PUBLIC ADMINISTRATION ACT

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I assent.

(L.S.)

EDWARD FENECH ADAMI
President

3rd February , 2009

ACT No. I of 2009

AN ACT to affirm the values of public administration as an instrument for the common good, to provide for the application of those values throughout the public sector, and to provide for the organisation and management thereof.

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:—

PART I
DEFINITIONS AND DECLARATION OF PRINCIPLES

Short title and commencement.

1. (1) The short title of this Act is the Public Administration Act, 2009.

(2) This Act shall come into force on such a date as the Prime Minister may by notice in the Gazette establish, and different dates may be so established for different provisions or different purposes of this Act:

Provided that articles 21 to 26 inclusive, 28 and 31 to 34 inclusive may only be brought into force after the necessary instruments of delegation have been issued in terms of article 110 of the Constitution.

Interpretation.

2. (1) In this Act, unless the context otherwise requires:

"Code of Ethics" means the code of ethics in the First Schedule;

"department of Government" or "department" means any entity in the Public Service that is listed in the Second Schedule;

"Disciplinary Regulations" means the Disciplinary Procedure in the Public Service Commission Regulations or any other regulations on disciplinary matters substituting them and which may be made under subarticle (1) of article 121 of the Constitution;

"government agency" or "agency" means a body listed in the Fourth Schedule;

"government entity" means an organisation, not being a government department, a government agency or a commercial partnership, in which Government has a controlling interest, whether or not such organisation is established by law;

"grade" means any of the grades listed in the Third Schedule, and consists of a group of one or more posts in one or more departments which bear a common designation and are filled directly through an appointment to the grade;

"Minister" means, unless the context otherwise requires, the Minister responsible for the public administration so however that where the Prime Minister has delegated, wholly or in part, any of the powers, functions or authorities assigned to him by this Act, the Prime Minister may still exercise such powers, functions or authorities collaterally with such Minister;

"ministry" means an organisation referred to in article 6;

"position" means any office in the public service, other than a grade;

"post" means a particular set of tasks or duties which are performed or intended to be performed by one person;

"Principal Permanent Secretary" means the person appointed in terms of article 14;

"public administration" means the Government of Malta including its ministries and departments, and the agencies, government entities, commissions and boards referred to in this Act;

"public administration values" means the values listed in article 4;

"public employee" includes public officers and employees of government agencies and government entities, and for the purpose of section B, section C and paragraph 27 of the Code of Ethics a person shall continue to be regarded as a public employee for three years following his retirement, resignation or dismissal from public employment;

"public office" has the same meaning assigned to it by article 124 of the Constitution and shall also, for the purposes of this Act, be understood to mean any grade or position in the public service except those listed in paragraph (a) of subarticle (2);

"public officer" has the same meaning assigned to it by article 124 of the Constitution, but shall for the purposes of this Act be understood in accordance with subarticle (2);

"public service" has the same meaning assigned to it by the Constitution, but shall for the purposes of this Act be understood in accordance with subarticle (2);

"Public Service Commission" means the Commission established by article 109 of the Constitution;

"Senior Executive Service" means the body of senior public officers to which article 19 refers;

"transfer" means to assign a public officer to a different post.

(2) This Act shall not apply to:

(a) The offices of judge, magistrate, Attorney General and Auditor General; and

(b) the offices of Speaker, Deputy Speaker, Ombudsman and Data Protection Commissioner; and

(c) the Broadcasting Authority, the Electoral Commission, the Employment Commission, and (in so far as this Act does not specifically refer to it) the Public Service Commission:

Provided that, without prejudice to the independence of the Electoral Commission and the Public Service Commission under the Constitution, this Act shall apply to the Electoral Office and the Public Service Commission Secretariat.

(3) Unless otherwise specified to the contrary in this Act, where a provision of this Act conflicts with the provisions of any other law governing a department, an agency or a government entity, the other law shall prevail.

Principle of accountability.

3. Departments of Government, government agencies and government entities are bodies which manage public resources and which provide services to the public or perform other functions on behalf of the State, and as such, these bodies, and the public employees performing duties therein, shall:

(a) be governed by the provisions of this Act, including the public administration values and the Code of Ethics;

(b) be subject to Ministerial direction as provided for in the Constitution and in this Act and other laws, except on matters in respect of which they are expressly required by law to act independently or under the direction of a person or authority other than a Minister;

(c) be accountable under this Act and other laws for the manner in which they provide services, carry out their functions and manage their resources, for their observance of the public administration values and the Code of Ethics, and for their observance of the Ministerial directions referred to in paragraph (b).

Public administration values.

4. (1) Departments, agencies and government entities shall be governed by the values inherent in the duties listed hereunder, and public employees shall:

(a) exercise any powers vested in them by law, and deliver services to the public, courteously, expeditiously and impartially;

(b) provide objective and knowledgeable advice on matters within their competence;

(c) efficiently and effectively implement the policies of the government of the day;

(d) contribute towards the co-ordination of Government policy in conjunction with departments, agencies, government entities and Local Councils; and

(e) contribute through their own conduct to making their workplace one which recognises talent, develops skills and abilities, rewards performance, avoids discrimination and offers safety.

(2) Public employees shall uphold and promote the public service values, and a failure to do so on the part of any public employee may constitute grounds for disciplinary proceedings against that employee under applicable rules and procedures.

(3) The Principal Permanent Secretary may issue directives and guidelines aimed at upholding and better realising the public service values, and public employees shall comply with such directives.

Code of Ethics.

5. (1) The Code of Ethics set out in the First Schedule shall apply to public employees.

(2) The Prime Minister may from time to time, by Order in the Gazette, amend or substitute the First Schedule.

(3) It shall be the duty of all public employees to comply with the Code of Ethics, and failure to do so on the part of any public employee may constitute grounds for disciplinary proceedings against that employee under applicable rules and procedures.

(4) The Principal Permanent Secretary may issue directives and guidelines aimed at upholding and ensuring compliance with the Code of Ethics and, with the concurrence of the Minister responsible for the particular board or commission, he may also issue such guidelines with respect to boards and commissions.

(5) The head of a department, agency or government entity may, with the approval of the Principal Permanent Secretary, make rules of ethical conduct, complementary and in addition to the Code of Ethics, relating to the circumstances particular to that organisation, and the term Code of Ethics in relation to public employees in that organisation shall include such rules.

PART II
THE PUBLIC SERVICE

Title 1 – Organisation

Ministers and Ministers' secretariats.

6. (1) Where a Minister is assigned responsibility for any department of Government in terms of article 82 of the Constitution, that Minister shall, in line with article 92 of the Constitution, and without prejudice to article 6 of the Interpretation Act, have the general direction and control of all departments, agencies and government entities that may be placed under his responsibility and may give directions directly to the head of the department, Chief Executive Officer, Board of Directors or any other employee falling within his responsibilities, on

any matter, except matters where the head of department, Chief Executive Officer, Board of Directors or other employee is required by any law to act—

(a) independently; or

(b) in accordance with the direction of a person or authority other than the Minister:

Provided that where a Permanent Secretary has been appointed to supervise the relative department, agency or government entity the Minister shall inform the Permanent Secretary that he has given such directions.

(2) A Minister may be assigned responsibility for any department, agency or government entity including those listed in Part II of the Second Schedule.

(3) The staff assigned to the secretariat of a Minister, including advisors or consultants to the Minister, shall be deemed to be occupying positions of special trust and shall, even if they are public officers assigned on transfer, be appointed thereto on the basis of a definite contract:

Provided that on the expiration or termination of the contract, the directives and guidelines mentioned in subarticle (4) shall apply.

(4) The Prime Minister may issue directives and guidelines concerning the functions, administration and establishment of Ministers' secretariats, the engagement of staff thereto, and the terms and conditions under which such staff shall serve.

(5) Save as may otherwise be provided for by the Prime Minister's directives, a Minister's secretariat shall be under the supervision of a member of staff designated as Head of Secretariat who shall report to the Minister.

(6) The provisions of subarticles (3), (4) and (5) of this article shall apply *mutatis mutandis* to the secretariat of a Parliamentary Secretary.

Ministries.

7. (1) A ministry shall be constituted as a distinct organisation in its own right under every Minister who is assigned portfolio responsibilities in accordance with article 82 of the Constitution, and the ministry shall consist of:

(a) the Minister's secretariat;

(b) the secretariats of such Parliamentary Secretaries as may be appointed to assist the Minister;

(c) the office of the Permanent Secretary; and

(d) such other divisions, directorates, sections, offices or other units within the public service as may be placed or established within the Ministry by the Prime Minister.

(2) Where more than one Permanent Secretary reports to the same Minister (other than temporarily due to arrangements made under articles 83 or 84 of the Constitution), the scope of responsibilities of each Permanent Secretary shall be delineated by the Prime Minister.

Departments.

8. (1) Departments of Government shall be those listed in the Second Schedule.

(2) The functions of departments shall be in accordance with the indicative summaries shown against the respective departments in the Second Schedule.

