

SUBSIDIARY LEGISLATION 260.04**PRISONS PENSIONS REGULATIONS**

20th April, 2001

LEGAL NOTICE 88 of 2001, as amended by Legal Notices 423 of 2007, 5 of 2008 and 169 of 2016; and Act XLI of 2016.

1. The title of these regulations is the Prisons Pensions Regulations. Title.
2. In these regulations, unless the context otherwise requires: Interpretation.
- "Act" means the Prisons Act; Cap. 260.
- "correctional services officer" means any officer appointed to the public service on or after the 15th January, 1979 and who occupies any post listed in the Schedule
- "Minister" means the Minister responsible for the prisons and includes, to the extent of the authority given, any person authorised on that behalf for any purpose of the Act;
- "month" means a calendar month;
- "pensionable emoluments" include -
- (i) salary,
 - (ii) personal allowance,
- but does not include special duty allowance, extra remuneration, any fees paid out of the Treasury by way of salary or any other emoluments whatsoever;
- "personal allowance" means a special addition granted personally to the holder for the time being of the office, but does not include such an addition if it is granted subject to the condition that it shall not be pensionable;
- "year" means a calendar year.
3. No pension shall be granted to any correctional services officer except on his retirement from the Department of Correctional Services after he attains the age of fifty years in any one of the following cases:
- (a) on or after attaining the age of fifty-five years or if he has completed twenty-five years' service in the Department of Correctional Services;
 - (b) on the abolition of his office;
 - (c) on compulsory retirement for the purpose of facilitating improvement in the organisation of the Department of Correctional Services, by which greater efficiency and economy can be effected;
 - (d) on compulsory retirement on the ground of public interest;
 - (e) on medical evidence to the satisfaction of the Minister

Circumstances in which pension may be granted.
*Amended by:
L.N. 5 of 2008;
L.N. 169 of 2016.*

that such correctional services officer is incapable by reason of infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent:

Provided that if a correctional services officer is, without his own default, seriously injured during the course of his duties and due to such injury he is incapable of discharging the duties of his office, and has been duly certified by an Injuries Board made up of medical and other professionals appointed by the Minister responsible for Prisons, such officer may be entitled to pensionable emoluments as if he had completed the 25 years' service:

Provided further that, if a correctional services officer, without his own default, dies as a direct consequence of him having carried out the duties of his office, his dependants, unless otherwise precluded at law, will be entitled to the payment of such pensionable emoluments, as provided in regulation 16.

Retirement on the ground of public interest.

4. Where a correctional services officer's services is terminated by the Prime Minister after taking regard of the conditions of the Department of Correctional Services, the usefulness of the correctional services officer thereto, and all the circumstances of the case, and it is considered in the public interest that he should no longer serve as a member of the Department of Correctional Services, and a pension cannot otherwise be granted to him under the provisions of these regulations, such correctional services officer may be granted a pension not exceeding in amount that for which he would be eligible if he retired from the Department of Correctional Services in the circumstances described in regulation 3(e).

Maximum pension grantable.

5. (1) A pension granted to a correctional services officer under these regulations shall not exceed two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his services in the Department of Correctional Services.

(2) For the purpose of the preceding subregulation an additional pension granted in respect of injury shall not be taken into account; but where a correctional services officer is granted such an additional pension, the amount of such additional pension which he may draw shall not exceed one-sixth of his highest pensionable emoluments at any time in the course of his service in the Department of Correctional Services by more than the sum by which his pension, apart from such additional pension, falls short of two-thirds of such highest emoluments.

Saving as to correctional services officers.
Added by:
L.N. 5 of 2007.

5A. Subject to the provisions of regulation 5 determining the maximum pension grantable to a correctional services officer, where a person has been appointed a correctional services officer, any period previous to that appointment during which that person has served as a prisons officer or as a member of a disciplined force as defined in article 47(1) of the Constitution shall be deemed as service as a correctional services officer for the purpose of any

pension that may be granted under these regulations.

