

## **Nru. 168**

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17. 7. 96

### **MALTA**

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#### **KAMRA TAD-DEPUTATI**

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**ABBOZZ** ta' Ligi mressaq mill-Onorevoli Eddie Fenech Adami, M.P., Prim Ministru, u moqri għall-Ewwel darba fis-Seduta tas-6 ta' Mejju, 1996.

**ATT** biex ikompli jemenda l-Kostituzzjoni ta' Malta billi jipprovdi għall-Karigi ta' Awditur Ġenerali u Deputat Awditur Ġenerali.

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**RICHARD J. CAUCHI**

*Skrivan tal-Kamra tad-Deputati*

#### **HOUSE OF REPRESENTATIVES**

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A **BILL** introduced by the Honourable Eddie Fenech Adami, M.P., Prime Minister, and read the First time at the Sitting of the 6th May, 1996.

**AN ACT** further to amend the Constitution of Malta providing for the Offices of Auditor General and Deputy Auditor General.

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**RICHARD J. CAUCHI**

*Clerk of the House of Representatives*

## ABBOZZ TA' LIĠI msejjah

*ATT biex ikompli jemenda l-Kostituzzjoni ta' Malta billi jipprovdi għall-Karigi ta' Awditur Ġenerali u Deputat Awditur Ġenerali.*

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-1996 li jemenda l-Kostituzzjoni ta' Malta (Emenda Nru. 2), u għandu jinqara u jiftiehem haġa waħda mal-Kostituzzjoni ta' Malta, hawnhekk iżjed 'il quddiem imsejha "il-Kostituzzjoni".

Titolu fil-qosor u bidu fis-sehh.

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

2. Fis-subartikolu (4) ta' l-artikolu 107 tal-Kostituzzjoni, minflok il-kliem "100, 108, 109" għandhom jidhlu l-kliem "100, 109".

Emenda ta' l-artikolu 107 tal-Kostituzzjoni.

3. Minflok l-artikolu 108 tal-Kostituzzjoni għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 108 tal-Kostituzzjoni.

"Awditur Ġenerali.

108. (1) Għandu jkun hemm Awditur Ġenerali li l-kariga tiegħu tkun kariga pubblika u li jkollu dawk il-funzjonijiet skond ma hemm provdut fid-dispożizzjonijiet li ġejjin ta' dan l-artikolu.

(2) L-Awditur Ġenerali ikun uffiċjal tal-Kamra tad-Deputati u jinhatar mill-President li jaġixxi skond il-parir kongunt tal-Prim Ministru u taċ-*Chairman* tal-Kumitat dwar il-Kontijiet Pubbliċi tal-Kamra tad-Deputati:

Iżda meta l-kariga ta' *Chairman* tal-Kumitat dwar il-Kontijiet Pubbliċi tal-Kamra tad-Deputati tkun vakanti jew abolita, jew ma tkunx okkupata minn xi membru tal-Kamra li jkun jappartjeni lil xi wiehed mill-partiti ta' l-oppożizzjoni, il-President jaġixxi fuq il-parir kongunt tal-Prim Ministru u tal-Kap ta' l-Oppożizzjoni:

Iżda wkoll, meta l-Prim Ministru u ċ-*Chairman* tal-Kumitat dwar il-Kontijiet Pubbliċi tal-Kamra tad-Deputati, jew il-Kap ta' l-Oppożizzjoni, skond il-każ, jonqsu milli jaqblu bejniethom dwar il-parir kongunt li ghandhom jaghtu lill-President fi żmien ġimghatejn wara li l-kariga ta' Awditur Ġenerali ssir vakanti, il-President ghandu jaġixxi skond il-parir tal-Prim Ministru.

(3) (a) Bla hsara ghad-dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu l-Awditur Ġenerali ghandu jibqa' fil-kariga ghal perijodu ta' hames snin mid-data tal-hatra tieghu u jkun eligibbli li jerga' jinhatar ghal perijodu wiehed iehor ta' hames snin.

(b) L-Awditur Ġenerali ma jkunx jista', filwaqt li huwa jkun qed jokkupa dik il-kariga, ikollu xi kariga bi qliegh ohra, tkun xi tkun, sew mal-Gvern sew ma' xi servizz iehor:

Iżda meta l-Awditur Ġenerali jkun inhatar minn fost uffiċjali pubbliċi, il-persuna li tkun ġiet hekk mahtura ghandha terġa' lura ghall-pożizzjoni li kellha fis-servizz pubbliku minnufih qabel dik il-hatra meta huwa jtemmha.

(4) L-Awditur Ġenerali ma jitnehhix mill-kariga tieghu hlief mill-President li jaġixxi fuq il-parir kongunt tal-Prim Ministru u taċ-*Chairman* tal-Kumitat dwar il-Kontijiet Pubbliċi tal-Kamra tad-Deputati minhabba f'inkapaċità pruvata li jwettaq il-funzjonijiet tal-kariga tieghu (sew jekk din l-inkapaċità tkun fiżika jew mentali jew ghal kull kawża ohra) jew minhabba f'imġieba hażina pruvata:

Iżda meta l-kariga ta' *Chairman* tal-Kumitat dwar il-Kontijiet Pubbliċi tal-Kamra tad-Deputati tkun vakanti jew abolita, jew ma tkunx okkupata minn membru tal-Kamra li jkun jappartjeni għal xi wiehed mill-partiti ta' l-Oppożizzjoni, is-subartikoli (2) u (3) ta' l-artikolu 97 ta' din il-Kostituzzjoni għandhom ikunu japplikaw għall-Awditur Ġenerali.

(5) Il-kontijiet tad-dipartimenti u ufficcji kollha tal-Gvern ta' Malta, maghdud l-ufficcju tal-Kummissjoni dwar is-Servizz Pubbliku, u l-ufficcju ta' l-Iskrivan tal-Kamra tad-Deputati, u tal-Qrati kollha Superjuri u Inferjuri f'Malta, kif ukoll il-kontijiet ta' dawk l-awtoritajiet pubbliċi l-oħra jew korpi oħra li jamministraw, ikollhom f'idejhom, jew jużaw fondi li jappartjenu direttament jew indirettament lill-Gvern ta' Malta kif jista' jiġi preskritt minn xi liġi jew bis-saħħa tagħha li f'dak iż-żmien tkun fis-seħh f'Malta, għandhom jiġu verifikati u jsir rapport dwarhom kull sena mill-Awditur Ġenerali lill-Kamra tad-Deputati u għal dak l-iskop l-Awditur Ġenerali jew kull persuna awtorizzata minnu għal hekk ikollu aċċess għall-kotba, notamenti, reżokonti u dokumenti oħra kollha li jirriferru għal dawk il-kontijiet.

(6) (a) L-Awditur Ġenerali għandu jinghata dak is-salarju u dawk l-*allowances* li jistgħu minn żmien għal żmien jiġu preskritti jew permessi għal Imhalef tal-Qrati Superjuri.

(b) Dak is-salarju u *allowances* jinharġu mill-Fond Konsolidat u d-dispożizzjonijiet tas-subartikolu (3) ta' l-artikolu 107 tal-Konstituzzjoni ikunu japplikaw għal dak is-salarju.

(7) L-Awditur Ġenerali ma jibdiex iwettaq id-dmirijiet tal-kariga tiegħu qabel ma jiehu u jiffirma quddiem il-President il-ġurament ta' lealtà u dak il-ġurament li jirrigwarda l-eżekuzzjoni sew tal-kariga tiegħu hekk kif jista' jiġi preskritt b'liġi li f'dak iż-żmien tkun isseħh f'Malta.

(8) Il-Parlament jista' minn żmien għal żmien jipprovdi permezz ta' liġi dwar il-mod kif ir-rapporti li jsiru mill-Awditur Ġenerali għandhom jintgħamlu.

(9) (a) Għandu jkun hemm ukoll Deputat Awditur Ġenerali li l-kariga tiegħu tkun kariga pubblika u li jkollu dawk il-funzjonijiet li l-Awditur Ġenerali jista' minn żmien għal żmien lilu jiddelega u li, kull meta l-

kariga ta' Awditur Ġenerali tkun għal xi żmien vakanti, u sakemm jinhatar Awditur Ġenerali ġdid, u kull meta d-detentur tal-kariga jkun assenti minn Malta jew ikun vaganza jew għal kull raġuni li tkun ma jkunx jista' jwettaq il-funzjonijiet tal-kariga tiegħu, iwettaq il-funzjonijiet ta' Awditur Ġenerali.

(b) Id-dispożizzjonijiet tas-subartikoli (2), (3), (4), tal-paragrafu (b) tas-subartikolu (6) u tas-subartikolu (7) ta' dan l-artikolu għandhom ikunu japplikaw għad-Deputat Awditur Ġenerali.

(ċ) Id-Deputat Awditur Ġenerali għandu jinghata dak is-salarju u dawk l-allowances li jistgħu minn żmien għal żmien jiġu preskritti għal jew jinghataw lil Magistrat tal-Qrati Inferjuri.

Uffiċċju  
Nazżjonali  
tal-Verifika.

(10) (a) Għandu jkun hemm Uffiċċju Nazżjonali tal-Verifika li jkun magħmul mill-Awditur Ġenerali, li jkun imexxi dak l-uffiċċju, id-Deputat Awditur Ġenerali u dawk il-funzjonarji l-oħra, li jinhatru mill-Awditur Ġenerali, hekk kif l-Awditur Ġenerali jista' jqis li jkun meħtieġ sabiex jassistuh fit-twettiq sew tal-kariga tiegħu, u d-dispożizzjonijiet ta' l-artikolu 110 tal-Kostituzzjoni ma għandhomx ikunu japplikaw għall-uffiċjali li jinhatru fl-Uffiċċju Nazżjonali tal-Verifika.

(b) Il-Parlament jista' minn żmien għal żmien jipprova permezz ta' liġi dwar il-mod kif jiġu allokati flejjes lill-Uffiċċju Nazżjonali tal-Verifika u dwar il-mod kif il-kontijiet ta' l-Uffiċċju Nazżjonali tal-Verifika jiġu verifikati u jsir rapport dwarhom.

(11) Ebda haġa f'dan l-artikolu ma għandha tiftiehem bhala li tipprekludi lill-Awditur Ġenerali jew lill-Uffiċċju Nazżjonali tal-Verifika milli jinghataw xi funzjonijiet jew setgħat oħra taht jew skond xi liġi li tkun fis-seħh.

(12) Fit-twettiq tal-funzjonijiet tagħhom taht il-Kostituzzjoni, l-Awditur Ġenerali u d-Deputat Awditur Ġenerali ma jkunux suġġetti għall-awtorità jew kontroll ta' ebda persuna oħra.”.

4. Fis-subartikolu (1) ta' l-artikolu 123 tal-Kostituzzjoni minflok il-kliem “Meta xi persuna” għandhom jidhlu l-kliem “Salv kif mod iehor provdut f'din il-Kostituzzjoni, meta xi persuna”.

5. Fil-paragrafu (a) tal-proviso li hemm mas-subartikolu (7) ta' l-artikolu 124 tal-Kostituzzjoni minflok il-kliem "100 jew 108" ghandhom jidhlu l-kliem "100 jew 108 (1) jew (9)".

Emenda ta' l-artikolu 124 tal-Kostituzzjoni.

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### **Ghanijiet u Raġunijiet**

L-ghan ta' l-Abbozz hu sabiex jipprovdi għat-twaqqif tal-kariga ta' Awditur Ġenerali u ta' Uffiċċju Nazzjonali tal-Verifika.

**A BILL  
entitled**

*AN ACT further to amend the Constitution of Malta providing for the  
Offices of Auditor General and Deputy Auditor General.*

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

Short title  
and  
commencement.

1. (1) This Act may be cited as the Constitution of Malta (Amendment) (No. 2) Act, 1996, and shall be read and construed as one with the Constitution of Malta hereinafter referred to as "the Constitution".

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

Amendment of  
section 107  
of the  
Constitution.

2. In subsection (4) of section 107 of the Constitution, for the words "100, 108, 109" there shall be substituted the words "100, 109".

Substitution  
of section 108  
of the  
Constitution.

3. For section 108 of the Constitution there shall be substituted the following:

"Auditor  
General.

108. (1) There shall be an Auditor General whose office shall be a public office who shall have the functions as provided in the following provisions of this section.

(2) The Auditor General shall be an officer of the House of Representatives and shall be appointed by the President acting on the joint advice of the Prime Minister

and of the Chairman of the Public Accounts Committee of the House of Representatives:

Provided that where the office of Chairman of the Public Accounts Committee of the House of Representatives is vacant or abolished, or is not occupied by a member of the House belonging to one of the opposition parties, the President shall act on the joint advice of the Prime Minister and the Leader of the Opposition:

Provided further that where the Prime Minister and the Chairman of the Public Accounts Committee of the House of Representatives, or the Leader of the Opposition, as the case may be, fail to agree on the joint advice to be given to the President within two weeks after the office of Auditor General becomes vacant, the President shall act in accordance with the advice of the Prime Minister.

