

I assent.

(L.S.)

ĊENSU TABONE
President

8th August, 1989

ACT No. XXVII of 1989

AN ACT to amend the Malta Dockyard Act, 1968.

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:—

1. This Act may be cited as the Malta Dockyard (Amendment) Act, 1989 and shall be read and construed as one with the Malta Dockyard Act, 1968, hereinafter referred to as “the principal Act”. Short title.
Act XV
of 1968.

2. Section 5 of the principal Act shall be amended as follows: Amendment
of section 5
of the
principal Act.

(a) for subsection (2) thereof there shall be substituted the following:

“(2) The Council shall consist of nine members (hereinafter also referred to as the elected members) elected by the employees of the corporation in manner provided by this Act. One of the members shall be elected as Chairman by the members of the Council at the first sitting after their election.”;

(b) for subsection (6) thereof there shall be substituted the following:

“(6)(a) Where a vacancy occurs among the members of the Council, it shall be filled by the employees of the corporation by means of an election held for the purpose.

(b) Where the office of chairman of the Council becomes vacant, the members of the Council shall proceed to elect one of their members as Chairman at the first sitting held after the vacancy occurs.”; and

(c) in subsection (12) thereof, for the words “the Schedule to this Act” there shall be substituted the words “the First Schedule to this Act”.

Amendment
of section 9
of the
principal Act.

3. For the proviso to section 9 of the principal Act, there shall be substituted the following:

“Provided that the Government may not secure any liability of the corporation beyond the aggregate sum of three and a half million Maltese liri or such other sum as the House of Representatives may by resolution determine.”.

Amendment
of section 10
of the
principal Act.

4. Section 10 of the principal Act shall be amended as follows:

(a) in subsection (1) thereof for the words “as the Council, with the concurrence of the Minister responsible for finance, may deem appropriate in the circumstances” there shall be substituted the words “as the Minister responsible for finance may direct as appropriate in the circumstances”; and

(b) in subsection (2) thereof for the words “the corporation may hypothecate or charge” there shall be substituted the words “the corporation may, with the concurrence of the Minister responsible for finance, hypothecate or charge”.

Substitution
of section 12
of the
principal Act.

5. For section 12 of the principal Act, there shall be substituted the following:

“Application of surplus of revenue of the corporation. 12. Any profits of the corporation for any financial year after charging provisions in respect of tax and of its obligations under sections 10 and 11 of this Act shall be applied for such purposes as the Council may determine:

Provided that —

(a) no less than 20% shall be credited to the reserve fund;

(b) no part of the remaining balance shall be applied otherwise than for purposes of the corporation or, to the extent permitted by this Act, for the benefit of the employees of the corporation; and

(c) the power of the Council under this section shall be subject to such directions as to the application of any such excess as the Prime Minister may give to the Council.”.

Addition
of new section
16A to the
principal Act.

6. Immediately after section 16 of the principal Act, there shall be added the following section:

“Early retirement scheme. 16A. (1) There is hereby established for the employees of the corporation a scheme to be known as the Early Retirement Scheme whereby workers of the

corporation between the ages of 56 and 61 years, or such other ages as the Prime Minister in agreement with the Council may in accordance with subsection (5) of this section prescribe, and those of a younger age suffering from ill-health or injury shall be given a pension upon their early retirement in accordance with the agreement entered into between the Government and the Council of the corporation on the 16th May, 1989.

(2) The Early Retirement Scheme shall be voluntary. Eligibility for a pension under the Scheme, shall be governed by the Rules governing the Early Retirement Scheme (hereinafter called the Rules) contained in the Second Schedule to this Act.

(3) The Scheme shall be run by a Committee appointed in accordance with the Rules, and the Committee shall subject to the said rules be responsible for the proper functioning of the Scheme.

(4) Employees of the corporation may up to the 31st December 1990, or such later date as the Prime Minister in agreement with the Council may in accordance with subsection (5) of this section prescribe, apply to benefit from the Scheme.

(5) The Prime Minister may make regulations:

(a) prescribing anything that may be prescribed in accordance with any of the foregoing subsections of this section;

(b) effecting such amendments to the Rules that may be necessary in order to give full effect to the agreement referred to in subsection (1) of this section, or in any agreement entered between the Government and the Council concerning the Scheme;

(c) generally for giving better effect to the provisions of this section and to the agreement referred to in subsection (1) of this section.”.

7. (1) The Schedule to the principal Act shall be renumbered as the First Schedule thereto;

(2) Immediately after the First Schedule to the principal Act, as renumbered there shall be added the following Second Schedule:

Addition of
new Schedule
to the
principal Act.

"Second Schedule

(Section 16A)

**RULES GOVERNING THE
EARLY RETIREMENT SCHEME — MALTA DRYDOCKS**

Committee.

1. The running of the scheme shall be the responsibility of a Committee appointed by the Prime Minister and published in the Gazette.

Composition
of Committee.

2. The Committee shall be composed of four members, one from the Ministry of Finance, one from the Ministry for Social Policy, one from the Council of the Malta Drydocks and one from the Management of the Malta Drydocks. All decisions of the Committee must be unanimous.

Functions
and Powers
of the
Committee.

