



GOVERNMENT OF MALTA
MINISTRY FOR FINANCE

CONSULTATION DOCUMENT

Proposal for an Auto-Enrolment Occupational Pension Regime

June 2025

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1. Introduction

1.1. Background and objective

Malta's pension system operates on a pay-as-you-go state pension model, which is facing accelerating demographic transformation. The old-age dependency ratio is projected to increase dramatically from 27.1 per cent in 2022 (NSO, 2024)¹ to 65.4 per cent in 2070 (MFE, 2023²), an increase of 38.3 percentage points.

The pension adequacy gap is equally concerning for the Government. The public scheme benefit ratio is projected to decrease from 39.0 per cent in 2022 to 32.0 per cent by 2070 (MFE, 2023³), meaning many retirees will struggle to maintain their pre-retirement standard of living. This replacement rate falls short of OECD averages.⁴

To address these challenges, the Government has progressively introduced tax incentives to encourage the uptake of voluntary private pension savings. Since 2015, Malta has operated a Voluntary Second and Third Pillar Pension Schemes. At the end of 2024, an estimated 4,667 members (ca 2 per cent of 18- to 60-year-olds) participated in Voluntary Occupational Pension Schemes. These participation rates remain critically low, highlighting the urgent need for structural reform to ensure long-term pension adequacy.

By the end of 2024, six license holders were offering occupational pension plans categorised as qualifying schemes under the Voluntary Occupational Pension Scheme Rules (S.L. 123.175).

In the wake of the challenges in this area, the 2025 Government Budget Speech reaffirmed the commitment to strengthening retirement savings:

¹ Malta National Statistics Office, *Regional Statistics MALTA 2024 Edition*, July 23, 2024, p.25

² Ministry for Finance and Employment (2023), 2024 Ageing Report MALTA – Country Fiche

³ Ibid

⁴ OECD (2023), *Pensions at a Glance 2023*, OECD Publishing

"This Government not only addresses current household income, but it also plans for the future. Our goal is to cultivate a strong savings culture to ensure that future pensioners have adequate income in retirement."

The Budget Speech further emphasised the need to promote occupational pension plans, ensuring that every employee entering the workforce or changing jobs has the opportunity to save in a retirement plan:

"While employers will not be required to make contributions, they must provide employees the opportunity to join a plan. It is the employee's choice to decline."

In addition to this framework, the Government has committed to match individual contributions for public sector employees, up to a maximum of €100 per month, demonstrating its commitment as an employer to leading by example in retirement savings initiatives.

1.2. Policy objectives and scope

It is therefore being proposed to substantially strengthen the current occupational pensions framework through the introduction of auto-enrolment. This initiative aims to ensure significantly broader employee access to retirement savings, addressing the critical participation gap that leaves the majority of Malta's workforce without supplementary pension provision.

Auto-enrolment is a system where employers automatically enrol all eligible employees working within their organisation into an occupational retirement scheme. Under the proposed system, contributions may be made by the employee or jointly by the employee and the employer, with employer contributions remaining voluntary to maintain business flexibility while encouraging participation. Enrolment in the scheme by employees is on an opt-out basis, and hence also aligns with voluntary participation principles.

The proposed auto-enrolment occupational retirement scheme would be provided by private

entities duly licensed under the Retirement Pensions Act. Under this regime, employees would be automatically enrolled in an occupational retirement scheme that meets specific criteria outlined in this document. These plans would be administered by licensed providers and employers on behalf of their employees.

International experience demonstrates that auto-enrolment significantly increases pension participation rates by overcoming behavioural barriers such as inertia and procrastination that prevent voluntary enrolment. Research from similar schemes in other jurisdictions shows that participation rates can increase from under 30% to over 80% following the implementation of auto-enrolment.

This document outlines the timelines, governance structures, consumer protection measures, and the regulatory framework necessary to ensure the scheme operates effectively while maintaining Malta's position as a competitive financial services jurisdiction.

2. Regulatory Framework

Currently, occupational pension plans are developed by two different categories of license holders, which are regulated by two legal regimes.

1. The first category of license holder is a Retirement Scheme Administrator licensed under the **Retirement Pensions Act**, to manufacture, administer and distribute Occupational Retirement Schemes.
2. The second category of license holder is a long-term insurance undertaking licensed under the **Insurance Business Act**. This undertaking manufactures and distributes insurance-based investment products marketed as suitable for retirement purposes directly or through its intermediaries.

Both categories of licence holders offer employers and employees the opportunity to benefit from the tax incentives provided through the Voluntary Occupational Pension Scheme Rules of 2017 (as amended).

2.1. The auto-enrolment occupational pension scheme

The auto-enrolment regime is proposed to be regulated under the Retirement Pensions Act, which today offers a regulatory framework for occupational pensions. The Institutions for Occupational Retirement Provisions (IORPS) II Directive (Directive 2016/2341) was transposed in the Retirement Pensions Act, Regulations, and Pension Rules issued thereunder.

In this regard, all authorised insurance undertakings interested in providing auto-enrolment occupational retirement schemes would be required to establish a separate legal entity, which would need to be authorised as a Retirement Scheme Administrator (hereinafter also referred

to as “licence holder” or “provider”) under the Retirement Pensions Act⁵. Licence holders would then be required to create an Occupational Retirement Scheme which complies with the requirements of the auto-enrolment regulations and the Retirement Pensions Act.

