

Proposals for Reforms to the Pension System

Background

As mandated by Article 64B of the Social Security Act (SSA), the government must table a Strategic Review at the House of Representatives on the Pension System's adequacy, solidarity, and sustainability every 5 years. The government tabled the 2020 Pensions Strategic Review drawn up by the Pensions Strategy Group on 15th December 2020 and tasked the same Pension Strategy Group to carry out a national consultation process, which concluded on 30th March 2021. The Pension Strategy Group presented its post-consultation report to the government last summer. The feedback received from the consultation process, and the final recommendations are not in the public domain.

Introduction

01. Whilst progress has been achieved since the launch of the pension reform programme in 2004, much is yet to be done to secure the pension system's adequacy, solidarity, and sustainability. The Malta Chamber and the General Workers' Union have agreed to work together to present to the government and for national discussions common positions, where this is reached on key pension reforms.
02. The Chamber and the Union agree that the presentation of joint positions on pension reform matters reached by the leading representatives of large private employers (the Chamber) and persons they employ by them (the Union) should facilitate public discussion and, ultimately, their implementation by the government
03. At this juncture, the Chamber and the Union are proposing two recommendations. The Chamber and the Union will discuss these recommendations in public to work with the government to achieve their implementation.

Active Aging and Increase Labour Market Activity of Senior Citizens - Recommendation 01

04. The government in March 2006 launched its decisions on the reform of the pension system following a thorough deliberation on the technical independent reform reports presented to it by the 2004 Pension Working Group. One of the measures implemented was the introduction of an early retirement pathway at the age of 61 years, subject to the accumulation of a designated number of paid annual contributions.
05. The government increased the statutory retirement age in a phased manner for persons born between 1952 and 1962 from 61 to 65 years of age. To ensure that the early retirement pathway does not constitute an exit route for people unwilling to work up to the increased statutory retirement age, the government decreed that persons who opted for an early retirement pathway will be prohibited from active participation in the labour market.
06. This 'all or nothing' policy decision where a person selecting early retirement is banned from active legal employment as an employee or self-employed person has had many adverse impacts.
07. These are summarised as follows:
 - (a) This is contrary to the EU and government's declared policy of institutionalising active ageing.
 - (b) It prevents employers from legally retaining or recruiting from a pool of skilled and experienced senior citizens that are immediately available in the labour market. The perplexing impacts of this policy decision were best demonstrated in the pre-COVID-19 pandemic. To maintain economic growth in a situation of full employment, employers had to import human capital overseas, at high direct and indirect costs, when a part of the required skilled and experienced labour supply could have been met through the Flexi-employment of persons who opted for early retirement.

- (c) This policy measures prevent many experienced and skilled senior citizens who are ready to work on a flexitime basis, which allows them to balance work with the need for a personal time due to health care issues, burnout, informal care responsibilities, etc.
- (d) People who wish to work despite being banned because of triggering early retirement choices will find a way to do so. They will engineer employment in the shadow economy resulting in a leakage of revenue to the government resulting from direct and indirect taxation and social security contributions
08. The 2020 Pension Strategic Review document states “that 80% of persons who were born in 1951 remained in full-time employment after they reached age 61, nearly three-quarters of the cohort born in 1957 was still working after that age ... the pension age rises have boosted the labour supply significantly, leading to thousands of workers staying longer in economic activity. Moreover, this has tended to be in sectors heavily affected by ageing. It also indicates that concerns about certain workforce groups being less able to work beyond the early exit age have not materialised. Manual workers have had a faster increase in their post-61 employment rates, possibly contributing to less inequality in retirement income provision.”¹
09. This statement demonstrates that the exodus which the government in 2006 feared would occur as people opt-out from working up to the increased statutory retirement ages by triggering the earlier retirement pathway did not occur. Both the Chamber and Union recognise that, to a large part, this is the result of the top-up incentive mechanism that the 2015 Pension Strategy Group recommended. The government implemented a top-up for employees who defer the withdrawal of their retirement pension up to 65, increasing the state pension income by a maximum of 23%.
10. Nevertheless, the Chamber and the Union recognise that the number of persons who are 65 years of age active in the labour market in Malta is extremely low: 5,400 (4,100 – males, 1,300 – female) persons.²
14. The Chamber and the Union are of the considered opinion that the tax reforms introduced earlier in this legislature concerning the taxation of pension income and income earned from employment by senior citizens are such that this creates a disincentive that prevents them from opting for active labour participation and preferring to opt for leisure.
- 15. The Chamber and the Union recommend that the government should adopt the following measures to increase the active employment of senior citizens and thus achieve the EU and national objectives relating to active ageing:**
- (a) The existing ‘all or nothing approach’ to early retirement is replaced by a Flexi-employment approach, which allows a person to balance their needs to opt-out of a 40 hour week whilst remaining active in the labour market. To ensure that such a Flexi-employment approach does not become an exit route from retiring at the statutory retirement age, it is suggested that this is governed by conditions that may include:
- (i) The pension to be drawn down should the person opt for early retirement at the age of 61 years of age whilst continuing to work pro-rated, for example, as follows:
- Retiring at 61 years of age, the pension income entitled to is pro-rated at 50%.
 - Retiring at 62 years of age, the pension income entitled to is pro-rated at 60%.
 - Retiring at 63 years of age, the pension income entitled to is pro-rated at 70%.
 - Retiring at 64 years of age, the pension income entitled to is pro-rated at 85%.
- (ii) A person who selects a Flexi-employment approach to retirement must work for a minimum set of hours established through a formal contract between them and their employers and employment registration with Job plus to benefit from the drawing down of the retirement pension.

¹ Pg 30, Strategic Review on the Adequacy, Sustainability, and Solidarity of the Pension System as Mandated by Article 64B of the Social Security Act, Pension Strategy Group, December 2021

² Pg 32, Ibid

- (b) The top-up incentive mechanism, whilst proving to be successful, is based on a negative actuarial rate. This should be replaced by a positive actuarial rate so that more persons are incentivised to remain fully active in the labour market and defer the drawn down of their pension.
- (a) Recommendation 14 presented in the 2015 Strategic Review report³ that recommends the introduction of a mechanism to incentivise the deferral of retirement age so that a person aged 65 and over remains active in the labour market should be implemented by the government – albeit at a far more aggressively positive actuarial rate than proposed by the Pension Strategy group.
- (b) The tax structure for senior citizens who receive income from continued post-retirement employment and pension income should be re-designed. It should become an incentive rather than acting as a detriment to continued active employment.

