

**CHAPTER 467****EUROPEAN PARLIAMENT ELECTIONS ACT**

*To make provision for the holding of elections to the European Parliament.*

1st January, 2004

*ACT XVI of 2003.*

**1.** The short title of this Act is the European Parliament Elections Act. Short title.

**2.** In this Act, unless the context otherwise requires: Interpretation.

"the Act" means the Act of the member States of the European Communities concerning the election of the representatives of the Assembly by direct universal suffrage annexed to Decision 76/787/ECSE, EEC, Euratom published in the Official Journal of the European Union, as from time to time amended;

"competent authority" means the body in a Member State charged with the conduct of elections of members of the European Parliament and the registration of voters therefor;

"election of members of the European Parliament" means elections of members of the European Parliament held in accordance with, and pursuant to, the Act and the Treaty;

"Electoral Commission" means the Electoral Commission established by article 60 of the Constitution;

"Electoral Register" means the Electoral Register published in accordance with the provisions of the General Elections Act; Cap. 354.

"Electoral Roll" in relation to Malta means the Electoral Register and the European Union Electoral Register and in relation to other Member States means the official register of all voters entitled to vote in a particular constituency or locality, drawn up and kept up to date by the competent authority under the applicable electoral law of the Member State or the population register where such register indicates eligibility to vote;

"European Parliament" means the European Parliament referred to in the Treaty;

"European Union" means the European Union referred to in the Treaty;

"European Union Electoral Register" means the register of voters kept in accordance with articles 11 to 14;

"Home Member State" means the Member State of which a person is a national;

"Member State" means a State which is a member of the European Union;

"the Treaty" has the same meaning assigned to it in article 2 of the European Union Act. Cap. 460.

Election of members of the European Parliament in Malta.	<b>3.</b> The election of members of the European Parliament shall be held in accordance with the provisions of this Act.
Number of members of the European Parliament.	<b>4.</b> The number of members of the European Parliament to be elected shall be that established by or under the Treaty.
Date and time of elections.	<b>5.</b> (1) Elections of members of the European Parliament shall be held every five years commencing in 2004, on the second Saturday in June or on such other date as the Prime Minister may by notice in the Gazette from time to time establish. (2) Voting shall start at 7.00 a.m. and close at 10.00 p.m.
Electoral Commission to conduct elections etc.	<b>6.</b> The registration of voters for Elections of members of the European Parliament, the conduct of the relevant elections and the counting of votes shall be the sole responsibility of the Electoral Commission.
Method of Election.	<b>7.</b> The election of Members of the European Parliament shall be conducted according to the principle of proportional representation by means of the single transferable vote, each voter having one such vote.
Malta to constitute one electoral division.	<b>8.</b> For the purpose of election of Members of the European Parliament the territory of Malta shall constitute one single electoral division.
Election Notice.	<b>9.</b> At least thirty five-days before the day fixed for election of Members of the European Parliament, the Electoral Commission shall issue and publish in the Gazette a notice in the form set out in the First Schedule.
Persons entitled to vote.	<b>10.</b> Every person whose name appears in the Electoral Register last published before the date fixed for the election and every person whose name appears in the European Union Electoral Register and who in either case has not, following the publication of the said Electoral Register or the said European Union Electoral Register, been convicted of any offence connected with the election of members to the House of Representatives or with the election of members of Local Councils or with the election of members of the European Parliament shall be entitled to vote in elections of members of the European Parliament.
Qualifications for voters in the European Union Electoral Register.	<b>11.</b> Subject to the provisions of article 12 a person shall be qualified to be registered in the European Union Electoral Register, if: <ul style="list-style-type: none"> <li>(a) he is a national of a Member State whose name does not appear in the Electoral Register; and</li> <li>(b) he is requested to be, and is, in possession of an identity card in accordance with the Identity Card Act; and</li> <li>(c) he fulfils the requirements listed in article 57(b) and (c) of the Constitution:</li> </ul> <p style="margin-left: 40px;">Provided that for the purposes of this paragraph</p>
Cap. 258.	

residence in any Member State shall be deemed to be residence in Malta;

- (d) he declares that he will exercise his right to vote for election of members of the European Parliament in Malta only; and
- (e) he has not been deprived of the right to vote in his Home Member State,

and unless he satisfies the requirements of paragraphs (a) to (e) above shall not be so qualified.

