

MEMORANDUM FOR THE CABINET BY THE  
HON. THE PRIME MINISTER

A Bill to amend the Electoral (Franchise, Method  
of Election and Registration of Voters) Ordinance

Section 58 of the Constitution of Malta (vide Annex 1) lays down, inter alia, that voters should be citizens of Malta. This requirement will come into force when the Electoral (Franchise, Method of Election and Registration of Voters) Ordinance is amended by the Parliament of Malta (Vide section 8 of the Malta Independence Order 1964 - Annex 2 herewith).

2. When the Ordinance in question is amended to bring it into line with the Constitution, there will arise the problem of cancelling the names of non-Maltese citizens from the Electoral Register. Section 33 (2) of the Ordinance (Vide annex 3) places the onus of cancelling the names of persons who have ceased to have the qualifications to vote on the Electoral Registrar. There are no records in the Registrar's Office which show whether a registered voter is a Maltese citizen or not. Citizenship qualifications laid down in Chapter 5 of the Constitution (Vide Annex 4) depends not only on the place of birth of the voter but also on the nationality and the place of birth of the parents. In some instances the place of birth and citizenship of grand-fathers is also to be ascertained. The Electoral Registrar's records do not show any of these details.

3. There are two ways in which the Register can be brought into line with the Constitutional requirements. One of these is to repeal Chapter 157, make a new law and establish a new Register. Every person will have to apply to have his name included in this new Register. It does not appear however that this would be an ideal solution as many eligible voters will probably not bother to apply. The other alternative would be for the Electoral Registrar to send a questionnaire to all registered voters asking for information or evidence necessary to establish their right to continue to be registered as voters. This is a formidable task but one which has to be carried out if the Register is to be correct. For this purpose the Electoral Registrar will have to be empowered by legislation to cancel the names of individuals who refuse to give such information or evidence. The enclosed Bill (annex 6) is intended principally to give such powers to the Electoral Registrar. The Bill also lays down that where there has been no response whatever to the notice (i.e. the questionnaire) served by the Registrar the latter must, before expunging the name of a person, serve him, through a police officer or other person appointed by him, with a further notice and the voter will have seven days from such service within which to provide the required information or evidence to the satisfaction of the Registrar.

4. The above is without prejudice to section 33 (4) of the Ordinance and in any case, any person whose name has been expunged as aforesaid would always have a possibility of re-applying for registration on discovering

that ...

that his name is not included in the revised Register and, if he satisfies the Registrar that he has the necessary qualifications, he would be re-registered.

5. The Crown Advocate-General regards this as a practical solution to the Registrar's very real problem but points out the following in connection with the Bill:

"The first notice is to be posted by the Registrar and sub-section 4 of section 7 (Vide Annex 5) of the Ordinance would automatically apply to it, but it is for consideration whether it should not be required to be sent by registered post as in other cases. The Registrar's objection to this rests on administrative difficulties and expense.

With regard to the amendment in clause 2, this is necessary in view of section 62 of the Constitution providing for the contingent alteration of the boundaries of electoral divisions. The Constitution provides that a review of boundaries must be carried out by the Electoral Commission whenever Parliament has made provision altering the number of electoral divisions or altering the number of the members of the House of Representatives in such a way that that number is not divisible by the number of electoral divisions. Now the Constitution rightly adds that any such provision by Parliament shall come into effect when the consequential alteration of boundaries comes into effect, and that means upon the next dissolution of Parliament after the alteration has been approved by the House of Representatives. Otherwise there would have to be fresh elections to fill the added seats before the ordinary dissolution, which might give rise to abuse. But a sensible proviso is appended to the effect that the requirement of any such alteration taking effect on a dissolution is not to be construed as preventing the publication of any electoral register or any other requirement connected with the registration of voters from being carried out in accordance with the alteration, under any law for the time being in force in Malta, before that dissolution.

Now section 33 (4) of Chapter 157 provides that a revised electoral register (which normally must be published twice yearly, i.e. in April and October) is not to be published between a dissolution and the conclusion of the next ensuing general election. The reason for this is obvious. But it is felt that it is also proper that if an alteration of boundaries has been approved and before a dissolution no revised electoral register has been published on the basis of such alteration, such a revised electoral register should be published immediately after such dissolution."

6. The Chief Electoral Commissioner agrees with the format of the draft Bill with the following two minor suggestions:

- a) that the word 'notice' in sub-section 3 of the new section 33B should be qualified by the

word 'further' in order to distinguish this notice from the first one served as mentioned in the first part of sub-section 1 of section 33B; and

- b) that Higher Clerical Officers should also be empowered to witness applications for registration of voters.

In this connection the occasion is being taken to substitute the nomenclature of Higher Clerical Officer instead of third class clerk referred to in the 2nd footnote to the second schedule of the Bill. The Chief Electoral Commissioner also suggested that Members of Parliament should certainly be given the right to witness such applications and provision for this has also been taken in the same footnote.

