

*Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,540, 26 ta' Frar, 2016*

*Taqsimha C*

---

## **Nru. 145**

26. 02. 2016

### **MALTA**

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

#### **HOUSE OF REPRESENTATIVES**

---

ABBOZZ ta' Ligi mressaq mill-Onorevoli Leo Brincat, M.P., Ministru għall-Iżvilupp Sostenibbli, Ambjent u Tibdil fil-Klima, f'isem il-Ministru għall-Ġustizzja, Kultura u Gvern Lokali, u moqri għall-Ewwel darba fis-Seduta tal-15 ta' Frar, 2016.

---

A BILL introduced by the Honourable Leo Brincat, M.P., Minister for Sustainable Development, the Environment u Climate Change, on behalf of the Minister for Justice, Culture and Local Government, and read the First time at the Sitting of the 15th February, 2016.

**Att biex jipprovdi għal riformi Kostituzzjonali fil-Qasam tal-Ġustizzja u għal hwejjeg konsegwenzjali jew ancillari għal dan.**

**An ACT to provide for Constitutional reforms in the Justice sector and for matters consequential or ancillary thereto.**

---

RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

---

RAYMOND SCICLUNA  
*Clerk of the House of Representatives*



### **Abbozz ta' Ligi msejjah**

*ATT biex jipprovdi għal riformi Kostituzzjonali fil-Qasam tal-Ġustizzja u għal hwejjeġ konsegwenzjali jew anċillari għal dan.*

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

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2016 dwar Riformi Kostituzzjonali (Qasam tal-Ġustizzja). Titolu fil-qosor.

#### **TAQSIMA I**

2. Din it-Taqsima temenda l-Kostituzzjoni ta' Malta u għandha tinqara u tinftiehem haġa waħda mal-Kostituzzjoni ta' Malta, hawn iżjed 'il quddiem imsejha "il-Kostituzzjoni". Emendi għall-Kostituzzjoni ta' Malta.

3. Fil-paragrafu (b) tas-subartikolu (2) tal-artikolu 66 tal-Kostituzzjoni, minnufih wara l-kliem "l-artikoli minn 95 sa 100 (it-tnejn inklużi)," għandhom jidhlu l-kliem "l-artikoli 101A u 101B,". Emenda tal-artikolu 66 tal-Kostituzzjoni.

4. Fis-subartikolu (4) tal-artikolu 91 tal-Kostituzzjoni, minflok il-kliem "ħamsa u sittin sena" għandhom jidhlu l-kliem "tmienja u sittin sena". Emenda tal-artikolu 91 tal-Kostituzzjoni.

5. Minnufih wara l-artikolu 96 tal-Kostituzzjoni għandu jizded l-artikolu ġdid li ġej: Żjieda ta' artikolu ġdid mal-Kostituzzjoni.

"Kummissjoni  
dwar il-Ħatriet  
tal-Gudikatura.

96A. (1) Għandu jkun hemm Kummissjoni dwar il-Ħatriet tal-Ġudikatura, hawn iżjed 'il quddiem f'dan l-artikolu msejha "il-Kummissjoni", li għandha tkun Sotto-Kumitat tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja u li tkun magħmula kif ġej:

- (a) il-Prim Imħallef *ex officio*;
- (b) l-Avukat Ġenerali *ex officio*; u
- (ċ) il-President tal-Kamra tal-Avukati *ex officio*.

(2) Il-Kummissjoni għandha tkun presjeduta mill-Prim Imħallef jew, fl-assenza tiegħu, mill-Avukat Ġenerali.

(3) (a) Persuna ma tkunx kwalifikata li tinġar jew tkompli żżomm il-kariga ta' membru tal-Kummissjoni jekk tkun Ministru, jew Segretarju Parlamentari, Membru tal-Kamra tal-Avukati, membru ta' awtorità ta' gvern lokali jew uffiċjal jew kandidat ta' partit politiku:

Iżda meta l-President tal-Kamra tad-Deputati ma jkunx kwalifikat li jinġar jew jżomm il-kariga kif intqal qabel, il-Kamra tal-Avukati għandha tinnomina avukat ieħor biex ikun membru tal-Kummissjoni floku.

(b) Il-kariga ta' membru tal-Kummissjoni ssir vakanti jekk jinholqu cirkostanzi li, kieku dik il-persuna ma kenitx membru tal-Kummissjoni, hi ma kenitx tikkwalifika biex issir membru tagħha.

(ċ) Membru tal-Kummissjoni għandu jastjeni u jista' jiġi rikuzat fl-istess cirkostanzi bħal imħallef tal-qrati superjuri.

(d) Meta membru tal-Kummissjoni jkun astjena jew ikun ġie rikuzat, fil-każ tal-Prim Imħallef għandu jiġi sostitwit minn imħallef ieħor li hu membru tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja, fil-każ tal-Avukat Ġenerali għandu jiġi sostitwit mill-aktar avukat anzjan skont il-kariga fl-Uffiċċju tal-Avukat Ġenerali, u fil-każ tal-President tal-Kamra tal-Avukati għandu jiġi sostitwit mill-aktar avukat anzjan skont il-kariga fil-kumitat tal-Kamra tal-Avukati.

(4) Fit-twettiq tal-funzjonijiet tagħhom il-membri tal-Kummissjoni għandhom jaġixxu skont il-gudizzju individwali tagħhom u ma jkunux soġġetti għad-direzzjoni jew kontroll ta' xi persuna jew awtorità oħra.

(5) Għandu jkun hemm Segretarju tal-Kummissjoni li jinħatar mill-Ministru responsabbli għall-Ġustizzja.

(6) Il-funzjonijiet tal-Kummissjoni jkunu:

(a) li tirċievi u teżamina espressjonijiet ta' interess minn persuni li huma interessati li jinħatru fil-kariga ta' Prim Imħallef, Imħallef jew Maġistrat, ħlief mingħand persuni li diġà jkollhom kariga stabbilita b'din il-Kostituzzjoni;

(b) li żzomm registru permanenti tal-espressjonijiet ta' interess msemmija fil-paragrafu (a);

(c) li tagħmel intervisti jew evalwazzjoni ta' kandidati għall-karigi fuq imsemmija meta jidhrilha li dan ikun neċessarju;

(d) biex tagħti parir lill-Prim Ministru permezz tal-Ministru responsabbli għall-Ġustizzja dwar l-evalwazzjoni tagħha tal-kandidati għall-karigi fuq imsemmija;

(e) meta mitluba mill-Prim Ministru, li tagħti parir dwar persuni li diġà għandhom kariga stabbilita b'din il-Kostituzzjoni fir-rigward tal-eligibilità u l-mertu tagħhom biex jiġu nominati għal xi waħda mill-karigi fuq imsemmija;

(f) li tagħti parir lill-Prim Imħallef dwar il-ħatra tal-Imħallef Amministrattiv Anzjan u l-Maġistrat Anzjan;

(g) li tagħti parir dwar il-ħatra għal xi kariga oħra gudizzjarja jew tal-qorti kif il-Ministru responsabbli għall-Ġustizzja jista' minn żmien għal żmien jitlob:

Iżda l-parir imsemmi fil-paragrafi (e), (f) u (g) għandu jingħata mhux aktar tard minn tletin jum minn meta jkun gie mitlub.