**12.** No person shall be qualified to be registered in the European Union Electoral Register if -

Disqualification of voters in the European Union Electoral Register.

- (a) he is interdicted or incapacitated for any mental infirmity by a court in a Member State or is otherwise determined in a Member State to be of unsound mind;
- (b) he is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by a court in a Member State or substituted by competent authority for some other sentence imposed on him by such court, or is under such a sentence of imprisonment the execution of which has been suspended; or
- (c) he is disqualified for registration as a voter by or under any law in Malta by reason of his having been convicted of any offence connected with the election of members of the House of Representatives, members of Local Councils or members of the European Parliament.

**13.** (1) The Electoral Commission shall publish the European Union Electoral Register which shall contain the list of all persons qualified to be registered therein in accordance with article 11.

Publication of European Union Electoral Register.

(2) The provisions of the General Elections Act relating to the publication and correction of, and the striking off of names from, the Electoral Register shall unless otherwise provided in this Act apply in relation to the European Union Electoral Register.

Cap. 254.

(3) A Maltese national who is registered in the European Union Electoral Register who is qualified to be registered in the Electoral Register shall have his name cancelled from the European Union Electoral Register upon being registered in the Electoral Register.

(4) A Maltese national who for any reason has his name struck off the Electoral Register but who is qualified to be registered in the European Union Electoral Register shall, on his name being struck off from the Electoral Register, be registered in the European Union Electoral Register.

**14.** (1) A person desiring to be registered in the European Union Electoral Register shall only be so registered and shall only be entitled to remain so registered if, besides satisfying the requirements of article 11, he declares to the Electoral Commission:

Registration in the European Union Electoral Register.

- (a) that he is resident in Malta;
- (b) his nationality;
- (c) the date on which he took up residence in Malta or in any other Member State;
- (d) his address in Malta;
- (e) the locality or constituency in his Home Member State or any other Member State, if any, on the Electoral Roll of which his name was last registered;
- (f) that he will exercise his right to vote in Malta only;
- (g) that he has not been deprived of his right to vote in his Home Member State;

and he produces to the said Commission a valid identity document:

So however that the Electoral Commission shall have the right, whenever it deems it so opportune, to require a person whose name appears in the European Union Electoral Register to make a fresh declaration as herein above provided.

(2) Where a person satisfies the requirements of subarticle (1), the Electoral Commission shall enter his name in the European Union Electoral Register if it is satisfied that he is so qualified in accordance with article 11.

Exchange of  
information in  
connection with  
registration of  
voters.

**15.** (1) The Electoral Commission shall notify the competent authority of the Home Member State of any declaration made by any person in accordance with article 14, for the sole purpose of verifying the contents thereof; and where upon information received from the home Member State it results that the contents of the declaration are not true, the Electoral Commission shall not register such person in the European Union Electoral Register, or, if such person is already registered, it shall strike off his name.

(2) The Electoral Commission shall verify the contents of similar declarations made to the competent authorities in other Member States and shall communicate to them any relevant information in its possession.

(3) Information exchanged in terms of this article shall be provided in good time and in an appropriate form and manner and may only include details that are strictly necessary for the implementation of the provisions of this article and may only be used for such purposes.

Deregistration  
from European  
Union Electoral  
Register.

**16.** A person whose name appears on the European Union Electoral Register may at any time, in writing, request the Electoral Commission to remove his name from such Register and thereupon his name shall be struck off the European Union Electoral Register.

Elimination of  
double voting.

**17.** (1) No person shall in an election of members of the European Parliament cast his vote in Malta and in another Member State.

(2) Any person who acts in contravention of the provisions of subarticle (1) shall be guilty of an offence and shall upon conviction be liable to imprisonment for not more than six months

or to a fine (*multa*) of not more than ten thousand liri or to both such fine and imprisonment.

(3) For the purpose of ensuring compliance with subarticle (1) the Electoral Commission shall, sufficiently in advance of the day fixed for voting, inform the competent authority in the Home Member State of any person listed in the European Union Electoral Register who has opted to cast his vote in Malta.

(4) Where the Electoral Commission received information from the competent authority of another Member State that a person, whose name is entered in the Electoral Register or the European Union Electoral Register, has been registered in the Electoral Roll of such state, it shall for the purposes of the election of members of the European Parliament strike off that person's name from the Electoral Register, or the European Union Electoral Register, as the case may be.

**18.** Subject to the provisions of article 19, a person shall be qualified to stand for election as a member of the European Parliament if such person is registered as a voter in the Electoral Register or in the European Union Electoral Register:

Persons qualified to stand for elections.

Provided that public officers or any class or classes thereof may be restricted from standing for election as members of the European Parliament by the Public Service Management Code or such other regulations, rules or norms applicable from time to time to the Public Service.

**19.** (1) Without prejudice to the provisions of the Act, no person shall be qualified to stand for election as a member of the European Parliament or, if elected, to remain a member thereof if, whether in Malta or in any other Member State -

Persons not qualified to stand for election.

- (a) he is a member of any disciplined force as defined in article 47(1) of the Constitution or of a corresponding force of another Member State;
- (b) he holds any office the functions of which involve any responsibility for or in connection with the conduct of elections of members of the European Parliament or the compilation or revision of any Electoral Roll;
- (c) he is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force;
- (d) he is interdicted or incapacitated for any mental infirmity or for prodigality by a court or is otherwise determined to be of unsound mind;
- (e) he is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by a court in a Member State or is under such a sentence of imprisonment the execution of which has been suspended;
- (f) he is a member of the judiciary;
- (g) he has been disqualified for standing for the election of members of the European Parliament in terms of

any law in force;

- (h) he is standing as a candidate for the election of members of the European Parliament in the same election in another Member State.

Incompatibility of certain officers.  
Cap. 363.

(2) The office of member of the European Parliament shall be incompatible with that of member of the House of Representatives or of member of a Local Council under the Local Councils Act or of any other similar institution or organ in another Member State, and where a person who holds one of the said offices is elected to a second such office that person shall, within five working days of the publication of the results of the election to such second office, renounce one of these offices:

Provided that where a person fails to renounce one of these offices within the said term of five working days, he shall be deemed to have renounced the office of member of the European Parliament.

Provisions with regard to candidate registered in the European Union Electoral Register.

**20.** (1) A candidate whose name appears on the European Union Electoral Register shall, when filing his nomination as candidate, also make a formal declaration in writing to the Electoral Commission stating that he is not standing as a candidate in any other Member State, and shall also produce to the Electoral Commission a valid identity document.

(2) A candidate whose name appears in the European Union Electoral Register and who is not a Maltese national shall also produce to the Electoral Commission a declaration from the competent authority of his Home Member State certifying that he has not, otherwise than because of his having been registered in the European Union Electoral Register, been deprived of the right to stand for election in that Member State or that no such disqualification is known to that authority.

(3) The Electoral Commission shall notify the competent authority of the Home Member State of the declarations made in accordance with subarticle (1) for the sole purpose of verifying the contents thereof and if upon information received from the Home Member State it results that the contents of the declaration are not true, the Electoral Commission shall not register the person as a candidate, or if he is already registered, shall strike off his name from the list of candidates:

Provided that such striking off is effected before the ballot papers are printed:

Provided further that with respect to any such person who is a Maltese national the provisions of this subarticle shall apply as if any reference therein to Home Member State were a reference to the last Member State in which such person resided before taking up residence in Malta.

(4) The Electoral Commission shall verify similar declarations notified to it by the competent authority of other Member States and shall supply such competent authorities with the relevant information.

(5) Information exchanged in terms of this article shall be provided in good time and in an appropriate manner and may only include details that are strictly necessary for the implementation of the provisions of this article and may only be issued for such purpose.

**21.** (1) Save as otherwise provided in the Second Schedule and save where such provisions are incompatible with the provisions of this Act, the provisions of the General Elections Act and of the Electoral Polling Ordinance shall apply to the conduct of elections, and to the counting of votes in elections, of members of the European Parliament.

Conduct of  
Elections.  
Cap. 354.  
Cap. 102.

(2) The Electoral Commission may, from time to time, issue directives interpreting as may be necessary the provisions of the General Elections Act and of the Electoral Polling Ordinance in their application to the election of members of the European Parliament under this Act. Such directives shall be immediately applicable and shall be published in the Gazette in the shortest time practicable.

(3) (a) The counting of votes shall commence at noon of the Sunday following the day of voting or at such other time or day as the Prime Minister may by notice in the Gazette from time to time establish.

(b) The Electoral Commissioner shall ensure that the result of the first count of votes is not officially made known until after the close of polling in all Member States.

(4) The Prime Minister may by regulations under this subarticle establish the maximum expenses that may be incurred by a candidate at an election of members of the European Parliament or his election agent whether before, during, or after an election on account of or in respect of the conduct of such election.

**22.** Wherever the seat of any Member of the European Parliament elected under this Act becomes vacant, the vacancy shall be filled in the manner provided by or under any law for the time being in force in Malta for the filling of vacancies of members of the House of Representatives:

Filling of  
vacancies.

Provided that where a vacancy is to be filled by means of co-option, that co-option shall be made by the House of Representatives from among the candidates who had contested the same election.

**23.** The provisions of this Act, except where the content otherwise requires apply only in relation to members of the European Parliament who fall to be elected in Malta.

Scope of this Act.

## FIRST SCHEDULE

(Article 9)

Form of Notice by the Electoral Commission.

The Electoral Commission established in terms of article 60 of the Constitution hereby notifies that in virtue of the provision of the European Parliament Elections Act, 2003, an election is being held on Saturday, ..... .

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## SECOND SCHEDULE

(Article 21)

## Provisions Regulating the Conduct of Elections of Members to the European Parliament

## 1. Application of the General Elections Act, Cap. 354.

The General Elections Act, including the Schedules attached thereto and any regulations made thereunder, shall apply to the election of members of the European Parliament as if:

- (a) unless otherwise determined by the Electoral Commission because of their context, references therein to election, general election or election of the members of the House of Representatives were references to elections of the members to the European Parliament;
- (b) unless otherwise determined by the Electoral Commission because of their context, references therein to candidates were a reference to candidates for election as members to the European Parliament;
- (c) unless otherwise determined by the Electoral Commission because of their context, references therein to the transfer of the registration of a voter in Part II thereof include the transfer of registrations between the Electoral Register and the European Union Electoral Register and vice-versa;
- (d) unless otherwise determined by the Electoral Commission because of their context, references therein to divisions or electoral divisions were references to the territory of Malta as a single electoral division under this Act;
- (e) unless otherwise determined by the Electoral Commission because of their context, references therein to the Electoral Register were references to the European Union Electoral Register, or according to the context, also to the European Union Electoral Register;
- (f) unless otherwise determined by the Electoral Commission because of their context, references therein to voters and registered voters include voters registered in the European Union Electoral Register;
- (g) the number of district agents to be nominated by each political party in terms of article 61A(1) thereof was a number equal to the number of electoral divisions in which Malta was divided in the last general election held immediately before the holding of the election of members of the European Parliament;
- (h) the number of counting agents to be nominated by the political parties



in terms of article 89(2) thereof was such number as is equal to the number of counters being used by the Electoral Commission at the time in question;

- (i) reference to the Writ therein were a reference to the Notice issued by the Electoral Commission in terms of article 9 of this Act;
- (j) articles 15 to 18, 77(2), 103, 104(2) to 104(4), and 109 thereof were deleted; and
- (k) in the Thirteenth Schedule thereto all references to the transfer of votes between divisions were deleted.

2. Application of the Electoral Polling Ordinance, Cap. 102.

The Electoral Polling Ordinance shall apply to the election of members of the European Parliament as if the references therein to election and election of the House of Representatives were references to the election of members of the European Parliament:

Provided that for the purposes of elections of members of the European Parliament the reference to six hundred liri and three thousand liri in article 46 thereof were a reference to such sum as the Prime Minister may from time to time establish under 21(4) of this Act.

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