

## **Nru. 147**

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### **MALTA**

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#### **KAMRA TAD-DEPUTATI**

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**ABBOZZ ta' Ligi mressaq mill-Onorevoli John Dalli, M.P., Ministru tal-Finanzi u moqri għall-Ewwel darba fis-Seduta tal-11 ta' Frar, 2002.**

**ATT biex jemenda l-Ordinanza dwar il-Pensjonijiet, Kap. 93 u l-Att dwar il-Pensjoni tal-Membri tal-Parlament, Kap. 280.**

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**RICHARD J. CAUCHI**

*Skrivan tal-Kamra tad-Deputati*

#### **HOUSE OF REPRESENTATIVES**

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**A BILL introduced by the Honourable John Dalli, M.P., Minister of Finance, and read the First time at the Sitting of the 11th February, 2002.**

**AN ACT to amend the Pensions Ordinance, Cap. 93 and the Members of Parliament Pensions Act, Cap. 280.**

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**RICHARD J. CAUCHI**

*Clerk of the House of Representatives*

## ABBOZZ TA' LIĠI msejjaħ

*ATT biex jemenda l-Ordinanza dwar il-Pensjonijiet, Kap. 93 u l-Att dwar il-Pensjoni tal-Membri tal-Parlament, Kap. 280.*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f' dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2002 li jemenda l-Ordinanza dwar il-Pensjonijiet, Kap. 93.

Titolu fil-qosor u bidu fis-seħh.

### TAQSIMA I EMENDA GHALL-ORDINANZA DWAR IL-PENSIJONIJIET, Kap. 93

2. Din it-taqsimha temenda u għandha tinqara haga wahda ma' l-Ordinanza dwar il-Pensjonijiet hawnhekk iżjed 'il quddiem f'din it-taqsimha imsejjaħa bhala "il-liġi prinċipali".

Emenda għall-Ordinanza dwar il-Pensjonijiet, Kap. 93.

3. Minnufih wara l-artikolu 8A ta' l-Att prinċipali għandhom jiżdiedu dawn l-artikoli ġodda li ġejjin;

Żieda ta' artikoli mal-liġi prinċipali.

"Kalkolu ta' hlasijiet pensjonabbli f'ċerti każijiet.

8B. (1) Meta s-servizz ta' uffiċjal mal-Gvern ikun ġie terminat sabiex huwa jimpjega ruhu b'mod permanenti ma' xi kumpannija kif provdut fl-artikolu 8A ta' din l-Ordinanza, jew skond id-disposizzjonijiet ta' xi liġi oħra li tkun tipprovdi jew ipprovdi li għar-rigward ta' uffiċjal, li

jkun imqabbaq jaqdi dmirijietu mal-korporazzjoni jew ma' l-enti msemmija fil-ligi rilevanti, u li jaččetta impjeg permanenti ma' dik il-korporazzjoni jew enti, servizz ma' dik il-korporazzjoni jew enti ghandu, għall-finijiet ta' l-Ordinanza sakemm din tkun tapplika għalih, titqies bħala servizz mal-Gvern, kull hlas pensjonabbli ta' dak l-uffiċjal meta jirtira għandu jitqies li jkun kull hlas pensjonabbli stabbilit skond dawn is-subartikoli li ġejjin ta' dan l-artikolu;

Iżda, ebda haga f' dan l-artikolu ma għandha titqies bħala li tnaqqas mid-drittijiet mogħtija lil xi uffiċjal bis-saħħa ta' l-artikolu 8C ta' din l-Ordinanza.

(2) Kull hlas pensjonabbli lil uffiċjal li għalih japplika s-subartikolu (1) ta' dan l-artikolu għandu jitqies li jkun hlas pensjonabbli li jithallas lil uffiċjal fis-servizz tal-Gvern fi grad u fil-livell inkrementali li jikkorrispondu għall-kariga u l-livell inkrementali li fihom uffiċjal jirtira minn kumpannija, korporazzjoni jew enti skond il-każ.

(3) Għall-finijiet tas-subartikolu (2), karigi u gradi salarjali mal-kumpannija, korporazzjoni jew enti rispettiva għandhom ikunu klassifikati fil-gradi u livelli inkrementali li jkunu l-aktar jikkorrispondu taħt il-Gvern ta' Malta b'referenza għad-deskrizzjoni ta' xogħol, kapaċitajiet, responsabbiltajiet u fatturi oħra li jixxiebh.

