

Nru. 139

19. 9. 95

MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Ligi mressaq mill-Onorevoli Eddie Fenech, Adami, M.P., Prim Ministru, u moqri ghall-Ewwel darba fis-Seduta tas-17 ta' Lulju, 1995.

ATT biex jemenda l-Att dwar ir-Referendi, Kap. 237, biex jipprovdi li jsiru referendi.

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 for the First time at the Sitting of the 17th July, 1995.

AN ACT to amend the Referenda Act, Cap. 237, making provision for abrogative referenda.

RICHARD J. CAUCHI
Clerk to the House of Representatives

ABBOZZ TA' LIĠI msejjah

*ATT biex jemenda l-Att dwar ir-Referendi, Kap. 237 sabiex jipprovi
dwar referendi abrogattivi.*

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. (1) Dan l-Att jista' jissejjah l-Att ta' l-1995 li jemenda l-Att Titolu fil-qosor
u bidu fis-schh.
dwar ir-Referendi u għandu jinqara u jiftichem haġa waħda ma' l-Att Kap. 237.
dwar ir-Referendi, hawnhekk iżjed 'il quddiem imsejjah "l-Att
prinċipali".

(2) Dan l-Att għandu jibda jsehħ f'dik id-data li l-Prim
Ministru jista' jistabbilixxi b'avviż fil-Gazzetta.

2. L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta'
l-artikolu 2
ta' l-Att prinċipali.

(a) it-tifsira ta' "Ordinanza Elettorali dwar il-Jedd tal-Vot"
għandha tithassar;

(b) minflok it-tifsira ta' "Ordinanza Elettorali dwar il-
Votazzjoni" għandha tidhol din it-tifsira li ġejja:

Kap. 102.

Att Nru. XXI
ta' l-1991.

“Ordinanza Elettorali dwar il-Votazzjoni” tfisser l-
artikoli 41 sa 62 ta' l-Ordinanza Elettorali dwar il-Votazzjoni,
li hemm ukoll riprodotta bhala l-Erbatax-il Skeda li tinsab
ma' l-Att ta' l-1991 dwar l-Elezzjonijiet Ġenerali;”; u

(ċ) it-tifsira ta' “Registru Elettorali” ghandha tithassar.

Emenda ta'
l-artikolu 3 ta'
l-Att prinċipali.

3. Minflok is-subartikolu (1) ta' l-artikolu 3 ta' l-Att prinċipali
ghandu jidhol dan li ġejj:

“(1) Persuni li jkollhom dritt li jivvotaw f'referendum skond
dan l-Att jigu mitluba biex jiddikjaraw:

(a) jekk japprovawx proposti murija f'rizoluzzjoni li
tkun ghaddiet ghal dak l-ghan mill-Kamra u ppubblikati fil-
Gazzetta; jew

(b) jekk jaqblux li xi dispożizzjoni tal-ligi ghandha tigi
abrogata skond id-dispożizzjonijiet tat-Taqsima VI A ta' dan
l-Att;

skond il-każ.”.

Emenda ta'
l-artikolu 14 ta'
l-Att prinċipali.

4. Fis-subartikolu (2) ta' l-artikolu 14 ta' l-Att prinċipali, minflok
il-kliem “l-Ordinanza Elettorali dwar il-Jedd tal-Vot” u minflok il-kliem
“Kap. 99” li hemm fil-margini, ghandhom jidhlu rispettivament il-kliem
“l-Att ta' l-1991 dwar l-Elezzjonijiet Ġenerali” u “Att Nru. XXI ta' l-
1991”.

Zieda tat-Taqsima
VI A ġdida ma'
l-Att prinċipali.

5. Minnufih wara l-artikolu 32 ta' l-Att prinċipali, ghandha tidhol
din it-Taqsima ġdida li ġejja:

“TAQSIMA VI A

REFERENDI ABROGATIVI

Ligijiet li
jistghu jigu
abrogati
b'referendi.

32A. (1) Kull dispożizzjoni ta' xi ligi, sew jekk din
tkun hekk saret qabel jew wara d-dhul fis-sehh ta' din it-
Taqsima, u li ma tkunx ligi elenkata fis-subartikolu (2) ta'
dan l-artikolu, ghandu jkollha sehh jew tkompli jkollha sehh
skond id-dispożizzjonijiet ta' din it-Taqsima ta' dan l-Att.

(2) Id-dispożizzjonijiet ta' din it-Taqsima ta' dan
l-Att ma ghandhomx ikunu japplikaw ghal dawn il-ligijiet li
ġejjin:

(a) il-Kostituzzjoni u kull regolament li jsir bis-sahha ta' xi dispożizzjoni tagħha;

Kap. 319.

(b) l-Att dwar il-Konvenzjoni Ewropea;

(ċ) kull liġi li tipprovdi dwar dak li hemm imsemmi fil-paragrafi (a), (b) jew (ċ) tas-subartikolu (8) ta' l-artikolu 56 tal-Kostituzzjoni;

Kap. 249.

(d) l-Att dwar l-Interpretazzjoni;

Att Nru. XXI
ta' l-1991.

(e) l-Att ta' l-1991 dwar l-Elezzjonijiet Ġenerali;

(f) kull leġislazzjoni fiskali;

(g) kull leġislazzjoni li tagħti sehh lil xi obbligazzjoni derivanti minn trattat li jkollha sehem fih Malta; u

Att Nru. XV
ta' l-1993.

(h) salv kif provdut fl-artikolu 36B ta' l-att ta' l-1993 dwar Kunsilli Lokali, kull *bye-law* magħmula minn xi Kunsill Lokali taht dak l-Att.

(3) Ghall-ghan ta' dan l-artikolu liġi tfisser Att tal-Parlament u kull Att mgħoddi mill-Leġislatura ta' Malta u tinkludi kull Kodiċi, Ordinanza, Proklama, Ordni, Regola, Regolament, *Bye-law*, Avviż jew istrument legali ieħor li jkun isehh bhala liġi f'Malta.

L-eletturi
jistgħu
jitolbu
referendum.

32B. (1) Ghadd ta' persuni reġistrati bhala eletturi għall-elezzjoni ta' membri fil-Kamra tad-Deputati, li ma għandux ikun inqas minn għaxra fil-mija mill-ghadd totali ta' persuni reġistrati bhala eletturi hekk kif jidhru fir-Registru Elettorali rivedut l-ahhar ippubblikat qabel il-konsenja tad-dikjarazzjoni skond ma hemm fis-subartikolu (2) ta' dan l-artikolu, jistgħu jitolbu, billi jiffirmaw id-dikjarazzjoni li hemm fil-formula murija fit-Tielet Skeda li tinsab ma' dan l-Att, illi ssir il-mistoqsija lil kull min ikollu l-jedd li jivvota f'referendum skond dan l-Att, jekk għandhomx jibqgħu jseħhu xi dispożizzjoni jew għadd ta' dispożizzjonijiet ta' xi liġi li din it-Taqsima tapplika għaliha.

(2) Id-dikjarazzjoni li ssir skond is-subartikolu (1) ta' dan l-artikolu għandha tintbagħat lill-Kummissjoni Elettorali li għandha tiżgura jekk l-ghadd ta' eletturi li jkun meħtieġ skond is-subartikolu (1) ta' dan l-artikolu jkunx iffirma d-dikjarazzjoni.

(3) Il-Kummissjoni Elettorali ghandha fi żmien (hmistax-il jum) mill-konsenja tad-dikjarazzjonijiet imsemmija fis-subartikolu (1) ta' dan l-artikolu tiżgura xi jkun l-ghadd ta' persuni, kwalifikati skond ma hemm fis-subartikolu (1) ta' dan l-artikolu, li jkunu ffirmaw id-dikjarazzjoni, u ghandha matul iż-żmien imsemmi ta' hmistax-il jum tiddepożita dawk id-dikjarazzjonijiet permezz ta' nota fir-Registru tal-Qorti Kostituzzjonali, li biha tiddikjara x'ikun l-ghadd ta' firem validi li jinqraw mid-dikjarazzjoni, kif ukoll l-ghadd ta' firem invalidi u ghaliex dawn ikunu invalidi, flimkien ma' dikjarazzjoni li tkun tindika jekk l-ghadd ta' persuni mehtieġa skond is-subartikolu (1) ta' dan l-artikolu jkunx iffirma d-dikjarazzjoni.

(4) Id-deċiżjoni tal-Kummissjoni Elettorali dwar l-ghadd ta' persuni li jkunu ffirmaw validament id-dikjarazzjoni ghandha tkun wahda finali u konkluziva.

(5) Il-Qorti Kostituzzjonali ghandha permezz tar-Registratur taghha u mhux iktar tard minn jumejn wara d-depożitu msemmi fis-subartikolu (3) ta' dan l-artikolu, tara li jiġi ppubblikat avviż fil-Gazzetta li jkun fih id-data meta d-dikjarazzjoni tkun giet ipprezentata fir-Registru ta' dik il-Qorti, id-dispożizzjonijiet tal-liġijiet li tkun intalbet li ssir il-mistoqsija dwarhom f'referendum skond din it-Taqsima fuq jekk ghandhomx dawn jibqghu fis-sehh, u l-ghadd ta' persuni skond kif jiġu ddikjarati mill-Kummissjoni Elettorali li jkunu validament iffirma id-dikjarazzjoni.

Formula tad-Dikjarazzjoni.

32Ċ. (1) Fuq id-dikjarazzjoni msemmiya fl-artikolu 32B ta' dan l-Att ghandu flimkien mal-firma ta' kull elettur, jintwera n-numru tal-karta ta' l-identità ta' l-elettur li jkun qed jiffirma, l-indirizz tieghu u d-distrett elettorali li fih huwa jkun registrat bhala elettur.

(2) Dawk li jipproponu r-referendum, li ma jkunux inqas minn hamsa u mhux iktar minn ghaxra, ghandhom jiffirmaw id-dikjarazzjoni qabel il-persuni l-oħra kollha filwaqt li jindikaw li jkunu qeghdin jiffirmaw bhala proponenti.

(3) Il-Kummissjoni Elettorali jkollha jedd tiżgura li l-persuni li jkunu qeghdin attwalment jidhru bhala firmatarji fuq id-dikjarazzjoni jkunu fil-fatt iffirmawha, u kull firma li tinstab li ma tkunx intghamlet mill-persuna li apparentement ghamlitha ghandha tiġi skartata mill-Kummissjoni Elettorali.

L-eletturi
jstgħu
jopponu
r-referendum.

32D. (1) Kull persuna reġistrata bħala elettur għall-elezzjoni ta' membri fil-Kamra tad-Deputati u l-Avukat Ġenerali f'isem il-Gvern jistgħu fi żmien tliet xhur mill-pubblikazzjoni ta' l-avviż imsemmi fl-artikolu 32B ta' dan l-Att, jipprezentaw rikors fir-reġistru tal-Qorti Kostituzzjonali li bih jitolbu lil dik il-qorti tiddikjara li r-referendum ma għandux isir minhabba filli:—

(a) l-għadd ta' persuni msemmija mill-Kummissjoni Elettorali li jkunu validament iffirraw id-dikjarazzjoni jkun inqas minn dak stabbilit fis-subartikolu (1) ta' l-artikolu 32B ta' dan l-Att; jew

(b) id-dispożizzjoni tal-liġi msemmija fid-dikjarazzjoni tkun waħda li għaliha ma jkunux japplikaw id-dispożizzjonijiet ta' din it-Taqsima ta' dan l-Att skond is-subartikolu (2) ta' l-artikolu 32A ta' dan l-Att; jew

(ċ) li kieku d-dispożizzjonijiet tal-liġi msemmija fid-dikjarazzjoni ma kellhomx jibqgħu japplikaw, il-liġi kienet tkun inkompatibbli ma' xi waħda mid-dispożizzjonijiet tal-Kostituzzjoni jew ta' l-Att dwar il-Konvenzjoni Ewropea; jew

(d) iż-żmien stabbilit fis-subartikolu (2) ta' l-artikolu 32H ta' dan l-Att qabel ma jkunu jstgħu jsiru d-dikjarazzjonijiet li jitolbu r-referendum ma jkunx għadu skada meta daww id-dikjarazzjonijiet ikunu ġew ipprezentati għand il-Kummissjoni Elettorali.

(2) Hadd minn daww il-persuni li jagħmlu rikors skond is-subartikolu (1) ta' dan l-artikolu ma għandu jenhtieg li juri xi interess personali in sostenn ta' l-azzjoni tiegħu.

(3) Applikazzjoni li ssir skond ma hemm fis-subartikolu (2) ta' dan l-artikolu għandha tiġi notifikata:

(a) lill-Prim Ministru;

(b) lill-Kap ta' l-Oppożizzjoni;

(ċ) lill-proponenti tar-referendum; u

(d) lil kull persuna oħra li tkun ipprezentat rikors skond ma hemm fis-subartikolu (1) ta' dan l-artikolu.

(4) Kull min jiġi notifikat b'rikors skond is-subartikolu (3) ta' dan l-artikolu jkollu jedd li jipprezenta risposta fir-Registru tal-Qorti Kostituzzjonali fi żmien xahar minn notifika li tkun saritlu, u dawk ir-risposti għandhom jiġu notifikati lill-persuni msemmija fil-paragrafi (a) sa (d) tas-subartikolu (3) ta' dan l-artikolu fi żmien għaxart ijiem mill-preżentata.

(5) Għall-ghan ta' dan l-artikolu, in-notifika ssir billi d-dokument li għandu jiġi notifikat jiġi konsenjat permezz ta' posta rreġistrata, u għandha titqies li tkun hekk saret jumejn wara li d-dokument ikun intbagħat bil-posta f' *envelope* li jkun indirizzat fil-każ tal-Prim Ministru u tal-Kap ta' l-Oppożizzjoni fl-uffiċċju ta' l-Iskrivan tal-Kamra tad-Deputati, fil-każ tal-proponenti fl-indirizz minnhom iddikjarat fid-dikjarazzjoni u fil-każ ta' persuna li tipprezenta rikors skond is-subartikolu (1) ta' dan l-artikolu, fl-indirizz muri fuq ir-rikors.

Il-Qorti
Kostituz-
zjonali
taqta'
r-rikorsi.

32E. (1) Kemm jista' jkun malajr wara n-notifika tar-risposti msemmija fis-subartikolu (3) ta' l-artikolu 32D, il-Qorti Kostituzzjonali għandha, kemm-il darba din tikkonsidra li dak is-smigh ma jkunx mehtieg billi sew ir-rikorsi sew ir-risposti jkunu ċari biżżejjed u ma jkunux mehtieġa iktar sottomissjonijiet, tistabbilixxi data għas-smigh ta' sottomissjonijiet dwar ir-rikorsi li jkunu sarulha skond l-artikolu 32D, u għandha tara li r-Registatur jippubblika avviz fil-Gazzetta li fih jiddikjara l-post, il-hin u d-data li fihom għandha ssir is-seduta.

(2) L-avviz imsemmi fis-subartikolu (1) ta' dan l-artikolu għandu jiġi ppubblikat mhux iktar tard minn għaxart ijiem qabel id-data tas-seduta u mhux iktar tard minn xahar wara s-servizz tar-risposti.

(3) Fid-data tas-seduta kull min jiġi nnotifikat b'risposta jkollu jedd ikun preżenti u jagħmel sottomissjonijiet ulterjuri favur jew kontra xi rikors li jkun sar skond l-artikolu 32D ta' dan l-Att. F'dawk is-sottomissjonijiet il-Qorti Kostituzzjonali ma għandhiex thalli li ssir ebda haġa li tkun biss ripetizzjoni ta' dak li jkun hemm fir-rikorsi u fir-risposti.