(7) Il-proċeduri tal-Kummissjoni jiżammu bil-magħluq u l-ebda membru jew segretarju tal-Kummissjoni ma għandu jintalab jixhed quddiem xi qorti jew korp ieħor fir-rigward ta' xi dokument riċevut jew xi haġa diskussa jew trasmessa mill-Kummissjoni.

(8) Il-Kummissjoni tirregola l-proċedura tagħha stess u jkollha d-dmir li tippublika l-kriterji li fuqhom isiru l-evalwazzjonijiet."

Emenda tal-artikolu 97 tal-Kostituzzjoni.

**6.** Fis-subartikolu (1) tal-artikolu 97 tal-Kostituzzjoni, minflok il-kliem "ħamsa u sittin sena" għandhom jidhlu l-kliem "tmienja u sittin sena".

Emenda tal-artikolu 98 tal-Kostituzzjoni.

**7.** Fis-subartikolu (2) tal-artikolu 98 tal-Kostituzzjoni, minflok il-kliem "ħamsa u sittin sena" għandhom jidhlu l-kliem "tmienja u sittin sena".

Emenda tal-artikolu 100 tal-Kostituzzjoni.

**8.** Fis-subartikolu (3) tal-artikolu 100 tal-Kostituzzjoni, minflok il-kliem "ħamsa u sittin sena" għandhom jidhlu l-kliem "tmienja u sittin sena".

Emenda tal-artikolu 101A tal-Kostituzzjoni.

**9.** Is-subartikolu (11) tal-artikolu 101A tal-Kostituzzjoni għandu jiġi emendat kif ġej:

(a) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(ċ) li teżerċita, bla ħsara għall-artikolu 101B ta' din il-Kostituzzjoni, dixxiplina fuq l-imħallfin u l-maġistrati;"

(b) il-paragrafu (f) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(f) li tiġbed l-attenzjoni ta' kull imħallef jew maġistrat fuq kull haġa, fil-qorti li fiha hu jkun ipogġi, li tista' ma twassalx għal funzjonament effiċjenti u xieraq ta' dik il-qorti;"

Żjieda ta' artikolu ġdid mal-Kostituzzjoni.

**10.** Minnufih wara l-artikolu 101A tal-Kostituzzjoni għandu jiżdied l-artikolu ġdid li ġej:

"Dixxiplina fuq Imhallfin, Maġistratu u detenturi ta' ċerti karigi ohra.

101B. (1) Il-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja għandha tahtar sotto-kumitat minn fost il-membri tagħha għajr il-President ta' Malta, li għandu jissejjaħ il-Kumitat għall-Imhallfin u l-Maġistrati (hawn iżjed 'il quddiem imsejjaħ "il-Kumitat") li jkun magħmul minn tliet membri tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja magħżulin mill-imsemmija Kummissjoni.

(2) Il-President tal-Kummissjoni għandu jiġi elett mill-membri tal-Kumitat minn fosthom.

(3) Kull membru tal-Kumitat jista' jiġi rikuzat u għandu jastjeni fl-istess ċirkostanzi bhal ma mħallef tal-qrati superjuri jista' jiġi rikuzat jew jista' jastjeni. Meta membru tal-Kumitat jiġi rikuzat u jew jastjeni, il-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja għandha tahtar membru sostitut.

(4) Il-Kumitat għandu jeżerċita dixxiplina fuq imhallfin u maġistrati kif preskritt f'dan l-artikolu.

(5) Proċeduri dixxiplinarji kontra mħallef jew maġistrat jinbdew meta jsir ilment bil-miktub u li jkun fih akkużi ċari magħmulin lill-Kumitat mill-Prim Imħallef jew mill-Ministru responsabbli għall-Ġustizzja, għal ksur tad-dispożizzjonijiet tal-Kodiċi ta' Etika għal membri tal-Ġudikatura li huma applikabbli għall-membri tal-Ġudikatura. L-ilment għandu jkun fih ukoll ir-raġunijiet li fuqhom kull waħda mill-akkużi tkun ibbażata,

(6) Il-Kumitat għandu, meta jirċievi ilment taht is-subartikolu (5), jinnotifika l-imsemmi lment lill-imħallef jew maġistrat li kontra tiegħu jkun sar l-ilment u jagħtih jew jagħtiha żmien raġonevoli biex iwieġeb jew twieġeb.

(7) Jekk, wara konsiderazzjoni *prima facie* tal-ilment u tat-twegiba, il-Kumitat jidherli li ma hemmx raġunijiet suffiċjenti biex jinbdew proċeduri dixxiplinarji, il-Kumitat għandu jieqaf milli jkompli jittratta dwar il-każ.

(8) Jekk, wara konsiderazzjoni tal-ilment u tat-tweġiba kif msemmi fis-subartikolu (7), il-Kumitat jidhirlu li hemm raġunijiet suffiċjenti biex ikompli l-proċeduri dixxiplinarji, il-Kumitat għandu jappunta data għas-smigh.

(9) Il-proċeduri quddiem il-Kumitat għandhom jinżammu fil-magħluq sakemm l-imħallef jew il-maġistrat li kontra tiegħu jkun ttejdu l-proċeduri ma jitlobx xort'ohra. Min jagħmel l-ilment jew ir-rappreżentant tiegħu u l-imħallef jew l-maġistrat li kontra tiegħu ttejdu l-proċeduri jkollhom id-dritt li jkun preżenti matul il-kors kollu tal-proċeduri, li jipproduċu xhieda bħala appogg għal jew difiża kontra l-akkużi elenkati fl-ilment, u li jkun assistiti minn avukat jew prokuratur legali. Il-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja tista' ukoll taħtar avukat biex jaġixxi bħala prosekutur speċjali indipendenti fil-proċeduri dixxiplinarji.