7. The Crown Advocate-General has also suggested that a Bill amending section 53 (1) of the Constitution to provide for fifty-one instead of fifty Members in the House of Representatives be also prepared. This would mean that at least one constituency will return one **representative** more than the other constituencies and once the electoral quota is disturbed in this way a re-drawing of all electoral boundaries will be necessary. It is extremely **difficult** if not impossible, to work out a redistribution, have it approved in Parliament and adopt it in time for the next issue of the Electoral Register in April even if a decision were to be reached now and the Electoral Commission be appointed immediately. In the circumstances, it is considered that the suggestion of the Crown Advocate-General should be given consideration at a later date.

8. Hon. Ministers are invited to say whether they agree with the draft Bill attached.

26th January, 1965.

Annex 1

Section 58 of the Constitution of Malta:-

Subject to the provisions of section 59 of this Constitution, a person shall be qualified to be registered as a voter for the election of members of the House of Representatives if, and shall not be qualified to be so registered unless -

- (a) he is a citizen of Malta
- (b) .....
- (c) .....

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Annex 2

Section 8 of the Malta Independence Order 1964:-

(1) The provisions of the Electoral (Franchise, Method of Election and Registration of Voters) Ordinance and the Electoral (Polling) Ordinance and any regulations made thereunder shall (subject to their amendment or replacement by the Parliament of Malta or other competent authority) apply to the registration of voters for the election of members of the House of Representatives and to the election of such members.

(2) The electoral register as revised by virtue of the Electoral (Franchise, Method of Election and Registration of Voters) Ordinance shall continue after the appointed day to be in force as a valid electoral register subject to further revision or to replacement under the said Ordinance or any other law amending or replacing the same.

CHAPTER 157

ELECTORAL (Franchise, Method of Election  
and Registration of Voters).

Sections 33 and 33A

33 (1) any person who has the requisite qualifications to vote for the election of members of the House of Representatives and whose name is not included in the electoral register published in accordance with section 31 may, at any time after the conclusion of the first general election of members of the House of Representatives held after the commencement of this Ordinance, apply for registration to the Electoral Registrar in the form set out in the Second Schedule to this Ordinance, and any person who desires any correction of his designation or address as shown in the electoral register to be made, or to have his name transferred to another division, may apply to the Electoral Registrar in the form set out in the Third, Fourth or Fifth Schedule to this Ordinance, as the case may be, and the provisions of sections 7, 16 and subsections (2) and (3) of section 22 shall apply to any such application.

(2) The Electoral Registrar shall cancel from the electoral register the names of all persons deceased or who have ceased to have the qualifications to vote.

(3) The Electoral Registrar shall cause a revised electoral register to be published in the Government Gazette twice a year, that is to say, in the month of April and in the month of October. Such register shall contain all corrections, additions, transfers and cancellations as on the thirty-first day of March or, as the case may be, on the thirtieth day of September immediately preceding the publication thereof. The provisions of sections 8, 26, 28 and 29 of this Ordinance shall apply in respect of any revised electoral register so published.

(4) The provisions of this section shall be and remain inoperative from the date of any dissolution of the House of Representatives until the conclusion of the following general election.

33A. The Electoral Registrar may, without the necessity of an application under the provisions of subsection (1) of section 33, make any correction of any person's designation or address as shown in the electoral register or transfer any person's name to another division if he is satisfied that such correction or transfer is justified:

Provided that when the Electoral Registrar determines to make any such correction or transfer, he shall inform in writing the person to whom the correction or transfer relates and such person may, within seven days from the service of such notice, appeal from the decision of the Electoral Registrar to a Revising Officer, who, after hearing the appellant and the Electoral Registrar, and such evidence, if any, as may be necessary, shall make an order allowing or disallowing the appeal.

Annex 4

Section 23 of the Constitution of Malta:-

(1) Every person who, having been born in Malta, is on the day before the appointed day a citizen of the United Kingdom and Colonies shall become a citizen of Malta on the appointed day:

Provided that a person shall not become a citizen of Malta by virtue of this subsection if neither of his parents was born in Malta.

(2) Every person who, having been born outside Malta, is on the day before the appointed day a citizen of the United Kingdom and Colonies shall, if his father becomes, or would but for his death have become, a citizen of Malta in accordance with the provisions of subsection (1) of this section, become a citizen of Malta on the appointed day.

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Annex 5

Sub-section (4) of section 7 of the Electoral (Franchise, method of Election and Registration of Voters) Ordinance

(4) Any notice or other written communication which may be made by the Electoral Registrar under this Ordinance may be forwarded through the post and shall be deemed to have been received by the person to whom it was addressed on the day on which it would have been received in the ordinary course of post.