It is to be noted that a separate consultation document will be issued by the Malta Financial Services Authority specifying the amendments which will be made to the Acts.

2.2. Other regulatory changes

New regulations may be needed to regulate the employer’s obligations. Among other requirements, these regulations should also cover instances of the employer's bankruptcy and what would happen should the employer be unable to pay the contributions as stipulated in the employment contract.

⁵ Article 8(1)(b)(i) of the Insurance Business Act, which transposes Article 18 of Directive 2009/138/EC (Solvency II Directive), states that “[...] in the case of an undertaking which intends to carry on business not restricted to reinsurance, the undertaking’s objects are limited to business of insurance and operations arising directly therefrom, to the exclusion of all other commercial business [...]”.

3. Employer and employee rules for auto-enrolment

3.1. Eligible employees

It is proposed that the employer would be obliged to automatically enrol employees in an occupational retirement scheme on the day the employee becomes eligible unless the employee decides to opt out.

Employees would be considered eligible if they:

- a. receive or are entitled to receive a wage or salary;
- b. are between the age of 18 and the age where the employees are 10 years away from retirement age⁶;
- c. are a Maltese tax resident or habitually work in Malta;
- d. work with an employer on a full-time basis or work on a part-time basis where the employment in question is the primary source of income; and
- e. are not on probation under the Employment and Industrial Relations Act.

In the case of Third-Country Nationals (TCNs)

- a. TCNs would be eligible for auto-enrolment with effect from the sixth (6) month of employment or at the end of the probation period, whichever date occurs last;
- b. On this date, TCNs would be eligible if they hold:
 - A valid single permit (residence and work).
 - Valid residence permits (must be residents of Malta for a minimum of three (3) months).

Seasonal Worker Status and/or Student TCNs are not entitled (unless holding the permits indicated above).

Finally, for the avoidance of doubt, all eligible employees must be paying Social Security

⁶ Retirement age in line with the Social Security Contributions Act

Contributions in Malta.

Employees younger than 18 or less than 10 years away from retirement age but who wish to contribute to an auto-enrolment scheme may do so, after actively opting in (on condition that the employer or licence holder does not solicit them to do so).

Self-employed individuals may pursue an occupational pension plan voluntarily.

3.2. Enrolment

It is being proposed that employers will be required to provide employees with key information about the occupational retirement scheme within four weeks of the date on which an employee becomes eligible, but before actual enrolment. In this respect, employees should be provided with the scheme's particulars and any other information required for the employee to be informed that on a given day, he/she will be automatically enrolled in the employer's qualifying occupational retirement scheme. They will also be provided with details for opting out should they wish to do so.

3.3. Contributions

Contributions shall be paid in line with the payroll cycle, through deductions from the salary, which the employee would be required to confirm in writing. Employees who subscribe to an auto-enrolment occupational pension scheme will benefit from the same level of tax credits applicable to individuals in the case of other pension schemes. This tax benefit will be in addition to any tax benefits such employees may enjoy from other pension schemes.

Employers may voluntarily decide to top up the pension contributions made by their employees, also in line with the payroll cycle. Such employers will also benefit from the same level of tax credits applicable to employers in the case of other occupational pension schemes.

To support smooth implementation, employers, together with license holders, would be

required to establish a process ensuring that, once salaries are paid, contributions are immediately transferred and invested.

The auto-enrolment occupational retirement scheme should also allow employees to have a contribution break at any point in time, in certain circumstances. This is especially important for any employees who might not be able to continue contributing for various reasons (such as statutory leave, career breaks, etc.).

A minimum contribution to the auto-enrolment occupational retirement scheme by the employee is being set at €50 per month.

Where the employer contributes to the auto-enrolment occupational retirement scheme, the employer shall only be required to contribute in those circumstances where a salary for an employee is being paid. This would thereby exclude instances such as unpaid leave, placements, secondments, or similar circumstances where a contract of employment is still in force between the employee and employer, and yet no salary is being paid.

3.4. Employer obligations

It is also envisaged that new requirements under the Employment Act and Social Security Act are introduced, establishing the following obligations for employers under the auto-enrolment regime:

- a. Employers would be obliged to enter a contractual arrangement with a licence holder providing an auto-enrolment occupational retirement scheme. This arrangement should outline the obligations of the employers and the license holders. The contractual arrangement should also include the method for making deductions from the salary (in line with the payroll cycle), as well as the flow of information and data protection measures related to such information. It is being proposed that the licence holder providing an auto-enrolment occupational retirement scheme may also be granted access to the payroll system of employers to gather any necessary data (in

accordance with all applicable General Data Protection Regulations-related provisions), should the employer wish for this to occur.

- b. The requirement for there to be adequate information, through the licence holder or the employer, to the employees insofar as the auto-enrolment occupational retirement scheme is concerned.
- c. Employers would be prohibited from automatically enrolling a non-eligible employee into their auto-enrolment occupational retirement scheme. However, non-eligible employees will still have the right to request to opt in to their employer's auto-enrolment occupational retirement scheme, by providing notice to the employer.
- d. Employers would be obliged to assess whether their employees are eligible for auto-enrolment.
- e. If an employee opts out, the employer is obliged to offer the employee the opportunity to re-enrol into the auto-enrolment occupational retirement scheme, every year.
- f. If an employee opts out, they will be entitled to change their mind within 60 days of opting out. Employees would, however, be able to opt in or opt out once in any given year.
- g. Employers should also be prohibited from (i) asking job applicants whether they plan to opt out of auto-enrolment, and (ii) offering financial inducements (including higher salaries or one-time bonuses) or other benefits in exchange for opting out of membership of the auto-enrolment occupational retirement scheme.

