

within two months from the date on which the decision refusing the application was notified to the applicant or from the date of the lapse of the period of three months mentioned in sub-article (6), as the case may be.

21. The Minister, for the purposes of this Act, shall have the right to inspect every school and shall have the right to supervise the administration of every school.

Minister's right to supervise schools.
Amended by:
XIII. 2006.7.

22. Wherever under the provisions of this Act a right or a duty is vested in or imposed on the State, that right or duty shall be exercised or fulfilled by the Minister.

Minister to represent State.
Amended by:
XIII. 2006.7.

PART III

The Teachers' Profession

Added by:
XIII. 2006.9.

23. Without prejudice to the provisions of this Act, in this Part, insofar as the context does not otherwise require:

Interpretation.
Added by:
XIII. 2006.9.

"adaptation period" means a period during which a person may exercise the teaching profession in Malta under supervision in a licensed school, or in any other manner as the Council may decide, which period may include the provision of such further training to such person, as may be required by the Council, and at the end of which a proficiency test shall be carried out;

"the Council" means the Council for the Teaching Profession in Malta established by article 26;

"to practise" in relation to the teaching profession includes the taking up or pursuit of the teaching profession in Malta at compulsory education level bound by the *curriculum* in a licensed school;

"professional and ethical standards" includes standards relating to the general conduct of a member of the teaching profession, including the behaviour of such member towards his students, during or consequential to the exercise of his profession, and behaviour of such member towards other members of his profession, towards other persons assisting teachers in the exercise of their profession, and towards society;

"proficiency test" means a test, as may be required by the Council in accordance with the provisions of this Act, having the aim of assessing a person's ability to pursue the teaching profession in Malta;

"registered teacher" means a person who is registered in the official register of teachers kept by the Council and who has been granted a warrant to practise the teaching profession, in accordance with article 29;

"teacher" means a person trained in the science of the educational process and in the use of the pedagogical skills in such

manner that such person has the skill to create an environment which motivates every student and succeeds to teach such student effectively by motivating his aspirations for the highest values in life and help him develop creative and thinking skills according to his age, his physical and intellectual development, and according to the potential of his skills and talents with the final aim that the student is trained to become a lifelong learner:

Provided that, for the purposes of this Part, and insofar as not otherwise provided in any other law, "teacher" does not include a Kindergarten or Learning Support Assistant, a teacher in a school teaching a language as a foreign language, or any person who renders a teaching service in cultural, sport and religious sectors, insofar as this teaching is not being imparted as an integral part of compulsory education in terms of the *curriculum* in a licensed school;

"warrant" means a warrant issued under article 24;

"temporary warrant" means a temporary warrant issued under article 25.

Warrant required to
practise profession.
Added by:
XIII. 2006.9.

24. (1) Subject to the provisions of this Part, no person shall exercise the teaching profession against remuneration or hold himself to be professionally qualified to do so unless such person is the holder of a warrant issued under this Act.

(2) A person shall not qualify for a warrant unless such person -

- (a) is a Maltese citizen, or is otherwise permitted to work in Malta under any law; and
- (b) is of good conduct; and
- (c) has full legal capacity; and
- (d) is in possession of -
 - (i) a Degree of Bachelor in Education; or
 - (ii) a Degree of Bachelor together with a Post-Graduate Certificate in Education; or
 - (iii) a Doctorate, or a Bachelor's Degree and a Master's Degree, together with a certificate of a pedagogical course organised by the Directorate for Educational Services established by article 10 or by any other institution which is recognised by the Council; or
 - (iv) any other professional qualification as the Council may deem comparable; and
- (e) satisfies the Council that he has received adequate experience in the practice of the teaching profession under supervision in a licensed school, or in any other manner as the Council may decide, for an aggregate period of at least two scholastic years full-time or its equivalent in part-time following the completion of

such degree or such other professional qualification as hereabove mentioned, and for the purposes of this paragraph the practice by such teacher of the profession to acquire the above mentioned experience shall be deemed to be practice in accordance with this Act.

(3) The Post-Graduate Certificate in Education, Bachelor's Degree, Masters Degree and Doctorate mentioned in paragraph (d)(i), (ii) and (iii) in the the preceding subarticle shall be a Post-Graduate Certificate in Education, a Bachelor's Degree, a Master's Degree and a Doctorate awarded by the University of Malta.