A BILL

entitled

an Act further to amend the Electoral (Franchise, Method of Election and Registration of Voters) Ordinance, Cap. 157.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the House of Representatives of Malta, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title. 1. This Act may be cited as the Electoral (Franchise, Method of Election and Registration of Voters) (Amendment) Act, 1965, and shall be read and construed as one with the Electoral (Franchise, Method of Election and Registration of Voters) Ordinance, hereinafter referred to as "the principal law".

Amendment of section 33 of the principal law. 2. In subsection (4) of section 33, at the end thereof, there shall be inserted the following proviso:-

"Provided that where, prior to any such dissolution -

- (a) any alteration of the boundaries of the electoral divisions has been approved by the House of Representatives under the provisions of section 62 of the Constitution of Malta; and
- (b) no revised electoral register has been published showing the registration of voters in accordance with such alteration,

the Electoral Registrar shall cause such a revised electoral register to be published as soon as possible after that dissolution and in any case not later than three working days before the publication of the election writ in the Government Gazette."

Addition of new section 33B to the principal law. 3. Immediately after section 33a of the principal law there shall be added the following new section 33B:-

"Requirement of further information by Electoral Registrar.

33B. (1) Without prejudice to the provisions of subsection (2) of section 33 of this Ordinance, the Electoral Registrar may by notice in writing require any person whose name appears in the electoral register to provide such further information or such proof or evidence as he may deem necessary to establish such person's right to remain registered as a voter and if such person fails or omits,

/within.....

within ten days from the posting of such notice by the Electoral Registrar, to provide in writing such information, proof or evidence to the satisfaction of the Electoral Registrar, the Electoral Registrar may expunge his name from the electoral register:

Provided that in the case of a person's total failure or omission to answer in writing the aforesaid notice within the aforesaid period of time, the Electoral Registrar shall not proceed to expunge such person's name from the electoral register before he shall have served upon such person a further notice in writing for the purpose aforesaid and unless such person shall have failed or omitted to provide the aforesaid information, proof or evidence to the satisfaction of the Electoral Registrar within a period of seven days from the service of such further notice.

(2) Any written communication which is required by this section to be made to the Electoral Registrar may either be delivered at the office of the Electoral Registrar or forwarded to the Electoral Registrar free of any charge for postage.

(3) The notice referred to in the proviso to subsection (1) of this section shall be served by a police officer or by any other person appointed for the purpose by the Electoral Registrar, and such notice shall be deemed to have been served by delivery to the person to whom it is addressed, or to a person who is or reasonably appears to be not under fourteen years of age and who is either a member of his family or household or in his service, at the address of the voter as shown in the electoral register.

Substitution  
of Second  
Schedule to  
the principal  
law.

4. For the Second Schedule to the principal law there shall be substituted the Schedule set out in the Schedule to this Act.

/Schedule.....



Schedule

Section 4

## SECOND SCHEDULE

Sections 22 (1) and 33

## APPLICATION FOR REGISTRATION AS A VOTER

To the Electoral Registrar, Valletta, Malta.

Name and surname of applicant.....  
 Place of birth.....Date of birth.....  
 Place of residence: .....

Name of town or village.....  
 Street and number of premises .....

Parish .....

Name and surname of applicant's father .....

His place of birth .....

His nationality\* .....

(\* If applicant's father is dead, give his nationality  
 at the time of his death)

Name and maiden surname of applicant's mother .....

Her place of birth .....

I hereby apply to be registered as a voter for the  
 .....(1) electoral division being duly  
 qualified in accordance with the Electoral (Franchise,  
 Method of Election and Registration of Voters)  
 Ordinance, to be registered as a voter for the election  
 of Members of the House of Representatives.

Date ..... Signature or mark of  
 applicant .....

If applicant is unable to sign:-

Witness to mark .....

Address of witness .....

I declare that I know personally the said .....  
 ..... and that to the best of my knowledge  
 the above declarations are correct.

Signature of witness (2) .....

Address of witness .....

Occupation of witness .....

- (1) Insait number of Electoral Division.
- (2) Any of the following may act as witness:  
Member of Parliament, Minister of Religion, person holding a University degree, Government employee not below the rank of Higher Clerical Officer or an analogous grade, or police officer not below the rank of sergeant.

L-ARKIVJI NAZZJONALI TA' MALTA

Objects and Reasons

This Bill seeks to deal in a practical manner with the material problem of ascertaining which of the persons whose names appear in the electoral register are no longer qualified to be so registered in view of the changed provisions as to such qualifications in the Constitution of Malta, with special reference to the qualification of Maltese citizenship.

It also inserts a provision which is consequential on that of section 62 of the Constitution of Malta. Where the boundaries of the electoral divisions have been altered as provided in that Constitution but a revised electoral register has not been published in accordance with such alteration before the dissolution of Parliament next following the approval of the alterations by the House of Representatives, the provisions of section 33 (4) of the principal law, which prohibit the publication of a revised electoral register during the period between a dissolution of Parliament and the next ensuing general election, will not apply and a revised electoral register based on the boundaries as altered will be published soon after the dissolution and before the publication of the relevant election writ.