6. No pension granted under these regulations shall be assignable, transferable or liable to be attached, sequestered or levied upon, for or in respect of any debt or claim whatever, except in so far as is provided in article 381(3) of the Code of Organization and Civil Procedure.

Pensions not to be assignable.

Cap. 12.

7. (1) A correctional services officer who retires on grounds listed in regulation 3(e), to whom a pension has been granted under these regulations and who is in receipt of -

Pension to be reduced in certain circumstances.

*Amended by:
L.N. 423 of 2007;
XLI. 2016.40.*

- (a) any remuneration in respect of any employment, or of any services rendered, of any office held; or
- (b) any income deriving from the exercise of a trade, business, profession or vocation; or
- (c) any income deriving from any pension, allowance or other payment in respect of any employment, service or office aforesaid,

shall, until he reaches the age of fifty-five years or until the twenty-fifth anniversary of his first appointment in the Department of Correctional Services, whichever is the earliest, have his pension reduced by the amount by which the aggregate income established in accordance with the following provisions of this regulation exceeds the salary which is then payable in respect of the post which the officer held in retirement, taking account only, if such salary is incremental, of the corresponding increments earned prior to retirement, or, if such post has been abolished, an analogous post:

Provided that the yearly pension shall in no case be reduced to less than the sum of one hundred and sixteen euros and forty-seven cents (116.47), and if the yearly pension or other allowance does not exceed the minimum payable as aforesaid, no reduction shall be made therefrom.

(2) For the purpose of subregulation (1), the aggregate income shall be established by adding -

- (a) the pension which, but for the provisions of this regulation, would have been receivable under these regulations; and
- (b) any remuneration or income referred to in subregulation (1)(a), (b) or (c), or both remuneration and income; and

by subtracting therefrom the yearly sum of one hundred and sixteen euros and forty-seven cents (116.47).

(3) Any reduction in the pension under subregulation (1) shall be calculated on the basis of the pension, the remuneration or other income, and the salary, receivable during a period of twelve months ending on 31st December of the year in which the reduction is due to be made, but, subject to any adjustments that may be or become necessary for any reason whatsoever, and in so far as practicable, shall be made from the monthly or other periodical payments of the pension.

(4) Any officer to whom subregulation (1) applies shall without delay inform the Director General (Social Security), and keep him at all times informed, of all the circumstances which render the said subregulation (1) applicable to him and the extent to which it is so applicable, and of any change in the circumstances or extent aforesaid, and shall give the Director General (Social Security), on request, all relevant information; and if such officer fails to comply with any of the provisions of this subregulation, any pension to which he may be entitled under these regulations shall forthwith cease:

Provided that on good cause being shown, the pension or other allowance may be restored, with or without retrospective effect, by the Prime Minister.

Pensions to whom
and at what rates to
be granted.
Cap. 260.

8. Subject to the provisions of the Prisons Act, and of these regulations, every correctional services officer, who has been in the Department of Correctional Services for ten years or upwards, may be granted a pension at the rate of one four-hundred and fiftieth of his pensionable emoluments for each complete month of pensionable service, subject to the limit described in regulation 5.

Service to be
unbroken.

9. The service in respect of which a pension may be granted must be unbroken, except in cases where the service has been interrupted by abolition of office or other temporary suspension of employment, and not arising from misconduct or voluntary resignation:

Provided that any service prior to a break of service may be allowed to count for pension together with any service subsequent to such break:

- (a) if the whole intervening period has been spent in some other employment in the service of the Republic; or
- (b) in the case where such correctional services officer, having resigned from the Department of Correctional Services, is subsequently recalled in the Department of Correctional Services with the approval of the Prime Minister on account of the exigencies of the Department of Correctional Services, and such recall is certified by the Prime Minister.

Emoluments to be
taken for
computing
pension.

