

# **Social Insurance System ACT of October 13th 1998**

## **Chapter 1.**

### **General Provisions**

#### **Article 1.**

Social insurance shall cover the following:

- 1) retirement pension insurance,
- 2) disability pension insurance,
- 3) insurance for sick and maternity leave, hereinafter referred to as "sick leave insurance",
- 4) insurance against accidents at work and occupational disease, hereinafter referred to as "workman's compensation".

#### **Article 2.**

1. The Act shall determine the following:

- 1) rules for social insurance liability,
- 2) rules for setting social insurance contributions, and the basis for determining the rates thereof,
- 3) principles, procedure and dates for the following:
  - a) notification of social insurance participation,
  - b) keeping records concerning the insured and the contribution payers,
  - c) settlement of social insurance contributions, sick leave and workman's compensation insurance benefits,
  - d) payment of social insurance contributions,
- 4) operating principles for the accounts of the insured and the contribution payers,
- 5) organisation and operating principles of the Social Insurance Fund, hereinafter referred to as "FUS" (Fundusz Ubezpieczeń Społecznych),
- 6) organisation and operating principles of the Social Insurance Institution, hereinafter referred to as "the Institution" or "ZUS" (Zakład Ubezpieczeń Społecznych),
- 7) operating principles of the Demographic Reserve Fund hereinafter referred to as "FRD" (Fundusz Rezerwy Demograficznej) and principles for its management,
- 8) principles of controlling social insurance tasks performance.

2. The types of social insurance benefits, conditions for eligibility, as well as the rules and procedures for granting such eligibility shall be defined by virtue of separate provisions.

3. Payment of all social insurance benefits shall be guaranteed by the State.

#### **Article 2a.**

1. The Act is based on the principle of equal treatment of all the insured, regardless of their gender, marital status or family status.

2. The principle of equal treatment shall refer, in particular, to:

- 1) requirements to be met to participate in the social insurance system,
- 2) the duty to pay and calculate the amount of contributions for social insurance,
- 3) calculation of amounts of benefits,

- 4) the period of benefit payment and the maintenance of the right for benefits.
3. The insured who believes to have been treated in an unequal manner shall have the right to vindicate claims related to social insurance before court. The provision of article 83 shall apply accordingly.

### **Article 3**

1. Social insurance tasks as defined in this Act shall be performed by the following entities:

- 1) the Social Insurance Institution,
  - 2) open pension funds as defined by provisions on pension fund organisation and operations,
  - 3) pension insurance institutions, as defined by the provisions on pension insurance institutions,
  - 4) contribution payers.
2. Contribution payers shall be entitled to remuneration for the performance of tasks related to the determination of eligibility for benefits, the amount and payment of benefits from sick leave insurance. The remuneration for contribution payers shall be calculated as a percentage of the benefit amount. The percentage rate and procedures for settlement of the remuneration shall be determined by a decree of the minister responsible for social insurance issues. Other social insurance-related tasks shall be performed by the contribution payers free of charge.
3. The scope of social insurance tasks performed by open pension funds and pension insurance institutions shall be determined by provisions on pension fund organisation and operations and on pension insurance institutions.

### **Article 4.**

The terminology as applied in the Act shall have the following meaning:

- 1) the insured - shall mean individuals liable to at least one form of social insurance referred to in Article 1,
- 2) contribution payer - shall mean:
  - a) the employer with regard to the employees and conscripts in substitute service, as well as an organisational entity or a physical entity bound by a legal relationship with another physical entity, such relationship justifying the former to be liable to social insurance, including the insurance for parental leave or receiving maternity benefit, to the exclusion of individuals who receive their maternity benefit from the Institution,
  - b) an entity which pays social benefits, welfare allowances and remuneration due to be paid during the period of eligibility for the miners' allowance or during the period of eligibility for a retraining allowance – with regard to individuals who receive social benefits when on holiday leave, those who receive social benefits when retraining or searching for new employment as well as individuals receiving remuneration due to be paid during the period of eligibility for the miners' allowance or during the period of eligibility for a retraining allowance,
  - c) an entity on behalf of which paid work is done by individuals serving a prison sentence or temporarily arrested, with regard to individuals who perform the work on the basis of a work appointment or are eligible for

social insurance on grounds of receiving maternity benefit, if such benefit is paid by the said entity,

d) an insured individual liable to pay contributions for the benefit of his or her own insurance,

e) the Chancelleries of the Houses of the Polish Parliament, the *Sejm* (Lower House of the Polish Parliament) and the Senate with regard to members of both Houses selected for the European Parliament,

f) clergymen who are not members of convents or who are superiors of convents and orders - in respect of the convent members or, upon the consent from the Institution, other superior diocese or convent institution - with regard to clergymen to whom such consent applies,

g) an organisational entity supervised by the Minister of National Defence with regard to non-professional soldiers in active military service, with the exception of soldiers in the service as candidates for professional soldiers or soldiers in the periodic service,

k) a social assistance centre – with regard to individuals who resign from employment due to the necessity to take care personally of a seriously or chronically sick family member or a parent or sibling living separately,