(4) Il-klassifika imsemmija fis-subartikolu (3) għandha ssir minn bord għar-rigward ta' kull kumpannija, korporazzjoni jew enti kif kompost minn president li jinhatar mill-Ministru ċentralment responsabbli għall-finanzi u żewġ membri oħra, wiehed mahtur mill-Ministru ċentralment responsabbli għall-politka dwar il-persunal fis-servizz pubbliku u wiehed mahtur mill-Ministru responsabbli għall-kumpannija, korporazzjoni jew enti, jekk ikun il-każ, u f'dawk il-każijiet fejn ma jkunx hemm ministeru bħal dak, mill-Ministru responsabbli għar-relazzjonijiet industrijali. Il-klassifika għandha, f'kull każ tkun sugġetta għall-approvazzjoni finali tal-Ministru responsabbli għall-finanzi.

(5) Dik il-klassifika għandha ssir fi żmien tliet xhur minn kull agġustament tas-salarji ta' l-impjegati fis-Servizz tal-Gvern u, jew ta' l-impjegati tal-kumpannija, korporazzjoni jew enti skond il-każ.

(6) Ebda kariga ma ghandha tigi kklassifikata fi grad oghla minn Grad 3 fis-servizz tal-Gvern jew kull tali grad iehor li l-Ministru responsabbli ghall-finanzi jista', minn zmien ghal zmien, jistabilixxi b'avviz fil-Gazzetta.

Kalkolu ta' hlasijiet pensjonabbli ta' ufficjali ma' entijiet partikolari.

8C. (1) Minkejja d-disposizzjonijiet ta' l-Artikolu 8B, meta ufficjal ikun gie mpjegat b'mod permanenti ma' xi kumpanija, korporazzjoni jew enti kif inhu msemmi fis-subartikolu (2) qabel l-1 ta' April, 2002 jew kien imqabbad biex jaghmel servizz ma' dik il-kumpanija, korporazzjoni jew enti qabel l-1 ta' April, 2002 u jirtira jew jigi impjegat b'mod permanenti ma' dik il-kumpanija, korporazzjoni jew enti qabel dik id-data li l-Prim Ministru jista' b'Ordni jistabilixxi, il-hlas pensjonabbli ta' dak l-ufficjal meta jirtira ghandu ghall-finanziet ta' din l-Ordinanza jkun kull hlas attwalment imhallas lil dak l-ufficjal meta huwa jirtira;

Izda, f'ebda kaz ma ghandu kull hlas pensjonabbli bhal dak ikun oghla minn dak li jithallas lil ufficjal fi grad 3 fis-servizz tal-Gvern jew f'dak il-grad iehor li l-Ministru responsabbli ghall-finanzi, jista' jistabilixxi, minn zmien ghal zmien b'avviz fil-Gazzetta.

(2) Il-kumpaniji, korporazzjonijiet jew entijiet li dan l-artikolu japplika ghalihom huma;

(a) L-Universita' ta' Malta, Il-Bord tat-Turizmu tal-Gvern ta' Malta, Enemalta, u l-Awtorita' tax-Xandir ta' Malta, f'kull kaz imsemmi fit-tifsira "servizz f' Malta" fl-artikolu 2;

(b) Malta International Airport plc, Servizzi tax-Xandir Pubbliku, Centru ghas-Servizzi Finanzjarji ta' Malta, Junior College, Korporazzjoni ghas-Servizzi ta' l-Ilma, Maltapost plc, Posta Ltd., Awtorita' ta' l-Ippjanar, Awtorita' dwar it-Trasport Pubbliku, Awtorita' Marittima ta' Malta, Korporazzjoni Telemalta, Maltacom plc, Ufficju Nazzjonali tal-Verifika.

Il-Ministru jista' jestendi d-disposizzjonijiet ta' l-artikolu 8A.