(3) The Prime Minister may, by Order in the Gazette, amend the Second Schedule to:

(a) establish a new department;

(b) abolish a department or change its name or function; and

(c) change the titles of heads of department and other officers as provided for in article 10.

(4) Departments which, by virtue of any applicable laws or special administrative arrangements, are not subject to the direction and control of a Minister in the performance of their main functions shall be listed in Part II of the Second Schedule, but the applicability of any such law to such a department shall not depend on its listing in the Schedule.

Senior Appointments Advisory Committee.

9. (1) There shall be a Senior Appointments Advisory Committee, hereinafter referred to as the Committee, that shall:

(a) consult the relevant Minister about the duties attached to and the results expected from any headship position that is vacant or expected to become vacant;

(b) identify candidates for the position in accordance with subarticle (2) of article 21 hereof, within the parameters set by the Constitution; and

(c) give due account about the candidates and propose for the Prime Minister's consideration the candidate who in its opinion is best suited on the basis of merit to fill the position.

(2) The Committee shall be chaired *ex officio* by the Principal Permanent Secretary and shall consist of:

(a) at least two other members, one of whom shall not be a public officer, who shall be appointed by the Prime Minister; and

(b) any additional members co-opted by the Prime Minister for the purpose of considering applicants for specific headship positions.

(3) The Committee shall call upon the advice and assistance of Permanent Secretaries in screening or short-listing candidates but shall otherwise regulate its own procedure.

(4) No person may be appointed to a headship position to which subarticle (4) of article 92 of the Constitution applies unless:

(a) that person is eligible therefore by virtue of the grade which he holds; or

(b) that person has served for six consecutive years in one or more positions in the Senior Executive Service.

Titles of headship positions and other public offices, and equivalent titles at law.

10. (1) The Prime Minister may from time to time determine the position titles under which heads of department shall be appointed, and such titles shall, by order of the Prime Minister published in the Government Gazette, be listed next to the names of the departments in the Second Schedule:

Provided that the re-designation of a position while it is occupied shall not be taken as a re-appointment of the incumbent or a change to the terms of his appointment.

(2) The assignment by the Prime Minister of similar position titles to different headship positions shall not mean that such positions should necessarily attract the same status and terms and conditions.

(3) Where, in accordance with the provisions of this Act, a headship position, or any other office in the public service, that has been established or is assigned functions by another Act—

(a) is assigned a new title; or

(b) is merged with another public office as a result of organisational restructuring;

the title assigned to the office by the other Act (hereafter in this article referred to as the "equivalent title at law") shall be listed in the Second Schedule along with the new title of the office or the office with which it has been merged in terms of paragraph (a) or (b) as the case may be, and subarticles (4) and (5) shall apply.

(4) Where any office in the public service is listed in the Second Schedule along with an equivalent title at law—

(a) the powers assigned to the office under its equivalent title at law shall vest in the holder of the office as currently titled; and

(b) both titles shall be regarded as interchangeable for the purpose of any law and a reference to one title in place of another shall not invalidate any act or any legal proceedings.

(5) Where any law –

(a) assigns, or permits the assignment of, functions to staff acting on behalf of the holder of a public office; and

(b) that office is listed in the Second Schedule as the equivalent title at law of a second office;

such functions may be performed by staff in the department to which the second office belongs, notwithstanding anything to the contrary in the said law; but any conditions or requirements attached by the law to the performance of such functions shall otherwise continue to apply.

(6) If a public office has more than one equivalent title at law, subarticles (4) and (5) shall apply in respect of each such title.

Exercise of powers during a public officer's absence.

11. The Permanent Secretary with respect to the head of any department listed in the Second Schedule and the head of department with respect to a member of staff as the case may be, shall ensure that the most suitable officer as the case may be, and due account being taken of seniority and technical abilities, is nominated for the purposes of subarticle (5) of article 124 of the Constitution with the aim of exercising any powers as are vested by any law if the head or other member of staff is absent from his office and temporarily unable to discharge his duties so that such powers shall be exercised during the period of the officer's absence.

Secretariats of boards and commissions.

12. (1) Unless otherwise provided for in any other law, where a board is supported by a secretariat consisting of public officers drawn from a department, the board, limitedly in relation to administrative matters and matters affecting the department as a whole, shall be subject to the authority of the head of department.

(2) The secretariat of the board shall be under the direction of an officer, hereinafter referred to in this article as "the designated officer", who shall follow the directions of the head of department within which the board secretariat operates on the matters mentioned in subarticle (1).

(3) A head of department shall not give directions to the board or the designated officer on matters in respect of which the board is required by law to function independently.

(4) In this article "board" includes any commission, council, panel, committee or other similar body, not being a body established by the Constitution, but does not include any *ad hoc* board set up for the purpose of inquiring into the conduct of any public employee or the operations of any department, agency, entity or such other similar body.

Title 2 – Leadership

The Principal Permanent Secretary.

13. (1) There shall be a Principal Permanent Secretary who shall be head of the public service and who shall be appointed in terms of article 14 of this Act.

(2) The Principal Permanent Secretary shall take instructions from the Prime Minister.

(3) The Principal Permanent Secretary may, with the concurrence of the Prime Minister, delegate any of his functions under this article to one or more Permanent Secretaries or heads of department.

(4) The Principal Permanent Secretary shall:

(a) provide leadership to the public service;

(b) uphold and promote the public administration values and the Code of Ethics, and monitor the compliance of public employees therewith;

(c) take measures to improve the performance of the public service;

(d) assume overall responsibility for human resource management and development within the public service;

(e) take measures to ensure coordination between departments, agencies, government entities and Local Councils and to ensure that agencies and government entities are complying with the key policy objectives and management priorities of the Government;

(f) provide leadership and direction to Permanent Secretaries;

(g) set performance targets for Permanent Secretaries and monitor their performance following consultation with the relative Minister;

(h) advise the Prime Minister on matters relating to the public service and the wider public sector, including the appointment and termination of appointment of Permanent Secretaries and heads of department; and

(i) perform any other function that may be assigned to him by or under any law.

(5) The Principal Permanent Secretary shall assume the headship and supervisory functions of a Permanent Secretary in relation to the Office of the Prime Minister and the departments, agencies and government entities under the Prime Minister's responsibility:

Provided that one or more additional Permanent Secretaries may be appointed to assist the Principal Permanent Secretary in accordance with such arrangements as the Prime Minister may make under subarticle (2) of article 7.

Appointment of Principal Permanent Secretary.

14. (1) The Principal Permanent Secretary shall be appointed from amongst persons having the qualifications to be appointed Permanent Secretaries in terms of the Constitution.

(2) Where the Principal Permanent Secretary is not appointed for any reason whatsoever, the Secretary to the Cabinet shall assume the functions of Principal Permanent Secretary until such time as a Principal Permanent Secretary is appointed.

Directives and guidelines issued by the Principal Permanent Secretary in relation to departments of Government.

15. (1) The Principal Permanent Secretary may issue directives and guidelines as variously specified in this Act and may in addition issue directives and guidelines on any matter relating to the organisation and management of the public service, and in so doing he shall seek to frame his directives in the best interests of the consumer and in such a manner as to impose the least possible administrative burden.

(2) Public officers shall comply with all applicable directives issued by the Principal Permanent Secretary, and officers who fail to comply shall be liable to proceedings under the Disciplinary Regulations.

(3) Directives issued by the Principal Permanent Secretary may incorporate guidelines to assist public officers in correctly applying and observing the directives, and public officers shall accordingly have regard to such guidelines.

(4) Directives and guidelines issued by the Principal Permanent Secretary may apply for a definite or an indefinite period and to any or all departments and public officers, according to the nature of the provisions contained therein or as specified by the Principal Permanent Secretary.

(5) The Principal Permanent Secretary may codify standing directives and guidelines, together with any amendments that he may make thereto from time to time, in the form of the Public Service Management Code or other manuals on specific matters which he may issue for this purpose.

(6) The Prime Minister may give directions to the Principal Permanent Secretary concerning the issue, amendment or revocation of any directives and guidelines.

Committee of Permanent Secretaries.

16. (1) There shall be a Committee of Permanent Secretaries which shall be chaired by the Principal Permanent Secretary, and which shall consist of the Secretary to the Cabinet as deputy chairperson and all Permanent Secretaries as members.

(2) The Permanent Secretaries shall fulfil their collegiate responsibility for the performance of the public service, facilitate the realisation of Government policies and ensure the achievement of

Government objectives that cut across ministries through the Committee of Permanent Secretaries.

(3) The meetings of the Committee of Permanent Secretaries shall be convened by the Principal Permanent Secretary as often as he may deem necessary but at least once every three months.

(4) This article shall apply without prejudice to the individual responsibility of Permanent Secretaries to their Ministers, and to the Prime Minister through the Principal Permanent Secretary, for the achievement of Government objectives.

Supervision of departments by Permanent Secretaries.

17. (1) Where, in accordance with subarticle (2) of article 92 of the Constitution, a Permanent Secretary is charged with the supervision of one or more of the departments of Government that are listed in Part I of the Second Schedule, he shall ensure that each department is:

(a) working towards the timely and effective fulfilment, in conjunction with other government organisations as appropriate, of his Minister's and the Government's policy objectives;

(b) being managed according to law, the public service values, the Code of Ethics, and applicable policies and directives governing staff conduct, management and the use of resources; and

(c) operating economically, efficiently and effectively and delivering any services to the public to a satisfactory standard.

(2) A Permanent Secretary shall advise his Minister on all matters pertaining to the departments under his supervision.

(3) A Permanent Secretary may give directions to and set targets for a head of department on any matter in fulfilment of his duties under subarticle (1), and he shall monitor and assess the head of department's performance in relation to such directions and targets:

Provided that a Permanent Secretary may not give directions to or set targets for a head of department on matters where the head is required by any law to act independently or in accordance with the direction of a person or authority other than a Minister.

(4) A Permanent Secretary may, with the concurrence of the Prime Minister, exercise his powers of supervision of a department of government through another public officer of suitable seniority.

(5) A Permanent Secretary shall be answerable to his Minister and, through the Principal Permanent Secretary, to the Prime Minister for the performance of the departments under his supervision notwithstanding any arrangements that may be in effect under subarticle (4).

(6) Where a Permanent Secretary is charged with the supervision of one or more of the departments listed in Part II of the Second Schedule, this article shall apply subject to the following limitations:

(a) paragraph (a) of subarticle (1) and subarticle (2) shall not apply; and

(b) subarticle (5) shall apply only as may be compatible with paragraph (a) of this subarticle.

Duties of heads of department.

18. (1) Besides any other duties that may be assigned or delegated to him by or under any law, it shall be the duty of a head of department—

(a) to manage the activities and programmes of the department efficiently, effectively and economically;

(b) to ensure that the department achieves a satisfactory standard in the delivery of any services to the public and the business community with the least possible bureaucratic processes;

(c) to tender advice to the relative Minister through the Permanent Secretary and to other authorities as appropriate on matters within the department's competence;

(d) to establish performance indicators covering the programmes and activities of the department, and to set performance targets for public officers serving in the department; and

(e) to coordinate the activities of the department with those of other government organisations in the best interests of efficiency, effectiveness and service quality.

(2) The head of a department that is listed in Part I of the Second Schedule shall answer to his Minister through the Permanent Secretary and shall discharge his duties under subarticle (1) in accordance with their lawful directions.

(3) The head of a department that is listed in Part II of the Second Schedule shall discharge his duties under subarticle (1) in accordance with the laws governing his department and any special administrative arrangements that may apply thereto.

Senior Executive Service.

19. (1) There shall be a Senior Executive Service which shall be headed by the Principal Permanent Secretary and shall consist of:

(a) Permanent Secretaries;

(b) heads of the departments listed in the Second Schedule;

(c) senior public officers within each ministry who have been charged with primary responsibility for any of the following or similar functions:

(i) the management of corporate services;

(ii) policy development;

(iii) the application of indicators of efficiency;

(iv) the co-ordination of European Union affairs; and

(v) information management; and

(d) the holders of such other senior public offices as the Prime Minister may designate for this purpose.

(2) Officers in a ministry or department who are members of the Senior Executive Service shall constitute the senior management team of that ministry or department, and in relation thereto they shall, without prejudice to the authority of the head of the department or ministry, be collectively responsible for:

(a) promoting and upholding the public administration values, the Code of Ethics, and applicable policies and directives governing staff conduct, management and the use of resources;

(b) achieving satisfactory levels of efficiency and quality in the delivery of any public services; and

(c) achieving Government objectives, in coordination as necessary with other units, departments, agencies and government entities.

(3) A member of the Senior Executive Service shall be individually responsible in relation to his area of responsibility for the matters listed in subarticle (2); and he shall be liable to proceedings under the Disciplinary Regulations if he fails to prevent or correct misconduct or negligence on the part of his subordinates where he could reasonably have taken steps to do so.

(4) Offices within the Senior Executive Service may be established, abolished or retitled only by the Prime Minister, who may prescribe the terms on which appointments to such offices shall be made:

Provided that this subarticle shall not be read as conferring power to change the terms of an officer's appointment during the course of that appointment;

Provided further that an office may be abolished only if any of the conditions listed under subarticle (4) of article 23 applies.

(5) The Prime Minister may delegate his powers under paragraph (d) of subarticle (1) and subarticle (4) to the Principal Permanent Secretary or to other senior public officers in such respects, and under such conditions, as he may prescribe.

Title 3 – Public officers

Public officers' assignment to and transfer between posts.

20. (1) A public officer may be assigned to a post in any department in the public service which involves performance of the duties of his grade or position, and he may also be transferred to such a post in any other department.

(2) Such initial assignment or transfer may be made by the Principal Permanent Secretary or by any other public officer delegated by him for the purpose.

Merit principle.

21. (1) Except as otherwise provided for in this or any other Act, appointments to public offices shall be made by competitive selection on merit.

(2) For the purpose of this article, competitive selection on merit means the selection of the candidate best suited for the office on the basis of an assessment of eligible candidates' individual and relative merits against the requirements of that office.

Powers of heads of department in relation to employees.

22. Subject to the provisions of the Constitution, articles 181B and 469A of the Code of Organization and Civil Procedure, this Act, and the Public Service Management Code, a head of department shall

exercise in relation to public officers in his department all rights, duties and powers of an employer in relation to his employees.

Power to create, abolish and classify positions.

23. (1) A head of department may in writing create positions in his department in accordance with such directives and guidelines as may be issued in that respect by the Principal Permanent Secretary.

(2) Positions shall be classified, and the terms and conditions of service applicable thereto determined, in accordance with such directives and guidelines on classification as may be issued by the Principal Permanent Secretary with the approval of the Prime Minister.

(3) A head of department may retitle a position in his department and alter the duties attached to it, and if necessary the position shall be reclassified in accordance with subarticle (2):

Provided that this subarticle shall not be read as conferring power to change the terms of an officer's appointment during the course of that appointment.

(4) A head of department may abolish a position in his department only in the following cases:

(a) where a position has been filled through a contract of service for a fixed term or for the duration of a specified task, on the conclusion of that term or task; or

(b) if the position is vacant; or

(c) if the position is no longer needed by the department.

(5) No person in any position may be paid a remuneration which is less than that applicable to his grade.

Appointments to positions.

24. (1) A head of department may appoint a person to fill a position in a department under his charge in accordance with such directives and guidelines as may be issued by the Principal Permanent Secretary in relation thereto.

(2) Appointments to positions shall be made in the manner prescribed under article 110 and paragraph (1) of article 121 of the Constitution and in accordance with article 21 of this Act, and before making an appointment to a position a head of department shall—

(a) advertise the position in such a manner as to allow eligible persons a reasonable opportunity to apply for the position; and

(b) appoint a selection panel to examine applicants and to make recommendations based on the criteria set out in article 21.

(3) Any person appointed to a position in terms of this article shall, for the duration of his appointment, be considered a public officer and shall have all the rights, powers and duties pertaining thereto under this law and any applicable law, even if he does not hold a grade.

(4) A head of department may make an appointment to a position for a fixed term or for the duration of a specified task.

(5) An appointment for a fixed term may, subject to the provisions of any other law, be extended for one further term without recourse to a fresh call for applications.

(6) The Principal Permanent Secretary may issue directives and guidelines on matters of employment including but not limited to:

(a) the definition of eligibility requirements for positions; and

(b) the conditions under which heads may make appointments;

so however that where the tasks that are to be carried out are intermittent or not on a regular basis, they shall be commissioned though a contract for service.

(7) The Principal Permanent Secretary shall consult with the Public Service Commission before issuing directives and guidelines under this article, and in so far as such directives and guidelines deal with matters falling within the scope of subarticle (1) of article 110 of the Constitution they may only be issued with the agreement of the Public Service Commission.

Filling of positions by lateral appointment.

25. (1) A head of department may opt to fill a position through the appointment of a public officer who holds a grade or position at a level comparable to the vacant position, such that the officer so appointed shall not obtain better terms and conditions, including salary, than those pertaining to his grade or to his previous position solely by virtue of this lateral appointment.

(2) Where a position is filled in terms of subarticle (1), a competitive selection need not be carried out and in this respect article 21 shall not apply to appointments made in accordance with this article.

Removal from positions.

26. (1) A public officer may not be removed from a position except in the following cases:

(a) as a sanction in accordance with the Disciplinary Regulations; or

(b) at the end of the term for which the appointment to the position was made; or

(c) where the position is abolished.

(2) Where a public officer in a grade has been appointed to a position in accordance with the provisions of this Act, he shall retain his grade and shall, on the expiry or termination of his appointment to the position, be assigned work in his grade, unless his appointment to the grade has also been terminated or he is declared surplus to requirements in terms of article 28.

Grades.

27. (1) The grades to which public officers may be appointed shall be those listed in the Third Schedule.

(2) The Minister responsible for the public administration may, by Order in the Gazette, add new grades to the Third Schedule and abolish or retitle any of the grades listed therein.

