

MEMORANDUM TO CABINET BY THE MINISTER OF COMMONWEALTH AND  
FOREIGN AFFAIRS

Amendment of the Commissioner for Oaths Ordinance

Cap. 120

Members of Maltese missions established abroad will of necessity have to perform certain consular functions of a notarial nature - e.g. legalising signatures, examining witnesses, authentication of documents, etc. For the purpose of such functions it is necessary that certain members be empowered to administer oaths.

2. For this reason, an amendment of the Commissioner for Oaths Ordinance (Cap. 120) is required. A draft Bill has accordingly been drawn up by the Crown Advocate General (copy herewith attached).

3. The bill will enable Foreign Service Officers of the Government of Malta while exercising their functions abroad, to be appointed Commissioners for Oaths for the purpose of the said Ordinance. It will also confer on the Courts of Malta jurisdiction to try the offence of false swearing before any Commissioner for Oaths so appointed, notwithstanding that the offence is committed outside Malta.

4. The bill will also assimilate a declaration or affirmation authorized by any law to be taken in lieu of an oath to an oath. This is important because under the Constitution where a person is required by the Constitution itself to make an oath, he must be permitted, if he so desires, to comply with that requirement by making an affirmation. This is particularly important in the case of citizenship oaths.

5. As the appointment of Commissioners for Oaths is a delicate subject, it is felt that the power to appoint such officers should come within the general power set out in section 2 of the principal law.

6. Hon. Ministers are invited to recommend enactment of the attached draft legislation.

EA/392/64

March, 1965.

L-Arkivji Nazzjonali ta' Malta

A BILL  
entitled

AN ACT further to amend the Commissioner for Oaths Ordinance, Cap. 120.

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 Commissioners for Oaths (Amendment) Act, 1965; and shall be read and construed as one with the Commissioners for Oaths Ordinance, hereinafter referred to as "the principal law".

Addition of new section 1A to the principal law.

2. Immediately after section 1 of the principal law there shall be added the following section:

"Inter-pretation.

1A. In this Ordinance, unless the context otherwise requires, "oath", "swear" and "Affidavit" include, in the case of persons allowed by any law to make a declaration or affirmation instead of taking an oath, a declaration or affirmation."

Amendment of section 2 of the principal law.

3. Section 2 of the principal law shall be amended as follows:-

- (a) the present section 2 shall be renumbered as subsection (1) of section 2; and
- (b) immediately thereafter, there shall be added the following new subsection:-

"(2) The Governor-General may also from time to time, by warrant under his hand, appoint any foreign service officer of the Government of Malta exercising his functions in any country outside Malta to be a Commissioner for Oaths, and may revoke any such appointment."

Amendment of section 3 of the principal law.

4. In section 3 of the principal law, for the words "any Imperial or local Statute, or by the laws of any foreign country" there shall be substituted the words "the laws of Malta or of any other country".

Addition of new section 7 to the principal law.

5. Immediately after section 6 of the principal law there shall be added the following section:

"Trial of offences.

7. Where the offence referred to in sections 106 and 108 of the Criminal Code is committed before any officer appointed to be a Commissioner for Oaths under subsection (2) of section 2 of this Ordinance, the offender may in Malta be prosecuted, tried and punished in the same manner and to the same extent as if the offence had been committed in Malta."

#### Objects and Reasons

The principal object of this Bill is to make it possible for foreign service officers of the Government of Malta while exercising their functions abroad to be appointed Commissioners for Oaths for the purposes of the Commissioners for Oaths Ordinance, Cap. 120. It also confers on the Courts of Malta jurisdiction to try the offence of false swearing before any Commissioner for Oaths so appointed, notwithstanding that the offence was committed outside Malta.