8D. Il-Ministru responsabbli ghall-finanzi jista', minn zmien ghal zmien b'Ordni, jiddikjara li d-disposizzjonijiet ta' l-Artikolu 8A ta' din l-Ordinanza ghandhom japplikaw ghal dawk l-ufficjali jew impjegati ohra li kienu tterminaw is-servizz taghom mal-Gvern skond id-disposizzjonijiet ta' l-Artikolu 8A jew id-disposizzjonijiet ta' l-Artikolu 8B (1) jew ma' xi wahda mill-entijiet imsemmija fl-artikolu 8C (2) (hawnhekk izjed 'il quddiem imsejjha l-artikoli rilevanti),

sabiex jigi impjegat ma' kumpanija msemija fl-artikolu 8A jew ma' l-enti rispettiva msemija fl-artikoli rilevanti, skond il-każ, u, meta ssir ordni bhal dik minn dak il-Ministru, id-disposizzjonijiet ta' l-artikolu 8A jew 8C, skond il-każ, ghandhom japplikaw ghal dawk il-persuni bhallikieku dawk il-persuni kienu fil-waqt li ssir dik l-Ordni, ufficjali jew impjegati tal-Gvern.

Il-pensjoni ta' xi ufficjali pubbliċi.

8E. (1) Minkejja kull haga li ma tkunx taqbel taht din l-Ordinanza, meta ufficjal pubbliku jirtira minn xi ufficċju msemmi fis-subartikolu (2) jew jirtira mis-servizz pubbliku wara li jkun serva ghal żmien ta' tliet snin f'ufficċju bhal dak, kull hlas pensjonabbli ta' dak l-ufficjal meta jirtira ghandu jkun dak assoċjat ma' l-iskala salarjali fid-data ta' meta dak l-ufficjal jirtira ta' l-oghla jew xi wahda mill-karigi gholja msemija fis-subartikolu (2) li dak l-ufficjal ikollu kif hawn qabel imsemmi f'xi żmien qabel ma jkun irtira;

Iżda ebda haga f'dan l-artikolu ma ghandha titqies bhala li tnaqqas il-pensjoni li dak l-ufficjal kien ikollu jedd ghaliha li kieku ma kienx ghad-disposizzjonijiet ta' dan l-artikolu.

(2) Il-karigi msemija fis-subartikolu (1) huma dawn li ġejjin;

- (a) Cabinet Secretary;
- (b) Segretarju Permanenti;
- (ċ) Posizzjonijiet ta' Kap taht Ftehim ta' profiċjenza.

Effett retrospettiv ta' Ordnijiet u awtorizzazzjonijiet.

8F. Ordni magħmul skond l-artikoli 8A u 8D u awtorizzazzjonijiet li jsiru tahtom jistghu ikunu retrospettivi ghal dik id-data li tista' tiġi stabbilita fl-Ordni jew fl-awtorizzazzjoni rispettiva.”.

## TAQSIMA II EMENDA TA' L-ATT DWAR IL-PENSIJONI TAL-MEMBRI TAL-PARLAMENT, KAP. 280

Emenda ta' l-Att dwar il-Pensjoni tal-Membri tal-Parlament, Kap. 280.

4. Din it-taqsima temenda u ghandha tinqara haga wahda ma' l-Att dwar il-Pensjoni tal-Membri tal-Parlament, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

Emenda ta' l-artikolu 4 ta' l-Att prinċipali.

5. Fl-artikolu 4 ta' l-Att prinċipali, minnufih wara s-subartikolu (5) tieghu ghandu jizjed dan is-subartikolu (6) ġdid li ġej;

“(6) (a) Il-Ministru responsabbli għall-finanzi jista’ jagħti l-approvazzjoni tiegħu għall-ghoti ta’ pensjoni lil membru, li jkun għadu ma għalaqx l-età ta’ wiehed u sittin sena u li kien jissodisfa l-kondizzjonijiet biex ikollu jedd għall-ghoti ta’ pensjoni taħt dan l-Att li kieku lahaq l-età ta’ wiehed u sittin sena, jekk, minnufih qabel l-irtir tiegħu, il-Ministru jkun sodisfatt li dak il-membri jkun prekluz mill-jagħmel xogħol bi qligh minhabba f’xi inkapaċità mentali jew fiżika speċifika.

