

MALTA

ATT Nru. III ta' l-2005

ACT No. III of 2005

ATT mahruġ b'ligi mill-Parlament ta' Malta.

AN ACT enacted by the Parliament of Malta.

ATT biex jemenda l-Att dwar is-Sigurtà Soċjali, Kap. 318.

AN ACT to amend the Social Security Act, Cap. 318.

I assent.

(L.S.)

GEORGE HYZLER
Acting President

8th March, 2005

ACT No. III of 2005

AN ACT to amend the Social Security Act, Cap. 318.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title and
commencement.

Cap. 318.

1. (1) The short title of this Act is the Social Security (Amendment) Act, 2005, and this Act shall be read and construed as one with the Social Security Act, hereinafter referred to as “the principal Act”.

(2) This Act shall be deemed to have come into force as follows:-

(a) the provisions of article 11 with effect from the 3rd January, 2004;

(b) the provisions of articles 3 and 4 with effect from the 5th January, 2004; and

(c) the provisions of articles 5 and 7 with effect from the 1st January, 2005; and

(d) the remaining provisions upon enactment of this Act.

2. Subarticle (1) of article 2 of the principal Act shall be amended as follows:-

Amendment of
article 2 of the
principal Act.

(a) for the definition “benefit year” there shall be substituted the following:-

“ “benefit year” means the period starting from the first Monday in January and ending on the last Sunday before the first Monday in January of the following year;”;

(b) in the definition “Director”, in the proviso thereto, for the words, “either the Director (Social Security) of the Commissioner of Inland Revenue” there shall be substituted the words “the Director (Social Security) or the Commissioner of Inland Revenue” and for the words “as the case may require;” there shall be substituted the words “as the case may require:” and immediately thereafter there shall be added the following new proviso:

“Provided further that in respect of the provisions of sub-article (1) of article 93 of this Act, and save as otherwise provided, the word Director means the Director responsible for the Department of the Elderly and Community Services, and includes any public officer in his department designated by him;”;

(c) in the definition “Minister” for the words, “or class of purposes;” there shall be substituted the words “or class of purposes:” and immediately thereafter there shall be added the following proviso:

“Provided that in respect of the provisions of article 93, 130 and 131, and save as otherwise provided, the word Minister means the Minister responsible for the elderly and includes any officer designated by the said Minister for a particular purpose or class of purposes;”;

(d) in the definition “severely disabled person” in paragraph (c) thereof, for the words “TC II Deficiency; or” there shall be substituted the words “TC II Deficiency” and immediately thereafter there shall be added the words “Cerebellar Ataxia; or”; and

(e) for the definition “Umpire” there shall be substituted the following:-

“ “Umpire” means any umpire appointed under article 107 of this Act.”.

Amendment of article 3 of the principal Act.

3. In subarticle (2) of article 3 of the principal Act, immediately after the proviso thereto, there shall be added the following further proviso:-

“Provided further that in the case of any married person who is not legally separated or who has not been abandoned by his spouse and who on the 4th January, 2004 was in insurable employment and who after that date terminated his employment so as to partake of an early retirement scheme, as may be approved by the Minister responsible for finance, or is prior to the said date recognized as such by the Director, such person shall, if he so elects, be deemed to be a self-employed person if on his termination from his employment he satisfies the minimum contribution conditions required in terms of paragraph 2 of the Eleventh Schedule, calculated from his eighteenth birthday up to the date of his termination of his last employment.”.

Amendment of article 12 of the principal Act.

4. Article 12 of the principal Act shall be amended as follows:-

(a) subarticle (2) thereof shall be renumbered as subarticle (3); and

(b) immediately after subarticle (1) thereof, there shall be added the following new subarticle:

“(2) If a person in respect of whom subarticle (1) of this article applies is a married person who is legally separated and who is not gainfully occupied, then such person may opt to have any maintenance paid to him by the other spouse excluded from the calculation of means made in accordance with the provisions of Part I of the Second Schedule to this Act.” .

Amendment of article 27 of the principal Act.

5. In article 27 of the principal Act –

(a) in subarticle (1), for sub-paragraph (ii) of paragraph (c) to the words “of subarticle (3)” of the subsequent paragraph, there shall be substituted the following:-

“(ii) his weekly means, calculated in accordance with the provisions of Part V of the Second Schedule to this Act, do not exceed the national minimum wage as applicable to persons of eighteen years of age or over

established by a National Standard Order under the Employment and Industrial Relations Act;

shall be entitled to a Disability Pension under this Act and the highest rate of which, including any increases in terms of the provisions of article 90 of this Act, shall be such in accordance with Part III of the Sixth Schedule to this Act and with the provisions of subarticle (3) of this article.”; and

(b) in subarticle (3), for the proviso starting with the words “sohowever that save as provided for” to the words “payable to the wife shall cease to be payable.” there shall be substituted the following provisos:—

“Sohowever that, saving the provisions of article 96 of this Act and of the second proviso to paragraph 4 of Part V of the Second Schedule to this Act, where a married person and the spouse both qualify for a pension under the provisions of this article or of article 66 of this Act, any such pension as is payable to one of the spouses shall cease to be payable:

Provided further that with effect from the 1st January, 2005, where a married person qualifies for a pension under the provisions of this article, the applicable rate shall be that payable in accordance with Part III of the Sixth Schedule to this Act.”.

