

**Nru. 794**  
**IL-KOSTITUZZJONI TA' MALTA**  
**Delega ta' Ċerti Setgħat dwar is-Servizz**  
**Pubbliku**

**No. 794**  
**THE CONSTITUTION OF MALTA**  
**Delegation of Certain Powers respecting the Public**  
**Service**

MILL-ONOREVOLI Dott. Eddie Fenech Adami, K.U.O.M., B.A., LL.D., M.P., Prim Ministru.

BILLI l-Artikolu 110 tal-Kostituzzjoni ta' Malta jipprovdi li s-setgħa li jagħmel hatriet għall-karigi uffiċjali tkun fil-Prim Ministru, li jaġixxi fuq ir-rakkomandazzjoni tal-Kummissjoni dwar is-Servizz Pubbliku;

U BILLI huwa pprovdut ukoll fl-istess artikolu li l-Prim Ministru, jista', billi jaġixxi fuq ir-rakkomandazzjoni tal-Kummissjoni dwar is-Servizz Pubbliku, jiddelega bil-miktub kull wahda mis-setgħat hawn aktar qabel imsemmija lil dak l-uffiċjal pubbliku jew awtorità oħra kif jista' jkun speċifikat fl-imsemmi strument ta' delega;

U BILLI hemm il-htieġa ta' reklutaġġ ta' persuni biex jaġixxi f'karigi pubbliċi fuq bażi kuntrattwali għal perijodu ta' mhux anqas minn tliet xhur u mhux aktar minn sena li jiġgedded meta u fejn mehtieg biex jaġixxu bhala '*Casual Substitutes*' għal uffiċjali pubbliċi li ma jkunux qegħdin jidhlu għax-xogħol minhabba li jkunu fuq *leave* bi hlas jew mingħajr hlas, minbarra *leave* għal mard jew *leave* qabel ma wiehed jirtira;

U BILLI huwa mehtieg li l-ingaġġ ta' '*Casual Substitutes*' bħal dan għandu jkun soġġett għal terminazzjoni wara li jingħata avviż ta' xahar jew minhabba f'raġunijiet ta' mġiba hażina, qabel ma jiskadi l-perijodu kuntrattwali ta' l-ingaġġ jew qabel ma jidhol lura għax-xogħol dak l-uffiċjal pubbliku li dwaru jkun ingaġġat biex jagħmel dak il-'*Casual Substitute*', liema terminazzjoni qabel iż-żmien għandha ssir biss mill-Prim Ministru waqt li jaġixxi fuq il-parir tal-Kummissjoni dwar is-Servizz Pubbliku;

U BILLI huwa rakkomandat li ebda rakkomandazzjoni mill-Kummissjoni dwar is-Servizz Pubbliku m'għandha tkun mehtieġa biex jintemm l-ingaġġ ta' '*Casual Substitutes*', meta terminazzjoni bħal dik tkun ir-riżultat tad-dhul lura għax-xogħol ta' dak l-uffiċjal pubbliku li jkun qed jiġi sostitwit jew li jkun skadielu l-perijodu kuntrattwali ta' l-ingaġġ;

U BILLI huwa rakkomandat li l-'*Casual Substitute*' jingħata l-għażla li jtemm l-ingaġġ kuntrattwali meta jingħata l-avviż ta' xahar;

U BILLI huwa rakkomandat li tali '*Casual Substitutes*' bħal dawn ma jkunux eliġibbli biex japplikaw għall-postijiet wara sejhiet interni għal applikazzjonijiet minn ġewwa s-Servizz Pubbliku u ma jibbenefikawx mill-avvanzi u promozzjonijiet stipulati f' xi Ftehim ta' Klassifikazzjoni;

U BILLI l-Kummissjoni dwar is-Servizz Pubbliku, skond l-Artikolu 110 tal-Kostituzzjoni rakkomandat li s-setgħa biex jiġu impjegati '*Casual Substitutes*', u biex jiġgeddilhom lingaġġ tagħhom kif imsemmi hawn aktar qabel, tkun delegata lis-Segretarju Permanenti u soġġetta għall-kundizzjonijiet elenkati hawn aktar 'l isfel u skond il-proviso

BY the Honourable Dr Eddie Fenech Adami K.U.O.M., B.A., LL.D., M.P. Prime Minister of Malta.

