

MALTA

ATT Nru. XVII ta' l-1997

ACT No. XVII of 1997

ATT mahruġ b'ligi mill-Parlament ta' Malta.

AN ACT enacted by the Parliament of Malta.

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

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

Naghti l-kunsens tieghi.

(L.S.)

Ugo Mifsud Bonnici
President

18 ta' Lulju, 1997

ATT Nru. XVII ta' l-1997

ATT biex 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-1997 li jemenda l-Kostituzzjoni ta' Malta, u għandu jinqara u jiftiehem haġa wahda 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 jstabilixxi.

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 jkun uffiċjal tal-Kamra tad-Deputati u jinhatar mill-President li jaġixxi skond riżoluzzjoni tal-Kamra tad-Deputati li tghaddi bis-saħħa tal-voti ta' mhux anqas minn żewġ-terzi tal-membri kollha tal-Kamra:

Iżda meta persuna li ma tkunx membru tal-Kamra tad-Deputati tiġi eletta bhala *Speaker* tal-Kamra tad-Deputati, dik il-persuna ma ghandhiex titqies li tkun membru tal-Kamra għall-ghan li tiġi stabbilita l-maġġoranza meħtieġa b'dan is-subartikolu.

(3) (a) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu l-Awditur Ġenerali għandu jibqa' fil-kariga għal perijodu ta' hames snin mid-data tal-hatra tiegħu u jkun eligibbli li jerga' jinhatar għal perijodu wiehed iehor ta' hames snin.

(b) Meta l-Awditur Ġenerali jkun inhatar minn fost uffiċjali pubbliċi u meta tintemm il-hatra jkun ta' età iżgħar mill-età ta' irtirar fis-servizz pubbliku, il-persuna li tkun giet hekk maħtura għandha terġa' lura fis-servizz pubbliku u tkompli tgawdi l-istess salarju u *allowances* imsemmija fis-subartikolu (6).

(c) L-Awditur Ġenerali ma jkunx jista', filwaqt li huwa jkun qed jokkupa dik il-kariga, ikollu xi kariga bi qligh ohra, jew mod iehor mal-Gvern ta' Malta jew ma' xi intrapriża kummerċjali jew professjonali, tkun xi tkun.

(4) (a) L-Awditur Ġenerali jista' f'kull żmien jitnehħa jew jiġi sospiż mill-kariga tiegħu mill-President, meta jsirlu indirizz mill-Kamra tad-Deputati li jsir bis-saħħa tal-voti ta' mhux anqas minn żewġ-terzi tal-membri kollha tal-Kamra, li fih jintalab biex inehħih mill-kariga minhabba f'inkapaċità ppruvata li jwettaq il-funzjonijiet tal-kariga tiegħu (sew jekk din tkun minhabba nuqqas ta' saħħa fiżika jew mentali jew minhabba xi raġuni ohra) jew minhabba f'imġieba hażina ppruvata, u d-dispożizzjonijiet tal-paragrafu (a) tal-proviso li hemm mas-subartikolu (2) ta' dan l-artikolu għandhom japplikaw ukoll għall-ghan li tiġi stabbilita l-maġġoranza meħtieġa b'dan is-subartikolu.

(b) F'kull żmien meta ma jkunx hemm sessjoni tal-Parlament, l-Awditur Ġenerali jkun jista' jiġi sospiż mill-kariga tiegħu mill-President, li jaġixxi skond il-gudizzju deliberat tiegħu stess, dwar l-inkapaċità li jwettaq id-dmirijiet tal-kariga tiegħu jew imġieba hażina li dwarha tingieb prova li tissodisfa lill-President; iżda kull sospensjoni bħal dik ma għandhiex tkompli ssehh għal aktar minn xahrejn wara li tibda s-sessjoni tal-Parlament li jkun imiss minnufih wara.

(5) Il-kontijiet:

(a) tad-dipartimenti u uffiċċji tal-Gvern ta' Malta, magħdud l-Uffiċċju tal-Kummissjoni dwar is-Servizz Pubbliku, u l-uffiċċju ta' l-Iskrivan tal-Kamra tad-Deputati, u tal-qrati kollha Superjuri u Inferjuri f'Malta, u

(b) 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-seħħ 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 jirreferixxu 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 Imhalled tal-Qrati Superjuri.

(b) Dak is-salarju u *allowances* jinħargu mill-Fond Konsolidat u d-dispożizzjonijiet tas-subartikolu (3) ta' l-artikolu 107 tal-Kostituzzjoni 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 isseħħ f' Malta.

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

Deputat
Awditur
Ġenerali.

(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 temporanjament vakanti, u sakemm jiġi mahtur Awditur Ġenerali ġdid, u kull meta d-detentur tal-kariga jkun assenti minn Malta jew ikun bil-vaganza jew għal xi raġuni ma jkunx jista' jaqdi l-funzjonijiet tal-kariga tiegħu, iwettaq il-funzjonijiet ta' Awditur Ġenerali.

(b) Id-dispożizzjonijiet tas-subartikolu (2), tal-paragrafi (a) u (ċ) tas-subartikolu (3), tas-subartikolu (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 jingħata dak is-salarju u dawk l-allowances li jistgħu minn żmien għal żmien jiġu preskritti għal jew jingħataw lil Magistrat tal-Qrati Inferjuri.

(d) Meta d-Deputat Awditur Ġenerali jkun mahtur min fost uffiċjali pubbliċi u meta tintemm il-hatra jkun ta' età iżgħar mill-età ta' irtirar fis-servizz pubbliku, il-persuna li tkun giet hekk mahtura għandha terġa' lura fis-servizz pubbliku u tkompli tgawdi l-istess salarju u allowances imsemmija f'dan is-subartikolu.

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-tweqqif 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 zmien għal zmien jipprovdi permezz ta' liġi dwar il-mod kif jiġu allokat i flejjes lill-Uffiċċju Nazzjonali tal-Verifika u dwar il-mod kif il-kontijiet ta' l-Uffiċċju Nazzjonali tal-Verifika jiġu verifikati u jsir rapport dwarhom.

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

(12) Fit-twettiq tal-funzjonijiet tagħhom taħt il-Kostituzzjoni, l-Awditur Ġenerali u d-Deputat Awditur Ġenerali ma jkunux sugġetti 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 ieħor provdut f' din il-Kostituzzjoni, meta xi persuna”.

Emenda ta' l-artikolu 123 tal-Kostituzzjoni.

5. L-artikolu 124 tal-Kostituzzjoni għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 124 tal-Kostituzzjoni.

(a) fis-subartikolu (2) tiegħu, minnufih wara l-kliem “tal-Qrati Superjuri,” għandhom jidhlu l-kliem “servizz fil-kariga ta' Awditur Ġenerali u Deputat Awditur Ġenerali,”; u

(b) fis-subartikolu (7) tiegħu, minflok il-kliem “100 jew 108” għandhom jidhlu l-kliem “100 jew 108 (1) jew (9)”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 96 tat-Tlieta, 15 ta' Lulju, 1997.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati.

I assent.

(L.S.)

Ugo MIFSUD BONNICI
President

18th July, 1997

ACT No. XVII of 1997

*AN ACT 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) Act, 1997, 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 in accordance with a resolution of the House

of Representatives supported by the votes of not less than two-thirds of all the members in the House:

Provided that when a person who is not a member of the House of Representatives is elected to be the Speaker of the House of Representatives, he shall not be treated as a member of the House for the purpose of establishing the majority required by this subsection.

(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) Where the Auditor General has been appointed from among public officers and at the end of his appointment is below the retiring age in the public service, the person so appointed shall revert to the public service and shall continue to enjoy the salary and allowances referred to in subsection (6).

(c) It shall not be lawful for the Auditor General, during his tenure of such office, to hold any other office of profit or otherwise with the Government of Malta or with any commercial or professional venture whatsoever.

(4) (a) The Auditor General may at any time be removed or suspended from his office by the President, upon an address from the House of Representatives supported by the votes of not less than two-thirds of all members in the House, praying for such removal on the ground of proved inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or proved misbehaviour, and the provisions of paragraph (a) of the proviso to subsection (2) of this section shall also apply for the purpose of establishing the majority required under this subsection.

(b) At any time when Parliament is not in session, the Auditor General may be suspended from his office by the President, acting in accordance with his own deliberate judgement, for inability to perform the functions of his office or misbehaviour proved to

the satisfaction of the President; but any such suspension shall not continue in force beyond two months after the beginning of the next session of Parliament.

(5) The accounts:

(a) 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, and

(b) 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, whenever 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 subsection (2), paragraphs (a) and (c) of subsection (3), subsection (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.

(d) Where the Deputy Auditor General has been appointed from among public officers and at the end of his appointment is below the retiring age in the public service, the person so appointed shall revert to the public service and shall continue to enjoy the salary and allowances referred to in this subsection.

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.”.

Amendment of
section 123
of the
Constitution.

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 124
of the
Constitution.

5. Section 124 of the Constituion shall be amended as follows:

(a) in subsection (2) thereof, immediately after the words "of the Superior Courts," there shall be inserted the words "service in the office of Auditor General and Deputy Auditor General,"; and

(b) in subsection (7) thereof, for the words "100 or 108" there shall be substituted the words "100 or 108 (1) or (9)".

Passed by the House of Representatives at Sitting No.96 of Tuesday, 15th July, 1997.

Myriam Spiteri Debono
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives.