

L.N. 121 of 2019

**PUBLIC ADMINISTRATION ACT
(CAP. 595)**

Correctional Services Agency (Establishment) Order, 2019

IN EXERCISE of the powers conferred by article 36 of the Public Administration Act, the Prime Minister has made the following order:-

1. (1) The title of this order is the Correctional Services Agency (Establishment) Order, 2019. Citation and commencement.

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

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

"the Act" means the Public Administration Act; Cap. 595.

"Agency" means the Correctional Services Agency established by article 3;

"Board of Governance" shall have the same meaning as that assigned to it by regulation 3 of the Prisons (Board of Governance) Regulations; S.L. 260.06.

"Chief Executive Officer" shall have the same meaning as provided by article 4;

"implementation unit" means the unit responsible for project management and the implementation of initiatives and innovations;

"Minister" means the Minister responsible for prisons;

"prison" shall have the same meaning assigned to it by article 2 of the Prisons Act; Cap. 260.

"prison officer" shall have the same meaning assigned to it by article 2 of the Prisons Act. Cap. 260.

Establishment
of the
Correctional
Services
Agency.

3. (1) There shall be established an Agency, to be known as the Correctional Services Agency hereinafter referred to as "the Agency".

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

Provided that and without prejudice to the provisions of article 39 of the Act, the Minister responsible for prisons shall be entitled to give directions in writing and the Agency shall be bound to observe such directives.

(3) The legal and judicial representation of the Agency shall be vested in the Chief Executive Officer who shall have the overall responsibility of the running of the Agency.

(4) The Agency shall be subject to the provisions of the Act and its employees shall uphold and promote public service values and those specific to the role of the Agency.

Appointment
and duties of the
Chief Executive
Officer.

4. (1) There shall be a Chief Executive Officer appointed by the Minister, who shall have the overall responsibility for the day-to-day running of the Correctional Services Agency.

(2) The Chief Executive Officer shall report on a regular basis to the Board of Governance on the day-to-day running of the Correctional Services Agency and related matters.

Agency
Performance
Agreement.

5. (1) The Agency shall enter into an Agency Performance Agreement with the Minister with a view to determining the funding of the agency, the targets it is expected to meet, as well as the tasks to be addressed and achieved.

(2) The Agency Performance Agreement may cover one (1) or more 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 agreement.

Functions of the
Board of
Governance.

6. The Board of Governance shall be entrusted with overseeing the implementation of national legislation and policy concerning Correctional Services, as well as to oversee the policy and strategy for the running of the Correctional Services.

7. (1) There shall be established a Unit within the Correctional Services Agency to be known as the "Implementation Unit".

Appointment and functions of the Implementation Unit.

(2) The Head of the Implementation Unit shall be appointed by the Minister for a period of three (3) years.

(3) The Head of the Implementation Unit shall:

(a) ensure that policies set by the Board of Governance are being implemented;

(b) implement projects and programmes for the embellishment of the facilities;

(c) assume responsibility for project management, including EU funding initiatives, and the implementation of initiatives and innovations;

(d) report on progress achieved to the Board of Governance; and,

(e) implement other initiatives as directed by the Minister.

8. (1) The Agency shall draw up yearly estimates for each financial year and submit them for consideration of the Minister in accordance with norms and practices established by the Minister responsible for finance.

Finances.

(2) The Agency shall be paid by the Government out of the Consolidated Fund such sums as the House may from time to time authorise to be appropriated to meet the cost of its operational and capital expenditure identified in its financial business plan.

(3) In the conduct of its affairs, the Agency may levy fees for services rendered by it which shall as far as possible, be used for the on-going upkeep and maintenance of the centres under its responsibility.

(4) The Minister may, after consultation with the Minister responsible for finance give such directives with a view to applying any excess of revenue over expenditure to the formation of reserve funds to be used for the purposes of the Agency.

(5) Without prejudice to the generality of the powers given by the Minister under sub-article (4), any directive given by the Minister may order the transfer to the Government, or the application in such

manner as may be specified in the directive, of any part of the fees, rates and other payments levied in accordance with sub-article (3) or any such excess as aforesaid.

(6) Any funds of the Agency not immediately required to meet expenditure may be invested in such manner as may from time to time be approved by the Minister with the concurrence of the Minister responsible for finance.

Accounts and
audit.

9. (1) The Agency shall keep proper books of account and other records in respect of its operations and shall cause to be prepared a statement of accounts in respect to each financial year.

(2) Such accounts shall be audited by an auditor or auditors appointed for this purpose by the Agency with the concurrence of the Minister responsible for finance and the Minister:

Provided that the Minister responsible for finance, may after consultation with the Minister, require moreover that the books and accounts of the Agency be audited or examined by the Auditor General who shall for this purpose have the powers to carry out such physical checking and any other certifications as he may deem necessary.

Annual reports.

10. (1) The Agency shall, not later than six (6) weeks after the end of each financial year, present to the Minister a report dealing generally with the activities of the Agency during that financial year and containing an audited statement of accounts together with such information relating to the proceedings and workings of the Agency to fulfil its functions and future plans.

(2) The report mentioned in sub-article (1) shall be laid on the Table of the House by the Minister not later than six (6) weeks after its receipt, or where the said House is during the period not in session, not later than the second week after the House resumes its sittings.

Staff
appointments.

11. (1) Without prejudice to the other provisions of this order, the appointment of officers and other employees of the Agency shall be made by the Agency. The terms and conditions of employment shall be established by the Agency with the concurrence of the Minister in accordance with the provisions of the Public Administration Act, the Prisons Act and any subsidiary legislation made thereunder.

Cap. 595.
Cap. 260.

(2) The Agency shall appoint and employ, at such remuneration and upon such terms and conditions as it may in accordance with sub-article (1) determine, such officers and employees of the Agency as may be necessary for the due and efficient

discharge of the function of the Agency in compliance with established Government procedures:

Provided that all employees having an employment contract with the Department of Correctional Services on the date of the coming into force of this order will be taken over by the Agency in terms of article 38 of the Employment and Industrial Relations Act and become employees of the Agency. Cap. 452.

12. (1) The Prime Minister may at the request of the Agency from time to time direct that any public officer shall be detailed for duty with the Agency in such capacity and with effect from such date as may be specified in the said direction: Detailing of public officers.

Provided that, the Prime Minister may at any time revoke such direction.

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

(3) Any public officer serving in the Agency on the date of the coming into force of this order shall from such date be deemed to have been detailed by direction of the Prime Minister for duty with the Agency as a Government agency under the provisions of article 11, and thereupon the provisions of the same article shall apply to such officer who shall continue to be detailed for duty as aforesaid until such time as the Prime Minister may revoke such direction as provided in sub-article (1):

Provided that where the Prime Minister revokes any direction as aforesaid the officer in whose respect the direction is revoked shall retain such grade in the public service which he held immediately before being detailed for duty with the Agency as a Government agency by virtue of this order or shall occupy such other higher grade which he would have occupied had he not been detailed as aforesaid.

13. (1) When anything has been commenced by or under the authority of the Government prior to the date of the coming into force of this order, and such thing relates to any of the properties or undertakings or any right or liability transferred to the Agency by or under this order, such thing may be carried on and completed by or as authorised by the Agency. Transitory provisions.

(2) Where, immediately before the coming into force of this order, any legal proceedings are pending to which the Government is or is entitled to be a party, and such proceedings are related to any of the properties or undertakings, or any right or obligation or liability transferred by or under this order to the Agency, the Agency shall, as from the aforesaid date, be substituted in such proceedings for the Government, or shall be made a party thereto in like manner as the Government could have become, and such proceedings shall not be abated by reason of the substitution.

Nomenclature in
the Prisons Act.
Cap. 260.

14. (1) The Board of Governance shall retain all its functions under the Prisons Act and assume new functions as determined by the present legislation.

(2) The Chief Executive Officer shall assume all the responsibilities of the Director, provided that certain initiatives as identified in the present legislation shall be subsumed by the Implementation Unit.

Cap. 260.

(3) The Agency shall assume all the responsibilities, obligations and functions of the Corradino Correctional Facility and the Department in the Prisons Act, and shall be bound by all provisions of the Prisons Act and any subsidiary legislation made thereunder.

General
amendments to
the Laws of
Malta.

15. (1) Any reference in any other law to "Director", meaning the Director responsible for Prisons or Corradino Correctional Facility and "Director of Correctional Services" shall be read and construed, after the coming into force of this order, as a reference to the Chief Executive Officer.

(2) Any reference in any other law to "Prison" or "Department", meaning the Department responsible for the Correctional Facility, shall be read and construed, after the coming into force of this order, as a reference to the "Correctional Services Agency".

Amends the
Fourth Schedule
to the Public
Administration
Act.
Cap. 595.

16. In the Fourth Schedule to the Public Administration Act, immediately after "Aġenzija Żgħażaġħ" there shall be added the following:

"Correctional Services Agency To oversee the implementation of national legislation and policy concerning Correctional Services, as well as to oversee the policy and strategy for the running of the Correctional Services".