

Nru. 108

3. 8. 79

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Joseph Brincat, M.P., Ministru tal-Gustizzja, Artijiet, Djar u Affarijiet tal-Parlament, u moqri għall-Ewwel darba fis-Seduta tas-17 ta' Lulju, 1979.

A BILL introduced by the Honourable Joseph Brincat, M.P., Minister of Justice, Lands, Housing and Parliamentary Affairs, and read the First time at the Sitting of the 17th July, 1979.

ATT biex jipprovdi għall-hlas ta' pensjoni lill-Membri tal-Parlament.

AN ACT to make provision for the payment of a pension to Members of Parliament.

C. MIFSUD

Skrivan tal-Kamra tad-Deputati

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Clerk to the House of Representatives

ABBOZZ TA' LIĠI

msejjah

ATT biex jipprovdi għall-ħlas ta' pensjoni lill-Membri tal-Parlament.

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

Titolu fil-qosor.

1. Dan l-Att jista' jissejjaħ l-Att ta' l-1979 dwar il-Pensjoni tal-Membri tal-Parlament.

Tifsir.

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġx xort'oħra —

“ħlas pensjonabbli” tfisser —

(a) dwar is-servizz ta' membru li għalih ma japplikax il-paragrafu (b) ta' din it-tifsira, l-onorarju li jithallas lil membru fid-data ta' l-irtir tiegħu;

(b) dwar servizz minn membru li okkupa l-kariga ta' Speaker, jew ta' Prim Ministru, jew ta' Ministru, jew ta' Segretarju Parlamentari, jew ta' Deputat Speaker jew ta' Kap ta' l-Oppożizzjoni taħt xi waħda mill-liġijiet speċifikati fis-subartikolu (2) ta' dan l-artikolu, għal perijodu ta' mhux inqas minn hames snin, jew li okkupa żewġ karigi jew iżjed bħal dawk għal perijodu ta' mhux inqas minn hames snin b'kollox, is-salarju li jithallas dwar dik il-kariga, jew il-medja tas-salarji li jithallsu dwar l-imsemmija karigi li jkollhom l-oġġla ħlas ikkalkolat skond it-tul tas-servizz f'kull wieħed minn dawk il-karigi matul il-hames snin l-aktar favorevoli għall-membru, skond il-każ, fid-data ta' l-irtir tiegħu;

“ħlas pensjonabbli kurrenti” għandha l-istess tifsir bħal “ħlas pensjonabbli” bis-sostituzzjoni ta' onorarji jew salarji li jkunu qed jithallsu f'data rilevanti minflok riferenzi għal onorarji jew salarji li jkunu qed jithallsu fid-data ta' rtir;

“Kamra” tfisser il-Kamra tad-Deputati mwaqqfa bl-artikolu 52 tal-Kostituzzjoni;

“membru” tfisser persuna li, fl-1 jew wara l-1 ta' Jannar, 1976, kienet jew saret membru tal-Kamra;

“pensjoni tas-servizz” għandha l-istess tifsir kif mogħti lilha bl-artikolu 2 ta' l-Att ta' l-1956 dwar is-Sigurtà Nazzjonali, iżda ma tinkludix pensjoni li tithallas taħt dan l-Att;

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tal-1956

“rtir” —

(a) dwar membru 'l fuq mill-età ta' wiehed u sittin sena li jkun għadu membru, tfisser it-twettiq tad-deċiżjoni ta' dak il-membru li ma jibqax membru jew li ma jergax jofirog għall-elezzjoni bħala membru, u tinkludi l-każ li ma jkunx reġa' gie elett jekk ikun hareg għall-elezzjoni;

(b) dwar membru li ma jkunx baqa' membru qabel jilhaq l-età ta' wiehed u sittin sena, meta jilhaq dik l-età;

“sena”, hliel sabiex tiġi stabbilita l-età ta' persuna, tfisser perijodu ta' tliet mija u ħamsa u sittin gurnata, u tinkludi żewġ perijodi jew iktar li b'kollox jammontaw għal tliet mija u ħamsa u sittin gurnata;

“servizz” dwar kull membru, tfisser kull servizz bħala membru tal-Kamra u kull servizz qabel bħala membru ta' l-Assemblea Legislattiva taħt xi waħda mill-imsemmija liġijiet u —

(a) dwar membru li jkun spiċċa minn membru max-xoljiment tal-Parlament u li jerga' jiġi elett bħala membru fl-ewwel elezzjoni ġenerali wara dak ix-xoljiment, għandha tinkludi wkoll il-perijodu bejn l-imsemmi xoljiment u l-gurnata li fiha l-Kamra tiltaqa' għall-ewwel darba wara dak ix-xoljiment;

(b) dwar membru li jkun okkupa l-kariga ta' Speaker, jew ta' Ministru, jew ta' Segretarju Parlamentari, għandha tinkludi wkoll, għall-fini ta' servizz f'xi waħda mill-imsemmija karigi, kull servizz f'dik il-kariga fil-waqt li l-Assemblea kienet xolta jew il-Parlament kien xolt, hekk iżda li ebda perijodu bħala membru u f'xi waħda mill-imsemmija karigi ma għandu jiġi kalkolat iktar minn darba.

(2) Il-liġijiet imsemmija fis-subartikolu (1) ta' dan l-artikolu huma l-*Letters Patent* ta' l-1947 ta' Malta (Kostituzzjoni), l-Ordni fil-Kunsill ta' l-1961 dwar il-Kostituzzjoni ta' Malta u l-Ordni ta' l-1964 dwar l-Indipendenza ta' Malta.

3. Il-flejjes kollha meħtieġa għan-nefqa skond dan l-Att għandhom jiġu addebitati lill-Fond Konsolidat.

Nefqa mill-Fond
Konsolidat.

4. (1) Bla ħsara għad-disposizzjonijiet ta' dan l-Att, membru li jkollu mhux inqas minn għaxar snin servizz għandu, malli jirtira, jirċievi pensjoni bir-rata ta' parti waħda minn mitejn u sebghin parti tal-ħlas pensjonabbli tiegħu għal kull xahar komplet ta' servizz sal-limitu stabbilit bis-subartikolu (3) ta' dan l-artikolu.

Pensjoni ta'
membri.

(2) Meta fl-aħħar gurnata ta' xi xahar li fih pensjoni jkollha tithallas lil persuna taħt dan l-Att, il-pensjoni li jkollha hekk tithallas flimkien ma' kull pensjoni li tkun tithallas lil dik il-persuna taħt l-Att ta' l-1956 dwar is-Sigurtà Nazzjonali u ma' kull pensjoni tas-servizz ikunu b'kollox iżjed mill-ammont li kien ikun jithallas lil dik il-persuna taħt is-subartikolu (1) ta' dan l-artikolu kieku l-pensjoni kienet kalkolata fuq il-ħlas pensjonabbli kurrenti applikabbli fil-każ tagħha, dik il-persuna għandha tirċievi biss dik il-parti tal-pensjoni li xort'oħra kienet tithallas

taħt dan l-Att hekk li jiġi żgurat li l-imsemmija pensjonijiet flimkien ma jkunux iżjed mill-imsemmi ammont:

Iżda meta l-imsemmija pensjonijiet kollha flimkien ikunu inqas mill-imsemmi ammont, il-pensjoni li xort'oħra kienet tithallas taħt dan l-Att għandha tiżdied b'somma hekk li jiġi żgurat li l-imsemmija pensjonijiet flimkien ilaħħqu għal dak l-ammont.

(3) F'kull każ li għalih japplika s-subartikolu (2) ta' dan l-artikolu, il-proviso għas-subartikolu (1) ta' l-artikolu 16A u s-subartikolu (3) ta' l-artikolu 17 ta' l-Att ta' l-1956 dwar is-Sigurtà Nazzjonali għandu japplika daqslikieku l-pensjoni li għandha tithallas taħt dan l-Att ma kenitx pensjoni tas-servizz għall-finijiet ta' dak l-Att.

(4) Bla ħsara għad-disposizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, pensjoni li tithallas lil persuna taħt dan l-Att ma għandhiex tkun iżjed minn żewġ terzi tal-ħlas pensjonabbli tagħha.

Kontribuzzjoni ta' membri.

5. (1) Kontribuzzjoni, bir-rata speċifikata fis-subartikolu (2) ta' dan l-artikolu għandha, mill-bidu u wara l-bidu fis-seħħ ta' dan l-Att, tithallas minn kull membru fil-waqt li jkun membru, u dik il-kontribuzzjoni għandha titnaqqas mill-onorarju jew mis-salarju ta' kull wieħed minn dawk il-membri.

