CHAPTER 280

MEMBERS OF PARLIAMENT PENSIONS ACT

To make provision for the payment of a pension to Members of Parliament.

14th August, 1979

ACT XXVI of 1979, as amended by Acts XIII of 1981, VII of 1989, XXIV of 1995, V of 1996 and XV of 2002; Legal Notice 218 of 2012; and Act XLI of 2016.

Short title.

1. The short title of this Act is the Members of Parliament Pensions Act.

Interpretation.
Amended by: XIII. 1981.2; VII. 1989.2; L.N. 218 of 2012; XLI. 2016.35.

2. (1) In this Act, unless the context otherwise requires -

"current pensionable emoluments" has the same meaning as "pensionable emoluments" with the substitution of references to honoraria or salaries currently payable on a relevant date for the references to honoraria or salaries payable on the date of retirement;

"House" means the House of Representatives established by article 51 of the Constitution;

"member" means any person who, on or after 1st January, 1976, was or becomes a member of the House;

"Minister" means the Minister from time to time responsible for the Department of Social Security, and includes any officer designated by the Minister for a particular purpose or class of purposes;

"pensionable emoluments" means -

(*a*) in respect of service by a member to whom paragraph (*b*) of this definition does not apply, the honorarium payable to a member on the date of his retirement;

(*b*) in respect of service by a member who has also held the office of Speaker, or of Prime Minister, or of Minister, or of Parliamentary Secretary, or of Deputy Speaker or of Leader of the Opposition under any of the instruments specified in subarticle (2), for a period of not less than five years, or who has held any two or more of those offices for a period of not less than five years in the aggregate, or for a period of less than five years, being the whole period between the first sitting of the House or of the Legislative Assembly after any dissolution, up to the date when the House or the Legislative Assembly, as the case may be, is again dissolved after that sitting (hereinafter referred to as "the period of a Legislature"), has held any such office or any two or more of those offices, the salary payable in respect of that office, or the average of the salaries payable in respect of the said offices which carry the

higher emoluments calculated on the length of service in each such office during the five years more favourable to the member, or during that period of a Legislature, as the case may be, being the most favourable to the member, on the date of his retirement:

Provided that where a member who has not held any such office or any such offices for a whole period of a Legislature, but has held any such office for a period of less than five years, or has held any two or more of such offices for a period of less than five years in the aggregate, the average of the salary payable in respect of such office and of the honorarium payable to a member, for a period of five years in the aggregate, or the average of the salaries payable in respect of the said offices and of the honorarium payable to a member, for a period of five years in the aggregate, shall be calculated in the manner aforesaid during the five years more favourable to the member on the date of his retirement;

"retirement" -

(*a*) in respect of a member over the age of sixty-one years who is still a member, means -

(i) the implementation of the decision by such member to cease to be a member or not to seek re-election as a member, and includes the failure to be re-elected if he has sought re-election, or

(ii) the attainment of the age of sixty-five years,

whichever is the earlier;

(*b*) in respect of a member who ceases to be a member before attaining the age of sixty-one years, the attainment of that age;

"service" in relation to any member, means any service performed by such member prior to his attaining the age of sixty-five years as a member of the House and any service as a member of the Legislative Assembly under any of the instruments aforesaid and -

(*a*) in respect of a member who ceases to be a member upon a dissolution of Parliament and is re-elected a member at the first general election after that dissolution, shall also include the period between the said dissolution and the day on which the House first sits after that dissolution;

(*b*) in respect of a member who has occupied the office of Speaker, or of Minister, or of Parliamentary Secretary, shall also include, for the purpose of service as member or of service in any of the said offices, any service in that office while the Assembly or Parliament stood dissolved, so however that no period as a member and in any of the said offices shall be taken into account more than once;

(*c*) in respect of a person who on the 5th January, 1981,

was a member and had attained the age of sixty-five years shall also include any period during which he served as a member between his attaining the age of sixty-five years and the 4th January, 1981;

(*d*) in respect of a person who on the 4th January, 1981, was a member over the age of fifty-five years and had served as member for less than an aggregate of ten years, shall also include any period commencing on the 5th January, 1981, or the day on which he attains the age of sixty-five years, whichever is the latter, and ending on the day on which he shall have completed an aggregate of ten years service as a member;

"service pension" has the same meaning as is assigned to it by article 2 of the Social Security Act; Cap. 318.

"widow" and "actual widow" shall have the same meaning assigned to them in article 2 of the Social Security Act; Cap. 318.

"year", except for the purposes of establishing the age of a person, means a period of three hundred and sixty-five days, and includes two or more periods amounting in the aggregate to three hundred and sixty-five days.

(2) The instruments referred to in subarticle (1) are the Malta (Constitution) Letters Patent, 1947, the Malta (Constitution) Order-in-Council, 1961 and the Malta Independence Order, 1964.

Charge of expenditure on Consolidated Fund.

3. All moneys required to meet any expenditure under this Act shall be a charge on the Consolidated Fund.

Pension to members. *Amended by: XIII. 1981.3; VII. 1989.3; V. 1996.2; XV. 2002.7; XLI. 2016.36.*

4. (1) Subject to the provisions of this Act, a member who has had a term of service in at least two legislatures not being in the aggregate less than sixty five months, shall, on his retirement, receive a pension at the rate of one two hundred and seventieth of his pensionable emoluments for each completed month of service up to the limit established by subarticle (4).

(2) Where on the last day of any month on which a pension is due to be paid to a person under this Act, the pension so payable together with any other service pension exceed in their aggregate the amount which would have been payable to such person under subarticle (1) if the pension had been calculated on the current pensionable emoluments applicable in his case, such person shall receive only such part of the pension otherwise payable under this Act as shall ensure that the said pensions together do not exceed the amount aforesaid:

Provided that where all the pensions aforesaid are together less than the said amount, the pension otherwise payable under this Act shall be increased by such sum as shall ensure that the said pensions together make up that amount.

(3) In any case in which subarticle (2) applies, the provisions of the Social Security Act, in so far as they refer to pensions under that Act, shall apply. Cap. 318.

(4) Subject to the provisions of subarticle (2), a pension

payable to a person under this Act shall not exceed two-thirds of his pensionable emoluments.

(5) For the purpose of calculating a completed month of service, month means calendar month:

Provided that where a member's service is made up of an aggregate of interrupted periods of service the number of days in each of such periods in excess of completed calendar months shall be added together and any aggregate of thirty days resulting from such addition shall constitute an additional completed month.

(6) (*a*) The Minister may give his approval for the award of a pension to a member, who is under the age of sixty one years and who would have satisfied the entitlement conditions for the award of a pension under this Act had he reached the age of sixty one years, if, immediatley prior to his retirement, the Minister is satisfied that such member is precluded from undertaking any gainful occupation owing to some specific mental or physical infirmity.

(*b*) For the purposes of awarding a pension in terms of this subarticle, the Minister shall, before giving his approval, unless the claim for pension fails on other statutory conditions, consult on the medical aspects of the claim with a medical board appointed for the purpose by the Director General responsible for health and the member may for such purpose be requested to submit to such medical examination or tests as the said board may reasonably require and the Minister shall act on the recommmedations of the said board.

(*c*) For the purpose of this subarticle, the Director General responsible for health shall act in accordance with his individual professional judgement and shall not be subject to any direction or control from any other person or authority.

4A. *Omitted under Act IX of 1980.*

Pension payable to the President of Malta.
Added by: V. 1996.3.
Amended by: L.N. 218 of 2012.

4B. (1) A person appointed to the office of President of Malta shall, on retiring from office, be entitled to a pension at the rate of one ninetieth of the salary payable to him on the date of his retirement for each completed month of service as President.

(2) The provisions of article 4(2) to (5) shall apply in respect of the pension payable under subarticles (1) and (4) subject to the following modifications:

(*a*) any reference therein to pensionable emoluments shall be construed as a reference to the salary payable to the President on the date of his retirement;

(*b*) current pensionable emoluments shall be construed as the salary currently payable to the President of Malta.

(3) In the case of the person appointed as President of Malta in virtue of article 49(4) of the Constitution as in force on the 13th

December, 1974, service as President of Malta shall for the purposes of subarticle (1) include also service as Governor General.

(4) The widow or widower of a person appointed to the office of President shall on the death of the person so appointed, be entitled to a pension, to be called a widow's pension, equivalent to five sixths of the pension payable in accordance with the previous provisions of this section to his or her spouse if he had been alive, and if the person appointed dies during his term of office to five sixths of the pension to which he would have been entitled had he retired on the date of his or her death:

Provided that where there are one or more widows who had been married to a person appointed as President of Malta at any time during his tenure of office, such widow's pension shall be apportioned in the manner provided in article 42A of the Social Security Act: Cap. 318.

Provided further that a person entitled to a pension under this sub-article who is also entitled to a pension under any other provisions of this Act shall only be entitled to receive the higher of such pensions.

Member's contribution. *Amended by: XIII. 1981.5; VII. 1989.4.*

5. (1) A contribution, at the rate specified in subarticle (2) shall, from and after the commencement of this Act, be payable by every member under the age of sixty-five years while he is a member, and such contribution shall be deducted from the honorarium or salary of every such member.

(2) The rate of contribution shall be one-twelfth of the honorarium or salary of the contributing member.

(3) Where the amount of contribution payable by a member under the Social Security Act, is equal to or greater than the amount of contribution payable by him under this Act, calculated on a weekly basis, the payment of contribution made in accordance with the provisions of the Social Security Act, shall, for the purposes of this section, be deemed to be a payment made under this Act. Cap. 318.