(b) Għall-finijiet ta’ l-ghoti ta’ pensjoni skond dan is-subartikolu, il-Ministru għandu, qabel ma jagħti l-approvazzjoni tiegħu, kemm-il darba t-talba għall-pensjoni ma ssehhx minhabba f’kondizzjonijiet statutorji oħra, jikkonsulta ruhu dwar l-aspetti mediċi tat-talba ma’ bord mediku li jinhatar għal dak l-ghan mid-Direttur Ġenerali responsabbli għas-saħha, u l-membri jista’ għal dak l-ghan jintalab jippreżenta ruhu għal dak l-eżami jew għal dawk it-testijiet skond ma dak il-bord jista’ jehtieg b’mod ragonevoli, il-Ministru għandu jagixxi skond ir-rakkomandazzjonijiet li dak il-bord jagħmel.

(ċ) Għall-fini ta’ dan is-subartikolu, id-Direttur Ġenerali responsabbli għas-saħha għandu jagixxi skond l-arbitriju professjonali u individwali tiegħu u ma jkun sugġett għal ebda direzzjoni jew kontroll minghand xi persuna jew awtorità oħra.”.

6. Id-disposizzjonijiet ta’ din it-taqsimha għandhom japplikaw għal membru kif imfisser fl-Att prinċipali, b’dan illi membru jkollu biss dritt mid-data meta l-Ministru jagħti l-approvazzjoni tiegħu għall-ghoti ta’ pensjoni skond id-disposizzjonijiet ta’ dan l-Att. Disposizzjonijiet transitorji.

### Għanijiet u Raġunijiet

L-ghan prinċipali ta’ l-Abbozz hu sabiex jagħmel provvedimenti li jistabbilixxu xi jkun il-hlas pensjonabbli dovut lil xi uffiċjali pubbliċi li jigu impjegati ma’ xi entijiet. L-Abbozz jemenda wkoll l-Att dwar il-Pensjoni tal-Membri tal-Parlament, Kap. 280, sabiex jipprovdi għal pensjoni lil Membri tal-Parlament li jkunu taħt l-età ta’ 61 sena u li minhabba f’xi inkapaċità ma jkunux jistgħu jibqgħu fil-kariga jew inkella jahdmu bi qligh.

**A BILL  
entitled**

*AN ACT to amend the Pensions Ordinance, Cap 93 and the  
Members of Parliament Pensions Act, Cap 280.*

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.

1. The short title of this Act is the Pensions (Amendment) Act,  
2002.

**PART I  
AMENDMENT OF THE PENSIONS ORDINANCE, CAP. 93**

Amendment of the  
Pensions Ordinance,  
Cap 93.

2. This Part amends and shall be read as one with the Pensions  
Ordinance hereinafter in this Part referred to as "the principal law".

Addition of articles  
to the principal law.

3. Immediately after article 8A of the principal law there shall  
be added the following new articles:

"Calculation  
of  
pensionable  
emoluments  
in certain  
cases.

8B. (1) Where an officer's service with the  
Government has been terminated to take up permanent  
employment with a company or entity as provided in article  
8A of this Ordinance, or in accordance with the provisions of  
any other law which provides or provided that in respect of  
an officer, detailed for duty with the corporation or entity  
referred to in the relevant law, and who accepts permanent

employment with such corporation or entity, service with the said corporation or entity shall, for the purposes of the Ordinance in so far as applicable to him, be deemed to be service with the Government, the pensionable emoluments of such officer on retirement shall be deemed to be the pensionable emoluments established in accordance with the following subarticles of this article:

Provided that nothing in this article shall be deemed to detract from any rights granted to any officer in virtue of article 8C of this Ordinance.

(2) The pensionable emoluments of an officer to whom subarticle (1) of this article apply shall be deemed to be the pensionable emoluments payable to an officer in Government service in a grade and at the incremental level corresponding to the post and incremental level at which the officer retires from the company, corporation or entity as the case may be.

(3) For the purposes of subarticle (2), posts and salary grades with the respective company, corporation or entity shall be classified in the most nearly corresponding grades and incremental level under the Government of Malta by reference to job description, skills, responsibilities and other analogous factors.

(4) The classification referred to in subarticle (3) shall be carried out by a board in respect of each company, corporation or entity composed of a chairman appointed by the Minister responsible for finance and two other members, one appointed by the Minister responsible centrally for personnel policies in the public service and one appointed by the Minister responsible for the company, corporation or entity, if any, and in cases where no such ministry exists, by the Minister responsible for industrial relations. The classification shall in each case be subject to the final approval of the Minister responsible for finance.