(2) Ir-rata tal-kontribuzzjoni tkun minn sittax wieħed ta' l-onorarju jew tas-salarju tal-membri li jikkontribwixxi nieqsa l-kontribuzzjoni tiegħu li tithallas minnu taħt l-Att ta' l-1956 dwar is-Sigurtà Nazzjonali.

(3) Kontribuzzjoni mħallsa taħt dan l-Att għandha, għall-finijiet tal-paragrafu (d) tas-subartikolu (1) ta' l-artikolu 22 ta' l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*, titqies bħala kontribuzzjoni annwali għal pensjoni approvata mill-Kummissarju tat-Taxxi Nterni.

(4) Ebda kontribuzzjoni mħallsa taħt dan l-Att ma tkun tista' tithallas lura.

Att Nru. LIV tal-1948

Pensjoni ma tithallasx f'ċerti każijiet.

6. (1) Meta persuna li tkun qed tirċievi pensjoni taħt dan l-Att terġa' ssir membru, ebda pensjoni ma tithallas fil-waqt li din tkun għadha membru; u meta din wara ma tibqax membru l-pensjoni tagħha tkun, minn dak il-ħin, kif ikollha jedd għalih skond id-disposizzjonijiet ta' dan l-Att:

Iżda, dwar membru li jkun laħaq l-età ta' hamsa u sittin sena, meta l-pensjoni li dak il-membri kien ikollu, kieku ma kenux id-disposizzjonijiet ta' dan l-Att, jedd għaliha taħt dan l-Att tkun ikbar mill-onorarju jew mis-salarju li għal dak iż-żmien ikun jiħallas lilha, din ikollha jedd li tirċievi daqstant mill-imsemmija pensjoni li tkun daqs id-differenza bejn l-imsemmija pensjoni u l-imsemmi onorarju jew salarju.

(2) Ebda pensjoni ma għandha tithallas lil persuna taħt dan l-Att li ma tkunx baqgħet membru minħabba x-xoljiment tal-Parlament sal-pubblikazzjoni tar-riżultat ufficjali ta' l-elezzjoni ġenerali li taħbat wara jew, jekk din ma tkunx ħarġet biex terġa' tiġi eletta, sakemm jagħlqu n-nominazzjonijiet għal dik l-elezzjoni.

(3) Ebda pensjoni ma għandha tithallas taħt dan l-Att lil persuna li tkun skwalifikata milli tkun membru tal-Kamra b'xi liġi jew taħt xi liġi li tkun għaż-żmien fis-seħħ minħabba li din tkun instabet ħatja ta' reat li jkollu x'jaqsam ma' l-elezzjoni ta' membri tal-Parlament.

Pensjoni ma tistax tiġi assenjata, eċċ.

7. (1) Ebda pensjoni li tithallas taħt dan l-Att ma tista' tiġi assenjata, trasferita jew tkun sugġetta għal mandat ta' qbid, sekwestru jew għal attijiet ġudizzjarji minħabba dejn jew pretensjoni oħra tkun li tkun, ħlief

kif provdut fis-subartikolu (2) ta' l-artikolu 382 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Kap. 15

(2) Jekk persuna li tkun qed tircievi pensjoni taht dan l-Att tiġi dikjarata falluta, dik il-pensjoni għandha titqies li tagħmel parti mill-proprjeta jew mill-assi ta' dik il-persuna għall-finijiet ta' kull waħda mid-disposizzjonijiet tat-Taqsima III tal-Kodiċi tal-Kummerċ. Kap. 17

8. Il-Ministru responsabbli għall-finanzi jkun inkarigat mill-amministrazzjoni ġenerali ta' dan l-Att. Amministrazzjoni ta' l-Att.

9. (1) Flief kif provdut hawnhekk iżjed 'il quddiem, l-Att ta' l-1966 dwar Benefiċċji ta' Rtir għall-Membri tal-Parlament hu b'dan imħassar. Thassir u rizerva. Att Nru. XVII tal-1966

(2) Minkejja d-disposizzjonijiet tas-subartikolu (1) ta' dan l-artikolu kull persuna li, mal-bidu fis-seħħ ta' dan l-Att, tkun qed tircievi benefiċċju jew hlas ieħor taht l-Att imħassar bl-imsemmi subartikolu, jibqa' jkollha, minkejja dak it-thassir, jedd li tircievi dak il-benefiċċju jew hlas ieħor sakemm ma tibqax ikollha jedd taht dak l-att kieku baqa' fis-seħħ:

Izda kull persuna bħal dik titef dak il-jedd għal xi benefiċċju jew hlas ieħor taht dak l-Att jekk hi jkollha jedd li tircievi pensjoni taht dan l-Att u tagħzel li tircievi dik il-pensjoni.

Għanijiet u Raġunijiet

L-Għan ta' dan l-Abbozz huwa li jipprovdi għal hlas ta' pensjoni lill-Membri tal-Parlament skond it-tul tas-servizz li dawn ikunu taw lil pajjiżhom u skond il-hlas li jithallas lilhom minn żmien għal żmien. L-Abbozz għandu l-hsieb li jibdel l-Att ta' l-1966 dwar Benefiċċji ta' Rtir għall-Membri tal-Parlament li bih Membri tal-Parlament jistgħu jircievu biss benefiċċji stabbiliti li huma marbuta ma' l-għoli tal-hajja kif kien fl-1966 u li għalhekk m'għadux aktar adegwat illum u iktar u iktar meta jghaddi iktar żmien.

L-Abbozz ukoll idahħal dwar Membri tal-Parlament il-prinċipju tal-Gvern li persuna m'għandhiex tircievi pensjoni li tkun tammonta għal iktar minn żewġ terzi tas-salarju li jkun qed jithallas għall-post tagħha meta tirtira.

A BILL

entitled

AN ACT to make provision for the payment of a pension to Members of Parliament.

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. This Act may be cited as Members of Parliament Pensions Act, 1979.

Interpretation.

2. (1) In this Act, unless the context otherwise requires —

“current pensionable emoluments” has the same meaning as “pensionable emoluments” with the substitution of references to honoraria or salaries currently payable on a relevant date for the references to honoraria or salaries payable on the date of retirement;

“House” means the House of Representatives established by section 52 of the Constitution;

“member” means any person who, on or after 1st January, 1976, was or becomes a member of the House;

“pensionable emoluments” means —

(a) in respect of service by a member to whom paragraph (b) of this definition does not apply, the honorarium payable to a member on the date of his retirement;

(b) in respect of service by a member who has held the office of Speaker, or of Prime Minister, or of Minister, or of Parliamentary Secretary, or of Deputy Speaker or of Leader of the Opposition under any of the instruments specified in subsection (2) of this section, for a period of not less than five years, or who has held any two or more of those offices for a period of not less than five years in the aggregate, the salary payable in respect of that office, or the average of the salaries

payable in respect of the said offices which carry the higher emoluments calculated on the length of service in each such office during the five years more favourable to the member, as the case may require, on the date of his retirement;

“retirement” —

(a) in respect of a member over the age of sixty-one years who is still a member, means the implementation of the decision by such member to cease to be a member or not to seek re-election as a member, and includes the failure to be re-elected if he has sought re-election;

(b) in respect of a member who ceases to be a member before attaining the age of sixty-one years, the attainment of that age;

“service” in relation to any member, means any service as a member of the House and any prior service as a member of the Legislative Assembly under any of the instruments aforesaid and —

(a) in respect of a member who ceases to be a member upon a dissolution of Parliament and is re-elected a member at the first general election after that dissolution, shall also include the period between the said dissolution and the day on which the House first sits after that dissolution;

(b) in respect of a member who has occupied the office of Speaker, or of Minister, or of Parliamentary Secretary, shall also include, for the purpose of service as member or of service in any of the said offices, any service in that office while the Assembly or Parliament stood dissolved, so however that no period as a member and in any of the said offices shall be taken into account more than once;

“service pension” has the same meaning as is assigned to it by section 2 of the National Insurance Act, 1956, but does not include a pension payable under this Act;

Act No. VI
of 1956

“year”, except for the purposes of establishing the age of a person, means a period of three hundred and sixty-five days, and includes two or more periods amounting in the aggregate to three hundred and sixty-five days.

(2) The instruments referred to in subsection (1) of this section are the Malta (Constitution) Letters Patent, 1947, the Malta (Constitution) Order in Council, 1961 and the Malta Independence Order, 1964.

3. All moneys required to meet any expenditure under this Act shall be a charge on the Consolidated Fund.

Charge of
expenditure
on Consolidated
Fund.

4. (1) Subject to the provisions of this Act, a member who has had not less than ten years' service shall, on his retirement, receive a pension at the rate of one two hundred and seventieth of his pensionable emoluments for each completed month of service up to the limit established by subsection (3) of this section.

Pension to
Members.

(2) Where on the last day of any month on which a pension is due to be paid to a person under this Act, the pension so payable together with any pension payable to such person under the National Insurance Act, 1956 and any service pension exceed in their aggregate the amount which would have been payable to such person under subsection (1) of this section if the pension had been calculated on the

current pensionable emoluments applicable in his case, such person shall receive only such part of the pension otherwise payable under this Act as shall ensure that the said pensions together do not exceed the amount aforesaid:

Provided that where all the pensions aforesaid are together less than the said amount, the pension otherwise payable under this Act shall be increased by such sum as shall ensure that the said pensions together make up that amount.

(3) In any case in which subsection (2) of this section applies, the proviso to subsection (1) of section 16A and subsection (3) of section 17 of the National Insurance Act, 1956 shall apply as if the pension payable under this Act were not a service pension for the purposes of that Act.

(4) Subject to the provisions of subsection (2) of this section, a pension payable to a person under this Act shall not exceed two-thirds of his pensionable emoluments.

Member's contribution.

5. (1) A contribution, at the rate specified in subsection (2) of this section shall, from and after the commencement of this Act, be payable by every member while he is a member, and such contribution shall be deducted from the honorarium or salary of every such member.

(2) The rate of contribution shall be one-sixteenth of the honorarium or salary of the contributing member less the contribution payable by him under the National Insurance Act, 1956.

Act No. LIV of 1948

(3) A contribution paid under this Act shall, for the purposes of paragraph (d) of subsection (1) of section 22 of the Income Tax Act, 1948, be deemed to be an annual contribution to a pension approved by the Commissioner of Inland Revenue.

(4) No contribution paid under this Act shall be refundable.

Pension not payable in certain cases.

6. (1) Where a person who is in receipt of a pension under this Act again becomes a member, no pension shall be payable while he continues to be a member; and upon his subsequently ceasing to be a member his pension shall thenceforth be such as he may be entitled to in accordance with the provisions of this Act:

Provided that, in respect of a member who has attained the age of sixty-five years, where the pension to which such a member would, but for the provisions of this section, have been entitled under this Act is greater than the honorarium or salary currently payable to him, he shall be entitled to receive so much of the said pension as is equal to the difference between the said pension and the honorarium or salary aforesaid.

(2) No pension shall be payable to a person under this Act who has ceased to be a member by reason of the dissolution of Parliament until the publication of the official result of the next ensuing general election or, if he has not sought re-election, until the closing day for nominations for that election.

(3) No pension shall be payable under this Act to a person who is disqualified from membership of the House by or under any law for the time being in force by reason of his having been convicted of an offence connected with the election of members of Parliament.

Pension not assignable etc.

7. (1) No pension payable 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 whatsoever, except in so far as is provided in subsection (2) of section 382 of the Code of Organization and Civil Procedure. Cap. 15

(2) If a person who is in receipt of a pension under this Act is declared a bankrupt, such pension shall not be deemed to form part of the property or estate of that person for the purposes of any of the provisions of Part III of the Commercial Code. Cap. 17

8. The Minister responsible for finance shall be charged with the general administration of this Act. Administration of Act.

9. (1) Save as hereinafter provided the Members of Parliament (Retiring Allowances) Act, 1966, is hereby repealed. Repeal and saving. Act No. XVII of 1966

(2) Notwithstanding the provisions of subsection (1) of this section any person who, on the commencement of this Act, is in receipt of an allowance or other payment under the Act repealed by the said subsection, shall, notwithstanding such repeal, continue to be entitled to receive such allowance or other payment until such time as he would have ceased to be so entitled under that Act if it had remained in force:

Provided that any such person shall also cease to be entitled to any allowance or other payment under that Act if he is entitled to receive a pension under this Act and he opts to receive such pension.

Objects and Reasons

The Object of the Bill is to provide for the payment to Members of Parliament of a pension related to the length of service devoted by them to their country and to the emoluments payable to them from time to time. The Bill is intended to replace the Members of Parliament (Retiring Allowances) Act, 1966, under which Members of Parliament can receive only fixed allowances related to the cost of living prevailing in 1966 and which has consequently become completely inadequate to-day and will become even more so as time passes.

The ^{Act} Bill also implements in respect of Members of Parliament the policy of the Government that a person should not receive pension totalling in the aggregate more than two-thirds of the salary currently payable for the post he occupied on retirement.