ł) district job centre – with regard to individuals who receive unemployment allowances or scholarships,

m) The Institution – with regard to individuals who are liable to social insurance measures in virtue of received maternity allowance or another allowance equal to the maternity allowance if the allowances are paid out by the Institution,"

n) the entity that pays sports scholarship – with regard to individuals who receive these scholarships,

o) the minister responsible for public finance and the President of the Main Customs Office - with regard to customs officers

p) the National School of Public Administration - with regard to listeners receiving scholarships,

r) an individual pursuing non-agricultural activity - with regard to individuals co-operating in the pursuit of such activity,

s) a Local Office of the Guaranteed Employee Benefit Fund - with regard to individuals whose work-related benefits are financed from the means of the Guaranteed Employee Benefit Fund, if such benefits are paid directly by this entity,

t) a unit established by a local self-government to carry out economic and administrative services – if the unit keeps account of and pays contributions for the insured who work in the subordinated schools, kindergartens and other organizational units of the educational system,

u) the unit where a soldier is in service – with regard to professional soldiers and officers transferred to serve there if the unit pays the relevant remuneration,

w) rural or municipal district governor or mayor – with regard to persons who receive a nursing benefit pursuant to provisions on family benefits,

- z) the entity that pays out the training allowance after employment termination – with respect to persons who receive the allowance from this entity,
- 3) contributions - shall mean social insurance contributions of individuals defined in item 1,
- 4) benefits - shall mean benefits and rehabilitation benefits from sick leave and workman's compensation insurance,
- 5) a settlement declaration - a schedule of information on contributions payable to funds, the contributions being collected by the Institution, amounts charged to contributions and amounts to be paid out,
- 6) name-specific monthly report - shall mean information on an individual liable to social insurance for a given calendar month, submitted by a contribution payer to the Institution,
- 7) account of the insured - shall mean an account in which the contributions, as well as other information pertaining to an insured individual's insurance history, is recorded,
- 8) payer's account – shall mean an account in which the amount of liability in respect of social contributions and other contributions of the payer collected by the Institution, as well as contributions paid, settlement balances and other information about the contribution payer are recorded,
- 9) income – shall mean revenue as per personal income tax provisions derived from: employment under a contract of employment, work by job, service, holding a seat in either House of Parliament, performing work when serving a prison sentence or under temporary arrest, receiving unemployment scholarships or benefits or sports scholarships, from performing non-agricultural business activities, agency contracts and short-term job contracts, as well as from co-operating in those activities or in the execution of a contract,
- 10) income derived from membership in an agricultural manufacturing co-operative or a co-operative of farmers' societies – income derived from work in the co-operative and from manufacture of agricultural products on its behalf,
- 11) open pension fund - a fund selected by the insured from among pension funds as described by provisions on pension fund organisation and operations,
- 12) pension insurance institution - a pension insurance institution chosen by the insured, which pays out a life annuity, and acts pursuant to provisions on pension fund organisation and operations,
- 13) interbank electronic system – the ELIXIR system in the National Settlement Chamber (*Krajowa Izba Rozliczeniowa S. A.* ),
- 14) NUSP number - social insurance number ascribed to the contribution payer by the Institution,
- 15) NIP number - tax identification number ascribed by the revenue office,
- 16) bank account - a bank account or an account in the savings and credit co-operative bank of the entrepreneur being a member thereof.

#### **Article 5.**

1. Should the individual farmers not be liable to social insurance on the basis of the Act, their social insurance liability shall be governed by separate provisions.

2. Citizens of foreign countries, whose stay in Poland is not permanent, and employed by foreign diplomatic agencies, embassies, consulates, missions and special missions or international institutions, shall not be subject to the provisions of the Social Insurance Act, unless international treaties stipulate otherwise.