WHEREAS section 110 of the Constitution of Malta provides that power to make appointments to public offices shall vest in the Prime Minister, acting on the recommendation of the Public Service Commission;

AND WHEREAS it is further provided in the same section that the Prime Minister, acting on the recommendation of the Public Service Commission, may delegate in writing any of the aforementioned powers to such public officer or other authority as may be specified in the said instrument of delegation;

AND WHEREAS the need has arisen for the recruitment of persons to act in public offices on a contractual basis for a period of not less than three months and not more than one year renewable as and where necessary to act as '*Casual Substitutes*' for public officers who are away on long paid or unpaid leave other than sick leave or pre retirement leave;

AND WHEREAS it is required that the engagement of such '*Casual Substitutes*' should be subject to termination upon the granting of one month's notice or on grounds of misconduct, prior to the expiry of the contractual period of engagement or prior to the return to work of the public officer whose work the Casual Substitute is engaged to perform, only by the Prime Minister acting upon the recommendation of the Public Service Commission;

AND WHEREAS it is recommended that no recommendation from the Public Service Commission shall be required for the termination of the engagement of '*Casual Substitutes*' where such termination is the result of the return to work of the public officer being substituted or of the expiry of the contractual period of engagement;

AND WHEREAS it is recommended that the Casual Substitute be granted the option to terminate the contractual engagement upon granting one month's notice;

AND WHEREAS it is recommended that such '*Casual Substitutes*' shall be ineligible to apply for posts further to internal calls for applications within the Public Service and shall not benefit from progressions and promotions stipulated in Classification Agreements;

AND WHEREAS the Public Service Commission has in terms of Section 110 of the Constitution recommended that the power to make engagements of '*Casual Substitutes*', and to renew their engagement as stated above, be delegated to Permanent Secretaries subject to the conditions listed hereunder and to the proviso that the Commission reserves

li l-Kummissjoni tirriżerva d-dritt li taghmel rakkomandazzjoni, f' kull żmien, lill-Prim Ministru li dan l-Istrument ta' Delega jkun ghal kollox irtirat jew irtirat ghar-rigward ta' Segretarju Permanenti partikulari u illi, meta ssir rakkomandazzjoni bhal dein u sakemm il-Prim Ministru jagixxi fuq rakkomandazzjoni bhal din, is-setghat mogħtija minn dan l-Istrument ikunu sospizi totalment jew sospizi biss dwar Segretarji Permanenti partikulari, hekk kif jista' jiġi stipulat fir-rakkomandazzjoni magħmula mill-Kummissjoni;

U BILLI JIENA naqbel mar-rakkomandazzjoni msemmija:

ISSA, GHALHEKK, JIENA DOTT. EDDIE FENECH ADAMI, K.U.O.M., B.A., LL.D., M.P., Prim Ministru, bis-sahha tas-setghat mogħtija bl-Artikolu 110 tal-Kostituzzjoni, qiegħed b'din nordna illi mid-data ta' din id-Delega, is-setgha biex jiġu ingaġġati '*Casual Substitutes*' fuq kuntratti definitivi biex jimtlew vakanzi temporanji li jinholqu mill-assenza ta' uffiċjali publiċi fuq *leave* bi hlas jew mingħajr hlas barra minn *leave* tal-mard jew *leave* ta' qabel ma wiehed jirtira, kemm-il darba ingaġġ bhal dak isir fi grad ta' dhul għal ingaġġ minn barra s-Servizz Pubbliku li għalih jagħmel dispożizzjoni l-Ftehim ta' Klassifikazzjoni rilevanti, u s-setgha biex l-impieg bhal dan ta' '*Casual Substitutes*' jiġġedded tkun fis-Segretarji Permanenti kollha li jimxu fit-tweqqi ta' dawn is-setghat bid-dispożizzjonijiet ta' Ċirkulari ta' l-Uffiċċju tal-Prim Ministru Nru. 23/99 tal-5 ta' Mejju, 1999, mahruġa mis-Segretarju Permanenti fl-Uffiċċju tal-Prim Ministru hekk kif tista' tiġi emendata minn żmien għal żmien fuq ir-rakkomandazzjoni tal-Kummissjoni dwar is-Servizz Pubbliku u li qegħdin b'din jiġu awtorizzati biex jagħtu tali ingaġġi u jgedduhom mingħajr ebda referenza lill-Kummissjoni dwar is-Servizz Pubbliku iżda li jkunu soġġetti għall-kundizzjonijiet li ġejjin u għall-proviso li l-Kummissjoni dwar is-Servizz Pubbliku tkun għamlet fir-rakkomandazzjoni tagħha kif hawn aktar qabel imsemmi:-

(i) l-ingaġġi msemmija jsiru jew permezz ta' Servizz ta' l-Impiegi pprovdut minn fondi publiċi u li jkun skond il-htigiet tal-paragrafu (ċ) tas-sub-Artikolu (2) ta' l-Artikolu 110 tal-Kostituzzjoni jew wara eżami pubbliku avżat fil-Gazzetta tal-Gvern;

(ii) il-proċess ta' għażla, sew wara sejha pubblika għall-applikazzjonijiet sew permezz tas-Servizz ta' l-Impiegi provdut minn fondi publiċi, bhall-Korporazzjoni għall-Impiegi u Tahriġ, għandu jitmexxa minn Bord ta' Għażla maħtur mis-Segretarju Permanenti skond Prattika u Normi nomrali li timxi fuqhom il-Kummissjoni dwar is-Servizz Pubbliku fil-hatra ta' bordijiet ta' għażla approvati minnha;

(iii) il-kriterji ta' għażla, inklużi l-kriterji ta' l-intervista li l-Bord ta' l-Għażla jadotta, għandhom ikunu dawk stabbiliti mill-Kummissjoni jew mill-Bord ta' l-Eżamijiet Publiċi Lokali, skond kif japplika, fl-ahħar proċess ta' għażla li sar għal dak il-grad partikulari;

(iv) fejn Ftehim ta' Klassifikazzjoni jistipula eżami

the right to make at any time, a recommendation to the Prime Minister that this Instrument of Delegation be totally withdrawn or withdrawn in respect of particular Permanent Secretaries and that, upon such a recommendation being made and until the Prime Minister acts upon such a recommendation, the powers delegated by this Instrument shall be totally suspended or suspended only in respect of particular Permanent Secretaries, as may be stipulated in the recommendation made by the Commission.

AND WHEREAS I agree with the said recommendation:

NOW THEREFORE, I EDDE FENECH ADAMI K.U.O.M., B.A., LL.D., M.P., Prime Minister, in exercise of the powers conferred by section 110 of the Constitution do hereby direct that as from the date hereof, the power to engage '*Casual Substitutes*' on definite contracts to fill the temporary vacancies created by the absence of public officers on long paid or unpaid leave other than on sick leave or pre-retirement leave provided such recruitment is made into an entry grade for recruitment from outside the public service for which the relevant Classification Agreement provides, and the power to renew such engagement of '*Casual Substitutes*' shall vest in all Permanent Secretaries who shall be guided in the exercise of such powers by the provisions of OPM Circular No. 23/99 of the 5th May, 1999 issued by the Permanent Secretary at the Office of the Prime Minister as it may be amended from time to time upon the recommendation of the Public Service Commission and who are hereby authorised to make such engagements and renewals thereof without reference to the Public Service Commission but subject to the following conditions and to the proviso which the Public Servc Commission has made in its recommendation, as aforesaid:-

(i) the said engagements shall be made either through an Employment Service provided out of public funds and which complies with the requirements of paragraph (c) of subsection (2) of Section 110 of the Constitution or after a public examination advertised in the Government Gazette;

(ii) the selection process, whether after a public call for applications or through the services of an Employment Service provided out of public funds such as the Employment and Training Corporation shall be conducted by a Selection Board appointed by the Permanent Secretary in accordance with the normal practice and norms followed by the Public Service Commission in the appointment of selection boards approved by it;

(iii) the selection criteria including the interviewing criteria adopted by the Selection Board shall be those established by the Commission or by the Board of Local Public Examinations, as applicable, in the last selection process held for that particular grade;

(iv) where a Classification Agreement stipulates a written

kompetittiv bil-miktub, rekwiżit bħal dak jithassar u proċess ta' għażla jkun jikkonsisti f' intervista biss, immexxija minn Bord ta' Għażla mahtur skond il-klawżola (ii) ta' hawn aktar qabel bil-kriterji ta' intervista li jkunu skond il-klawsola (iii) ta' hawn aktar qabel;

(v) l-ingaġġi mogħtija mis-Segretarju Permanenti għandhom ikunu strettament skond l-ordni tal-meritu stabbilit fir-rapport tal-Bord ta' Għażla;

(vi) il-Kummissjoni dwar is-Servizz Pubbliku għandha tissorvelja l-operat ta' l-iskema ta' 'Casual Substitutes' u għandha tmexxi tali verifiki ta' l-iskema li hija tikkunsidra meħtieġa u għal dan il-għan Segretarju Permanenti għandu jissottometti lill-Kummissjoni;

a) kopja ta' kull kuntratt ta' l-ingaġġ, kemm jista' jkun malajr wara li jsir, flimkien ma' kopja tar-rapport mill-Bord ta' l-Għażla pertinenti u kull rappreżentazzjoni li tintlaqa' mis-Segretarju Permanenti jew mill-Bordli jkollu x'jaqsam ma' dak il-proċess ta' għażla u/jew impieg;

b) kopja tad-dokument li jawtorizza t-tiġdid tal-kuntratt;

