

L.N. of 2013

**RETIREMENT PENSIONS ACT
(CAP. 514)**

**Retirement Pensions
(Exemption) Regulations, 2013**

IN exercise of the powers conferred by paragraph (f) of subarticle (1) of article 37 of the Retirement Pensions Act, the Minister of Finance, acting on the advice of the Malta Financial Services Authority, has made the following regulations:

Citation and commencement.

1.(1) The title of these regulations is the Retirement Pensions Act (Exemption) Regulations, 2013.

(2) These regulations shall come into force on the ...2013.

Interpretation.

2.(1) In these regulations, unless the context otherwise requires –

“the Act” means the Retirement Pensions Act;

“Maltese IORP” means an occupational retirement scheme as defined in article 2 of the Act, licensed by the competent authority in terms of the Act, and which qualifies as an IORP for the purposes of the Occupational Pensions Directive;

(2) Words and expressions which are also used in the Act shall in these regulations have the same meaning as in the Act.

Exemption from licence – Investment Manager.

3. A person who is appointed by a Maltese IORP or a personal retirement scheme as an investment manager in terms of the Act, and who is:

(a) established in a Member State, and

(b) duly authorised to carry out portfolio investment management in accordance with Directives 2009/65/EC, 2004/39/EC, 2006/48/EC, 2002/83/EC or 2011/61/EU,

shall be exempt from the provisions of article 6 of the

Act if such person carries on such services in Malta by way of freedom of establishment or freedom of services under the respective Directives.

Exemption from
licence – Custodian.

4. A person who is appointed by a Maltese IORP or a personal retirement scheme as a custodian in terms of the Act, and who is:

- (a) established in a Member State, and
- (b) duly authorised to carry out custodian services in accordance with Directive 2004/39/EC or 2006/48/EC, or accepted as depositary for the purposes of Directive 2009/65/EC,
- (c) an entity constituted in a recognised jurisdiction as determined in Pension Rules providing the services of a custodian where the MFSA is satisfied that such entity is of sufficient standing and repute,

shall be exempt from the provisions of article 6 of the Act if such person carries on such services in Malta by way of freedom of establishment or freedom of services under the respective Directives.

Exemption from
registration:
Retirement Scheme.

5. (1) The following retirement schemes are not considered as schemes for the purposes of the Act and accordingly none of the provisions of the Act shall apply thereto:

(a) retirement schemes established or regulated under the following legislation:

Cap. 93.

Cap. 164.

Cap.171.

Cap. 220.

Cap. 260.

Cap. 280.

- i. Pensions Ordinance;
- ii. Police Act;
- iii. Port Workers Ordinance;
- iv. Malta Armed Forces Act;
- v. Prisons Act; and
- vi. Members of Parliament Pensions Act.

(b) pension and pension related arrangements resulting from agreements that have been entered into between the employer and employees or representatives of employees prior to the appointed date;

(c) retirement schemes which had been in operation prior to the appointed date and which are closed to new members;

(d) social security schemes, pensions and pension related arrangements in terms of the Social Security Act.

Cap. 318.

(2) For the purpose of this regulation, the “appointed date” means the 1st October 2002.

Repeal of L.N. 72
of 2006 and Repeal of
L.N. 167 of 2009.

6. The Special Funds (Regulation) Act (Exemption) Regulations 2006 and the Special Funds (Regulation) Act (Retirement Schemes Exemption) Regulations, 2009 are hereby repealed.