(4) The Minister may prescribe, instead of any of the requirements established under the foregoing provisions of this article, other requirements in terms of any international or multinational treaty or agreement entered into by Malta or with the provisions of any legislation the binding force of which derives from any such treaty or agreement.

(5) Without prejudice to any provision made by or under the Mutual Recognition of Qualifications Act, where the duration of a course leading to the professional qualification possessed by an applicant is less than the duration for the course leading to the Degree conferred by the University of Malta or when the experience referred to in subarticle (2)(e) is less than two years, the Council may require the applicant to undertake such adaptation period not exceeding twice the shortfall, as the Council may specify. In addition the Council may also submit the applicant to a proficiency test.

Cap. 451.

25. Notwithstanding anything contained in the provisions of this Part, the Minister may award a temporary warrant having a validity of one year, that may be renewed to any person who, in the discretion of the Minister, has the necessary proficiency to teach in Malta.

Temporary warrant.
Added by:
XIII. 2006.9.

26. (1) There shall be a Council to be known as the Council for the Teaching Profession, which shall be composed of the following members:

Council for the Teaching Profession in Malta.
Added by:
XIII. 2006.9.

- (a) a President appointed by the Minister from amongst persons who have served, or who have the qualifications to serve, as magistrate or judge;
- (b) three registered teachers who have practised the profession of teacher for not less than eight years, appointed by the Minister, two of whom will be chosen in respect of one of them from among the officials of the Directorate for Quality and Standards in Education and the other from among the officials of the Directorate for Educational Services established under Part II of this Act;
- (c) four registered teachers who have practised the profession of teacher for not less than eight years,

elected by and from among all registered teachers, provided that two of whom shall be teaching at the primary level and the other two at the secondary level of education, and in either case one shall be teaching in the State school sector and the other in the non-State school sector, and for the purposes of this paragraph the voting for the election of these members shall be by post according to those procedures as may be prescribed;

- (d) two practising registered teachers from among registered teachers and who have practised the profession of teacher for not less than eight years, nominated by that association registered with the Council in accordance with the provisions of this Act and which satisfies the Council that the majority of the registered teachers are its members;
- (e) two members nominated by the University from among the permanent academic staff of the Faculty responsible for the education and training of teachers;
- (f) a parent nominated by the parents' associations:

Provided that in relation to the first appointments, "teacher" means any person who is qualified to be registered under this Act:

Provided further that for the purpose of paragraph (d), the association or associations to make nominations in relation to the first appointment shall be that association or those associations that have the qualifications to be eventually registered under this Act.

(2) The nominations made in terms of the preceding article shall, for the first time, be made within two weeks from a request in writing made therefor by the Minister, and for any subsequent nomination, within one month from the occurrence of any vacancy or when the vacancy arises due to the expiry of the term of office, within one month prior to the said expiry. In the absence of any such nomination, the Minister shall make the appointment from among teachers or parents as the case may be.

(3) The members of the Council shall hold office for a term of three years.

(4) The members of the Council shall, on the expiration of their term of office, be eligible to be re-appointed, but they may not serve the Council for more than three consecutive terms.

(5) In the event that any Council member vacates his office before completing the appointed term, the person appointed in his stead shall be appointed for the remaining period of the original appointment.

(6) The number of members present necessary to constitute a quorum at the meetings of the Council shall be half the members plus one, but subject to the presence of a quorum, the Council may act notwithstanding any vacancy among its members.

(7) The Minister shall designate a public officer to act as

secretary to the Council, but such secretary shall not have a vote.

(8) The chairperson of the Council shall have both an original vote and, in the case of a tie, a casting vote.

(9) Without prejudice to the aforesaid and to what may be prescribed, the Council may make its own rules and otherwise regulate its own procedures.

(10) The meetings of the Council shall be summoned by the Chairperson and the Council shall meet as often as may be necessary, but at least once every month.

(11) In the exercise of its functions under this Act, the Council may consult with such persons as it may deem appropriate. For such purpose, the Council may invite any such person to attend meetings of the Council.

(12) The Council shall keep a true and correct record of all its proceedings and the Council shall give to the Minister such information as he may require.