(3) (a) Subject to the provisions of subsection (4) of this section the Auditor General shall hold office for a period of five years from the date of his appointment and shall be eligible for reappointment for one further period of five years.

(b) It shall not be lawful for the Auditor General, during his tenure of such office, to hold any other office of profit whatsoever under the Government or any other service:

Provided that where the Auditor General has been appointed from among public officers, the person so appointed shall revert to the rank which he held in the public service immediately before such appointment upon the termination of his appointment.

(4) The Auditor General shall not be removed from his office except by the President acting on the joint advice of the Prime Minister and the Chairman of the Public Accounts Committee of the House of Representatives on the ground of proved inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or proved misbehaviour:

Provided that where the office of Chairman of the Public Accounts Committee of the House of Representatives is vacant or abolished, or is not occupied by a member of the

House belonging to one of the opposition parties subsections (2) and (3) of section 97 of this Constitution shall apply to the Auditor General.

(5) The accounts of all departments and offices of the Government of Malta, including the office of the Public Service Commission, and the office of the Clerk of the House of Representatives and of all Superior and Inferior Courts of Malta, as well as the accounts of such other public authorities or other bodies administering, holding, or using funds belonging directly or indirectly to the Government of Malta as may be prescribed by or under any law for the time being in force in Malta, shall be audited and reported upon annually by the Auditor General to the House of Representatives and for that purpose the Auditor General or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(6) (a) There shall be paid to the Auditor General such salary and such allowances as may from time to time be prescribed or allowed for a Judge of the Superior Courts.

(b) Such salary and allowances shall be a charge on the Consolidated Fund and the provisions of subsection (3) of section 107 of the Constitution shall apply to such salary.

(7) The Auditor General shall not enter upon the duties of his office unless he has taken and subscribed before the President the oath of allegiance and such oath for the due execution of his office as may be prescribed by any law for the time being in force in Malta.

(8) Parliament may by law from time to time provide for the manner in which the reports of the Auditor General shall be made.

Deputy Auditor  
General.

(9) (a) There shall also be a Deputy Auditor General whose office shall be a public office and who shall have such functions as the Auditor General may from time to time delegate to him and who shall, wherever the office of Auditor General is temporarily vacant, and until a new Auditor General is appointed, and whenever the holder of the office is absent from Malta or on vacation or is for any reason unable to perform the functions of his office, perform the functions of Auditor General.

(b) The provisions of subsections (2), (3), (4), paragraph (b) of subsection (6) and subsection (7) of this section shall apply to the Deputy Auditor General.

(c) There shall be paid to the Deputy Auditor General such salary and such allowances as may from time to time be prescribed or allowed to a Magistrate of the Inferior Courts.

National  
Audit Office

(10) (a) There shall be a National Audit Office consisting of the Auditor General, who shall be the head of that office, the Deputy Auditor General and such other officers, appointed by the Auditor General, as the Auditor General may consider necessary to assist him in the proper discharge of his office, and the provisions of section 110 of this Constitution shall not apply to the officers appointed to the National Audit Office.

(b) Parliament may from time to time by law provide for the manner in which funds shall be allocated to the National Audit Office and in the manner whereby the accounts of the National Audit Office shall be audited and reported upon.

(11) Nothing in this section shall be construed as precluding the grant of any other functions or powers on the Auditor General or the National Audit Office by or under any law for the time being in force.

(12) In the exercise of their functions under the Constitution the Auditor General and the Deputy Auditor General shall not be subject to the authority or control of any person.”.

4. In subsection (1) of section 123 of the Constitution for the words “Where any person” there shall be substituted the words “Save as otherwise provided in this Constitution, where any person”. Amendment of section 123 of the Constitution.

5. In paragraph (a) of the proviso to subsection (7) of section 124 of the Constitution for the words “100 or 108” there shall be substituted the words “100 or 108 (1) or (9)”. Amendment of section 124 of the Constitution.

### Objects and Reasons

The object of the Bill is to provide for the setting up of Office of Auditor General and the establishment of the National Audit Office.