(3) The Minister responsible for the public administration shall, after informing the Public Service Commission, establish the eligibility requirements for appointments to each grade including, where applicable, rules of progression.

(4) The Minister responsible for the public administration may delegate his powers under this article to the Principal Permanent Secretary or to other senior public officers in such respects, and under such conditions, as he may prescribe.

(5) Whenever the terms and conditions of a public officer's appointment are in conflict with the Third Schedule, such terms and conditions shall prevail.

(6) Appointments to grades shall be made in the manner prescribed under article 110 and subarticle (1) of article 121 of the Constitution and based on the eligibility requirements prescribed under subarticle (3), and except as otherwise provided by the foregoing, in accordance with article 21 of this Act.

Surplus Pool.

28. (1) In this article "Surplus Pool" means those public officers who are assigned thereto as provided by subarticle (2) hereof because they are surplus to requirements, that is:

(a) they are not needed in their current posts and cannot be transferred or laterally appointed to other duties within their respective department; and

(b) they cannot be transferred to another department in terms of article 20.

(2) The Principal Permanent Secretary may by direction in writing assign a public officer who is surplus to requirements to the Surplus Pool, concurrently —

(a) assigning the said officer such duties in any department as the Principal Permanent Secretary may deem appropriate in view of the officer's skills and abilities; or

(b) assigning such officer for retraining in a specialisation, skill or profession in which the public service has a shortage of staff.

(3) A public officer in a substantive grade who is assigned to the Surplus Pool shall retain his substantive grade.

(4) An officer who has been retrained to a satisfactory standard in terms of paragraph (b) of subarticle (2) may be withdrawn from the Surplus Pool and appointed by the Principal Permanent Secretary to a grade or position appropriate to the officer's new skills provided that in the case of such appointments the provisions of article 21 need not be applied.

(5) The duration of the assignment under subarticle (2) shall be determined by the Principal Permanent Secretary.

Applicability of certain provisions in terms of the Constitution.

29. Articles 21 to 26 inclusive and 28 hereof shall have effect subject to there being an instrument of delegation in force under article 110 of the Constitution, and they shall cease to have effect to the extent that such delegation is withdrawn, suspended or derogated from by amendment, until such time as the instrument is restored.

Extension to the public service of powers assigned to the Merit Protection Commission.

30. Once the relative articles are brought into force in terms of subarticle (2) of Article 1 of this Act, the Public Service Commission shall, acting in accordance with subarticle (1) of article 121 of the Constitution, extend to the public service any or all of the provisions of

articles 33 and 34 of this Act, assuming directly in respect of the public service the powers therein assigned to the Merit Protection Commission:

Provided that the restrictions applying to the Merit Protection Commission concerning matters under the jurisdiction of the Industrial Tribunal shall not apply to the Public Service Commission acting in relation to the public service and public officers.

Recommendation on victimisation.

31. (1) The Public Service Commission shall ensure, in so far as its powers under articles 33 and 34 of this Act (as extended to the public service under article 30) permit, that no public officer is victimised for making any report to his superior, to the Commission or to another relevant authority about any breach of the Code of Ethics or of any other provision of this or any other Act.

(2) Where the Public Service Commission finds that a public officer has been victimised as aforesaid in a manner that it is unable to prevent or redress, it shall make a report to the Prime Minister or to other authorities recommending such measures to redress the situation as it considers appropriate.

PART III
MERIT PROTECTION COMMISSION, AGENCIES AND GOVERNMENT ENTITIES

Title 1 – The Merit Protection Commission

Public Service Commission to act as Merit Protection Commission.

32. In addition to its functions under any other law the Public Service Commission shall act as a Merit Protection Commission (in this Title referred to as the "Commission") for the purposes of this Act.

Functions of the Commission.

33. (1) Subject to subarticle (3), the functions of the Commission shall be:

(a) to audit the appointment of employees of government agencies and government entities to verify that these are made in accordance with article 21;

(b) to monitor and suggest amendments to directives and guidelines on employment matters issued by the Principal Permanent Secretary in relation to agencies and government entities, as well as the application of such directives and guidelines; and

(c) unless otherwise catered for in the legislation, Order or instrument setting up the government entity, agency, board or

commission or any other similar organisation or body, to inquire into reports that the directives issued by the Principal Permanent Secretary have not been adhered to.

(2) In performing its functions in virtue of paragraph (a) of subarticle (1) the Commission shall operate through after-the-event scrutiny and shall not subject any agency or government entity to any requirement to obtain the Commission's clearance or approval in advance of making appointments or taking decisions, except as a temporary measure in cases where the Commission —

(a) finds that the provisions of this Act have been, or are likely to be, breached; and

(b) is of the view that such a measure is necessary to prevent further breaches of this Act until such time as the Commission is able to conclude any investigations and take corrective measures.

(3) The Commission shall not hear and investigate complaints on matters which are assigned exclusively by any other law to any other body or to the jurisdiction of the Industrial Tribunal referred to in the Employment and Industrial Relations Act, and if any such complaints are made to the Commission it shall refer the complainants to the Tribunal; but in relation to such matters the Commission may—

(a) on its own initiative inquire into and investigate any cases with respect to which no formal complaints have been raised; and

(b) follow up a decision or award of the Industrial Tribunal with a view to taking additional remedial action under paragraph (c) of subarticle (4) and subarticle (5) of article 33 of this Act.

(4) The Commission shall regulate its own procedure in the discharge of its functions under this Act.

Powers of investigation and remedy.

34. (1) For the purposes of its functions under this Act the Commission may:

(a) carry out such inspections and investigations as it may deem necessary;

(b) summon any person to appear before it and give evidence on oath;

(c) request in writing the production of information, documents or files in the custody of any public employee for the purpose of examining the same or making copies thereof; and

(d) enter the premises of any agency or government entity, subject to compliance with any legal requirements placed by any law on the police for the same purposes.

(2) Article 6 of the Inquiries Act shall apply to the investigations undertaken by the Commission and any summons or requests it may make in pursuit thereof.

(3) Without prejudice to subarticles (4) and (5) and article 34, the Commission's findings may be used in evidence in any civil cause that may be filed by the injured party but, notwithstanding any other law, the members of the Commission cannot be called to give evidence.

(4) The Commission shall make a report to the Prime Minister following every investigation under this Act, and where it finds that an employment decision has been made otherwise than in conformity with the provisions of this Act it shall:

(a) annul the decision in question;

(b) issue such directives as it may consider necessary to redress the situation; and

(c) recommend the taking of such disciplinary or criminal action as it may consider appropriate in the circumstances.

(5) Without prejudice to any disciplinary or criminal action that may be taken in accordance with paragraph (c) of subarticle (4), where an employee of a government agency or government entity has made an employment decision that is not in conformity with the provisions of this Act the Commission may remove the employee from his position and/or interdict him from appointment or re-appointment for a maximum period of five years.

(6) Notwithstanding the provisions of any other law, the decisions taken and directives issued by the Commission under paragraphs (a) and (b) of subarticle (4) and under subarticle (5) shall be binding on the organisation to which they apply, and the board of directors or head of the organisation as applicable shall ensure that the Commission's decisions and directives are complied with.

(7) The Commission shall, as soon as possible after the conclusion of each year of its activity, make an annual report to the Prime Minister about its workings during the said year, and the Prime

Minister shall, as soon as possible after he has received the said report, lay it on the Table of the House of Representatives.

Application of this Title.

35. The provisions of this Title, unless otherwise indicated in this Act, shall only apply to agencies and government entities.

Title 2 – Agencies

Establishment of agencies.

36. (1) A government agency may be set up by or under any law or by Order of the Prime Minister in the Gazette.

(2) An Order establishing an agency under this Act shall serve as the basic charter governing the agency's operations and it shall:

(a) set out the functions and duties of the agency;

(b) specify which Minister is responsible therefor;

(c) prescribe the financial arrangements applying to the agency in accordance with article 41;

(d) set out any other special arrangements applying to the agency; and

(e) amend the Fourth Schedule.

(3) All government agencies established in accordance with subarticle (1) shall be listed in the Fourth Schedule together with an indicative summary of their functions.

(4) The Prime Minister may by Order in the Gazette:

(a) abolish an agency established by Order under this Act and listed in the Fourth Schedule; or

(b) amend the functions and duties thereof as well as amend any other matter provided for in subarticle (2) hereof:

Provided that any such Order shall provide for the necessary amendments to the Fourth Schedule.

Legal personality and judicial representation of agencies.

37. (1) A government agency shall be a body corporate having a separate and distinct legal personality and 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 being sued, and to which any function or operation of Government may be assigned under this or any other law.

(2) The legal and judicial representation of an agency shall lie in its Chief Executive Officer or such other officer of the agency as the Minister responsible for it may from time to time appoint by notice in the Gazette:

Provided that for the purposes of article 181B of the Code of Organisation and Civil Procedure, where such other officer is duly designated, any reference to the Chief Executive Officer in a judicial action or act shall automatically apply to the officer so designated.

Directives and guidelines issued by the Principal Permanent Secretary in relation to agencies.

38. (1) Except in so far as expressly precluded by any other law or any Order establishing an agency under this Act, the Principal Permanent Secretary may in addition to his powers under articles 4, 5 and 40 issue directives and guidelines to any or all government agencies to –

(a) ensure that agencies coordinate their activities with other agencies, departments, government entities and Local Councils as applicable;

(b) put into effect measures to improve the performance of agencies and the quality of the services they deliver to the public;

(c) provide for matters relating to employment, including –

(i) the redeployment of staff to, from or between agencies; and

(ii) the application of the merit principle and the establishment of safeguards in relation thereto;

(d) establish mechanisms for staff classification and the determination of pay levels; and

(e) put into effect such other policy objectives and management priorities as the Government may from time to time set out.

(2) Chief Executive Officers and employees of government agencies shall comply with all applicable directives issued by the Principal Permanent Secretary, and failure to comply shall be grounds for disciplinary proceedings under any applicable procedures.

(3) The Principal Permanent Secretary shall seek to frame his directives in the best interests of the consumer and in such a manner as to impose the least possible administrative burden on agencies consonant with the achievement of Government objectives, bearing in

mind any directives issued in virtue of article 72 of the Financial Administration and Audit Act.

(4) Subarticles (3) to (6) of article 15 shall apply *mutatis mutandis* to the directives issued by the Principal Permanent Secretary under this article.

General direction and control of agencies by Ministers and supervision by Permanent Secretaries.

39. (1) Save as otherwise provided in any other law or in any Order establishing an agency, the Chief Executive Officer of any agency shall be under the general direction and control of the Minister responsible for the agency and, subject to such direction and control, under the supervision of the Permanent Secretary of that ministry.

(2) Save as aforementioned, where an agency is subject to supervision by a Permanent Secretary article 17, except for subarticle (6) thereof, and article 18 shall apply to the agency and its Chief Executive Officer in the same manner as to departments and their heads.

Agency performance agreements.

40. (1) A government agency shall enter into an agency performance agreement with the Permanent Secretary responsible therefor, or, where a Permanent Secretary is not appointed, with the relative Minister, and such agreement shall set out the tasks to be addressed by the agency, the targets it is expected to meet, and the funds available to it.

(2) An agency performance agreement shall cover a period of one year to three years and shall be renewable in accordance with such directives and guidelines as the Principal Permanent Secretary may issue governing the development of agency performance agreements.

Accounts, audit and other financial arrangements.

41. (1) The Prime Minister shall, in consultation with the Minister responsible for finance, decide on the manner in which an agency should be financed and whether and to what extent the provisions of the Financial Administration and Audit Act shall apply to the agency.

(2) The following provisions shall apply:

(a) heads of agency shall keep proper books of accounts in such a manner as the Minister responsible for finance may from time to time direct;

(b) such accounts shall be subject to audit by an auditor appointed for the purpose by the head of each agency with the concurrence of the Minister responsible for finance and shall moreover be subject to scrutiny by the Financial Management

Monitoring Unit, and audit by the Internal Audit and Investigations Directorate and the Auditor General as the case may be;

(c) not later than six weeks after the end of each financial year, the head of each agency shall present to his Minister through the relative Permanent Secretary an audited statement of accounts together with a report on the workings of the agency which shall state the manner in which the agency has operated to fulfil its functions and its plans for the future; and

(d) this report shall be laid before the House by the Minister responsible for the agency not later than six weeks after its receipt or, where the House is not in session, not later than the second week after the House resumes its sittings.

Advisory boards.

42. (1) The Minister responsible for an agency may establish an advisory board to assist the Chief Executive Officer in the discharge of his duties.

(2) An advisory board established under this article shall be chaired by the Chief Executive Officer and shall consist of not less than two and not more than four members appointed by the Minister responsible for the agency.

(3) The remuneration paid to members of an agency advisory board shall be in accordance with any directives and guidelines issued by the Principal Permanent Secretary in relation thereto.

Detailing of public officers with an agency.

43. The Principal Permanent Secretary may, following the direction of the Prime Minister, detail or revoke the detailing of a public officer for duty with an agency for such a term and under such conditions as he may prescribe.

Pension rights and other arrangements.

44. (1) Where a public officer is detailed for duty with an agency such officer shall, during the time in which such direction is in force, be under the administrative direction and control of the head of the agency, but shall otherwise remain and retain all rights and duties as a public officer, and for the purpose of any law relating to government service pensions, service with any such agency shall be deemed to be service with the Government:

Provided that in assessing the pensionable emoluments of such officer for the purposes of any law relating to government service pensions, no account shall be taken of any allowances, bonuses or

gratuities paid to such officer by the agency in excess of what he is entitled to as a public officer:

Provided further that during the time in respect of which he is so detailed to perform duties with the agency his terms and conditions of service shall not be less favourable than those which are attached to his appointment with the Government during the period aforesaid. Such terms and conditions shall not be deemed to be less favourable because they are not in all respects identical or superior to those enjoyed by the officer concerned at the date of such detailing, if in the opinion of the Prime Minister such terms and conditions, taken as a whole, offer substantially equivalent or greater benefits.

(2) (a) For the purposes of calculating pensionable emoluments, posts and salary grades with an agency shall be classified in the most nearly corresponding grades and incremental levels in the services of the Government of Malta by reference to job descriptions, skills, responsibilities and other analogous factors.

(b) The classification referred to in paragraph (a) shall be carried out by a board composed of a chairperson appointed by the Minister responsible for finance and two other members, one appointed by the Minister responsible for the agency and one appointed by the agency. The classification shall be subject to the final approval of the Minister responsible for finance.

(c) Such classification shall take place within three months of any adjustment of the salaries of employees in Government service or of employees of the agency.

(d) No post shall be classified in a grade higher than that of a Grade 3 in the service of Government or such other grade that the Minister responsible for finance may from time to time, by notice in the Gazette, determine.

(e) Without prejudice to article 113 of the Constitution, no person may, following a classification as aforesaid, be entitled to rights under the Pensions Ordinance less favourable than those to which he would have been entitled prior to such classification.

(f) Without prejudice to any other law, where on the date of the coming into force of this Act, arrangements which should have been made with respect to public officers that have been detailed in terms of any applicable law have not been finalised, the Prime Minister may issue regulations with the purpose of resolving any administrative

difficulties that may have arisen between the time that a public officer has been detailed.

Application of this Title.

45. The provisions of this Title shall apply to all Government agencies except in so far as they may conflict with the provisions of any other law regulating an agency.

Title 3 —Government entities, boards and commissions

Application of certain articles of this Act and of other laws.

46. Subject to any other law governing a government entity, the Prime Minister may by Order in the Gazette extend to any such entity and/or the officers and employees thereof, the applicability of any of the provisions of this Act which do not already apply thereto as well as the applicability of any other law applying to the public service or to public officers.

Supervision of government entities by Permanent Secretaries.

47. (1) A government entity which is subject to the direction and control of a Minister shall, to the extent delegated by that Minister, be subject to supervision by the appropriate Permanent Secretary, in which case the Permanent Secretary may be empowered to issue directions to the entity and to instruct or advise Government representatives on the entity's governing board.

(2) A Permanent Secretary who is supervising a government entity in terms of subarticle (1) shall ascertain that it is—

(a) working towards the timely and effective fulfilment, in conjunction with other government entities as appropriate, of the Minister's and the Government's policy objectives;

(b) being managed according to law, the public administration values, the Code of Ethics, and applicable policies and directives governing staff conduct, management and the use of resources; and

(c) operating economically, efficiently and effectively and delivering any services to the public to a satisfactory standard.

(3) In fulfilment of his duties under subarticle (2), a Permanent Secretary may, in consultation with the relative Minister, establish targets for the entity and require any information except where this is precluded by law.

(4) A Permanent Secretary shall report to his Minister on the performance of the government entities under his supervision.

Supervision of boards and commissions.

48. (1) The Principal Permanent Secretary may extend to boards and commissions any or all of the directives and guidelines referred to in this Act, after consultation with the Prime Minister or with the Minister where the Prime Minister has appointed a Minister with responsibility for the public administration.

(2) The provisions of article 47 shall *mutatis mutandis* also apply with respect to boards and commissions.

(3) The directives and guidelines mentioned in subarticle (1) and the supervision referred to in subarticle (2) shall apply to administrative and day-to-day affairs of boards and commissions without prejudice to the rights and duties of the said boards and commissions to carry out those functions or roles for which they are set up.

(4) In this article, "boards and commissions" includes any council, committee, panel or similar body not already catered for by this Act and in any case shall not apply to any commission or authority established by the Constitution.

PART IV
MISCELLANEOUS

Power to make regulations.

49. The Prime Minister may make regulations to give effect to any of the provisions of this Act and the enforcement thereof, and without prejudice to the generality of the foregoing such regulations may provide for:

(a) the better management and administration of the public service, government agencies and government entities;

(b) the manner in which the accounts and records of government agencies and government entities are to be kept;

(c) the manner in which goods and services are to be procured by any or all government agencies or government entities, and the procedures to be adopted in connection therewith;

(d) the sanctions that may be applicable in case of breaches of the Code of Ethics;

(e) the manner in which public officers shall be detailed, released, deployed, attached or seconded with agencies and government entities, and the rights accruing to such officers, so however that the Prime Minister may, without prejudice to any vested rights, also issue regulations with a view to resolving any

matter outstanding as at the time of the coming into force of this Act; and

(f) the recruitment in public administration of nationals of member states of the European Union other than Malta and nationals of other countries enjoying similar rights in relation to the free movement of workers:

Provided that posts involving the exercise of public authority and the safeguarding of the general interests of the State, and particularly those listed herein, may be reserved for Maltese nationals:

(i) posts in the Office of the President, the House of Representatives, the Prime Minister's and Ministers' Secretariats, the Cabinet Office, and the offices of the Principal Permanent Secretary and of Permanent Secretaries;

(ii) the Judiciary, posts involving the preparation of expert advice in the field of prosecution of offences or lawmaking, and posts entailing responsibility for advisory constitutional bodies;

(iii) posts involving the sovereignty of the State, including diplomatic and foreign representation;

(iv) posts in the Office of the Prime Minister and the Ministries of Finance, Justice, Home Affairs and Foreign Affairs;

(v) posts within departments charged with the protection of the economic interests of the State, including tax authorities;

(vi) positions in the Senior Executive Service;

(vii) posts in the disciplined forces and offices responsible for defence matters; and

(viii) posts in the security services and in the field of civil protection and defence.

Amendment to article 181B of the Code of Organisation and Civil Procedure.

50. In paragraph (b) of subarticle (1) of article 181B of the Code of Organisation and Civil Procedure, for the words "by the Administrative Secretary" there shall be substituted the words "by the Principal Permanent Secretary".

Amendment to the Interpretation Act.

51. Immediately after paragraph (c) of article 6 of the Interpretation Act, the following proviso shall be added:

"Provided that on employment, promotion or disciplinary matters in relation to individual employees, such direction may only be given by the Prime Minister and in such a case the head of department shall inform the Public Service Commission."

FIRST SCHEDULE
CODE OF ETHICS

(Article 5)

A. Principles

1. This Code of Ethics is adopted within a framework of principles which are fundamental to the ethos governing behaviour. These have been identified as public trust; serving the public and the business community; responsibility to the Government of the day; productivity and flexibility; and public employees' rights.

2. The public has a right to expect that public sector organisations and their employees are of the highest integrity and competence and serve all citizens fairly, reasonably, equitably and efficiently.

3. Public employees shall provide impartial and accurate advice to the Government of the day and shall implement its policies promptly, efficiently and effectively.

4. The public and the business community have a right to expect that public employees will seek to meet their legitimate needs promptly and courteously.

5. The nation expects public employees to be committed to a constant quest for innovation, improved productivity, and the simplification of procedures, so as to contribute to national economic growth and competitiveness.

6. Public employees shall make full use of information and communication technology as an essential tool in the improvement of public administration and the delivery of better services, and they shall ensure that they possess the necessary skills to this end.

7. Public employees' rights are all the rights of employees, within the provisions of legislation and regulations.

B. Conflicts of Interest

8. A conflict of interest may be defined as a situation in which a public employee has a private or personal interest sufficient to influence or appear to influence the objective exercise of his or her official duties.

9. Public employees shall avoid any financial or other interest or undertaking that could directly or indirectly compromise the performance of their duties.

10. In many cases only the individual employee will be aware of the potential for conflict. Therefore, the onus is on the employee to disclose to his or her senior if a potential or actual conflict of interest arises.

11. This includes the notification of all relevant personal, financial, business or other interests, in particular:

(a) any directorship, partnership, agency or any shareholding;

(b) any interest in any activity or business in which or with which the organisation is engaged;

(c) any interest in goods or services recommended or supplied to the organisation.

12. Public employees shall notify the head of the organisation in writing within a week whenever any of the above interests arise namely, upon assuming office, change in duties or due to a change in circumstances.

C. Acceptance of Gifts or Benefits

13. No public employee or any member of his household shall accept gifts or services such as might be deemed to create an obligation, real or imagined.

14. A gift can be interpreted as an inducement or a reward simply because of its intrinsic value and therefore only token gifts may be accepted.

D. Personal and Professional Behaviour

15. Public employees shall perform any duties associated with their positions diligently, impartially and conscientiously, to the best of their ability.

16. In the performance of their duties, public employees shall:

(a) keep up to date with advances and changes in their area of expertise;

(b) comply with any relevant legislative or administrative requirements;

(c) treat members of the public and other staff members with courtesy and sensitivity to their rights;

(d) provide all necessary and appropriate assistance to members of the public;

(e) maintain adequate documentation to support any decisions made;

(f) strive to obtain value for public money spent and avoid waste and extravagance in the use of public resources;

(g) not take or seek to take improper advantage of any official information gained in the course of employment;

(h) not wilfully supply incorrect or misleading information;

(i) not indulge in favouritism or nepotism.

17. At all times the behaviour of a public employee shall be in such a way as not to discredit his or her position and not to reflect adversely on the public service.

18. Public employees shall be expected to give full support to the Government of the day regardless of which political party or parties are in office. When implementing Government policy, public employees' own values and beliefs shall not take precedence over those explicit or implicit in Government policy.

19. Public employees shall not harass or discriminate in work practices on the ground of sex, marital status, pregnancy, age, race, colour, nationality, physical or intellectual impairment, sexual preference, or religious, political or other convictions / allegiances when dealing with their colleagues and members of the public.

20. Public employees have a duty to report to a senior employee any unethical behaviour or wrongdoing by any other public employee during the course of his or her duties.

E. Fairness and Equity

21. Issues or cases being considered by public employees shall be dealt with consistently, promptly and fairly. This involves dealing with matters in accordance with approved procedures, without discrimination on any grounds. There is an obligation to treat each issue reasonably and with a view to meeting the principles of natural justice.

22. When using any discretionary powers public employees shall ensure that they take all relevant facts into consideration and have regard to the particular merits of each case.

F. Use of Official Information

23. A public employee shall only disclose official information or documents acquired in the course of his or her employment when required to do so by law, in the course of duty, or when proper authority has been given. In such cases, comments made by public employees shall be confined to factual information and shall not express opinion on official policy or practice.

24. A public employee as defined in article 2 of the Public Administration Act shall not accept employment in the private sector if he will be placed in a position to make use of "insider information" if such information came to his knowledge as a direct result of his public employment.

G. Use of Official Facilities and Equipment

25. It is expected that public employees shall:

(a) be efficient and economical in the use and management of public resources;

(b) be scrupulous in their use of public property and services and not permit their abuse by others.

26. Official facilities and equipment shall not be used for private purposes unless prior official permission has been given.

H. Outside Employment and Termination

27. The prior approval of the Permanent Secretary of the Ministry concerned or the Chairperson/Chief Executive Officer is required before public employees may engage in any form of business or employment outside their official duties.

28. In all cases when outside employment is considered, public employees shall give their public sector employment first consideration and avoid situations which could give rise to, or the appearance of, a conflict of interest. In particular, they must consider whether the company or organisation concerned is in, or entering into, a contractual relationship with the Government, whether its primary purpose is to lobby government organisations or members of Parliament, or whether it is in a regulatory relationship with the organisation.

29. Former public employees shall ensure that they do not accept employment or engage in activities which may cast doubts on their own integrity or that of the organisation in which they were previously employed or of the Public Service generally.

I. Political Participation and Comment

30. It is of the greatest importance that public confidence in the impartiality of the public administration shall not be impaired in any way. Public employees need to ensure that their participation in political activities does not bring them into conflict with their primary duty to serve the Government of the day. This is important in order to maintain ministerial and public trust in the impartiality of the advice given, and actions taken, by public employees.

31. Likewise public employees need to ensure that the spirit of paragraph 30 hereof is respected whenever they are asked to make a public comment. Public comment includes public speaking engagements, comments on radio and television and expressing views in letters to the newspapers or in books, journals or notices or where it might be expected that the publication or circulation of the comment will spread to the community at large.

32. Determining what is appropriate in any particular case will depend on the extent of the participation of the individual, the nature of the issue, the position held by the individual and existing regulations within the organisation concerned.

33. If a public employee becomes aware that a potential conflict, whether real or apparent, has arisen or is likely to arise, the public employee shall immediately inform the head of his or her organisation.

34. If a conflict of interest does arise, the public employee may have to stop participating in political activity or withdraw from areas of his or her duties giving rise to the conflict of interest.

J. Sanctions

35. Sanctions may be applied if public employees are involved in breaches of this Code of Ethics.

36. The sanctions applied shall depend on the seriousness and nature of the breaches and may entail formal disciplinary and/or criminal action as applicable.

37. Whenever appropriate, counselling by a supervisor or member of senior staff may also be given.

SECOND SCHEDULE
DEPARTMENTS

(Article 8)

Part I
Departments other than those not subject to ministerial control

Department	*Head of department*	*Other offices with statutory powers*	*Equivalent title at law (article 10)*	*Function of the department*
Benefit Fraud and Investigation Directorate	Director (Benefit Fraud and Investigation)	—	Director responsible for the Benefit Fraud and Investigation Directorate	To investigate fraud by individuals receiving benefits and allowances payable under the Social Security Act
Cabinet Office	Secretary to Cabinet	—	—	To support the workings of Cabinet
Citizenship and Expatriate Affairs Department	Director (Citizenship and Expatriate Affairs)	—	—	To administer the provisions of the law on Maltese citizenship, and to issue residence permits and employment licences
Civil Aviation Department	Director General (Civil Aviation)	—	Director of Civil Aviation	To regulate civil aviation
Department of Civil Protection	Director (Civil Protection)	—	Director of Civil Protection	To provide fire-fighting and rescue services and take protective action against natural, industrial and other emergencies
Commerce Division	Director General (Commerce)	—	Comptroller of Industrial Property Director of Trade Director of Industry	To monitor and provide assistance to small enterprises and craft industries, and to regulate intellectual property and trade
Consumer and Competition Division	Director General (Consumer and Competition Division)	—	Director of Consumer Affairs Public officer heading the Office for Fair Competition	To safeguard common interests and promote competitive market practices
Department of Contracts	Director General (Contracts)	—	Head of the Department of Contracts	To regulate, monitor, manage and approve contracts issued by Government Departments
Correctional Services Department	Director (Correctional Services)	—	Director of Correctional Services Director of Probation Services	To securely detain offenders while providing rehabilitation services to help them reintegrate into society

Department	*Head of department*	*Other offices with statutory powers*	*Equivalent title at law (article 10)*	*Function of the department*
Courts of Justice Division	Director General (Courts)		Registrar of Courts	To support and facilitate the administration of justice
		Director (Civil Courts and Civil Tribunals, Malta)	Director, Civil Courts and Tribunals Registrar, Civil Courts and Tribunals	
		Director (Criminal Courts and Criminal Tribunals, Malta)	Registrar, Criminal Courts and Tribunals	
		Director (Gozo Courts and Tribunals)	Director, Gozo Courts and Tribunals Registrar, Gozo Courts and Tribunals	
Customs Division	Director General (Customs)	—	Comptroller of Customs Collector of Customs	To collect customs and excise duties and curb illegal imports while facilitating trade
Economic Policy Division	Director General (Economic Policy)	—	—	To provide expert advice and assistance to Government in the formulation of economic policy and the management of economic activity
Education Division	Director General (Education)	—	Director of Education	To assure the education of all Maltese students of compulsory education age and beyond, and to encourage and support life-long learning
Examinations Department	Director (Examinations)	—	Registrar of Examinations	To administer local and overseas examinations
Government Printing Press	Director (Printing Press)	—	—	To print Government documents
Government Property Division	Director General (Government Property)		—	To promote the effective and profitable use of government owned immovable property
		Director (Land)	Commissioner of Land	

Department	*Head of department*	*Other offices with statutory powers*	*Equivalent title at law (article 10)*	*Function of the department*
Health Division	Director General (Health)		Chief Government Medical Officer Superintendent of Public Health	To regulate and ensure the availability of comprehensive health care and to promote public health
		Director (Elderly and Community Services)	Director responsible for the Department of the Elderly and Community Services	
Housing Construction and Maintenance Department	Director (Housing Construction and Maintenance)	—	—	To manage the construction of housing units developed by the Housing Authority and to maintain Government-owned residential premises
Department of Industrial and Employment Relations	Director (Industrial and Employment Relations)	—	Director responsible for employment and industrial relations Registrar of Trade Unions	To protect the interests of parties in employment contracts and to contribute towards stable industrial relations
Department of Information	Director (Information)	—	Press Registrar	To provide the public with up-to-date, comprehensive and meaningful information on Government policies, services and activities, and on matters which may be of public interest
Inland Revenue Division	Director General (Inland Revenue)	—	Commissioner of Inland Revenue	To administer fiscal legislation in relation to income and other taxes
Land and Public Registry	Director General (Land and Public Registry)		—	To cater for property registration and hypothecation, civil status registration, the registration of notarial deeds and other judicial acts, and related matters including the issue of passports
		Director (Land Registry)	Land Registrar	
		Director (Public Registry)	Director of the Public Registry Marriage Registrar	
		Director (Civil Registration)	Passport Officer	

Department	*Head of department*	*Other offices with statutory powers*	*Equivalent title at law (article 10)*	*Function of the department*
Libraries Department	Director (Libraries)	—	Librarian	To ensure the collection and conservation of Malta's documentary heritage, and to provide library material for education, information, research and leisure purposes
Local Government Department	Director (Local Government)	—	Director responsible for Local Councils	To support and monitor the activities of Local Councils
Management and Personnel Office	Director General (Management and Personnel Office)	—	—	To provide a framework that would enable ministries and departments to manage their human resources in the most effective manner
Malta Police Force	Commissioner of Police	—	Principal Immigration Officer	To preserve peace and order, to detect and investigate offences, and to prosecute offenders; to control immigration into Malta
Office of the Notary to Government	Chief Notary to Government	—	—	To prepare, draft and publish notarial deeds to which the government is a party and to conserve notarial acts according to law
Oil Exploration Department	Director (Oil Exploration)	—	—	To manage the process of oil exploration in Malta's continental shelf
Planning and Priorities Coordination Division	Director General (Planning and Priorities Coordination)	—	—	To manage and co-ordinate the use of EU funds and funds from other funding protocols or arrangements
Rural Affairs and Paying Agency Division	Director General (Rural Affairs) and Head of Paying Agency		—	To promote and develop farming and regulate the upkeep of public gardens and to manage income support for food producers
		Director (Agriculture)	Director of Agriculture	
		Director (Plant Health)	Director of the Department responsible for plant health	

Department	*Head of department*	*Other offices with statutory powers*	*Equivalent title at law (article 10)*	*Function of the department*
Services Division	Director General (Services)	—	—	To provide ancillary building projects services, manufacturing services, public cleansing services and a regulatory framework for the building construction industry
Social Housing Department	Director (Social Housing)	—	Director of Social Housing	To provide adequate and suitable alternative accommodation to those in need
Department of Social Security	Director (Social Security)	—	—	To administer the social security (contributory and non-contributory) scheme and provide timely financial assistance and other social benefits, pensions and allowances to eligible applicants
Social Welfare Standards Department	Director (Social Welfare Standards)	—	Director of the Department responsible for social welfare	To regulate the welfare sector and ensure that the providers of social welfare services comply with set standards
Staff Development Organisation	Director (Staff Development Organisation)	—	—	To develop the skills and abilities of public officers and disseminate good management practices through training
Tax Compliance Unit	Director General (Tax Compliance Unit)	—	—	To curb tax evasion
Treasury	Director General (Treasury)	—	Accountant General	To implement a standard accounting system throughout Government departments, and to supervise, monitor and report on all Government financial transactions
VAT Department	Director General (VAT)	—	Commissioner of Value Added Tax Director of Customs and Excise Tax	To ensure that all persons performing an economic activity against a consideration duly register under the VAT Act, and collect dues

Department	*Head of department*	*Other offices with statutory powers*	*Equivalent title at law (article 10)*	*Function of the department*
Veterinary Affairs and Fisheries Division	Director General (Veterinary Affairs and Fisheries)	—	Director General, Veterinary Services Director of Veterinary Services Director of Fisheries Director responsible for fisheries	To safeguard public health through assurance of livestock health and food safety and to regulate the fishing industry and contribute to the conservation of fish stocks
Works Division	Director General (Works)	—	Director of Public Works Superintendent of Public Works	To design, plan and carry out public infrastructure works and projects

Part II
Departments not subject to ministerial control

Department	*Head of department*	*Other offices with statutory powers*	*Equivalent title at law (article 10)*	*Function*
Office of the Clerk to the House	Clerk to the House of Representatives	—	Clerk of the House of Representatives	To provide administrative support to the House of Representatives
Electoral Office	Chief Electoral Commissioner	—	—	To support the Electoral Commission in the exercise of its functions
Internal Audit and Investigations Directorate	Director (Internal Audit and Investigations)	—	Director, Internal Audit and Investigations Directorate	To conduct internal audits and investigations under the Internal Audit and Financial Investigations Act
Office of the President	Secretary to the Presidency	—	—	To support the President in the fulfilment of his constitutional duties
Public Service Commission Secretariat	Secretary, Public Service Commission	—	Secretary to the Commission	To support the Public Service Commission in the exercise of its functions

THIRD SCHEDULE
GRADES

(Article 27)

Salary Scale 1
Attorney General
Officer in Grade 1

Salary Scale 2
Commissioner of Police
Officer in Grade 2

Salary Scale 3
Ambassador
Deputy Attorney General
Deputy Commissioner of Police
Director (Clinical)
Officer in Grade 3

Salary Scale 4
Assistant Attorney General
Assistant Commissioner of Police
Chief Electoral Commissioner
Chief Notary to Government
Consultant
Officer in Grade 4
Senior Counsellor

Salary Scale 5
Assistant Director of Education
Assistant Director, Pharmaceutical Services
Assistant Registrar
Chief Architect & Civil Engineer
Chief Curator
Chief Economics Officer
Chief Engineer
Chief Inspector of Customs
Chief Psychologist
Chief Quantity Surveyor
Chief Scientific Officer
Deputy Director, Dept of Civil Protection
Deputy Director, Institute of Tourism Studies
First Counsellor
Librarian
Manager, Health Inspectorate
Officer in Grade 5

Salary Scale 5 Continued
Principal Information Officer
Principal Medical Officer
Principal Veterinary Officer
Project Manager (IT)
Senior Clerk Assistant
Senior Counsel
Senior Registrar
Sports Officer II
Superintendent of Police

Salary Scale 6
Clerk Assistant
Counsel
Education Officer
General Practitioner
Head of Building & Restoration
Head of School
Head of Trade School
Internal Audit Manager
Manager, Dental Hygiene Services
Manager, Dental Technology Services
Manager, Medical Laboratory Technology Services
Manager, Midwifery Services
Manager, Nursing Services
Manager, Occupational Therapy Services
Manager, Office of Co-operatives
Manager, Physiotherapy Services
Manager, Podology Services
Manager, Radiography Services (Diagnostic)
Manager, Radiography Services (Therapeutic)
Manager, Speech Therapy Services
Principal Economics Officer
Principal Environment Officer
Principal Health Promotion Officer
Principal Inspector (Health & Safety)
Principal Pharmacist
Principal Probation Officer
Principal Public Cleansing Officer
Principal Scientific Officer

Salary Scale 6 Continued
Principal Social Worker
Principal Trading Standards Officer
Registrar
Senior Architect & Civil Engineer
Senior Engineer
Senior Legal Officer
Senior Medical Officer
Senior Psychologist
Senior Quantity Surveyor
Senior Veterinary Officer

Salary Scale 7
Assistant Head of School
Assistant Head of Trade School
Chief Assistance and Rescue Officer
Chief Printer
Counsellor
Curator
Departmental Midwifery Officer
Departmental Nursing Manager
Head, Care Centre
Medical Officer (GP)
Operations Manager
Principal Agricultural Officer
Principal, Agricultural College
Principal Veterinary Support Officer
School Counsellor
Senior Information Officer
Senior Inspector of Customs
Senior Internal Auditor
Senior Notary
Senior Pharmacist
Senior Principal
Senior Systems Analyst (IT)
Subject Co-ordinator
Trade/Subject Co-ordinator
Trade/School Counsellor

Salary Scale 8
Architect & Civil Engineer
Dental Surgeon
Inspector of Police
Internal Auditor II
Legal Officer
Medical Officer
Meteorological Officer
Midwifery Officer
Nursing Officer
Principal Health Inspector
Principal Paramedic

Salary Scale 8 Continued
Psychologist
Senior Assistant Librarian
Senior Co-Operatives Officer
Senior Economics Officer
Senior Environment Inspector
Senior Health Promotion Officer
Senior House Officer
Senior Inspector (Health & Safety)
Senior Probation Officer
Senior Scientific Officer
Senior Social Worker
Senior Statistics and Research Officer
Senior Trading Standards Officer
Veterinary Officer

Salary Scale 9
Assistant Chief Printer
Assistant Principal Health Inspector
Assistant Principal Paramedic
Cultural Organiser
Deputy Midwifery Officer
Deputy Nursing Officer
Disablement Resettlement Officer
Engineer
First Secretary
House Surgeon (Dentistry)
Houseman
Inspector of Customs
Instructor
Junior Architect & Civil Engineer
Junior Legal Officer
Junior Veterinary Officer
Manager, Security Services
Notary
Notary to Government (Gozo)
Officer i/c Operations (IT)
Operations Officer
Pharmacist
Principal Agricultural Foreman
Principal ECG Technician
Principal Pharmacy Technician
Principal Technical Officer
Public Cleansing Officer
Public Relations Officer
Quantity Surveyor
Senior Agricultural Officer
Senior Consul
Senior Legal Procurator
Senior Veterinary Support Officer
Station Officer

Salary Scale 9 Continued
Sports Officer I
Systems Analyst (IT)
Teacher

Salary Scale 10
Advocate for Legal Aid
Assistant Curator
Assistant Head, Care Centre
Assistant Librarian
Chief Marshal
Committee Clerk
Co-operatives Officer
Economics Officer
Environment Officer
Health Promotion Officer
Information Officer
Internal Auditor I
Junior Engineer
Legal Procurator
Principal
Principal Fisheries Officer
Scientific Officer
Second Secretary
Senior Health Inspector
Senior Paramedic
Sergeant Major
Social Worker
Statistician
Statistics and Research Officer
Trading Standards Officer

Salary Scale 11
Assistant Principal
Assistant Cultural Organiser
Court Recorder in Charge
Duty Management Officer
Inspector (Printing Press)
Leading Assistance and Rescue Officer
Main Inspector
Officer in Grade 11
Photographer in Charge
Principal Security Officer
Programmer II (IT)
Senior Agricultural Foreman
Senior Correctional Officer
Senior ECG Technician
Senior Fisheries Officer
Senior Foreman
Senior Marshal

Salary Scale 11 Continued
Senior Operator (IT)
Senior Pharmacy Technician
Senior Public Cleansing Foreman
Senior Technical Officer
Sergeant

Salary Scale 12
Agricultural Foreman
Agricultural Officer
Chief Weigher
Consul
Customs Officer
Environment Inspector
Facilitator
Foreman
Health Inspector
Inspector (Health & Safety)
Library Officer
Midwife
Museums Officer
Paramedic
Probation Officer
Public Cleansing Foreman
Quantity Surveyor's Assistant
Senior Care Worker
Senior Printer
Senior Restorer
Staff Nurse
Technical Officer
Trainee Internal Auditor
Veterinary Support Officer

Salary Scale 13
Assistant Agricultural Foreman
Assistant Foreman
Assistant Technical Officer
Communications Officer
Computer Operator (IT)
ECG Technician
Enrolled Nurse
Instructor of Braille
Mail Officer
Marshal
Meteorological Assistant
Officer i/c Minor Staff
Pharmacy Technician
Security Officer
Senior Photographer
Senior Weigher

Salary Scale 14
Assistance and Rescue Officer
Assistant Veterinary Support Officer
Constable
Correctional Officer
Executive Officer
Fisheries Officer
Library Assistant
Officer in Grade 14
Restorer
Senior Clerk
Senior Customs Assistant
Senior Postperson
Senior Technician
Senior Tradesman
Social Support Worker

Salary Scale 15
Kindergarten Assistant
Nursing Aide
Paramedic Aide
Photographer
Senior Court Recorder
Senior Messenger
Technician
Usher

Salary Scale 16
Airfield Operator
Airport Attendant
Airport Office Despatcher
Care Worker
Chaplain
Clerk
Communicator
Custodian and Guide
Customs Assistant
Guard
Health Assistant
Postperson
Printer
Security Guard
Supervisor
Tradesman
Warden (Environment)
Weigher

Other Industrial Grades
Armourer
Art/Graphic Technician
Bookbinder

Salary Scale 16 (Other Industrial Grades) Continued
Butcher
Ceramist
Construction Diver
Cook
Equipment Cover Manufacturer
Farmer
Gardener
Hallmarker of Gold and Silver Articles
Hospital Orderly
Jeweller
Marbler
Meter Reader
Postmortem and Mortuary Attendant
Repairer of Records
Rigger
Silversmith
Timekeeper

Salary Scale 17
Assistant Care worker
Court Messenger
Court Recorder

Industrial Grades Group IV
Ambulance Driver
Barber/Hairdresser
Heavy Plant Driver
Laboratory Operator
Seamstress
Senior Operative
Vulcaniser

Salary Scale 18
Messenger
Ward Clerical Assistant

Industrial Grades Group III
Boiler Attendant
Customs Auxiliary
Dairy Operative II
Deliveryman
Fuel Pump Attendant
Grave Digger
Library Attendant
Lighthouse Keeper
Motor Transport Driver
Operational Support Worker
Operative
Porter

Salary Scale 18 (Industrial Grades Group III) Continued
Runway Painter
Quarryman
Stamper

Salary Scale 19

Industrial Grades Group II
General Hand
Health Attendant (Public Cleansing)
Hospital Auxiliary
Seaman II
Warden

Salary Scale 20

Industrial Grades Group I
Charwoman
Health Attendant (Public Convenience)
Labourer
Labourer (ex-Impressed Driver)
Watchman

FOURTH SCHEDULE
AGENCIES

(Article 36)

Agency	Agency function
Management Efficiency Unit	To support public sector change initiatives through the provision of consultancy advice
Office of the Attorney General	To support the Attorney General in his role as chief legal adviser to the Government and chief prosecuting officer

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Passed by the House of Representatives at Sitting No. 77 of 28th January, 2009.

LOUIS GALEA
Speaker

PAULINE ABELA
Clerk to the House of Representatives