(10) Il-Kumitat, jekk isib li l-imħallef jew il-maġistrat kiser il-Kodiċi tal-Etika għal Membri tal-Ġudikatura, għandu:

(a) jekk jidhirlu li l-ksur hu ta' natura mhux gravi, jew iwiddeb jew jimponi penali pekunjarja li tingabar bħala dejn ċivili li tithallas lis-Segretarju tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja, liema penali ma tkunx aktar minn għaxra fil-mija tas-salarju annwali tal-imħallef jew tal-maġistrat kif ikun stabbilit bil-liġi f'dak iż-żmien;

(b) jekk jidhirlu li l-ksur hu ta' natura serja jista' jissospendi l-imħallef jew il-maġistrat milli jeżerċita d-dmirijiet tiegħu għal perjodu ta' mhux aktar minn sitt xhur waqt li jithallas nofs is-salarju u l-allowances kif riċevuti f'dak iż-żmien;

(ċ) jekk jidhirlu li l-ksur hu ta' natura tant serja li jisthoqq it-tnehhija tal-imħallef jew tal-maġistrat mill-kariga, għandu jirrapporta l-konklużjonijiet tiegħu lill-Prim Ministru u lill-*Speaker* tal-Kamra tad-Deputati.



(11) Il-Kumitat jista' ukoll, fuq talba tal-Prim Imħallef, jordna li mħallef jew maġistrat jiġi sospiż milli jwettaq id-dmirijiet tiegħu għal raġunijiet mediċi serji għal perjodu definit li matulu l-imħallef jew il-maġistrat jibqa' jirċevi is-salarju tiegħu sħiħ u l-*allowances*. Il-proċedura stabbilita f'dan l-artikolu dwar proċeduri dixxiplinarji għandha tapplika *mutatis mutandis* fil-każ ta' proċeduri li jsiru taħt dan is-subartikolu.

(12) (a) L-imħallef jew il-maġistrat li l-Kumitat isib kontra tiegħu jkollu dritt ta' appell lill-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja minn deċiżjonijiet tal-Kumitat.

(b) L-appell għandu jiġi pprezentat għand is-Segretarju tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja mhux aktar tard minn għoxrin jum minn meta l-Kumitat jagħti d-deċiżjoni tiegħu.

(ċ) Il-prezentata tal-appell kif hawn qabel imsemmi tissospendi l-eżekuzzjoni tad-deċiżjoni tal-Kumitat.

(d) Il-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja tista', minn żmien għal żmien, tistabbilixxi regoli ta' proċedura għal appelli bħal dawn.

(e) Il-President ta' Malta ma għandux ikun parti mill-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja meta l-imsemmija Kummissjoni tkun qed tisma' appell minn deċiżjoni tal-Kumitat.

(13) Il-proċeduri quddiem il-Kumitat għandhom jintemmu fi żmien sena u l-proċeduri tal-appell quddiem il-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja għandhom jintemmu fi żmien perjodu ieħor ta' sitt xhur.

(14) Fl-eżerċizzju tal-funzjonijiet tagħhom taħt dan l-artikolu l-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja u l-Kumitat għall-Imħallfin u l-Maġistrati għandu jkollhom is-setgħat kollha li huma assenjati lill-Prim'Awla tal-Qorti Ċivili bil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jew b'xi liġi li minn żmien għal żmien tirregola s-setgħat tal-Qrati ta' ġurisdizzjoni ċivili.

(15) Fl-eżerċizzju tal-funzjonijiet tagħhom il-membri tal-Kumitat għandhom jaġixxu skont il-ġudizzju individwali tagħhom u ma jkunux suġġetti għad direzzjoni jew kontroll ta' xi persuna jew awtorità oħra.

(16) Id-dispożizzjonijiet ta' dan l-artikolu huma mingħajr preġudizzju għall-applikazzjoni tas-subartikoli (2) u (3) tal-artikolu 97 ta' din il-Kostituzzjoni kull fejn dawn ikunu japplikaw.

Emenda tal-artikolu 108 tal-Kostituzzjoni.

**11.** Fil-paragrafu (a) tas-subartikolu (4) tal-artikolu 108 tal-Kostituzzjoni, il-kliem "tal-paragrafu (a)" għandhom jiġhassru.

## TAQSIMA II

**12.** Din it-Taqsima toħroġ b'ligi l-Att tal-2016 dwar il-Pensjonijiet tal-Membri tal-Ġudikatura.

Titolu fil-qosor u bidu fis-sehħ.

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2016 dwar il-Pensjonijiet tal-Membri tal-Ġudikatura.

(2) Id-dispożizzjonijiet ta' dan l-Att għandhom jidhlu fis-sehħ f'dik id-data li l-President ta' Malta jista', b'avviz fil-Gazzetta, jistabbilixxi, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti jew għanijiet differenti ta' dan l-Att.

Tifsir.

2. F'dan l-Att u fir-regolamenti magħmulin tahtu -

"Avukat Ġenerali" tfisser il-persuna mahtura skont id-dispożizzjonijiet tal-Kapitolu VII tal-Kostituzzjoni ta' Malta, kemm jekk fil-kariga kif ukoll jekk irtirat, u li mhuwiex intitolat għal pensjoni taht l-Ordinanza dwar il-Pensjonijiet;

Kap. 93.

"hlas pensjonabbli" tfisser is-salarju li kien jithallas lil Membru tal-Ġudikatura jew lill-Avukat Ġenerali, kif ikun il-każ, skont l-Att dwar is-Salarji tal-Imħallfin u tal-Maġistrati u l-Att dwar is-Salarji tal-President ta' Malta u Uffiċjali oħra, rispettivament, li kieku dak il-Membru tal-Ġudikatura jew dak l-Avukat Ġenerali, kif ikun il-każ, ma mietx jew ma rtirax;

Kap. 175.

Kap. 186.

"kariga pensjonabbli" tfisser il-kariga ta' Membru tal-Ġudikatura jew ta' Avukat Ġenerali, kif ikun il-każ;

"Membru tal-Ġudikatura" tfisser il-Prim Imħallef, l-Imħallfin u l-Maġistrati mahturin skont id-dispożizzjonijiet tal-Kapitolu VIII tal-Kostituzzjoni ta' Malta, kemm jekk fil-kariga kif ukoll jekk irtirati, u li mhumhiex intitolati għal pensjoni taht l-Ordinanza dwar il-Pensjonijiet;

"rappreżentant legali" tfisser il-werriet b'testment jew mingħajr testment tal-Membru tal-Ġudikatura li jkun miet jew tal-Avukat Ġenerali li jkun miet, kif ikun il-każ;