10. (1) For the purpose of computing the amount of the pensions of a correctional services officer who has had a period of not less than three years' pensionable service under these regulations before his retirement -

- (a) in the case of a correctional services officer who has held the same office for a period of three years immediately preceding the date of his retirement, the full annual pensionable emoluments enjoyed by him at that date in respect of that office shall be taken;
- (b) in the case of a correctional services officer who at any time during such period of three years has been transferred from one office to another within the Department of Correctional Services, but whose pensionable emoluments have not been changed by

reason of such transfer or transfers within the Department of Correctional Services, otherwise than by the grant of any scale increments, the full annual pensionable emoluments enjoyed by him at the date of his retirement in respect of the office then held by him shall be taken;

- (c) in other cases one third of the aggregate pensionable emoluments enjoyed by the correctional services officer in respect of his service during the three years of his service immediately preceding the date of his retirement shall be taken:

Provided that -

- (i) if such one third is less than the highest annual pensionable emoluments enjoyed by him at the date of any transfer within the Department of Correctional Services, within such period of three years those annual pensionable emoluments shall be taken; and
- (ii) if such one third is less than the highest annual pensionable emoluments enjoyed by him at the date of his retirement, if he had continued to hold any office within the Department of Correctional Services from which he has been transferred at any time during such period of three years, and had received all scale increments which, in the opinion of the Prime Minister, would have been granted to him, the annual pensionable emoluments which would have been so enjoyed shall be taken.

(2) For the purpose of determining under subregulation (1) the pensionable emoluments that a correctional services officer has enjoyed or would have enjoyed, as the case may be, he shall be deemed -

- (a) to have been on duty on full pensionable emoluments throughout the period of three years immediately preceding the date of his retirement; and
- (b) to have enjoyed the benefit on any increase due to a revision of salaries in the pensionable emoluments of any office held by him as if such increase has been payable throughout such period of three years.

(3) For the purpose of computing the amount of the pension of a correctional services officer who has had a period of less than three years' pensionable service before his retirement -

- (a) the average annual pensionable emoluments enjoyed by him during such period shall be taken;
- (b) he shall be deemed to have been on duty on full pensionable emoluments throughout such period;
- (c) he shall be deemed to have enjoyed the benefit of any increase due to a revision of salaries in the pensionable emoluments of any office held by him as if such

increase had been payable throughout such period; and

- (d) any periods during which he has been absent from duty on leave without salary, granted on grounds of public policy with the approval of the President, and during which he has not qualified for pension in respect of other public service.

(4) In no circumstances shall the pensionable emoluments to be taken exceed the full annual pensionable emoluments enjoyed by the correctional services officer at the date of his retirement in respect of the office then held by him.

(5) In the case of a correctional services officer to whom regulation 11(1)(d) applies, the date of retirement shall:

- (a) where such officer reaches the age of retirement; or
- (b) where such officer would have but for his dismissal completed twenty-five years' service; or
- (c) where such officer dies,

before his dismissal has been declared null by the competent authority, be deemed to be the day on which he reached the age of retirement, or the day on which he would have completed twenty-five years' service, or on which he died, whichever is the earlier, and his pensionable emoluments to be taken into consideration shall be those which he would have been receiving on such date had he not been so dismissed.

Computation of pensions.

11. (1) For the purpose of computing the amount of a correctional services officer's pension the following periods shall be taken into account as pensionable service:

- (a) any periods during which he has been on duty;
- (b) any period during which he received half salary;
- (c) any periods during which he has been absent from duty on leave with full or half salary;
- (d) any period following dismissal from the Department of Correctional Services, where such dismissal is subsequently declared to have been invalid by a competent authority, up to the time of reinstatement, or the date when such correctional services officer would have completed twenty-five years' service, or the day on which such correctional services officer would have to retire because of age, or the date when such officer dies, whichever is the earlier.

And any periods during which he has been absent on leave, other than those specified above, shall be deducted from the officer's total service in order to arrive at his period of pensionable service.

(2) For the purposes of subregulation (1)(d) and for the purposes of regulation 10(5), the term "dismissal" shall be deemed to include "compulsory retirement on the ground of public interest" and the term "dismissed" shall be construed accordingly.

Acting service.

12. Where an officer has performed acting service in a

pensionable office in the Department of Correctional Services, the period of such service may be taken into account as pensionable service under these regulations:

Provided that -

- (a) the period of such acting service was not part of the pensionable service of the previous holder of the office and does not fall to be reckoned as part of the officers' own pensionable service under these regulations in the Department of Correctional Services;
- (b) this period of service is immediately preceded or followed by service in a substantive capacity in the Department of Correctional Services.

13. If a correctional services officer retires or is removed from the Department of Correctional Services in consequence of the abolition of his office, or for the purpose of facilitating improvements in the Department of Correctional Services, by which greater efficiency and economy can be effected, he may be granted a pension:

Abolition or
reorganisation of
office.

Provided, however, that if he has been in the Department of Correctional Services for less than the qualifying period of ten years, he may be granted a pension calculated in accordance with regulation 8 as if there had been no qualifying period:

Provided also that the grant of such pension shall be subject to the condition that he shall be liable to be recalled to service in the Department of Correctional Services:

Provided further that if such a correctional services officer is not qualified for other employment in the Department of Correctional Services or if there is no reason, in the opinion of the Prime Minister, to expect that he can be shortly re-employed, a pension may be granted to him free from the above-mentioned condition.

14. A correctional services officer whose office is abolished may be granted an increase of his pension at the rate of one-sixtieth part of his annual pensionable emoluments for each complete period of three years' pensionable service:

Rates of pension
when offices are
abolished.

Provided that -

- (a) the addition shall in no case exceed ten-sixtieths; and
- (b) no addition shall be made so as to qualify an officer for a pension of higher annual value than that for which he would have been qualified by length of service on reaching the age at which he may be required to retire, or for a pension of higher annual value than the maximum prescribed in regulation 5.

Correctional
Service officer
sustaining physical
injury on duty
leading to a
permanent
disability.
Substituted by:
L.N. 169 of 2016.

15. Where a correctional services officer has sustained a physical injury on duty leading to a permanent disability:

- (a) without his own default, and
- (b) during the actual discharge of his duties, and
- (c) is due to such injuries incapable of fulfilling any other role in the Department of Correctional Services, and
- (d) has been duly certified by an Injuries Board appointed by the Minister responsible for Prisons in accordance with the first proviso to regulation 3(e),

such officer shall be entitled to pensionable emoluments as if he had completed the 25 years service.

To whom the
pensionable
emoluments shall
be granted.
*Re-numbered and
substituted by:*
L.N. 169 of 2016.

16. (1) Where the correctional services officer has, without his own default, died as a direct consequence of him having carried out the duties of his office, his pensionable emoluments shall be granted to:

- (a) the surviving spouse or partner of the deceased until such spouse remarries or such partner contracts another union of equivalent status in accordance with the Civil Union Act, or reaches pensionable age, or in the absence of an eligible spouse or partner;
- (b) the child or children of the deceased until such child or children attain the age of 18 years or until such child or children attain the age of 23 years if attending a full-time educational institution; or in the absence of children;
- (c) a parent or immediate family relative who was wholly dependent on him for maintenance, for a period of 5 years from the death of the officer subject to the retention of a state of dependency.

(2) For the purposes of sub-regulation (1)(b) the pensionable emoluments shall be granted to the child or children equally divided and in the case of minors, entrusted to their legal guardian as defined in the Children and Young Persons (Care Orders) Act.

Cap. 530.

Cap. 285

Good conduct
required.
Re-numbered by:
L.N. 169 of 2016.

17. (1) Pensions, computed at the rates before mentioned, shall only be granted in case of decidedly faithful and meritorious service.

(2) Where the fidelity and diligence of the officer fall short of the first degree of merit, the computation may be made at lower rates.

SCHEDULE

(Regulation 2)

Director of Correctional Services

Correctional Manager

Assistant Correctional Manager

Correctional Supervisor

Senior Correctional Officer

Correctional Officer

Guard