Increased Quality of Life in Retirement: Recommendation 02

16. The income derived from the state pension, based on a 10% maximum pensionable income ceiling, is designed to provide an adequate income in retirement. However, the pension system is not designed to provide a pension income close to the income received whilst in employment. This is a real issue that affects retirees' quality of life, particularly those who earn beyond the maximum pensionable income ceiling. Persons who earn below the maximum pensionable income ceiling will receive the promised pension retirement replacement rate of 66.7%. This does not apply to those who earn more than the ceiling. For example, a person whose basic gross income is €35,000, if in receipt of the maximum pension, will see their income in retirement fall by 50%.⁴ Additionally, the pension income is based on the gross basic wage and not the full compensation package, which means that the impact of reduced income in retirement is likely to be more significant.
17. Addressing the issue of adequacy has been a conundrum for all of the technical independent pension reform groups set up since 2004. One solution proposed was the introduction of a mandatory occupational-based pension and a voluntary personal pension mechanism. It is pertinent to note that both the Chamber and the Union militated against a mandatory occupational pension, the so-called mandatory second pension when recommended due to negative impacts on competitiveness (Chamber) and disposable income (Union).
18. The Labour administration elected to office in 2013 set in play a process that saw the introduction of a voluntary occupational retirement pension scheme (VORPS) and a voluntary personal pension scheme (PPP).
19. The Pension Strategy Group, in its 2015 Strategic Review, stated that:

“The Supporting Retirement Pension Scheme that is to be introduced in 2014 may be subject to heuristics which will influence behaviour concerning long term planning and savings, particularly given that the Scheme is completely voluntary. The Pensions Strategy Group recommends that during the 2020 Strategic Review, the proposed pension commission (Recommendation 10) should carry out an in-depth review on the performance of the Scheme. In the event that the Review shows that voluntary pensions would not have delivered as planned, it should strategically assess the introduction of Mandatory Opt-In Voluntary Opt-Out framework, which would see the employer responsible for managing the administration aspects of the Scheme...”⁵
20. Neither the Chamber nor the Union knows whether the Pension Strategy Group working on the 2020 Strategic Review carried out this assessment, the conclusions reached and proposed recommendations, if any.

³ Pg 92, Strengthening the Pension System: A Strategy for an Adequate and Sustainable Maltese Pension System, Pension Strategy Group, 17th June 2015

⁴ Pg 3, Private Pension Plans: Jargon Buster Guidebook, developed in collaboration between GEMMA (author Mr David Spiteri Gingell) and APS Bank, Version 1.0, June 2021, <https://gemma.gov.mt/wp-content/uploads/2021/07/private-pensions-plans-jargon-buster-guidebook.pdf>

⁵ Pg 100, Strengthening the Pension System: A Strategy for an Adequate and Sustainable Maltese Pension System, Pension Strategy Group, 17th June 2015

21. Be that as it may, both the Chamber and the Union are of the considered opinion that both the VORPS and PPP instruments have failed to meet the objectives set for them: that of bridging the gap between the state pension income and income earned in employment through a fiscally incentivised additional private pension complementing the state pension.
22. The Chamber and the Union base this conclusion on the following:
 - (a) Member, tax base 2020 of the PPP was 9,742, and VORPS 1,128.
 - (b) The number of persons in 2020 aged 46 years and over enrolled in a PPP constituted 36.6%, and those in VORPS 34.2% of the respective total cohorts. This suggests that these are *substitute* savings, which already form part of a person's saving portfolio but are transferred from one product or instrument to another. In this case, these substitute savings are potentially the result of people shifting their savings from no and minimal interest savings and deposits accounts to voluntary pension schemes so that they benefit from the fiscal incentive.
 - (c) The number of persons aged 19-29, who are the 'new' savers and who will, over 40 years, accumulate a significant retirement egg nest, investing in the PPP in 2020 fell to 10.5% compared to 12.5% in 2019; whilst those investing in VORPS fell from 10.1% to 8.3% over the same period.
23. **Both the Chamber and the Union strongly underline that a carefully designed workplace pension based on the principles of opt-in on employment with the choice of opt-out is introduced in Malta.**
24. Such voluntary opt-in on employment pensions schemes with the choice of an opt-out can be designed in a manner that creates no social tensions or adverse impacts on both employers and employees. This can be achieved by adopting the following design principles:
 - (a) As is the case today, employers are nudged to contribute on behalf of their employees based on a fiscal incentive (**that is, no mandatory contribution**) and through collective bargaining.
 - (b) Employees earning below a certain income are excluded from opt-in on employment so that no negative pressures are placed on their disposal income, though they will maintain their right to opt-in should they wish.
 - (c) Each employee will have the right to opt-out or suspend their contribution.
 - (d) The contribution that an employee will pay, which will continue to be subject to a fiscal incentive, will be the annual minimum requested by the pension provider selected by the employer or that selected by the employee.
 - (e) The only obligation to be placed on the employer is that of presenting information on retirement on the engagement of an employee, enrolling an employee in the pension provider selected by it or that chosen by an employee, managing the monthly contribution payment deducted from the employee's wage; and transferrin this contribution to the selected pension scheme provider.
 - (f) The pension scheme is introduced incrementally over five years, initially targeting large employers and subsequently rolling it out to micro and small enterprises.
25. To establish a basis for structured and constructive public debate and discussion between the Chamber, the Union, and the government, a draft bill of such a pension system, prepared by Mr Spiteri Gingell, pension consultant to the Chamber and the Union, is attached.

CHAPTER XXX

MALTA VOLUNTARY OCCUPATIONAL PENSION SAVER SCHEME ACT

The Act aims to increase the financial capability of Maltese citizens with specific regard to retirement. To encourage voluntary long-term pension savings habits and asset accumulation by employed individuals so that they are in a position to bridge the gap between their pre-retirement income and the pension income to the extent possible. The Act provides pension schemes to facilitate individual voluntary savings through the workplace.

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PART I

PRELIMINARY

Short title. 1. The short title of this Act is the Malta Voluntary Occupational Pension Saver Scheme Act.

