

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 18,857, 20 ta' Jannar, 2012

Taqsimha B

A.L. 17 tal-2012

**ATT DWAR IS-SIGURTÀ SOĊJALI
(KAP. 318)**

**Regolamenti tal-2012 dwar it-Trasferiment ta' Pensjonijiet
Mhallsa taht l-Att dwar is-Sigurtà Soċjali**

BIS-SAHHA tas-setgħat mogħtija bl-artikolu 134 tal-Att dwar is-Sigurtà Soċjali, il-Ministru għall-Ġustizzja, Djalogu u l-Familja, għamel dawn ir-regolamenti li ġejjin:-

1. (1) It-titolu ta' dawn ir-regolamenti hu **Regolamenti tal-2012 dwar it-Trasferiment ta' Pensjonijiet Mhallsa taht l-Att dwar is-Sigurtà Soċjali.** Titolu u skop.

(2) Dawn ir-regolamenti jipprovdu dwar il-proċedura amministrattiva meħtieġa biex tagħti seħħ lir-Regolament tal-Kunsill (KEE, Euratom, ECSC) Nru. 259/68, li jistipula regolamenti fuq persunal li jikkonsisti f'uffiċjali u l-kondizzjonijiet tal-impjegati ta' impjegati oħra tal-Unjoni Ewropea.

(3) L-għan ta' dawn ir-regolamenti hu sabiex persuni impjegati bħala uffiċjali u impjegati oħra tal-istituzzjonijiet u korpi tal-Unjoni jkunu jistgħu japplikaw biex ikollhom id-drittijiet ta' benefiċċju tagħhom akkumulati kif hemm fit-Taqsima II tal-Att, trasferiti mill-kont jew fond tas-sigurtà nazzjonali tagħhom fl-iskema tal-UE.

2. (1) Għall-finijiet ta' dawn ir-regolamenti, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'oħra: Tifsir.

“l-ammont trasferit” tfisser is-somma li tissarraf f'ekwivalenti ta' flus kontanti tad-drittijiet trasferibbli tat-trasferent li tkun ġiet trasferita fl-iskema tal-UE;

“applikazzjoni għal trasferiment” għandha l-istess tifsir mogħti lilha bir-regolament 4(1) ta’ dawn ir-regolamenti;

“l-Att” tfisser l-Att dwar is-Sigurtà Soċjali;

“data tal-kwotazzjoni” tfisser id-data:

(i) li b’riferenza għaliha jiġi kalkulat il-valur f’ekwivalenti ta’ flus kontanti ta’ drittijiet trasferibbli; u

(ii) li taħbat f’perjodu ta’ tliet xhur mid-data meta tiġi riċevuta l-applikazzjoni għal trasferiment mid-Direttur;

“dikjarazzjoni ta’ jedd” tfisser dikjarazzjoni bil-miktub:

(i) tal-ammont ta’ ekwivalenti ta’ flus kontanti fid-data tal-kwotazzjoni tad-drittijiet trasferibbli li jkunu akkumulaw għat-trasferent, jew fir-rigward tiegħu; u

(ii) li jkun fiha dettalji tal-baži kif ikun ġie kalkulat dak l-ammont;

“id-Direttur” għandu jkollha l-istess tifsir mogħti lilha bl-artikolu 2 tal-Att;

“impjieg attiv” tfisser persuna li tkun qegħda taqdi dmirijiet li jappartjenu għall-kariga li tkun qiegħda tokkupa jew tkun temporanjament assenjata fil-kuntest tal-Artikolu 36 tar-Regolament tal-Kunsill;

“*leave* għal raġunijiet persunali” tfisser *leave* li jingħata fil-kuntest tal-Artikolu 40 tar-Regolament tal-Kunsill;

“pensjoni rilevanti” tfisser pensjoni kontributorja taħt l-artikolu 26 tal-Att;

“ir-Regolament tal-Kunsill” tfisser Regolament tal-Kunsill (KEE, Euratom, ECSC) Nru. 259/68 li jistipula regolamenti fuq persunal li jikkonsisti f’uffiċjali u l-kondizzjonijiet tal-impjieg ta’ impjegati oħra tal-Unjoni Ewropea;

“l-iskema tal-UE” tfisser l-iskema ta’ pensjoni provduta għall-uffiċjali ta’ istituzzjonijiet tal-UE kif hemm fl-Artikoli

77 sa 84 tar-Regolament tal-Kunsill, u tal-Anness VIII miegħu;

“trasferent” tfisser il-persuna li tkun applikat għand id-Direttur biex tittrasferixxi d-drittijiet trasferibbli tagħha fl-iskema tal-UE.