"rtirar" tfisser id-data meta Membru tal-Ġudikatura fil-kariga jitlaq minn dik il-kariga skont id-dispożizzjonijiet tal-Kapitolu VIII tal-Kostituzzjoni ta' Malta, jew persuna li tikkopa l-kariga ta' Avukat Ġenerali titlaq minn dik il-kariga skont id-dispożizzjonijiet tal-Kapitolu VII tal-Kostituzzjoni ta' Malta, kif ikun il-każ, u tinkludi d-data meta Membru tal-Ġudikatura fil-kariga jew persun li tokkupa l-kariga ta' Avukat Ġenerali, kif ikun il-każ, jirreżenja jew jitneħħa mill-kariga minhabba f'inkapaċità ippruvata li jaqdi l-funzjonijiet tal-kariga tiegħu kemm jekk għal mard korporali jew mentali skont id-dispożizzjonijiet tal-Kapitolu VIII tal-Kostituzzjoni ta' Malta, jew tal-Kapitolu VII tal-Kostituzzjoni ta' Malta, rispettivament;

"sena" tfisser sena skont il-kalendarju;

"servizz pensjonabbli", fir-rigward ta' Membru tal-Ġudikatura, tfisser servizz imwettaq minn Membru tal-Ġudikatura qabel ma jirtira, u jinkludi servizz f'xi Qorti jew Tribunal ta' ġurisdizzjoni internazzjonali kostitwiti skont xi konvenzjoni jew trattat internazzjonali jew multilaterali; u fir-rigward tal-Avukat Ġenerali tfisser servizz imwettaq mill-Avukat Ġenerali qabel ma rtira;

"servizz pubbliku" tfisser servizz f'kariga ċivili taħt il-Gvern ta' Malta jew kull servizz ieħor bħal dak li l-President ta' Malta jista' jstabbilixxi li hu servizz pubbliku għall-ghanijiet ta' xi dispożizzjoni ta' dan l-Att jew ta' xi regolamenti magħmula bis-saħħa tiegħu;

"xahar" tfisser xahar skont il-kalendarju.

3. (1) Il-President ta' Malta jista', minn żmien għal żmien, jagħmel u, meta jagħmel, jibdel regolamenti dwar il-ġhoti ta' pensjonijiet, gratifikazzjonijiet u *allowances* oħra lil Membri tal-Ġudikatura u lill-Avukat Ġenerali.

Il-President jista' jagħmel regolamenti dwar il-pensjonijiet.

(2) Ir-regolamenti msemmija u kull regolament li jibdel jew iħassar l-istess regolamenti kif jingħad hawn qabel, għandhom l-istess saħħa u effett għall-finijiet kollha bħallikieku kienu jagħmlu sehem minn dan l-Att, u l-kliem "dan l-Att" għandhom fl-artikoli li ġejjin jinqraw u jinftiehm u f'dan is-sens.

(3) Kull meta l-President ta' Malta jkun sodisfatt illi xi regolament magħmul taħt dan l-artikolu għandu jkollu effett retrospettiv sabiex jingħata xi benefiċċju, dak ir-regolament jista' jkollu effett retrospettiv għal dak l-iskop.

(4) Ebdha regolament magħmul taħt dan l-artikolu ma għandu jkollu effett kemm-il darba ma jkunx irċieva minn qabel l-approvazzjoni tal-Kamra tad-Deputati mgharrfa b'riżoluzzjoni.

(5) Kull pensjoni jew gratifikazzjoni mogħtija taħt dan l-Att għandha tingħadd skont id-dispożizzjonijiet fis-seħħ fid-data stess tal-irtirar ta' Membru tal-Ġudikatura jew tal-Avukat Ġenerali, kif ikun il-każ.

Il-pensjonijiet eċċ., jiġu addebitati fuq id-dhul ta' Malta.

4. Dawk is-somom kollha illi minn żmien għal żmien jiġu assenjati mill-President ta' Malta bhala pensjoni, gratifikazzjoni jew *allowance* oħra skont dan l-Att għandhom jiġu addebitati lil u jiġihallsu mill-Fond Konsolidat.

Pensjonijiet huma dritt.

5. Membru tal-Ġudikatura, kif ukoll l-Avukat Ġenerali, ikollhom dritt għal pensjoni, gratifikazzjoni, jew *allowance* taħt dan l-Att jew kull regolament magħmul biss-saħha tiegħu:

Iżda Membru tal-Ġudikatura jew l-Avukat Ġenerali, kif ikun il-każ, jitilfu d-dritt għal pensjoni, gratifikazzjoni jew *allowance* taħt dan l-Att jew taħt regolamenti magħmulin bis-saħha tiegħu jekk hu jew hi jitnehhew mill-kariga skont id-dispożizzjonijiet tal-Kapitolu VIII jew tal-Kapitolu VII, rispettivament, tal-Kostituzzjoni ta' Malta minhabba f'imġiba hażina ppruvata.

Ċirkostanzi li fihom tista' tingħata pensjoni.

6. (1) Membru tal-Ġudikatura jew persuna li qabel kienet tokkupa l-kariga ta' Avukat Ġenerali, li jkunu rtiraw qabel il-bidu fis-seħħ ta' dan l-Att, ikunu intitolati għal pensjoni, gratifikazzjoni jew *allowance* oħra kif preskritt b'regolamenti magħmula bis-saħha ta' dan l-Att.

(2) Membru tal-Ġudikatura jew l-Avukat Ġenerali, kif ikun il-każ, li jkunu fil-kariga fid-data tal-bidu fis-seħħ ta' dan l-Att ikunu intitolati għal pensjoni, gratifikazzjoni jew *allowance* oħra li tingħata bis-saħha ta' dan l-Att.

Massimu tal-pensjoni li tista' tingħata.

7. Il-pensjoni mogħtija lil Membru tal-Ġudikatura jew lill-Avukat Ġenerali, kif ikun il-każ, taħt dan l-Att ma tistax tkun iżjed minn żewġ terzi tal-ħlas pensjonabbli tagħhom.

Pensjonijiet affettwati b'impieg ġdid wara l-irtirar.

8. Jekk Membru tal-Ġudikatura jew l-Avukat Ġenerali, kif ikun il-każ, li jkun gie mogħti pensjoni taħt dan l-Att jigi maħtur għal kariga *full time* fis-servizz pubbliku, jew jinħatar jew kien f'xi żmien wara li jkun rtira nħatar f'kariga stabbilita mill-Kostituzzjoni li tkun ukoll kariga pensjonabbli taħt l-Ordinanza dwar il-Pensjonijiet, u wara jirtira f'ċirkostanzi li taħthom jista' jigi mogħti pensjoni, jew jitlaq mill-kariga fit-tmiem tal-hatra jew tal-hatra mill-ġdid tiegħu, kif ikun il-każ, tista' tingħata lillu, minflok il-pensjoni li kellu qabel,

Kap. 93.

pensjoni magħduda bhallikieku l-perijodi tas-servizz tiegħu kienu kontinwi, u din il-pensjoni tista' tiġi kkalkolata fuq il-ħlas tiegħu pensjonabbli ta' meta kien irtira qabel jew ta' meta fl-aħħar irtira għal kollox mis-servizz ta' Malta, jew mill-imsemmija kariga mwaqqfa mill-Kostituzzjoni, liema minnhom tkun l-ogħla:

