

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,428, 22 ta' Mejju, 2015

Taqsim C

Nru. 97

22. 05. 2015

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Michael Farrugia, M.P., Ministru għall-Familja u Solidarjetà Soċjali, u moqri għall-Ewwel darba fis-Seduta tat-18 ta' Mejju, 2015.

A BILL introduced by the Honourable Michael Farrugia, M.P., Minister for the Family and Social Solidarity, and read the First time at the Sitting of the 18th May, 2015.

ATT biex jemenda l-Att dwar is-Sigurtà Soċjali, Kap. 318, u biex jipprovdi għal hwejjeg ancillari jew konsegwenzjali għal dan.

AN ACT to amend the Social Security Act, Cap. 318, and to provide for matters ancillary or consequential thereto.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

Abbozz ta' Liġi msejjah

ATT biex jemenda l-Att dwar is-Sigurtà Soċjali, Kap. 318, u biex jipprovdi għal hwejjeġ ancillari jew konsegwenzjali għal dan.

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

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2015 li jemenda l-Att dwar is-Sigurtà Soċjali, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar is-Sigurtà Soċjali, hawn iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor.

Kap. 318.

2. Il-paragrafu (i) tas-subartikolu (1) tal-artikolu 12 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Emenda tal-artikolu 12 tal-Att prinċipali.

"(i) €1,467.51 fil-każ ta' persuna miżżewġa li tkun imantni għal kollox lill-konjuġi u liema konjuġi ma jkunx hu nnifisu jahdem għalih nnifisu jew ikun f'impieg assigurabbli; jew".

3. Il-paragrafu (a) tas-subartikolu (6) tal-artikolu 26 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Emenda tal-artikolu 26 tal-Att prinċipali.

"(a) fil-każ ta' persuna miżżewġa li l-konjuġi tagħha ma jirċevix pensjoni tas-sigurtà soċjali, erba' kwinti, u".

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Emenda tal-artikolu 50 tal-Att prinċipali.

4. Il-paragrafu (a) tal-artikolu 50 al-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"(a) fil-każ ta' persuna miżżewġa li l-konjuġi tagħha ma jirċevix pensjoni tas-sigurtà soċjali, erba' kwinti, u".

Sostituzzjoni tal-artikolu 62 tal-Att prinċipali.

5. L-artikolu 62 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Il-pensjoni li tithallas bir-rata ta' persuna waħedha lil persuna miżżewġa.

62. Meta persuna miżżewġa ssir invalida jew tkun issofri minn xi telfien permanenti ta' fakultà fiżika jew mentali li tiġi b'riżultat tal-impieg tagħha jew tax-xogħol li tagħmel skont l-artikolu 29, jew tilhaq l-età tal-pensjoni fl-1 ta' April, 1978, jew wara dik id-data, u tiġi li jkollha dritt li tirċievi pensjoni li tithallas taht l-artikolu 26 jew 29 jew taht it-Taqsima V (bl-eskluzjoni tal-Pensjoni ta' Żewġ Terzi) ta' dan l-Att, għalhekk, jekk il-konjuġi ta' dik il-persuna jkun/tkun qieghed/qieghda bid-dritt tiegħu/tagħha stess jirċievi/tirċievi xi pensjoni li tithallas taht l-artikoli msemmin qabel jew Pensjoni ta' Żewġ Terzi skont id-dispożizzjonijiet ta' din it-Taqsima, il-pensjoni li tithallas għandha tiġi mħallsa bir-rata li tkun applika għal persuna waħedha:

Iżda jekk xi wiehed mill-konjuġi, li jkun digà qieghed jirċievi pensjoni li tithallas taht l-artikoli jew it-Taqsima msemminja, jirrinunzja għad-dritt qabel imsemmi, għalhekk il-pensjoni li tithallas lill-konjuġi li jzomm/izzomm id-dritt tiegħu/tagħha għall-pensjoni għandha tithallas bir-rata li tkun applika għal persuna miżżewġa."

Emenda tal-artikolu 66 tal-Att prinċipali.