(2) Bla ħsara għad-dispożizzjonijiet tas-subregolament (1) ta' dan ir-regolament, frażijiet oħra użati f'dawn ir-regolamenti għand jkollhom, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'oħra, it-tifsir mogħti lilhom bl-Att.

(3) Kull riferenza f'dawn ir-regolamenti għal xi Artikolu tar-Regolament tal-Kunsill, jew xi Anness miegħu, għandhom jiftiehm bħala riferenzi għal dak l-Artikolu jew Anness kif emendat minn żmien għal żmien.

3. Għall-finijiet ta' dawn ir-regolamenti, 'drittijiet trasferibbli' tfisser kull dritt għal pensjonijiet rilevanti, li, fid-data tal-kwotazzjoni, ikunu akkumulaw lil, jew dwar, xi persuna bis-saħħa ta' dan li ġej:

(a) il-ħlas li jsir minn dik il-persuna ta' Kontribuzzjonijiet tal-Ewwel jew tat-Tieni Klassi taħt l-Att; u

(b) dik il-persuna tkun ġiet akkreditata b'dawk il-kontribuzzjonijiet kif hemm fl-Artikolu 16 tal-Att.

4. (1) Hlief fejn japplika s-subregolament (2) ta' dan ir-regolament, persuna li tkun bi ħsiebha tittrasferixxi d-drittijiet trasferibbli tagħha lejn l-iskema tal-UE għandha tippreżenta applikazzjoni lid-Direttur.

(2) It-trasferent jitqies li jkun għamel applikazzjoni taħt is-subregolament (1) ta' dan ir-regolament meta d-Direttur jirċievi kopja tal-applikazzjoni tat-trasferent biex isir membru tal-iskema tal-UE.

(3) Applikazzjoni taħt is-subregolament (1) ta' dan ir-regolament għandu jkollha dik il-forma li d-Direttur jista' minn żmien għal żmien japprova.

5. (1) Id-Direttur għandu, bla ħsara għas-subregolament (4) ta' dan ir-regolament, jipprovdidi dikjarazzjoni ta' jedd lit-

Drittijiet trasferibbli.

Applikazzjoni għal trasferiment fl-iskema tal-UE.

Dikjarazzjoni ta' jedd.

trasferent qabel ma jintemm il-perjodu ta' tletin ġurnata li jibda għaddej mid-data tal-kwotazzjoni.

(2) Dikjarazzjoni ta' jedd għandha tibqa' valida għal perjodu ta' disgħin ġurnata li jibda għaddej mid-data meta din tinħareġ mid-Direttur.

(3) Meta t-trasferent ma tkunx togħgħbu l-preċiżjoni ta' xi informazzjoni li tkun tinsab fid-dikjarazzjoni ta' jedd, huwa għandu javża b'dan lid-Direttur fi żmien tletin ġurnata minn meta jirċeviha.

(4) Id-Direttur ma jkunx meħtieġ jipprovdi dikjarazzjoni ta' jedd lil trasferent jekk huwa jkun ipprova dikjarazzjoni ta' jedd lil dak it-trasferent matul it-tnax-il xahar ta' qabel.

Kalkolu tal-ekwivalenti ta' flus kontanti ta' drittijiet trasferibbli .

6. (1) L-ekwivalenti ta' flus kontanti tad-drittijiet trasferibbli tat-trasferent għandu jiġi kalkulati u verifikati b'dak il-mod li jista' jiġi approvat minn, jew f'isem, id-Direttur wara li ssir analiżi attwarja.

(2) Meta, fid-data tal-kwotazzjoni, it-trasferent ikun qiegħed jirċievi xi pensjoni waħda jew aktar pensjonijiet rilevanti, l-ekwivalenti ta' flus kontanti ta' kull ammont imħallas dwar dak il-benefiċċju jew dawk il-benefiċċji għandu jitnaqqas mit-total ekwivalenti ta' flus kontanti tad-drittijiet trasferibbli tiegħu.

Avviż ta' intenzjoni li jsir trasferiment.

7. It-trasferiment tad-drittijiet trasferibbli ta' trasferent fl-iskema tal-UE jista' jsir biss meta d-Direttur ikun gie notifikat bil-miktub, qabel ma jiskadi l-perjodu msemmi fir-regolament 5(2) ta' dawn ir-regolamenti, li t-trasferent ikun irid dak it-trasferiment isir.

Azzjoni li tittiehed mid-Direttur.

8. (1) Is-subregolamenti (2) u (3) ta' dan ir-regolament japplikaw meta d-Direttur jirċievi avviż taħt ir-regolament 7 ta' dawn ir-regolamenti.

(2) Meta d-Direttur ikun sodisfatti li l-ekwivalenti ta' flus kontanti tad-drittijiet trasferibbli tat-trasferent ikun korrett, huwa għandu jittrasferixxi fl-iskema tal-UE:

(a) ammont rigward dak l-ekwivalenti ta' flus kontanti;

u

(b) mgħax li jakkumula fuq dak l-ammont bis-saħħa tar-regolament 11 ta' dawn ir-regolamenti, qabel tmiem

il-perjodu ta' disa' xhur li jibdew għaddejin mid-data tal-kwotazzjoni.

(3) Meta d-Direttur ma jkunx sodisfatt dwar il-preċiżjoni tal-ekwivalenti ta' flus kontanti tad-drittijiet trasferibbli tat-trasferent, huwa għandu javża lit-trasferent b'dan u joħroġ dikjarazzjoni ta' jedd riveduta.

(4) Meta d-Direttur jirċievi avviż mingħand trasferent li jindika li huwa jkun irid jagħmel trasferiment tad-drittijiet trasferibbli tiegħu fl-iskema tal-UE, u dak l-avviż jiġi riċevut wara li jkun skada l-perjodu msemmi fir-regolament 5(2) ta' dawn ir-regolamenti, huwa għandu javża lit-trasferent li l-applikazzjoni tiegħu tkun invalida u li jkollha ssir applikazzjoni ġdida u tinkiseb dikjarazzjoni ta' jedd ġdida kif hemm fid-dispożizzjonijiet ta' dawn ir-regolamenti.

9. (1) Dan ir-regolament japplika meta l-ekwivalenti ta' flus kontanti tad-drittijiet trasferibbli tat-trasferent ikun ġie trasferit fl-iskema tal-UE kif hemm fil-linji gwida uffċjali pubblikati minn żmien għal żmien

X'ifisser tittrasferixxi
flus f'ekwivalenti ta'
flus kontanti.

(2) Ebda haġa fl-Att jew f'regolamenti magħmulin tahtu m'għandha tiftiehem b'tali mod li tipproduċi dan l-effett li ġej:

(a) il-jedd tat-trasferent għall-flus ta' pensjoni rilevanti bbażata fuq kontribuzzjonijiet imħallsa jew akkreditati matul xi perjodi qabel il-ġurnata meta jsir it-trasferiment; jew

(b) l-akkreditament lil trasferent ta' xi qligħ jew kontribuzzjonijiet li jakkumulaw mid-drittijiet trasferibbli tiegħu.

(3) Meta t-trasferent jerga' lura Malta f'xi jum wara l-ġurnata meta jsir it-trasferiment u jkun jaħdem għalih innifsu jew jimpjega lilu nnifsu kif hemm fl-Att, huwa ma jkollux jedd għal kontribuzzjonijiet akkreditati kif hemm fl-Artikolu 16(1) tal-Att u għal kontribuzzjonijiet oħra akkreditati mogħtija taht l-artikolu msemmi li jkunu ġew trasferiti minn din l-iskema.

10. (1) Is-subregolament (2) ta' dan ir-regolament japplika meta wara jirrizulta li l-ekwivalenti ta' flus kontanti tad-drittijiet trasferibbli tat-trasferent kien aktar mill-ammont trasferit.

Meta jiġi trasferit
ammont skorrett.

(2) Id-Direttur għandu jittrasferixxi fl-iskema tal-UE ammont li jkun daqs is-somma ta' dan li ġej:

(a) id-differenza bejn l-ekwivalenti ta' flus kontanti tad-drittijiet trasferibbli tat-trasferent u l-ammont trasferit; u

(b) id-differenza bejn l-imgħax akkumulat taħt ir-regolament 11 ta' dawn ir-regolamenti u l-ekwivalenti ta' flus kontanti tad-drittijiet trasferibbli tat-trasferent u l-imgħax akkumulat taħt dak ir-regolament fuq l-ammont trasferit.

Mgħax.

11. (1) L-imgħax għandu jakkumula fuq l-ekwivalenti ta' flus kontanti tad-drittijiet trasferibbli tat-trasferent għal dak il-perjodu li jibda għadej fid-data tal-kwotazzjoni u jtemm fil-ġurnata meta l-ammont li jirrigwarda dak l-ekwivalenti ta' flus kontanti jiġi trasferit bis-saħħa tar-regolament 8(2) ta' dawn ir-regolamenti.

(2) L-imgħax għandu jakkumula taħt is-subregolament (1) ta' dan ir-regolament b'rata ta' mgħax fis-sena li tiġi stabbilita mid-Direttur u li tkun ibbażata fuq analisi attwarja.

Termini ta' żmien.

12. Il-perjodi speċifikati fir-regolamenti 5, 6 u 8 ta' dawn ir-regolamenti jistgħu jittawlu mid-Direttur jekk huwa jqis li jkun raġonevoli li jagħmel hekk f'xi każ partikolari

Dispożizzjoni finanzjarja.

13. Il-ħlasijiet ta' kull ekwivalenti ta' flus kontanti ta' drittijiet trasferibbli li jsir mid-Direttur bis-saħħa ta' dawn ir-regolamenti għandhom jiġihallu mill-Fond Konsolidat.

L. N. 17 of 2012

**SOCIAL SECURITY ACT
(CAP. 318)**

**Transfer of Pensions paid under the Social Security Act
Regulations, 2012**

IN exercise of the powers conferred by article 134 of the Social Security Act, the Minister for Justice, Dialogue and the Family, has made the following regulations:-

1. (1) The title of these regulations is the Transfer of Pensions paid under the Social Security Act Regulations, 2012. Title and scope.

(2) These regulations provide for the administrative procedure necessary to give effect to Council Regulation (EEC, Euratom, ECSC) No. 259/68, laying down staff regulations of officials and the conditions of employment of other servants of the European Union.

(3) The purpose of these regulations is to enable persons employed as officials and servants of Union institutions and bodies to apply to have their benefit rights, accrued and valued in terms of Part II of the Act, transferred from their national insurance account or fund to the EU scheme.

2. (1) For the purposes of these regulations, unless the context requires otherwise: Definitions.

“the Act” means the Social Security Act;

“active employment” means a person who is performing the duties pertaining to the post to which he has been appointed or temporarily assigned within the meaning of Article 36 of the Council Regulation;

“the Director” shall have the same meaning assigned to it by article 2 of the Act;

“the Council Regulation” means Council Regulation (EEC, Euratom, ECSC) No. 259/68 laying down staff regulations of officials and the conditions of employment of other servants of the European Union;

“the EU scheme” means the pension scheme provided for officials of EU institutions in accordance with Articles 77 to 84 of, and Annex VIII to, the Council Regulation;

“the transferred amount” means the amount in respect of the cash equivalent of the transferor’s transferable rights which has been transferred into the EU scheme;

“quotation date” means the date:

(i) by reference to which the cash equivalent value of transferable rights is calculated; and

(ii) which falls within a period of three months beginning with the date on which the transfer application is received by the Director;

“leave on personal grounds” means leave granted within the meaning of Article 40 of the Council Regulation;

“relevant pension” means any contributory pension under article 26 of the Act;

“statement of entitlement” means a written statement:

(i) of the amount of the cash equivalent at the quotation date of the transferable rights which have accrued to, or in respect of, the transferor; and

(ii) which contains details of the basis of how that amount has been calculated;

“transfer application” has the meaning assigned to it by regulation 4(1) of these regulations;

“transferor” means the person who has applied to the Director to transfer his transferable rights into the EU scheme.

(2) Subject to the provisions of sub-regulation (1) hereof, other terms used in these regulations shall, unless the context otherwise requires, have the meaning assigned to them by the Act.

(3) Any references in these regulations to an Article of, or an Annex to, the Council Regulation are to be construed as references to that Article or Annex as amended from time to time.

3. For the purposes of these regulations, ‘transferable rights’ shall mean any rights to relevant pensions, which, at the quotation date, have accrued to, or in respect of, a person by virtue of the following:

Transferable rights.

(a) the payment by that person of Class 1 or 2 contributions under the Act; and

(b) that person having been credited with such contributions in terms of article 16 of the Act.

4. (1) Except where sub-regulation (2) hereof applies, a person seeking to transfer his transferable rights to the EU scheme shall make an application to the Director.

Transfer application to the EU scheme.