Iżda jekk meta huwa rtira l-ewwel darba, gie mogħti gratifikazzjoni u pensjoni mnaqqsa, il-gratifikazzjoni, jekk ikun il-każ, li għandha tiffallas lil meta fl-aħħar jirtira għal kollox, għandha titnaqqas bl-ammont tal-gratifikazzjoni li jkun irċieva qabel:

9. Ebda pensjoni, gratifikazzjoni jew *allowance* mogħtija taħt dan l-Att ma tista' tiġi ċeduta jew trasferita jew maqbuda, sekwestrata jew tkun sugġetta għal atti ġudizzjarji, minhabba jew dwar dejn jew jedd ieħor, ħlief sa fejn hu previst fl-artikolu 381(3) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Pensjonijiet ma jistgħux jiġi ċeduti, eċċ.

Kap. 12.

10. Jekk Membru tal-Ġudikatura jew l-Avukat Ġenerali, kif ikun il-każ, li jkun gie mogħti pensjoni jew *allowance* taħt dan l-Att jfalli, dik il-pensjoni jew *allowance* tiegħu minnufih:

Pensjonijiet jiegħu każ ta' falliment.

Iżda f'kull każ bħal dan, meta pensjoni jew *allowance* tiegħu minhabba l-falliment tal-pensjonant, il-President ta' Malta jista', minn żmien għal żmien, matul il-bqija tal-ħajja ta' dak il-pensjonant jew matul dak il-perijodu jew perijodi aqsar, sew shaħ kemm maqtughin, kif il-President ta' Malta jidhirlu xieraq, jordna illi l-flus kollha jew biċċa minnhom illi għalihom dak il-pensjonant kien ikollu l-jedd bħala pensjoni jew *allowance* li kieku ma falliex, jiġu mħallsa lil jew jingħataw għall-manteniment u appoġġ personali jew għall-benefiċċju tal-persuni kollha hawn imsemmija, jew ta' xi waħda minnhom, b'eskluzjoni tal-oħra jew tal-oħrajn, jiġifieri l-istess pensjonant u l-mara u t-tfal tiegħu, f'dik il-proporzjon jew b'dak il-mod li l-President ta' Malta jidhirlu xieraq u dawn il-flus għandhom jithallsu jew jingħataw skont hekk.

11. Jekk xi Membru tal-Ġudikatura jew l-Avukat Ġenerali, kif ikun il-każ, li jkun gie mogħti pensjoni jew *allowance* oħra taħt dan l-Att jiġi kkundannat għal żmien ta' prigunerija minn qorti kompetenti sew f'Malta jew barra minn Malta għal delitt jew reat, f'kull każ bħal dan, il-President ta' Malta jista' jordna illi dik il-pensjoni jew *allowance* tiegħu minnufih:

Pensjonijiet jiegħu wara kundanna.

Iżda, meta titwaqqaf il-pensjoni jew l-*allowance* għar-raġuni hawn fuq imsemmija, il-President ta' Malta jista' jordna li s-somma kollha jew biċċa minnha li għaliha l-Membru tal-Ġudikatura jew l-Avukat Ġenerali kkonċernat, kif ikun il-każ, kien ikollu l-jedd bħala pensjoni jew *allowance*, tiffallas lil jew tiġi applikata għall-benefiċċju tal-konjuġi superstiti jew tas-sieheb superstiti f'unjoni

C 212

ċivili u tat-tfal tiegħu jew tagħha.

Gratifikazzjoni f'każ ta' mewt ta' Membru tal-Ġudikatura jew l-Avukat Ġenerali.

12. (1) Fil-każ tal-mewt ta' Membru tal-Ġudikatura jew tal-Avukat Ġenerali, kif ikun il-każ, il-President ta' Malta jista' jagħti lir-rappreżentant legali tiegħu gratifikazzjoni f'somma li ma tkunx iżjed mill-ammont tal-ħlasijiet pensjonabbli annwali tiegħu jew gratifikazzjoni ta' pensjoni kommutata, liema minhom tkun l-akbar.

(2) F'dan l-artikolu, "gratifikazzjoni ta' pensjoni kommutata" tfisser gratifikazzjoni, jekk ikun hemm, li setgħet tingħata lill-Membru tal-Ġudikatura jew lill-Avukat Ġenerali skont ir-regolament 4 tar-Regolamenti tal-2016 dwar il-Pensjonijiet tal-Membri tal-Ġudikatura u tal-Avukat Ġenerali, jekk is-servizz pensjonabbli li kien jittiehed għall-fini ta' kalkolu ta' xi pensjoni jew gratifikazzjoni mogħtija taħt dan l-Att kien kollu f'Malta u jekk, fid-data tal-mewt tiegħu, l-imsemmi Membru tal-Ġudikatura jew l-Avukat Ġenerali, kif ikun il-każ, kien irtira minhabba f'mard u kien għażel li jirċievi gratifikazzjoni u pensjoni mnaqqsa jew kien għażel li jirċievi gratifikazzjoni massima u pensjoni mnaqqsa korrispondenti.

(3) L-għoti ta' xi gratifikazzjoni lil-rappreżentant legali ta' Membru tal-Ġudikatura li jkun miet jew tal-Avukat Ġenerali li jkun miet, kif ikun il-każ, ma għandux jitqies li jolqot xi dritt tal-konjuġi superstiti jew tas-sieheb superstiti f'unjoni ċivili skont id-dispożizzjonijiet tal-Kodiċi Ċivili dwar il-komunjoni tal-akkwisti.

Kap. 16.

Applikazzjoni tal-Att.

13. Id-dispożizzjonijiet ta' dan l-Att u ta' regolamenti magħmulin bis-saħħa tiegħu għandhom japplikaw għall-Membri kollha tal-Ġudikatura u għall-persuni kollha li okkupaw il-kariga ta' Avukat Ġenerali li ġew maħtura wara l-15 ta' Jannar, 1979, u ebda pensjoni, gratifikazzjoni jew *allowance* ma għandha tithallas skont dan l-Att, u ebda ħlas ieħor ma għandu jsir skont l-istess Att, lil xi persuna li kienet Membru tal-Ġudikatura jew persuna li okkupat il-kariga ta' Avukat Ġenerali qabel is-16 ta' Jannar, 1979, jew lill-konjuġi superstiti jew lis-sieheb superstiti f'unjoni ċivili, iben jew qraba oħra ta' xi persuna bħal dik.