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

“accumulation”, in relation to a Malta Voluntary Occupational Pension Saver Scheme, means the net value of:

- (a) the member's contributions; and
- (b) any vested employer contributions in respect of the member;

“administrative charge” in relation to a member of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme means any of the following to the extent that they may be used to meet the administrative expenses of the plan, to pay commission or in any other way that does not result in the provision of pension benefits for or in respect of members:

- (a) any payments made to the pension plan by, or on behalf or in respect of, the member,
- (b) any income or capital gain arising from the investment of such payments, or
- (b) the value of the member's rights under the Scheme;

“administrator” means the person who is the manager of a Malta Voluntary Occupational Pension Saver Scheme appointed by the Authority through specific rules issued under the Retirement Pension Act 2011;

“Authority” means the Malta Financial Services Authority;

“benefit” means a lump sum, allowance refund, or other payment arising from membership of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme;

“Commissioner” means the Commissioner responsible for the Malta Voluntary Occupational Pension Saver Scheme.

“default”, in reference to the Malta Voluntary Occupational Pension Saver Scheme, means that the investment profile of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme is established within a default fund mechanism as prescribed by specific rules issued by the Authority under the Retirement Pension Act 2011;

“default contribution” means the minimum monthly/annual contribution established by the pension scheme provider to a pension plan selected by the employer or the employee under the Malta Voluntary Occupational Pension Saver Scheme, including an employer contribution;

“default life-cycle investment profile” means a special category of balanced, or asset-allocation, mutual fund in which the proportional representation of an asset class in a fund's portfolio is automatically adjusted during the fund's time horizon – where the automatic portfolio adjustment runs from a position of higher risk to one of lower risk as to the investor ages and/or nears retirement;

“employee contribution” means the contribution paid by an employee on opt-in, which contribution will reflect the annual minimum contribution level set by the employer's pension scheme provider or that selected by the employee;

“contribution holiday”, in respect of an eligible employee, means a period in respect of which the deductions of contributions is not required to be made from his gross salary or wages;

“contribution rate” means the rate of contribution paid by an eligible employee, an employee and an employer;

“employer personal Malta Voluntary Occupational Pension Saver Scheme administrative representative” means a person who is engaged by an employer or employers and who is authorised to manage the administrative obligations of the employer or employers under the Malta Voluntary Occupational Pension Saver Scheme as established under this Act;

“gross salary or wages” means salary or wages before the deduction of taxation;

“Malta Voluntary Occupational Pension Saver Scheme” is a workplace pension savings scheme to which eligible employees are automatically enrolled and from which they may opt out – hereafter referred to as the Malta Voluntary Occupational Pension Saver Scheme

“member”, in relation to the Malta Voluntary Occupational Pension Saver Scheme, means a natural person who has been admitted to membership of the Scheme and who is, or may become, entitled to benefits under the Scheme;

“net value” means in relation to:

- (a) contributions, the values of the contributions once appropriate debits and credits have been made for positive and negative returns; and
- (b) a member’s accumulation, or a member’s interest, means the value of the member’s accumulation or member’s interest (as applicable) once any other appropriate debits and credits have been made to account for things like fees, permitted withdrawals, and positive and negative returns.

“opt-in” means to opt into the Malta Voluntary Occupational Pension Saver Scheme;

“opt-out” means to opt out of the Malta Saver Scheme;

“other investment option” means any investment strategy determined according to the following criteria

- (a) the investor profile is determined according to risk tolerance;
- (b) the term of the investment;
- (c) the expected return and appreciation;
- (d) the guarantees on the investment, if any; and
- (e) any other criteria determined by regulation.;

“other relevant information” means other information which would or may assist in making comparisons between those costs or charges in relation to other pension plans under the Malta Voluntary Occupational Pension Saver Scheme;

“permitted withdrawal” means a withdrawal that is permitted under the Malta Saver Scheme rules;

“residential property” means that the property is the principal place of residence for the member and his direct family and is the first property purchased by the member;

“serious illness” means an injury, illness, or disability that:

- (a) results in the member being totally and permanently unable to engage in work for which he is suited by reason of experience, education, or training, or any combination of those things; or
- (b) poses a serious and imminent risk of death.

“significant financial hardship” means:

- (a) a member is unemployed for a minimum period of six (6) months; or
- (b) a member is unable to meet mortgage repayments on his residential property resulting in his potential forfeiture of the said residence; or
- (c) a cost exceeding €10,000 to modify the principal family resident to meet special needs arising from a disability of a member or a member’s dependent; or

- (d) The cost exceeding €10,000 for medical treatment for an illness or injury of a member of a member's dependent;
- (2) For the purposes of this Act -
- (a) "eligible employee" means a natural person who receives, or is entitled to receive, salary or wages and who at the time when the Malta Voluntary Occupational Pension Saver Scheme is launched:
- (i) is 18 years of age or over; and
 - (ii) is 55 years of age or under; and
 - (iii) earns a gross wage or salary that is €17,984 or over;
 - (iii) starts new employment with an employer or is already employed when the Malta Voluntary Occupational Pension Saver Scheme is in force; and
 - (iv) is a resident of Malta or is employed by the Government of Malta who is (a) serving outside of Malta; and (b) employed on Malta terms and conditions; and (c) serving in a jurisdiction where pension plans under the Malta Voluntary Occupational Pension Saver Scheme are lawful;
- (b) 'employee' means a natural person who receives, or is entitled to receive, salary or wages and who at the time when the Malta Saver Scheme is launched:
- (i) is under 18 years of age; or
 - (ii) is employed by an employer; or
 - (iii) is over 55 years of age; or
 - (iv) earns a gross wage or salary that is less than €17,984; or
 - (v) works less than 40 hours with his employer; or
 - (vi) is in temporary or casual employment.
 - (vii) is a resident of Malta or is employed by the Government of Malta who is (a) serving outside of Malta; and (b) employed on Malta terms and conditions; and (c) serving in a jurisdiction where pension plans under the Malta Voluntary Occupational Pension Saver Scheme are lawful:

Provided that when an employee opts in a Malta Voluntary Occupational Pension Saver Scheme, he becomes an eligible employee for the purposes of this Act.

- (3) For the purposes of this Act -

"employer" means in relation to an eligible employee and an employee:

- (i) who pays, or is liable to pay, salary or wages to an eligible employee and an employee; and

(ii) is a resident of Malta or registered with the appropriate competent authorities to carry out business in Malta; and

(iii) carries out a business from a fixed establishment in Malta.

(4) On the date that this Act comes into force, all eligible employees under 50 will be subject to automatic enrollment into a pension plan under the Malta Voluntary Occupational Pension Saver Scheme.