27. (1) Without prejudice to its other powers and functions, the Council shall regulate the practice of the teaching profession in Malta, and in particular to -

Functions of the
Council.
Added by:
XIII. 2006.9.

- (a) keep under review and assess education and training standards and on the fitness to teach of each person who chooses to practise the teaching profession;
 - (b) advise the Minister in relation to these standards, the initial and continuing training of teachers, proficiency, experience and qualifications required for holding and retaining a warrant under this Act;
 - (c) consider and advise the Minister with regard to applications for comparability and recognition of teaching qualifications;
 - (d) promote and encourage initiatives which ensure a continuing professional training and development programme for warrant holders;
 - (e) examine applications for a warrant to practise the teaching profession and make recommendations to the Minister on the award or refusal thereof;
 - (f) keep an official register of all registered teachers and another register of those holding a temporary warrant given under article 25, and record therein any suspension, cancellation and reinstatement of a warrant;
 - (g) keep an official register of all teachers' partnerships;
 - (h) keep such information as may be required in relation to associations representing teachers in Malta and which are registered under the provisions of this Act;
 - (i) make recommendations to the Minister, following
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consultation with the associations registered under the provisions of this Act, on the code of professional standards and ethics that may be prescribed for the professional behaviour of teachers which among other things shall include references to the respect towards and the promotion of fundamental values in life that are enshrined in the Constitution and in the laws of the land;

- (j) inquire into any allegation of professional misconduct, gross negligence or incompetence by a teacher;
- (k) advise the Minister on any matter on which the opinion of the Council is sought by the Minister, including any advice on persons who practise the teaching profession while holding a temporary warrant;
- (l) perform such other functions as may arise from this Act or any other law, or as may be assigned to it by the Minister.

(2) The Council shall, not later than three months after the end of each year, publish in the Gazette a list of persons or partnerships who on the 31st December of the said year, were registered for the first time in the register of teachers or in the register of partnerships of teachers.

(3) The Council shall, in the performance of its functions, keep in consideration the public interest, and draw up and publish a report every three years concerning its activities in general.

Warrants.
Added by:
XIII. 2006.9.

28. (1) Any person seeking to obtain a warrant to practise the teaching profession in Malta shall make an application to the Council which shall be accompanied by all information and relevant documents in support of the application, including certificates issued by the competent authority about the comparability of qualifications and certificates of their authenticity as the Council may require.

(2) The Council shall make a recommendation to the Minister for the issue of a warrant as soon as it is satisfied that the applicant satisfies the minimum requirements established under this Act.

(3) Where, following an adaptation period where necessary, the Council is satisfied that the applicant has successfully completed his training, the Council shall make a recommendation to the Minister for the issue of a warrant.

(4) For the purpose of establishing whether an applicant has successfully completed his training as aforesaid, the Council may submit the applicant to a proficiency test under the provisions of this Act or under regulations issued thereunder.

(5) The Council shall regularly draw the attention of registered teachers to their obligation to periodically carry out programmes of continuous professional development and of up-dating necessary for the standards and the fitness to teach.

(6) The Council shall also periodically request registered teachers to provide it with the necessary information showing which programmes they have followed.

(7) Whenever the case may be, the Council shall draw the attention of a registered teacher of his failure to fulfil this obligation as provided for in this article and shall give him reasonable time to comply therewith.

(8) When a registered teacher continues to ignore the request of the Council to follow programmes of continuous professional development and of updating, the warrant pertaining to the warrant holder may be suspended until such time as the warrant holder proves that he is fulfilling the requirements of the obligation provided for in this article.

29. The Council shall consider and make its recommendations on an application for a warrant to practise the teaching profession as soon as is reasonably practicable, but in no case later than four months from the receipt of the application. On making its recommendations to the Minister, the Council shall concurrently notify the applicant of its recommendations, together with the reasons upon which these were based.

The Council to assess application for warrant.
Added by:
XIII. 2006.9.

30. (1) A person shall not be qualified to obtain or shall not retain a warrant in terms of this Act if such person has been convicted by any court of criminal jurisdiction:

Loss of warrant.
Added by:
XIII. 2006.9.

- (a) for any crime liable to imprisonment for a term exceeding one year; or
- (b) of having abused the students' trust or having used violence in their regard; or
- (c) of any crime because of which such person may not, in the Council's opinion, be fit to practise the teaching profession in a school.

(2) Where a person loses his warrant following a conviction as is referred to in the preceding subarticle, notice of such loss shall be given by the Minister in the Gazette and shall be communicated by the Council to the person disqualified, unless such person has been interdicted by the judgement itself, and to the Principal of the College and to the Head of school where such person is employed as the case may be.

31. (1) The Council shall inquire into any alleged professional misconduct, gross negligence or incompetence in relation to a teacher.

The Council may conduct inquiries.
Added by:
XIII. 2006.9.

(2) For the purposes of this article, the terms "professional misconduct", "gross negligence", or "incompetence", shall include the following:

- (a) obtaining a warrant in a deceitful or fraudulent manner;
- (b) contravention against the Code of Ethics established

under this Act;

- (c) failure to comply with regulations with respect to professional standards or practice;
- (d) practice or assumption of professional competence for which the person is not qualified or the person concerned is not authorised to practise in terms of his warrant;
- (e) acting in a manner which may be detrimental to the teaching profession;
- (f) displaying lack of skill in the practice of the teaching profession or in carrying out of a duty or obligation undertaken in the practice of teaching.

(3) Any teacher who is the subject of any inquiry carried out by the Council shall be given all the opportunity to make his defence and bring any evidence in his favour and for such purpose he may be represented by a lawyer or by any other person of his choice.

(4) On finalising the inquiry the Council shall -

- (a) if it finds in favour of the teacher, dismiss the case; or
- (b) if it finds the teacher guilty of the alleged professional misconduct, gross negligence or incompetence, make a report of its findings and submit it to the Minister together with its recommendation for the imposition of any of the following penalties:
 - (i) suspension or cancellation of the warrant subject to such conditions as may be recommended;
 - (ii) suspension or cancellation of the registration of a partnership of teachers;
 - (iii) imposition of conditions to be attached to a warrant;
 - (iv) reprimand;
 - (v) payment to cover the costs of the inquiry;
 - (vi) order the waiver, reduction or refund of any fees charged for services rendered.

(5) On the cancellation of the warrant of a teacher the Council shall strike off the name of such person from the official register of teachers.

(6) The Council's decision whereby an application for a warrant is refused or whereby a warrant is suspended or cancelled shall be notified in writing to the person who has filed the application or to the warrant holder, as the case may be, and to the College Principal and to the Head of school where such teacher practises his profession as the case may be.

(7) For the purposes of this article, the members of the Council have the powers that are or may be conferred under the Inquiries Act, and shall conduct their inquiry as provided for in the same Act.

32. (1) Any person who feels aggrieved by the decision of the Minister, following the recommendations of the Council to refuse an application for the issuing of a warrant, or whereby a warrant is to be suspended or cancelled, under the provisions of this Part, may, within twenty-one days of the notification given to the Minister, appeal to the Court of Appeal in its inferior jurisdiction.

Appeals.
Added by:
XIII. 2006.9.

(2) Notwithstanding that an appeal has been instituted in accordance with the provisions of this article, the warrant shall be considered as suspended or cancelled, as the case may be, pending the final decision of the Court of Appeal.

(3) The Minister responsible for justice may make regulations prescribing the fees that shall be payable in the Registry of the Court in connection with appeals under this article:

Provided that until such time as fees are so prescribed by the Minister responsible for justice, the fees payable with respect to appeals to that Court shall be the fees applicable to the Court of Magistrates (Malta).

(4) The Board established under article 29 of the Code of Organization and Civil Procedure shall make rules establishing the form of such appeals and any other matters related thereto.

Cap. 12.

33. The Minister may, on the recommendation of the Council, and upon application to this effect, restore the warrant to a person who is disqualified to hold or who forfeits such warrant in terms of article 30, or remove such suspension or cancellation as recommended in terms of article 31, if the applicant meets such requirements that may be prescribed. Where the warrant of the teacher has been reinstated, such teacher is to be again registered in the official register.

Minister may
reinstate warrant.
Added by:
XIII. 2006.9.

34. (1) An association of teachers is an association of teachers established with the primary aim of promoting the principles, values and standards related to the practice of the teaching profession.

Association of
teachers.
Added by:
XIII. 2006.9.

(2) Any association of teachers may make an application to the Council to be registered as an association of teachers for the purposes of this Act.

(3) An association shall be qualified to be registered under this article if it proves to the Council that it has a membership of at least ten registered teachers and that it conforms with such other conditions as may be prescribed. An association shall submit together with the application a list of members and such other information as the Council may require to process the application.

(4) The Council shall have the power to require any association registered under this article to produce such records and information regarding the association and its members as the Council may reasonably require from time to time.

Partnerships of teachers.
Added by:
XIII. 2006.9.

35. (1) Two or more warrant holders may form a civil partnership, in this Act referred to as a "partnership of teachers", having for its exclusive object the practice of the teaching profession and such powers as are necessary for the attainment of the objects of the partnership.

(2) No person, other than a warrant holder, may be a partner in a partnership of teachers.

(3) Any such partnership shall, when duly formed according to law and on payment of the prescribed fee, be registered with the Council and upon registration the partners shall, for as long as it is so registered, be authorised to act in the name and on behalf of the partnership which shall be entitled to the designation "Teachers" as part of its name.

(4) Every such partnership shall give to the Council such information as the Council may reasonably require or as may be prescribed, and shall give notice to the Council of any relevant changes in any information previously given to the Council within fifteen days after the date on which the change occurs.

Conditions applying to a partnership.
Added by:
XIII. 2006.9.

36. Notwithstanding the provisions of any other law or any other agreement to the contrary, the following provisions shall apply to a partnership of teachers under this Act:

- (a) the partners shall be jointly and severally responsible for the actions and omissions of each and every one of them in the performance of their professional duties, the maintenance of the required professional standards and conduct and generally in the fulfilment of their obligations under this Act or any other applicable law, and shall also be jointly and severally liable for any loss or damage resulting therefrom;
- (b) any act or thing that may be done by a warrant holder may be done by one or more of the partners in the name of the partnership; and any act or thing done in the name of the partnership shall be done by one or more of the partners;
- (c) the responsibilities and liabilities for anything done or omitted to be done during the period in which a person was a partner in a partnership of teachers shall not cease, in respect of such person, by his retirement, death or other cause by which he ceases to be a partner.

Applicability of articles to partnerships.
Added by:
XIII. 2006.9.

37. The provisions of articles 30, 31 and 32 shall apply to partnerships of teachers as they apply *mutatis mutandis* to teachers.

Offences and penalties.
Added by:
XIII. 2006.9.

38. (1) Any person who, for the purpose of obtaining a warrant or registering a partnership of teachers under the provisions of this Act, knowingly gives any false information or

otherwise acts in a deceitful or fraudulent manner, shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding one thousand liri or to imprisonment not exceeding twelve months or to both such fine and imprisonment.

(2) Any person who is found guilty of any other offence against any provision of this section of this Act shall be liable on conviction to a fine (*multa*) not exceeding five hundred liri, or to three months imprisonment or to both such fine and imprisonment, and in the case of a continuing offence to a fine (*multa*) of five liri for each day during which the offence continues, subject to a maximum of two thousand liri.

(3) Any person who, not being the holder of a warrant or a temporary warrant issued under this Act, practises the teaching profession or carries out any education practice in contravention of the provisions of this Act, shall be guilty of an offence against this Act.

(4) Any person who uses the words "Teachers" in relation to a partnership of teachers where such partnership is not registered in accordance with the provisions of this Act, or in any manner whatsoever makes use of a name falsely implying the existence of a partnership of teachers registered as aforesaid shall be guilty of an offence against this Act.

(5) For the purpose of this article and subject to such regulations as may be prescribed, a person shall not be deemed to be in contravention of the provisions of this Act if such person is practising the teaching profession during an adaptation period or when in training, in any case under supervision in a licensed school or in any other manner as the Council may decide.

(6) Subject to the provisions of subarticle (5), no person or any other organisation shall employ any person other than a registered teacher or a person holding a temporary warrant for the purpose of practising the teaching profession.

(7) The provisions of this Act establishing offences shall be without prejudice to the provisions of any other law establishing offences and punishments in respect of the same acts or omissions and shall not, in particular, affect the application of any higher punishment under any other law.