## **Chapter 2.**

### **Rules of Social Insurance Liability**

#### **Article 6.**

1. In recognition of Article 8 and 9, mandatory pension and disability pension insurance shall apply to individuals in the territory of the Republic of Poland who are:

- 1) employees, with the exception of prosecutors,
- 2) individuals performing work by job,
- 3) members of agricultural production co-operatives and co-operatives of farmers' societies (hereinafter referred to as "co-operative members"),
- 4) individuals performing work on the basis of agency agreements or short term job contracts or other contracts for the provision of services to which the provisions on job order apply under the Civil Code (hereinafter referred to as contractors) and any individuals co-operating with them, in recognition of clause 4,
- 5) individuals engaged in non-agricultural business activities and any individuals co-operating with them,
- 6) members of both Houses of Parliament receiving relevant remuneration and the members of the European Parliament elected in the Republic of Poland, hereinafter referred to as "MPs and Senators"
- 7) individuals receiving sports scholarships (hereinafter referred to as "sportspeople holding scholarships",
- 7a) listeners of the National School of Public Administration who receive scholarships,
- 8) individuals performing paid work on the basis of a work assignment while temporarily arrested or serving a prison sentence,
- 9) individuals receiving unemployment allowances or receiving scholarships while taking training courses or employed for a trial period in a work place assigned by the administration district job centre (hereinafter referred to as "the unemployed"),
- 10) members of the clergy,
- 11) non-professional soldiers in active military service, with the exception of soldiers in the service as candidates for professional soldiers or soldiers in the periodic service,
- 12) individuals in substitute forms of military service,
- 18a) Customs Service officers,
- 19) individuals on child care leave or receiving maternity benefit or a benefit in the amount equal to maternity benefit,
- 20) individuals receiving social benefits paid while on leave or individuals receiving social welfare benefits paid in the period of retraining or search for another job, as well as individuals receiving remuneration due to be paid during the period of eligibility for the miners' allowance or during the period of

eligibility for a retraining allowance, resulting from separate provisions or collective work arrangements.

21) individuals receiving the training allowance after employment termination

2. The provisions on social welfare govern the liability to retirement and disability pension insurance of individuals who do not receive a nursing benefit and resign from employment due to the necessity to take care personally of a seriously or chronically sick family member or a parent or sibling living separately, for whom the contributions are paid by a social welfare centre,"

2a. The contribution for the retirement and disability pension insurance for the person receiving a nursing benefit is paid by the rural or municipal district governor or mayor, calculated according to the assessment base corresponding to the amount of the nursing benefit granted pursuant to provisions on family benefits, and paid for the period indispensable to reach 20 years (women) or 25 years (men) of the insurance period (based on contributions or not), but for no longer than 20 years.

2b. The rural or municipal district governor or mayor does not pay the contribution for the retirement or disability pension insurance for the person who receives a nursing benefit if the person is over 50 years of age during the period for which the nursing benefit was granted and the insurance period (contribution-related or not) is shorter than 10 years.

4. Individuals referred to in clause 1, item 4, shall not be insured under mandatory pension and disability pension insurance if they are students of post-elementary or university level schools, until they attain the age of 26.

#### **Article 7.**

The following individuals shall be eligible for voluntary pension insurance:

1) spouses of employees delegated to work with the diplomatic services, in consulates, at permanent representative offices of the United Nations Organisation, as well as on other special missions abroad, and at institutes, information and cultural centres abroad,

2) individuals who are not liable to pension insurance for reasons described in Article 6, clause 1 and 2 due to taking care of a family member who is entitled to a nursing benefit,

3) Polish citizens performing work abroad with foreign entities, and Polish citizens performing work with foreign entities based within the territory of the Republic of Poland, should these entities not have their seat or representative office in Poland.

4) Students and participants of full time PhD studies, if they are not eligible for pension benefits from other titles,

5) Alumni of religious seminars, novices, postulants and juniorists, until they attain the age of 25,

6) the citizens of the European Union who are in adaptive trial period based on gratuitous civil-law contract as a result of an application to recognize their qualifications for practicing regulated profession or activity, as understood in the provisions on the principles of recognizing qualifications acquired in the European Union member states to practice regulated professions or the provisions on the principles of recognizing qualifications acquired in the European Union member states to undertake and practice certain activities.