PART II

THE MALTA VOLUNTARY OCCUPATIONAL PENSION SAVER SCHEME

Pension Plans under the Malta Voluntary Occupational Pension Saver Scheme

3. The Malta Voluntary Occupational Pension Saver Scheme consists of pension plans regulated by the Authority in terms of rules issued by the Authority in terms of the Retirement Pension Act, 2011 that are designed:

(a) generally for employers who, on his own or together with other employers, introduce such a pension plan to which his or their eligible employees may become members should they so wish;

(b) specifically for individual employers who wish to establish a pension plan that specifically targets its eligible employees and to which to his eligible employees may become members should they so wish.

(c) generally to which eligible employees may become members should they so wish.

Pension Rules for Pension Plans under the Malta Voluntary Occupational Pension Saver Scheme

4. The rules that the Authority will set for pension plans under the Malta Voluntary Occupational Pension Saver Scheme are, inter alia, to address the following matters:

(a) Licensing requirements include licensing criteria; application documents; the licensing process; variation of a license;

(b) Constitution, operation, and governance including retirement scheme administrator; investment manager, custodian, investment advisor, back-office administrator, introducers; independence requirements; fitness and properness; appointments and replacements of service-providers; auditor; actuary;

(c) Documentation, reporting, and records include plan document; plan particulars, plan records and reports; compliance report for the plan; schedule of payments;

(d) Conditions relating to the investments of the pension plan include investment restrictions; failure to comply with investment restrictions;

(e) The default life-cycle investment strategies mechanism is under the Malta Voluntary Occupational Pension Saver Scheme.

(f) General conditions.

Default Life-cycle Investment Profile for Pension Plans under

5. (1) A pension plan under the Malta Voluntary Occupational Pension Saver Scheme must be based on a default life-cycle investment profile option; and whilst it must meet the criteria determined by regulation, the provider must ensure that the:

the Malta
Voluntary
Occupational
Pension
Saver
Scheme

- (a) Default life-cycle investment profile option is designed in the interests of members of pension plans under the Malta Voluntary Occupational Pension Saver Scheme, with a clear statement of aims, objectives and structure and how these are appropriate for their membership;
- (b) Characteristics and net performance of default life-cycle investment profile options must be regularly reviewed to ensure alignment with members' interests and action taken to make any necessary changes.

(2) A pension or investment provider in applying to become an administrator of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme must, in his application, provide a plan for the default life-cycle investment option set within the minimum parameters set in the pension rules issued by the Authority which address varying degrees of risk and expected return that would allow a prudent person to create a portfolio of investments appropriate for retirement savings and from among which a member may make an investment choice.

Automatic
Placement in
the Default
Life-cycle
Investment
Profile

6. (1) An eligible employee on enrolment in a Malta Voluntary Occupational Pension Saver Scheme as established under this Act will automatically be placed on the default life cycle investment profile of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme to which he has become a member.

(2) An eligible employee will remain on the default life cycle investment profile of his pension plan under the MaltaSaver for a minimum period of 90 days from the date of his enrolment.

(3) An eligible employee may, after 90 days from his enrolment in his pension plan under the Malta Voluntary Occupational Pension Saver Scheme, change his default life cycle investment profile by either informing the administrator of his pension plan to effect the change in investment profile or by making use of tools provided to him by his administrator for this purpose.

(4) An eligible employee's investment choices may not be changed by the pension plan administrator under the Malta Voluntary Occupational Pension Saver Scheme except at the explicit request of the member.

(5) The administrators of pension plans under the Malta Voluntary Occupational Pension Saver Scheme are not later than 20 days from the end of every quarter to inform the Commissioner of members who would have to change their default investment profile and any other information as established by regulations.

Portability of
Pension Plan
under the
Malta Saver
Scheme

7. (1) An eligible employee who has:
- (a) Chosen to be a member of his employer's pension plan under the Malta Voluntary Occupational Pension Saver Scheme; or
 - (b) Selected his pension plan under the Malta Voluntary Occupational Pension Saver Scheme

may at any time during his membership of a Malta Voluntary Occupational Pension Saver Scheme, on application to the responsible administrator, apply to have the administrator transfer his accumulation to another authorised MaltaSaver investment.

(2) On application by a member, the administrator must transfer the member's accumulation to the other pension plan of the Malta Voluntary Occupational Pension Saver Scheme chosen by the member, which transaction must be carried out not later than 48 hours from when the member submits an application for the transferring of his pension plan under Malta Voluntary Occupational Pension Saver Scheme.

(3) The administrator of the pension plan under the Malta Voluntary Occupational Pension Saver Scheme to which the member wants to transfer his accumulation under his pension plan must accept him as a member.

...(4) The Authority may, by means of regulation, establish the administrative fee that is to be paid for the transfer of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme by an eligible employee from one administrator to another.

Low Cost,
Requirements
Quality
Standards,
and
Disclosure of
Costs of
Pension
Plans under
the Malta
Voluntary
Occupational
Pension
Saver
Scheme

8. (1) A pension plan under the Malta Voluntary Occupational Pension Saver Scheme is to be provided at a low cost:

Provided that the criteria for restricting the charges that may be imposed on members of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme are low cost will be established by means of regulation by the Authority following consultation with the Commissioner.

(2) A pension plan under the Malta Voluntary Occupational Pension Saver Scheme must meet the following quality requirements:

- (a) governed by a body with a duty to act in the members' interests;
- (b) the governing body must be able to freely exercise its duty to act in members' interests and must explain how any conflicts are handled;
- (c) the majority of individuals, including the chair, of the governing body, must be independent of the pension provider;
- (d) the governing body must have or have access to all of the resources, knowledge and competencies to run the pension plan properly;
- (e) the chair of the governing body must produce an annual report explaining how the pension plan has performed against the quality requirements
- (f) the governing body must:
 - (i) ensure and report under (e) of sub-article (2) of Article 8 of this Act on how core scheme financial transactions are processed promptly and accurately;
 - (ii) assess and report under (e) of sub-article (2) of Article 8 of this Act on the value for money delivered by the costs and charges borne by all members; and
 - (iii) assess and report under (e) of sub-article (2) of Article 8 of this Act on the costs incurred through the investment of pension costs

(3) An administrator of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme must disclose to employers and eligible employees the full details of the costs involved in the management of such a plan to provide employers and eligible employees with greater choice and value for money.

(4) The Commissioner must introduce regulation that requires that administrators of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme are to:

- (a) make information about all transaction costs public to employers and eligible employees;

- (b) make information about all administrative charges public to employers and eligible employees; and
- (c) may require other relevant information to be published along with information under paragraphs (a) and (b) of sub-article 4 of this Article:

Provided that before making regulations by virtue of sub-article 4 of this Article, the Commission must consult the MFSA.

9. Subject to the provisions of Articles 31 to 35 of this Act, a member may not make a withdrawal from the Malta Voluntary Occupational Pension Saver Scheme until his statutory retirement age.

Lock-in of Eligible Employee Funds in a Pension Plan under the Malta Voluntary Occupational Pension Saver Scheme

10. On retirement, a member of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme may withdraw up to a maximum of 30% of the accumulated fund, with the remainder to be withdrawn as established by the Authority by means of regulation.

Withdrawal of Funds by the Eligible Employee from a Pension Plan under the Malta Voluntary Occupational Pension Saver Scheme

11. (1) In the event of separation from bed and board, divorce or marriage annulment, dissolution otherwise than by the death of a civil union, or annulment of a civil union, the benefits accumulated by a member under a Malta Voluntary Occupational Pension Saver Scheme are to be partitioned in according to rules established by the Commissioner by regulation:

Transfer between Spouses

Provided such rules, however, cannot confer on the spouse more than 50% of the value of the benefits:

Provided further that such partitioning is subject to Articles 9 and 10 of this Act.

(2) A member who is separated, divorced, annulled or whose civil Union is dissolved or is in the process of, can only access his accumulated funds under his Malta Voluntary Occupational Pension Saver Scheme for the purpose of Articles 32 to 35 of this Act subject to the conditions determined by regulations under sub-article (1) of this Article.

12. There is no guarantee in respect of any pension plan under the Malta Voluntary Occupational Pension Saver Scheme.

Guarantee of Pension Plans under the Malta Voluntary Occupational

PART III

AUTOMATIC ENROLMENT

Eligible Employee Becoming a Member of the Malta Voluntary Occupational Pension Saver Scheme

13. (1) An eligible employee becomes a member of the Malta Voluntary Occupational Pension Saver Scheme automatically when he starts new employment and subsequent to which he is subject to automatic deductions from his salary or wages:

Provided that the eligible employee may opt-out within a specified period.

(2) An eligible employee may be a member of one pension plan only under Malta Voluntary Occupational Pension Saver Scheme at any one time.

Effect of automatic enrolment on Eligible Employee

14. (1) An eligible employee:

- (a) becomes liable to automatic deduction of contributions from the gross salary or wages paid in respect of:
 - (i) the new employment, including employment to a new position by means of promotion, that triggered the automatic enrolment rules; and
 - (ii) any other new employment, including employment to a new position by means of promotion that he starts after becoming subject to the automatic enrolment rules; and
- (b) must become a member of a Malta Voluntary Occupational Pension Saver Scheme.

...(2) An eligible employee must continue to be a member of a Malta Voluntary Occupational Pension Saver Scheme until the earliest of:

- (a) an opt-out notice taking effect; or
- (b) the date of withdrawal or transfer to a foreign scheme should he permanently emigrate;
- (g) the date of his statutory retirement; or
- (c) any other condition as established by the Commissioner by means of regulation.

(3) An eligible employee will be liable for the automatic deduction of contribution from his salary or wage until the earliest of the dates set in sub-article (2) of this Article.

Contribution Rate Paid by Eligible Employee on Automatic Enrolment

15. (1) The default contribution to be deducted from an eligible employee's wage or salary on automatic opt-in to a Malta Voluntary Occupational Pension Saver Scheme is the minimum contribution established by the provider of the pension scheme selected by the employer or employee:

(2) The eligible employee may instruct his employer in writing should he wish to pay a higher contribution to a Malta Voluntary Occupational Pension Saver Scheme than the default contribution.

Opting out of the Malta Voluntary Occupational Pension Saver Scheme by an Eligible Employee

16. (1) An eligible employee may opt out at any time from the Malta Voluntary Occupational Pension Saver Scheme between the 15th day and the 60th day from when he started his new employment.

...(2) An eligible employee will present an opt-out notice to terminate his membership in the Malta Voluntary Occupational Pension Saver Scheme to his employer.

Extension of Opt-out Period

17. (1) An eligible employee may apply to the Commissioner to have his opt-out period extended as a result of events outside his control, meaning that he could not give the opt-out notice within the time set:

(2) The Commissioner may accept the request for a late opt-out notice if he receives the request between the 61st day and 90th day from when the eligible employee started his new employment.

(3) The Commissioner may approve the request made by an eligible employee for an extension of the opt period provided that he deems the request as reasonable.

Application of Opt-out from the Malta Voluntary Occupational Pension Saver Scheme

18. (1) The opt-out notice triggered by an eligible employee is specific to applying the automatic enrolment rules triggered by his new employment.

(02) The opt-notice triggered by the eligible employee for that one employment does not apply to any other new employment in respect of which the eligible employee may become subject to the automatic enrolment rules in the future.

Incentives to Eligible Employees Not to Opt-out from the Malta Voluntary Occupational Pension Saver Scheme

19. To incentivise an eligible employee, not to opt out of the Malta Voluntary Occupational Pension Saver Scheme, the Minister responsible for finance may introduce tax incentives or other forms of incentives by means of regulation.

Opt-in the Malta Voluntary Occupational Pension Saver Scheme

20. A person who is an:

- (a) Eligible employees who under Article 6 of this Act opted out of the Malta Voluntary Occupational Pension Saver Scheme; or
- (b) Employee who is not subject to the automatic enrolment rules

may, if he so wishes, opt-in a Malta Voluntary Occupational Pension Saver Scheme at any time:

Provided that an employee who opts in a Malta Voluntary Occupational Pension Saver Scheme is considered for the purpose of this Act to be an eligible employee;

Provided that an employee who opts in a Malta Voluntary Occupational Pension Saver Scheme and is engaged with more than one employer may choose more than one or more employers who must make deductions of contributions for salary or wages to the Scheme.

