

Nru. 119

17. 03. 2020

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Rosianne Cutajar, M.P., Segretarju Parlamentari għall-Ugwaljanza u r-Riformi, f'isem il-Ministru għall-Ġustizzja, l-Ugwaljanza u l-Governanza, u moqri għall-Ewwel darba fis-Seduta tat-12 ta' Marzu 2020.

A BILL introduced by the Honourable Rosianne Cutajar, M.P., Parliamentary Secretary for Equality and Reforms, on behalf of the Minister for Justice, Equality and Governance, and read the First time at the Sitting of the 12th March 2020.

ATT sabiex jemenda l-Kostituzzjoni ta' Malta u liġijiet oħra sabiex jiżgura ugwaljanza *de facto* bejn in-nisa u l-irġiel fil-politika.

AN ACT to amend the Constitution of Malta and other laws to ensure *de facto* equality between men and women in politics.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjah

ATT sabiex jemenda l-Kostituzzjoni ta' Malta u liġijiet oħra sabiex jiżgura ugwaljanza de facto bejn in-nisa u l-irgiel fil-politika.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħareġ b'liġi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2020 li jemenda l-Kostituzzjoni ta' Malta u Diversi Liġijiet. Titolu fil-qosor.

TAQSIMA I
Emendi għall-Kostituzzjoni

2. Din it-Taqsima temenda l-Kostituzzjoni u għandha tinqara u tinftiehem haġa waħda mal-Kostituzzjoni, hawn iżjed 'il quddiem f'din it-Taqsima msejġha "il-Kostituzzjoni". Emendi għall-Kostituzzjoni.

3. Minnufih wara l-artikolu 52 tal-Kostituzzjoni għandu jżied dan li ġej: Żieda ta' artikolu 52A fil-Kostituzzjoni.

C 3928

"Sigġijiet
addizzjonali
ghas-sess l-
inqas
rappreżentat.

52A. (1) Jekk f'elezzjoni ġenerali li tkun ikkontestata minn żewġ partiti politiċi jew aktar u li fihom il-kandidati ta' żewġ partiti biss ikunu eletti jew f'każ ta' riżultat ta' elezzjoni kif provdut fis-subparagrafi (i) u (ii) tal-proviso tas-subartikolu (1) tal-artikolu 52 u fil-każ li n-numru ta' Membri tal-Parlament tas-sess l-inqas rappreżentat, elett bis-saħħa tal-artikolu 52, inkluż dawk il-membri eletti f'elezzjoni każwali skont ir-regolamenti rilevanti, huwa inqas minn erbgħin fil-mija (40%) tal-Membri kollha tal-Parlament, allura n-numru ta' Membri tal-Parlament, għandu jiżdied b'mhux aktar minn tnax (12)-il Membru tas-sess l-inqas rappreżentat:

Iżda n-numru ta' Membri Parlamentari tas-sess l-inqas rappreżentat elett bis-saħħa tal-artikolu 52 miżjud mal-membri tas-sess l-inqas rappreżentat elett bis-saħħa ta' dan l-artikolu ma għandux jaqbeż l-erbgħin fil-mija (40%) tan-numru totali ta' Membri eletti ta l-Parlament li jifforma l-Kamra.

Il-kandidati eletti bis-saħħa ta' dan l-artikolu għandhom ikunu mqassma ugwalment bejn il-partit b'maġġoranza assoluta jew il-partit b'maġġoranza relattiva u l-partit b'minoranza.

(2) Dak il-kandidat jew kandidati għandhom jiġu ddikjarati mill-Kummissjoni Elettorali bhala eletti biex jimlew is-sigġijiet addizzjonali maħluqa mis-subartikolu (1) li jkunu kandidati tal-partit jew tal-partiti li għandhom jiġu kkreditati bis-sigġijiet addizzjonali u li jagħmlu parti mis-sess l-inqas rappreżentat, ġew ikkreditati mill-Kummissjoni Elettorali fl-aħħar għadd bl-ogħla jew bin-numru ta' voti li jmiss l-aktar għoli mingħajr ma jkunu ġew eletti, irrISPETTIVAMENT mid-distrett fejn jinkiseb dak l-ogħla numru ta' voti li jmiss l-aktar għoli:

Iżda f'każ li n-numru ta' kandidati stabbiliti taht dan l-artikolu ma jintlaħaqx, wara l-applikazzjoni tas-subartikolu preċedenti, dawk il-kandidati li jagħmlu parti mis-sess l-inqas rappreżentat għandhom jiġu ddikjarati mill-Kummissjoni Elettorali bħala eletti biex jimlew il-bqija tas-siġġijiet addizzjonali maħluqa minn dan l-artikolu li jkunu kandidati tal-partit li għandhom jiġu kkreditati bis-siġġijiet addizzjonali, ġew gradati fuq bażi nazzjonali mill-Kummissjoni Elettorali bl-ogħla numru jew l-ogħla numru ta' kwota perċentwali miksuba fuq il-baży tal-għadd finali tal-vot rispettiv tagħhom qabel l-eliminazzjoni b'rabta mal-kwota tad-distrett elettorali kkontestat:

Iżda wkoll f'każ li n-numru ta' kandidati stabbiliti taht dan l-artikolu ma jintlaħaqx kif previst f'dan is-subartikolu, is-siġġijiet li jibqgħu vakanti għandhom jimtlew bil-għażla ta' Membru jew Membri mill-Kamra; u dak il-Membru jew Membri għandhom ikunu kwalifikati biex ikunu eletti bħala Membru tal-Kamra kif stabbilit taht l-artikolu 53; ma għandhomx ikunu soġġetti għal ebda skwalifika għas-šhubija fil-Kamra kif provdut taht l-artikolu 54 u għandhom jappartjenu għas-sess l-inqas rappreżentat.

(3) Għall-finijiet ta' dan l-artikolu, kandidati eletti jew li ma jkunux ġew eletti li huma identifikati bħala newtrali fir-rigward tal-ġeneru fid-dokumentazzjoni uffiċjali, għandhom jingħaddu mas-sess l-inqas rappreżentat.

(4) Dan l-artikolu għandu jibqa' fis-seħħ sal-iskadenza tal-perjodu ta' għoxrin (20) sena mid-data li jidhol fis-seħħ, sakemm ma jiġix imħassar jew imdaħħal mill-ġdid bi jew mingħajr modifika permezz ta' Att tal-Parlament skont id-dispożizzjonijiet ta' din il-Kostituzzjoni."

4. Fil-paragrafu (b) tal-artikolu 61A tal-Kostituzzjoni, il-kliem "l-eletturi li jkun hemm fih." għandhom jiġu sostitwiti bil-kliem "l-eletturi li jkun hemm fih:" u minnufih wara għandu jizdied il-proviso ġdid li ġej:

Emenda tal-artikolu 61A tal-Kostituzzjoni.

"Iżda li dan is-subparagrafu ma għandux japplika għall-fini tal-ewwel proviso tas-subartikolu (2) tal-artikolu 52A."

C 3930

TAQSIMA II

Emendi għall-Att dwar l-Elezzjonijiet Ġenerali

Emendi għall-Att dwar l-Elezzjonijiet Ġenerali. Kap. 354.

5. Din it-Taqsima temenda l-Att dwar l-Elezzjonijiet Ġenerali u din it-Taqsima għandha tingara u tinftiehem haġa waħda mal-Att dwar l-Elezzjonijiet Ġenerali, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 7 tal-Att prinċipali.

6. Fis-subartikolu (2) tal-artikolu 7 tal-Att prinċipali, il-kliem "tmien membri li jkunu Kummissjonarji Elettorali." għandhom jiġu sostitwiti bil-kliem "għaxar membri li jkunu Kummissjonarji Elettorali; dawn il-membri għandhom jirriflettu rappreżentazzjoni ugwali bejn is-sessi, fi kwalunkwe każ ma jkollux inqas minn erba' membru ta' kull sess."

Żieda ta' regolament ġdid fit-Tleqqax-il Skeda li tinsab mal-Att prinċipali.

7. Minnufih wara r-regolament 23 tat-Tleqqax-il Skeda li tinsab mal-Att prinċipali, għandu jiżdied ir-regolament ġdid li ġej:

"Membri addizzjonali skont l-artikolu 52A tal-Kostituzzjoni.

23A. Għall-fini biex teleggi l-membri addizzjonali, jekk ikun hemm bżonn, skont l-artikolu 52A tal-Kostituzzjoni, il-Kummissjoni għandha:

(a) tistabbilixxi n-numru ta' membri eletti fil-Kamra skont is-sess u tiddetermina s-sess l-inqas rappreżentat bħala s-sess bl-inqas numru ta' membri eletti fil-Kamra;

(b) tistabbilixxi l-persentaġġ ta' siggijiet miksuba mis-sess l-inqas rappreżentat abbażi tan-numru ta' membri eletti tas-sess l-inqas rappreżentat eletti fil-Kamra bħala proporzjon tal-għadd ta' membri eletti fil-Kamra billi jiġi diviż in-numru ta' membri eletti tas-sess l-inqas rappreżentat man-numru ta' membri eletti immultiplikati b'mija; u

(ċ) f'każ li l-persentaġġ tas-sess l-inqas rappreżentat ikun inqas minn erbgħin fil-mija, il-Kummissjoni għandha tassenja sa massimu ta' tnax (12)-il siggu addizzjonali billi tapplika l-ekwazzjoni li ġejja:

A = in-numru totali tas-siggijiet miksuba mis-sess l-inqas rappreżentat;

B = in-numru totali tal-membri eletti fil-Kamra;

x = siggijiet addizzjonali maħluqa skont l-artikolu 52A tal-Kostituzzjoni;

0.40 = id-denominatur li jirrappreżenta in-numru totali ta' sigġijiet, inkluż is-sigġijiet addizzjonali maħluqa skont l-artikolu 52A tal-Kostituzzjoni.

$$\frac{(A) + x}{(B) + x} = 0.40$$

In-numru ta' sigġijiet addizzjonali li jirriżulta mill-applikazzjoni tal-ekwazzjoni għandu jitniżżel għall-eqreb numru sħiħ sabiex jiżgura li s-sigġijiet addizzjonali allokat li s-sess l-inqas rappreżentat skont l-artikolu 52A tal-Kostituzzjoni ma jeċċedix l-erbghin fil-mija (40%).".

8. Minnufih wara r-regolament 23 tat-Tleltax-il Skeda li jinsab mal-Att prinċipali, għandu jiżded l-Anness li ġej:

żieda ta' anness ġdid mat-tleltax-il skeda li tinsab mal-att prinċipali.

"Anness mat-Tleltax-il Skeda

Art. 52A tal-Kostituzzjoni

Regolament 23A tar-Regolamenti tal-1991 dwar l-Elezzjonijiet Ġenerali (Klassifika tal-Poloż tal-Votazzjoni, Elezzjonijiet Każwali u b'Għażla)

Eżempji għal kalkolu ta' sigġijiet addizzjonali skont l-artikolu 52A tal-Kostituzzjoni

1. Eżempji skont is-subartikolu (1) tal-artikolu 52A tal-Kostituzzjoni

Eżempju A

In-numru totali ta' sigġijiet miksuba mis-sess l-inqas rappreżentat huwa disgħa (9) minn sebgha sittin (67) sigġu totali tal-Kamra.

Il-proporzjon tas-sigġijiet assenjati lis-sess l-inqas rappreżentat huwa ta' tleltax punt tlieta u erbghin fil-mija (13.43%). Dan il-persentaġġ huwa taħt il-limitu ta' erbghin fil-mija (40%) u għalhekk id-dispożizzjonijiet tal-artikolu 52A tal-Kostituzzjoni għandhom japplikaw.

Sabiex jiġu stabbiliti n-numru ta' sigġijiet addizzjonali li għandu jiġi assenjat lis-sess l-inqas rappreżentat, il-Kummissjoni għandha tapplika l-ekwazzjoni li ġejja:

$$\frac{9 + x}{67 + x} = 0.40$$

$$9 + x = 0.40 (67+x)$$

$$9 + x = 26.8 + 0.40x$$

C 3932

$$x - 0.4x = 26.8 - 9$$

$$0.6x = 17.8$$

$$x = 29.67$$

Il-figura ta' 29.67 għandha titniżżel għall-28, sabiex tiżgura li n-numru totali ta' sigġijiet ma jeċċedix l-erbghin fil-mija (40%). Madankollu, peress li n-numru massimu ta' sigġijiet addizzjonali li jistgħu jiġu assenjati huwa ta' 12, it-28 għandu jitnaqqas għal 12.

Eżempju B

In-numru totali ta' sigġijiet miksuba mis-sess l-inqas rappreżentat huwa ta' tlieta u għoxrin (23) minn disgħa u sittin (69) sigġu totali tal-Kamra.

Il-proporzjon tas-sigġijiet assenjati lis-sess l-inqas rappreżentat huwa ta' tlieta u tletin punt tlieta u tletin fil-mija (33.33%), Il-persentaġġ huwa taħt il-limitu ta' erbghin fil-mija (40%) u għalhekk id-dispożizzjonijiet tal-artikolu 52A tal-Kostituzzjoni għandu japplika.

Sabiex jiġi stabbilit in-numru ta' sigġijiet addizzjonali li għandu jiġi assenjat lis-sess l-inqas rappreżentat, il-Kummissjoni għandha tapplika l-ekwazzjoni li ġejja:

$$\frac{23 + x}{69 + x} = 0.40$$

$$23 + x = 0.40 (69 + x)$$

$$23 + x = 27.6 + 0.40x$$

$$x - 0.4x = 27.6 - 23$$

$$0.6x = 4.6$$

$$x = 7.67. \text{ This is rounded down to 6.}$$

Il-figura ta' 7.67 għandha titniżżel għall-eqreb numru sħiħ, b'hekk aġġustat għal sitt (6) sigġijiet addizzjonali."

Żieda ta' regolament ġdid ma' Skeda Tlettax-A li tinsab mal-Att prinċipali,

9. Minnufih wara r-regolament 21 ta' Skeda Tlettax-A li tinsab mal-Att prinċipali, għandu jiżdied ir-regolament ġdid li ġej:

"Membri addizzjonali skont l-artikolu 52A tal-Kostituzzjoni.

21A. Għall-fini biex jiġi eletti membri addizzjonali, jekk ikun hemm bżonn, mitlub skont l-artikolu 52A tal-Kostituzzjoni, ir-regoli u r-regolamenti li jinsabu fit-Taqsima IV li tinsab mat-Tlettax-il Skeda għandu japplika."

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz huma sabiex jemendaw il-Kostituzzjoni ta' Malta biex jintroduċu miżuri pożittivi neċessarji u raġonevoli f'soċjetà demokratika sabiex tiżgura l-ugwaljanza *de facto* bejn in-nisa u l-irġiel fil-politika u wkoll emendi fl-Att dwar l-Elezzjonijiet Ġenerali sabiex jiżdied in-numru ta' kummissjonarji elettorali u jiżgura rappreżentanza ugwali bejn is-sessi.

C 3934

**A BILL
entitled**

AN ACT to amend the Constitution of Malta and other laws to ensure de facto equality between men and women in politics.

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.** The short title of this Act is the Constitution of Malta and Various Laws (Amendment) Act, 2020.

**PART I
Amendments to the Constitution**

Amendments to the Constitution. **2.** This Part amends the Constitution and this Part shall be read and construed as one with the Constitution, hereinafter in this Part referred to as "the Constitution".

Addition of new article 52A to the Constitution. **3.** Immediately after article 52 of the Constitution there shall be added the following new article:

"Additional seats for under-represented sex.

(1) If at a general election which is contested by two or more political parties and in which only candidates of two parties are elected or in the eventuality of an election result as provided for in sub-paragraphs (i) and (ii) of the proviso to sub-article (1) of article 52 and in the event that the number of Members of Parliament of the under-represented sex, elected by virtue of article 52, inclusive of those members elected at a casual election in terms of the relevant regulations, is less than forty per cent (40%) of all the Members of Parliament, then the number of Members of Parliament, shall increase by not more than twelve (12) Members of the under-represented sex:

Provided that the number of Members of Parliament of the under-represented sex elected by virtue of article 52 added to the members of the under-represented sex elected by virtue of this article shall not exceed forty per cent (40%) of the total number of elected Members of Parliament making up the House.

The candidates elected by virtue of this article are to be apportioned equally between the absolute majority party or the relative majority party and the minority party.

(2) Such candidate or candidates shall be declared by the Electoral Commission to be elected to fill the additional seats created by sub-article (1) who, being candidates of the party or parties which are to be credited with the additional seats and belonging to the under-represented sex, were credited by the Electoral Commission at the last count with the highest or next higher number of votes without being elected, irrespective of the division in which such highest or higher number of votes occurs:

Provided that in the event that the number of candidates established under this article is not reached, following the application of the preceding sub-article, such candidates belonging to the under-represented sex shall be declared by the Electoral Commission to be elected to fill the remaining additional seats created by this article who, being candidates of the party which is to be credited with the additional seats, were ranked on a national basis by the Electoral Commission with the highest or next highest number of percentage quota obtained on the basis of their respective final count vote before elimination in relation to the quota of the electoral division contested:

Provided further that in the event that the number of candidates established under this article is not reached as foreseen in this sub-article, the seats thereafter remaining vacant shall be filled by the co-option of a Member or Members by the House; and such Member or Members shall be qualified to be elected as a Member of the House as established under article 53; shall not be subject to any disqualifications for membership of the House as provided under article 54 and shall belong to the under-represented sex.

(3) For the purpose of this article, elected and unelected candidates who are identified as gender-neutral persons in their official documentation, shall be counted with the under-represented sex.

C 3936

(4) This article shall remain in force until the expiry of the period of twenty (20) years from the date of its coming into force, unless revoked or re-enacted with or without modification by means of an Act of Parliament according to the provisions of this Constitution."

Amendment of article 61A of the Constitution.

4. In paragraph (b) of article 61A of the Constitution, the words "the voters therein" shall be substituted by the words "the voters therein:" and immediately thereafter there shall be added the following new proviso:

"Provided that this sub-paragraph shall not apply for the purpose of the first proviso of sub-article (2) of article 52A of the Constitution."

PART II

Amendments to the General Elections Act

Amendments to the General Elections Act. Cap. 354.

5. This Part amends the General Elections Act and it shall be read and construed as one with the General Elections Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 7 of the principal Act.

6. In sub-article (2) of article 7 of the principal Act, the words "eight members as Electoral Commissioners." shall be substituted by the words "ten members as Electoral Commissioners; such members shall reflect equal representation between sexes, in any case not having less than four members of every sex."

Addition of new regulation in the Thirteenth Schedule to the principal Act.

7. Immediately after regulation 23 of the Thirteenth Schedule to the principal Act, there shall be added the following new regulation:

"Additional members in terms of article 52A of the Constitution.

23A. For the purpose of electing the additional members, if any, required in terms of article 52A of the Constitution, the Commission shall:

(a) establish the number of members elected to the House by sex and determine the under represented sex as the sex with the lowest number of members elected to the House;

(b) establish the percentage of seats attained by the under-represented sex based on the number of elected members of the under-represented sex elected to the House as a proportion of the number of elected members to the House by dividing the number of elected members of the under-represented sex with the number of elected members multiplied by hundred; and

(c) in the event that the percentage of the under-represented sex is below forty percent, the Commission shall assign up to a maximum of twelve (12) additional seats by applying the following equation:

A = Total number of seats attained by the under-represented sex;

B = Total number of members elected to the House;

x = Additional seats created in terms of article 52A of the Constitution;

0.40 = The denominator that represents the total number of seats, including the additional seats created in terms of article 52A of the Constitution.

$$\frac{(A) + x}{(B) + x} = 0.40$$

The number of additional seats resulting from the application of the equation is to be rounded down to the nearest even integer to ensure that the additional seats allocated to the under-represented sex in terms of article 52A of the Constitution does not exceed forty per cent (40%)."

8. Immediately after regulation 23 of the Thirteenth Schedule to the principal Act, there shall be added the following new Annex:

Addition of new Annex to the Thirteenth Schedule to the principal Act.

"Annex to the Thirteenth Schedule

Art. 52A of the Constitution

Regulation 23A of the General Elections (Sorting of Ballot Papers, Casual Elections, and Co-Opting) Regulations 1991

Examples for calculating additional seats in terms of article 52A of the Constitution

1. Examples in terms of sub-article (1) of article 52A of the Constitution

Example A

The Total number of seats attained by the under-represented sex is nine (9) from a total of sixty-seven (67) seats in the House.

The proportion of seats assigned to the under-represented sex is thirteen point forty-three per cent (13.43%). This percentage is below the forty per cent (40%) threshold and so the provisions of article 52A of the Constitution shall apply.

To establish the number of additional seats to be assigned to the under-represented sex, the Commission shall apply the following equation:

$$\frac{9 + x}{67 + x} = 0.40$$

$$9 + x = 0.40 (67 + x)$$

$$9 + x = 26.8 + 0.40x$$

$$x - 0.4x = 26.8 - 9$$

$$0.6x = 17.8$$

$$x = 29.67$$

The figure of 29.67 is to be rounded down to 28, to ensure that the total number of seats does not exceed forty per cent (40%). However, given that the maximum number of additional seats which can be assigned is 12, the 28 are to be reduced to 12.

Example B

The Total number of seats attained by the under-represented sex is twenty-three (23) from a total of sixty-nine (69) seats in the House.

The proportion of seats assigned to the under-represented sex is thirty-three point thirty-three per cent (33.33%). This percentage is below the 40% threshold and so the provisions of article 52A of the Constitution shall apply.

To establish the number of additional seats to be assigned to the under-represented sex, the Commission shall apply the following equation:

$$\frac{23 + x}{69 + x} = 0.40$$

$$23 + x = 0.40 (69 + x)$$

$$23 + x = 27.6 + 0.40x$$

$$x - 0.4x = 27.6 - 23$$

$$0.6x = 4.6$$

$$x = 7.67. \text{ This is rounded down to 6.}$$

The figure of 7.67 is to be rounded down to the nearest even integer, hence adjusted to six (6) additional seats."

9. Immediately after regulation 21 of the Thirteenth-A Schedule to the principal Act there shall be added the following new regulation:

"Additional members in terms of article 52A of the Constitution. 21A. For the purpose of electing the additional members, if any, required in terms of article 52A of the Constitution, the rules and regulations found in Part IV to the Thirteenth Schedule shall be applied."

Addition of new regulation to the Thirteenth-A Schedule to the principal Act.

Objects and Reasons

The objects and reasons of this Bill are to amend the Constitution of Malta to introduce temporary positive measures necessary and reasonable in a democratic society to ensure *de facto* equality between men and women in politics and also the amendment of the General Elections Act to increase the number of electoral commissioners and ensure equal representation between sexes.