6. L-artikolu 66 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-verżjoni bl-Ingliż tas-subparagrafu (i) tal-paragrafu (b) tas-subartikolu (1) tiegħu għandha tiġi sostitwita b'dan li ġej:

"(i) he/she is a citizen of Malta and normally resides in Malta; and";

(b) fis-subparagrafu (ii) tal-paragrafu (b) tas-subartikolu (1) tiegħu, minflok il-kliem "il-mezzi tagħha fil-ġimgħa, kalkolati skont id-dispożizzjonijiet tat-Taqsima IV tat-Tieni

Skeda li tinsab ma' dan l-Att, ma tkunx iżjed mill-oghla rata ta' Pensjoni tal-Età li, fil-każ ta' raġel miżżewweġ li martu tikkwalifika ukoll għal pensjoni bi dritt," għandhom jidhlu l-kliem "il-mezzi tiegħu/tagħha fil-ġimgħa, kalkolati skont id-dispożizzjonijiet tat-Taqsima IV tat-Tieni Skeda li tinsab ma' dan l-Att, ma jkunux iżjed mill-oghla rata ta' Pensjoni tal-Età li, fil-każ ta' koppja miżżewġa fejn iż-żewġ konjuġi jikkwalifikaw għal pensjoni bi dritt tagħhom stess,"; u

(ċ) fis-subartikolu (2) tiegħu, minflok il-kliem "meta raġel miżżewweġ u martu t-tnejn jikkwalifikaw għal pensjoni taht id-disposizzjonijiet ta' dan l-artikolu jew tal-artikolu 27, kull pensjoni bħal dik li tithallas lill-martu għandha tieqaf milli tithallas." għandhom jidhlu l-kliem "meta ż-żewġ konjuġi f'koppja miżżewġa t-tnejn jikkwalifikaw għal pensjoni taht id-dispożizzjonijiet ta' dan l-artikolu jew tal-artikolu 27, kull pensjoni bħal dik li tithallas għandha tiġi mqassma f'partijiet ugwali bejn iż-żewġ konjuġi."

7. L-artikolu 67 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 67 tal-Att prinċipali.

(a) fil-verżjoni bl-Ingliż tiegħu minflok il-kliem "if at that date he -" għandhom jidhlu l-kliem "if at that date he/she -";

(b) fil-verżjoni bl-Ingliż tal-paragrafu (i) tiegħu, minflok il-kliem "was being wholly or mainly maintained by him or" għandhom jidhlu l-kliem "was being wholly or mainly maintained by him/her or"; u

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

"Izda jekk iż-żewġ ġenituri tal-mejjet jew mejta jkollhom dritt għal Pensjoni ta' Ġenitur, kull pensjoni bħal dik li tithallas għandha tiġi mqassma f'partijiet ugwali bejn iż-żewġ ġenituri."

8. L-ewwel proviso għall-artikolu 90A tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej: Emenda tal-artikolu 90A tal-Att prinċipali.

"Izda, fil-każ ta' Pensjoni Minima Nazzjonali li tithallas taht dan l-Att lil persuna miżżewġa li tkun qed tmantni lill-konjuġi tiegħu/tagħha, il-proporzjon ta' tnejn minn tlieta kif imsemmi qabel f'dan l-artikolu għandu jittella' għal erbgħa minn hamsa:".

9. L-artikolu 91 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 91 tal-Att prinċipali.

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(a) fil-verżjoni bl-Ingliż tiegħu minflok "during which he is undergoing imprisonment or detention" għandhom jidhlu l-kliem "during which he/she is undergoing imprisonment or detention"; u

(b) it-tieni proviso tiegħu għandu jiġi sostitwit b'dan li ġej:

"Izda ukoll meta dik il-persuna tkun persuna miżżewġa li kien ikollha dritt għal pensjoni taht dan l-Att, u li, minnufih qabel ma nġhatat s-sentenza kif imsemmi fuq, ma kellhiex id-disposizzjonijiet tal-artikolu 96 japplikaw għaliha, il-konjuġi tiegħu/tagħha għandu jkollu/jkollha dritt li jirċievi/tirċievi hamsa minn sitta tal-pensjoni li kienet tithallas lill-konjuġi tiegħu/tagħha li kieku dik il-persuna ma kienitx skwalifikata taht id-disposizzjonijiet ta' dan l-artikolu, sakemm hi ma jkollhiex diġà dritt għal pensjoni taht dan l-Att bi dritt tagħha stess, jew nofs il-pensjoni li kienet tithallas lill-konjuġi tiegħu/tagħha li kieku dik il-persuna ma kienitx skwalifikata taht id-disposizzjonijiet ta' dan l-artikolu, sakemm dik il-persuna tkun diġà intitolata għal pensjoni taht dan l-Att bi dritt tagħha stess."

Sostituzzjoni
tal-artikolu 96
tal-Att
prinċipali.