3.5. Workforce participation and protection

To promote transparency, participation, and employee protection, it is envisaged that legislation will be enacted to cover the following matters :

3.5.1. Oversight and Value

- The new regulations being proposed would also include obligations on employers to disclose the key features of contractual arrangements that they have with the licence holder for the administration of the scheme and to assess the overall value of the chosen occupational retirement scheme for employees (at plan selection and also on an ongoing basis) against stipulated criteria.
- Employers should also ensure that occupational retirement schemes entered into by their employees are in line with the auto-enrolment rules.

3.5.2. Qualification and Continuity

- Where the occupational retirement scheme which qualified for the auto-enrolment regime offered by the licence holder to the employer no longer qualifies as such, the employer must immediately commence discussions with the licence holder concerned for the employee's pension assets to be transferred into an occupational retirement scheme that is in line with the auto-enrolment regime.
- Moreover, the licence holder is obliged to inform the employer immediately that the plan is no longer in line with the auto-enrolment regime.

3.5.3. Employer Contributions

- Employers will not be obliged to contribute (i.e. there will be no mandatory contributions from an employer's side).
- Where an employer voluntarily decides to contribute and subsequently decides to stop these voluntary contributions, the employer will need to inform the employees and workers' representatives (where they exist) at least 90 days before doing so.

3.5.4. Employee Rights and Protections

- Employees may not be subject to any adverse treatment for raising their concerns with their employer or enforcing their rights in relation to the auto-enrolment obligations.
- Reporting non-compliance with auto-enrolment obligations would not be considered a grievance nor a valid reason for termination of employment.
- Employees who allege that the employer is in breach of its auto-enrolment pensions obligations shall have a right to lodge a complaint with the Industrial Tribunal/Civil Courts. In cases of pension-related litigation connected with the licence holder, such complaints shall remain within the competence of the Arbiter for Financial Services.

4. Occupational Retirement Scheme rules

4.1. Retirement benefits

In line with the Voluntary Occupational Pension Scheme Rules, retirement benefits can commence when the employee attains the age of 61 years and not later than 70 years.

With respect to retirement benefits upon retirement, an employee may decide to take a tax-free cash lump sum of 30% of the employee's accumulated benefits in the occupational retirement scheme. The remaining 70% of the employee's accumulated benefits may be taken by means of an annuity or programmed withdrawals. This is in line with the current Pension Rules for Occupational Retirement Schemes.

4.2. Potential early withdrawal considerations

It is being proposed that the legislation will include provisions whereby tax would not be imposed in the case where withdrawals are made following the death or the diagnosis of a terminal illness of the employee or his/her spouse or civil partner and/or children.

It is proposed that no other possibilities for early withdrawals are made available.

4.3. Trivial pension

The current legislation does not specify a minimum amount of accumulated retirement benefits that an employee must hold to be eligible to withdraw benefits at retirement.

It is proposed that a minimum threshold be established for accessing retirement benefits. Below the set minimum threshold, employees should be allowed to take the accumulated benefits as trivial pensions⁷.

⁷ Small occupational pension plans can be withdrawn at retirement as a lump-sum.

5. Criteria to be satisfied for auto-enrolment

5.1. General applicable criteria for licence holders

In view of the nature of the occupational retirement scheme and the fact that such a scheme invests employees' lifetime savings, the law is to ensure that the providers of such schemes have the necessary financial strength, governance and infrastructure in place commensurate with the long-term nature of the scheme. As a result, strict criteria will need to be set to ensure that failure of a licence holder is minimised and, where possible, eliminated.

It is proposed that for a licence holder to be able to provide an auto-enrolment occupational retirement scheme, the said licence holder must meet a set of criteria, as outlined in section 4.2 below. Additionally, it is proposed that an auto-enrolment retirement scheme be used solely for providing retirement benefits to employees under the auto-enrolment regime.

For the occupational retirement scheme to be considered as eligible, it must be licensed as an Occupational Retirement Scheme under the Retirement Pensions Act. It is also proposed that this should be in the form of a trust, as defined in the Trusts and Trustees Act.

It is also being proposed that an auto-enrolment occupational retirement scheme is to be set up as a defined-contribution scheme⁸, and hence, it would not be allowed for an occupational retirement scheme to be set up as a defined benefit⁹ or hybrid plan¹⁰.

Furthermore, the auto-enrolment occupational retirement scheme is to be set up as an open plan which is a plan whose membership is open to a number of unrelated employers.

It is also proposed that the auto-enrolment occupational retirement scheme would be directed by the licence holder on behalf of the employee. This would mean that employees would have no say in how the licence holder invests their contributions, and all contributions would fall under a default investment strategy, as explained below. This would avoid costs related to the

⁸ A defined contribution scheme is a scheme where your own contributions and your employer's contributions are both invested by the pension provider and the value of your pension can go up or down depending on how the investments perform.

⁹ A defined benefit scheme is a type of pension plan where the retirement benefits are based on the salary of the employees and how long they have been employed by the company.

¹⁰ Hybrid Scheme is a combination of a defined contribution scheme and a defined benefit scheme.

provision of investment advice by employers, license holders and third parties.

5.2. Governance requirements for the licence holder

As a minimum, a licence holder providing an auto-enrolment occupational retirement scheme should have:

- a. wide experience and positive track record in the provision of such products;
- b. more than one Director who is knowledgeable or who has undertaken training on pensions;
- c. adequate human resources and technological infrastructure to be able to handle the influx of new employees; and
- d. a compliance officer who has attended relevant training on pensions and who is knowledgeable on the requirements emanating from the new framework, once this framework is launched.

Furthermore, additional criteria may be added to strengthen the current requirements that Retirement Scheme Administrators are required to comply with.

5.3. Cost capping

In order not to allow pension contributions to be depleted by unnecessary or exorbitant costs and charges, and for employees to maximise their return on their invested contributions, the costs and charges applied on the auto-enrolment occupational retirement scheme must be fair, such that the said scheme would provide good value for money.

The current regulatory regimes allow license holders to set their costs and charges with minimal restrictions in place. To ensure value for money and protect employees from excessive charges, it is envisaged that a cost cap be introduced for retirement schemes under the auto-enrolment regime.

A cost cap would encourage licence holders to adopt cost-effective investment strategies and would create a level playing field for licence holders.

This cost cap may be reviewed every three to five years to ensure it remains appropriate in light of market trends and emerging developments.

5.4. Transparency of all costs and charges

To support informed decision-making and comparability, it is being proposed that all Retirement Scheme Administrators offering occupational retirement schemes under the auto-enrolment regime would be required to provide standardised, pre-contractual disclosures of all costs and charges, whether direct or indirect. These disclosures would be mandatory.

The disclosure of such costs must be provided to the employee before enrolment. Disclosures on costs should be included in the Scheme Particulars and are to be provided on an annual basis through the Pension Benefit Statement. It is also proposed that, in addition to the Scheme Particulars, a Key Information Document be drafted to provide employees with concise information about the scheme. Such documents (Key Information Document and the Pension Benefit Statement) are to be templated to ensure better comparability, with a focus on using pictorial representations in addition to written information. The length and format of these documents shall also be prescribed.

As outlined in section 4.7 below, licence holders manufacturing occupational retirement schemes that qualify for the auto-enrolment regime will also be required to offer employees online access to their schemes, including visibility of any costs and charges deducted.

5.5. Investment strategy

It is being proposed that the occupational retirement scheme offered under the auto-enrolment regime must include only one default investment strategy. This strategy would

follow a structured life-cycling approach¹¹, where investment risk is gradually reduced as the employee nears retirement.

A default investment strategy would remove the need for employees to make complex investment decisions or seek costly investment advice. The key features of the default strategy should include:

- a. low fees;
- b. a structured asset allocation approach that dynamically adjusts investment risk according to the respective employees' age (life cycling), thereby balancing growth potential with capital preservation as retirement approaches; and
- c. transparency.

It is being proposed that the default investment strategy within the occupational pension scheme is subject to investment restrictions. In this regard, the investment restrictions specified under Article 19 of the IORPs II Directive will be adopted.

5.6. Portability and transfers of occupational pension plans

The accumulation of small, deferred pension plans — often resulting from employees moving between employers — creates challenges for employees, employers, and license holders alike. These include the risk of pension pots being eroded by charges, difficulty tracking multiple plans, and, in some cases, unclaimed plans.

To address these challenges, it is essential that the auto-enrolment occupational retirement scheme is sufficiently liquid to facilitate the transfer of assets between license holders and that a consistent framework is in place for portability and transfers.

In April 2014, the Mobility Directive (2014/50/EU) was adopted to remove obstacles to the free

¹¹ By way of an example, under the life cycling approach, a 25-year-old will have more investment in shares than someone who is nearing retirement age, whose investments will be invested more in bonds and cash and will be more liquid. This strategy gradually shifts from higher-risk investments to more conservative ones as employees approach retirement age.

movement of supplementary pensions which are linked to an employment relationship.¹² The Directive identifies the right that an employee has when changing employment and provides the right to leave their accumulated benefits in the auto-enrolment occupational retirement scheme with the current employer as dormant, rather than move them to the new employer.

In addition, the Directive allows employees who leave their job within a short tenure (up to three years) to withdraw the value of their accumulated benefits (currently defined as not exceeding €9,000) in the occupational retirement scheme, a provision designed to prevent small pension pots from being eroded by ongoing costs and charges.

5.6.1. Portability and transfers of the auto-enrolment occupational pension scheme

Further to the possibilities brought forward by the Mobility Directive, as highlighted earlier, in terms of the free movement of occupational pensions, the following considerations are being proposed for the auto-enrolment occupational pension scheme:

- a. Movements out of schemes made before retirement age, as highlighted in section 3.1, are to be made directly into another auto-enrolment occupational pension scheme.
- b. In the case where employees are changing employments, and in order not to stifle the labour market, the accumulated benefits of an outgoing employee in the auto-enrolment occupational pension plan are to be “recognised” by the new employer, with the latter becoming a party to the employee’s existing plan instead of the “old” employer. This is especially important when the employee wishes to retain their entitlements with the same licence holder and the new employer has a plan in place offered by a different licence holder.

