

CONSTITUTION OF MALTA

**DELEGATION OF CERTAIN POWERS
RESPECTING THE PUBLIC SERVICE**

BY the Honourable Dr Lawrence Gonzi K.U.O.M., LL.D., M.P.
Prime Minister

WHEREAS Article 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 article 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 re-engagement of retired public officers, as well as the engagement of retired individuals not having previously been public officers but who possess the same requisites, in the light of the fact that the Public Service is facing a shortage of skilled and qualified staff in different areas and because of a significant loss of valuable expertise and skills that often follows retirement of officers in particular areas;

AND WHEREAS it is required that the Principal Permanent Secretary establishes those areas/grades in respect of which this delegation may be availed of from time to time, which areas/grades may change as the need arises, so however that the Principal Permanent Secretary shall inform the Public Service Commission beforehand of the areas/grades where such re-engagement / engagement will take place;

AND WHEREAS it is recommended that re-engagement / engagement in terms of this delegation of powers shall be on a full-time / part-time contract basis for a specific period of time which shall in no case be extended beyond a period of forty-two (42) months or beyond the employee's sixty-fifth (65th) birthday, whichever is the earlier;

AND WHEREAS it is recommended that Permanent Secretaries will decide on re-engagement / engagement according to the particular needs of the Public Service at that particular time so however that these needs shall be advertised publicly as required for the re-engagement / engagement of staff as provided above and in accordance with paragraph (c) of sub-Article 2 of Article 110 of the Constitution and Permanent Secretaries will send on a quarterly basis, a list to the Public Service Commission, copying the Principal Permanent Secretary, indicating which officers / persons applied for re-engagement / engagement and the outcome of the evaluation of applications;

AND WHEREAS it is recommended that, in the case of retired public officers, re-engagement shall not necessarily be in the grade or relevant scale the officer held prior to retirement, but may be in a lower grade within the class, according to the

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exigencies of the Public Service at the time also with a view to freeing key posts to individuals coming up the ranks;

AND WHEREAS it is recommended that persons re-engaged / engaged in terms of this delegation of powers shall be considered as public officers and shall carry the responsibilities and obligations pertaining to public office in particular the enforcement of Disciplinary Regulations governing the Public Service;

AND WHEREAS it is recommended that persons re-engaged / engaged in terms of this delegation of powers shall only be entitled to the benefits, including remuneration, as laid down in their contract which in the case of retired public officers cannot exceed those applicable as at time of retirement except for possible statutory salary adjustments and in the case of other persons cannot exceed the remuneration and benefits linked to the relative public service grade in which they are engaged;

AND WHEREAS the Public Service Commission has in terms of Article 110 of the Constitution recommended that the power to make re-engagements / engagements as stated above, be delegated to Permanent Secretaries subject to the overall direction of the Principal Permanent Secretary as indicated in paragraph four hereof, and subject to the condition that the Commission reserves the right to make at any time, a recommendation to the Prime Minister that this Instrument of Delegation be withdrawn 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 suspended;

AND WHEREAS I agree with the said recommendation:

NOW THEREFORE, I LAWRENCE GONZI K.U.O.M., LL.D., M.P., Prime Minister, in exercise of the powers conferred by Article 110 of the Constitution do hereby direct that as from the date hereof, the power to re-engage retired public officers / engage retired external recruits in those areas/grades where the Public Service is facing a shortage of skilled and qualified staff or where there is a significant loss of valuable expertise and skills due to retirement, as established from time to time by the Principal Permanent Secretary and communicated to the Public Service Commission, provided that such re-engagement / engagement shall be on a full-time / part-time contract basis for a specific period of time which shall in no case extend beyond a period of forty-two (42) months or the highest statutory retirement age of 65 years whichever is the earlier, and provided that Permanent Secretaries will decide on re-engagement / engagement according to the particular needs of the Public Service at that particular time so however that these needs shall be advertised publicly as required for the re-engagement / engagement of staff as provided above and in accordance with paragraph (c) of sub-Article 2 of Article 110 of the Constitution and that Permanent Secretaries will send on a quarterly basis, a list to the Public Service Commission, copying the Principal Permanent Secretary, indicating which officers / persons applied for re-engagement / engagement and the outcome of the evaluation of applications, and provided that in the case of retired public officers such re-engagement shall not necessarily be in the grade or relevant scale which the officer held prior to retirement, but may be in a lower grade within the class, according to the exigencies of the Public Service at the time, and provided that persons re-engaged /

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engaged in terms of this delegation of powers shall be considered as public officers and shall carry the responsibilities and obligations pertaining to public office in particular the enforcement of Disciplinary Regulations governing the Public Service, and provided that persons re-engaged / engaged in terms of this delegation of powers shall only be entitled to the benefits, including remuneration, as laid down in their contract which in the case of retired public officers cannot exceed those applicable as at time of retirement except for possible statutory salary adjustments and in the case of other persons cannot exceed the remuneration and benefits linked to the relative public service grade in which they are engaged; and provided that the power to renew such re-engagement / engagement within the maximum duration established above shall vest in Permanent Secretaries who are hereby authorised to make such re-engagements / engagements and renewals thereof without reference to the Public Service Commission but subject to the conditions which the Public Service Commission has made in its recommendation, as aforesaid.

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.

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GIVEN under my hand at the
Auberge de Castille, Valletta
this 4 day of April 2009