10. L-artikolu 96 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"96. (1) Bla hsara għad-dispożizzjonijiet tas-subartikolu (2), persuna miżżewġa li tkun qed tirċievi pensjoni li tithallas bir-rata ta' persuna miżżewġa taht id-dispożizzjonijiet tal-artikoli 27 u 66 għandu jkollha dik il-pensjoni u kull Bonus u, jew, Bonus Addizzjonali li jithallas lilha taht l-artikolu 85 imqassam b'mod ugwali bejn iż-żewġ konjuġi -

(a) meta wiehed/wahda mill-konjuġi jitlob/titlob lid-Direttur li dik in-nofs pensjoni u/jew nofs Bonus u, jew, nofs Bonus Addizzjonali għandhom jithallsu dirett lill-konjuġi l-iehor/l-oħra; jew

(b) meta l-konjuġi huma separati *de jure* u ma jissemma xejn fis-sentenza jew fil-kuntratt ta' separazzjoni dwar jekk isirx proporzjonament jew le ta' dik il-Pensjoni u, jew, Bonus u, jew, Bonus Addizzjonali:

Izda dak il-proporzjonament għandu jibda biss iseħħ mid-data meta l-hlas li jmiss ta' dik il-pensjoni u, jew, Bonus u, jew, Bonus Addizzjonali jkun dovut wara li ssir talba bil-miktub

għal dan l-iskop minn xi waħda miż-żewġ partijiet konċernati.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ma għandhomx japplikaw meta wiehed/waħda mill-konjuġi jkun/tkun diġà qed jirċievi/tirċievi xi pensjoni u, jew, Bonus u, jew, Bonus Addizzjonali taht dan l-Att bi dritt tiegħu/tagħha stess jew meta dik il-pensjoni indikata fl-imsemmi subartikolu (1) tkun qed tithallas b'zieda ma' xi pensjoni oħra li tithallas taht dan l-Att.

(3) Meta b'riżultat ta' xi sentenza tal-qorti jew ta' xi ftehim leġittimu bejn koppja miżżewġa xi pensjoni li tithallas taht id-dispożizzjonijiet tkun qiegħda tithallas kollha kemm hi jew parti minnha lill-konjuġi tal-pensjonant/a, il-Bonus u l-Bonus Addizzjonali li jithallas taht l-artikolu 85 għandu jithallas kollu lill-pensjonant/a sakemm ma jkunx hemm sentenza tal-qorti li tkun tordna kuntrarju jew sakemm il-koppja miżżewġa ma tiftiehemx mod ieħor."

11. Is-subartikolu (1) tal-artikolu 108 tal-Att prinċipali għandu jigi emendat kif ġej:

Emenda tal-artikolu 108 tal-Att prinċipali.

(a) fil-paragrafu (iii) tiegħu, minflok il-kliem "u taht l-artikolu 58, it-tnejn ta' dan l-Att." għandhom jidhlu l-kliem "u taht l-artikolu 58;" u

(b) minnufih wara l-paragrafu (iii) tiegħu għandu jizdied il-paragrafu ġdid li ġej:

"(iv) kull afferemazzjoni ta' diskriminazzjoni bbażata fuq is-sess magħmula minn persuna , liema afferemazzjoni tirrigwarda d-deċiżjoni dwar l-eligibilità u d-dritt ta' dik il-persuna għal benefiċċju, pensjoni, *allowance* u assistenza li tithallas taht dan l-Att."

12. Fit-tieni kolonna tat-Tabella fit-Taqsima II tas-Sitt Skeda li tinsab mal-Att prinċipali, minflok iċ-ċifra "€133.25" għandhom jidhlu iċ-ċifra u l-kliem "€133.25 mqassma f'partijiet ugwali bejn iż-żewġ konjuġi".

Emenda tas-Sitt Skeda li tinsab mal-Att prinċipali.

13. It-Tnax l-Iskeda li tinsab mal-Att prinċipali għandha tigi emendata kif ġej:

Emenda tat-Tnax l-Iskeda li tinsab mal-Att prinċipali.