PART IV

EMPLOYERS RESPONSIBILITIES

- Employer May Introduce Scheme for Eligible Employees Obligations of Employer
- 21.** An employer may, at any time, on his own or together with other employers, introduce an authorised Malta Voluntary Occupational Pension Saver Scheme to which his eligible employees may become members should they wish so.
- 22.** An employer must:
- (a) automatically enrol in a Malta Voluntary Occupational Pension Saver Scheme any eligible employee; and/or
 - (b) enrol in the Malta Voluntary Occupational Pension Saver Scheme any employee who so requests; and/or
 - (c) offer the Malta Voluntary Occupational Pension Saver Scheme to any eligible employee who has opted out and has a contribution rate of 0% and wishes to opt into the Malta Voluntary Occupational Pension Saver Scheme plan.
- Employers are not Obligated to Contribute
- 23.** An employer is not required to contribute to the Malta Voluntary Occupational Pension Saver Scheme on behalf of eligible employees
- Enrolment by Employer of Eligible Employees
- 24.** An employer:
- (a) who introduced a pension plan under the Malta Voluntary Occupational Pension Saver Scheme will automatically enrol a new employee to such a pension plan on the date of his employment.
 - (b) who has not introduced a pension plan under the Malta Voluntary Occupational Pension Saver Scheme will automatically enrol a new employee on the date of his employment within an administrator authorised to manage a pension plan under the Malta Voluntary Occupational Pension Saver Scheme.
 - (c) under (a) or (b) above, as the case may be, is to enrol an employee who wishes to opt into the Malta Voluntary Occupational Pension Saver Scheme not later than 10 days from when the employee informs the employer.
- Effecting an Opt-out
- 25.** An employer will:
- (a) effect an opt-out notice by a member of the Malta Voluntary Occupational Pension Saver Scheme within 48 hours from the receipt of the opt-out form submitted by the member, and in doing so, the employer will not make any further deductions of contributions with respect to the effective date of the opt-out; and
 - (b) inform the administrator of the pension plan held by the eligible employee under the Malta Voluntary Occupational Pension Saver Scheme within 48 hours from the receipt of the opt-out form submitted by the member:

Provided that with regard to both paragraphs (a) and (b) of this Article, an eligible employee can only affect his request for an opt-out between the 15th day and the 60th day from which the eligible employee started his new employment;

- (c) refund the eligible employee the contributions deducted from his wages or salaries from the date of his automatic enrolment and when his opt-out notice is affected:

Which refund is to be made by the employer within 30 days from when the eligible employee's notice for opt-out is affected.

- (d) recover from the eligible employee's pension plan administrator under the Malta Voluntary Occupational Pension Saver Scheme the contributions paid.

Obligation on Employer to Make Contribution Deductions from the Gross Salary or Wage of an Eligible Employee

26. (1) An employer must make deductions of the default contribution or as otherwise instructed by an eligible employee as established under Article 15 of this act from the employee's gross salary or wage.

(2) The first contribution deduction will cover the period from the date that the employer enrolls the eligible employee or employee in the Malta Voluntary Occupational Pension Saver Scheme until the end of that given month.

(3) Further to sub-article (2) above, an employer will collect contributions to be paid into the eligible employee's Malta Voluntary Occupational Pension Saver Scheme at the end of each month – unless the eligible employee opts out or terminates his employment with the employer.

Remittance by Employer of Contributions Paid by Eligible Employees or Employees

27. (1) An employer must remit the contributions paid by an eligible employee to his chosen pension plan under the Malta Voluntary Occupational Pension Saver Scheme not later than the next day on which they are collected.

(2) An employer must effect the remittance by direct debit into the eligible employee's Malta Voluntary Occupational Pension Saver Scheme.

(3) An employer who fails to remit the contributions of an eligible employee to his Malta Voluntary Occupational Pension Saver Scheme must pay interest on the contribution due until they are paid to the plan, at the rate and in the manner determined by regulation.

(4) If contributions due in respect of an eligible employee to the Malta Voluntary Occupational Pension Saver Scheme are paid after a transfer or refund of the balance in the member's account, the administrator of the employee's Malta Voluntary Occupational Pension Saver Scheme must transfer or refund those contributions as it did for the accounts in which they were to be paid:

Until such time the contributions and interest accrued are remitted to the eligible employee's or employer's Malta Voluntary Occupational Pension Saver Scheme, an employer is deemed to hold those amounts in trust, whether or not the employer has kept them separate from the employer's own assets.

(5) Within 60 days after the time limit set in sub-article (1) of this Article, an administrator must notify the Malta Voluntary Occupational Pension Saver Scheme Commissioner and the Authority of any contributions not remitted by the employer.

(6) On receipt of notification by an administrator that an employer has not remitted the contributions to the members, the Commission and the Authority are to take measures according to regulation to ensure the employer makes remittance.

Incentives to Employers Contribute to the Scheme **28.** To incentivise an employer to contribute to eligible employees pension plans under the Malta Voluntary Occupational Pension Saver Scheme, the Minister responsible for finance may introduce tax incentives or other forms of incentives by means of regulation.

Employers who Contribute **29.** (1) An employer may contribute to an eligible employee's Malta Voluntary Occupational Pension Saver Scheme.

(2) An employer who contributes to a Malta Voluntary Occupational Pension Saver Scheme may increase, decrease or stop the contribution the employer agreed to pay:

Provided that the employer must:

- (a) inform by means of written notice the administrator of the eligible employees' pension plans under the Malta Voluntary Occupational Pension Saver Scheme setting out the date from when he will no longer be contributing to his employees Malta Voluntary Occupational Pension Saver Scheme;
- (b) inform by means of a written notice to all of his eligible employees that he will be terminating his contribution to their Malta Voluntary Occupational Pension Saver Scheme and the date from when this will be effected;
- (c) effect the termination not sooner than 30 days following his carrying out the obligations set in para (a) and (b) of sub-article (2) of this article.

Function of the Employer Personal Malta Voluntary Occupational Pension Saver Scheme Administrative Representative **30.** (1) The employer personal Malta Voluntary Occupational Pension Saver Scheme administrative representative shall have the function of carrying out on behalf of an employer or employers by whom he is engaged managing the administrative obligations of an employer in relation to the Malta Voluntary Occupational Pension Saver Scheme as established under this Act or by the Authority.

(2) If the employer personal Malta Voluntary Occupational Pension Saver Scheme administrative representative has reason to suspect that the employer or employers have contravened administrative obligations of an employer in relation to the Malta Voluntary Occupational Pension Saver Scheme as established under this Act or by the Authority is not implemented as soon as practicable after such contravention has been pointed out, he shall notify this situation to the Commissioner or the Authority as the case may be.

(3) The employer personal Malta Voluntary Occupational Pension Saver Scheme administrative representative shall also consult with the Commissioner or the Authority in the event of doubt about how applicable provisions of the Act and regulations or rules issued under this Act by the Commission and the Retirement Pension Act 2011 by the Authority are to be applied.

Information to be provided by the Employer to Eligible Employees **31.** (1) The employer is to provide an information pack on the Malta Voluntary Occupational Pension Saver Scheme to an:

- (a) an eligible employee at the latest on the day he starts new employment; and
- (b) an employee within a reasonable time frame from when the request is made but no later than 15 days.

- (2) The information pack provided by the employer must include:
- (a) Information supplied by the Commissioner that includes:
- (i) A description of the overall Malta Voluntary Occupational Pension Saver Scheme.
 - (ii) A statement that membership of the overall Malta Voluntary Occupational Pension Saver Scheme and any individual Malta Voluntary Occupational Pension Saver Scheme is at the member's own risk.
 - (iii) A summary of what could happen under the default allocation rules or if an employer has a chosen Malta Voluntary Occupational Pension Saver Scheme.
 - (iv) A description of how to access information about Malta Voluntary Occupational Pension Saver Scheme.
 - (v) A statement that people should seek financial advice from a professional financial adviser (and not their employer) if they want information in relation to:
 - 1. Their personal financial circumstances; or
 - 2. Deciding whether to opt-in or opt-out or not; or
 - 3. Choosing a Malta Voluntary Occupational Pension Saver Scheme or an investment product of the Saver scheme; or
 - 4. the overall Malta Voluntary Occupational Pension Saver Scheme or its financial concepts.
 - (vi) An opt-out notice form.
 - (vii) Information on private sector providers authorised to design and administer schemes under the Malta Voluntary Occupational Pension Saver Scheme.
 - (viii) Details of Malta Voluntary Occupational Pension Saver Schemes provided by authorised Scheme administrators.
- (b) A form setting out whether the eligible employee is already a member of the Malta Voluntary Occupational Pension Saver Scheme and if he is a member, must provide information relating to:
- (i) A Malta Voluntary Occupational Pension Saver Scheme of which he is a member; and
 - (ii) The contribution deducted from his salary or wages in the event that this is higher than the default contribution rate triggered by the automatic enrolment rules; or
 - (iii) Whether he is on a contribution holiday and until such time.
- (c) In the event that an employer on his own or with other employers introduced a Malta Voluntary Occupational Pension Saver Scheme managed by an authorised Scheme administrator to which his eligible employees may become members is to provide all relevant information on such a Scheme.
- (d) A declaration form which the eligible employee or employee must sign stating that he is:

- (i) Allocated to the employer's chosen Malta Voluntary Occupational Pension Saver Scheme; or
 - (ii) Choosing his own MaltaSaver from authorised Scheme providers and providing all the appropriate information relating to the chosen Scheme and scheme administrator.
- (e) A declaration that the eligible employee or employee agrees that on automatic enrolment, irrespective of whether he chooses his own or his employer's Malta Voluntary Occupational Pension Saver Scheme, he will be placed on the default scheme established by the Commissioner.

PART V

CONTRIBUTION DEDUCTION HOLIDAYS AND INSTANCES UNDER WHICH WITHDRAWAL OF ACCUMULATED FUNDS FROM A MALTA VOLUNTARY OCCUPATIONAL PENSION SAVER SCHEME IS PERMISSIBLE

Contributions Deduction Holiday **32.** (1) An eligible employee who has not opted-out of a Malta Voluntary Occupational Pension Saver Scheme may at any time following 180 days from automatic enrolment request the Commissioner for a contributions deduction holiday on the basis that he is:

- (a) suffering from financial hardship; or
- (b) suffering from ill-health; or
- (c) undergoing post-graduate studies;
- (d) any other matter as may be established by the Commissioned by means of regulation

...(2) The Commissioner may accept an application for a contributions holiday and grant a contributions holiday if he is satisfied that the eligible person meets the sub-article (1) requirements of this Article.

...(3) A contributions holiday may be granted for a minimum of 3 months and a maximum of 4 years or the period specified in the application submitted by the member, whichever is shorter.

(4) The contributions deduction holiday is a one-time concession only.

(5) The Commissioner may reject a request for a contribution deduction holiday by means of a written notice specifying the reasons for the rejection.

...(6) An eligible employee whose request for a contributions deduction holiday is refused may appeal that decision according to the appeals process as set in regulation.

...(7) The notification of the start and end of the contribution deduction holiday granted by the Commissioner to an eligible employee will be communicated as established by regulation by the Commissioner to the:

- (a) an employer with whom the eligible employee is employed; and
- (b) the administrator of the eligible employee's pension plan under the Malta Voluntary Occupational Pension Saver Scheme administrator.

Withdrawal on the death of an Eligible Employee

33. (1) In the event that an eligible employee who is a member of a Malta Voluntary Occupational Pension Saver Scheme dies, the employer is to inform the administrator of the eligible employee's pension plan by not later than the month in which the death occurred.

(2) The heirs of the dead eligible employee following 30 days from his death are to request the administrator of the eligible employee's pension plan to pay them an amount equal to the value of the member's accumulation at the date on which the application is presented.

(3) The administrator of the eligible employee's pension plan is to pay the heirs of the dead eligible employee the full value of his accumulation in his Malta Voluntary Occupational Pension Saver Scheme not later than 40 days from when the application is presented by his heirs as stated in sub-article (1) of this Article.

...(4) The heirs of a deceased member may request, subject to the process established by regulation, the intervention of the Commissioner should they believe that the administration of the deceased pension plan is not providing the appropriate support to meet the provisions established under this Article.

Withdrawal of Accumulated Funds from the Malta Voluntary Occupational Pension Saver Scheme by an Eligible Employee for Designated Reasons

34. (1) An eligible employee may, at least three years after his date of employment, make a withdrawal from the Malta Voluntary Occupational Pension Saver Scheme for the following designated reasons:

- (a) to finance or part-finance the purchase of a residential property.
- (b) he is suffering from a significant financial hardship; or
- (c) he is suffering from a serious illness.

(2) An eligible employee for the purpose established in sub-article (1) of this Article may withdraw from his Malta Voluntary Occupational Pension Saver Scheme up to the amount accumulated at the time of withdrawal less the total of 3 months' contribution.

...(3) An eligible employee seeking to make a withdrawal from his Malta Voluntary Occupational Pension Saver Scheme as established under this Article is to present to the administrator of his pension plan documentation as established by regulation to support the designated reason for which he is withdrawing from the Malta Voluntary Occupational Pension Saver Scheme.

...(4) An eligible employee is to sign an undertaking that the funds withdrawn from his Malta Voluntary Occupational Pension Saver Scheme are to be used solely to finance the designated reason for which he is withdrawing from the Malta Voluntary Occupational Pension Saver Scheme.

