

I assent.

(L.S.)

CENSU TABONE
President

28th July, 1989

ACT No. XXIII of 1989

AN ACT to amend the Constitution

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

Short title.

1. This Act may be cited as the Constitution (Amendment) Act, 1989, and shall be read and construed as one with the Constitution of Malta, hereinafter referred to as "the Constitution".

Amendment of
section 23
of the
Constitution.

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

(a) in subsection (2) thereof —

(i) for the words "Any woman" there shall be substituted the words "Any person";

(ii) in paragraph (b), for the words "but for his death," there shall be substituted the words "but for his or her death,";

(b) in subsection (3) thereof, for the words "any woman" there shall be substituted the words "any person"; and

(c) immediately after subsection (7) thereof there shall be added the following new subsection:

"(8) No person shall after the 1st August, 1989, be entitled to be registered as a citizen of Malta in virtue of subsections (2) and (3) of this section, unless:

(a) the Minister is satisfied that the grant of citizenship to such person is not contrary to the public interest; and

(b) on the date of the application such person was still married to a citizen of Malta, or is the widow or widower of a person who was a citizen of Malta or of a person who having died before the appointed day would, but for his or her death, have become a citizen of Malta by virtue of section 22 of this Constitution.”.

3. For section 25 of the Constitution there shall be substituted the following:

Substitution
of section
25 of the
Constitution.

“Acquisition
of citizenship
by birth
or descent by
persons born
on or after
appointed
day.

25. (1) Every person born in Malta on or after the appointed day shall become a citizen of Malta at the date of his birth:

Provided that in the case of a person born on or before the 31st July, 1989, such person shall not become a citizen of Malta by virtue of this subsection if at the time of his birth —

(a) neither of his parents was a citizen of Malta and his father possessed such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Malta; or

(b) his father was an enemy alien and the birth occurred in a place then under occupation by the enemy:

Provided further that in the case of a person born on or after the 1st August, 1989 such person shall not become a citizen of Malta by virtue of this subsection unless at the time of his birth his father or his mother is:

(a) a citizen of Malta; or

(b) a person referred to in paragraphs (a) or (b) of subsection (4) of section 44 of this Constitution.

(2) A person born outside Malta on or after the appointed day shall become a citizen of Malta at the date of his birth:

(a) in the case of a person born on or before the 31st July, 1989, if at the date of such person's birth, his father is a citizen of Malta otherwise than by virtue of this subsection or subsection (2) of section 22 of this Constitution; and

(b) in the case of a person born on or after the 1st August, 1989, if at the date of such person's birth his father or his mother is a citizen of Malta otherwise than by virtue of this subsection or subsection (2) of section 22 of this Constitution.”.

Substitution
of section
26 of the
Constitution.

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

“Marriage
to citizen
of Malta.

26. (1) Any person who on or after the appointed day marries a person who is or becomes a citizen of Malta shall be entitled, upon making application in such manner as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta.

(2) With effect from the 1st August, 1989, no person shall be entitled to be registered as a citizen of Malta in virtue of this section unless:

(a) the Minister is satisfied that the grant of citizenship to such person is not contrary to the public interest; and

(b) on the date of the application such person was still married to a citizen of Malta or is the widow or widower of a person who was a citizen of Malta at the time of his or her death.”.

Amendment of
section 27
of the
Constitution.

5. Section 27 of the Constitution shall be amended as follows:

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

“Provided that in relation to a person

(a) who attains the age of eighteen years on or before the 20th September, 1966, this subsection shall apply as if for the reference to his attainment of the age of nineteen years there were substituted a reference to the 20th September, 1967; and

(b) who is or was a citizen of Malta in virtue of subsection (2) of section 25 of this Constitution, in virtue of his father being deemed never to have lost his citizenship of Malta in accordance with the provisions of paragraph (b) of the proviso to subsection (3) of this section, and who attained the age of eighteen years prior to the 1st August, 1989, this subsection shall apply as if for the reference to his attainment of the age of nineteen years, there were substituted a reference to the 1st August, 1990;

Provided further that this subsection shall not apply in the case of a person who is a citizen of Malta in virtue of subsection (1) of section 25 of this Constitution and who after emigrating to another country prior to his nineteenth birthday acquires the citizenship of that other country;

So however that if such person returns to reside in Malta before the expiration of six years from the date of his emigration he shall cease to be a citizen of Malta unless he has renounced his citizenship of that other country either

(a) after attaining the age of eighteen years and before attaining the age of nineteen years; or

(b) before the expiration of one year from his return to Malta;

whichever is the later. Provided that any stay in Malta for a period or periods not exceeding three months in any one year or of twelve months in the aggregate shall not be taken into account and shall not be considered as a return to Malta.”;

(b) immediately at the end of subsection (3) thereof there shall be added the following proviso:

“Provided that

(a) this subsection shall not apply in the case of a person who is a citizen of Malta in virtue of subsection (1) of section 22 or subsection (1) of section 25 of this Constitution and who after emigrating to another country acquires on or after the 1st August, 1989, the citizenship of that other country; and

(b) a person who after emigrating to another country and who before the 1st August, 1989, has acquired the citizenship of that other country and who prior to acquiring such citizenship was a citizen of Malta in virtue of subsection (1) of section 22 or of subsection (1) of section 25 of this Constitution, and in accordance with the law of the country of which such person has become a citizen such person may retain dual citizenship, shall be deemed not to have lost his citizenship of Malta on taking up the citizenship of the country to which he had emigrated, so however that this paragraph shall not apply if, not later than the 1st August, 1990, such person makes a declaration in such manner as may be prescribed wherein he shows his intention to confirm that he has ceased to be a citizen of Malta on his taking up the citizenship of such other country;

So however that if such person returns to reside in Malta before the expiration of six years from the date of his emigration he shall cease to be a citizen of Malta unless he has renounced his citizenship of that other country before the expiration of one year from his return to Malta. Any stay in Malta for a period or periods not exceeding three months in any one year or of twelve months in the aggregate, shall not be taken into account and shall not be considered as a return to Malta.”.

Amendment of
section 28
of the
Constitution.

6. For subsection (3) of section 28 of the Constitution there shall be substituted the following subsections (3) and (4):

“(3) The countries to which this section applies are those listed in the Fourth Schedule to this Constitution.

(4) The President may by Proclamation amend, add to, revoke or substitute the list of countries in the Fourth Schedule to this Constitution.”.

Amendment of
section 31
of the
Constitution.

7. Section 31 of the Constitution shall be amended as follows:

(a) immediately after the definition “British protected person” in subsection (1) thereof there shall be added the following definition:

““Minister” means the Minister for the time being responsible for matters relating to Maltese citizenship and, to the extent of the authority given, includes any person authorised by such Minister to act on his behalf;” and

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

“(3) (a) In this chapter:

(i) any reference to the father of a person shall, in relation to a person born out of wedlock and not legitimated, be construed as a reference to the mother of that person;

(ii) any reference to the father of a person who was lawfully adopted before the 1st January, 1977, shall be construed as a reference to the adopter and in the case of a joint adoption, the male adopter; and

(iii) any reference to the parents of a person who was lawfully adopted on or after the 1st August, 1989, and who was on the effective date of his adoption under the age of ten years, shall be construed as a reference to the adopters;

(b) for the purposes of this chapter:

(i) an adoption of any person made on or after the 1st January, 1977, and before the 1st August, 1989, shall be without effect and shall be treated as if it had not been made;

(ii) an adoption of any person made on or after the 1st August, 1989, who on the effective date of his adoption was ten years or older, shall be without effect and shall be treated as if it had not been made; and

(c) the Minister shall not be required to assign any reason for the grant or refusal of any application under sections 23 and 26 of this Constitution and the decision of the Minister on any such application shall not be subject to appeal to or review in any court.”.

8. Section 123 of the Constitution shall be amended as follows: Amendment of
section 123
of the
Constitution.

(a) in subsection (1) thereof, the words “other than the office of President but” shall be deleted;

(b) subsection (2) thereof shall be renumbered as subsection (3) thereof; and

(c) immediately after subsection (1) thereof there shall be inserted the following subsection:

“(2) Subsection (1) of this section shall not apply to the office of President, but shall apply to a person appointed to perform the functions of President in accordance with section 49 of the Constitution.”.

9. Immediately after the THIRD SCHEDULE to the Constitution there shall be added the following: Addition of
new Schedule
to the
Constitution.

“FOURTH SCHEDULE

(Section 28)

List of Commonwealth Countries other than Malta

Antigua and Barbuda
Australia
Bahamas
Bangladesh
Barbados
Belize
Botswana
Brunei Darussalam
Canada
Cyprus
Dominica
The Gambia
Ghana
Grenada
Guyana
India
Jamaica
Kenya
Kiribati
Lesotho
Malawi
Malaysia

Maldives
Mauritius
Nauru
New Zealand
Nigeria
Papua New Guinea
St. Kitts and Nevis
St. Lucia
St. Vincent and the Grenadines
Seychelles
Sierra Leone
Singapore
Solomon Islands
Sri Lanka
Swaziland
Tanzania
Tonga
Trinidad and Tobago
Tuvalu
Uganda
United Kingdom of Great Britain and Northern Ireland
Vanuatu
Western Samoa
Zambia
Zimbabwe.”.

Passed by the House of Representatives at Sitting No. 271 of the 20th July, 1989.

LAWRENCE GONZI
Speaker

P. MUSCAT TERRIBILE
Clerk to the House of Representatives.