### **Ghanijiet u Raġunijiet**

L-ghanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma li jinħarġu b'liġi r-riformi Kostituzzjonali li jirrigwardaw il-ġudikatura, it-twaqqif ta' żewġ sotto-kumitati tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja li għandhom jiġu msejha l-Kummissjoni dwar il-Hatriet tal-Ġudikatura u l-Kumitat għall-Imħallfin u l-Maġistrati bil-kompiti rispettivi li jagħtu pariri dwar hatriet ġudizzjarji u biex jikkonduċu proċeduri dixxiplinarji fir-rigward ta' membri tal-ġudikatura, ir-radikar tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja u tal-Kumitat għall-Imħallfin u l-Maġistrati fil-Kostituzzjoni u l-promulgazzjoni tal-Att dwar il-Pensjonijiet tal-Membri tal-Ġudikatura.

C 214

**A Bill  
entitled**

*AN ACT to provide for Constitutional reforms in the Justice sector and for matters consequential or ancillary thereto.*

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.

**1.** The short title of this Act is the Constitutional Reforms (Justice Sector) Act, 2016.

**PART I**

Amendments to the Constitution of Malta.

**2.** This Part amends the Constitution of Malta and it shall be read and construed as one with the Constitution of Malta, hereinafter referred to as "the Constitution".

Amendment of article 66 of the Constitution.

**3.** In paragraph (b) of sub-article (2) of article 66 of the Constitution, immediately after the words "95 to 100 (inclusive)," there shall be added the words "articles 101A and 101B,".

Amendment of article 91 of the Constitution.

**4.** In sub-article (4) of article 91 of the Constitution, for the words "sixty-five years" there shall be substituted the words "sixty-eight years".

Addition of new article to the Constitution.

**5.** Immediately after article 96 of the Constitution there shall be added the following new article:



"Judicial  
Appointments  
Commission.

96A. (1) There shall be a Judicial Appointments Commission, hereinafter in this article referred to as "the Commission", which shall be a Sub-Committee of the Commission for the Administration of Justice and which shall be composed as follows:

- (a) the Chief Justice *ex officio*;
- (b) the Attorney General *ex officio*;

and

- (c) the President of the Chamber of Advocates *ex officio*.

(2) The Commission shall be chaired by the Chief Justice or, in his absence, by the Attorney General.

(3) (a) A person shall not be qualified to be appointed or to continue to hold office as a member of the Commission if he is a Minister, or a Parliamentary Secretary, a Member of the House of Representatives, a member of a local government authority or an official or a candidate of a political party:

Provided that where the President of the Chamber of Advocates is not qualified to be appointed or to hold office as aforesaid the Chamber of Advocates shall nominate another advocate to sit on the Commission in his stead.

(b) The office of a member of the Commission shall become vacant if any circumstances arise that, if the person were not a member of the Commission, the person would not qualify for membership thereof.

(c) A member of the Commission may abstain or be challenged in the same circumstances as a judge of the superior courts.

(d) Where a member of the Commission abstains or is challenged, in the case of the Chief Justice he shall be replaced by another judge who sits on the Commission for the Administration of Justice, in the case of the Attorney General he shall be replaced by the most senior advocate by rank at the Office of the Attorney General and in the case of the President of the Chamber of Advocates he shall be replaced by the most senior member by rank on the committee of the Chamber of Advocates.

(4) In the exercise of their functions the members of the Commission shall act on their individual judgement and shall not be subject to the direction or control of any person or authority.

(5) There shall be a Secretary to the Commission who shall be appointed by the Minister responsible for Justice.

(6) The functions of the Commission shall be:

(a) to receive and examine expressions of interest from persons interested in being appointed to the post of Chief Justice, Judge or Magistrate other than from persons already occupying an office established by this Constitution;

(b) to keep a permanent register of the expressions of interest referred to in paragraph (a);

(c) to conduct interviews or assessments of candidates for the offices above-mentioned where it considers that these are necessary;

(d) to advise the Prime Minister through the Minister responsible for Justice on its evaluation of candidates for the above-mentioned offices;

(e) when requested by the Prime Minister, to advise on persons who already hold an office established by this Constitution with regard to their eligibility and merit to be appointed to any of the above-mentioned offices;

(f) to advise the Chief Justice on the appointment of the Senior Administrative Judge and the Senior Magistrate;

(g) to advise on the appointment to any other judicial or court office as the Minister responsible for Justice may request from time to time:

Provided that the advice referred to in paragraphs (e), (f) and (g) shall be given by not later than thirty days from when it is requested.

(7) The proceedings of the Commission shall be held *in camera* and no member or secretary of the Commission may be called to give evidence before any court or other body with regard to any document received by or any matter discussed or communicated by the Commission.

(8) The Commission shall regulate its own procedure and shall be obliged to publish the criteria on which its evaluations are made."

**6.** In sub-article (1) of article 97 of the Constitution, for the words "sixty-five years" there shall be substituted the words "sixty-eight years". Amendment of article 97 of the Constitution.

**7.** In sub-article (2) of article 98 of the Constitution, for the words "sixty-five years" there shall be substituted the words "sixty-eight years". Amendment of article 98 of the Constitution.

**8.** In sub-article (3) of article 100 of the Constitution, for the words "sixty-five years" there shall be substituted the words "sixty-eight years". Amendment of article 100 of the Constitution.

**9.** Sub-article (11) of article 101A of the Constitution shall be amended as follows: Amendment of article 101A of the Constitution.

(a) paragraph (c) thereof shall be substituted by the following:

"(c) to exercise, subject to article 101B of this Constitution, discipline on judges and magistrates;" and

(b) paragraph (f) thereof shall be substituted by the following:

"(f) to draw the attention of any judge or magistrate on any matter, in any court in which he sits,

C 218

which may not be conducive to an efficient and proper functioning of such court;".

Addition of new article to the Constitution.

**10.** Immediately after article 101A of the Constitution there shall be added the following new article:

"Discipline of Judges, Magistrates and holders of certain other offices.

101B. (1) The Commission for the Administration of Justice shall appoint a sub-committee from amongst its members other than the President of Malta, which shall be styled as the Committee for Judges and Magistrates (hereinafter referred to as "the Committee") and which shall consist of three members of the Commission for the Administration of Justice chosen by the said Commission.

(2) The Chairman of the Committee shall be elected by the members of the Committee from amongst themselves.

(3) Any member of the Committee may be challenged and shall abstain in the same circumstances as a judge of the superior courts may be challenged or may abstain. Where a member has been challenged or has abstained, the Commission for the Administration of Justice shall appoint a substitute member.

(4) The Committee shall exercise discipline on judges and magistrates in the manner prescribed in this article.