(5) Such classification shall take place within three months of any adjustment of salaries of employees in Government Service and, or, of employees of the company, corporation or entity as the case may be.

(6) No post shall be classified in a grade higher than Grade 3 in the service of the Government or such other

grade that the Minister responsible for finance may, from time to time, by notice in the Gazette determine.

Calculation of pensionable emoluments of officers with particular entities.

8C. (1) Notwithstanding the provisions of article 8B, where an officer took permanent employment with a company, corporation or entity as is referred to in subarticle (2) before 1st April, 2002 or was detailed for service with such company, corporation or entity before the 1st April, 2002 and retires or takes up permanent employment with such company, corporation or entity before such date as the Prime Minister may by Order establish, the pensionable emoluments of such officer on retirement shall for the purposes of this Ordinance be the emoluments actually paid to such officer at the time of his retirement:

Provided that in no case shall such pensionable emoluments be higher than those payable to an officer in grade 3 in the service of the Government or such other grade as the Minister responsible for finance may, from time to time by notice in the Gazette, establish.

(2) The companies, corporations or entities to which this article applies are:

(a) The University of Malta, The Malta Government Tourist Board, Enemalta, and the Malta Broadcasting Authority, in each case referred to in the definition "service in Malta" in article 2;

(b) Malta International Airport plc, Public Broadcasting Services, Malta Financial Services Centre, The Junior College, Water Services Corporation, Maltapost plc, Posta Ltd., Planning Authority, Public Transport Authority, Malta Maritime Authority, Telemalta Corporation, Maltacom plc, National Audit Office.

Minister may extend provisions of article 8A.

8D. The Minister responsible for finance may, from time to time by Order, declare that the provisions of Article 8A of this Ordinance shall apply to officers or other employees who had terminated their service with the Government in accordance with the provisions of article 8A or with the provisions of article 8B (1) or with any of the entities referred to in article 8C (2) (hereinafter referred to as the relevant articles), in order to take up employment with a company designated in article 8A or with the respective entity referred

to in the relevant articles, as the case may be, and, upon the making of such an order by that Minister, the provisions of article 8A or 8C, as the case may be, shall apply to such persons as if such persons were at the time of making the said Order, officers or employees of the Government.

Pension of certain public officers.

8E. (1) Notwithstanding anything to the contrary under this Ordinance, where a public officer retires from the offices referred to in subarticle (2) or retires from the public service after having served for a term of three years in such an office, the pensionable emoluments of such officer on retirement shall be those attached to the salary scale, at the date of the officer's retirement, of the highest or higher of the offices referred to in subarticle (2) held by such officer as aforesaid at any time before his retirement:

Provided that nothing in this article shall be deemed as reducing any pension to which such officer would but for the provisions of this article had been entitled to.

(2) The offices referred to in subarticle (1) are the following:

- (a) Cabinet Secretary;
- (b) Permanent Secretary;
- (c) Headship positions under a performance agreement.

Retrospective effect of Orders and authorisations.

8F. Any Order made in accordance with articles 8A and 8D and authorisations made thereunder may be retrospective to such date as may be established in the respective Order or authorisation.

## PART II AMENDMENT OF THE MEMBERS OF PARLIAMENT PENSIONS ACT, CAP. 280

4. This Part amends and shall be read as one with Members of Parliament Act, hereinafter referred to as "the principal Act".

Amendment of the Members of Parliament Pensions Act, Cap. 280.

5. In article 4 of the principal Act, immediately after sub-article (5) thereof, there shall be added the following new sub-article (6):-

Amendment of article 4 of the principal Act.

"(6) (a) The Minister responsible for finance 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, immediately 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 recommendations 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.”.

Transitory provision.

6. The provisions of this Part shall apply to any member as defined in the principal Act, so however that entitlement shall only arise from the date when the Minister gives his approval for the award of a pension in accordance with the provisions of this Act.

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### Objects and Reasons

The main object of the Bill is to make provisions for determining the pensionable entitlement of certain public officers taking up employment with certain entities. The Bill also amends the Members of Parliament Pensions Act, Cap 280, to provide for a pension to Members of Parliament under the age of 61 years and who, owing to an infirmity, cannot continue in office or take up a gainful occupation.