(5) The administrator of the eligible employee's pension plan is to provide to the member the amount established under sub-article (2) of this Article not later than 1 month from when the request for the withdrawal of funds from the Malta Voluntary Occupational Pension Saver Scheme is submitted by the member.

(6) The administrators of pension plans under the Malta Voluntary Occupational Pension Saver Scheme are not later than 20 days from the end of every quarter to inform the Commissioner of members who would have withdrawn funds from the Malta Voluntary Occupational Pension Saver Scheme for the purpose set out in this Article.

Re-entry in the Malta Voluntary Occupational Pension Saver Scheme by an Eligible Employee Following Withdrawal for Designated Reasons

35. (1) The Commissioner will, at the end of the fourth year from when an eligible person withdraw from a Malta Voluntary Occupational Pension Saver Scheme for the designated reasons stated in sub-article (1) of Article 33 of this Act and every fourth year thereafter, as the case may be, review as established by regulations the circumstances of the eligible employee.

(2) In the event that such a review shows that the designated circumstances no longer apply, the Commission will instruct the employee to resume his membership in the Malta Voluntary Occupational Pension Saver Scheme.

Withdrawal or Transfer to a Foreign Scheme in Cases of Permanent Emigration

36. (1) An eligible employee may withdraw or transfer the amount accumulated in his Malta Voluntary Occupational Pension Saver Scheme if he permanently emigrated from Malta.

(2) The administrator of the eligible employee's pension plan is to provide the:

(a) member; or

(b) transfer to an overseas Scheme

not later than 1 month from when the request for withdrawal or submission is made, the amount that is equal to the value of the member's accumulation at the date on which the request for withdrawal or transfer is made.

...(3) The eligible's employee pension plan under the Malta Voluntary Occupational Pension Saver Scheme will be closed immediately once the withdrawal or transfer as established in sub-article (2) above is affected.

(4) An eligible employee seeking to make a withdrawal from his Malta Voluntary Occupational Pension Saver Scheme as established under this Article is to present to the administrator of his pension plan documentation as established by regulation proving that he is permanently emigrating.

(5) An eligible employee is to sign an undertaking that the funds withdrawn from his Malta Voluntary Occupational Pension Saver Scheme are to be used solely to assist him and his family to ease the financial hardship faced as a result of his permanent emigration from Malta

PART VI

COMMISSIONER RESPONSIBLE FOR THE MALTA VOLUNTARY OCCUPATIONAL PENSION SAVER SCHEME

- Functions of the Commissioner
37. The Commissioner has the function of:
- (a) overseeing the Malta Voluntary Occupational Pension Saver Scheme, including matters relating to:
 - (i) Automatic enrolment.
 - (ii) Contribution Deduction Holidays and Instances Under which Withdrawal of Accumulated Funds from a Malta Voluntary Occupational Pension Saver Scheme is Permissible.
 - (iii) Employer Responsibilities.
 - (b) ensuring that administrators of Malta Voluntary Occupational Pension Saver Scheme investment products are provided with information as established by regulation to employers and eligible employees.
 - (c) carrying out knowledge, communication, and information nationwide on the Malta Voluntary Occupational Pension Saver Scheme.
 - (c) make regulations with regard to:
 - (i) following consultation with the Authority on publication to employers and eligible employees of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme with regard to all of its transaction costs, all of its administrative charges, and other relevant information.
 - (ii) the transfer between spouses of accumulated funds of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme in the event of separation from bed and board, divorce or marriage annulment, dissolution otherwise than by the death of a civil union, or annulment of a civil union as established under Article 11(1);
 - (iii) eligible employees' membership period of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme as established by Article 14(2)(c);
 - (iv) eligible employees' requests for extension of the opt-out period as established by Article 17;
 - (v) failure by employers to transfer the contributions collected to the member's pension plan under the Malta Voluntary Occupational Pension Saver Scheme as established by Article 26;
 - (vi) action to be taken in the event that the employer personal Malta Voluntary Occupational Pension Saver Scheme administrative assistant suspects that the employer contravened applicable provisions of the Act and regulations issued under the Act as established by Article 30;
 - (vii) contribution deduction holidays as established by Article 31;
 - (viii) the administration of the withdrawal of the member's accumulation by his heir in the case of his death by Article 32;

(ix) the administration of withdrawal of accumulated funds by eligible employees to purchase a residential property, significant hardships, and serious illness as established under Articles 34;

(x) the administration of the Review relating to the designated circumstances of the eligible employee as established by Article 35;

(xi) the provision of information by administrators and employers relating to pertinent matters for which they are responsible under this Act;

(xii) the administration of penalties for failure to provide the requested information by administrators and employers relating to pertinent matters for which they are responsible under this Act.

PART VII

MISCELLANEOUS

Penalties for Employers and Administrators for Failing to Provide Information to the Commissioner **38.** An employer and an administrator of a pension plan under the Malta Voluntary Occupational Pension Saver Scheme is liable to a penalty as established by regulations if he fails to provide the Commissioner with the information required as established by this Act or by regulations set under this Act.

Electronic Tools and Transactions **39.** An administrator who is authorised to provide a pension plan under the Malta Voluntary Occupational Pension Saver Scheme must have the appropriate electronic tools that enable an:

- (a) employer to electronically transmit data relating to automatic enrolment, opt-out, termination of employment, contribution deductions and carry out work related to the administration of the pension plans of eligible employees;
- (b) eligible employee to switch their pension plan under the Malta Voluntary Occupational Pension Saver Scheme from one administrator to another, move from the default investment profile to an investment profile of choice, and carry out any other changes related to the management of his pension plan under the Malta Voluntary Occupational Pension Saver Scheme.

Power to Make Regulations **40.** The Minister responsible for pensions jointly with the Minister for finance may make regulations for all or any of the following purposes:

- (a) the definition of 'eligible employee' as established under Article 2 of this Act;
- (b) the definition of 'employee' as established under Article 2 of this Act;
- (c) the definition of 'employer' as established under Article 2 of this Act;
- (d) the contribution rate paid by the eligible employee as established by Article 11 of this Act;
- (e) the introduction of incentives for eligible employees so that they are encouraged not to opt out from the Malta Voluntary Occupational Pension Saver Scheme as established under Article 19 of this Act;
- (f) the employer's obligation not to contribute as established under Article 23 of this Act;

- (g) the introduction of incentives to employers to contribute to the Malta Voluntary Occupational Pension Saver Scheme as established under Article 28 of this Act.
- (h) to provide with respect to anything about which he may make regulations in terms of the provisions of this Act.