## **Article 8.**

1. An employee shall be deemed to be any individual on an employment contract, in recognition of clause 2 and 2a.
2. For the purposes of social insurance an employee shall be deemed to be a co-operating individual, as long as they meet the criteria for co-operating individuals described in clause 11.
- 2a. Within the meaning of the Act, an employee shall also be deemed an individual performing work on the basis of agency agreement, short term job contract, other contract for the provision of services to which the provisions on job order apply under the Civil Code, or a contract of a specific work if the individual concluded such a contract with the employer with whom he/she is bound by an employment relationship, or if he/she carries out work within such contract for the benefit of the employer with whom he/she is bound by an employment relationship.
3. An individual performing work by job shall be deemed to be a person employed on the basis of a work by job contract.
4. A co-operative member shall be deemed to be a member of an agricultural manufacturing co-operative, or of another type of co-operative engaged in agricultural production, functioning according to Art. 138-178 and Art. 180 § 3 of the Act of September 16th 1982 – Co-operative Law (Journal of Law 1995: No. 54, item 288 and No. 133, item 654; 1996: No. 5, item 32, No. 24, item 110 and No. 43, item 189; and 1997: No. 32, item 183, No. 111, item 723 and No. 121, item 769, and 770) who performs work on behalf of the co-operative on grounds other than an employment contract or produces agricultural products on its behalf on a farm run by himself.
5. A co-operative member as described in clause 4 shall be considered equal to any other individual who is not a member of the co-operative and who performs work for the benefit of the co-operative or on the co-operative's farm on grounds other than a contract of employment, should they be remunerated according to the principles applicable to co-operative members and candidates.
6. Individuals engaged in non-agricultural business activities shall be deemed to be:
  - 1) individuals operating a business enterprise on their own pursuant to provisions applicable to business activities or other specific provisions,
  - 2) individuals engaged in creative work and artists,
  - 3) individuals engaged in freelance work:
    - a) as understood in the provisions on lump-sum income tax on certain incomes earned by physical entities.
    - b) generating income that constitutes income as understood in the provisions on the personal income tax,
  - 4) a partner in a single-person of a limited liability company and partners of a general partnership company, limited partnership company or partnership company.
7. Individuals involved in creative work, as described in clause 6, item 2, shall be deemed to be individuals creating work (subject to copyright) in fields such as architecture, interior design, landscape architecture, town planning, literature, art, music, photography, audio-visual creations, choreography, and artistic string instrument manufacturing, as well as folk art.

8. Artists, as described in clause 6, item 2, shall be deemed to be individuals performing paid work in fields such as acting and stage performance, stage and theatre performance production, dance, the circus, or in conducting, vocal or instrumental performance, costume and stage design, as well as audio-visual production: directors, script writers, image and sound operators, film editors, and stunt performers.

9. Work shall be deemed to be creative or artistic and the date of its commencement shall be decided by the Committee for Pension Benefits for Individuals Involved in Creative Work, operating under the aegis of the minister responsible for culture issues.

10. The minister responsible for culture issues in consultation with the minister responsible for social insurance shall appoint, by virtue of a decree, the Committee referred to in clause 9, and shall determine in detail its tasks and composition and operating procedures.

11. Individuals co-operating with individuals engaged in non-agricultural business activities and contractors described in Article 6, clause 1, item 4 and 5, shall be deemed to be the spouse, children, the spouse's children, adopted children, parents, stepmother and stepfather, and adopted parents of the individuals, as long as they share a joint household and co-operate in their business activities or in the realisation of an agency agreement or a short term job contract, except for individuals who have concluded an employment contract with a view to preparing for a job.

12. Scholarship sportspeople shall be deemed to be individuals receiving a sports scholarship, with the exception of school or university level students if they are not liable to pension or disability pension insurance on grounds of other titles.

13. Members of the clergy shall be deemed to be members of the clergy and of male and female convents and religious orders of the Catholic Church and other churches and religions, except for alumni of religious clerical seminars, novices, postulants and juniorists who have not attained 25 years of age.

14. Employment within the territory of the Republic of Poland shall also mean the employment of Polish citizens abroad with Polish diplomatic services and at consulates, at permanent representative offices of the United Nations Organisation, other missions, and on other special missions abroad, as well as at other Polish entities, institutions or enterprises, unless international agreements provide otherwise.

15. Individuals in service shall be deemed to be professional soldiers, and officers of:

- 1) the Police
- 2) the Internal Security Agency and the Intelligence Agency,
- 3) the Border Guard,
- 4) the National Fire Brigades,
- 5) the Prison Service,
- 6) the Customs Service,
- 7) the Government Security Agency.

#### **Article 9.**

1. Individuals referred to in Article 6, clause 1, item 1, 3, 10, 18a, 20 and 21, who concurrently meet the criteria for their mandatory pension insurance coverage from other titles, shall be covered by the insurance only on grounds of employment on an employment contract, agency agreement, short term job contract or other contract for the provision of services to which the provisions on job order apply under the Civil Code, or a contract of a specific work, if the individuals concluded such contract with the



employer with whom they are bound by an employment relationship, membership in a co-operative, service, receiving training allowance, social benefit, social welfare benefit, or receive remuneration due to be paid during the period of eligibility for the miners' allowance or during the period of eligibility for a retraining allowance. On request, they may also receive pension insurance cover on grounds of other titles on a voluntary basis, in recognition of clause 1a.

1a. The insured referred to in clause 1, for whom the basis of the monthly contribution rate for pension and disability pension insurance on grounds of employment on an employment contract, membership in a co-operative, service, receiving a training allowance, social benefit or social welfare benefit or receiving remuneration due to be paid during the period of eligibility for the miners' allowance or during the period of eligibility for a retraining allowance is lower than the one specified in Article 18, clause 4, item 5a, shall also be covered by mandatory pension and disability pension insurance on other grounds, in consideration of clause 1b below and Article 16, clause 10a.

1b. Clause 2 shall apply accordingly to the insured referred to in clause 1a who concurrently meet the criteria for being covered by mandatory pension and disability pension insurance on grounds of more than one other title.

2. Individuals who meet the criteria for mandatory pension insurance cover on the grounds of several titles referred to in Article 6, clause 1, item 2, 4 - 6, and 10, shall be liable to insurance on the grounds of the title which arose first. Individuals may, however, upon application, also be liable to voluntary pension insurance on the grounds of all or selected titles, or may change the title of insurance, in recognition of clause 7.

3. An individual engaged in several types of non-agricultural business activities shall be liable to pension and disability pension insurance on the grounds of one chosen type of activity.

4. Individuals referred to in Article 6, clause 1, item 1, 3, and 18b, who have an established right to retirement or disability pension, shall be liable to mandatory retirement and disability pension insurance.

Individuals referred to in Article 6, clause 1, item 4, who have an established right to a retirement or disability pension, shall be liable to mandatory retirement and disability pension insurance, unless they are concurrently bound by an employment relationship, in consideration of clause 4b.

4b. Individuals referred to in clause 4a shall be liable to mandatory pension and disability pension insurance, if the agency agreement, short term job contract or other contract for the provision of services to which the provisions on job order apply under the Civil Code, was concluded with the employer with whom they are concurrently bound by an employment relationship or if, under such contracts, they perform work for the benefit of the employer with whom they are bound by an employment relationship.

5. Individuals referred to in Article 6 and not mentioned in clause 4, who have an established right to a retirement or disability pension, shall be liable to voluntary retirement and disability pension insurance.

6. Individuals referred to in Article 6, clause 1, items 8 and 19, shall be liable to mandatory retirement and disability pension insurance if they do not have an established right to retirement or disability pension and are not eligible for social insurance benefits on the grounds of other titles.

6a. Individuals referred to in Article 6, clause 1, items 11 and 12, shall be liable to mandatory pension and disability pension insurance if they are not liable to social insurance on other grounds.

7. Members of the clergy who may be liable to both the mandatory pension insurance and the disability pension insurance on the grounds of engaging in business activities shall be liable to insurance in respect of being engaged in such activities.

8. Individuals maintaining service relationship, with the exception of individuals referred to in Article 8, item 6 of clause 15, and concurrently meet the criteria for being liable to pension and disability pension insurance on grounds referred to in Article 6, clause 1, items 2, 4 through 6 and 10, may voluntarily become liable to the said insurance on request.

#### **Article 10.**

Individuals with mandatory pension and disability pension coverage and individuals referred to in Art. 7 item 3, shall be entitled to voluntary continuation thereof following its expiry only if the period of coverage exceeds 10 years; there will be no obligation to pay a minimum benefit should the balance of the individual's account not ensure it.

#### **Article 11.**

1. Individuals mentioned in Article 6, clause 1, items 1, 3 and 12, shall be eligible for mandatory sick leave insurance.

2. Individuals liable to mandatory pension and disability pension insurance as stipulated by Article 6, clause 1, items 2, 4, 5, 8 and 10, shall be eligible for voluntary sick leave insurance upon application.

#### **Article 12.**

1. Individuals liable to pension and disability pension insurance shall be eligible for mandatory workman's compensation insurance in consideration of provisions contained in clause 2 and 3 hereto.

