

ABBOZZ ta' LIGI

Imsejjah

ATT sabiex jemenda Kostituzzjoni ta' Malta u l-Kap.164 tal-Ligijiet ta' Malta dwar il-metodu ta' hatra tal-Kummissarju tal-Pulizija

Il-President, bil-kunsens u bil-parir tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorita tal-istess, hareg b'ligi dan li gej:

It-titlu fil-qosor ta' dan l-Att huwa Att tal-2020 li jemenda Kostituzzjoni ta' Malta u l-Kap.164 tal-Ligijiet ta' Malta dwar il-metodu ta' hatra tal-Kummissarju tal-Pulizija

Emenda għall-Kap.164 tal-Ligijiet ta' Malta

Klawzola 1.

Wara l-art.64A tal-Kostituzzjoni ta' Malta, għandu jiddahhal dan l-artiklu gdid, l-art.64B:

“Art.64B(1): Għandu jkun hemm Kummissarju tal-Pulizija li għandu jkun ikkummissjonat sabiex imexxi u jiggwida l-Korp tal-Pulizija, li jizgura t-tħaris tas-Saltna tad-Dritt bla biza jew favur, kif ukoll jirregola l-ħatriet, id-dmirijiet u d-dixxiplina tal-Korp tal-Pulizija. Fit-tweqqif tad-dmirijiet tiegħu, m'għandux ikun suggett għad-direzzjoni jew il-kontroll ta' xi persuna jew awtorita' oħra.

(2) Il-mod tal-ħatra u l-perjodu tal-kariga tal-Kummissarju tal-Pulizija flimkien ma' kull ħaġa oħra li tkun anċillari jew inċidentali għal dan jew li titqies meħtieġa jew spedjenti għat-tweqqif tal-funzjoni msemmija fis-subartikolu (1) għandha tkun regolata skond kif provdut b'ligi ordinarja.

(3) Il-Kummissarju tal-Pulizija ma għandux jitneħħa mill-kariga tiegħu hlief mill-President wara indirizz mill-Kamra tad-Deputati li jkollu favur tiegħu l-vot ta' mhux anqas minn żewġ terzi tal-membri tagħha u li jitlob għal dik it-tneħħija minhabba inkapaċità ippruvata li jaqdi l-funzjonijiet tal-kariga tiegħu (kemm jekk għal mard korporali jew mentali jew għal xi raġuni oħra) jew imġieba ħażina ippruvata.

(4) Il-Parlament jista' b'ligi jirregola l-proċedura għall-preżentata ta' indirizz u għall-investigazzjoni u prova dwar l-inkapaċità jew imġieba ħażina tal-Kummissarju tal-Pulizija skont id-disposizzjonijiet tal-aħħar subartikolu qabel dan.

Klawzola 2.

Fl-art.6(2) tal-Kap.164, wara l-kliem “Il-Kummissarju għandu jinħatar mill-Prim Ministru” għandhom jidhlu l-kliem “skont Risoluzzjoni tal-Kamra tad-Deputati li għaliha jkunu vvutaw mhux inqas minn żewġ terzi tal-Membri tal-istess Kamra, u dan wara l-approvazzjoni tal-Komitat Parlamentari dwar il-Hatriet Pubblici”.

Klawzola 3.

- (a) L-art.16 tal-Kap.164 ghandu jigi rinumerat bhala s-subartikolu (1) tieghu; u
- (b) minnufih wara l-artikolu (1) tieghu, kif rienumerat, ghandu jiddahhal dan is-subartiklu gdid li gej:
- “(2) Id-disposizzjonijiet ta’ dan l-artiklu ma jghoddux ghall-kariga ta’ Kummissarju ta’ Pulizija.”

Emenda ghall-Kap.595 tal-Ligijiet ta’ Malta

Klawzola 4

Fit-Tieni Skeda taht il-kolonna “Dipartiment” jidhlu l-kliem “Korp tal-Pulizija” u taht il-kolonna “Kap tad-Dipartiment” jidhlu l-kliem “Kummissarju tal-Pulizija”

Klawzola ghall-ankrar fil-Kostituzzjoni

5. (1) Soggett ghad-disposizzjonijiet ta’ dan l-artiklu u skond id-disposizzjonijiet tas-sub-artiklu (8) tal-artiklu 66 tal-Kostituzzjoni, il-Parlament jista’ jemenda kwalsiasi artiklu jew disposizzjoni ta’ dan l-Att.
- (2) Kull Abbozz ta’ Ligi li jkollu l-ghan li jemenda kwalsiasi artiklu jew disposizzjoni ta’ dan l-Att, ma jsirx ligi u ma jkunx approvat mill-Kamra tar-Rapprezentanti jekk ma jkunx approvat bil-voti ta’ mill-inqas zewg terzi tal-membri kollha tal-Kamra
- (3) F’dan l-artiklu:-
- (a) kull referenza ghal kwalsiasi disposizzjoni ta’ dan l-Att tinkludi referenza ghal kull ligi li temenda jew tissostitwixxi dik id-disposizzjoni;
- (b) referenzi ghal emendi fid-disposizzjonijiet ta’ dan l-Att jinkludu referenzi ghal emendi, modifikazzjoni, tibdil jew dhul fis-sehh mill-gdid, b’emenda jew minghajr, ta’ dik id-disposizzjoni, is-suspensjoni, revoka ta’ dik id-disposizzjoni u kull disposizzjoni differenti li tiehu post disposizzjoni ohra.