(4) Il-Qorti Kostituzzjonali għandha tisma kull sottomissjoni fil-jum stabbilit għas-seduta, u jekk ma jkunx hemm hin biżżejjed f'dik id-data, il-Qorti għandha thalli s-seduta għall-jum ta' wara, kemm-il darba dan ma jkunx xi

Sibt, Hadd jew vakanza pubblika, u ghandha tkompli tisma kull seduta sakemm ikunu saru s-sottomissjonijiet kollha.

(5) Wara li jkunu saru s-sottomissjonijiet kollha skond is-subartikolu (4) ta' dan l-artikolu, il-Qorti Kostituzzjonali ghandha thalli s-seduta dwar dawk ir-rikorsi ghal data mhux iktar tard minn xahar wara meta mbaghad taghti d-decizjoni taghha.

(6) Meta ma tkun giet stabbilita ebda data ghas-smigh ta' sottomissjonijiet il-Qorti Kostituzzjonali ghandha fiz-żmien imsemmi fis-subartikolu (2) ta' dan l-artikolu tara li tiġi ppubblikata data li ma tkunx iktar tard minn xahrejn wara d-data tan-notifika tar-risposti, meta tghaddi biex taghti d-decizjoni taghha.

(7) Fid-data stabbilita ghall-ghoti tad-decizjoni l-Qorti Kostituzzjonali ghandha tghaddi biex tiddeciedi jekk tkunx tezisti xi wahda mir-raġunijiet biex isir ir-referendum u jekk ma tkunx tezisti ebda raġuni bhal dik il-Qorti ghandha taghti digriet li r-referendum ikun jista' jsir. Meta l-Qorti Kostituzzjonali tiddeciedi li jkunu jeżistu raġunijiet li minhabba fihom ir-referendum ma ghandux isir dak ir-referendum jibqa' ma jsirx, u l-Kummissjoni Elettorali, malli tiġi notifikata b'kopja tad-decizjoni, ghandha tara li jiġi ppubblikat avviż li jkun jghid dan fil-Gazzetta.

Data meta ssir il-votazzjoni fir-referendum.

32F. (1) Ghandha tinghata kopja tad-decizjoni tal-Qorti Kostituzzjonali personalment mir-Registatur lill-President ta' Malta mhux iktar tard minn ghaxart ijiem wara li din tinghata mill-Qorti, u malli dan isir ir-Registatur ghandu jipubblika avviż fil-Gazzetta li fih jiddikjara d-data meta dik il-kopja tkun hekk twasslet ghand il-President.

(2) Meta l-Qorti Kostituzzjonali tkun iddecidiet li jkun jista' jinżamm referendum, il-President ghandu jstabilixxi data ghaldaqstant, li tkun data mhux iktar kmieni minn tliet xhur u mhux iktar tard minn sitt xhur wara li tkun inghatat kopja tad-decizjoni tal-Qorti Kostituzzjonali lill-President skond ma hemm fis-subartikolu (1) ta' dan l-artikolu, u l-President johroġ *Writ* skond ma hemm f'dan l-Att.

Meta ma jkunx se jinżamm referendum.

32G. (1) Minkejja kull dispożizzjoni ohra ta' din it-Taqsima, ma ghandux jinżamm referendum taht din it-Taqsima jekk —

(a) id-dispożizzjoni li dwar it-thassir taghha kellu jsir referendum tkun giet emendata jew imhassra qabel id-data stabbilita ghall-votazzjoni; jew

(b) matul iż-żmien li jghaddi bejn l-ghoti tal-kopja tad-deċiżjoni tal-Qorti Kostituzzjonali u d-data stabbilita ghall-votazzjoni, il-Parlament ikun xolt.

(2) Meta referendum ma jkunx sa jinżamm skond ma hemm fis-subartikolu (1) ta' dan l-artikolu, il-President ta' Malta, ghandu johroġ Proklama li tkun tghid dan.

Riżultat tar-referendum.

32H. (1) Meta l-maġġoranza ta' l-eletturi, li jkunu qeghdin jivvotaw f' referendum taht din it-Taqsima, japprovaw il-proposta dwar id-dispożizzjoni tal-ligi li tkun qed tintalab it-tnehhija taghha, dik id-dispożizzjoni mghandiex tibqa' ssehh u l-President ta' Malta johroġ Proklama fejn ikun jghid dan:

Izda dik il-proposta mghandiex titqies bhala li tkun giet approvata jekk inqas minn hamsin fil-mija u iktar wiehed iehor magghom minn dawk il-persuni bil-jedd li jivvotaw fir-referendum ikunu attwalment tefghu l-vot taghhom.

(2) Meta l-maġġoranza ta' l-eletturi ma jkunux approvaw proposta skond ma hemm imsemmi fis-subartikolu (1) ta' dan l-artikolu, id-dispożizzjoni relattiva tal-ligi ghandha tibqa' ssehh, u ma tkun tista' ssir ebda dikjarazzjoni ġdida skond ma hemm provdut fl-artikolu 32B ta' dan l-Att dwar l-istess dispożizzjoni qabel l-iskadenza ta' sentejn mill-pubblikazzjoni tar-riżultat tar-referendum.”.

Emenda ta' l-artikolu 34 ta' l-Att prinċipali.

6. Fl-artikolu 34 ta' l-Att prinċipali, minflok il-kliem “L-artikolu 37 ta' l-Ordinanza Elettorali dwar il-Jedd tal-Vot” ghandhom jidhlu l-kliem “L-artikolu 110 ta' l-Att ta' l-1991 dwar l-Elezzjonijiet Ġenerali”, u minflok il-kliem “Kap. 99” li hemm fin-nota marginali ghalih ghandhom jidhlu l-kliem “Att Nru. XXI ta' l-1991”.

Emenda ta' l-artikolu 35 ta' l-Att prinċipali.

7. Fin-nota marginali ghall-artikolu 35 ta' l-Att prinċipali, minnufih wara l-kliem “Kap. 102” ghandhom jizdedu l-kliem “L-Erbatax-il Skeda, Att Nru. XXI ta' l-1991”.

Emenda ta' l-artikolu 36 ta' l-Att prinċipali.

8. Fl-artikolu 36 ta' l-Att prinċipali minflok il-kliem “L-artikoli 63, 64 u 65 ta' l-Ordinanza Elettorali dwar il-Votazzjoni” ghandhom jidhlu l-kliem “L-artikoli 111, 112 u 113 ta' l-Att ta' l-1991 dwar l-Elezzjonijiet Ġenerali”, u minflok il-kliem “Kap. 102” fin-nota marginali ghalih ghandhom jidhlu l-kliem “Att Nru. XXI ta' l-1991”.

9. Minnufih wara t-Tieni Skeda li tinsab ma' l-Att prinċipali ghandha tiżdied din l-Iskeda ġdida li ġejja:

Żieda ta' Skeda ġdida ma' l-Att prinċipali.

“IT-TIELET SKEDA

[ARTIKOLU 32B]

ATT DWAR IR-REFERENDI

Dikjarazzjoni għaż-Żamma ta' Referendum

Ahna hawn taht iffirmati li ahna persuni rreġistrati bhala eletturi għall-elezzjoni ta' membri fil-Kamra tad-Deputati (li minna l-ewwel għadd ta' ^{*(1)} persuni hawn taht iffirmati huma l-proponenti) qeghdin nitolbu li l-mistoqsija dwar jekk dawn id-dispożizzjonijiet tal-liġi li ġejjin, jiġifieri ^{*(2)}

.....

għandhomx jibqgħu jsehhu ghandha ssir lil dawk il-pesuni bil-jedd li jivvotaw f' referendum skond it-Taqsima VI A ta' l-Att dwar ir-Referendi, Kap. 237.

Firma Nru. tal-Karta ta' l-Identità Indirizz Distrett Elettorali

Noti:

- (1) Għadd ta' persuni li ma jkunx ta' inqas minn hamsa u mhux iżjed minn 10 li jkunu proponenti skond l-artikolu 32Ċ (2) ta' l-Att dwar ir-Referendi, Kap. 237.
- (2) Hawn dahhal id-dettalji tad-dispożizzjonijiet li dwarhom ser issir il-mistoqsija.”.

10. Minnufih wara l-artikolu 36 ta' l-Att ta' l-1993 dwar Kunsilli Lokali, ghandu jidhol dan l-artikolu ġdid li ġej:

Emenda konsegwenzjali ta' l-Att ta' l-1993 dwar Kunsilli Lokali.

“Referendi abrogattivi.

36B. (1) Bla hsara għad-dispożizzjonijiet ta' dan l-artikolu, it-Taqsima VI A ta' l-Att dwar ir-Referendi, Kap. 237, ghandha tkun tapplika għal kull *bye-law* magħmula minn xi Kunsill Lokali skond id-dispożizzjonijiet ta' l-Att.

(2) Id-dispożizzjonijiet tat-Taqsima VI A ta' l-Att dwar ir-Referendi għandhom għall-ghanijiet ta' dan l-artikolu jkunu japplikaw kif ġej:

(a) l-artikolu 32B ta' dik it-Taqsima ghandu jkun japplika bhallikieku r-riferenza li hemm fiha ghal ghaxra fil-mija ta' l-ghadd totali ta' persuni rreġistrati biex jivvutaw fis-subartikolu (1) ta' dak l-artikolu kienet riferenza ghal ghaxra fil-mija ta' l-ghadd totali ta' persuni rreġistrati biex jivvutaw fl-elezzjonijiet ta' kunsillieri lokali ghal dik il-lokalità li tkun ghamlet il-*bye-law* li ghalha tkun tapplika d-dikjarazzjoni;

(b) l-artikolu 32Ċ ta' dik it-Taqsima ghandu jkun japplika bhallikieku r-riferenza fis-subartikolu (1) li hemm fiha ghad-distrett elettoralni fejn l-elettur ikun rreġistrat kienet riferenza ghal lokalità li elettur ikun rreġistrat fiha ghall-elezzjoni tal-kunsillieri lokali taghha;