¹² Supplementary pension is the pension accrued for employees by an employer. Supplementary pensions are referred to as the ‘second pillar’ of pensions.

5.7. Website and mobile application requirements

It is proposed that licence holders offering auto-enrolment occupational pension schemes provide employees with access to a user-friendly and secure interface, such as a website or mobile application. This platform should provide a comprehensive and real-time overview of the employee's pension status, including, but not limited to, pension contributions, costs and charges, investment strategy and performance, pension projections, the current value of the employee's entitlements, and any other additional features. It is also crucial to ensure that the platform complies with data protection regulations, including the GDPR, and to protect sensitive employee information.

Employees will be further encouraged to participate in occupational retirement schemes by providing a detailed and transparent platform.

6. Treatment of existing occupational pension plans

The existing occupational plans offered on the market are not and shall not be deemed equivalent to the auto-enrolment regime.

Employers who are offering an existing occupational plan shall be considered as fulfilling their obligation under the auto-enrolment regime.

However, new employees (and existing employees not yet subscribed) will only be offered occupational retirement schemes that qualify fully within the auto-enrolment regime. Therefore, those employers with an existing occupational plan shall be required to provide a suitable auto-enrolment scheme to new employees.

There will be no movement between existing occupational pension plans and new auto-enrolment schemes within the same company, unless making use of the existing mobility directive clauses described in section 4.6.

This would mean that an employer who already offers an occupational pension plan may have to manage two occupational pensions concurrently (that is, the existing occupational pension plan for current employees and another occupational retirement scheme that qualifies under the auto-enrolment regime for new employees and existing employees not yet subscribed to the plan).

7. Customer engagement

7.1. Financial literacy

To address financial literacy and consumer rights, an educational campaign will be launched to cover various aspects of the new auto-enrolment regime and provide information related to the schemes that qualify for such a regime. Such information would include general details on how the auto-enrolment regime operates, associated risks, and relevant tax considerations.

Such campaigns would instil the importance of having a comfortable cushion to rely on at retirement, enabling an individual to sustain the same standard of living they enjoyed before retirement.

7.2. Customer support for occupational retirement schemes

To ensure the effective implementation and long-term sustainability of occupational retirement schemes that qualify under the auto-enrolment regime, a dedicated webpage is being envisaged. This webpage would include, among other things, Frequently Asked Questions and other relevant information related to the auto-enrolment regime. Furthermore, licence holders would also be expected to establish a dedicated customer support team to manage all aspects of the occupational retirement scheme, which is provided on an auto-enrolment basis.

8. Timeframes for implementation

It is proposed that the auto-enrolment occupational retirement scheme be gradually introduced to the private sector no later than six months after its implementation in the public sector, which is planned for the end of the year. The timeframes for implementation within the private sector will nonetheless be discussed and consulted upon with stakeholders.

9. Way Forward

Any comments and feedback regarding the Consultation Document and the attached draft legislation should be sent through the public consultation portal that may be accessed via the website of the Ministry for Finance (<https://finance.gov.mt/>). Submissions should be sent by no later than 17th July 2025. The replies received will be shared with the MFSA. Following this, a Feedback Statement shall be issued.

Annex - Draft Legislation

BILL
entitled

AN ACT to amend various financial services laws

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title.

- 1.** The short title of this Act is the Various Financial Services Laws (Amendment No. 2) Act, 2025.

PART I

AMENDMENTS TO THE INSURANCE BUSINESS ACT

Amendments to the Insurance Business Act.

Cap. 403.

- 2.** This Part amends the Insurance Business Act and shall be read and construed as one with the Insurance Business Act, hereinafter in this Part referred to as the “principal Act”.

Amendment of article 64 of the principal Act.

- 3.** Article 64 of the principal act shall be amended as follows:
- (a) in sub-article (6) thereof, the words “exempting from and modifying any of the provisions of this Act or of any regulations made thereunder.” shall be substituted by the words “exempting from and modifying any of the provisions of this Act or of any regulations made thereunder. Any such regulations may provide for the manner in which captive insurance undertakings and captive reinsurance undertakings transfer all or part of their rights and obligations under general business policies, or general business policies of such descriptions, or the whole or part of the long term business carried on, as may be specified.”;
- (b) immediately after sub-article (8) thereof, there shall be added the following new sub-articles:

“Cap. 123

Cap. 318

- (8A) The Minister may, after consultation with the competent authority, make regulations providing for the regulation and supervision of authorised insurance undertakings providing a contract of insurance set up as an occupational pension plan. Any such regulations may provide

for additional criteria with which an authorised insurance undertaking providing an occupational pension plan may be required to comply. Any such regulations may also provide for specific and, or different requirements on a contract of insurance set up as an occupational pension plan by an authorised insurance undertaking and any other matters or obligations incidental to or connected therewith:

Provided that for the purposes of this sub-article:

“occupational pension plan” means a contract of insurance, the purpose of which is to provide retirement benefits upon the attainment of an age as stipulated under regulations or Insurance Rules issued under the Act, or any other regulations issued under any the Income Tax Act or the Social Security Act, and that is based on a contract entered into collectively between the employer and the employee and, or their respective representatives.

