CHAPTER 562

PARLIAMENTARY SERVICE ACT

To provide for the establishment of a Parliamentary Service and to provide for matters consequential and ancillary thereto.

2nd January, 2017*

ACT XLII of 2016.

1. The short title of this Act is the Parliamentary Service Act. Short title.

2. In this Act, unless the context otherwise requires: Interpretation.

"Clerk" means the Clerk of the House of Representatives as provided for in article 64 of the Constitution and in article 11 of this Act;

"Constitution" means the Constitution of Malta;

"House" means the House of Representatives of Malta;

"House Business Committee" means the Standing Committee on House Business established by Standing Order 120C of the House of Representatives; or any other similar Committee which may be entrusted by the House with the regulation of its business;

"officer of the Service" means the Clerk of the House, the Senior Clerk Assistants, the Clerk Assistants, and any other officer so designated by the Speaker and includes any other employees engaged with the Service;

"public officer" has the same meaning as is assigned to it by article 124 of the Constitution;

"Service" means the Parliamentary Service established under article 4;

"Speaker" means the Speaker of the House of Representatives elected under article 59 of the Constitution;

"Standing Orders" means the Standing Orders of the House of Representatives.

3. The Speaker has the control of the parliamentary offices and services in the parliamentary precincts and all such offices and services as may be supplied elsewhere by the House or its members. Control by the Speaker.

4. (1) There shall be established an autonomous Parliamentary Service independent from the Executive. Establishment of the Parliamentary Service.

(2) The Service shall be a body corporate having a distinct legal personality and shall be capable of entering into contracts, of employing personnel, of acquiring, holding and disposing of any kind of property for the purposes of its operations and of suing and

* see article 1(2) of the Act as originally promulgated, and Legal Notice 17 of 2017.

of being sued and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act, including the borrowing of money.

(3) The officers of the Service shall abide by any Code of Ethics applicable to public officers and shall, subject to any law to the contrary, have the same obligations thereunder:

Provided that the Service may, with the concurrence of the House Business Committee, draw up service values and a Code of Ethics to supplement any public service Code of Ethics in respect of the Service.

(4) The legal and judicial representation of the Service shall lie in the Speaker.

(5) The Service shall consist of:

(*a*) officers of the House being:

(i) the Clerk;

(ii) other officers required to sit at the Table of the House;

(iii) such other officers as the Speaker, on the advice of the House Business Committee, may establish; and

(*b*) other officers of the Service.

Administrative Board.

5. There shall be an Administrative Board chaired by the Clerk and composed of the heads of the various sections of the Service and any other officer nominated by the Clerk in consultation with the Speaker. The Board shall perform an advisory role assisting the Speaker in the exercise of his functions under this Act.

Functions of the House Business Committee.

6. The House Business Committee shall determine the remuneration, conditions of service and other benefits given to the Clerk of the House, consider the financial estimates of the Service and report thereon to the House as provided for in article 17, and perform any such other functions as may be established under this Act.

Functions of the Service.

7. (1) The functions of the Service are to provide administrative and support services to the House and to members and committees thereof which may include:

(*a*) the provision of sufficient officers and employees to enable the House and its committees to operate efficiently;

(*b*) the provision of advice on parliamentary procedures and the functions of Parliament in general;

(*c*) the accurate and efficient reporting of the proceedings of the House and its committees in accordance with the Standing Orders;

(*d*) the provision of such other services for Members of the House as the House Business Committee may

deem expedient;

(*e*) the maintenance and security of parliamentary premises; and

(*f*) the provision of ceremonial services.

(2) The Service shall have such other functions as are conferred or imposed upon it by or under this Act or any other enactment, or as may be determined by the Speaker together with the House Business Committee from time to time.

Role of the Speaker regarding the Parliamentary Service.

8. (1) The Speaker shall be the Head of the Service. The general role of the Speaker in relation to the Service shall be to:

(*a*) present the financial plans and estimates of the Service to the House Business Committee;

(*b*) decide major policies to guide the operation and management of the Service;

(*c*) supervise the management and operation of the Service;

(*d*) decide on the services to be supplied by the Service and for this purpose may establish divisions and sections as necessary, vested with such responsibilities as the Speaker may from time to time deem appropriate;

(*e*) be the employing authority of the Service; and

(*f*) in consultation with the House Business Committee, make regulations concerning the filling of vacancies, recruitment, tenure of appointment, dismissal, discipline and for all other matters relative to employment under this Act.

(2) The Speaker may engage such persons in a consultative capacity as he may deem necessary for the proper functioning of the Service, as well as such other persons as may be required to serve in his office, provided that where the House Business Committee shall have made rules regulating such procurement, the Speaker shall in procuring such services, follow such rules.

Power of the Speaker to delegate.

9. The Speaker may delegate the powers conferred upon him under this Act to any person acting as Deputy Speaker.

Consultation with the House Business Committee.

10. The Speaker shall, in exercising his functions under this Act, consult with the House Business Committee.

Appointment of the Clerk.

11. The Clerk shall be appointed by the President of Malta on the advice of the Speaker, after consultation with the House Business Committee.

Responsibilities of the Clerk.

12. (1) The Clerk of the House shall be responsible for:

(*a*) the performance of such duties as are assigned to him under the Constitution;

(*b*) the carrying out of such duties and the exercising of

such powers as may be conferred on the Clerk by law or by the Standing Orders, customs and practices of the House;

(*c*) the execution and pursuance of the policy adopted by the Service;

(*d*) chairing of the Administrative Board;

(*e*) the preparation of the financial plans and estimates of the Service in consultation with the Administrative Board; and

(*f*) any other duties as may be assigned to him by the Speaker and the House Business Committee.