Emendi konsegwenzjali għall-Kostituzzjoni ta' Malta

Emenda għall-artiklu 66 tal-Ligi principali

6. Is-sub-artikli li gej għandu jizdied wara s-sub-artiklu (7) tal-Artiklu 66 tal-Ligi principali:

“(8) Il-Parlament jista', b'Att tal-Parlament, idahhal kull, jew uhud, mid-disposizzjonijiet ta' kwalsiasi Att tal-Parlament fuq l-istess linja skond kif provdut fis-sub-artiklu (2) ta' dan l-artiklu; f'dan il-kaz, dawk id-disposizzjonijiet ta' dak l-Att tal-Parlament li jsiru skond ma hu provdut f'dan is-sub-artiklu, sa fejn jirrigwarda tali tibdil, jistghu jinbidlu jew jigu emendati biss bl-istess mod skond ma hu provdut fis-sub-artiklu (2) ta' dan l-artiklu.

Għanijiet u Ragunijiet

Dan l-Abbozz jipprovdi għall-metodu ta' hatra u tnehhija tal-Kummissarju tal-Pulizija sabiex dan ikollu security of tenure għall-harsien tas-Saltna tad-Dritt f'Malta.

A BILL

entitled

AN ACT to amend the Constitution of Malta and the Police Act providing for the method of appointment and removal of the Police Commissioner

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 Police Commissioner (Appointment and Removal) Act, 2020.

Clause 1

Immediately after art.64A of the Constitution, the new art.64B is to be inserted:

“Art.64B(1): There shall be a Commissioner for Police, who shall be responsible for the upholding and maintenance of the Rule of Law in Malta, without fear or favour, and shall be commissioned for leading and guiding the Police Force, as well as regulating the appointment, duties and discipline of the Force. In the exercise of his powers and duties, the Commissioner shall not be subject to the direction or control of any other person.

(2) The manner of appointment, the term of office, and the manner of removal or suspension from office of the Police Commissioner together with any other matter ancillary or incidental thereto or considered necessary or expedient for the carrying out of the function referred to in sub-article (1) shall be provided for in such other law as from time to time in place;

(3) The Police Commissioner shall not be removed from his office except by the President upon an address by the House of Representatives supported by the votes of not less than two-thirds of all the members thereof and praying for such removal 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.

(4) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the inability or misbehaviour of a judge of the Superior Courts under the provisions of the last preceding sub-article.

Amendment to Chp.164 of the Laws of Malta

Clause 2

In art. 6(2) of Chp.164 after the words ‘The Commissioner shall be appointed by the Prime Minister’ there shall be added the words “in accordance with a Resolution of the House of Representatives supported by the votes of not less than two-thirds of all the members thereof, after the approval of the Standing Committee for Public Appointments.”

Clause 3

Art.16 of Chp.164 shall be renumbered as subarticle (1) of art 16 thereof and immediately following art.16(1) as renumbered, the new subarticle (2) shall be added:

(2) The provisions of this article shall not apply to the Police Commissioner”.

Amendment to Chapter 595 of the Laws of Malta

Clause 4

In the Second Schedule, insert the words “Police Force” under the heading “Department” and the words “Commissioner of Police” under the heading “Head of Department”.

Entrenchment provision

5. (1) Subject to the provisions of this article and in terms of the provisions of sub-article (8) of article 66 of the Constitution, Parliament may alter any of the provisions of this Act.

(2) In so far as it alters any article of this Act, a Bill for an Act of Parliament under this Act shall not be passed in the House of Representatives unless at the final voting thereon in the House is supported by the votes of not less than two-thirds of all the members of the House.

(3) In this article —

(a) references to any of the provisions of this Act include references to any law that amends or replaces that provision; and

(b) references to the alteration of the provisions of this Act include references to the amendment, modification or re-enactment, with or without amendment or modification, of that provision, the suspension or repeal of that provision and the making of a different provision in lieu of that provision.

Consequential amendment to the Constitution.

Amendment of **Article 66** of the principal law.

7. The following sub-article shall be added after sub-article (7) of **Article 66** of the principal law:

“(8) Parliament may by Act of Parliament also entrench all or some of the provisions contained in any Act of Parliament on the same lines as provided in sub-article (2) of this article; and, in such case, those provisions of such Act of Parliament made in terms of this sub-article, in so far as their alteration is concerned, may only be altered in the same way as provided in the sub-article (2) of this article.

Objects and Reasons

The aim of this Bill is to provide for the method of appointment and removal of the Police Commissioner to guarantee security of tenure thereby enhancing the Rule of Law in Malta.