Cap. 123

Cap. 318

(8B) The Minister may, after consultation with the competent authority, make regulations providing for the regulation and supervision of authorised insurance undertakings providing a contract of insurance set up as a personal pension plan, and any other matters or obligations incidental to or connected therewith. Any such regulations may also provide for specific and, or different requirements on a contract of insurance set up as a personal pension plan by an authorised insurance undertaking and any other matters or obligations incidental to or connected therewith:

Provided that for the purposes of this sub-article “personal pension plan” means a contract of insurance which is not an occupational pension plan, the purpose of which is to provide retirement benefits upon the attainment of an age as stipulated under regulations or Insurance Rules issued under the Act, or any other regulations issued under the Income Tax Act or the Social Security Act and to which contributions are made for the benefit of an individual.”.

(8C) For the purposes of sub-articles 8A and 8B, “retirement benefits” means benefits paid by reference to reaching, or the expectation of reaching, retirement or, where they are supplementary to those benefits and provided on an ancillary basis, in the form of payments on death, disability, or cessation of employment or in the form of support payments or services in case of sickness, indigence or death.

PART II

AMENDMENTS TO THE RETIREMENT PENSIONS ACT

Amendment to the Retirement Pensions Act.
Cap. 514.

4. This Part amends the Retirement Pensions Act and shall be read and construed as one with the Retirement Pensions Act, hereinafter in this Part referred to as the “principal Act”.

Amendment of article 2 of the principal Act.

5. Article 2 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, immediately after the definition “competent authority”, there shall be added the following new definition:

“Conduct of Business Rules” means Rules relating to conduct of business issued by the competent authority under various articles of this Act and under any regulations made thereunder;”;

(b) in sub-article (2) thereof, the words “in any regulations prescribed or Pension Rules issued thereunder,” shall be substituted by the words “in any regulations prescribed or Pension Rules or Conduct of Business Rules issued thereunder,”.

Amendment of article 4 of the principal Act.

6. In sub-article (5) of article 4 of the principal Act, the words “as may be further stipulated in Pension Rules.” shall be substituted by the words “as may be further stipulated in Pension Rules or Conduct of Business Rules, as applicable.”.

Amendment of article 5 of the principal Act.

7. In sub-article (4) of article 5 of the principal Act, the words “as may be further stipulated in Pension Rules.” shall be substituted by the words “as may be further stipulated in Pension Rules or Conduct of Business Rules, as applicable.”.

Amendment of article 8 of the principal Act.

8. Article 8 of the principal Act shall be amended as follows:

(a) in paragraph (a) thereof, the words “may require by means of Pension Rules;” shall be substituted by the words “may require by means of Pension Rules or Conduct of Business Rules, as applicable;”;

(b) in paragraph (b) thereof, the words “as may be established by means of Pension Rules;” shall be substituted by the words “as may be established by means of Pension Rules or Conduct of Business Rules, as applicable.”.

Amendment of article 9 of the principal Act.

9. Article 9 of the principal Act shall be amended as follows:

(a) in sub-article (2) thereof:

(i) paragraph (a) thereof shall be amended as follows:

(aa) in sub-paragraph (i) thereof, the words “structured in line with any Pension Rules;”, shall be substituted by the words “structured in line with any Pension Rules and, or Conduct of Business Rules;”;

(bb) in sub-paragraph (ii) thereof, the words “and any regulations or Pension Rules made thereunder;” shall be substituted by the words “and any regulations, Pension Rules and, or Conduct of Business Rules made thereunder;”;

(cc) in sub-paragraph (iv) thereof, the words “in line with any Pension Rules;”, shall be substituted by the words “in accordance with any Pension Rules and, or Conduct of Business Rules;”;

(ii) paragraph (b) thereof shall be amended as follows:

(aa) in sub-paragraph (i) thereof, the words “in line with any Pension Rules, as applicable;”, shall be substituted by the words “in accordance with any Pension Rules and, or Conduct of Business Rules, as applicable;”;

(bb) in sub-paragraph (ii) thereof, the words “any regulations or Pension Rules made thereunder;”, shall be substituted by the words “any regulations, Pension Rules and Conduct of Business Rules made thereunder;”;

(cc) in sub-paragraph (iv) thereof, the words “in line with any Pension Rules;” shall be substituted by the words “in accordance with any Pension Rules and, or Conduct of Business Rules;”;

(iii) in sub-paragraph (ii) of paragraph (c) of sub-article (2) thereof, the words “any regulations or Pension Rules made thereunder;”, shall be substituted by the words “any regulations, Pension Rules and Conduct of Business Rules made thereunder;”;

(b) in sub-article (3) thereof, the words “subject to the applicable Pension Rules and to such conditions”, shall be substituted by the words “subject to the applicable Pension Rules and, or Conduct of Business Rules and to such conditions”;

(c) in sub-article (7) thereof, the words “the Pension Rules to which the competent authority” shall be substituted by the words “the Pension Rules and Conduct of Business Rules to which the competent authority”;

(e) in paragraph (b) of sub-article (10) thereof, the words “by means of Pension Rules issued under this Act,”, shall be substituted by the words “by means of Pension Rules and, or Conduct of Business Rules issued under this Act,”.

Amendment of article 10 of the principal Act.

10. Article 10 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the words “any other provision of this Act and of any regulations or Pension Rules made thereunder,”, shall be substituted by the words “any other provision of this Act and of any regulations, Pension Rules and Conduct of Business Rules made thereunder,”;

(b) in sub-article (2) thereof:

(i) in paragraph (b) thereof, the words “does not comply with the provisions of this Act or of any regulations made or Pension Rules issued thereunder,” shall be substituted by the words “does not comply with the provisions of this Act or of any regulations made or any Pension Rules or Conduct of Business Rules issued thereunder,”; and

(ii) in paragraph (c) thereof, the words “to notify under this Act and any regulations made thereunder or any Pension Rules; or” shall be substituted by the

words “to notify under this Act or any regulations made thereunder or any Pension Rules or Conduct of Business Rules; or”;

(c) in paragraph (b) of sub-article (3) thereof, the words “with the provisions of this Act or of any regulations made or Pension Rules issued thereunder,” shall be substituted by the words “with the provisions of this Act or of any regulations made or Pension Rules or Conduct of Business Rules issued thereunder,”;

(d) in paragraph (b) of sub-article (4) thereof, the words “any of the provisions of this Act or of any regulations made or Pension Rules issued thereunder,” shall be substituted by the words “any of the provisions of this Act or of any regulations made or Pension Rules or Conduct of Business Rules issued thereunder,”.

Amendment of article 12 of the principal Act.

11. In article 12 of the principal Act, the words “shall be subject to any requirements, as may be stipulated by Pension Rules.”, shall be substituted by the words “shall be subject to any requirements, as may be prescribed in regulations or stipulated by Pension Rules and, or Conduct of Business Rules.”.

Amendment of article 13A of the principal Act.

12. Article 13A of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the words “The system of governance requirements shall be laid down in Pension Rules.”, shall be substituted by the words “The system of governance requirements shall be laid down in Pension Rules and, or Conduct of Business Rules.”;

(b) in paragraph (e) of sub-article (2) thereof the words “all of its obligations under this Act and the regulations and Pension Rules issued thereunder.”, shall be substituted by the words “all of its obligations under this Act and the regulations, Pension Rules and Conduct of Business Rules issued thereunder.”;

(c) in sub-article (3) thereof, the words “referred to in sub-article (2) shall be determined by Pension Rules.”, shall be substituted the words “referred to in sub-article (2) shall be determined by Pension Rules and, or Conduct of Business Rules.”.

Amendment of article 21 of the principal Act.

13. Article 21 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the words “shall comply with any Pension Rules regarding the submission”, shall be substituted by the words “shall comply with any Pension Rules and, or Conduct of Business Rules regarding the submission”;

(b) in sub-article (2) thereof, the words “with any other disclosure requirements as may be required by Pension Rules,” shall be substituted by the words “with any other disclosure requirements as may be required by Pension Rules and, or Conduct of Business Rules,”.

Amendment of article 22 of the principal Act.

14. In article 22 of the principal Act, the words “as may be provided for in regulations or Pension Rules”, shall be substituted the words “as may be provided for in regulations, Pension Rules and, or Conduct of Business Rules”.

Amendment of article 28 of the principal Act.

15. In article 28 of the principal Act, the words “and comply with any reporting requirements such as annual accounts, reports, certificates and information as may be required by Pension Rules.”, shall be substituted by the words “shall comply with any reporting requirements such as annual accounts, reports, certificates and information as may be required by Pension Rules and, or Conduct of Business Rules.”.

Amendment of article 29 of the principal Act.

15. In article 29 of the principal Act, the words “any disclosure requirements that may be established by Pension Rules,”, shall be substituted by the words “any disclosure requirements that may be established by Pension Rules and, or Conduct of Business Rules,”.

Amendment of article 31 of the principal Act.

16. In article 31 of the principal Act, the words “in the information provided under this Act, and any regulations made thereunder, or any Pension Rules”, shall be substituted by the words “in the information provided under this Act, and any regulations made thereunder, any Pension Rules or Conduct of Business Rules”.

Amendment of article 34 of the principal Act.

17. In article 34 of the principal Act, the words “The competent authority may, by Pension Rules made for the purposes of this article,” shall be substituted by the words “The competent authority may, by Pension Rules or Conduct of Business Rules made for the purposes of this article,”.

Amendment of article 35 of the principal Act.

18. In paragraph (b) of sub-article (1) of article 35 of the principal Act, the words “a material breach of the provisions of this Act and regulations or any Pension Rules which lay down”, shall be substituted by the words “a material breach of the provisions of this Act, regulations, Pension Rules and, or any Conduct of Business Rules which lay down”.

Amendment of article 37 of the principal Act.

19. Article 37 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, immediately after paragraph (k) thereof, there shall be added the following new paragraph:

“(ka) provide for and regulate auto-enrolment occupational retirement schemes, including the constitution thereof, which may be provided by a Retirement Scheme Administrator. Any such regulations may provide for additional criteria with which a Retirement Scheme Administrator providing auto-enrolment occupational retirement schemes, may be required to comply. Any such regulations may also provide for specific criteria and requirements for the constitution of the said occupational retirement scheme, and any other matters or obligations incidental to or connected therewith. For the purposes of this paragraph, “auto-enrolment occupational retirement scheme” means an occupational retirement scheme provided by an employer to its employee, wherein the employee is automatically enrolled and where the employer and, or the employee make contributions to the said plan;”;

(b) in sub-article (4) thereof, the words “may issue Pension Rules for the better carrying out” shall be substituted by the words “may issue Pension Rules and Conduct of Business Rules for the better carrying out”.