39. Where, following an inquiry under the provisions of article 31, the Council finds a teacher guilty of any breach of professional conduct or of the Code of Ethics, the Council may impose such administrative fines as recommended to the Minister and that the Minister may prescribe.

Administrative
fines.
Added by:
XIII. 2006.9.

40. The Minister may, after consultation with the Council, make regulations not inconsistent with the provisions of this Part of this Act, to give better effect to any of such provisions and generally to regulate the teaching profession, and, without prejudice to the generality of the foregoing, such regulations may in particular include provisions with respect to -

Minister may make
regulations.
Added by:
XIII. 2006.9.

- (a) the establishment of standards, practices, procedures and other duties in the exercise of the profession of a teacher;
- (b) the professional conduct and code of ethics of teachers and the standards of competency and integrity to be kept by the profession
- (c) the requirements, conditions and frequency in relation to the programmes of continuous professional development for the maintenance of a warrant;
- (d) the work which can be performed and the services which can be rendered in terms of a warrant, and the terms and conditions which can be attached to such warrant;
- (e) the fees that may be charged by the Council in connection with the issue of a warrant, for the making of any registration under this Act, those annual or periodic fees that the Council may deem necessary for its operation under the provisions of this Act;
- (f) the fees that may be charged by teachers for their professional services;
- (g) the procedures to be followed in cases of professional misconduct;
- (h) the engagement of persons who are employed to work in a school by virtue of a temporary warrant;
- (i) the forms, conduct certificates and other ancillary matters connected with the application for a warrant, a test to establish the legal capacity, the procedures connected with the nomination of members to the Council, and relating to any other procedure which may be adopted by the Council;
- (j) the appointment, composition and procedures of committees or sub-committees which the Council may feel necessary to appoint for any one of its functions;
- (k) any matter which is required or is authorised by this Act to be prescribed.

Saving.
Added by:
XIII. 2006.9.

41. (1) Any person who on the coming into force of this Part is in possession of a permanent warrant obtained under Part II of this Act before the entry into force of this Part shall be deemed to be a warrant holder with the same rights and obligations inasmuch as such warrant had been issued in accordance with the provisions and conditions of this Part.

(2) A person shall be deemed to remain eligible for a permanent warrant under the provisions of this Act before having been amended if on the date of the coming into force of this Part:

- (a) would have already been enrolled in a course leading to a Masters' degree from the University or so a
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comparable degree, and would have been eligible to apply for a permanent warrant under the provisions of article 11(3)(a) before having been amended; or

- (b) qualified for a permanent warrant under the provisions of article 11(3)(b) before having been amended; or
- (c) was practising the teaching profession in any school by virtue of a temporary warrant and had been practising as such for not less than eight scholastic years, and is eligible to apply for a permanent warrant under the provisions of article 11(3)(d) before having been amended due to the fact that such person had practised the teaching profession in a school in Malta for a period of not less than fifteen years and in the opinion of the Minister such person has the necessary academic skill, shall still be qualified to be given a warrant inasmuch as such person was qualified under the provisions of this Part after having completed fifteen years practice.

42. A warrant holder may return his warrant to the Minister and request that his name be cancelled from the register of teachers.

Warrant holder
may return
warrant.
Added by:
XIII. 2006.9.

PART IV

Duty of the State to provide education

Amended by:
XIII. 2006.10.

43. (1) It shall be the duty of the State to provide for the primary education of the children of Maltese citizens being children of compulsory school age.

Primary education.
Amended by:
XIII. 2006.10.

(2) For the purpose mentioned in sub-article (1), the Minister shall wherever possible maintain a school in every town or village and shall provide transport for pupils who reside in areas which are distant from the school.

(3) The State may provide schools for infants who are under compulsory school age.

44. It shall be the duty of the State to provide for the secondary education of the children of Maltese citizens being children who have completed their primary education.

Secondary
education.
Amended by:
XIII. 2006.10.

45. (1) Without prejudice to the provisions of article 58, it shall be the duty of the State to provide resource centres, whose specialised role will include provision for children with individual educational needs who would benefit more from being in such centres than in mainstream schools, for such time as may be appropriate depending on their needs.

Resource centres.
Amended by:
XIII. 2006.10.

(2) A minor shall be deemed to have special educational needs when that minor has special difficulties of a physical, sensory, intellectual or psychological nature.