(2) Subject to the provisions of this Act, the Clerk shall be responsible to the Speaker for the executive conduct of the Service, its administration and organisation and the administrative control of its officers and employees. The Clerk shall also have such other powers as may from time to time be delegated to him by the Speaker.

(3) The Clerk may make recommendations to the Speaker with respect to any matter for consideration by the Speaker and shall take such steps as are necessary to implement those policies and decisions of the Speaker that require action to be taken by the Service.

Suspension and removal of the Clerk.

13. (1) The Clerk shall hold office under such terms as may be decided upon by the House Business Committee.

(2) The Clerk may at any time resign by a letter addressed to the Speaker.

(3) The Clerk may be suspended from office by the Speaker acting on the advice of the House Business Committee.

(4) The Clerk may at any time be removed from office by the President of Malta upon an address by the House supported by the votes of the majority of all the members thereof and praying for such removal 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. Such address shall only be moved in the House after the House Business Committee determines that there is a cause for such removal.

Power of the Clerk to delegate.

14. The Clerk may perform his administrative functions either personally or through the assistance of other officers of the Service.

Absence of the Clerk.

15. (1) On the occurrence from any cause of a vacancy in the Office of the Clerk (whether by reason of death, resignation, or otherwise), and in the case of absence from duty of the Clerk (from whatever cause arising), and so long as that vacancy or absence continues:

(*a*) the functions, powers and duties of the Clerk at the Table of the House shall be performed and exercised by the next most senior of the Clerk Assistants or officers of the House;

(*b*) the other functions, powers and duties of the Clerk shall be exercised and performed as follows:

(i) in the case where the absence of the Clerk is of a temporary nature, by a person to whom the function, power or duty has been delegated by the Clerk under article 14, and

(ii) by an officer appointed by the Speaker in any other case under article 9.

(2) The fact that a person exercises a function, power or duty of the Clerk shall, in the absence of proof to the contrary, be conclusive evidence of the authority of the person to do so.

Retention of rights.

16. If an officer of the public service becomes an officer of the Service, that officer shall be entitled to retain all existing acquired rights, including any pension rights, he may have under all applicable laws up to the date of his becoming an officer of the Service, as if the service of an officer or employee of the Service were a continuation of the service as an officer of the public service.

Resources.

17. (1) The expenses of the Service required for the running of the House, (other than the remuneration of the Speaker, the Members of Parliament and the Clerk) up to a sum as may be fixed by the House in accordance with this Act, shall be a charge on the Consolidated Fund without the need of any further appropriation other than this Act.

(2) (*a*) The remuneration of the Speaker and the Members of Parliament shall be fixed by an independent body established for this purpose and shall be defrayed as part of the expenses of the Service.

(*b*) The remuneration of the Clerk shall be fixed by the House Business Committee and shall be defrayed as part of the expenses of the Service.

(3) For the purposes of establishing the sum referred to in sub-article (1), the Clerk shall prepare an estimate of the sum required and submit it for the Speaker's approval.

(4) Such estimate shall, before consideration by the House, be submitted by the Speaker for examination by the House Business Committee.

(5) Where, during the course of any financial year, the sum fixed by the House is in the opinion of the Speaker insufficient to enable the Service to efficiently fulfil its responsibilities, the Clerk shall prepare supplementary estimates for the Speaker's approval and subsequent consideration by the House after examination by the House Business Committee as aforesaid in sub-article (4).

(6) (*a*) The sum or sums referred to in the previous sub-articles of this article shall be fixed by a resolution of the House after considering the estimates and the report thereon by the House Business Committee.

(*b*) The Minister for Finance shall be consulted in the

drawing up of the financial report and he shall therefore be an *ex officio* member of the House Business Committee whenever the estimates are debated, in lieu of such Committee from the Government side.

(7) The House Business Committee shall from time to time but not less often than once a year present to the House, through the Speaker, a report of its activities and the report of its examination of any estimates prepared by the Clerk.

(8) Where, upon the dissolution of the House, the sum to be established for the purposes of sub-article (1) is not so established or the House has not after the end of a financial year established the said sum, the Speaker shall be entitled to expend, each month, a sum equivalent to one-twelfth of the sum or sums established for the previous financial year, until the said sum is so established.

(9) The Speaker shall, not later than a month after half the financial year, present an interim account of the expenditure of the Service, to the House of Representatives which shall thereafter be published on the Parliament website and which shall, amongst other matters, disclose the expenditure on human capacity, on administration, on travel abroad and on other allowances and the capital expenditure, for the six month period to which it refers.

Audit.

18. (1) The accounts of the Service shall be audited by the Auditor General or by such person or persons, hereinafter referred to as "auditor", appointed by the House Business Committee from among such persons who, in accordance with such law as may from time to time be in force, hold a warrant entitling them to audit the accounts of a public limited liability company.

(2) The auditor shall, with regard to the accounts of the Service, have such powers as are by law vested in the Auditor General with regard to accounts subject to his audit.

(3) The Auditor General or the auditor shall present his report on the audit carried out by him to the House Business Committee which shall, through the Speaker, present the same to the House together with any comment thereon by the said Committee or any of its members.

Broadcast of parliamentary activities.

19. The Speaker, on the advice of the House Business Committee, may enter into any arrangement for the broadcast of parliamentary sittings, committee meetings and any other activities related to the work of the House.