(5) Disciplinary proceedings against a judge or a magistrate shall be commenced upon a complaint in writing and containing definite charges made to the Committee by the Chief Justice or by the Minister responsible for Justice, for breach of the provisions of the Code of Ethics for members of the Judiciary applicable to the members of the Judiciary. The complaint shall also include the grounds upon which each of such charges is based.

(6) The Committee shall, upon receipt of a complaint under sub-article (5), notify the said complaint to the judge or magistrate against whom it is made granting him or her a reasonable time to reply.

(7) If, following *prima facie* consideration of the complaint and of the reply, the Committee considers that there are not sufficient grounds to commence disciplinary proceedings, the Committee shall refrain from further consideration of the case.

(8) If, following the consideration of the complaint and of the reply as referred to in sub-article (7), the Committee considers that there are sufficient grounds to continue the disciplinary proceedings the Committee shall appoint a date for the hearing.

(9) Proceedings before the Committee shall be held *in camera* unless the judge or magistrate against whom the proceedings are taken requests otherwise. The complainant or his representative and the judge or magistrate against whom the proceedings are taken shall have a right to be present during the whole of the proceedings, to produce witnesses in support or in defence of the charges set in the complaint, and to be assisted by an advocate or a legal procurator. The Commission for the Administration of Justice may also appoint an advocate to act as a special independent prosecutor in the disciplinary proceedings.

(10) If the Committee finds that the judge or magistrate has breached the Code of Ethics for Members of the Judiciary it shall:

(a) if it considers that the breach is of a minor nature, either issue a warning or impose a pecuniary penalty recoverable as a civil debt payable to the Secretary of the Commission for the Administration of Justice, not exceeding ten *per centum* of the annual salary of the judge or magistrate as at the time established according to law;

(b) if it considers that the breach is of a serious nature it may suspend the judge or magistrate from the exercise of his duties for a period of not more than six months on half of his salary and allowances as recoverable at the time;

(c) if it considers that the breach is of such a serious nature that it merits the removal of the judge or magistrate from office, it shall report its findings to the Prime Minister and to the Speaker of the House of Representatives.

(11) The Committee may also upon the request of the Chief Justice order that a judge or a magistrate be suspended from the performance of his duties on serious medical grounds for a definite period during which the said judge or magistrate shall continue to receive his full salary and allowances. The procedure laid down in this article in respect of disciplinary proceedings shall apply *mutatis mutandis* in the case of any proceedings taken under this sub-article.

(12) (a) There shall be a right of appeal to the Commission for the Administration of Justice from decisions of the Committee by the judge or magistrate against whom the Committee makes a finding.

(b) The appeal shall be filed with the Secretary of the Commission for the Administration of Justice by not later than twenty days from when the Committee delivers its decision.

(c) The filing of an appeal as aforesaid shall suspend the execution of the decision of the Committee.

(d) The Commission for the Administration of Justice may from time to time establish rules of procedure for such appeals.

(e) The President of Malta shall not form part of the Commission for the Administration of Justice when the said Commission is hearing an appeal from a decision of the Committee.

(13) Proceedings before the Committee shall be concluded within a period of one year and appeal proceedings before the Commission for the Administration of Justice shall be concluded within a further period of six months.

Cap. 12. (14) In the exercise of their function under this article the Commission for the Administration of Justice and the Committee for Judges and Magistrates shall have all the powers as are assigned to the First Hall of the Civil Court by the Code of Organisation and Civil Procedure or by any law from time to time regulating the powers of Courts of civil jurisdiction.

(15) In the exercise of their functions the members of the Committee shall act on their own individual judgment and shall not be subject to the direction or control of any other person or authority.

(16) The provisions of this article shall be without prejudice to the application of sub-articles (2) and (3) of article 97 of this Constitution wherever they may apply.

11. In paragraph (a) of sub-article (4) of article 108 of the Constitution the words "of paragraph (a)" shall be deleted. Amendment of article 108 of the Constitution.

## PART II

12. This Part enacts the Members of the Judiciary (Pensions) Act, 2016.

1. (1) The short title of this Act is the Members of the Judiciary (Pensions) Act, 2016. Short title and commencement.

(2) The provisions of this Act shall come into force on such a date as the President of Malta may by notice in the Gazette establish, and different dates may be so established for different provisions or different purposes of this Act.

2. In this Act and in the regulations made thereunder - Interpretation.

"Attorney General" means the person appointed in accordance with the provisions of Chapter VII of the Constitution of Malta, whether serving or in retirement, and who is not entitled to a pension under the Pensions Ordinance; Cap. 93.

"legal representative" means testate or intestate heir of the deceased Member of the Judiciary or of the deceased Attorney General, as the case may be;

C 222

Cap. 93. "Member of the Judiciary" means the Chief Justice, Judges and Magistrates appointed in accordance with the provisions of Chapter VIII of the Constitution of Malta, whether serving or in retirement, and who are not entitled to a pension under the Pensions Ordinance;

"month" means a calendar month;

Cap. 175. "pensionable emoluments" means the salary that would be payable to a Member of the Judiciary or to the Attorney General, as the case may be, in accordance with the Judges and Magistrates (Salaries) Act and the President of Malta and other Officers (Salaries) Act, respectively, had that Member of the Judiciary or that Attorney General, as the case may be, not died or retired;

Cap. 186.

"pensionable office" means the office of a Member of the Judiciary or of the Attorney General, as the case may be;

"pensionable service", in relation to a Member of the Judiciary, means any service performed by a Member of the Judiciary prior to his retirement, and shall include any service in any Court or Tribunal of international jurisdiction constituted by virtue of any international or multilateral convention or treaty; and in relation to the Attorney General, means any service performed by the Attorney General prior to his retirement;

"public service" means service of a civil capacity under the Government of Malta or such other service as the President of Malta may determine to be public service for the purposes of any provision of this Act or any regulations made thereunder;

"retirement" means the date when a serving Member of the Judiciary vacates his office in accordance with the provisions of Chapter VIII of the Constitution of Malta, or a person occupying the post of Attorney General vacates his office in accordance with the provisions of Chapter VII of the Constitution of Malta, as the case may be, and includes the date when a serving Member of the Judiciary or a person occupying the post of Attorney General, as the case may be, resigns or is removed due to proved inability to perform the functions of his office due to infirmity of body or mind in accordance with the provisions of Chapter VIII of the Constitution of Malta, or Chapter VII of the Constitution of Malta, respectively;

"year" means a calendar year.

President may  
make pension  
regulations.

3. (1) It shall be lawful for the President of Malta, from time to time to make, and when made, to vary regulations for the granting of pensions, gratuities and other allowances to Members of the Judiciary and to the Attorney General.



(2) The said regulations and any regulations varying the same as aforesaid, shall have the same force and effect for all purposes as if they were contained in this Act, and the term "this Act" shall in the following articles be read and construed accordingly.

(3) Whenever the President of Malta is satisfied that any regulation made under this article should have retrospective effect in order to confer a benefit, that regulation may be given retrospective effect for that purpose.

(4) No regulation made under this article shall have effect unless it has received the prior approval of the House of Representatives signified by resolution.

(5) Any pension or gratuity granted under this Act shall be computed in accordance with the provisions in force at the actual date of retirement of a Member of the Judiciary or of the Attorney General, as the case may be.

4. There shall be charged on and paid out of the Consolidated Fund all such sums of money as may from time to time be granted by the President of Malta by way of pension, gratuity or other allowance in accordance with this Act.

Pensions, etc., to be charged on the revenues of Malta.

5. A Member of the Judiciary, as well as the Attorney General, shall have the right to a pension, gratuity, or allowance under this Act or under any regulations made thereunder:

Pensions are a right.

Provided that a Member of the Judiciary or the Attorney General, as the case may be, shall forfeit the right to a pension, gratuity or allowance under this Act or under any regulations made thereunder if he or she is removed from office in accordance with the provisions of Chapter VIII or Chapter VII, respectively, of the Constitution of Malta due to proved misbehaviour.

6. (1) A Member of the Judiciary or a person who formerly occupied the post of Attorney General, who is retired on the date of coming into force of this Act, shall be entitled to a pension, gratuity or other allowance as prescribed by regulations made under this Act.

Circumstances in which pension may be granted.

(2) A Member of the Judiciary or the Attorney General, as the case may be, who is in office on the date of coming into force of this Act will be entitled on retirement to a pension, gratuity or other allowance being granted by virtue of this Act.

7. A pension granted to a Member of the Judiciary or to the Attorney General, as the case may be, under this Act shall not exceed two-thirds of his pensionable emoluments.

Maximum pension.

## C 224

Pensions affected by re-employment following retirement.

Cap. 93.

8. If any Member of the Judiciary or the Attorney General, as the case may be, to whom a pension has been granted under his Act is appointed to a full time office in the public service, or is or was after his retirement appointed to an office established by the Constitution, also being a pensionable office under the Pensions Ordinance, and subsequently retires in circumstances in which he may be granted a pension, or leaves office at the end of his appointment or re-appointment, as the case may be, he may be granted, in lieu of his previous pension, a pension computed as if the periods of his service had been continuous, and such pension may be based on his pensionable emoluments on his previous or final retirement from the service of Malta, or from the said office established by the Constitution, whichever are the greater:

Provided that if, on his previous retirement, he was paid a gratuity and reduced pension, the gratuity, if any, to be paid to him on final retirement shall be reduced by the amount of the gratuity already paid.

Pensions, etc., not to be assignable, etc.

Cap. 12.

9. No pension, gratuity, or allowance granted under this Act shall be assignable, transferable or liable to be attached, sequestered, or levied upon, for or in respect of any debt or claim whatever, except in so far as is provided in article 381(3) of the Code of Organization and Civil Procedure.

Pensions, etc., to cease on bankruptcy.

10. If any Member of the Judiciary or the Attorney General, as the case may be, to whom a pension or allowance has been granted under this Act becomes a bankrupt, then such pension or allowance shall forthwith cease:

Provided always that in any such case where a pension or allowance ceases by reason of the bankruptcy of the pensioner, it shall be lawful for the President of Malta, from time to time, during the remainder of such pensioner's life or during such shorter period or periods, either continuous or discontinuous, as the President of Malta shall think fit, to cause all or any of the moneys to which such pensioner would have been entitled by way of pension or allowance had he not become a bankrupt, to be paid to or applied for the maintenance and personal support or benefit of all or any, exclusive of the other or others, of the following, namely, such pensioner himself and any wife, child or children of his, in such proportion and manner as the President of Malta thinks proper and such moneys shall be paid or applied accordingly.

Pensions, etc., to cease on conviction.

11. If any Member of the Judiciary or the Attorney General, as the case may be, to whom a pension has been granted under this Act is sentenced to a term of imprisonment by a competent court in Malta or abroad for any crime or offence, then it shall be lawful for the

President of Malta to direct that such pension or allowance shall forthwith cease:

Provided that, where a pension or allowance ceases for the reason aforesaid, it shall be lawful for the President of Malta to cause all or any part of the moneys to which the Member of the Judiciary or Attorney General concerned, as the case may be, would have been entitled by way of pension or allowance, to be paid to or applied for the benefit of his or her surviving spouse or surviving partner in a civil union, child or children.

12. (1) In the case of death of a Member of the Judiciary or of the Attorney General, as the case may be, the President of Malta may grant to his legal representative a gratuity of an amount not exceeding his annual pensionable emoluments or his commuted pension gratuity, if any, whichever is the greater.

Gratuity in case of death of a Member of the Judiciary or Attorney General.

(2) In this article, "commuted pension gratuity" means the gratuity, if any, which might have been granted to the Member of the Judiciary or to the Attorney General under regulation 4 of the Members of the Judiciary and the Attorney General (Pensions) Regulations, 2016, if the pensionable service which would be taken for the purpose of computing any pension or gratuity granted under this Act had been wholly rendered in Malta and if on the date of his death the said Member of the Judiciary or the Attorney General, as the case may be, had retired on the ground of ill-health and had elected to receive a gratuity and reduced pension or he had before the date of his retirement elected to have a maximum gratuity and a correspondingly reduced pension.

(3) The grant of any gratuity to the legal representative of a deceased Member of the Judiciary or deceased Attorney General, as the case may be, shall not be deemed to affect any right of the surviving spouse or surviving partner in a civil union under the provisions of the Civil Code relating to the community of acquests.

Cap. 16.

13. The provisions of this Act and any regulations made thereunder shall apply to all Members of the Judiciary and to persons occupying the post of Attorney General appointed after the 15th January, 1979, and no pension, gratuity or other allowance shall be payable under this Act, nor shall any other payment be made thereunder, to any person who was a Member of the Judiciary or a person occupying the post of Attorney General before the 16th January, 1979, or to the surviving spouse or surviving partner in a civil union, child or other relative of any such person.

Application of Act.

---

### Objects and Reasons

The objects and reasons of this Bill are the enactment of Constitutional reforms concerning the judiciary, the establishment of two sub-committees of the Commission for the Administration of Justice to be styled as the Judicial Appointments Commission and the Committee for Judges and Magistrates with the respective tasks of advising on judicial appointments and of conducting disciplinary proceedings in respect of members of the judiciary, the entrenchment of the Commission for the Administration of Justice and of the Committee for Judges and Magistrates in the Constitution and the enactment of the Members of the Judiciary (Pensions) Act.

