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L.N. 354 of 2016

MEMBERS OF THE JUDICIARY (PENSIONS) ACT (CAP. 564)

Pensions (Members of the Judiciary and Attorney General) Regulations, 2016

IN EXERCISE of the powers conferred by article 3 of the Judiciary (Pensions) Act, the President of Malta has made the following regulations:-

Citation.

1. The title of these regulations is the Pensions (Members of the Judiciary and Attorney General) Regulations, 2016.

Entitlement and rates of pensions. Cap. 564.

2. Subject to the provisions of the Members of the Judiciary (Pensions) Act, hereinafter referred to as "the Act", and of these regulations, every Member of the Judiciary and the Attorney General after not less than three years of service shall be granted a pension at the rate of one two-hundred and seventieth of his pensionable emoluments for each complete month of pensionable service, and subject to the limit described in article 7 of the Act until the maximum proportion of two-thirds of such pensionable emoluments is attained.

Pensions in respect of service of less than ten years.

3. (1) A Member of the Judiciary or the Attorney General who, after not less than three years of service, retires with a service of less than ten years shall be awarded a pension of one two-hundred and seventieth of his pensionable emoluments for each complete month of his service as a Member of the Judiciary or as Attorney General, provided that the minimum rate of pension awarded to a Member of the Judiciary or to the Attorney General shall not be less than sixty, two hundred and seventieth of his pensionable emoluments.

(2) A Member of the Judiciary or the Attorney General who, before the appointment to the Bench or to the office of Attorney General, has served in any other capacity in the public service and who has been a Member of the Judiciary or Attorney General for not less than three years, shall be entitled to claim a pension at the rate of one two hundred and seventieth of his pensionable emoluments as a Member of the Judiciary or as Attorney General for each complete month of pensionable service in any capacity until the maximum proportion of two-thirds of such pensionable emoluments is attained.

For the purposes of this sub-regulation service in any

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capacity in a body corporate established by law, in a Commission, Board or Authority established by law, or in a Government Agency shall be deemed to constitute public service.

Gratuity and reduced pension.

4. (1) Any Member of the Judiciary or the Attorney General to whom a pension is granted under the Act may, at his option exercisable as hereinafter provided, be paid in lieu of such pension, a pension at the rate of three-fourths of such pension together with a gratuity equal to twelve and a half times the amount of the reduction so made in the pension.

(2) Where a Member of the Judiciary or the Attorney General is in office on the date of coming into force of these regulations, the option referred to in sub-regulation (1) shall be exercisable not later than the day immediately preceding the date of retirement of such Member of the Judiciary or of the Attorney General.

(3) In the case of a Member of the Judiciary of Attorney General who has already retired on the date of coming into force of these regulations, the option referred to in sub-regulation (1) shall not be applicable, and any pension payable to such Member of the Judiciary or Attorney General shall only start to be payable as from the date of coming into force of these regulations.

(4) Subject to the provisions of sub-regulation (2), if a Member of the Judiciary or the Attorney General exercises the option, his decision shall be deemed irrevocable so far as concerns any pension to be granted to him under the Act.

(5) If a Member of the Judiciary or the Attorney General who has not exercised the option dies before a pension has been awarded under the Act, it shall be lawful for the President of Malta to grant a gratuity to the widow or widower or to the survivor of a civil union of the Member of the Judiciary or Attorney General as provided in sub-regulation (1) as if the Member of the Judiciary or the Attorney General had, before his death, exercised the option. Such gratuity shall be granted without prejudice to the pension payable in accordance with article 12 of the Act,

Gratuities where length of service does not qualify for pension.

5. Every Member of the Judiciary or the Attorney General, who has not completed three years of service, shall be granted a gratuity at the rate of half a month's pensionable emoluments for each complete two months of service.

Commencement of service.

6. Subject to the provisions of the Act, service shall be deemed to commence on the date when the Member of the Judiciary or the Attorney General enters upon the duties of his or her office as prescribed by articles 91 and 101, respectively, of the Constitution of

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Malta.

Service to be unbroken.

7. The service in respect of which a pension or gratuity is granted must be unbroken except for cases where the service has been interrupted by temporary suspension of employment not arising from voluntary resignation or by reason of transition between the offices to which these regulations apply.

Emoluments to be taken for pension or gratuity.

8. (1) For the purpose of computing the amount of the pension or gratuity of a Member of the Judiciary or of the Attorney General who has had a period of not less than three years' pensionable service before his retirement -

(a) in the case of a Member of the Judiciary or Attorney General who has held 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 into account;

(b) in other cases one third of the aggregate pensionable emoluments enjoyed by the Member of the Judiciary or Attorney General in respect of his service during the three years of his service immediately preceding the date of his retirement shall be taken into account.

(2) For the purpose of determining under sub-regulation (1) the pensionable emoluments that a Member of the Judiciary or Attorney General 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 had been payable throughout such period of three years.

(3) For the purpose of computing the amount of the pension or gratuity of a Member of the Judiciary or Attorney General 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 into account;

(b) he shall be deemed to have been on duty on full

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pensionable emoluments throughout such period; and

(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.

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

Pensions Regulations. Cap. 93.

9. The provisions of regulations 22, 22A and 23 of the Pensions Regulations annexed to the Pensions Ordinance shall apply to pensions payable under these regulations.

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