6. In subarticle (6) of article 28 of the principal Act, the words “article 18(6)(a), (b) and (c).” shall be substituted by the words:

Amendment of article 28 of the principal Act.

“article 18(6) (a), (b) and (c) of this Act, and where it has been proven that the person concerned has acted negligently by disregarding any safety precautions that he was obliged to take in terms of the Occupational Health and Safety Authority Act, thereby causing the accident that resulted in the injury:

Provided that where it is proven that the employer was in breach of any of the provisions of the Occupational Health and Safety Authority Act, the Director may claim from the employer any benefit paid to the insured person relating to such accident.”.

Cap. 424.

7. In subarticle (11) of article 30 of the principal Act, for the words from “in accordance with the provisions of the Civil Code;” to the words “and the Director shall take due account of such reports in the exercise of his discretion under this subarticle.” there shall be

Amendment of article 30 of the principal Act.

substituted the words “in accordance with the provisions of the Civil Code:”.

Amendment of
article 31 of the
principal Act.

8. Article 31 of the principal Act shall be amended as follows:-

(a) in paragraph (a) thereof, the words “where an allowance under article 76 is being paid in respect of such child” shall be deleted; and

(b) in paragraph (b) thereof, the words, “where an allowance under article 76 is being paid in respect of such son or daughter” shall be deleted.

Amendment of
article 58 of the
principal Act.

9. Article 58 of the principal Act shall be amended as follows:-

(a) in paragraph (a) thereof, in sub-paragraph (ii), for the words “was payable; and” there shall be substituted the words “was payable;”;

(b) in paragraph (b) thereof, for the words “bona fide.” there shall be substituted the words “bona fide; and”;

(c) immediately after paragraph (b) thereof, there shall be added the following new paragraph:

“(c) any accelerated increment.”.

Amendment of
article 84 of the
principal Act.

10. In article 84 of the principal Act, immediately after subarticle (2) thereof there shall be added the following new subarticle:

“(3) The Minister responsible for the elderly may, from time to time and with the concurrence of the Minister responsible for finance, make regulations for the purpose of establishing the contribution due by residents of State Financed Residential Services in terms of article 93 of this Act.”.

Amendment of
article 93 of the
principal Act.

11. In article 93 of the principal Act, immediately after subarticle (4) thereof, there shall be added the following new subarticle:-

“(5) Where no benefit, pension, bonus, assistance or allowance is due to a resident of a state financed residential service, and whether such benefit, pension, bonus, assistance or allowance is payable under this Act or from any other source, or where such benefit, pension, bonus, assistance or allowance is less than the amount that is due by way of a contribution, as specified in terms of subarticle (1) of this article, the Director of the Department for

the Elderly and Community Services shall be empowered to enter into a contract with such resident and, or any other party, as the case may require, for any contribution that may be due to Government in accordance with the provisions of this article.”.

12. Article 107 of the principal Act shall be amended as follows:— Amendment of article 107 of the principal Act.

(a) for the marginal note there shall be substituted the following words “Appointment of Umpires.”;

(b) for subarticle (1) thereof there shall be substituted the following:—

“(1) For the purposes of this Act, the Minister may appoint one or more persons to serve as Umpires in cases that may be referred to them from time to time, so however that:—

(a) in all cases the person so appointed shall have held a warrant to practise the profession of advocate in Malta for at least seven years; and

(b) the appointment shall be for a period of one year.”;

(c) subarticle (5) thereof shall be deleted; and

(d) subarticle (6) shall be renumbered as subarticle (5) thereof.

13. Immediately after article 116A of the principal Act there shall be added the following new article 116B:— Addition of new article 116B to the principal Act.

“Collection of arrears of unpaid contributions.

116B. (1) Without prejudice to the provisions of this Act, and with effect from the 3rd January, 2005, any arrears due in respect of any unpaid Class One or Class Two contributions for any period prior to the 1st January, 1998, shall be due and payable to the Commissioner of Inland Revenue.

(2) For the purpose of enforcing the payment of such arrears of unpaid contributions as mentioned in subarticle (1) of this article, the powers vested in the Director of Social Security by Part X of this Act may also be exercisable by the Commissioner of Inland Revenue.”.

Amendment of
article 130 of the
principal Act.

14. In subarticle (1) of article 130 of the principal Act, for the words “one from the Department for the Welfare of the Elderly, one from the Department of Welfare and” there shall be substituted the words “one from the Department for the Elderly and Community Services, one from the Department of Social Security and”.

Amendment of
article 132 of the
principal Act.

15. In subarticle (1) of article 132 of the principal Act, immediately after the words “in the Commissioner of Inland Revenue” there shall be added the words “, or in the Director of the Department for the Elderly and Community Services”.

Passed by the House of Representatives at Sitting No. 244 of 2nd March, 2005.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives