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2005.08.17	amended	Dz.U.05.143.1202	Art. 5
2006.09.19	amended	Dz.U.06.157.1119	Art. 57

ACT

of April 20th 2004

on Occupational Pension Schemes[1)]

(Dz.U. of May 24th 2004)

Chapter 1

General Provisions

Art. 1. This Act defines the rules governing the establishment and operation of occupational pension schemes, the conditions to be met by entities operating occupational pension schemes, and the conditions governing participation in such schemes.

Art. 2. When used in this Act, the terms below shall have the following meanings:

1) "scheme" shall mean an employer or multiemployer scheme;
2) "employee" shall mean a person employed under an employment contract or a cooperative employment contract, appointed, elected, or nominated, and working on a full-time or part-time basis, a person employed under an agreement executed as a result of appointment or election to a body representing a legal person, a member of an agricultural production cooperative, or a member of a cooperative of farming groups;
3) "insurance undertaking" shall mean a life insurance company in the form of a joint-stock company or a mutual insurance society as defined in the Act on Insurance Activity of May 22nd 2003 (Dz.U. No. 124, item 1151 and Dz.U. of 2004, No. 91, item 870 and No. 96, item 959);
4) "investment fund" shall mean an open-end investment fund or a specialised open-end investment fund as defined in the Act on Investment Funds of August 28th 1997 (Dz.U. of 2002, No. 49, item 448 and No. 141, item 1178, and Dz.U of 2003, No. 124, item 1151);
5) "pension fund company" shall mean an occupational pension fund company as defined in the Act on the Organisation and Operation of Pension Funds of August 28th 1997 (Dz.U. No. 139, item 934, as amended[2)]);
6) "pension fund" shall mean an occupational pension fund as defined in the Act on the Organisation and Operation of Pension Funds of August 28th 1997;
7) "financial institution" shall mean an insurance undertaking, an investment fund or a foreign manager which manages assets accumulated in a scheme under a pension scheme agreement with an employer;
8) "financial institution operating IKE accounts" shall mean a financial institution operating IKE accounts (individual retirement accounts) as defined in the Act on Individual Retirement Accounts of April 20th 2004 (Dz.U. No. 116, item 1205);
9) "manager" shall mean a financial institution or a pension fund;
10) "conversion" shall mean simultaneous redemption of units of one investment fund and acquisition of units of another investment fund managed by the same management company for the redemption proceeds, on condition that the units redeemed and the units acquired are registered as representing the participant's assets contributed as basic or additional contribution, as the case may be;
11) "participant" shall mean an employee or another person who has joined a scheme;
12) "beneficiary" shall mean a person named by the participant in a relevant declaration, who will receive the assets accumulated under a scheme upon the participant's death, a person referred to in Art. 832.2 of the Polish Civil Code of April 23rd 1964 (Dz.U. No. 16, item 93, as amended[3)]), or

a participant's heir;

13) "assets" shall mean financial assets accumulated in order to implement a scheme, which are invested in investment fund units, units of an insurance investment fund operating under regulations governing insurance activity, units of account of pension funds, or units segregated by a foreign manager – held in a participant's account kept by a manager, or cash in a participant's account kept by a manager under an employer pension scheme agreement;

14) "competent authority" shall mean the Financial Supervision Authority referred to in the Act on Financial Market Supervision of July 21st 2006 (Dz.U. No. 157, item 1119);

15) "salary" shall mean the basis for the calculation of the participant's old-age and disability pension contributions as defined in the Act on the Social Security System of October 13th 1998 (Dz.U. No. 137, item 887, as amended[4)]), without applying the limitation referred to in Art. 19.1 of that Act;

16) "account" shall mean an entry in the register of unit holders of an investment fund, an account to which pension fund contributions are paid, or an account held with an insurance investment fund, in each case kept in accordance with this Act, and to the extent not provided for by this Act, in accordance with the regulations applicable to such registers and accounts;

17) "IKE account" shall mean an individual retirement account as defined in the Act on Individual Retirement Accounts of April 20th 2004;

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18) "disbursement" shall mean a cash withdrawal by a participant or a beneficiary, or transfer of assets accumulated in a scheme to a bank account specified by a participant or a beneficiary, in accordance with the employer pension scheme agreement, subject to fulfilment of the conditions set forth in this Act;

19) "transfer" shall mean a transfer of assets, in accordance with this Act, to another scheme, to a participant's or a beneficiary's IKE account, or from a participant's or a beneficiary's IKE account to a scheme, in the cases and in accordance with the regulations on individual retirement accounts;

20) "return" shall mean return of assets accumulated in a scheme if the scheme is liquidated and the conditions for disbursement or transfer have not been fulfilled;

21) "instruction" shall mean an instruction to make a disbursement or transfer, submitted by a participant to the manager;

22) "NIP" shall mean the tax identification number, as defined in the Act on the Keeping of Records and Identification of Taxpayers and Tax Remitters of October 13th 1995 (Dz.U. No. 142, item 702, as amended[5)]);

23) "foreign competent authority" shall mean national authorities in an EU member state, appointed by that state to supervise the implementation of a pension scheme by an employer whose registered office is located in another EU member state;

24) "foreign manager" shall mean an entity, of any legal form, whose registered office is located in the territory of an EU member state, which is subject to supervision by that state's competent authority, and whose business comprises accumulation and investment of moneys, intended to be paid out to pension scheme participants when they reach retirement age .

Art. 3. A scheme shall be established to accumulate participants' assets with a view to paying benefits.

Art. 4. A person employed by two or more employers operating pension schemes may simultaneously participate in more than one such scheme.

Art. 5. 1. The right to participate in a scheme shall accrue to those employees who have been employed with an employer for no less than three months, unless the relevant employer pension scheme agreement provides otherwise.

1a. No employee over 70 years of age may join a scheme.

2. On the date on which an application for registration of a scheme is filed, the right referred to in Art. 5.1 must be held by at least 50% of the employees of the employer sponsoring the scheme.

3. If an employer employs more than 500 employees, the right referred to in Art. 5.1 must be held by at least one-third of the employees of the employer sponsoring the scheme.

4. The right to participate in a scheme shall also accrue to a self-employed person, a partner in a civil-law partnership, a general partnership, a limited-liability partnership, a partnership limited by shares or a limited partnership, whose liability is unlimited and who is subject to the mandatory old-age and

disability pension insurance, provided that such person or partnership operates a scheme for their employees.

5. The provisions of this Act relating to employees shall apply accordingly to persons who are participants under Art. 5.4.

6. An employer pension scheme agreement may not make employees' participation in the scheme subject to any conditions other than those defined in this Act.

Art. 6. 1. A pension scheme may be operated in one of the following forms:

1) as a pension fund;
2) under an agreement for payment by the employer of employees' contributions to an investment fund;
3) under an agreement for employee group life insurance in the form of a group unit-linked life insurance, concluded with an insurance undertaking;
4) as a scheme managed by a foreign manager.

2. An agreement referred to in Art. 6.1.2 may be also concluded by an employer with different investment funds managed by the same management company. In the case of such agreement, an employee shall be entitled to change investment funds or allocate assets accumulated in such investment funds in accordance with the employer pension scheme agreement. A conversion between such funds shall not be deemed a transfer.

3. If one of funds in which a participant's assets are invested in accordance with Art. 6.2 is placed in liquidation, the manager shall promptly notify the employer of the opening of the liquidation. The notification shall include information on the name and registered office of the fund's liquidator.

4. An employer shall notify a participant that the latter is required to submit, within 14 days, a declaration of will concerning arrangements with respect to the assets obtained as a result of the fund liquidation.

5. Within 14 days of the notification referred to in Art. 6.4, the participant shall make the declaration referred to in Art. 6.4 to the employer.

6. The employer shall promptly deliver the declaration referred to in Art. 6.4 to the liquidator.

7. The liquidator shall transfer the participant's assets assigned to the participant in the liquidation proceedings for acquisition of units, in accordance with the declaration of will made by the participant.

8. Should a participant fail to make the declaration referred to in Art. 6.4, the assets assigned to the participant in the liquidation proceedings shall be transferred by the liquidator, in equal portions, for acquisition of units of other funds in which the participant's assets may be invested.

9. If a scheme is operated under an agreement for employee group life insurance concluded with an insurance undertaking, as referred to in Art. 6.1.3, the agreement shall provide that:

1) in the event of non-payment of any premiums for life insurance or insurance against sickness or accident, no amounts shall be deducted on account of insurance cover from the assets accumulated in the insurance investment fund;
2) at least 85% of each basic contribution shall be allocated to the insurance investment fund and at least 1% of the contribution shall be allocated to cover the costs of insurance cover;
3) only transaction costs and fees for management of the fund shall be charged against the assets of the fund referred to in Art. 6.9.2;
4) the participant shall receive insurance cover in the event of untimely transfer of a contribution by the employer.

10. The insurance cover referred to in Art. 6.9.4 shall be maintained for at least 45 days from the due date of the contribution. Following that period, the insurance cover may be suspended, provided that the insurance undertaking notifies the employer of such suspension prior to the discontinuation of the insurance cover.

11. The insurance cover referred to in Art. 6.10 may be suspended for no longer than 12 months, subject to the provisions of Art. 6.12.

12. If an employer and representatives of its employees enter into an agreement referred to in Art. 38.4, the period of suspension referred to in Art. 6.10 may be extended until the end of the period for which transfer of contributions has been suspended, as such period is defined in the agreement.

13. An agreement referred to in Art. 6.1.3 may provide for insurance against accident and sickness if such agreement is supplementary to life insurance.

14. An agreement referred to in Art. 6.1.3 may not provide for applying assets contributed as an additional contribution to cover the costs of insurance cover.

15. If a scheme is operated as a scheme managed by a foreign manager:

1) the agreement with the foreign manager or the fund's articles of association may not provide for covering the insurance risks with the contributions;
2) all documents required for the scheme to be operated provide that the participants' assets will be accumulated in compliance with the provisions if this Act, and shall be drawn up in the Polish language.

16. The provisions of Art. 6.9–14 shall apply to a foreign manager which is an insurance undertaking.

17. The provisions of this Act which concern the form of a pension fund shall apply accordingly to a foreign manager which is a legal person and whose shares are held by an employer.

Art. 7. 1. An employer may operate simultaneously more than one scheme in the following cases:

1) it acquires another employer or an organised part of its enterprise, or acquires shares in a pension fund company; or
2) in the event of a merger of employers operating schemes.

2. In the cases referred to in Art. 7.1, with a view to proposing that the assets be accumulated in one scheme, within three years from the acquisition or merger the employer shall amend the employer pension scheme agreement and:

1) terminate or amend the agreement with the relevant financial institution; or
2) create a single pension fund company by combining the pension fund companies, and make one of the companies take over the pension fund and liquidate the other one or sell the shares held in a pension fund company.

3. The provisions of Art. 41 shall apply accordingly to an amendment to the employer pension scheme agreement in the cases specified in Art. 7.2.

4. In the cases referred to in Art. 7.1, the former employer's rights and obligations under the employer pension scheme agreement shall be assumed by the new employer. This regulation shall apply accordingly if the scheme is operated by one of the merging employers or by the employer whose enterprise or its organised part has been acquired.

Art. 8. 1. A manager shall keep record of all contributions paid, transfers made and received, disbursements and other transactions in an account. Prior to any transfer, a manager shall prepare a statement containing information on the participant on whose instruction the transfer is made. The manager shall also prepare such statement if a participant places an instruction to make a disbursement or transfer of assets as a result of a change in the form of the scheme or the manager.

2. The statement referred to in Art. 8.1 shall contain:

1) number under which the scheme is entered in the relevant register;
2) personal details of the participant: forename, surname, date of birth, address of residence, NIP (tax identification number) and PESEL (number in the universal electronic population records system) or number of the passport or other identity document in the case of persons who are not Polish citizens;
3) details of the employer: company name, REGON (industry identification number), NIP (tax identification number), registered address and address for correspondence;
4) details of the manager preparing the statement: company name, REGON (industry identification number), NIP (tax identification number), registered address and address for correspondence;
5) amount of payments made during each calendar year, broken down into basic and additional contributions;
6) amounts of transfers received by the manager and the transfer dates, along with details of the manager or name of the financial institution keeping IKE accounts which made the transfer;
7) amounts of transfers made and the transfer dates, along with details of the manager or name of the financial institution keeping IKE accounts to which the transfer is made;
8) aggregate amount of all basic contributions paid after May 31st 2004 – if the transfer is made to an IKE account;
9) the statement preparation date, as well as the forename, surname, position and signature of the person responsible for preparing the statement.

3. A manager shall prepare the statement referred to in Art. 8.1 in two copies.

4. On making a transfer, a manager shall deliver to the next manager or the next financial institution keeping IKE accounts, as appropriate, one copy of the statement referred to in Art. 8.1 along with the

statements received from all previous managers and financial institutions keeping the IKE account of a given participant. The manager shall deliver the second copy of the statement referred to in Art. 8.1 to the participant concerned.

5. If a manager makes a disbursement, it shall deliver the statement referred to in Art. 8.2.1-6 and 8.2.9 to the participant concerned and notify him or her of the disbursement amount.

6. The minister competent for public finance, in consultation with the minister competent for social security, shall define, by way of a regulation, the manner of preparation and delivery of the statements referred to in Art. 8.1, having regard to the need to ensure efficient flow of information.

Art. 9. The term “pension scheme” may only be applied to schemes regulated hereunder.

Chapter 2

Establishment and Operation of a Scheme

Art. 10. 1. A scheme is established by taking the following steps:

1) conclusion of an employer or a multi-employer pension scheme agreement;
2) conclusion of an agreement with a financial institution, subject to the provisions of Art. 17.3, or establishment of a pension fund company and a pension fund, or acquisition of shares in an existing pension fund company by the employer;
3) registration of the scheme with the competent authority.

2. The contractual terms and conditions governing the employees’ participation in a scheme may not conflict with the provisions of this Act.

3. In the case of a scheme which is to be operated as a scheme managed by a foreign manager, it shall be registered by the competent authority only if that authority is notified by the competent foreign authority of its approval of the scheme’s operation by the foreign manager. The above provision shall apply accordingly if a foreign manager takes over the management of an existing scheme.

Art. 11. 1. An employer pension scheme agreement shall be made between the employer and representatives of its employees.

2. Employee representatives shall be all trade unions active at the employer’s company.

3. If no trade unions are active at the employer’s company, the employer shall enter into the employer pension scheme agreement with representatives of its employees elected in accordance with the applicable procedure adopted by the employer.

4. The authorisation of employee representatives elected in accordance with the procedure referred to in Art. 11.3 to perform the activities provided for in this Act shall expire after the lapse of 24 months from the election date.

5. The authorisation referred to in Art. 11.4 shall expire before the lapse of 24 months from the election date in the event that:

1) at least half of the employee representatives cease to be employed by the employer;
2) a trade union begins to operate at the employer’s company.

6. If the employee representatives’ authorisation expires for any of the reasons specified in Art. 11.4 and Art. 11.5, new representatives shall be elected in accordance with the procedure set forth in Art. 11.3.

7. The employer shall present to the employee representatives a scheme proposal containing:

1) draft employer pension scheme agreement;
2) the terms and conditions of a preliminary agreement with a financial institution, or the articles of association of the pension fund company and the pension fund, or drafts thereof;
3) the validity term of the proposal not shorter than three months.

8. If no employer pension scheme agreement is concluded within two months from the day on which the employer presented the employee representatives with the scheme proposal referred to in Art. 11.7, due to the parties’ failure to agree upon the terms and conditions of such agreement, the employer may enter into an employer pension scheme agreement with representative trade unions within the meaning of Art. 241^{25a} of the Polish Labour Code of June 26th 1974 (Dz. U. of 1998, No. 21, item 94, as amended [6)]). The provisions of Art. 11.7 shall apply accordingly.

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Art. 12. Any disputes arising from legal relationships between the parties to an employer pension scheme agreement shall be resolved by common courts of law of competent jurisdiction for the employer's place of registration.

Art. 13. 1. An employer pension scheme agreement shall specify in particular:

1) the form of the scheme and the manager who will accumulate the assets and manage them in accordance with an agreement concluded with the employer or in accordance with the pension fund's articles of association;
2) rules for joining and leaving the scheme; procedures to be followed in joining and leaving the scheme;
3) proposed rules for accumulating and managing assets;
4) rules for accumulating and managing assets in the case referred to in Art. 17.3 and Art. 17.4;
5) cases in which the agreement between the employer and the financial institution is to be terminated and the terms of such termination, or the terms of disposal of all shares held by the employer in the pension fund company and of liquidation of that pension fund company;
6) terms, timeframes and procedures for making disbursements, transfers or returns or assets;
7) date by which a participant should specify an account to which the manager of the manager's liquidator is to make a transfer in the event of the scheme's liquidation, determined in accordance with the provisions of Art. 41.5;
8) cases in which the scheme form or manager is to be changed and the terms of such change;
9) amount of the basic contribution;
10) minimum additional contribution amount which may be declared, if the employer pension scheme agreement does not prohibit declaring additional contributions;
11) the method of declaring additional contributions by the participants and dates when the employer shall calculate and deduct such contributions for the purpose of transferring them to the participants' accounts;
12) dates of calculating the basic contribution and transferring it to the participants' accounts;
13) costs and charges borne by the participants and by the employer and conditions (if any) under which they may be reduced without amending the employer pension scheme agreement;
14) conditions for amending the employer pension scheme agreement;
15) conditions for unilateral suspension of remittance of basic contributions and temporary reduction of the basic contribution amount by the employer, as referred to in Art. 38;
16) notice period required in the event of termination of the employer pension scheme agreement by the employer, as referred to in Art. 40.2.3;
17) notice period required in the event of termination of the employer pension scheme agreement by the employer, as referred to in Art. 40.2.4.

2. If the scheme is operated under an agreement for payment by the employer of employees' contributions to an investment fund, the employer pension scheme agreement shall set out the terms of conversion in the event of a change of funds within one scheme.

Art. 14. 1. Employers may establish a multi-employer pension scheme in order to implement a scheme based on the same terms and conditions.

2. Establishment of a multi-employer scheme shall be preceded by conclusion of a multi-employer pension scheme agreement and an agreement with a financial institution by all the employers referred to in Art. 14.1.

3. Provisions of Art. 13.1 shall apply accordingly to the contents of a multi-employer pension scheme agreement.

Art. 15. 1. A multi-employer pension scheme agreement shall be concluded between representatives of the employers and representatives of the employers' employees.

2. The method for electing and replacing the representatives referred to in Art. 15.1 shall be defined in writing by the employers and the employee representatives appointed pursuant to Art. 11.

3. The proposal of a multi-employer pension scheme agreement shall be presented by the employers' representatives to representatives of the employers' employees.

Art. 16. Representatives referred to in Art. 15.1 may consent to a new employer's accession to the multi-employer pension scheme agreement upon such employer's request.

Art. 17. 1. An employer shall enter into an agreement with a financial institution which shall specify the rules for accumulating and managing assets. If a scheme is operated as a pension fund, the rules for accumulating and managing assets shall be set out in the fund's articles of association.

2. In the case of a multi-employer scheme, the rules for accumulating and managing assets shall be defined in an agreement between the employers' representatives and a financial institution or by the pension fund's articles of association.

3. If an insurance undertaking is also an employer sponsoring and managing a scheme, the agreement referred to in Art. 17.1 shall not be concluded; the rules for accumulating and managing assets shall be set out in the employer pension scheme agreement.

4. If an investment fund company is also an employer sponsoring a scheme and the governing body of the scheme manager, the agreement referred to in Art. 17.1 shall not be concluded; the rules for accumulating and managing assets shall be set out in the employer pension scheme agreement.

5. The agreement with a financial institution or the articles of association of the pension fund may not provide for any costs to be charged to a participant in the event of disbursement, transfer, payment of funds in connection with a transfer, or return of assets.

Art. 18. 1. An employee shall become a participant of a scheme in accordance with the terms and conditions of the employer pension scheme agreement, after one month from filing a written declaration on joining the scheme, hereinafter referred to as the "declaration", unless the employer confirms in writing such employee's joining the scheme at an earlier date.

2. The declaration shall contain the employee's representation to the effect that he or she has received a copy of the employer pension scheme agreement, became acquainted with its contents, and accepts its terms and conditions; the declaration may also contain an instruction to be followed in the case of the employee's death.

3. If the employer pension scheme agreement does not prohibit making additional contributions and the participant has declared his or her intention to pay such contributions, the declaration shall also specify the amount of the declared additional contribution and the authorisation for the employer to calculate it, deduct it from the employee's salary, and transfer to the participant's account.

4. The employer shall accept the declaration and confirm its receipt in writing to the employee.

5. If an employee is not entitled to participate in the scheme, the employer shall return the declaration along with a written statement providing the grounds for refusal to accept the declaration. The declaration should be returned within one month from the date of its filing by the employee.

6. If a participant intends to transfer the assets accumulated in his or her IKE account into the scheme, the employer shall provide the participant, at his or her request, with a confirmation of joining the pension scheme.

7. The confirmation of joining the scheme should contain the information referred to in Art. 8.2.2, and the name of the employer operating the scheme, the name of the scheme manager, and the number of the account into which the transfer should be made.

8. Issues concerning refusal to accept a declaration and claims between a scheme participant and the employer shall be settled by labour courts of competent jurisdiction for the employer's place of registration.

Art. 19. 1. An employer pension scheme agreement may provide that a participant may voluntarily contribute to the pension fund shares acquired by such participant, free of charge or on preferential terms, as a result of privatisation of the employer.

2. In the case referred to in Art. 19.1, the employer pension scheme agreement shall specify the dates and terms of contributing shares to the quantity account in the pension fund, as well as the terms and conditions of keeping such accounts. The participant shall specify in the declaration the number of the employer shares that will be contributed under the employer pension scheme agreement to his or her account.

Art. 20. 1. In matters relating to a scheme, a participant shall make written declarations of will to or through the intermediation of the employer.

2. A participant shall notify the employer of any change in his or her address for correspondence or the details referred to in Art. 8.2.2.

3. The provisions of Art. 20.1 and 20.2 shall apply accordingly following termination of employment.

4. In the event of a merger, demerger, or disposal of an employer's enterprise or its organised part, a participant shall make declarations of will through the intermediation of his or her new employer.

5. In the event of liquidation of an employer, a participant shall make declarations of will through the intermediation of the liquidator, and following completion of the liquidation, directly to the manager.

6. In the event of an employer's bankruptcy, a participant shall make declarations of will directly to the manager. The receiver in bankruptcy shall notify the scheme participants of a procedure for making declarations of will with regard to the scheme following the employer's bankruptcy within 45 days of the bankruptcy declaration.

7. An employer may not act as a participant's proxy with respect to matters relating to a scheme.

Art. 21. 1. The agreements which constitute a scheme shall be effective as of the scheme registration date.

2. Amendments to the agreements shall be made in accordance with the procedure relevant for concluding a given agreement.

Art. 22. 1. An employer shall inform its employees, in accordance with its standard procedure, of the terms and conditions of the scheme:

2. The information shall include in particular:

1) designation of the form of the scheme and the scheme manager;
2) amount of the basic contribution;
3) the sum of additional contributions referred to in Art. 25.4;
4) statement that the information is only a description of the terms and conditions of the scheme, and that the basis for the scheme operation is the employer pension scheme agreement;
5) minimum and maximum amount of the additional monthly contribution that may be declared and the procedure for its declaration;
6) specification of tax regulations applicable to the accumulated assets;
7) description of:
   a) rules of disbursement, transfer and return of assets accumulated in a participant's account,
   b) procedure for changing the declaration, the consequences, including financial ones, of the change, and the terms of leaving the scheme by a participant,
   c) rights of the beneficiary in the event of a participant's death,
   d) cases in which the scheme is to be liquidated and consequences of the liquidation,
   e) possibilities for a participant to make dispositions with respect to rights to the accumulated assets.

3. The manager shall promptly notify the employer of any generally applicable laws which contain amendments relating to the matters referred to in Art. 22.2.7.

4. An employer shall update the information on the rules of the scheme promptly upon becoming aware of a change.

5. In the information referred to in Art. 22.2, the employer shall highlight the changes that were introduced with respect to the matters referred to therein within 12 months preceding the date on which the information is updated.

6. Moreover, an employer shall provide a participant with written information on the terms of disbursement of the assets accumulated in the scheme:

1) in the first quarter of the calendar year in which the participant reaches the age of 60, or
2) within 30 days of the termination of employment as a result of the employee gaining early pension entitlement.

Art. 23. 1. An employer shall submit to the competent authority annual information on the operation of the scheme.

2. The annual information referred in Art. 23.1, concerning the previous year, shall be submitted by March 1st.

3. The minister competent for social security shall define, by way of a regulation, the scope of the annual information on the operation of a scheme and the procedure for its submission to the competent authority, taking into account the fact that the minister competent for social security and the competent authority need to have access to the required data on the operation of schemes, and having regard to the proper protection of scheme participants' rights.

Art. 24. 1. The basic contribution shall be financed by the employer.

2. The amount of the basic contribution shall not exceed 7% of a participant's salary.

3. The amount of the basic contribution shall be calculated:

1) as a percentage of the salary, or
2) as a fixed amount equal for all employees, or
3) as a percentage of the salary, subject to a limit expressed as an amount.

4. An employer shall calculate and remit the basic contribution:

1) in relation to salary items payable for periods of up to one month – at the date of payment of such salary items, as adopted by the employer; the contributions shall be remitted on a monthly basis;
2) in relation to salary items payable for periods longer than one month – at the date of payment of such salary items; the contributions shall be remitted on the payment dates;

5. The basic contribution shall not be included in the salary taken as the base for calculating mandatory social security contributions.

6. In the cases specified in Art. 24.3.1 and 24.3.3, the basic contribution amount shall be calculated as an equal percentage for each participant.

Art. 25. 1. A participant may declare his or her intention to pay additional contributions, unless the employer pension scheme agreement provides otherwise.

2. The amount of the additional contributions shall be specified by a participant in the declaration.

3. A participant may change the additional contribution amount or cease to pay the contributions, with effect from a future date, by amending the declaration.

4. The sum of additional contributions made by a participant to one scheme during one calendar year shall not exceed the amount equal to threefold maximum amount of payment to an IKE account, as referred to in regulations on individual retirement accounts.

5. The additional contribution shall be deducted from the salary amount after tax.

6. The provisions of Art. 25.4 shall not apply to assets contributed by means of transfer.

Art. 26. 1. An employer shall correctly and timely:

1) calculate and remit basic contributions;
2) calculate, deduct and remit additional contributions.

2. The contributions shall be remitted to the scheme accounts.

Art. 27. If a participant has ceased to be employed by an employer operating a scheme, or a scheme has been liquidated, the assets shall remain in the participant's account until they are disbursed, transferred or returned.

Art. 28. To the extent not provided for in this Act, the rules of management of assets accumulated in an account:

1) held with a pension fund, shall be as stipulated in regulations on the organisation and operation of pension funds;
2) held with an investment fund, shall be as stipulated in regulations on investment funds;
3) held with an insurance undertaking, shall be as stipulated in regulations on insurance activity.

Chapter 3

Registration of a Pension Scheme

Art. 29. 1. A scheme shall be subject to registration with the competent authority.

2. The competent authority shall keep a register of pension schemes.

Art. 30. 1. An employer's application for registration of an employer pension scheme shall contain the following details of the employer and the manager: company name, address of registered office, REGON (industry identification number) and address for correspondence.

2. The following shall be attached to the application:

1) information on the employee representatives' authorisation to enter into the employer pension scheme agreement;
2) a certificate confirming that the employer is not in arrears with mandatory social security contributions, issued by the Social Security Institution (ZUS) no earlier than three months before the application date;
3) a certificate confirming that the employer is not in arrears with taxes, issued by the competent Tax Office no earlier than three months before the application date;
4) the employer pension scheme agreement;
5) the agreement with a financial institution or articles of association of the pension fund;
6) form of the declaration on joining the scheme;
7) a representation by the employer to the effect that the terms and conditions governing participation in the scheme do not breach the provisions of Art. 5.2 and 5.3;
8) documents confirming the employer's details referred to in Art. 30.1.

Art. 31. 1. An application by employers' representatives for registration of a multi-employer pension scheme shall contain the details referred to in Art. 30.1. for each of the employers.

2. The following shall be attached to the application:

1) the multi-employer pension scheme agreement;
2) a document specifying how the representatives of the employers and the representatives of the employers' employees have been elected;
3) documents confirming the authorisation of the representatives of the employers and of the representatives of the employers' employees, in each case elected in line with the applicable procedure, including the following details of each of the representatives: forename, surname and PESEL number (number in the universal electronic population records system), or – in the case of persons who are not Polish citizens – passport number;
4) the agreement concluded by the employers' representatives with a financial institution or the articles of association of the pension fund;
5) the details and documents referred to in Art. 30.1 and 30.2.1-3, 30.2.7 and 30.2.8 for each of the employers;
6) form of the declaration on joining the scheme.

3. On the date of registration of a multi-employer pension scheme, the multi-employer pension scheme agreement shall become an employer pension scheme agreement. An employer and representatives of its employees elected in line with the procedure referred to in Art. 11 shall be parties to such agreement.

4. As of the date of registration of a multi-employer pension scheme, the agreement concluded by the employers' representatives with a financial institution shall become an agreement between a represented employer and the financial institution.

Art. 32. 1. When joining a registered multi-employer pension scheme, an employer shall file with the competent authority an application for entering the employer in the register; when filing the application the employer shall quote the registration number of the multi-employer pension scheme it intends to join and shall provide the details and information on the employer referred to in Art. 30.1, 30.2.2 and 30.2.3.

2. The following shall be attached to the application referred to in Art. 32.1:

1) the agreement on joining the multi-employer pension scheme agreement;
2) the agreement on the employer's joining the agreement between the employers' representatives and a financial institution;
3) a representation by the employer to the effect that that the terms and conditions governing participation in the scheme do not breach the provisions of Art. 5.2 and 5.3;
4) information on the employee representatives' authorisation to enter into the multi-employer pension scheme agreement.

3. The agreement on joining a multi-employer pension scheme by an employer shall take effect on the date of entry in the register of the change in the multi-employer pension scheme referred to in Art. 32.1.

4. The following shall be parties to the agreement referred to in Art. 32.2.1:

1) the employer joining the scheme and the representatives of the employer's employees, elected in line

with the procedure referred to in Art. 11; and

2) the representatives of the employers and the representatives of the employers' employees.

5. The provisions of Art. 31.3 shall apply accordingly.

Art. 33. 1. In the case of a change to the employer pension scheme agreement referred to in Art. 31.3, as provided for in Art. 11, the employer which is a party to such agreement shall apply to the competent authority for registration of the employer pension scheme in line with the provisions of Art. 30.

2. Upon registration of the employer pension scheme referred to in Art. 33.1, the competent authority shall delete from the register the note referring to the employer's participation in a multi-employer scheme.

Art. 34. 1. Entry of an employer pension scheme in the register of pension schemes shall include:

1) the employer's details specified in the application;
2) the manager's details specified in the application;
3) the terms and conditions governing participation in the scheme as defined in the employer or multi-employer pension scheme agreement;
4) the form of the scheme;
5) the number in the register of pension schemes.

2. Entry of a multi-employer pension scheme in the register of pension schemes shall include details of all the employers sponsoring the scheme.

3. In the event of a change to any of the details referred to in Art. 34.1.1, within 30 days from the change the employer shall notify the change to the register of pension schemes.

4. In the event of a change to any of the details referred to in Art. 34.1.2, within 30 days from the date such change is notified to the employer by the manager, the employer shall notify the change to the register of pension schemes.

5. The competent authority shall notify the employer of registration of the changes referred to in Art. 34.3 and 34.4 within 30 days from the date on which such changes were notified.

6. An employer shall apply to the competent authority for registration of the changes referred to in Art. 34.1.3 and 34.1.4 within 14 days from the date of such changes. Any changes to the employer pension scheme agreement shall take effect from the date of their entry in the register.

7. Any change to an employer pension scheme agreement caused by an amendment to the articles of association of the investment fund or pension fund shall take effect on the date of entry of the change in the register, no sooner, however, than on the effective date of the amendment. An application for registration of such change to the employer pension scheme agreement may be submitted before the amendment to the articles of association takes effect.

8. In the event of changes made in the register of pension schemes within the scope of Art. 34.1.3 and 34.1.4, the employer shall inform the scheme participants of the changes to the employer pension scheme agreement.

Art. 35. 1. If an application for registration of a scheme fails to meet the criteria defined in this Act, the competent authority shall within one month call upon the employer or the employers' representatives referred to in Art. 15.1 to correct the application, and shall fix a reasonable deadline, not shorter than three weeks, for such correction.

2. The competent authority shall refuse to register a scheme if:

1) the correction is not made by the fixed deadline;
2) the scheme is incompliant with the provisions of this Act;
3) in the case of a scheme operated as a scheme managed by a foreign manager – the foreign competent authority's approval of the take-over of the scheme management by the foreign manager is not obtained.

Art. 35a. Promptly upon receiving a foreign competent authority's notification of approval of an intended take-over by a foreign manager of management of an occupational pension scheme, the competent authority shall register the scheme in the register of pension schemes, provided that the application for registration of the scheme meets all the criteria defined in this Act.

Art. 36. 1. The competent authority shall exercise supervision over pension schemes with respect to their compliance with the law.

1a. A foreign manager shall be subject to supervision by the competent authority with respect to compliance of its activities relating to management of a scheme with Polish law.

2. Upon obtaining any information which provides grounds for a suspicion that irregularities have occurred in the operation of a scheme, the competent authority shall have the right to demand from the employer or the manager implementing such scheme any relevant information, documents and explanations.

3. If any irregularities are found in the operation of a scheme, the competent authority shall notify the employer of that fact and shall demand that the employer remedy such irregularities by the deadline specified in the demand, which shall not be shorter than 14 days.

4. If an employer operating a scheme fails to eliminate irregularities by the deadline specified in the competent authority's demand, it shall be liable to a fine of up to PLN 50,000, imposed by the competent authority.

5. In determining the amount of the fine referred to in Art. 36.4, the competent authority shall take into account the type and significance of the irregularities.

6. If any irregularities are found in the implementation of a scheme by a manager referred to in:

1) Art. 2.3, 2.4 and 2.6 – the competent authority shall take supervisory measures provided for in the applicable laws;
2) (repealed);
3) Art. 2.24 – the competent authority shall promptly report the irregularities to the relevant foreign competent authority.

7. The competent authority shall prepare information on the requirements under social security and labour laws applicable to a foreign manager which takes over management of the assets of an occupational pension scheme.

8. The competent authority shall provide the information referred to in Art. 36.7 to the relevant foreign competent authority within 2 months from receiving from it the notification referred to in Art. 35a.

9. In the event of a change to the requirements referred to in Art. 36.7, the competent authority shall also prepare information on such change and shall promptly provide such information to the relevant foreign competent authority.

Art. 37. 1. (repealed).

2. Registration of a scheme, refusal to register a scheme, entry of changes into the register of pension schemes, except to the extent referred to in Art. 34.5, refusal to enter changes into the register of pension schemes, entry of and refusal to enter into the register the provisions of agreements referred to in Art. 38 and Art. 39, approval of and refusal to approve suspension of calculation and remittance of basic contributions, imposition of a fine, and deletion of a scheme from the register of pension schemes, shall all be effected by way of an administrative decision.

3. The minister competent for social security shall define, by way of a regulation, the manner of keeping the register of pension schemes as well as the timeframes and procedure for issuance of official copies of the register entries, and shall determine which terms and conditions governing participation in a scheme contained in an employer pension scheme agreement or a multi-employer pension scheme agreement should be entered into the register pursuant to Art. 34.1.3, having regard to the need to ensure efficiency of the registration process.

Chapter 4

Suspension of Remittance of Basic Contributions and Liquidation of a Scheme

Art. 38. 1. An employer may unilaterally:

1) suspend remittance of basic contributions, or
2) temporarily reduce the basic contribution amount by defining the rules for calculation of the basic contribution which shall be applied during the period of reduction, pursuant to Art. 24.3.

2. The aggregate period of the unilateral suspension referred to in Art. 38.1.1 may not exceed three months within twelve consecutive calendar months.

3. If an employer pension scheme agreement so provides, the aggregate period of the unilateral suspension referred to in Art. 38.1.1 may last up to six months within twelve consecutive calendar months.

4. Upon lapse of the suspension period referred to in Art. 38.2 or Art. 38.3, the employer may, if such a measure is justified by the employer's financial condition, enter into an agreement with representatives of its employees whereby:

1) calculation and remittance of basic contributions will be suspended, or
2) the amount of basic contributions will be temporarily reduced by way of defining the rules for calculation of the basic contribution which shall be applied during the period of reduction, pursuant to Art. 24.3.

5. The agreement referred to in Art. 38.4 shall be concluded if the parties thereto agree that such a measure is justified by the employer's financial condition.

6. The provisions of Art. 11 pertaining to the conclusion of an employer pension scheme agreement shall apply accordingly to the conclusion of the agreement referred to above.

7. The employer shall deliver the agreement to the competent authority promptly upon its conclusion.

8. Within seven days of the receipt of the agreement referred to in Art. 38.4, the competent authority shall enter the following into the register of pension schemes:

1) the date of the agreement conclusion;
2) the effective date of the agreement;
3) the expiry date of the agreement;
4) the basic contribution amount during the term of the agreement – in the case specified in Art. 38.4.2.

9. The agreement shall take effect as of the date set forth therein, which however may not be earlier than the date on which the provisions of the agreement are entered into the register of pension schemes.

10. The competent authority shall refuse to enter the agreement into the register of pension schemes if its provisions are in conflict with this Act.

11. An employer shall terminate the agreement if the cause for the agreement conclusion ceases to exist.

12. An employer shall notify the competent authority of termination of the agreement within two weeks of the date on which basic contributions begin to be computed and remitted in accordance with the terms and conditions set forth in the employer pension scheme agreement.

13. An employer shall resume calculation and remittance of basic contributions starting from the month immediately following the month in which the agreement expired or was terminated.

Art. 39. 1. Within 48 consecutive calendar months, the aggregate term of an agreement concluded in accordance with Art. 38 shall not exceed 24 months.

2. The term of the agreement may exceed the period referred to in Art. 39.1 if further calculation and remittance of basic contributions would result in the filing of the petition referred to in Art. 21 of the Bankruptcy and Recovery Act of February 28th 2003 (Dz. U. No. 60, item 535, as amended[7)]).

3. Where the agreement is concluded under Art. 39.2, the employer shall deliver the agreement to the competent authority together with documents substantiating the situation referred to in Art. 39.2.

4. The term of an agreement concluded under Art. 39.2 shall not exceed 24 months. An employer may re-enter into the agreement if such a measure is justified by its financial condition.

Art. 40. 1. A scheme may be liquidated if:

1) the insurance undertaking is placed in liquidation, unless the rights under the agreement executed by the employer and the undertaking are transferred (assigned) to another insurance undertaking,
2) there are grounds for dissolution and, as a consequence, for liquidation of all the investment funds in which contributions under the scheme were accumulated, unless any of the investment funds is taken over by another investment fund company,
3) the pension fund is placed in liquidation, unless the fund is taken over by another pension fund company,
4) the circumstances referred to in Art. 7.1 occur,
5) the financial institution terminates the agreement concluded with the employer

- unless the employee representatives agree to amend the employer pension scheme agreement in accordance with Art. 41.

2. Additionally, a scheme may be liquidated if:

1) the employer is placed in liquidation or declared bankrupt;
2) the value of the assets accumulated in the scheme falls below the amount defined in the employer pension scheme agreement;

3) the employer resolves to liquidate the scheme, provided that the employer concludes a relevant agreement on termination of the employer pension scheme agreement with representatives of its employees;
4) the employer unilaterally resolves to terminate the employer pension scheme agreement, subject to at least 12-month notice, if basic contribution remittance has been suspended, or the amount of basic contributions has been reduced, for at least three months,
5) the competent authority determines that the foreign manager persistently violates the law.

3. A scheme shall be liquidated if no employees participating in the scheme are employed by the person referred to in Art. 5.4.

4. Liquidation of a scheme shall entail deletion of the scheme from the register. The decision on the deletion may include the deletion date.

5. A scheme may also be deleted from the register for reasons referred to in Art. 7 or Art. 59.

Art. 41. 1. If a scheme is liquidated for reasons referred to in Art. 40.1, the employer shall present to representatives of its employees a proposal of a draft agreement to be concluded with another financial institution, or the articles of association of a pension fund which the employer intends to join, along with a proposal to amend the employer pension scheme agreement.

2. If within two months from submission of the proposal referred to in Art. 41.1 the employee representatives do not agree to amend the employer pension scheme agreement, the employer shall apply to the competent authority for deletion of the scheme from the register of pension schemes and shall provide documents confirming submission of a proposal to amend the employer pension scheme agreement.

3. In cases referred to in Art. 40.2 the employer or the employer's liquidator shall apply to the competent authority for deletion of the scheme from the register of pension schemes and shall provide documents confirming the reasons for liquidation of the scheme.

4. Upon obtaining a relevant decision on deletion of a scheme from the register of pension schemes, the employer, the employer's receiver in bankruptcy or liquidator, as the case may be, shall deliver, against confirmation of receipt or via registered mail, a notification of the scheme's liquidation to the participants, simultaneously informing them on the date as of which contributions ceased to be calculated, collected and remitted, as well as on the reasons for liquidation of the scheme and actions undertaken in accordance with the applicable regulations.

5. The notification referred to in Art. 41.4 shall also contain a request that the participant indicate to the employer, liquidator, or manager, as the case may be, an account to which the assets are to be transferred, as well as advice that if no such account is indicated by the deadline set forth in the employer pension scheme agreement, the assets shall be returned as provided for in Art. 44.1, and information on the financial consequences of such return.

6. The deadline for indicating the account referred to in Art. 41.5, set forth in the employer pension scheme agreement, shall not be shorter than a month from the date on which the participant received the notification referred to in Art. 41.4.

7. The obligation of the employer, the employer's receiver in bankruptcy or liquidator, as the case may be, referred to in Art. 41.4, shall be deemed discharged if a participant fails to collect the notification sent by registered mail for the second consecutive time.

Chapter 5

Rules of Disbursement, Transfer and Return of Assets Accumulated in a Pension Scheme

Art. 42. 1. A disbursement of assets shall be made:
1) at the participant's request after the participant reaches the age of 60;
2) at the participant's request after the participant submits a decision on being granted pension entitlement and after he or she reaches the age of 55;
3) after the participant reaches the age of 70, if the participant has not submitted a request for disbursement of assets yet;
4) at the request of a beneficiary in the event of the participant's death.

2. The provisions of Art. 42.1.3 shall not apply if the participant is employed by the employer

operating the scheme. In such a case, the funds shall be disbursed following termination of the employment.

3. The assets may be disbursed as a one-off payment or in instalments, depending on the participant's or beneficiary's request. A one-off payment shall be made within one month from the date of the request submission, and in the case of disbursement in instalments, the first instalment shall be paid within one month from the date of the request submission, unless the participant or beneficiary requests later disbursement.

Art. 43. 1. A transfer of assets shall be made within one month from the date of the request submission by the participant.

2. A transfer shall be made:

1) to another scheme in which the participant participates;
2) to the participant's IKE account;
3) to the beneficiary's IKE account in the event of the participant's death;
4) from the participant's IKE account to his or her scheme account, as provided for in the Act on Individual Retirement Accounts.

3. A request for transfer shall be deemed termination of participation in a scheme.

4. A transfer referred to in Art. 43.2.2 and 43.2.3 shall be made on the basis of the participant's or beneficiary's instruction, after a confirmation of agreement conclusion, as referred to in the regulations on individual retirement accounts, is submitted to the employer.

5. A transfer from a scheme shall not be made if the participant continues to be employed by the employer operating the scheme.

6. The provisions of Art. 43.5 shall not apply if the transfer is made as a result of liquidation of a scheme.

7. In the case referred to in Art. 43.2.4 the assets accumulated in the IKE account shall be transferred to the scheme and treated as assets contributed as an additional contribution, within the meaning of this Act.

Art. 44. 1. A return of assets shall be made if no account to which the assets are to be transferred has been indicated by the deadline referred to in Art. 41.6.

2. The employer, employer's receiver in bankruptcy or liquidator shall notify the manager or the manager's liquidator of the bank account indicated by the participant to which the assets are to be returned, and of the bank account to which the amount referred to in Art. 45 is to be transferred.

3. The manager's liquidator or the manager may specify forms of return other than transfer to the participant's bank account.

4. At the employer's request, the manager's liquidator or the manager shall return the assets, after the amount of tax payable on such assets is transferred to the account of a relevant tax office.

5. If the assets to be returned, as referred to in Art. 44.4, cannot be provided to the participant, they shall be placed in a court deposit.

6. In the case referred to in Art. 44.5, the State Treasury shall take possession of the assets placed in a court deposit after 20 years from the date of their placement in the deposit, unless prior to that date the participant issues an instruction to transfer the assets to a bank account he or she indicates. The provisions of Art. 187 of the Polish Civil Code of April 23rd 1964 shall apply accordingly.

7. The provisions of Art. 44.5 and 44.6 shall apply accordingly if there is no possibility of making disbursement of assets in the case specified in Art. 42.1.3.

8. The deadline by which the manager or the manager's liquidator is to transfer the participant's assets to the account referred to in Art. 44.2 shall be defined in the employer pension scheme agreement; the deadline shall not fall later than three months after the date on which the participant receives information referred to in Art. 41.4.

Art. 45. 1. In the event of return of assets, the manager or the manager's liquidator shall transfer, from the participant's assets, an amount equal to 30% of the sum of the participant's basic contributions made as part of the scheme, to the bank account indicated by the Social Insurance Institution.

2. The amount referred to in Art. 45.1 shall represent the income of the Social Insurance Fund.

3. The information on the amount referred to in Art. 45.1 shall be recorded in the account of the insured referred to in Art. 40.1 of the Act on the Social Security System of October 13th 1998, as a

contribution for pension insurance for the month in which the amount was transferred to the Social Insurance Institution.

4. The minister competent for social security shall define by way of a regulation:

1) detailed scope of the information, including in particular details of the manager and the participant, to be specified by the manager on the payment document by means of which the amount referred to in Art. 45.1 is transferred;
2) method and procedure for translating the amount referred to in Art. 45.1 into the benefits calculation base, if the participant's or beneficiary's pension is to be calculated by reference to the benefits calculation base,

having regard to the need to ensure that information is properly recorded in the account of the insured.

Art. 46. Disbursements, transfers and returns shall be made in cash, subject to the provisions of Art. 103 of the Act on the Organisation and Operation of Pension Funds of August 28th 1997.

Art. 47. 1. A participant may terminate his or her participation in a scheme at any time by submitting a written declaration of will to the employer, with the proviso that the notice period provided for in the employer pension scheme agreement may not be shorter than one month and longer than three months. The provisions of Art. 43–45 shall apply accordingly.

2. In the event of termination of participation in a scheme, the assets accumulated in the account up to that date shall remain in the account until they are disbursed, transferred or returned.

Art. 48. 1. In the declaration the participant may make arrangements with respect to the funds accumulated in his or her scheme account by indicating a natural person entitled to receive the assets in case of the participant's death.

2. A participant may at any time change or cancel the arrangements.

3. If a participant has indicated more than one person entitled to receive the assets after his or her death without specifying the respective shares of such persons in the assets, such persons shall be deemed to have equal share of the assets.

4. If a participant issues no instruction in case of death, his or her heirs shall acquire the right to the assets in accordance with the laws of general application, subject to the provisions of Art. 48.5. The assets shall be disbursed to them within one month from the submission of a final court decision stating that a given person has acquired rights to the inheritance, and a statement by all heirs concerning the manner in which the assets accumulated by the participant are to be distributed or a final court decision on distribution of the inheritance.

5. If a scheme is operated in the form referred to in Art. 6.1.3, Art. 831 and Art. 832 of the Polish Civil Code of April 23rd 1964 shall apply accordingly.

6. The employer may not be the beneficiary, unless he or she is a member of the participant's closest family. The participant's closest family shall be the spouse, children, parents and grandchildren.

Art. 49. The assets contributed as a basic contribution shall not be subject to court or administrative enforcement unless an obligation to return or disburse them has arisen, in which case they shall be subject to enforcement from the due date of the return or disbursement. This restriction shall not apply to enforcement aimed at satisfying claims for alimony.

Chapter 6

Penalties

Art. 50. 1. Any entity that uses the "pension scheme" designation in its name, description of its business or advertising without being authorised to do so shall be liable to a fine of up to PLN 1,000,000 or imprisonment for up to three years.

2. The same penalty shall be imposed on anyone who commits the act specified in Art. 50.1 when acting on behalf of a legal person.

3. Adjudication in the cases specified in Art. 50.1 and Art. 50.2 shall be governed by the provisions applicable to criminal proceedings.

Chapter 7

Amendments to Legislation in Force, Transitional and Final Provisions

Art. 51. The following amendments are hereby made to the Personal Income Tax Act of July 26th 1991 (Dz.U. of 2000, No. 14, item 176, as amended[8)]):

1) Art. 21.1.58 shall be amended to read as follows:
   "58) the following payments:
      a) transfer of assets accumulated in an occupational pension scheme to another occupational pension scheme or to an individual retirement account within the meaning of regulations on individual retirement accounts,
      b) payment of assets accumulated in an occupational pension scheme to a participant or beneficiary entitled to the assets upon the participant's death,";
2) in Art. 30a:
   a) in Art. 30a.1.10 the full stop shall be replaced with a comma, and Art. 30a.1.11 shall be added, which shall read as follows:
      "11) on the income earned by an occupational pension scheme's participant on account of return of assets accumulated in the scheme, within the meaning of regulations on occupational pension schemes.",
   b) Art. 30a.8 shall read as follows:
      "8. The provisions of Art. 30.3a shall apply to the income referred to in Art. 30a.1.10 and 30a.1.11.".

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Art. 52. The following amendments are hereby made to the Public Procurement Law of January 29th 2004 (Dz.U. No. 19, item 177 and No. 96, item 959): after Art. 4.4, item 4.4a shall be added, which shall read as follows:

"4a) conclusion by an employer of agreements on paying by the employer of employees' contributions to an occupational pension scheme;".

Art. 53. The following amendments are hereby made to the Commercialisation and Privatisation Act of August 30th 1996 (Dz.U. of 2002, No. 171, item 1397, as amended[9)]): after Art. 38.3a, Art. 38.3b shall be added, which shall read as follows:

"3b. The restrictions referred to in Art. 38.3 shall not apply to employer shares acquired from the State Treasury, which are contributed to a pension fund in accordance with Art. 19.1 of the Act on Occupational Pension Schemes of April 20th 2004 (Dz.U. No. 116, item 1207).".

Art. 54. The following amendments are hereby made to the Act on the Organisation and Operation of Pension Funds of August 28th 1997 (Dz.U. No. 139, item 934, as amended[10)]):

1) in Art. 26, after Art. 26.2., Art. 26.3 shall be added, which shall read as follows:
   "3. An occupational pension fund company may mandate other entities, qualified on the basis of other regulations, to perform all or any of the duties related to the keeping of an occupational pension fund's accounting books.";
2) Art. 146 shall read as follows:
   "Art. 146. 1. Not more than 5% of the value of the assets of an occupational pension fund may be invested jointly in shares or other securities issued by shareholders of the occupational pension fund company managing the fund.
   2. Not more than 10% of the value of the assets of an occupational pension fund may be invested jointly in shares or other securities issued by entities being related undertakings of the shareholders referred to in Art. 146.1.
   3. The assets of an occupational pension fund may be invested in securities issued by shareholders of the occupational pension fund company managing the fund or entities being related undertakings of such shareholders if such investments are

permitted under the fund's articles of association.";

3) after Art. 173, Art. 173a shall be added, which shall read as follows:

"Art. 173a. An occupational pension fund may delegate performance the fund's obligations provided for in this Chapter, in full or in part, to another entity.";

4) after Art. 194, Art. 194a shall be added, which shall read as follows:

"Art. 194a. 1. An occupational pension fund shall prepare a statement of its investment policy principles.

2. The statement shall include information on implemented risk assessment methods and risk management procedures, as well as the rules governing allocation of funds to investments in particular securities.

3. An occupational pension fund shall submit the statement to the competent authority every three years, or promptly after significant changes are made to the fund's investment policy.

4. An occupational pension fund shall submit its first statement of investment policy principles to the competent authority within six months from the date of receipt of the first contribution.

5. An occupational pension fund shall also provide the statement of investment policy principles at a written request of a fund member.".

Art. 55. The Act on Remuneration of Executive Staff in Certain Legal Entities of March 3rd 2000 (Dz.U. No. 26, item 306, as amended[11)]), after Art. 15, Art. 15a shall be added, which shall read as follows:

"Art. 15a. The restrictions set forth in this Act shall not apply to basic contributions contributed to occupational pension schemes.".

Art. 56. 1. Employers who as at the date of this Act coming into force maintain group unit-linked life insurance or another form of a plan for group accumulation of assets for pension purposes for their employees, shall lose the right to deduct the incurred expenditure from the base for calculating social security contribution under other regulations, unless they submit an application for entering their scheme into the register of pension schemes by December 31st 2004, as a result of which the scheme is entered in the register.

2. If a scheme referred to in Art. 56.1 is entered into the register of pension schemes:

1) assets accumulated before an employee joined the scheme shall be transferred to the scheme and shall be treated as assets contributed as a basic contribution, within the meaning of this Act;

2) the employer and the manager shall keep documentation concerning dates and amounts of contributions made to an employee's account kept in connection with a plan for group accumulation of assets, together with the scheme documentation; the provisions relating to the statement referred to in Art. 8 shall apply accordingly to the documentation.

3. The provisions of Art. 56.1 and 56.2 shall apply accordingly if, when establishing the scheme, the employer and representatives of its employees changed the manager of the assets accumulated as part of the unit-linked life insurance or another form of a plan for group accumulation of assets for pension purposes, and selected a new manager for the scheme, or changed the form of the scheme.

4. In the case referred to in Art. 56.3, upon effective termination of the relevant agreement, the insurance undertaking or the investment fund shall transfer, pursuant to an employee's instruction, the assets to the employee's scheme account, and shall provide to the employer documentation concerning dates and amounts of contributions made to the employee's account maintained as part of a plan for group accumulation of assets.

5. The competent authority shall notify the Social Security Institution (ZUS) of any case where administrative proceedings initiated on the basis of an application referred to in Art. 56.1 are completed without the application having been considered, result in refusal to enter the scheme into the register, or are discontinued

6. If an employer operated a plan for group accumulation of assets for pension purposes, as referred to in Art. 56.1, before December 31st 2004, the accumulated assets may be transferred to the scheme provided that the employer applies for registration of the scheme by December 31st 2005. The provisions of Art. 56.2–4 shall apply accordingly.

Art. 57. Actions undertaken by an employer in connection with the conclusion and implementation of an employer pension scheme agreement, calculation and remittance of contributions, or disbursement, transfer and return of assets, shall not be deemed insurance brokerage within the meaning of regulations on insurance activity.

Art. 58. Applications for registration of schemes submitted prior to the date of this Act coming into force shall be considered in accordance with the provisions of this Act.

Art. 59. 1. Employers operating a scheme on the date of this Act coming into force shall ensure the scheme's compliance with the provisions of this Act by December 31st 2005, subject to the provisions of Art. 59.2.

2. Compliance of a scheme with the provisions of Art. 6.9.2 and 6.9.3 should be ensured by December 31st 2008.

3. Contributions made for the benefit of persons who participate in a scheme in connection with an agency contract or a mandate contract may not be contributed after December 31st 2007. The provisions of Art. 27 shall apply accordingly.

Art. 60. A pension fund to which the first contribution was made prior to the date of this Act coming into force shall deliver its first statement of investment policy principles, as referred to in Art. 194a of the Act referred to in Art. 54, to the competent authority by September 30th 2004.

Art. 61. The Act on Occupational Pension Schemes of August 22nd 1997 (Dz.U. of 2001, No. 60, item 623; and Dz.U. of 2002, No. 25, item 253; and No. 141, item 1178) shall hereby lose its legal force.

Art. 62. This Act shall take effect as of June 1st 2004, with the exception of Art. 8.2.6, 8.2.7 and 8.2.8, Art. 18.6, Art. 25.4, Art. 43.2.2, 43.2.3 and 43.2.4, which shall take effect as of September 1st 2004.

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1) Within the scope of its regulation, this Act implements the following European Community directives: Directive 2003/41/EC of the European Parliament and of the Council of June 3rd 2003 on the activities and supervision of institutions for occupational retirement provision (Official Journal of the European Union L 235 of 23.09.2003) and Council Directive 98/49/EC of June 29th 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community (Official Journal of the European Union L 209 of 25.07.1998).
The data concerning the publication of the EU legal acts published prior to May 1st 2004, contained in this Act, relates to the publication of those acts in the Official Journal of the European Union – special edition.[44]

2) Amendments to the act were promulgated in the Journal of Laws (*Dziennik Ustaw, Dz.U.*) of 1998, No. 98, item 610; No. 106, item 668; and No. 162, item 1118; Dz.U. of 1999, No. 110, item 1256; Dz.U. of 2000, No. 60, item 702; Dz.U. of 2001, No. 8, item 64; and No. 110, item 1189; Dz.U. of 2002, No. 25, item 253; No. 153, item 1271; and No. 241, item 2074; Dz.U. of 2003, No. 124, item 1153; No. 166, item 1609; No. 170, item 1651; and Dz.U. of 2004, No. 96, item 959.

3) Amendments to the act were promulgated in the Journal of Laws (*Dziennik Ustaw, Dz.U.*) of 1971, No. 27, item 252; Dz.U. of 1976, No. 19, item 122; Dz.U. of 1982, No. 11, item 81; No. 19, item 147; and No. 30, item 210; Dz.U. of 1984, No. 45, item 242; Dz.U. of 1985, No. 22, item 99; Dz.U. of 1989, No. 3, item 11; Dz.U. of 1990, No. 34, item 198; No. 55, item 321; and No. 79, item 464; Dz.U. of 1991, No. 107, item 464; and No. 115, item 496; Dz.U. of 1993, No. 17, item 78; Dz.U. of 1994, No. 27, item 96; No. 85, item 388; and No. 105, item 509; Dz.U. of 1995, No. 83, item 417; Dz.U. of 1996, No. 114, item 542; No. 139, item 646; and No. 149, item 703; Dz.U. of 1997, No. 43, item 272; No. 115, item 741; No. 117, item 751; and No. 157, item 1040; Dz.U. of 1998, No. 106, item 668; and No. 117, item 758; Dz.U. of 1999, No. 52, item 532; Dz.U. of 2000, No. 22, item 271; No. 74, item 855 and item 857; No. 88, item 983; and No. 114, item 1191; Dz.U. of 2001, No. 11, item 91; No. 71, item 733; No. 130, item 1450; and No. 145, item 1638; Dz.U. of 2002, No. 113, item 984; and No. 141, item 1176; Dz.U. of 2003, No. 49, item 408; No. 60, item 535; No. 64, item 592; and No. 124, item 1151; and Dz.U. of 2004, No. 91, item 870; and No. 96, item 959.

4) Amendments to the act were promulgated in the Journal of Laws (*Dziennik Ustaw, Dz.U.*) of 1998,

No. 162, item 1118 and item 1126; Dz.U. of 1999, No. 26, item 228; No. 60, item 636; No. 72, item 802; No. 78, item 875; and No. 110, item 1256; Dz.U. of 2000, No. 9, item 118; No. 95, item 1041; No. 104, item 1104; and No. 119, item 1249; Dz.U. of 2001, No. 8, item 64; No. 27, item 298; No. 39, item 459; No. 72, item 748; No. 100, item 1080; No. 110, item 1189; No. 111, item 1194; No. 130, item 1452; and No. 154, item 1792; Dz.U. of 2002, No. 25, item 253; No. 41, item 365; No. 74, item 676; No. 155, item 1287; No. 169, item 1387; No. 199, item 1673; No. 200, item 1679; and No. 241, item 2074; Dz.U. of 2003, No. 56, item 498; No. 65, item 595; No. 135, item 1268; No. 149, item 1450; No. 166, item 1609; No. 170, item 1651; No. 190, item 1864; No. 210, item 2037; No. 223, item 2217; and No. 228, item 2255; and Dz.U. of 2004, No. 19, item 177; No. 64, item 593; and No. 99, item 1001.

5) Amendments to the act were promulgated in the Journal of Laws (*Dziennik Ustaw, Dz.U.*) of 1997, No. 88, item 554; Dz.U. of 1998, No. 162, item 1118; Dz.U. of 1999, No. 83, item 931; Dz.U. of 2000, No. 116, item 1216; and No. 119, item 1249; Dz.U. of 2001, No. 110, item 1189; Dz.U. of 2002, No. 74, item 676; and No. 126, item 1067; Dz.U. of 2003, No. 130, item 1188; No. 137, item 1302; No. 217, item 2125; and Dz.U. of 2004, No. 93, item 894.

6) Amendments to the consolidated text of the act were promulgated in the Journal of Laws (*Dziennik Ustaw, Dz.U.)* of 1998, No. 106, item 668; and No. 113, item 717; Dz.U. of 1999, No. 99, item 1152; Dz.U. of 2000, No. 19, item 239; No. 43, item 489; No. 107, item 1127; and No. 120, item 1268; Dz.U. of 2001, No. 11, item 84; No. 28, item 301; No. 52, item 538; No. 99, item 1075; No. 111, item 1194; No. 123, item 1354; No. 128, item 1405; and No. 154, item 1805; Dz.U. of 2002, No. 74, item 676; No. 135, item 1146; No. 196, item 1660; No. 199, item 1673; and No. 200, item 1679; Dz.U. of 2003, No. 166, item 1608; No. 213, item 2081; and Dz.U. of 2004, No. 96, item 959; and No. 99, item 1001.

7) Amendments to the act were promulgated in the Journal of Laws (*Dziennik Ustaw, Dz.U.*) of 2003, No. 217, item 2125; Dz.U. of 2004, No. 91, item 870; and item 871 and No. 96, item 959.

8) Amendments to the consolidated text of the act were promulgated in the Journal of Laws (*Dziennik Ustaw, Dz.U.)* of 2000, No. 22, item 270; No. 60, item 703; No. 70, item 816; No. 104, item 1104; No. 117, item 1228; and No. 122, item 1324; Dz.U. of 2001, No. 4, item 27; No. 8, item 64; No. 52, item 539; No. 73, item 764; No. 74, item 784; No. 88, item 961; No. 89, item 968; No. 102, item 1117; No. 106, item 1150; No. 110, item 1190; No. 125, item 1363 and item 1370; and No. 134, item 1509; Dz.U. of 2002, No. 19, item 199; No. 25, item 253; No. 74, item 676; No. 78, item 715; No. 89, item 804; No. 135, item 1146; No. 141, item 1182; No. 169, item 1384; No. 181, item 1515; No. 200, item 1679; and No. 240, item 2058; Dz.U. of 2003, No. 7, item 79; No. 45, item 391; No. 65, item 595; No. 84, item 774; No. 90, item 844; No. 96, item 874; No. 122, item 1143; No. 135, item 1268; No. 137, item 1302; No. 166, item 1608; No. 202, item 1956; No. 222, item 2201; No. 223, item 2217; No. 228, item 2255; and Dz.U. of 2004, No. 29, item 257; No. 54, item 535; No. 93, item 894; No. 99, item 1001; No. 109, item 1163; and No. 116, item 1203, item 1205 and item 1207.

9) Amendments to the consolidated text of the act were promulgated in the Journal of Laws (*Dziennik Ustaw, Dz.U.)* of 2002, No. 240, item 2055; Dz.U. of 2003, No. 60, item 535; No. 90, item 844; and Dz.U. of 2004 No. 6, item 39.

10) Amendments to the act were promulgated in the Journal of Laws (*Dziennik Ustaw, Dz.U.*) of 1998 No. 98, item 610; No. 106, item 668; and No. 162, item 1118; Dz.U. of 1999, No. 110, item 1256; Dz.U. of 2000, No. 60, item 702; Dz.U. of 2001, No. 8, item 64; and No. 110, item 1189; Dz.U. of 2002, No. 25, item 253; No. 153, item 1271; and No. 241, item 2074; Dz.U. of 2003, No. 124, item 1153; No. 166, item 1609; No. 170, item 1651; and Dz.U. of 2004, No. 96, item 959.

11) Amendments to the act were promulgated in the Journal of Laws (*Dziennik Ustaw, Dz.U.*) of 2001, No. 85, item 924; and No. 154, item 1799; Dz.U. of 2002, No. 113, item 984; and Dz.U. of 2003, No. 45, item 391; No. 60, item 535; and No. 180, item 1759.