(a) fl-ewwel kolonna tat-Tabella fit-Taqsima G tagħha, minflok iċ-ċifra "€133.25" għandhom jidhlu iċ-ċifra u l-kliem "€133.25 mqassma f'partijiet ugwali bejn iż-żewġ ġenituri"; u

(b) fit-tieni kolonna tat-Tabella fit-Taqsima J tagħha,

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minflok il-kliem "Persuna miżżewwġa li tkun qegħda tmantni lill-konjuġi u li qed tirċievi l-Pensjoni Minima Nazzjonali" għandhom jidhlu l-kliem "Persuna miżżewwġa li tkun qegħda tirċievi l-Pensjoni Minima Nazzjonali bir-rata ta' persuna miżżewwġa".

Għanijiet u Raġunijiet

L-għan prinċipali ta' dan l-Abbozz ta' Liġi hu biex jiġu emendati d-dispożizzjonijiet tal-Att dwar is-Sigurtà Soċjali biex titneħħa l-inugwaljanza bejn is-sessi minn diversi artikoli li jinsabu fl-Att, biex jagħti d-dritt lil persuni li ifittxu riparazzjoni legali fil-kamp tas-sigurtà soċjali jekk daww il-persuni jidhrilhom li tkun saret diskriminazzjoni fil-konfront tagħhom fuq il-bażi tal-ġeneru, u biex titneħħa l-inugwaljanza ta' bejn is-sessi mid-diversi skedi li jinsabu fl-Att.

**A Bill
entitled**

AN ACT to amend the Social Security Act, Cap. 318, and to provide for matters ancillary or consequential 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:-

1. The short title of this Act is the Social Security (Amendment) Act, 2015, and this Act shall be read and construed as one with the Social Security Act, hereinafter referred to as "the principal Act".

Short title.

Cap. 318.

2. Paragraph (i) of sub-article (1) of article 12 of the principal Act shall be substituted by the following:

Amendment of article 12 of the principal Act.

"(i) €1470 in the case of a married person is wholly maintaining a spouse and who is not self-occupied or in insurable employment; or".

3. Paragraph (a) of sub-article (6) of article 26 of the principal Act shall be substituted by the following:

Amendment of article 26 of the principal Act.

"(a) in the case of a married person whose spouse is not in receipt of a social security pension, four-fifths, and".

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Amendment of article 50 of the principal Act.

4. Paragraph (a) of article 50 of the principal Act shall be substituted by the following:

"(a) in the case of a married person whose spouse is not in receipt of a social security pension, four-fifths, and".

Substitution of article 62 of the principal Act.

5. Article 62 of the principal Act shall be substituted by the following:

"Pension payable at the single rate to a married person.

62. Where a married person becomes invalid or suffers any permanent loss of physical or mental faculty arising out of his employment or self-occupation in accordance with article 29, or reaches pension age on or after the 1st day of April, 1978, and becomes entitled to receive a pension payable under articles 26 or 29 or under Part V (excluding a Two-Thirds Pension) of this Act, then, if his/her spouse is in his/her own right in receipt of any pension payable under the aforementioned articles or to a Two-Thirds Pension in accordance with the provisions of this Part, the pension payable shall be paid at the rate applicable for a single person:

Provided that if either one of the spouses, being already in receipt of a pension payable under the said articles or Part, shall renounce to the right aforesaid, then the pension payable to the spouse who retains his/her pension right shall be paid at the rate applicable for a married person."

Amendment of article 66 of the principal Act.

6. Article 66 of the principal Act shall be amended as follows:

(a) sub-paragraph (i) of paragraph (b) of sub-article (1) thereof shall be substituted by the following:

"(i) he/she is a citizen of Malta and normally resides in Malta; and";

(b) in sub-paragraph (ii) of paragraph (b) of sub-article (1) thereof, for the words "his weekly means, calculated in accordance with the provisions of Part IV of the Second Schedule to this Act, do not exceed the highest rate of Age Pension which, in the case of a married man whose wife also qualifies for a pension in her own right," there shall be substituted the words "his/her weekly means, calculated in accordance with the provisions of Part IV of the Second

Schedule to this Act, do not exceed the highest rate of Age Pension which, in the case of a married couple where both spouses qualify for a pension in their own right,"; and

(c) in sub-article (2) thereof, for the words "where a married man and his wife both qualify for a pension under the provisions of this article or of article 27, any such pension as is payable to the wife shall cease to be payable." there shall be substituted by the words "where a married couple both qualify for a pension under the provisions of this article or of article 27, any such pension shall be apportioned equally between each of the spouses."

7. Article 67 of the principal Act shall be amended as follows: Amendment of article 67 of the principal Act.

(a) for the words "if at that date he -" there shall be substituted the words "if at that date he/she -";

(b) in paragraph (i) thereof, for the words "was being wholly or mainly maintained by him or" there shall be substituted the words "was being wholly or mainly maintained by him/her or"; and

(c) the proviso thereto shall be substituted by the following:

"Provided that if both parents of the deceased person are entitled to a Parent's Pension, any such pension shall be apportioned equally between each of the parents."

8. The first proviso to article 90A of the principal Act shall be substituted by the following: Amendment of article 90A of the principal Act.

"Provided that, in the case of a National Minimum Pension as is payable under this Act to a married person who is maintaining his/her spouse, the proportion of two-thirds as aforesaid in this article shall be upgraded to four-fifths:"

9. Article 91 of the principal Act shall be amended as follows: Amendment of article 91 of the principal Act.

(a) for the words "during which he is undergoing imprisonment or detention" there shall be substituted the words "during which he/she is undergoing imprisonment or detention"; and

(b) the second proviso thereto shall be substituted by the

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following:

"Provided further that where such person is a married person who would have been entitled to a pension under this Act, and who, immediately prior to being sentenced as above, was not having the provisions of article 96 applied to him/her, his/her spouse shall be entitled to receive five-sixths of the pension which would have been payable to his/her spouse had he/she not been disqualified under the provisions of this article, provided he/she is not already entitled to a pension under this Act in his/her own right, or half the pension which would have been payable to his/her spouse had he/she not been disqualified under the provisions of this article, provided he/she is already entitled to a pension under this Act in his/her own right."

Substitution of article 96 of the principal Act.

10. Article 96 of the principal Act shall be substituted by the following:

"96. (1) Subject to the provisions of sub-article (2), a married person who is in receipt of a pension payable at the married rate under the provisions of articles 27 and 66 shall have such pension and any Bonus and, or, Additional Bonus payable to him/her under article 85 apportioned equally between both spouses -

(a) where either one of the spouses requests the Director that such half pension and/or half Bonus and, or, half Additional Bonus be paid direct to the other spouse; or

(b) where the spouses are *de jure* separated and no mention is made in the judgment or contract of separation with regards to the apportionment or otherwise of such pension and, or, bonus and, or, additional bonus:

Provided that such apportionment shall only take effect from the date when the next payment of such pension and, or, Bonus and, or, Additional Bonus is due following a written request to this effect from any one of the two parties concerned.

(2) The provisions of sub-article (1) shall not apply where either one of the spouses is already in receipt of any pension and, or, Bonus and, or, Additional Bonus under this Act in his/her own right or where such pension as is referred to in the said sub-article (1) is being paid in addition to any other pension payable under this Act.

(3) Where by any court judgment or as a result of any lawful agreement between a married couple any pension payable under the provisions of this Act is being paid wholly or partly to the spouse of the pensioner, the Bonus and the Additional Bonus payable under article 85 shall be paid wholly to the pensioner unless there is a court judgment to the contrary or unless the married couple otherwise agree."

11. Sub-article (1) of article 108 of the principal Act shall be amended as follows:

Amendment of article 108 of the principal Act.

(a) in paragraph (iii) thereof, for the words "and under article 58." there shall be substituted the words "and under article 58;" and

(b) immediately after paragraph (iii) thereof there shall be added the following new paragraph:

"(iv) any claim of discrimination on ground of sex made by any person concerning the determination of that person's eligibility and entitlement for any benefit, pension, allowance and assistance payable under this Act."

12. In the second column of the Table in Part II of the Sixth Schedule to the principal Act, for the figure "€133.25" there shall be substituted the figure and words "€133.25 apportioned equally between each of the spouses".

Amendment of the Sixth Schedule to the principal Act.

13. The Twelfth Schedule to the principal Act shall be amended as follows:

Amendment of the Twelfth Schedule to the principal Act.

(a) in the first column of the Table in Part G thereof, for the figure "€133.25" there shall be substituted the figure and words "€133.25 apportioned equally between each of the parents"; and

(b) in the second column of the Table in Part J thereof, for the words "In the case of a married person maintaining a spouse and who is in receipt of a National Minimum Pension at the married rate" there shall be substituted the words "In the case of a married person who is in receipt of a National Minimum Pension at the married rate".

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Objects and Reasons

The main object of this Bill is to amend the provisions of the Social Security Act in order to remove gender inequality from various articles thereof, to give persons the right to seek legal redress in the area of social security if such persons consider themselves discriminated against on the basis of gender, and to remove gender inequality from the various schedules to the Act.