2. Neither the unemployed who receive unemployment allowances nor the individuals defined in Article 6, clause 1, items 2, 11, 19 and 20, and Articles 7 and 10 shall be eligible for workman's compensation.

2a. Individuals referred to in Article 6, clause 1, item 21 shall not be eligible for workman's compensation insurance.

3. Individuals referred to in Article 6, clause 1, item 4 shall not be eligible for workman's compensation insurance if they perform their work outside the premises of their engager.

#### **Article 13.**

Individuals shall be eligible for mandatory pension, disability pension, sick leave and workman's compensation insurance in the following periods:

- 1) employees - from the date of concluding an employment contract to the date of its cancellation,
- 2) individuals performing work by job and contractors - from the date defined in the relevant contract as the date of commencement of work to the date of cancellation or expiry of the contract,
- 3) co-operative members - from the date of commencement of work for the benefit of the co-operative to the date of its cessation,
- 4) individuals engaged in non-agricultural business activities - from the date of commencement of these activities to the date of their cessation,

- 5) co-operating individuals - from the date of commencement of co-operation in non-agricultural business activities or performance of work pursuant to an agency contract or a short term job contract to the date of ending this co-operation,
- 6) Members of Parliament - from the date of obtaining the right to relevant remuneration to the date of loss of these rights,
- 7) scholarship sportspeople - from the date of meeting the criteria referred to in Article 8, clause 12, to the date they cease to meet these criteria,
- 8) individuals who perform paid work while serving a prison sentence or being under temporary arrest - from the date of commencement of the work to the date of its cessation,
- 9) the unemployed - from the date of acquiring the right to a benefit or scholarship to the date of losing this right,
- 10) members of the clergy - from the date of being accepted as members of clergy to the date of withdrawal, and in the case of alumni of religious clerical seminars, novices, postulants, and juniorists - from the date when they reach 25 years of age,
- 11) non-professional soldiers in active military service and individuals in substitute forms of service - from the date of appointment or called-up to the date of being dismissed from service,
- 12) individuals referred to in Article 6, clause 1, item 18a - from the date of appointment to the date of dismissal from service,
- 13) individuals on child care leave or receiving maternity benefits or benefits in the amount equal to maternity benefit - from the date of complying with the necessary conditions referred to in Article 9, clause 6, to the date of ceasing to comply with the conditions described thereunder.
- 14) individuals referred to in Article 6, clause 1 item 20 – from the date of acquiring the right to the social benefits or social welfare benefits or receiving remuneration due to be paid during the period of eligibility for the miners' allowance or during the period of eligibility for a retraining allowance - until the date of losing this right,
- 15) listeners of the National School of Public Administration who receive scholarships - from the date of acquisition of the status of listener to the date of losing this status.
- 16) individuals referred to in Article 6, clause 1 item 21 – from the date of acquiring the right to the training allowance to the date of losing this right,

**Article 14.**

1. Voluntary pension and disability pension insurance coverage shall be deemed to be valid as of the date specified in the application for insurance coverage, albeit no earlier than the date of the application being filed, in consideration of clause 1a.
  - 1a. Voluntary pension and disability pension insurance coverage shall be deemed to be valid as of the date specified in the application for insurance coverage only when the application for retirement and disability pension insurance is filed within the term indicated in Article 36, clause 4.
2. Voluntary pension and disability pension insurance coverage, referred to in clause 1, shall expire:

- 1) as of the date specified in the application for insurance coverage expiry, albeit no earlier than the date of the application being filed,
  - 2) as of the first day of the calendar month for which the contributions due for such insurance was not paid in due time - in the case of individuals pursuing non-agricultural activity and those co-operating with such individuals, clergymen, and individuals referred to in Articles 7 and 10; in justified cases, the Institution may give its consent to pay the contribution after the due date, in consideration of clause 2a,
  - 3) as of the date of termination of the eligibility title.
- 2a. In the case referred to in clause 2, item 2, if a benefit was collected for a part of the month, the sick leave insurance shall cease to apply as of the day following the day for which the individual is eligible for benefit.
3. A period of receiving pay during illness or isolation due to contagious diseases, as well as periods during which benefits are received shall not be deemed to be a period of failure to pay contributions.

### **Chapter 3.**

#### **Rules of Defining Social Insurance Contributions**

##### **Article 15.**

1. The rates of contributions for pension, disability pension, and sick leave insurance shall be identical for all insured.
2. The rate of contribution for workman's compensation insurance shall be diversified for contribution payers, and depend both on the extent of occupational hazard involved, and of the outcome of such hazard.

##### **Article 16.**

1. