

**A BILL  
entitled**

*AN ACT to amend the Constitution of Malta providing for the  
Offices of Auditor General and Deputy Auditor General.*

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  
and  
commencement.

**1.** (1) This Act may be cited as the Constitution of Malta (Amendment) Act, 1996, and shall be read and construed as one with the Constitution of Malta hereinafter referred to as “the Constitution”.

(2) This Act shall come into force on such date as the Prime Minister may by notice in the Gazette appoint.

Amendment of  
section 107  
of the  
Constitution.

**2.** In subsection (4) of section 107 of the Constitution, for the words “100, 108, 109” there shall be substituted the words “100, 109”.

Substitution  
of section 108  
of the  
Constitution.

**3.** For section 108 of the Constitution there shall be substituted the following:

“Auditor  
General.

108. (1) There shall be an Auditor General whose office shall be a public office who shall have the functions as provided in the following provisions of this section.

(2) The Auditor General shall be an officer of the House of Representatives and shall be appointed by the President acting on the joint advice of the Prime Minister

and of the Chairman of the Public Accounts Committee of the House of Representatives:

Provided that where the office of Chairman of the Public Accounts Committee of the House of Representatives is vacant or abolished, or is not occupied by a member of the House belonging to one of the opposition parties, the President shall act on the joint advice of the Prime Minister and the Leader of the Opposition:

Provided further that where the Prime Minister and the Chairman of the Public Accounts Committee of the House of Representatives, or the Leader of the Opposition, as the case may be, fail to agree on the joint advice to be given to the President within two weeks after the office of Auditor General becomes vacant, the President shall act in accordance with the advice of the Prime Minister.

(3) (a) Subject to the provisions of subsection (4) of this section the Auditor General shall hold office for a period of five years from the date of his appointment and shall be eligible for reappointment for one further period of five years.

(b) Where the Auditor General has been appointed from among public officers and at the end of his appointment is below the retiring age in the public service, the person so appointed shall revert to the public service and shall continue to enjoy the salary and allowances referred to in subsection (6).

(c) It shall not be lawful for the Auditor General, during his tenure of such office, to hold any other office of profit or otherwise with the Government of Malta or with any commercial or professional venture whatsoever.

(4) The Auditor General shall not be removed from his office except by the President acting on the joint advice of the Prime Minister and the Chairman of the Public Accounts Committee of the House of Representatives on the ground of proved inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or proved misbehaviour:

Provided that where the office of Chairman of the Public Accounts Committee of the House of Representatives is vacant or abolished, or is not occupied by a member of the House belonging to one of the opposition parties subsections (2) and (3) of section 97 of this Constitution shall apply to the Auditor General.

(5) The accounts:

(a) of all departments and offices for the Government of Malta, including the office of the Public Service Commission, and the office of the Clerk of the House of Representatives and of all Superior and Inferior Courts of Malta, and

(b) of such other public authorities or other bodies administering, holding, or using funds belonging directly or indirectly to the Government of Malta as may be prescribed by or under any law for the time being in force in Malta,

shall be audited and reported upon annually by the Auditor General to the House of Representatives and for that purpose the Auditor General or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(6) (a) There shall be paid to the Auditor General such salary and such allowances as may from time to time be prescribed or allowed for a Judge of the Superior Courts.

(b) Such salary and allowances shall be a charge on the Consolidated Fund and the provisions of subsection (3) of section 107 of the Constitution shall apply to such salary.

(7) The Auditor General shall not enter upon the duties of his office unless he has taken and subscribed before the President the oath of allegiance and such oath for the due execution of his office as may be prescribed by any law for the time being in force in Malta.

(8) Parliament may by law from time to time provide for the manner in which the reports of the Auditor General shall be made.

Deputy Auditor  
General.

(9) (a) There shall also be a Deputy Auditor General whose office shall be a public office and who shall have such functions as the Auditor General may

from time to time delegate to him and who shall, whenever the office of Auditor General is temporarily vacant, and until a new Auditor General is appointed, and whenever the holder of the office is absent from Malta or on vacation or is for any reason unable to perform the functions of his office, perform the functions of Auditor General.

(b) The provisions of subsections (2), of paragraphs (a) and (c) of subsection (3), subsection (4), paragraph (b) of subsection (6) and subsection (7) of this section shall apply to the Deputy Auditor General.

(c) There shall be paid to the Deputy Auditor General such salary and such allowances as may from time to time be prescribed or allowed to a Magistrate of the Inferior Courts.

(d) Where the Deputy Auditor General has been appointed from among public officers and at the end of his appointment is below the retiring age in the public service, the person so appointed shall revert to the public service and shall continue to enjoy the salary and allowances referred to in this subsection.

National  
Audit Office

(10) (a) There shall be a National Audit Office consisting of the Auditor General, who shall be the head of that office, the Deputy Auditor General and such other officers, appointed by the Auditor General, as the Auditor General may consider necessary to assist him in the proper discharge of his office, and the provisions of section 110 of this Constitution shall not apply to the officers appointed to the National Audit Office.

(b) Parliament may from time to time by law provide for the manner in which funds shall be allocated to the National Audit Office and in the manner whereby the accounts of the National Audit Office shall be audited and reported upon.

(11) Nothing in this section shall be construed as precluding the grant of any other functions or powers on the Auditor General or the National Audit Office by or under any law for the time being in force.

(12) In the exercise of their functions under the Constitution the Auditor General and the Deputy Auditor General shall not be subject to the authority or control of any person.”.

Amendment of  
section 123  
of the  
Constitution.

4. In subsection (1) of section 123 of the Constitution for the words "Where any person" there shall be substituted the words "Save as otherwise provided in this Constitution, where any person".

Amendment of  
section 124  
of the  
Constitution.

5. Section 124 of the Constituion shall be amended as follows:

(a) in subsection (2) thereof, immediately after the words "of the Superior Courts," there shall be inserted the words "service in the office of Auditor General and Deputy Auditor General,"; and

(b) in subsection (7) thereof, for the words "100 or 108" there shall be substituted the words "100 or 108 (1) or (9)".

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### Objects and Reasons

The object of the Bill is to provide for the setting up of Office of Auditor General and the establishment of the National Audit Office.