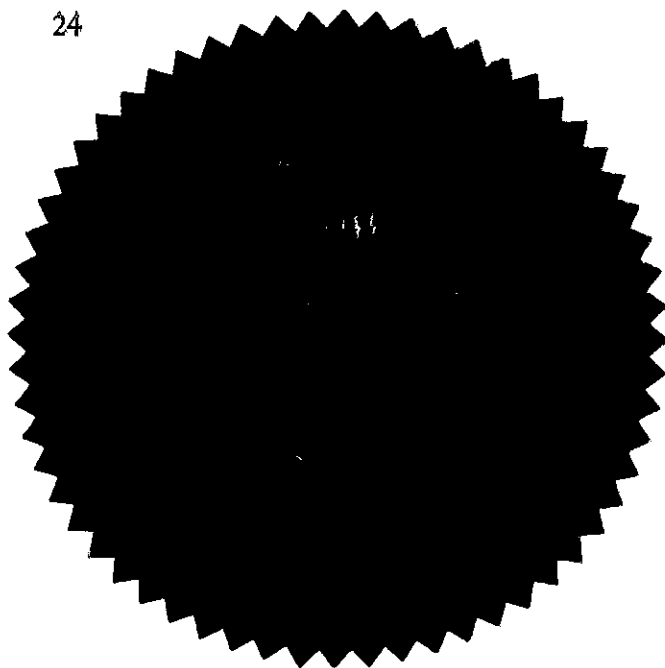




I assent.

C. J. Mamo
Governor-General

13th December, 1974

ACT No. LVIII of 1974

AN ACT further to amend the Constitution of Malta and to provide for matters ancillary or consequential thereto or connected therewith.

BE IT ENACTED by Her Majesty the Queen, by and with the advice and consent of the House of Representatives of Malta, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title,
effect and
commencement.

1. (1) This Act may be cited as the Constitution of Malta (Amendment) (No. 2) Act, 1974, and shall be read and construed as one with the Constitution of Malta, hereinafter referred to as "the Constitution".

(2) For the purposes of section 6 of the Constitution as in force on the coming into operation of this section, this Act shall have effect notwithstanding any provision of the Constitution; and accordingly, notwithstanding any such provision and any inconsistency therewith, the Constitution shall have effect as amended by and subject to the provisions of this Act.

(3) The provisions of this Act, other than those of section 69 and, to the extent that they amend section 67 of the Constitution in its application to section 6 thereof, of section 26 of this Act, shall come into operation immediately upon their publication in the Government Gazette, and the provisions of section 69 and, to the extent aforesaid, of section 26 of this Act shall come into operation on the expiration of two days following such publication.

(4) Notwithstanding any other provision of this Act and of any provision of the Constitution of Malta (Amendment) Act, 1974, all such provisions shall cease to have effect and the Constitution of Malta shall again have effect in its entirety as in force prior to the coming into force of the Constitution of Malta (Amendment) Act, 1974, if Parliament shall, within three months from the publica-

tion of the results of the general election following the next dissolution of Parliament after the coming into force of the said Acts, by law so provide.

2. For the title of Chapter 1 of the Constitution "The State" there shall be substituted the title "The Republic of Malta".

Substitution of the title of Chapter 1 of the Constitution.

3. For section 1 of the Constitution there shall be substituted the following section:

Substitution of section 1 of the Constitution.

"The Republic and its Territories"

1. (1) Malta is a democratic republic founded on work and on respect for the fundamental rights and freedoms of the individual.

(2) The territories of Malta consist of those territories comprised in Malta immediately before the appointed day, including the territorial waters thereof, or of such territories and waters as Parliament may from time to time by law determine."

4. For section 2 of the Constitution there shall be substituted the following section:

Substitution of section 2 of the Constitution.

"Religion"

2. (1) The religion of Malta is the Roman Catholic Apostolic Religion.

(2) The authorities of the Roman Catholic Apostolic Church have the duty and the right to teach which principles are right and which are wrong.

(3) Religious teaching of the Roman Catholic Apostolic Faith shall be provided in all state schools as part of compulsory education."

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

Substitution of section 3 of the Constitution.

"National Flag"

3. (1) The National Flag of Malta consists of two equal vertical stripes, white in the hoist and red in the fly.

(2) A representation of the George Cross awarded to Malta by His Majesty King George the Sixth on the 15th April, 1942 is carried, edged with red, in the canton of the white stripe."

6. Section 10 of the Constitution is hereby repealed.

Repeal of section 10 of the Constitution.

Amendment of
section 24
of the
Constitution.

7. Section 24 of the Constitution shall be amended as follows:

(a) in subsection (2) thereof for the words "and, if she is a British protected person or an alien," there shall be substituted the word "and";

(b) for subsection (3) thereof there shall be substituted the following subsection:

"(3) Any woman who on the day before the appointed day is or has been married to a person who, on or after the appointed day, becomes a citizen of Malta shall be entitled upon making application in such manner as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta."; and

(c) immediately after subsection (5) there shall be added the following two new subsections:

"(6) Any person who, in accordance with paragraph (a) or paragraph (b) of subsection (4) of section 45 of this Constitution is deemed to be a citizen of Malta for the purposes of that section, and who has returned to, and taken up permanent residence in, Malta shall be entitled, upon making application in such manner as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta.

(7) Notwithstanding any other provision of this Constitution, a person shall not be entitled to be registered as a citizen of Malta more than once under the same provision of this Constitution."

Amendment
of section 27
of the
Constitution.

8. In section 27 of the Constitution, for the words "and, if she is a British protected person or an alien," there shall be substituted the word "and".

Amendment
of section 28
of the
Constitution.

9. Section 28 of the Constitution shall be amended by the insertion, immediately after the end of subsection (5) thereof, of the following proviso:

"Provided that where any person, having made a declaration under this subsection, can, if such declaration is made on or before 31st December, 1974, at any time after that date, and, if made after that date at any time after the declaration is made, renounce the citizenship of the other country, such person shall renounce such citizenship within six months after the date aforesaid or after the date on which he can renounce such citizenship, whichever is the later date, or within such further period as the competent authority may allow or as may be prescribed, and such person shall cease to be a citizen of Malta on the expiration of such period, or of such extended period, if he has not then made the requisite renunciation."

Amendment
of section 32
of the
Constitution.

10. In subsection (3) of section 32 of the Constitution, for the words "an adopted child whose adoption has been registered under any law in force in Malta" there shall be substituted the words "a child who has been lawfully adopted".

11. Section 38 of the Constitution shall be amended by the insertion, at the end of subsection (1) thereof, of the following proviso: Amendment of section 38 of the Constitution.

"Provided that in special cases Parliament may, if it deems it appropriate so to act in the national interest, by law establish the criteria which are to be followed, including the factors and other circumstances to be taken into account, in the determination of the compensation payable in respect of property compulsorily taken possession of or acquired; and in any such case the compensation shall be determined and shall be payable accordingly."

12. Section 41 of the Constitution shall be amended as follows: Amendment of section 41 of the Constitution.

(a) for the words, in the marginal note thereof, "*Protection of freedom of conscience*" there shall be substituted the words "*Protection of freedom of conscience and worship*";

(b) immediately after subsection (1) thereof, there shall be inserted the following new subsection:

"(2) No person shall be required to receive instruction in religion or to show knowledge or proficiency in religion if, in the case of a person who has not attained the age of sixteen years, objection to such requirement is made by the person who according to law has authority over him and, in any other case, if the person so required objects thereto:

Provided that no such requirement shall be held to be inconsistent with or in contravention of this section to the extent that the knowledge of, or the proficiency or instruction in, religion is required for the teaching of such religion, or for admission to the priesthood or to a religious order, or for other religious purposes, and except so far as that requirement is shown not to be reasonably justifiable in a democratic society."; and

(c) subsection (2) thereof shall be renumbered as subsection (3).

13. Section 43 of the Constitution shall be amended by the addition at the end thereof of the following new subsection: Amendment of section 43 of the Constitution.

"(3) For the purposes of this section, any provision in any law prohibiting the holding of public meetings or demonstrations in any one or more particular cities, towns, suburbs or villages shall be held to be a provision which is not reasonably justifiable in a democratic society."

14. In subsection (4) of section 44 of the Constitution for the words "the Fugitive Offenders Act 1881, as for the time being in force in Malta", including any reference to such Act, there shall be substituted the words "the Extradition (Commonwealth Countries) Act, 1970, as for the time being in force". Amendment of section 44 of the Constitution.

15. For subsection (9) of section 46 of the Constitution there shall be substituted the following subsection: Amendment of section 46 of the Constitution.

"(9) A requirement, however made, that the Roman Catholic Apostolic Religion shall be taught by a person professing that religion shall not be held to be inconsistent with or in contravention of this section."

Amendment
of section 47
of the
Constitution.

16. In subsection (3) of section 47 of the Constitution, the words "and of section 103(2) of this Constitution," shall be deleted.

Amendment
of section 48
of the
Constitution.

17. Section 48 of the Constitution shall be amended as follows:

(a) in paragraph (a) of the definition of "disciplined force" contained in subsection (1) of the said section 48, the words "of the Crown in right" shall be deleted; and

(b) for the word "Governor-General" wherever it occurs there shall be substituted the word "President".

Substitution
of Chapter V
of the
Constitution.

18. For Chapter V of the Constitution, including sections 49, 50 and 51, there shall be substituted the following Chapter and sections thereof:

"Chapter V

THE PRESIDENT

Establishment of the office of President

49. (1) There shall be a President of Malta who shall be appointed by Resolution of the House of Representatives.

(2) A person shall not be qualified to be appointed to the office of President if —

(a) he is not a citizen of Malta; or

(b) he holds or has held the office of Chief Justice or other judge of the Superior Courts; or

(c) he is not eligible for appointment to or to act in any public office in accordance with sections 112, 121 and 122A of this Constitution.

(3) The office of President shall become vacant:

(a) on the expiration of five years from the date of the appointment to that office; or

(b) if the holder of the office is removed from office by Resolution of the House of Representatives on the ground of inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or misbehaviour.

(4) Notwithstanding the foregoing provisions of this section, with effect from the date of the coming into force of this section and until the expiration of three months after the publication of the official results of the general election following the first dissolution of Parliament after the said date, the office of President shall be held by the person who immediately before such date held the office of Governor-General or, if such person ceases to hold the office of President, by such person as the House may, in accordance with subsection (1) of this section, appoint; and any such person shall hold the office of President ad interim and shall cease to hold that office on the expiration of the period of three months aforesaid.

Discharge of President's functions during vacancy, etc.

50. Whenever the office of President is temporarily vacant, and until a new President 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 conferred upon him by this Constitution, those functions shall be performed by such person as the Prime Minister, after consultation with the Leader of Opposition, may appoint or, if there is no person in Malta so appointed and able to perform those functions, by the Chief Justice.

Oath to be taken by the President

51. A person appointed to or assuming the functions of the office of President shall, before entering upon that office, take and subscribe the oath of office set out in the Second Schedule to this Constitution. The person holding the office of President under subsection (4) of section 49 of this Constitution and any person appointed to the office of President under subsection (1) of that section, shall take the oath of office before the House."

19. In section 52 of the Constitution, for the words "Her Majesty" there shall be substituted the words "the President".

Amendment
of section 52
of the
Constitution.

20. For section 53 of the Constitution there shall be substituted the following section:

Substitution
of section 53
of the
Constitution.

"Composition of the House of Representatives

53. (1) Subject to the provisions of this Chapter, the House of Representatives shall consist of such number of members, being an odd number and divisible by the number of electoral divisions, as Parliament shall from time to time by law determine. Such members shall be elected in the manner provided by or under any law for the time being in force in Malta in equal proportions from the electoral divisions referred to in section 57 of this Constitution, each division returning such number of members, being not less than five and not more than seven as Parliament shall from time to time by law determine; and such members shall be known as "Members of Parliament".

(2) If any person who is not a member of the House of Representatives is elected to be Speaker of the House he shall, by virtue of holding the office of Speaker, be a member of the House in addition to the other members:

Provided that in any such case the Speaker shall not be treated as a member of the House for the purpose of establishing the number of votes required to support a bill for any of the purposes of section 67 of this Constitution."

21. Section 55 of the Constitution shall be amended as follows:

Amendment
of section 55
of the
Constitution.

(a) in paragraph (b) of subsection (1) thereof, for the words "of the Crown" there shall be substituted the words "of the Government of Malta"; and

(b) in paragraph (b) of subsection (3) thereof, the word "Royal" shall be deleted.

Substitution
of section 57
of the
Constitution.

22. For section 57 of the Constitution there shall be substituted the following section:

"Voting at Elections"

57. (1) The members of the House of Representatives shall be elected upon the principle of proportional representation by means of the single transferable vote from such number of electoral divisions, being an odd number and not less than nine and not more than fifteen, as Parliament shall from time to time determine.

(2) The election of members of the House of Representatives shall be free of corrupt practices.

(3) It shall be the duty of the Electoral Commission to suspend the election, either in all electoral divisions or in any one or more of such divisions, if it has reasonable ground to believe that corrupt practices or other offences connected with the elections have been committed and have so extensively prevailed or have been of such nature that they may reasonably be expected to affect the result of the election, in all or in any one or more of the electoral divisions.

(4) In any case in which an election is suspended under subsection (3) of this section, the Chief Electoral Commissioner shall forthwith refer the matter to the Constitutional Court for its decision.

(5) Where any of the grounds on which an election may be suspended under subsection (3) of this section exist and the election has not been suspended, or where corrupt practices or other offences as are referred to in that subsection may reasonably be supposed to have affected the result of an election, in all or in any one or more of the electoral divisions, any person entitled to vote at that election may, not later than three days after the publication of the official result of the election, refer the matter to the Constitutional Court for its decision.

(6) Any reference to the Constitutional Court under either subsection (4) or subsection (5) of this section shall be made and shall be determined by that Court in accordance with any law for the time being in force in Malta. On any such reference the Court shall, without prejudice to any other powers, have power to annul the election, in all or in any one or more of the electoral divisions, on any of the grounds mentioned in the said subsections, and to give such directions and orders and to provide such redress and other remedies as it may deem appropriate in the circumstances and in particular to ensure that a free election, in place of any one that may have been annulled, be held at the earliest possible opportunity.

(7) Where an election has been annulled under subsection (6) of this section, the result of the election shall not be complete before the publication of the official result of a valid election in all electoral divisions.

(8) Except by a bill for an Act of Parliament passed in the manner specified in subsection (2) of section 67 of this Constitution, no alteration in any law shall be made —

(a) whereby any act or omission shall cease to be a corrupt practice or other offence relating to the election of members of the House of Representatives; or

(b) which alters or adds to the circumstances or conditions in which or under which an act or omission is such a practice or other offence; or

(c) reduces the punishment to which from time to time any such practice or other offence renders the offender liable;

and for the purposes of this subsection the provisions of subsection (7) of section 67 of this Constitution shall apply as if references to the alteration to any of the provisions of this Constitution were references to the alteration of any law.

(9) No person shall vote at the election of members of the House of Representatives for any electoral division who is not registered under any law for the time being in force in Malta as a voter in that division.

(10) At the election of members of the House of Representatives —

(a) voting shall be by ballot and shall be carried out in such a manner as not to disclose the way in which the vote of any particular voter is given; and

(b) no person shall be permitted to vote on behalf of another;

Provided that provision may be made by law whereby, if a person is unable, by reason of blindness, other physical cause or illiteracy to mark on his ballot paper, his ballot paper may be marked on his behalf and on his directions by some other person officially supervising the poll at the place of voting.

(11) Ballot papers shall be drawn up in such a manner as to enable illiterates to distinguish between the political parties to which candidates belong.

(12) Candidates and their agents shall be given facilities to watch the transportation of ballot boxes and the sealing and unsealing thereof."

23. Section 58 of the Constitution shall be amended as follows:

Amendment
of section 58
of the
Constitution.

(a) for paragraph (b) thereof there shall be substituted the following paragraph:

"(b) he has attained the age of eighteen years; and";
and

(b) for paragraph (c) there shall be substituted the following paragraph:

"(c) he is resident in Malta and has during the eighteen months immediately preceding his registration been a resident for a continuous period of six months or for periods amounting in the aggregate to six months:

Provided that this paragraph shall not apply to a person who is ordinarily resident in Malta but has not been resident in Malta as required by this paragraph by reason of service abroad in the public service, including service in the offices referred to in subsection (3) of section 126 of this Constitution, or by reason of service abroad in, or as a member of a disciplined force as defined in section 48 of this Constitution.”.

Amendment
of section 61
of the
Constitution.

24. In section 61 of the Constitution, for the word “Governor-General”, wherever it occurs, there shall be substituted the word “President”.

Amendment
of section 62
of the
Constitution.

25. Section 62 of the Constitution shall be amended as follows:

(a) the words “or altering the number of the members of the House of Representatives in such a way that the number is not divisible by the number of electoral divisions” occurring in the proviso to subsection (1) and also in subsection (2) of the said section 62 shall be deleted;

(b) for subsection (3) thereof, there shall be substituted the following subsection:

“(3) Whenever an alteration of boundaries is made by the Commission under this section the following provisions shall have effect:

(a) the Chief Electoral Commissioner shall, as soon as practicable after it is made, communicate the alteration to the Prime Minister and to the Leader of Opposition;

(b) not later than two months from the receipt of such communication, the Prime Minister shall cause the alteration to be placed before the House of Representatives for consideration by it;

(c) not later than five months from the receipt of the said communication by the Prime Minister, the House may, by Resolution, either approve the alteration or refer it back to the Commission for reconsideration;

(d) upon the expiration of six months from the date on which the alteration was communicated to the Prime Minister, or, if the alteration is approved by the House, upon such approval, or, if the alteration is referred back to the Commission, upon the expiration of two months from such reference, the Chief Electoral Commissioner shall cause the alteration to be published in the Gazette either in its original form or, if it has been modified by the Commission, as so modified; and

(e) any such alteration shall come into effect upon the next dissolution of Parliament after the alteration is published in the Gazette under paragraph (d) of this subsection:

Provided that nothing in this paragraph shall be construed as preventing the publication of any electoral register or any other requirement connected with the registration of voters from being carried out in accordance with the alteration, under any law for the time being in force in Malta, before that dissolution.”; and

(c) in the proviso to subsection (4) thereof, for the words "fifteen per centum, in order to take account of means of communication, differences in density of population, parish boundaries and other relevant factors" there shall be substituted the words "five per centum, in order to take account of geographical vicinity, differences in density of population and other relevant factors".

26. For section 67 of the Constitution there shall be substituted the following section:

Substitution
of section 67
of the
Constitution.

"Alteration of this Constitution"

67. (1) Subject to the provisions of this section Parliament may alter any of the provisions of this Constitution and (in so far as it forms part of the law of Malta) any of the provisions of the Malta Independence Act, 1964.

(2) In so far as it alters —

(a) this section; or

(b) subsection (2) of section 2, subsection (1) of section 3, subsection (1) of section 5, section 6, sections 33 to 49 (inclusive), sections 52, 53, 57, 58, 61 and 62, subsection (3) of section 66, subsection (2) of section 76, section 77 (other than subsection (2) thereof), sections 78 and 79, section 81, section 92, sections 96 to 101 (inclusive), sections 105 to 113 (inclusive), sections 116, 117, 121, 122 or 122A of this Constitution; or

(c) section 126 of this Constitution in its application to any of the provisions specified in paragraph (a) or (b) of this subsection,

a bill for an Act of Parliament under this section shall not be passed in the House of Representatives unless at the final voting thereon in that House it is supported by the votes of not less than two-thirds of all the members of the House.

(3) In so far as it alters —

(a) this subsection or subsection (4) of this section; or

(b) subsection (2) of section 77 of this Constitution, a bill for an Act of Parliament under this section shall not be presented to the President for his assent unless not less than three nor more than six months after its passage through the House in the manner specified in subsection (2) of this section it has been submitted to the electors qualified to vote for the election of members of the House of Representatives and the majority of the electors voting have approved the bill.

(4) The provisions of subsection (10) of section 57 of this Constitution shall apply to the voting on a bill submitted to the electors under subsection (3) of this section as they apply to voting at the election of members of the House of Representatives, and subject as aforesaid the vote on such bill shall be taken in such manner as Parliament may prescribe.

(5) In so far as it alters any of the provisions of this Constitution other than those specified in subsections (2) and (3) of this section, a bill for an Act of Parliament under this section shall not be passed in the House of Representatives unless at the final voting thereon in that House it is supported by the votes of a majority of all the members of the House.

(6) An Act of Parliament altering the number of members of the House of Representatives shall not affect the membership of the House before the dissolution of Parliament next following its enactment.

(7) In this section —

(a) references to any of the provisions of this Constitution or of the Malta Independence Act, 1964 include references to any law that amends or replaces that provision; and

(b) references to the alteration of any of the provisions of this Constitution or of the Malta Independence Act, 1964 include references to the amendment, modification or re-enactment, with or without amendment or modification, of that provision, the suspension or repeal of that provision and the making of a different provision in lieu of that provision.”.

Amendment
of section 73
of the
Constitution.

27. In section 73 of the Constitution for the word “Governor-General” wherever it occurs there shall be substituted the word “President”.

Amendment
of section 74
of the
Constitution.

28. In section 74 of the Constitution, for the word “Governor-General” there shall be substituted the word “President”.

Amendment
of section 76
of the
Constitution.

29. Section 76 of the Constitution shall be amended as follows:

(a) for subsection (1) thereof there shall be substituted the following subsection:

“(1) Each session of Parliament shall commence at such time as the President may by proclamation appoint and shall be held at such place or places as the President by proclamation, or as the House of Representatives in any manner it may deem appropriate, may from time to time appoint.”; and

(b) in subsection (3) thereof, for the word “Governor-General” there shall be substituted the word “President”.

Amendment
of section 77
of the
Constitution.

30. In section 77 of the Constitution for the word “Governor-General” wherever it occurs, there shall be substituted the word “President”.

Amendment
of section 78
of the
Constitution.

31. In section 78 of the Constitution, for the word “Governor-General” there shall be substituted the word “President”.

Substitution
of section 79
of the
Constitution.

32. For section 79 of the Constitution there shall be substituted the following section:

“Executive authority of Malta

79. (1) The executive authority of Malta is vested in the President.

(2) The executive authority of Malta shall be exercised by the President, either directly or through officers subordinate to him, in accordance with the provisions of this Constitution.

(3) Nothing in this section shall prevent Parliament from conferring functions on persons or authorities other than the President.”.

33. In section 81 of the Constitution, for the word “Governor-General” there shall be substituted the word “President”. Amendment of section 81 of the Constitution.

34. In section 82 of the Constitution, for the word “Governor-General”, wherever it occurs, there shall be substituted the word “President”. Amendment of section 82 of the Constitution.

35. In section 83 of the Constitution for the word “Governor-General”, wherever it occurs, there shall be substituted the word “President”. Amendment of section 83 of the Constitution.

36. For section 84 of the Constitution there shall be substituted the following section: Substitution of section 84 of the Constitution.

“Acting Prime Minister

84. (1) Whenever the Prime Minister is absent from Malta or on vacation, or is unable by reason of illness to perform the functions of the office, the President may authorise any other member of the Cabinet to perform those functions (other than the functions conferred by this section) and that member may perform those functions until his authority is revoked by the President.

(2) The powers of the President under this section shall be exercised by him in accordance with the advice of the Prime Minister:

Provided that if the President considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness he may exercise those powers without that advice.”.

37. In section 85 of the Constitution, for the word “Governor-General”, wherever it occurs, there shall be substituted the word “President”. Amendment of section 85 of the Constitution.

38. Section 86 of the Constitution shall be amended as follows: Amendment of section 86 of the Constitution.

(a) for the word “Governor-General”, wherever it occurs including the marginal note, there shall be substituted the word “President”; and

(b) in paragraph (c) of the proviso to subsection (1) thereof, for the words “absence or illness” there shall be substituted the words “absence, vacation or illness”.

39. For section 88 of the Constitution there shall be substituted the following section: Substitution of section 88 of the Constitution.

"The President to be informed concerning matters of Government"

88. The Prime Minister shall keep the President fully informed concerning the general conduct of the Government of Malta and shall furnish the President with such information as he may request with respect to any particular matter relating to the Government of Malta."

Amendment
of section 89
of the
Constitution.

40. In subsection (1) of section 89 of the Constitution, for the words "The Governor-General" there shall be substituted the words "The President".

Substitution
of section 90
of the
Constitution.

41. For section 90 of the Constitution there shall be substituted the following section:

"Oath to be taken by Ministers"

90. A Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and the oath of office set out in the Third and in the Second Schedule to this Constitution."

Amendment
of section 91
of the
Constitution.

42. In section 91 of the Constitution, for the word "Governor-General" wherever it occurs, there shall be substituted the word "President".

Amendment
of section 92
of the
Constitution.

43. In section 92 of the Constitution —

(a) for the words "Crown Advocate-General", wherever they occur, there shall be substituted the words "Attorney General"; and

(b) for the word "Governor-General" in subsection (1) thereof, there shall be substituted the word "President".

Amendment
of section 93
of the
Constitution.

44. In subsection (3) of section 93 of the Constitution, for the words "in the Governor-General" there shall be substituted the words "in the President".

Amendment
of section 94
of the
Constitution.

45. Section 94 of the Constitution shall be amended as follows:

(a) in subsection (1) thereof, for the words "The Governor-General may, in Her Majesty's name and on Her Majesty's behalf" there shall be substituted the words "The President shall have power to"; and

(b) in subsection (2) thereof, for the word "Governor-General", wherever it occurs, there shall be substituted the word "President".

Substitution
of section 96
of the
Constitution.

46. For section 96 of the Constitution there shall be substituted the following section:

"Superior Courts

96. (1) There shall be in and for Malta such Superior Courts having such powers and jurisdiction as may be provided by any law for the time being in force in Malta.

(2) One of the Superior Courts, composed of such three judges as could, in accordance with any law for the time being in force in Malta, compose the Court of Appeal, shall be known as the Constitutional Court and shall have jurisdiction to hear and determine —

(a) such questions as are referred to in section 64 of the Constitution;

(b) any reference made to it in accordance with section 57 of this Constitution and any matter referred to it in accordance with any law relating to the election of members of the House of Representatives;

(c) appeals from decisions of the Civil Court, First Hall, under section 47 of this Constitution;

(d) appeals from decisions of any court of original jurisdiction in Malta as to the interpretation of this Constitution other than those which may fall under section 47 of this Constitution;

(e) appeals from decisions of any court of original jurisdiction in Malta on questions as to the validity of laws other than those which may fall under section 47 of this Constitution; and

(f) any question decided by a court of original jurisdiction in Malta together with any of the questions referred to in the foregoing paragraphs of this subsection on which an appeal has been made to the Constitutional Court;

Provided that nothing in this paragraph shall preclude an appeal being brought separately before the Court of Appeal in accordance with any law for the time being in force in Malta.

(3) Notwithstanding the provisions of subsection (2) of this section, if any such question as is referred to in paragraph (d) or (e) of that subsection arises for the first time in proceedings in a court of appellate jurisdiction, that court shall refer the question to the court which gave the original decision, unless in its opinion the raising of the question is merely frivolous or vexatious, and that Court shall give its decision on any such question and, subject to any appeal in accordance with the provisions of subsection (2) of this section, the court in which the question arose shall dispose of the question in accordance with that decision.

(4) The provisions of subsections (6) and (7) of section 47 of this Constitution shall apply to the Constitutional Court and for that purpose references to that section in the said subsections shall be construed as references to this section.

(5) If at any time during an election of members of the House of Representatives and the period of thirty days following any such election, the Constitutional Court is not constituted as provided in this section, the said Court shall, thereupon and until otherwise constituted according to law, be constituted by virtue of this subsection and shall be composed of

the three more senior of the judges then in office, including, if any is in office, the Chief Justice or other judge performing the functions of Chief Justice; and if at any other time the said Court is not constituted as provided in this section for a period exceeding fifteen days, such Court shall, upon the expiration of the said period of fifteen days and until otherwise constituted according to law, be constituted by virtue of this subsection and shall be composed of the three more senior judges as aforesaid.

(6) The Judges of the Superior Courts shall be a Chief Justice and such number of other judges as may be prescribed by any law for the time being in force in Malta:

Provided that the office of a judge of the Superior Courts shall not, without his consent, be abolished during his continuance in office.”.

Amendment
of section 97
of the
Constitution.

47. In subsection (1) of section 97 of the Constitution, for the word “Governor-General” there shall be substituted the word “President”.

Amendment
of section 98
of the
Constitution.

48. In subsection (2) of section 98 of the Constitution for the word “Governor-General” there shall be substituted the word “President”.

Amendment
of section 99
of the
Constitution.

49. In section 99 of the Constitution, for the word “Governor-General”, wherever it occurs, there shall be substituted the word “President”.

Amendment
of section 101
of the
Constitution.

50. In subsection (1) of section 101 of the Constitution, for the word “Governor-General” there shall be substituted the word “President”.

Repeal of
sections 103 and
104 of the
Constitution.

51. Sections 103 and 104 of the Constitution shall be repealed.

Amendment
of section 110
of the
Constitution.

52. Section 110 of the Constitution shall be amended as follows:

(a) for the words in the marginal note “Remuneration of Governor-General and certain other officers” there shall be substituted the words “Remuneration in respect of certain offices”; and

(b) for subsection (4) thereof there shall be substituted the following subsection:

“(4) This section applies to the offices referred to in sections 49, 92, 96(6), 101, 111, 112, 121 and 122A of this Constitution.”.

Amendment
of section 111
of the
Constitution.

53. In subsection (1) of section 111 of the Constitution, for the word “Governor-General” there shall be substituted the word “President”.

Amendment
of section 112
of the
Constitution.

54. In section 112 of the Constitution, for the word “Governor-General”, wherever it occurs, there shall be substituted the word “President”.

55. Section 113 of the Constitution shall be amended as follows: Amendment of section 113 of the Constitution.

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

“(2) A delegation of a power under this section —

(a) shall be without prejudice to the exercise of that power by the Prime Minister acting on the recommendation of the Public Service Commission;

(b) may authorise the public officer or other authority concerned to exercise that power either with or without reference to the Public Service Commission; and

(c) in respect of recruitment to public offices from outside the public service, shall, unless such recruitment is made after a public examination advertised in the Gazette, be exercised only through an employment service provided out of public funds which ensures that no distinction, exclusion or preference is made or given in favour or against any person by reason of his political opinion and which provides opportunity for employment solely in the best interests of the public service and of the nation generally.”;

(b) in paragraph (a) of subsection (5) thereof, for the figures and word “111, 114 and 115” there shall be substituted the figures and word “111 and 114”;

(c) in paragraph (c) of subsection (5) thereof, there shall be added, at the end of the said paragraph, the words “and appointments on transfer to and from the offices referred to in section 115 of this Constitution”; and

(d) immediately after subsection (5) thereof, there shall be added the following new subsection:

“(6) Recruitment for employment with any body established by the Constitution or by or under any other law, or with any partnership or other body in which the Government of Malta, or any such body as aforesaid, have a controlling interest or over which they have effective control, shall, unless such recruitment is made after a public examination duly advertised, be made through an employment service as provided in subsection (2) of this section.”;

56. In subsection (1) of section 114 of the Constitution, for the word “Governor-General” there shall be substituted the word “President”. Amendment of section 114 of the Constitution.

57. In section 116 of the Constitution, immediately after subsection (6) thereof, there shall be added the following two new subsections: Amendment of section 116 of the Constitution.

“(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby any benefits to which this section applies are or may be reduced or withheld —

(a) until the person eligible therefor reaches the age of sixty years, or such lower age as may be determined by

or under a law, if such person is in receipt of any income to which this subsection applies and such provision is made in order that any such income together with any uncommuted benefits aforesaid do not in the aggregate exceed such amount as may be determined by, under or in accordance with any law, being an amount not less than the salary from time to time payable in respect of the post held by such person on retirement, taking account only, if such salary is incremental, of the corresponding increments earned prior to retirement; or

(b) in order to ensure compliance with any legal requirements relating to any of the purposes of paragraph (a) of this subsection; or

(c) if the person eligible therefor ceases to be a citizen of Malta.