(ċ) l-artikolu 32D ta' dik it-Taqsima ghandu jkun japplika —

(i) bhallikieku r-riferenza lil persuna rreġistrata bhala elettur ghall-elezzjoni ta' membri fil-Kamra tad-Deputati fis-subartikolu (1) ta' dak l-artikolu kienet riferenza ghal persuna rreġistrata bhala elettur ghall-elezzjoni ta' kunsillieri lokali fil-Kunsill Lokali tal-lokalità li tkun qed taghmel il-*bye-law* relattiva;

(ii) bhallikieku r-riferenza fis-subartikolu (1) ta' l-artikolu 32B ta' l-Att dwar ir-Referendi fil-paragrafu (a) tas-subartikolu (1) ta' dak l-artikolu kienet riferenza ghal dak is-subartikolu kif japplika skond il-paragrafu (a) ta' dan l-artikolu;

(iii) bhallikieku r-riferenza ghall-Kostituzzjoni u l-Att dwar il-Konvenzjoni Ewropea fil-paragrafu (ċ) tas-subartikolu (1) ta' dak l-artikolu kienet ukoll riferenza ghall-Att ta' l-1993 dwar Kunsilli Lokali; u

(iv) is-subartikolu (3) ta' dak l-artikolu kien jehtieg ukoll li ssir in-notifika ta' rikors lis-sindku tal-Kunsill Lokali li jkun ghamel il-*bye-law*, liema notifika ghandha ssir ghall-ghanijiet tas-subartikolu (5) ta' dak l-artikolu fl-uffiċċju tal-Kunsill Lokali relattiv; u

(d) il-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 32Ġ ma ghandux ikun japplika.”.

Ghanijiet u Raġunijiet

L-ghan ta' l-Abbozz hu sabiex jipprovdi ghal referendi abrogattivi f'ċerti każijiet.

**A BILL
entitled**

*AN ACT to amend the Referenda Act, Cap. 237, making provision for
abrogative referenda.*

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. (1) This Act may be cited as the Referenda (Amendment) Act, 1995, and shall be read and construed as one with the Referenda Act hereinafter referred to as “the principal Act”. Short title
and
commencement.
Cap. 237.

(2) This Act shall come into force on such date as the Prime Minister may by notice in the Gazette establish.

2. Section 2 of the principal Act shall be amended as follows: Amendment of
section 2 of the
principal Act.

(a) the definition of “Electoral Franchise Ordinance” shall be deleted;

(b) for the definition of “Electoral Polling Ordinance” there shall be substituted the following:

Cap. 102.

“ “Electoral Polling Ordinance” means sections 41 to 62 of the Electoral (Polling) Ordinance (also reproduced as the Fourteenth Schedule to the General Elections Act, 1991 (Act XXI of 1991);” and

(c) the definition of “Electoral Registrar” shall be deleted.

Amendment of section 3 of the principal Act.

3. For subsection (1) of section 3 of the principal Act there shall be substituted the following:

(1) Persons entitled to vote in a referendum under this Act will be called upon to declare:

(a) whether they approve proposals set out in a resolution passed for that purpose by the House and published in the Gazette; or

(b) whether they agree that a provision of law should be abrogated in accordance with the provisions of Part VI A of this Act;

as the case may be.”.

Amendment of section 14 of the principal Act.

4. In subsection (2) of section 14 of the principal Act, for the words “the Electoral Franchise Ordinance” and for the words “Cap. 99” appearing in the margin, there shall be substituted respectively the words “the General Elections Act, 1991” and “Act XXI of 1991”.

Addition of new Part VI A to the principal Act.

5. Immediately after section 32 of the principal Act, there shall be inserted the following new Part:

“PART VI A

ABROGATIVE REFERENDA

Laws subject to be abrogated by referenda.

32A. (1) Any provision of any enactment, whether enacted before or after the coming into force of this Part, and not being an enactment listed in subsection (2) of this section, shall have effect or continue to have effect subject to the provisions of this Part of this Act.

(2) The provisions of this Part of this Act shall not apply to the following enactments:

(a) The Constitution and any regulation made under any provision thereof;

Cap. 319.

(b) the European Conventions Act;

(c) any law providing for the matters referred to in paragraphs (a), (b) or (c) of subsection (8) of section 56 of the Constitution;

Cap. 249.

(d) the Interpretation Act;

Act XXI of 1991.

(e) the General Elections Act, 1991;

(f) any fiscal legislation;

(g) any legislation giving effect to any treaty obligation undertaken by Malta; and

Act XV of 1993.

(h) save as provided in section 36B of the Local Councils Act 1993, any bye-law made by any Local Council under the said Act.

(3) For the purpose of this section enactment means an Act of Parliament and any Act passed by the Legislature of Malta and includes any Code, Ordinance, Proclamation, Order, Rule, Regulation, Bye-law, Notice or other instrument having the force of law in Malta.

Electors may demand referendum.

32B. (1) Any number of persons registered as voters for the election of members of the House of Representatives, being not less than ten per cent of the total number of persons registered as voters as appear in the revised Electoral Register last published before the delivery of the declaration in accordance with subsection (2) hereof, may by signing a declaration in the form set out in the Third Schedule to this Act demand that the question whether one or more provisions of an enactment to which this Part applies, shall not continue in force, shall be put to those entitled to vote in a referendum under this Act.

(2) The declaration made in accordance with subsection (1) of this section shall be delivered to the Electoral Commission which shall ascertain whether the number of voters required in accordance with subsection (1) hereof has signed the declaration.

(3) The Electoral Commission shall within (fifteen days) from the delivery of the declarations referred to in subsection (1) of this section ascertain the number of persons, qualified in accordance with subsection (1) hereof, who have signed the declarations, and shall within the said period of fifteen days deposit the said declarations by means of a note in the Registry of the Constitutional Court, stating in the note the number of valid signatures appearing on the declaration, as well as the number of invalid signatures and the reason for such invalidity, together with a statement indicating whether the number of persons required in accordance with subsection (1) hereof has signed the declaration.

(4) The determination by the Electoral Commission of the number of persons who have validly signed the declaration shall be final and conclusive.

(5) The Constitutional Court shall through the Registrar not later than two days after the deposit referred to in subsection (3) hereof, cause a notice to be published in the Gazette stating the date when the declaration has been delivered in the Registry of the said Court, the provisions of the enactments upon the continuance in force which the question is demanded to be put to a referendum under this Part, and the number of persons as stated by the Electoral Commission to have validly signed the declaration.

Form of
Declaration.

32C. (1) The declaration referred to in section 32B of this Act shall together with the signature of each voter, show the identity card number of the voter signing it, his address and the electoral district wherein he is registered as a voter.

(2) The proposers of the referendum, being not less than five and not more than ten, shall sign the declaration before all other persons indicating that they are signing the same as proposers.

(3) The Electoral Commission shall have a right to ascertain that the persons actually appearing as signatories of the declaration have in fact signed it, and any signature which does not result to have been made by the person appearing to have made it shall be ignored by the Electoral Commission.

Voters may
oppose
referendum.

32D. (1) Any person registered as a voter for the election of members of the House of Representatives and the Attorney General on behalf of the Government may within three months from the publication of the notice referred to in section 32B of this Act, file an application in the registry of the Constitutional Court, requesting the said court to declare that the referendum should not take place on the grounds that:-

(a) the number of persons stated by the Electoral Commission to have validly signed the declaration is less than that established in subsection (1) of section 32B of this Act; or

(b) the provision of the enactment referred to in the declaration is one to which the provisions of this Part of this Act do not apply in accordance with subsection (2) of section 32A of this Act; or

(c) were the provisions of the enactment referred to in the declaration not to continue to apply, the law would be incompatible with any of the provisions of the Constitution or of the European Convention Act; or

(d) the time fixed in subsection (2) of section 32H of this Act before the declarations requesting the referendum may be made had not elapsed when the declarations were filed with the Electoral Commission.

(2) No person making an application in accordance with subsection (1) of this section shall be required to show any personal interest in support of his action.

(3) Any application filed in accordance with subsection (2) of this section, shall be served on:

(a) the Prime Minister;

(b) the Leader of the Opposition;

(c) the proposers of the referendum; and

(d) any other person making an application in accordance with subsection (1) of this section.

(4) Every person served with an application in accordance with subsection (3) of this section shall have a right to file a reply in the Registry of the Constitutional Court within one month from service, and such replies shall be served on the persons referred to in paragraphs (a) to (d) of subsection (3) of this section within ten days of filing.

(5) For the purpose of this section service shall be effected by the delivery by registered mail of the document to be served, and shall be deemed to have been so made two days after posting the document to be served in an envelope addressed in the case of the Prime Minister and the Leader of the Opposition at the office of the Clerk of the House of Representatives, in the case of the proposers at the address indicated by them in the declaration and in the case of a person making an application in accordance with subsection (1) of this section, at the address shown in the application.

Constitutional
Court shall
determine
applications.

32E. (1) As soon as may be after the service of the replies referred to in subsection (3) of section 32D, the Constitutional Court shall unless it considers that such hearing is not required as the applications and replies are sufficiently clear and do not require further submissions, fix a date for the hearing of submissions on the applications made to it in accordance with section 32D, and shall cause to be published by the Registrar a notice in the Gazette stating the place, time and date where the hearing is to be held.

(2) The notice referred to in subsection (1) of this section shall be published not later than ten days before the date of the hearing and not later than one month after the service of the replies.

(3) On the date of the hearing all the persons served with a reply shall have a right to be present and make further submissions in favour or against any application made in accordance with section 32D of this Act. In such submissions the Constitutional Court shall forbid anything that is merely a repetition of what is contained in the applications and the replies.

(4) The Constitutional Court shall hear all submissions on the day fixed for the hearing, and if there is not sufficient time on that date it shall adjourn the hearing to the next day, not being a Saturday, Sunday or a public

holiday, and shall so continue hearing all submissions until all submissions have been made.

(5) After all submissions have been made in accordance with subsection (4) of this section the Constitutional Court shall adjourn the hearing of the applications to a date not later than one month when it shall deliver its decision.

(6) Where no date has been appointed for the hearing of submissions the Constitutional Court shall within the time referred to in subsection (2) hereof cause to be published a date being not later than two months after the date of service of the replies, on which it shall deliver its decision.

(7) On the date fixed for the delivery of the decision the Constitutional Court shall decide whether any of the grounds for the holding of the referendum exists and if no such grounds exist it shall decree that the referendum may be held. Where the Constitutional Court decides that grounds exist for not holding the referendum such referendum shall not be held, and the Electoral Commission, upon the service of a copy of the judgement upon it, shall cause a notice to that effect to be published in the Gazette.