Amendment of article 38 of the principal Act.

20. Sub-article (2) of article 38 of the principal Act including paragraphs (a) to (v) thereof, shall be substituted by the following new sub-article:

“(2) For the better carrying out of the provisions of this Act, the competent authority may, from time to time, issue, amend, or revoke Pension Rules and Conduct of Business Rules. Both such Rules shall be binding on licence holders under this Act and on other persons as may be specified therein, including auditors of licence holders and actuaries of retirement schemes, and may relate to a particular category of retirement schemes and, or retirement funds or to persons and situations generally. Such Pension Rules and Conduct of Business Rules may lay down requirements and conditions in relation to activities of that licence holder or other person, the conduct of their business, their relations with members, beneficiaries, investors, the public

and other parties as may be applicable, their responsibilities and obligations to the competent authority, reporting and disclosure requirements, financial resources, capital adequacy and related requirements, any other matters ancillary to or connected therewith, and any other matters as the competent authority may consider appropriate.”.

Amendment of article 41B of the principal Act.

21. In article 41B of the principal Act, the words “as may be specified by means of regulations or Pension Rules which shall also specify”, shall be substituted by the words “as may be specified by means of regulations, Pension Rules and, or Conduct of Business Rules which shall also specify”.

Amendment of article 45 of the principal Act.

22. Article 45 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be amended as follows:

(i) paragraph (a) thereof shall be substituted by the following new paragraph:

“(a) that there is reasonable likelihood that a person will contravene any of the provisions of this Act or any regulations, Pension Rules and, or Conduct of Business Rules made thereunder, or will contravene or fail to comply with any condition, obligation, requirement, Pensions Rules, Conduct of Business Rules and, or directive made or given under any of the provisions of this Act; or”;

(ii) in paragraph (b) thereof, the words “to comply with any such condition, obligation, requirement, Pension Rules, or directive”, shall be substituted by the words “to comply with any such condition, obligation, requirement, Pension Rules, Conduct of Business Rules and, or directive”;

(b) in sub-article (2) thereof, the words “in contravention of any of the provisions of this Act or any regulations or Pension Rules made thereunder,” shall be substituted by the words “in contravention of any of the provisions of this Act, any regulations, Pension Rules and, or Conduct of Business Rules made thereunder,”.

Amendment of article 46 of the principal Act.

23. Article 46 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the words “to a breach of any of the provisions of this Act, regulations or Pension Rules made thereunder,”, shall be substituted by the words “to a breach

of any of the provisions of this Act, regulations, Pension Rules or Conduct of Business Rules made thereunder,”;

(c) sub-article (2) thereof shall be deleted;

(b) in sub-article (4) thereof, the words “which is imposed for breaches of the provisions of this Act, any regulations or Pension Rules issued thereunder,”, shall be substituted by the words “which is imposed for breaches of the provisions of this Act, any regulations, Pension Rules and, or Conduct of Business Rules issued thereunder,”.

Amendment of article 48 of the principal Act.

24. Article 48 of the principal Act shall be amended as follows:

(a) in paragraph (a) thereof, the words “any regulations or Pension Rules issued thereunder,”, shall be substituted by the words “any regulations, Pension Rules or Conduct of Business Rules issued thereunder, and the words “requirement or Pension Rules” shall be substituted by the words “requirement”;

(b) in paragraph (d) thereof, the words “any regulations or Pension Rules issued thereunder,”, shall be substituted by the words “any regulations, Pension Rules or Conduct of Business Rules issued thereunder,”;

(c) in paragraph (e) thereof, the words “or any regulations or Pension Rules issued thereunder,”, shall be substituted by the words “or any regulations, Pension Rules or Conduct of Business Rules issued thereunder,”.

Amendment of article 52 of the principal Act.

25. Article 52 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the words “regulations or Pension Rules issued thereunder,”, shall be substituted by the words “regulations, Pension Rules or Conduct of Business Rules issued thereunder,”;

(b) in sub-article (3) thereof, the words “and any regulations and Pension Rules issued thereunder,” shall be substituted by the words “and any regulations, Pension Rules and Conduct of Business Rules issued thereunder,”.

Amendment of article 52A of the principal Act.

26. In sub-article (1) of article 52A of the principal Act:

(a) the words “under this Act and any regulations or Pension Rules issued thereunder,” shall be substituted by the words “under this Act, any regulations, Pension Rules or Conduct of Business Rules issued thereunder,”;

(b) in paragraph (f) thereof, the words “to the provisions of the Act, any regulations and, or Pension Rules issued thereunder.”, shall be substituted by the words “to the provisions of the Act, any regulations, Pension Rules and, or Conduct of Business Rules issued thereunder.”.

OBJECTS AND REASONS

The objects and reasons of this Bill is to provide the necessary powers to be able to create a legal framework to ensure that future pensioners have adequate income on retirement and to encourage the uptake of pension schemes. Also to provide the necessary powers to be able to provide regulations to regulate licence holders providing such schemes and regulate the schemes themselves.