(8) The income to which subsection (7) of this section applies is any remuneration in respect of, or other income deriving from, any employment, work, service, office, trade, business, profession or vocation, or from any pension, allowance, gratuity or similar payment in respect of any such employment or other source of income."

Amendment
of section 117
of the
Constitution.

58. Section 117 of the Constitution shall be amended as follows:

(a) in subsection (1) thereof, for the words "Public Service Commission" there shall be substituted the words "Public Service Commission, unless such benefits are reduced or withheld in accordance with any law referred to in subsection (7) of section 116 of this Constitution"; and

(b) in subsection (2) thereof, for the numbers "96(4)" there shall be substituted the numbers "96 (6)".

Amendment
of section 121
of the
Constitution.

59. In section 121 of the Constitution, for the word "Governor-General", wherever it occurs, there shall be substituted the word "President".

Insertion of
new section
122A in the
Constitution.

60. Immediately after section 122 of the Constitution there shall be inserted the following new section:

"Employment Commission

122A. (1) There shall be an Employment Commission for Malta which shall consist of a chairman and four other members.

(2) The members of the Employment Commission shall be appointed by the President who, in appointing the chairman shall act in accordance with the advice of the Prime Minister given after he has consulted the Leader of the Opposition, in appointing two of the four other members shall act in accordance with the advice of the Prime Minister, and in appointing the other two members shall act in accordance with the advice of the Leader of the Opposition.

(3) A person shall not be qualified to hold office as a member of the Employment Commission if he is a Minister, a Parliamentary Secretary, a member of, or a candidate for

election to, the House of Representatives, a member of a local government authority, or if he is a public officer.

(4) A member of the Employment Commission shall not, within a period of three years commencing with the day on which he last held office or acted a member, be eligible for appointment to or to act in any public office.

(5) Subject to the provisions of this section, the office of a member of the Employment Commission shall become vacant —

(a) at the expiration of three years from the date of his appointment; or

(b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(6) A member of the Employment Commission may be removed from office by the President, 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, but such member may be removed only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(7) If the office of a member of the Employment Commission is vacant or if a member is for any reason unable to perform the functions of his office, the President, 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, may appoint a person who is qualified to be appointed to be a member to be a temporary member of the Commission; and any person so appointed shall, subject to the provisions of subsections (6) and (7) of this section, cease to be such a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

(8) It shall be the function of the Employment Commission to ensure that, in respect of employment, no distinction, exclusion or preference that is not justifiable in a democratic society is made or given in favour or against any person by reason of his political opinions.

(9) Any person who alleges that any distinction, exclusion or preference as aforesaid has been made or given to his prejudice may apply to the Employment Commission, in such manner and within such time as may be prescribed, for redress.

(10) Parliament shall make provision conferring upon the Employment Commission such powers as are necessary or desirable for the purpose of enabling the Commission effectively to afford adequate redress and generally to carry out its function under this Constitution."

Amendment
of section 125
of the
Constitution.

61. In subsection (1) of section 125 of the Constitution, for the words and brackets "(including the office of Prime Minister or other Minister or Parliamentary Secretary)" there shall be substituted the words "other than the office of President but including the office of Prime Minister or other Minister or Parliamentary Secretary".

Amendment
of section 126
of the
Constitution.

62. Section 126 of the Constitution shall be amended as follows:

(a) in the definition of "oath of allegiance" in subsection (1) thereof, for the words "in the Second Schedule" there shall be substituted the words "in the Third Schedule";

(b) in the definition of "the public service" in subsection (1) thereof for the words "the service of the Crown in a civil capacity in respect of the Government of Malta" there shall be substituted the words "the service of the Government of Malta in a civil capacity";

(c) in paragraph (a) of subsection (5) thereof, immediately after the words "during which the holder thereof is" there shall be inserted the words "on vacation or"; and

(d) for subsection (14) thereof there shall be substituted the following subsection:

"(14) Where Parliament has by law provided for the interpretation of Acts of Parliament, the provisions of any such law, even if expressed to apply to laws passed after the commencement thereof, shall apply for the purposes of interpreting this Constitution, and otherwise in relation thereto, as they apply for the purpose of interpreting and otherwise in relation to Acts of Parliament as if this Constitution were an Act of Parliament passed after the commencement of any such law as aforesaid:

Provided that, until such time as Parliament has made provision as aforesaid, the law applicable for the interpretation of this Constitution and otherwise in relation thereto shall be the law which was applicable for that purpose on the appointed day."

Substitution
of Second
Schedule
to the
Constitution.

63. For the Second Schedule to the Constitution there shall be substituted the following Schedule:

"SECOND SCHEDULE

Sections 51 and 90

Oaths of Office

(a) *Oath for the due execution of the office of President.*

I solemnly swear/
affirm that I will faithfully execute the office of President (perform the functions of the President) of Malta, and will, to the best of my ability preserve, protect and defend the Constitution of Malta. (So help me God).

(b) *Oath for the due execution of the office of Prime Minister or other Minister or Parliamentary Secretary.*

I solemnly swear/affirm that I will faithfully and conscientiously perform my duties as (Prime Minister/Minister/Parliamentary Secretary) in accordance with the Constitution and the laws of Malta, without fear or favour. (So help me God)."

64. Immediately after the Second Schedule to the Constitution there shall be added the following new Schedule:

Addition of Third Schedule to the Constitution.

"THIRD SCHEDULE

Section 126(1)

Oath of allegiance

I solemnly swear/affirm that I will bear true faith and allegiance to the people and the Republic of Malta and its Constitution. (So help me God)."

65. (1) Any requirements relating to citizenship which are a consequence of amendments made by this Act to any of the provisions of Chapter III of the Constitution shall not apply to persons who were citizens of Malta before the commencement of this Act and satisfied the requirements of those provisions as then in force.

Effects of amendments concerning citizenship.

(2) An oath of allegiance taken before the commencement of this Act for the purposes of any of the provisions of Chapter III of the Constitution or of the Maltese Citizenship Act, 1965, shall be deemed to be an oath of allegiance for the purposes of those provisions as amended by this Act.

(3) In the application of subsection (7) of section 24 of the Constitution no account shall be taken of any registration as a citizen of Malta made before the commencement of this Act.

66. (1) Where the Constitution provides that the holder of an office (including a member of the House of Representatives) shall not enter upon the duties of his office unless he has first taken and subscribed the oath of allegiance or the oath of office, or both such oaths, or otherwise provides for a similar requirement, and any such oath has been modified by this Act, the holder of such office, even if he has taken such oath or oaths in accordance with the Constitution as in force before the commencement of this Act, shall, after such commencement, cease to perform the duties and functions of that office unless and until he has taken and subscribed the oath of allegiance or the oath of office, or both such oaths, in accordance with the Constitution as amended by this Act:

Effect of amendments concerning certain offices.

Provided that motions relating to the proceedings of the House of Representatives and the place of its sittings may be considered and decided by the House before the members thereof have taken and subscribed the oath of allegiance in accordance with the Constitution as amended by this Act.

(2) The amendments by this Act of section 92 of the Constitution, in so far as they relate to the office established by that section, shall have the sole effect of changing the title of that office and shall have no other effect whatsoever.

Adaptation of laws.

67. (1) All laws in force in, or otherwise having effect as part of the law, of, Malta immediately before the commencement of this Act shall, upon the commencement of this Act, have effect subject to, and be construed with, such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution as amended by this Act; and in particular, but without prejudice to the generality of the foregoing, and unless the context otherwise requires, all references to the Crown, the Monarchy, and Her Majesty the Queen including derivatives thereof and cognate or equivalent expressions, shall be construed as references to the Republic or to the President of Malta or derivatives thereof or cognate expressions, as the case may require, or shall be treated as deleted.

(2) Without prejudice to the other provisions of this section or to the powers of the Parliament of Malta or other competent authority, the President of Malta may, by order made at any time within twelve months from the commencement of this Act, make such amendments to any law in force at the commencement of this Act as may appear to him to be necessary or expedient for bringing that law into conformity with the Constitution as amended by this Act or otherwise for giving effect or enabling effect to be given to the amendments made by this Act; and any such order shall have effect from such date, not earlier than the commencement of this Act, as may be specified in the order.

Amendments and repeals.

68. (1) Without prejudice to the provisions of section 67 of this Act, any law in force in Malta in which the word "Governor-General" or "Crown Advocate-General" occurs, shall have effect subject to the following amendments:

(a) for the word "Governor-General", wherever it occurs there shall be substituted the words "President of Malta"; and

(b) for the words "Crown Advocate-General", wherever they occur, there shall be substituted the words "Attorney General".

(2) Without prejudice to the provisions of section 67 of this Act, the enactments mentioned in the first column of the Schedule to this Act shall have effect subject to the amendments and repeals specified in the second column of that Schedule.

Substitution of section 6 of the Constitution.

69. With effect as provided in subsection (3) of section 1 of this Act, and without prejudice to the continued validity of anything done thereunder and in particular of the continued effect of subsection (2) of section 1 of this Act, section 6 of the Constitution is hereby repealed and in place thereof the following section shall have effect:

"Constitution to be supreme law

6. Subject to the provisions of subsections (7) and (9) of section 48 and of section 67 of this Constitution, if any other law is inconsistent with this Constitution, this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void."

SCHEDULE

Section 68 (2)

Amendments and Repeals

Enactment	Extent of amendment or repeal
Code of Organization and Civil Procedure, Cap. 15.	In section 10, for the words "the following oaths" and for the Oath of Allegiance therein set out, there shall be substituted the words "the oath of allegiance set out in the Constitution of Malta and the following oath"; In subsection (1) of section 14, for the words "the oath of allegiance as set out in section 10" there shall be substituted the words "the oath of allegiance as set out in the Constitution of Malta"; In section 18, for the words "as set forth in section 10" there shall be substituted the words "as set out in the Constitution of Malta"; Subsections (2) and (3) of section 45A are repealed.
Oath of Office Act, 1964 Act No. XIV of 1964	The whole Act is repealed.
Maltese Citizenship Act, 1965 Act No. XXX of 1965	In subsection (1) of section 11, for the words "whose adoption has been registered under the Civil Code" there shall be substituted the words "who has been lawfully adopted"; In the First Schedule, for the Oath of Allegiance therein set out there shall be substituted the following: "I solemnly swear/affirm that I will bear true faith and allegiance to the People and the Republic of Malta and its Constitution. (So help me God)."

Passed by the House of Representatives at Sitting No. 360 of the 13th December, 1974.

Clerk to the House of Representatives

Speaker