Date for
polling in
referendum.

32F. (1) A copy of the decision of the Constitutional Court shall be delivered personally to the President of Malta by the Registrar not later than ten days after its delivery, and thereupon the Registrar shall publish a notice in the Gazette stating the date when the copy was so delivered to the President.

(2) Where the Constitutional Court has decided that a referendum may be held, the President shall fix a day for it, being a date not earlier than three months and not later than six months after the copy of the decision of the Constitutional Court shall have been delivered to the President in accordance with subsection (1) hereof, and the President shall issue a Writ in accordance with this Act accordingly.

Where
referendum
shall not be
held.

32G. (1) Notwithstanding any other provision of this Part a referendum under this Part shall not be held if –

(a) the provision upon the repeal of which a referendum was to be held have before the date fixed for polling been amended or repealed; or

(b) between the handing of the copy of the decision of the Constitutional Court and the date fixed for polling Parliament is dissolved.

(2) Where a referendum is not to be held in accordance with subsection (1) of this section the President of Malta shall issue a Proclamation accordingly.

Result of referendum.

32H. (1) Where the majority of voters, voting in a referendum under this Part, approve the proposal that the provision of the enactment the repeal of which is requested, the said provision shall no longer have effect and the President of Malta shall issue a Proclamation accordingly:

Provided that such proposal shall be deemed not to have been approved if less than fifty percent of those entitled to vote in the referendum plus one, will have cast their vote.

(2) Where the majority of voters have not approved a proposal as is referred to in subsection (1) of this section the relative provision of the enactment shall continue to have effect, and no new declaration as provided in section 32B of this Act with respect to the same provision may be made before the lapse of two years from the publication of the result of the referendum.”.

Amendment of section 34 of the principal Act.

6. In section 34 of the principal Act, for the words “Section 37 of the Electoral Franchise Ordinance” there shall be substituted the words “Section 110 of the General Elections Act, 1991”, and for the words “Cap. 99” appearing in the marginal note thereto there shall be substituted the words “Act XXI of 1991”.

Amendment of section 35 of the principal Act.

7. In the marginal note to section 35 of the principal Act, immediately after the words “Cap. 102” there shall be added the words “Fourteenth Schedule, Act XXI of 1991”.

Amendment of section 36 of the principal Act.

8. In section 36 of the principal Act for the words “Sections 63, 64 and 65 of the Electoral Polling Ordinance” there shall be substituted the words “Sections 111, 112 and 113 of the General Elections Act, 1991”, and for the words “Cap. 102” in the marginal note thereto there shall be substituted the words “Act XXI of 1991”.

9. Immediately after the Second Schedule to the principal Act, there shall be added the following new Schedule:

Addition of new Schedule to the principal Act.

“THIRD SCHEDULE

[SECTION 32B]

REFERENDA ACT

Declaration for the Holding of a Referendum

We the undersigned persons being persons registered as voters for the election of members of the House of Representatives (the first ^{*(1)}..... persons undersigned being the proposers) demand that the question whether the following provisions of law, that is to say ^{*(2)}

.....

should not continue in force shall be put to those entitled to vote in a referendum under Part VI A of the Referenda Act .

Cap. 237.

Signature Identity Card No. Address Electoral Division

Notes:

- (1) a number not being less than five and not more than 10 being proposers in terms of section 32C(2) of the Referenda Act, Cap.237.
- (2) insert here the details of the provisions on which the question is to be put.”.

10. Immediately after section 36 of the Local Councils Act 1993, there shall be inserted the following new section:

Consequential amendment of Local Councils Act 1993. Act XV of 1993.

“Abrogative Referenda.

Cap. 237.

36B. (1) Subject to the provisions of this section this Part VI A of the Referenda Act shall apply to any bye-law made by any Local Council under the provisions of this Act.

(2) The provisions of Part VI A of the Referenda Act shall for the purposes of this section be applicable as follows:

(a) Section 32B thereof shall apply as if the reference therein to ten percent of the total number of persons registered as voters in subsection (1) thereof were a reference to ten percent of the total number of persons registered as voters in elections for local councillors for the locality which has made the bye-law to which the declaration applies;

(b) section 32C thereof shall apply as if the reference in subsection (1) thereof to the Electoral district wherein the voter is registered were a reference to locality for the election of whose local councillors the voter is registered;

(c) section 32D thereof shall apply —

(i) as if the reference to any person registered as a voter for the election of members of the House of Representatives in subsection (1) thereof were a reference to any person registered as a voter for the election of local councillors for the Local Council of the locality making the relative bye-law;

(ii) as if the reference to subsection (1) of section 32B of the Referenda Act in paragraph (a) of subsection (1) thereof were a reference to that subsection as applicable in accordance with paragraph (a) hereof;

(iii) as if the reference to the Constitution and the European Convention Act in paragraph (c) of subsection (1) thereof were also a reference to the Local Councils Act 1993; and

(iv) subsection (3) thereof required service of any application also on the mayor of the Local Council making the bye-law which service shall for the purposes of subsection (5) thereof be made at the office of the relative Local Council; and

(d) Paragraph (b) of subsection (1) of section 32G shall not apply.”.

Objects and Reasons

The object of the Bill is to provide for abrogative referenda in certain cases.