(4) Where the amount of contribution payable by a member under the Social Security Act is less than the amount of contribution payable by him under this Act, calculated on a weekly basis, the amount of contribution payable under this Act shall be abated by the amount of contribution payable under the Social Security Act. Cap. 318.

(5) A contribution paid under this Act shall, for the purposes of article 53(1)(*d*) of the Income Tax Act, be deemed to be an annual contribution to a pension approved by the Commissioner of Inland Revenue. Cap. 123.

(6) No contribution paid under this Act shall be refundable.

(7) Notwithstanding the provisions of subarticle (1) a contribution under this section shall be payable by a member to whom the provisions of paragraph (*d*) of the definition of "service" in article 2(1) apply in respect of any period taken into consideration under that paragraph for the purpose of calculating the term of service, during which he is over the age of sixty-five

years.

Pension not payable in certain cases.
Amended by:
XIII. 1981.6.

6. (1) Where a former member below the age of sixty-five years who is in receipt of a pension under this Act again becomes a member, no pension shall be payable while he continues to be a member and until he attains the age of sixty-five years:

Provided that where the honorarium or salary currently payable to such member is less than the amount of pension to which he would have been entitled under this Act had he not again become a member, he shall be entitled to receive by way of pension under this Act the difference between such honorarium or salary and such pension until he subsequently ceases to be a member or attains the age of sixty-five years, whichever is the earlier, and thenceforth his pension shall be such as he may be entitled to in accordance with the provisions of this Act.

(2) No pension shall be payable to a person under this Act who has ceased to be a member by reason of the dissolution of Parliament until the publication of the official result of the next ensuing general election or, if he has not sought re-election, until the closing day for nominations for that election.

(3) No pension shall be payable under this Act to a person who is disqualified from membership of the House by or under any law for the time being in force by reason of his having been convicted of an offence connected with the election of members of Parliament.

Pension to widows.
Added by:
XIII. 1981.7.
Amended by:
VII. 1989.5;
V. 1996.4;
L.N. 218 of 2012.

7. (1) Subject to the provisions of this section, a widow or widower of a member who was at the time of his death entitled to a pension under this Act, shall be entitled to receive a pension:

Provided that where there are one or more widows who had been married to a member at any time during his tenure of office, such widow's pension shall be apportioned in the manner provided in article 42A of the Social Security Act:

Cap. 318.

Provided further that a person entitled to a pension under this article who is also entitled to a pension under any other provision of this Act shall only be entitled to receive the higher of such pensions.

(2) The provisions of subarticle (1) shall also apply to a widow or widower of a member who:

(*a*) has not yet attained the age of sixty one years at the time of his death but who, before such death, satisfied the requirements of subsection (1) of section 4 of this Act; or

(*b*) but for the fact that he continued to be a member after attaining the age of sixty one years, would have been entitled to a pension under this Act.

(3) The rate of pension payable under this section shall be equivalent to five-sixths of the pension to which the member was, or, but for the fact that he did not cease to be a member before his death, would have been, entitled in accordance with article 4(1);

and for the purposes of this subarticle, the reference to the pensionable emoluments in article 4(1) shall be construed as a reference to the current pensionable emoluments that would have been applicable to the member but for his death.

(4) The rate of pension payable under this section shall be abated by the amount of any pension payable to her by an employer of her late husband which is related to the employment of her late husband.

(5) No pension shall be payable to a widow under the age of sixty-five years during any time in which she is in receipt of earnings from a gainful occupation exceeding the amount specified under article 32 of the Social Security Act in respect of any period of four weeks. Cap. 318.

Pension not assignable, etc. *Amended by: XXIV. 1995.360.*

8. (1) No pension payable under this Act shall be assignable, transferable or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever, except in so far as is provided in article 381(3) of the Code of Organization and Civil Procedure. Cap. 12.

(2) If a person who is in receipt of a pension under this Act is declared a bankrupt, such pension shall not be deemed to form part of the property or estate of that person for the purposes of any of the provisions of Part III of the Commercial Code. Cap. 13.

Administration of Act. *Amended by: XLI. 2016.37.*

9. The Minister shall be charged with the general administration of this Act.

Saving.

10. Any person who, on the commencement of this Act, is in receipt of an allowance or other payment under the Members of Parliament (Retiring Allowances) Act, 1966* shall continue to be entitled to receive such allowance or other payment until such time as he would have ceased to be so entitled under that Act:

Provided that any such person shall also cease to be entitled to any allowance or other payment under that Act if he is entitled to receive a pension under this Act and he opts to receive such pension.

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*Repealed by subsection (1) of section 10 of the Act as originally enacted, which subsection is being omitted under the Statute Law Revision Act, 1980.