(vii) dawk il-Casual Substitutes ingaġġati taht din l-iskema ma jkunux eliġibbli biex japplikaw għal postijiet permezz ta' sejhiet interni għal applikazzjonijiet fis-Servizz Pubbliku u ma jibbenefikawx mill-avvanzi u promozzjonijiet stipulati f'xi Ftehim ta' Klassifikazzjoni;

(viii) 'Casual Substitutes' ikunu soġġetti għal terminazzjoni l-impieg wara li jingħataw avviz ta' xahar jew minhabba mgħiba hazina, qabel ma jiskadi l-perijodu tal-kuntratt ta' l-ingaġġ jew qabel ma jidhol lura għax-xogħol dak l-uffiċjal pubbliku li l-'Casual Substitute' ikun ingaġġat biex jahdem minflok, mill-Prim Ministru biss li jaġixxi fuq ir-rakkomandazzjoni tal-Kummissjoni dwar is-Servizz Pubbliku;

(ix) l-ebda rakkomandazzjoni mill-Kummissjoni dwar is-Servizz Pubbliku ma tkun meħtieġa għal terminazzjoni ta' l-ingaġġ ta' 'Casual Substitutes' fejn terminazzjoni bħal dik tirriżulta minn uffiċjal pubbliku li floku jkun qiegħed jahdem li jerga' lura għax-xogħol, jew jekk jiskadi l-perijodu kuntrattwali ta' l-impieg;

(x) Il-'Casual Substitute' jingħata l-għażla li jtemm l-ingaġġ billi jagħti avviz ta' xahar lis-Segretarju Permanenti responsabbli għall-Gvern, Ministeru jew Dipartiment fejn ikunu qegħdin jingħataw is-Servizzi mill-'Casual Substitute'.

DAN L-ISTRUMENT ta' delega għandu jkun b'zieda u mingħajr hsara għal Strumenti ta' Delega ohra li harġu skond l-Artikolu 110 tal-Kostituzzjoni.

(Iff.) Eddie Fenech Adami  
MOGHTI taht il-firma tiegħi  
fil-Berġa ta' Kastilja, Valletta,  
illum, is-6 jum ta' Ottubru, 1999.

competitive examination, such requirement shall be waived and the selection process shall consist of an interview only, conducted by a Selection Board appointed as per clause (ii) above with the interviewing criteria being as per clause (iii) above;

(v) the engagements made by the Permanent Secretary shall be strictly in accordance with the order of merit established in the report of the Selection Board;

(vi) the Public Service Commission shall monitor the operation of the 'Casual Substitutes' scheme and shall conduct such audits of the scheme as it may consider necessary and for this purpose a Permanent Secretary shall submit to the Commission:

(a) a copy of every engagement contract, as soon as practicable after it is made, together with a copy of the report by the pertinent Selection Board and any representations received by the Permanent Secretary or by the Board relating to that selection process and/or engagement;

(b) a copy of the document authorising a renewal of contract;

(vii) such Casual Substitutes engaged under the scheme shall be ineligible to apply for posts through internal calls for applications within the Public Service and shall not benefit from progressions and promotions stipulated in Classification Agreements;

(viii) 'Casual Substitutes' shall be subject to termination upon the granting of one month's notice or on grounds of misconduct, prior to the expiry of the contractual period of engagement or prior to the return to work of the public officer whose work the Casual Substitute is engaged to perform, only by the Prime Minister acting upon the recommendation of the Public Service Commission;

(ix) no recommendation from the Public Service Commission shall be required for the termination of the engagement of 'Casual Substitutes' where such termination is the result of the return to work of the public officer being substituted or of the expiry of the contractual period of engagement;

(x) The Casual Substitute shall be granted the option to terminate the engagement by giving one month's notice to the Permanent Secretary responsible for the Government, Ministry or Department where the Casual Substitute's services were being rendered.

THIS INSTRUMENT of delegation shall be in addition and without prejudice to other Instruments of Delegation which have been issued in terms of Section 110 of the Constitution.

(Sgd) Eddie Fenech Adami  
GIVEN under my hand at the  
Auberge de Castille, Valletta,  
this 6th day of October, 1999