

Newsalert *

Tax and Legal Services



Malta

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The reform of the Maltese pensions system has been the subject of extensive public debate over a number of years. The main aim of such a reform is the re-structuring of the pensions system so as to make it both adequate and sustainable for the future.

Act XIX of 2006 was published in December 2006. This law incorporates the amendments relative to the new pensions system under the Maltese Social Security Act. Unfortunately despite previous announcements, these amendments do not provide for the specific rules to govern the Second and Third Pillar Pensions – a crucial part of the pensions reform.

This newsletter sets out a summary of some of the salient features of the new system which is being introduced by Act XIX of 2006.

Following the 2004 Pensions White Paper and the Pensions Working Group Final Report presented to Government in June 2005, Act No XIX of 2006 was published in December 2006 in order to bring into effect the new pensions system under the Social Security Act. The amending act also provides for the establishment of a Mandatory Second Pension and a Voluntary Third Pension but unfortunately does not provide any further details as to the rules which are to govern the mechanics of the said Second and Third pensions.

- **Entry into force**

Some of the provisions introduced by Act XIX of 2006 entered into force on 1 January 2007 whilst others will enter into force on 1 January 2011.

- **Amendments to the pension age**

Prior to these legislative changes, the pension age (i.e. the age at which a person would be entitled for a retirement pension) was set at 61 years in the case of a male individual and at 60 years for females.

Under the new provisions, the new pension age is set at 65 years for both males and females. However this change is being introduced in a gradual manner as set out in the following table :

Person born during calendar years	Age as at 31 December 2006	Pension Age
Pre 1952	55 years and over	61 years - men 60 years - women
1952 to 1955	54 years to 51 years	62 years
1956 to 1958	50 years to 48 years	63 years
1959 to 1961	47 years to 45 years	64 years
Post 1961	44 years and under	65 years

Therefore for a person who is born on or before 31 December 1951 the pension age will remain the same, i.e. the pension age will continue to be 61 years for a man whilst for a woman, the pension age will remain 60 years.

A further amendment was introduced in the Employment and Industrial Relations Act so as to allow a female employee born on or before 31 December 1951 to have the possibility to opt for her pension age to be extended to 61 years.

The above changes to the pension age came into force as from 1 January 2007.

* **connectedthinking**

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New Pensions System



- **Amendments to the conditions for a Two-Thirds Pension**

There are two tests for the calculation of the Two-Thirds Pension, i.e.

- (a) Test 1 – Yearly Average Number of Contributions
- (b) Test 2 - Pensionable Income

Amendments to the calculation of the Yearly Average Number of Contributions

The Yearly Average Number of Contributions test currently requires a yearly average of 50 contributions over a total period of 30 years.

The said 30 year period (in total) is being changed as follows:

Person born during calendar years	Age as at 31 December 2006	No of years for a Two-Thirds Pension
Pre 1952	55 years and over	30 years
1952 to 1961	54 years to 45 years	35 years
Post 1961	44 years and under	40 years

Currently the yearly average number of contributions is calculated by taking the mean of two averages i.e. the yearly average number of contributions over the last 10 consecutive years preceding retirement and the yearly average number of contributions over another 20 years (30 years in total).

Under the new amendments, for persons born prior to 1952, the manner of calculation of the yearly average number of contributions will remain that which is currently applicable. For persons who were born between 1952 and 1961 where the new total number of contribution years would be set at 35 years, the yearly average number of contributions should be calculated by taking the mean of (a) yearly average contributions over the last 10 consecutive years preceding retirement and (b) yearly average number of contributions over another 25 years (35 years in total).

For persons born post 1961, the manner of calculation of the yearly average number of contributions shall simply be an annual average of contributions over a 40 year period. The 40 year period need not be consecutive. The last year to be taken into account

should be the last complete year before that in which the individual becomes entitled to the pension.

The above amendments to the calculation of the yearly average number of contributions will enter into force on 1 January 2011.

Amendments to the calculation of the Pensionable Income

The pensionable income (PI) represents the income on which the Two-Thirds Pension is to be calculated. Therefore if the Yearly Average Number of Contributions test is satisfied in full, the Two-Thirds pension should amount to 2/3 of the PI.

The PI is currently calculated as follows:

- Employed person : PI is equivalent to the yearly average of basic wage on which the required contributions have been paid during the best 3 consecutive calendar years within the last 10 consecutive calendar years preceding retirement.
- Self-occupied person (a person who is not employed but who is engaged in an economic activity): PI is equivalent to the yearly average of the net earnings on which the required contributions have been paid during the last 10 consecutive calendar years preceding retirement.
- Self-employed person (a person who is not employed nor self-occupied) : PI is equivalent to the yearly average of the net income on which the required contributions have been paid during the last 10 consecutive calendar years preceding retirement.

Please refer to the table below regarding the amendments to the calculation of the PI.

For persons who were born after 1961 the manner of calculation of the pensionable income shall be the same for employed persons, self-occupied persons and self-employed persons.

