

MALTA

ATT Nru. I ta' l-2005

ACT No. I of 2005

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

AN ACT enacted by the Parliament of Malta.

ATT biex jemenda l-Att dwar Kunsilli Lokali, Kap. 363.

AN ACT to amend the Local Councils Act, Cap. 363.

I assent.

(L.S.)

EDWARD FENECH ADAMI
President

18th February, 2005

ACT No. I of 2005

AN ACT to amend the Local Councils Act, Cap. 363.

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:-

Title and
commencement
date.

1. (1) This Act may be cited as the Local Councils (Amendment) Act, 2005 and it shall be read and construed as one with the Local Councils Act, hereinafter referred to as “the principal Act”.

(2) The provisions of this Act shall come into force on such date as the Minister responsible for Local Councils may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes thereof.

Amendment of
article 2 of the
principal Act.

2. Article 2 of the principal Act shall be amended as follows:-

(a) immediately after the definition “financial year” there shall be added the following new definition:-

Cap. 258.

“ “identity card” means the identity card issued under the Identity Card Act.”;

(b) immediately after the definition of “motion” there shall be added the following new definition:-

“ “political party” means, except as otherwise provided for in this Act, any person or any group of persons contesting the elections of a Local Council as one group bearing the same name;”.

- 3.** In article 3 of the principal Act, subarticles (4) and (5) shall be renumbered as subarticles (5) and (6) respectively and immediately after subarticle (3) there shall be added the following new subarticle:—

Amendment of article 3 of the principal Act.

“(4) Any government department or public corporation, authority or agency shall abide, in its operation and administration, by the boundaries of any locality as determined under this Act.”.

- 4.** In the first proviso to subarticle (3) of article 8 of the principal Act for the word “twelve” there shall be substituted the words “twenty four”.

Amendment of article 8 of the principal Act.

- 5.** In article 11 of the principal Act for the words starting from “A person shall be qualified” up to “the locality contested by such person:” there shall be substituted the following:—

Amendment of article 11 of the principal Act.

“A person shall be qualified to be elected as a member of any Council if such person is registered as a voter in the Electoral Register or the European Union Electoral Register:

Provided that no person may contest the election of more than one locality in any local election:”.

- 6.** Article 12 of the principal Act shall be amended as follows:—

Amendment of article 12 of the principal Act.

(a) paragraph (c) thereof shall be deleted; and

(b) immediately after paragraph (j) there shall be added the following proviso:

“Provided that no Councillor shall remain in office if at any time during his term of office he is elected as Councillor of any other Local Council or of any similar institution in any other member state.”.

- 7.** In subarticle (1) of article 14 of the principal Act immediately after the words “before the lapse of the term” there shall be added the words “or disqualified from remaining in office”.

Amendment of article 14 of the principal Act.

Amendment of article 18 of the principal Act.

8. In the first paragraph of article 18 of the principal Act immediately after the words “within a period of six months” there shall be added the words “and in the opinion of the Minister such absence was not justified”.

Amendment of article 24 of the principal Act.

9. Immediately after subarticle (2) of article 24 of the principal Act there shall be added the following new sub-article:-

“(3) Mayors are to ensure that the Code of Ethics as may be established by the Local Councils Association, and which may be in force from time to time, shall be observed by all Councillors. The Mayor or any Councillor shall report any breach of such Code by a Councillor both to the Council and to the Department for Local Government.”.

Substitution of article 25 of the principal Act.

10. For article 25 of the principal Act there shall be substituted by the following:-

Election of Mayor and Deputy Mayor.

25. (1) Without prejudice to the provisions of article 29 of this Act, the office of Mayor in any Local Council shall be occupied by such elected Councillor who at the last local election shall have obtained the highest number of votes in the first count amongst the candidates of the political party which at such elections obtained the absolute majority of Councillors in such Council. Such Councillor shall assume the office of Mayor at the first sitting of the Council after such local election. If for any reason such Councillor refuses to occupy the office of Mayor, the Councillor with the second highest number of votes from the aforesaid political party shall assume office, and so on, until the office of Mayor is filled.

(2) The office of Deputy Mayor shall be occupied by such elected Councillor from the political party mentioned in the preceding subarticle who, under the conditions and in accordance with the provisions of such subarticle, shall have obtained, apart from the Mayor, the highest number of votes in the local elections and the provisions of such subarticle shall *mutatis mutandis* apply to the election of Deputy Mayor.

(3) Where no political party obtains an absolute majority of seats in such Council or where, for any reason whatsoever, the office of Mayor or Deputy Mayor is not filled in virtue of the provisions of the preceding subarticles of this article, the Council shall, at its first sitting, and after the Councillors have taken their oath of office, proceed with the

election of the Mayor and subsequently of Deputy Mayor from among its members in accordance with the Seventh Schedule.

(4) The first sitting of each Council shall be summoned by the most senior Councillor (or else if he refuses, by the next senior Councillor and so on) and such meeting shall be held not later than one week from the first day when the Councillors may hold office under article 14 of this Act. The agenda for this first meeting shall be prepared by the Executive Secretary and shall be published not later than two working days before the date fixed for such meeting.”.

11. In article 28 of the principal Act immediately after the words “removed from office before the lapse of their term” there shall be added the words “or disqualified from remaining in office”.

Amendment of article 28 of the principal Act.

12. Subarticles (2) and (3) of article 29 of the principal Act shall be substituted by the following:-

Amendment of article 29 of the principal Act.

“(2) The motion proposing a vote of no confidence in the Mayor or Deputy Mayor shall be signed by at least one third of the Councillors in office and shall specify the reason for such motion and propose another Councillor to be elected as Mayor or Deputy Mayor as the case may be.

(3) The motion shall be discussed after at least five days have elapsed from its presentation as provided in subarticle (2) but not later than ten days from such date; so however that if for any reason such meeting does not take place, or no decision is taken on such motion within such time, the proponents of such motion may fix a date and agenda for such meeting to be held, and after due notification is made to all Councillors, such meeting shall be held on such date for the sole purpose of debating and deciding such motion of no confidence.”.

13. Immediately after article 29 of the principal Act there shall be added the following new article:-

Addition of new article 29A of the principal Act.

“Meeting at request of Councillors.

29A. A meeting of the Council may be requested by at least half the Councillors in office, which request shall include a proposed agenda of the meeting, and following such request if the meeting is not held within one week from the receipt of such request, such Councillors may summon such meeting of the Council themselves and fix the agenda, as proposed together with their request, for such meeting, and following due notification of all Councillors such meeting

shall be held on such date, time and with such an agenda as determined by such Councillors.”.

Amendment of
article 32 of the
principal Act.

14. Immediately after subarticle (1) of article 32 of the principal Act there shall be added the following proviso:-

Cap. 318. “Provided that such allowance shall not be deemed as earnings for the purposes of the Social Security Act.”.

Amendment of
article 33 of the
principal Act.

15. Subarticle (1) of article 33 of the principal Act shall be amended as follows:-

(a) in paragraph (b) thereof, in the English text only, the word “establishment” shall be deleted;

(b) in paragraph (c) thereof immediately after the words “or other leisure centres” there shall be added the words “and as part of a national scheme to administer local libraries”;

(c) in paragraph (d) thereof immediately after the words “and international standards” there shall be added the words “to provide for the installation and maintenance of bus shelters in accordance with standards and specifications laid down by the competent transport authority.”;

(d) immediately after paragraph (o) thereof there shall be added the following new paragraph:-

“(p) the enforcement of all laws the contravention of which falls under the jurisdiction of the Commissioners of Justice; provided that such enforcement shall not be the exclusive competence of Local Councils.”.

Amendment of
article 49 of the
principal Act.

16. Article 49 of the principal Act shall be amended as follows:-

(a) in subarticle (2) thereof the words “appointed from outside the public service.” shall be substituted by the words “appointed from outside the public service; so however that no Councillor of any locality may be appointed Executive Secretary of any Local Council.”;

(b) subarticle (4) thereof shall be substituted by the following:-

“(4) Where a Council refuses or fails to appoint an Executive Secretary or Deputy Executive Secretary, the

Minister shall appoint an acting Executive Secretary or acting Deputy Executive Secretary respectively.”.

17. Paragraph (e) of subarticle (2) of article 52 of the principal Act shall be substituted by the following:- Amendment of article 52 of the principal Act.

“(e) carry out any other administrative duties as may be detailed by the Mayor, in accordance with policies decided and delegated by the Council;

(f) issue all orders bearing an expense as approved by the Council.”.

18. Article 65 of the principal Act shall be amended as follows:- Amendment of article 65 of the principal Act.

(a) for paragraph (b) of subarticle (2) there shall be substituted the following:

“(b) in the case of a partnership, the partners between them possess the necessary qualifications according to article 10 of the Accountancy Profession Act.”; and Cap. 281.

(b) in subarticle (6), for the words “not later than twelve weeks from the end of the financial year” there shall be substituted “not later than the end of June of each year”, and for the words “to the Minister responsible for finance” there shall be substituted the words “to the Director”.

19. Immediately after subarticle (3) of article 72 of the principal Act there shall be added the following new subarticle: Amendment of article 72 of the principal Act.

“(4) The Minister may also, after consulting the Local Councils Association, make regulations providing for the representation of Maltese Local Councillors on the Committee of Regions of the European Union and on any other international forum or institution requiring representation of local Councillors.”.

20. In the second proviso to article 79 of the principal Act immediately after the words “a former capital city of Malta shall” there shall be added the words “as far as possible”. Amendment of article 79 of the principal Act.

21. The Third Schedule to the principal Act shall be amended as follows:- Amendment of the Third Schedule to the principal Act.

(a) the following amendments shall come into force with immediate effect:-

(i) for subregulation (4) of regulation 17 there shall be substituted the following:

“(4) The voting document shall be served on each voter by registered post; so however that in urgent or exceptional cases, the Electoral Commission may order that any or all voting documents shall be served by a police officer or any other person approved for the purpose by the Commission.”;

(ii) in regulation 35 thereof, for the words “Any club, shop or other public establishment” there shall be substituted the words “Any political party club” and immediately after such regulation there shall be added the following proviso:-

“Provided that the Electoral Commission and the Commissioner of Police may order the closure of any club, shop or other public establishment within such distance of fifty metres if in their opinion, such closure is necessary to maintain public order or prevent undue influence on voters during voting in any locality.”;

(iii) in the second paragraph of subregulation (2) of regulation 57 thereof, the words “may not, for any reason,” shall be substituted by the word “may”;

(b) the following amendments shall come into force on such date, not later than the 31st December, 2006, as the Minister may by notice in the Gazette establish:-

(i) in subregulation (2) of regulation 2 thereof the definition of “voting document” shall be deleted;

(ii) regulations 17, 18 and 19 shall be deleted;

(iii) in subregulation (3) of regulation 34 thereof, for the words “cubicles wherein each voter may record his vote” there shall be substituted the words “cubicles wherein each voter may record his vote in secret and behind a curtain or other device to enable him to vote in secret,”;

(iv) sub-regulation 39 thereof shall be amended as follows:-

(a) sub-regulation (1) shall be substituted by the following:-

“(1) Any person entitled to vote in an election for a Local Council may exercise such right by attending any polling booth notified to him by the Commission on the date of such election and present his identity card to the assistant commissioners who shall verify the identity of the voter.”;

(b) subregulation (2) thereof shall be substituted by the following:-

“(2) No person shall be allowed to vote unless he produces his identity card to the assistant commissioners.”;

(c) in subregulation (4) thereof the words “upon the production and delivery to them of the voting document” shall be substituted by the words “upon production to them of the identity card”.

22. In the Sixth Schedule to the principal Act, in paragraph (a) of standing order (4) thereof, for the words “to elect a Mayor” there shall be substituted the words “to declare as elected or elect a Mayor”. Amendment of the Sixth Schedule to the principal Act.

23. In the Seventh Schedule to the principal Act, in regulation 6, immediately after the words “the Council is still unable to elect the Mayor or Deputy Mayor:”, there shall be added the words “the Councillor who at the last local elections for that locality, acquired the highest number of votes in the first count from among the Councillors belonging to the political party which obtained the highest number of votes in the first count at the last council elections for that locality, (or if he refuses the person with the second highest number of votes and so on),”.

24. In subarticle (1) of article 604 of the Criminal Code, immediately after the words “Members of the House of Representatives,” there shall be added the words “Mayors and Executive Secretaries of Local Councils,”. Amendment of the Criminal Code, Cap. 9.

25. In subarticle (1) of article 2 of the Marriage Act in the definition of “Registrar”, for the words “by the Registrar for that purpose;” there shall be substituted the words “by the Registrar for that purpose;” Amendment of the Marriage Act, Cap. 255.

purpose, and for the purposes of article 15 of this Act shall also include any Mayor of a Local Council;”.

Amendment of the
Commissioners for
Justice Act,
Cap. 291.

26. For the two provisos of subarticle (2) of article 10 of the Commissioners for Justice Act there shall be substituted the following proviso:

“Provided that where the Commissioner decides that the person charged committed the scheduled offence specified in the charge, he shall order that where the person charged does not pay the fine (*multa* or *ammenda*) within one month from when the case is decided finally, the person charged shall pay a penalty of five liri in addition to the fine (*multa* or *ammenda*).”.

Passed by the House of Representatives at Sitting No. 233 of 8th February, 2005.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives