VERŻJONI ELETTRONIKA

L.N. 167 of 2016

CIVIL PROTECTION ACT
(CAP. 411)

Civil Protection Pensions Regulations, 2016

IN EXERCISE of the powers conferred by article 12 of the Civil Protection Act, the Minister responsible for Civil Protection, with the concurrence of the Minister for Finance, has made the following regulations:-

Citation and applicability.

1. (1) The title of these regulations is the Civil Protection Pensions Regulations, 2016.

(2) These regulations shall apply to all members of the Assistance and Rescue Force established in terms of article 8 of the Act.

Interpretation

2. In these regulations, unless the context otherwise requires -

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"Act" means the Civil Protection Act;

"the Department" means the Department of Civil Protection established by article 3 of the Act;

"the Director" means the Director of the Department of Civil Protection and includes any officer designated or authorised by the Director to act in his behalf;

"the Force" means the Rescue and Assistance Force established by article 8 of the Act;

"the Minister" means the Minister responsible for Civil Protection and includes, to the extent and authority given, any person or body of persons authorised by the said Minister for any of the purposes of these regulations.

Grant of pension.

3. Subject to the provisions of the Act and of these regulations, every officer of the Civil Protection who has been in the force for ten years or upwards may be granted a pension at the rate of one four-hundred and fiftieth of his pensionable emoluments for each complete month of pensionable service, subject to the limits provided for in the Retirement Pensions Act.

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Service to be unbroken.

4. The service in respect of which a pension may be granted must be unbroken, except in cases where service has been interrupted by abolition of office or other temporary suspension of employment, and not arising from misconduct or voluntary resignation:

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Provided that any service prior to a break of service may be allowed to count for pension together with any service subsequent to such break:

(a) if the whole intervening period has been spent in some other employment in the service of the Republic of Malta; or

(b) in the case where such officer, having resigned from the Force, is subsequently recalled in the Force with the approval of the Prime Minister on account of the exigencies of the Force, and such recall is certified by the Prime Minister.

Computation of the amount of the pension.

5. (1) For the purpose of computing the amount of the pension of an officer who has had a period of not less than three years' pensionable service under the Act and under these regulations before his retirement -

(a) in the case of an officer who has held the same office for a period of three years immediately preceding the date of his retirement, the full annual pensionable emoluments enjoyed by him at that date in respect of that office shall be taken;

(b) in the case of an officer who at any time during such period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of such transfer or transfers, otherwise than by the grant of any scale increments, the full annual pensionable emoluments enjoyed by him at the date of his retirement in respect of the office then held by him shall be taken;

(c) in other cases one-third of the aggregate pensionable emoluments enjoyed by the officer in respect of his service during the three years of his service immediately preceding the date of his retirement shall be taken:

Provided that:

(i) if such one-third is less than the highest annual pensionable emoluments enjoyed by him at the date of any transfer within such period of three years those annual pensionable emoluments shall be taken; and

(ii) if such one-third is less than the annual pensionable emoluments which would have been enjoyed by him at the date of his retirement, if he had continued to hold any office from which he has been transferred at any time during such period of three years, and had received all

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scale increments which, in the opinion of the Prime Minister would have been granted to him, the annual pensionable emoluments which would have been so enjoyed shall be taken.

(2) For the purpose of determining the pensionable emoluments that an officer has enjoyed or would have enjoyed, as the case may be, he shall be deemed -

(a) to have been on duty on full pensionable emoluments throughout the period of three years immediately preceding the date of his retirement; and

(b) to have enjoyed the benefit of any increase due to a revision of salaries in the pensionable emoluments of any office held by him as if such increase has been payable throughout such period of three years.

(3) For the purpose of computing the amount of the pension of an officer who has had a period of less than three years' pensionable service before his retirement -

(a) the average annual pensionable emoluments enjoyed by him during such period shall be taken;

(b) he shall be deemed to have been on duty on full pensionable emoluments throughout such period;

(c) he shall be deemed to have enjoyed the benefit of any increase due to a revision of salaries in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period; and

(d) there shall be taken into consideration any periods during which he has been absent from duty on leave without salary, granted on grounds of public policy with the approval of the President of Malta, and during which he has not qualified for pension in respect of other public service.

(4) In no circumstances shall the pensionable emoluments to be taken exceed the full annual pensionable emoluments enjoyed by the officer at the date of his retirement in respect of the office then held by him.

(5) In the case of an officer to whom regulation 6(1)(d) applies, the date of retirement shall:

(a) where such officer reaches the age of retirement; or

(b) where such officer would have but for his dismissal

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completed twenty-five years' service; or

(c) where such officer dies,

before his dismissal has been declared null by the competent authority, be deemed to be the day on which he reaches the age of retirement, or the day on which he would have completed twenty-five years' service, or on which he died, whichever is the earlier, and his pensionable emoluments to be taken into consideration shall be those which he would have been receiving on such date had he not been so dismissed.

Periods to be taken into account.

6. (1) For the purpose of computing the amount of an officer's pension the following periods shall be taken into account as pensionable service:

(a) any periods during which he has been on duty;

(b) any period during which he received half salary;

(c) any periods during which he has been absent from duty on leave with full or half salary;

(d) any period following dismissal from the Force, where such dismissal is subsequently declared to have been invalid by a competent authority, up to the time of reinstatement, or the date when such an officer would have completed twenty-five years' service, or the day on which such officer would have to retire because of age, or the date when such officer dies, whichever is the earlier:

Provided that any periods during which he has been absent on leave other than those specified above shall be deducted from the officer's total service in order to arrive at his period of pensionable service.

(2) For the purposes of sub-regulation (1)(d) and for the purposes of regulation 5(5), the term "dismissal" shall be deemed to include "compulsory retirement on the ground of public interest", and the term "dismissed" shall be construed accordingly.

Acting service in the Force.

7. Where an officer has performed acting service in a pensionable office in the Force, the period of such service may be taken into account as pensionable service under the Act:

Provided that -

(a) the period of such acting service was not part of the pensionable service of the previous holder of the office and does not fall to be reckoned as part of the officer's own pensionable

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service under the Act and under these regulations in the Force;

(b) this period of service is immediately preceded or followed by service in a substantive capacity in the Force.

Abolition of office.

8. If an officer retires or is removed from the Force in consequence of the abolition of his office, or for the purpose of facilitating improvements in the Force, by which greater efficiency and economy can be effected, he may be granted a pension:

Provided, however, that if he has been in Force for less than the qualifying period of ten years, he may be granted a pension calculated in accordance with regulation 3 as if there had been no qualifying period:

Provided also that the grant of such pension shall be subject to the condition that he shall be liable to be recalled to service in the Force:

Provided further that if such an officer is not qualified for other employment in the Force or if there is no reason, in the opinion of the Prime Minister, to expect that he can be shortly re-employed, a pension may be granted to him free from the above-mentioned condition.

Increase in pension.

9. An officer whose office is abolished may be granted an increase of his pension at the rate of one-sixtieth part of his annual pensionable emoluments for each complete period of three years' pensionable service:

Provided that -

(a) the addition shall in no case exceed ten-sixtieths; and

(b) no addition shall be made so as to qualify an officer for a pension of higher annual value than that for which he would have been qualified by length of service on reaching the age at which he may be required to retire, or for a pension of higher annual value than the maximum prescribed in the Retirement Pensions Act.

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Permanent disability.

10. Where an officer has sustained a physical injury on duty leading to a permanent disability -

(a) without his own default, and

(b) during the actual discharge of his duties, and

(c) is, due to such injuries, incapable of fulfilling any other role in the Force, and

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(d) has been duly certified by an Injuries Board, composed of medical and other professionals, and appointed by the Minister responsible for Civil Protection,

such officer shall be entitled to pensionable emoluments as if he had completed the twenty-five years' service.

Where officer dies while carrying out duties of his office.

11. (1) Where an officer, without his own default, dies as a direct and immediate consequence of him having carried out the duties of his office, his dependants, unless otherwise precluded at law, shall be entitled to the payment of such pensionable emoluments as mentioned hereunder.

(2) For the purpose of sub-regulation (1), his pensionable emoluments shall be granted to:

(a) the surviving spouse or partner of the deceased until such spouse remarries or such partner contracts another union of equivalent status in accordance with the Civil Union Act, or reaches pensionable age, or in the absence of an eligible spouse or partner;

Cap. 530.

(b) the child or children of the deceased until such child or children attain the age of eighteen years or until such child attains the age of twenty-three years if attending a full-time educational institution; or in the absence of children;

(c) a parent or immediate family relative who was dependent on him for maintenance for a period of five years from the death of the officer subject to the retention of a state of dependency:

Provided that the pensionable emoluments granted to the child or children as provided in this sub-regulation shall be equally divided and, in the case of minors, entrusted to their legal guardian as defined in the Children and Young Persons (Care Orders) Act.

Cap. 285.

Faithful and meritorious service.

12. (1) Pensions, computed at the rates before mentioned, shall only be granted in case of decidedly faithful and meritorious service.

(2) Where the fidelity and diligence of the officer fall short of the first degree of merit the computation may be made at lower rates.

Pension not to exceed two-thirds of the highest pensionable emoluments.

13. (1) A pension granted to an officer under the Act shall not exceed two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his service in the Force.

(2) For the purpose of the preceding sub-regulation an additional pension granted in respect of injury shall not be taken into

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account; but where an officer is granted such an additional pension, the amount of such additional pension which he may draw shall not exceed one-sixth of his highest pensionable emoluments at any time in the course of his service in the Force by more than the sum by which his pension or pensions, apart from such additional pension, falls short of two-thirds of such highest emoluments.

(3) For the purposes of this these regulations:

"month" means a calendar month;

"pensionable emoluments" includes:

(a) salary;

(b) personal allowance,

but does not include duty allowance, entertainment allowance, house allowance, the estimated annual rental value of free quarters, value of rations, extra remuneration, any fees paid out of the Treasury by way of salary or any other emoluments whatsoever;

"personal allowance" means a special addition granted personally to the holder for the time being of the office, but does not include such an addition if it is granted subject to the condition that it shall not be pensionable;

"officer" means an officer of the Assistance and Rescue Force established by article 8 of the Act;

"year" means a calendar year.

Pension is not assignable, sequestrated or levied upon. Cap. 12.

14. No pension under these regulations shall be assignable, sequestrated or levied upon, for or in respect of any debt or claim whatever, except in so far as is provided in article 318(3) of the Code of Organization and Civil Procedure.

Reduction in pension in certain circumstances.

15. (1) An officer, who retires on the grounds listed in article 15(v) of the Act, to whom a pension has been granted under the Act and these regulations and who is in receipt of:

(a) any remuneration in respect of any employment, or of any services rendered, or of any office held; or

(b) any income deriving from the exercise of a trade, business, profession or vocation; or

(c) any income deriving from any pension, allowance or other payment in respect of any employment, service or office aforesaid,

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shall, until he reaches the twenty-fifth anniversary of his first appointment in the Force, have his pension reduced by the amount by which the aggregate income established in accordance with the following provisions of this regulation exceeds the salary which is then payable in respect of the post which the officer held on retirement, taking account only, if such salary is incremental, of the corresponding increments earned prior to retirement, or, if such post has been abolished, in an analogous post:

Provided that the yearly pension shall in no case be reduced to less than the sum of one hundred and sixteen euro and forty-seven cents (€116.47), and if the yearly pension or other allowance does not exceed the minimum payable as aforesaid no reduction shall be made therefrom.

(2) For the purposes of sub-regulation (1), the aggregate income shall be established by adding:

(a) the pension which, but or the provisions of this regulation, would have been receivable under the Act and these regulations; and

(b) any remuneration or income referred to in sub-regulation (1)(a), (b) or (c), or both such remuneration and income; and

by subtracting therefrom the yearly sum of one hundred and sixteen euro and forty-seven cents (€116.47).

(3) Any reduction in the pension under sub-regulation (1) shall be calculated on the basis of the pension, the remuneration or other income, and the salary, receivable during a period of twelve months ending on 31st December of the year in which the reduction is due to be made, but, subject to any adjustments that may be or become necessary for any reason whatsoever, and in so far as practicable, shall be made from monthly or other periodical payments of the pension.

(4) Any officer to whom sub-regulation (1) applies shall without delay inform the Accountant General, and keep him at all times informed, of all the circumstances which render the said sub-regulation applicable to him and the extent to which it is applicable, and of any change in the circumstances or extent aforesaid, and shall give the Accountant General, on request, all relevant information; and if such officer fails to comply with any of the provisions of this sub-regulation, ant pension to which he may be entitled under the Act and these regulations shall forthwith cease:

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Provided that on good cause being shown the pension or other allowance may be restored, with or without retrospective effect, by the Prime Minister.

Applicability of Council Directive 98/49/EC of the 29th June, 1998.

16. Pensions, gratuities and allowances payable under these regulations shall also be payable to the person entitled thereto in other Member States of the European Community net of any taxes and transaction charges in accordance with Article 5 of Council Directive 98/49/EC of the 29th June, 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community.

Where officer is posted in another Member State.

17. Where any officer to whom these regulations apply is posted in another Member State of the European Union, such officer shall be entitled to receive adequate information as to his rights under regulation 16.

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