The amendments to the calculation of the pensionable income will enter into force on 1 January 2011.

New Pensions System

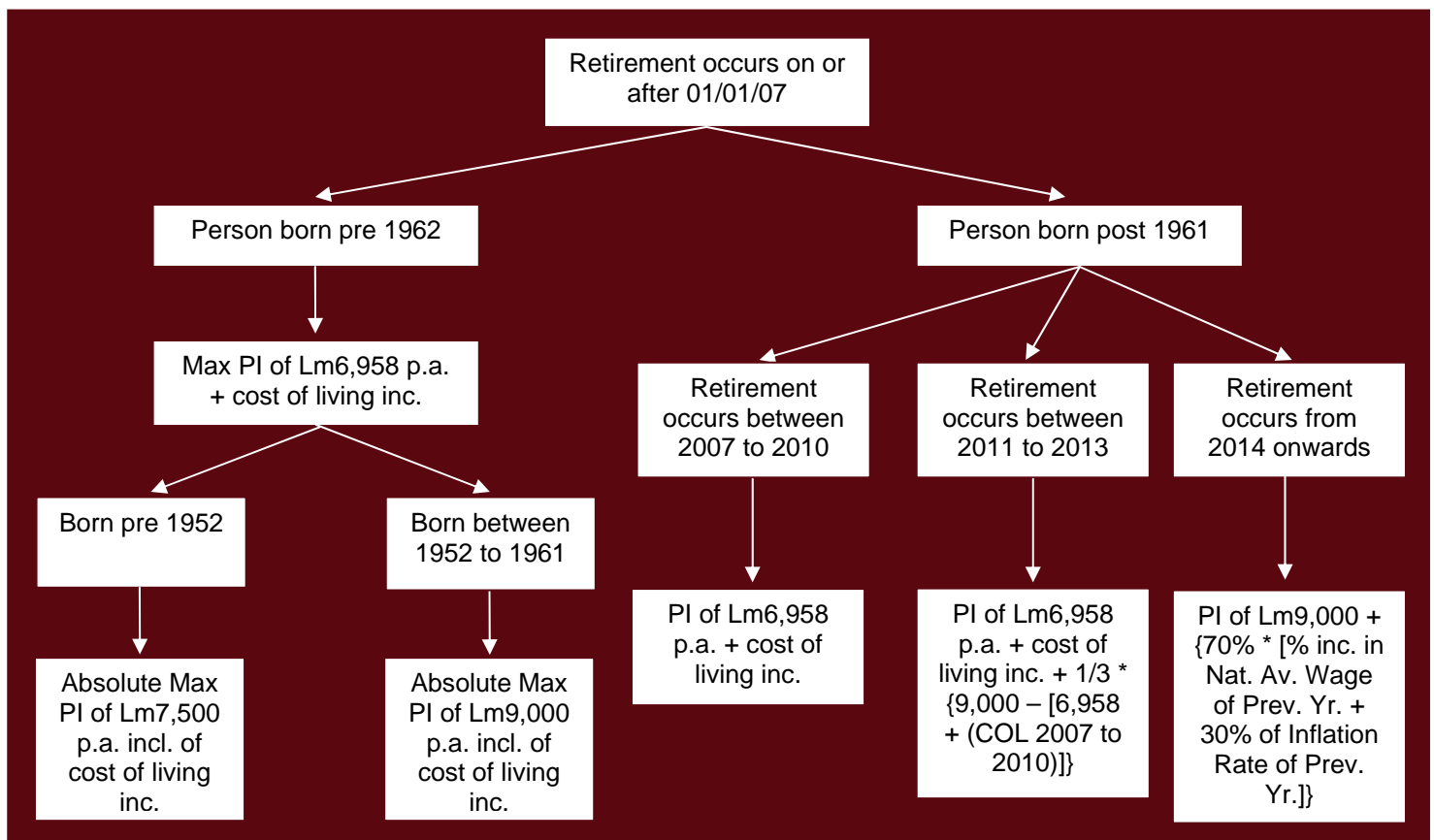


Person born during calendar years	Age as at 31 December 2006	Employed Pensionable Income	Self-occupied Pensionable Income	Self-employed Pensionable Income
Pre 1952	55 years and over	Yearly av. wage of best 3 consecutive yrs. in last 10 yrs. pre-retirement	Yearly av. net earnings of last 10 yrs. pre-retirement	Yearly av. net income of last 10 yrs. pre-retirement
1952 to 1955	54 years to 51 years	Yearly av. wage of best 3 consecutive yrs. in last 11 yrs. pre-retirement	Yearly av. net earnings of best 10 consecutive yrs. in last 11 yrs. pre-retirement	Yearly av. net income of best 10 consecutive yrs. in last 11 yrs. pre-retirement
1956 to 1958	50 years to 48 years	Yearly av. wage of best 3 consecutive yrs. in last 12 yrs. pre-retirement	Yearly av. net earnings of best 10 consecutive yrs. in last 12 yrs. pre-retirement	Yearly av. net income of best 10 consecutive yrs. in last 12 yrs. pre-retirement
1959 to 1961	47 years to 45 years	Yearly av. wage of best 3 consecutive yrs. in last 13 yrs. pre-retirement	Yearly av. net earnings of best 10 consecutive yrs. in last 13 yrs. pre-retirement	Yearly av. net income of best 10 consecutive yrs. in last 13 yrs. pre-retirement
Post 1961	44 years and under	Yearly av. wage of best 10 yrs. in last 40 yrs. pre-retirement	Yearly av. net earnings of best 10 yrs. in last 40 yrs. pre-retirement	Yearly av. net income of best 10 yrs. in last 40 yrs. pre-retirement