3. (i) The Committee shall regulate its own procedures.

(ii) Where any claim for early retirement is contested either by Management or by the applicant, either of the contesting parties shall have the right to petition for an appeal to lie with the Committee and for this purpose the Committee shall act as an Administrative Tribunal in which capacity it shall be empowered to allow or disallow a claim for early retirement and its decision shall be construed as final.

(iii) The Committee shall have access to relevant information held by management in respect of any applicant who may be considered as eligible for the scheme irrespective whether such eligibility is on the grounds of age, or on the grounds of ill-health.

Decisions of
Committee
shall bind
Management.

4. Any decision by the Committee under the provisions of rule 3 shall bind the Management of the Malta Drydocks and the latter shall ensure that such decisions are implemented immediately.

Eligibility.

5. The scheme shall be open to:

(a) (i) Every employee of the Malta Drydocks who will have attained the age of 56 years in the case of a man and the age of 55 in the case of a woman on or before the 31st December, 1990; and

(ii) Who has been in employment at the Malta Drydocks for not less than 10 years; and

(iii) Who, if he had to continue in employment up to the age of 61 years in the case of a man and up to the age of 60 years in the case of a woman would have satisfied the contribution condition for the award of a two thirds pension in accordance with the provisions of the Social Security Act, 1987.

(b) The Scheme shall also include applicants who are certified as medically unfit irrespective of their age.

6. The rate of pension shall be equivalent to two-thirds of the yearly average of the basic wage or salary paid during the best three consecutive calendar years prior to retirement under this scheme.

Rate of Pension.

7. Applicants who become eligible for the scheme owing to a medical condition shall, besides satisfying the condition of paragraph (b) of rule 5, have the proportion of $\frac{2}{3}$ substituted by the proportion which the number of complete months in employment at the Drydocks bears to 540.

Reduced Rate of Pension.

8. (i) Applicants who become eligible for the scheme under paragraph (b) of rule 5 shall present such medical certificates confirming their condition.

Medical Panel.

(ii) Such applicants shall be referred to a Medical Panel composed of the Senior Medical Officer of the Malta Drydocks, a medical specialist appointed by the Management of the Malta Drydocks and two medical specialists appointed for this purpose by the Minister for Social Policy.

(iii) The Medical Panel shall seek the advice of Malta Drydocks' technical experts in the field before reaching a decision.

9. The Medical Panel shall have the power to refer applicants to undergo such tests at a Government Hospital, as they may in their opinion deem necessary in order to consider claimants' inability for work.

Medical Tests.

10. The Medical Panel's opinion shall be referred to the Committee only when there is disagreement among members.

Medical Referees.

11. The pension paid by the scheme shall be re-assessed annually with effect from the first Saturday in January of the year of the re-assessment in order to provide for any wage increases either as a result of a general wage increase awarded by Government or as a result of an increase in any wage structure of the Malta Drydocks. So however that, in the case of a new wage structure at the Malta Drydocks, the pensionable emoluments shall be increased on a corresponding point of scale on the structure.

Annual Re-Assessments.

12. A bonus equivalent to that payable under section 91 of the Social Security Act, 1987 shall be paid to each pensioner.

Bonus.

13. A contribution in terms of the Social Security Act, 1987 shall be paid by the scheme to the pensioner so however that the contribution paid by the scheme to the pensioner shall be equivalent to the Class II Social Security contribution that would be due on the income arising out of the pension and bonus.

Social Security Contribution.

No such contribution shall be due to be paid by the scheme when the pensioner becomes entitled to a credited contribution under the Social Security Act, 1987.

Cessation
of Pension.

14. A pension paid under the scheme shall cease to be payable on the first Saturday following the attainment of pension age as defined in the Social Security Act, 1987.

Refusal to
Join Scheme.

15. Any applicant eligible for the scheme who has elected to join the scheme shall be refused only if his retirement would prejudice the interests of Malta Drydocks.

Reduction of
Pension
following
Gainful
Occupation.

16. A pensioner who is in receipt of an early retirement pension under the scheme and who subsequently becomes gainfully occupied shall forfeit his right to the full rate of his early retirement pension if the aggregate of the earnings he derives together with the pension payable under the scheme exceed Lm50 per annum the pensionable emoluments on which his pension was computed, and a reduced rate of pension equivalent to the balance obtaining by deducting the earnings he derives from the current pensionable emoluments on which his pension was computed together with the sum of Lm50 per annum shall become payable.

Refund of
Pension.

17. A pensioner who is receiving an early retirement pension under the scheme shall be bound to inform the Management of the Malta Drydocks about any activity through which earnings are derived. Any non-disclosure of such material fact shall make the pensioner liable to refund any pension, bonuses and contributions paid but not due.”.

Transitory
provision.

8. Nothing in section 3 of this Act shall effect any guarantee that the Government may have given to any creditor of Malta Drydocks, before the 1st January 1989, and the liability secured by the Government before that date shall not be taken in consideration for the purposes of section 9 of the principal Act as amended by section 3 of this Act.

Passed by the House of Representatives at Sitting No. 282 of the 27th July, 1989.

LAWRENCE GONZI
Speaker

P. MUSCAT TERRIBILE
Clerk to the House of Representatives