(2) The transferor shall be deemed to have made an application under sub-regulation (1) hereof where the Director receives a copy of the transferor’s application to become a member of the EU scheme.

(3) An application under sub-regulation (1) hereof shall be in such form as the Director may from time to time approve.

5. (1) The Director shall, subject to sub-regulation (4) hereof, provide the transferor with a statement of entitlement before the end of the period of thirty days beginning with the quotation date.

Statement of entitlement.

(2) A statement of entitlement shall remain valid for a period of ninety days beginning with the day on which it is issued by the Director.

(3) Where the transferor is not satisfied as to the accuracy of any of the information contained in the statement of entitlement, he shall notify the Director accordingly within thirty days of receiving it.

(4) The Director need not provide a statement of entitlement to a transferor if he has provided a statement of entitlement to that transferor in the previous twelve months.

Calculation of the cash equivalent of transferable rights.

6. (1) The cash equivalent of the transferor's transferable rights is to be calculated and verified in such manner as may be approved by, or on behalf of, the Director following actuarial analysis.

(2) Where, at the quotation date, the transferor is in receipt of one or more relevant pensions, the cash equivalent of any amounts paid in respect of that benefit or those benefits shall be deducted from the total cash equivalent of his transferable rights.

Notice of intention to complete transfer.

7. A transfer of a transferor's transferable rights to the EU scheme may only take place where the Director has been notified in writing, before the expiry of the period referred to in regulation 5(2) of these regulations, that the transferor wishes the transfer to take place.

Action to be taken by the Director.

8. (1) Sub-regulations (2) and (3) hereof apply where the Director receives a notice under regulation 7 of these regulations.

(2) Where the Director is satisfied that the cash equivalent of the transferor's transferable rights is correct, he shall transfer into the EU scheme:

(a) an amount in respect of that cash equivalent; and

(b) interest accruing on that amount by virtue of regulation 11 of these regulations, before the end of the period of nine months beginning with the quotation date.

(3) Where the Director is not satisfied as to the accuracy of the cash equivalent of the transferor's transferable rights, he shall notify the transferor accordingly and issue a revised statement of entitlement.

(4) Where the Director receives a notice from a transferor indicating that he wishes to complete a transfer of his transferable rights to the EU scheme, which notice is received after the expiry of the period referred to in regulation 5(2) of these regulations, he shall notify the transferor that his application is invalid and that a new application is to be made and a new statement of entitlement obtained in accordance with the provisions of these regulations.

9. (1) This regulation applies where the cash equivalent of the transferor's transferable rights has been transferred into the EU scheme according to official guidelines published from time to time

Effect of making a cash equivalent transfer payment.

(2) Nothing in the Act or in any regulations made thereunder shall be construed in such a way so as to produce the following effect:

(a) the entitlement of the transferor to payment of a relevant pension based on contributions paid or credited during any periods before the day on which the transfer takes place; or

(b) the crediting of a transferor with any earnings or contributions which accrue from his transferable rights.

(3) Where the transferor returns to Malta at any time after the day on which the transfer takes place and is gainfully occupied or self-employed in terms of the Act, he shall not be entitled to credited contributions in terms of article 16(1) of the Act and any other credited contributions awarded under the said article which have been transferred out of this scheme.

10. (1) Sub-regulation (2) hereof applies where it subsequently transpires that the cash equivalent of the transferor's transferable rights was greater than the transferred amount.

Incorrect amount transferred.

(2) The Director shall transfer into the EU scheme an amount equal to the sum of the following:

(a) the difference between the cash equivalent of the transferor's transferable rights and the transferred amount; and

(b) the difference between the interest accrued under regulation 11 of these regulations on the cash equivalent of the transferor's transferable rights and the interest accrued under that regulation on the transferred amount.

11. (1) Interest shall accrue on the cash equivalent of the transferor's transferable rights in respect of the period beginning on the quotation date and ending on the day on which an amount in respect of that cash equivalent is transferred by virtue of regulation 8(2) of these regulations.

Interest.

(2) Interest shall accrue under sub-regulation (1) hereof at an annual rate to be determined by the Director based on actuarial analysis.

Time limits. **12.** The periods specified in regulations 5, 6 and 8 of these regulations may be extended by the Director if he considers it reasonable to do so in any particular case.

Financial provision. **13.** Payments of cash equivalents of transferable rights made by the Director by virtue of these Regulations shall be paid out of the Consolidated Fund.