- Amendments to the maximum annual pensionable income**

A maximum annual pensionable income (PI) of Lm6,750 has been set by law since 1981. The maximum Two-Thirds Pension has therefore since 1981 been subject to a maximum capping of Lm4,500 (i.e. 2/3 of Lm6,750) per annum. This maximum is adjusted on an annual basis in respect of the annual cost of living increases.

Legal notice 5 of 2007 has increased the maximum PI as from 1 January 2005 to Lm6,841 and as from 7 January 2006 to Lm6,958. As per the table below, Act XIX of 2006 provides for further changes to the maximum annual PI (i.e. effectively a capping on the pension amount) where retirement occurs on or after 1 January 2007. These further changes to the maximum annual pensionable income entered into effect on 1 January 2007.



New Pensions System



- **Establishment of Second and Third Pillar Pensions**

Act XIX of 2006 provides for the establishment of a Mandatory Second Pension and a Voluntary Third Pension but unfortunately as yet does not provide for any further details in respect of the rules governing the exact mechanics of such pensions. These Second and Third Pillar Pensions are a major aspect of the pensions reform so that pensions can effectively become more adequate in today's (and the future) economic realities.

In respect of the Mandatory Second Pension, the law provides the power to the Minister for the Family and Social Solidarity together with the Minister of Finance to make regulations requiring persons who have not reached pension age and their employers to make contributions into Second Pension funds which would provide for a regular income or other benefits to the beneficiaries of the pension (or their dependents) after or upon attainment of pension age. Such regulations may provide for the rate of contributions and the manner of making such payments. The Second Pension funds are to be governed by the Special Funds (Regulation) Act.

As regards the Voluntary Third Pension, the law provides the Minister for the Family and Social Solidarity together with the Minister of Finance the power to provide for exemptions from income tax in respect of contributions made by any person to Third Pension funds which provide for the payment of a regular income or other benefits to the beneficiaries (or their dependents) of such pensions after or upon reaching pension age. The Third Pension funds are to be governed by the Special Funds (Regulation) Act or the Insurance Business Act.

The definition of service pension under the Social Security Act excludes Second and Third Pensions. This is intended so as to ensure that such pensions are not deducted from the pension payable on retirement as is the case with other service pensions.

These amendments came into effect on 1 January 2007.

- **Miscellaneous amendments**

Entry into force on 1 January 2007:

- Persons born on or after 1 January 1962 and who

have paid 40 years of contributions, as well as persons born between 1952 and 1961 who have paid 35 years of contributions are now being granted the possibility that if they have reached the age of 61 years but have not yet reached pensionable age (in the light of the increase of such age up to 65 years), they may at that stage claim a retirement pension (including the Two-Thirds Pension) if they are no longer gainfully occupied.

- For persons born as from 1 January 1962 (i.e. as at 31 December 2006 were not older than 44 years), the rule requiring a pensioner who is less than 65 years old not to earn more than the National Minimum Wage from gainful occupation will no longer apply. This is in line with the amendments to the pension age.
- Provisions are being introduced extending the credit of contributions to certain situations where a father or a mother has the legal care and custody of a child who has not attained the age of 6 years (or the age of 10 years for a child who has been certified by a medical consultant as suffering from a serious disability during the period of such crediting of contributions). The crediting of contributions in these specific cases is subject to certain cappings and conditions.
- The law provides that within intervals not exceeding 5 years, the Minister for the Family and Social Solidarity must report on the workings of the pensions system and make recommendations to achieve further pension adequacy, sustainability and social solidarity. The first report making recommendations in this respect is to be submitted by the 31 December 2010.

Entry into force on 1 January 2011:

- Introduction of a Guaranteed National Minimum Pension which is available to persons born on or after 1 January 1962 who are not entitled to a Service Pension. The Guaranteed National Minimum Pension is equivalent to 60% of the National Median Income as established by the Minister for the Family and Social Solidarity but it cannot be less than that established for the preceding year. For persons born on or before 31 December 1961 and who are not entitled to a Service Pension, the National Minimum Pension continues to apply. This will apply as from 1 January 2011.

The notes are designed to keep readers abreast with financial and tax developments. They are not intended to be a definitive or comprehensive analysis of the subject and should not be acted upon without prior consultation with the Partners or Senior Consultants of the firm. For further details please do not hesitate to contact:

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