vote sixteen persons to be members of the Electoral College as provided in section 48D of this Constitution:

Provided that no person may be present or elected at either meeting if he is not a citizen of Malta.

4. For the purposes of establishing the voting population of a locality account shall be taken of the number of voters appearing in the last published Local Councils Electoral Register at the time when the said meetings are convened:

Provided that no account shall be taken of voters who appear on such registers but who are not citizens of Malta.

5. At each of the meetings referred to in the previous rules all the mayors present shall unless they shall have declared at the meeting that they do not intend to be candidates for election as members of the Electoral College, shall be candidates for election to the Electoral College.

6. The Speaker of the House of Representatives shall preside at the said meetings and shall regulate the procedure thereat.

7. The procedure for the counting and transfer of votes, contained in any law for the time being regulating elections of members of the House of Representatives shall *mutatis mutandis* apply to the counting and transfer of votes at the said meetings:

Provided that where in accordance with such law the question as to who between two candidates has the higher number of votes is to be determined by lot the candidate being the mayor of the locality with the highest voting population shall be deemed to be credited with the higher or highest number of votes, and conversely the candidate being the mayor of the locality with the lesser or least voting population shall be deemed to be credited the lesser or least number of votes, and such question shall only be determined by lot when the two candidates are mayors of two localities having the same number of votes:

Provided further that any rule in any such laws limiting the transferability of votes from one person belonging to a political party to another person who does not belong to such party, shall not apply in such elections.

8. No person shall be declared elected unless he shall have credited to him a quota of votes being a number arrived at by

dividing the total number of mayors eligible to be present at such meeting plus one:

Provided that where the number of mayors present and willing to be elected is sixteen or less, the members so present, and willing to be elected shall be deemed to be the members of the Electoral College elected at such meeting:

Provided further that where in any count the number of candidates not yet eliminated is equal to the number of persons that still require to be elected by such meeting, such persons shall be declared elected notwithstanding that they may not have credited to them the quota of votes referred to in this Rule.

9. No appeal shall lie from any decision of the Speaker in any meeting referred to in this section, and no challenge shall lie against any such decision before any authority.”.

14. (1) Where on the coming into force of this Act, the members of a Commission have been appointed for different terms of office, the term of office of all the members shall be deemed to expire on the date of expiry of the term of the member, whose term of office expires on the nearest date after the coming into force of this Act. Transitory provisions.

(2) Where on the coming into force of this Act the office of all the members of a commission is vacant, the President shall convene the meeting provided for in subsection (1) of section 120A of this Act, not later than fifteen days after the coming into force of this Act.

(3) Where on the coming into force of this Act the office of any member of a commission is vacant, but the office of all the members is not yet vacant, the President shall in accordance with section 120B of the Constitution appoint temporary members of the Commission who shall hold office until the term of office of all the members of the Commission expires in accordance with subsection (1) of this section.

(4) For the purposes of this section “Commission” means the Electoral Commission, the Public Service Commission, the Broadcasting Commission and the Employment Commission established by sections 60, 118, 119 and 120 of the Constitution, respectively.

15. (1) Any reference in any law to the Broadcasting Authority shall be deemed to be a reference to the Broadcasting Commission established by section 118 of the Constitution as amended by this Act. Adaptation of Laws.

(2) Without prejudice to subsection (1) of this section the Prime Minister may by order made at any time within twelve months from the commencement of this Act make such amendments to any law in force changing any reference therein to the Broadcasting Authority to the Broadcasting Commission.

Objects and Reasons

The Object of the Bill is to provide a method for achieving a greater consensus on the appointment of members of certain constitutional commissions. The Bill also provides for consultations, to take place before the election of the President of Malta, for the setting up of an Electoral College and the Election of the President of Malta by the said Electoral College in certain circumstances.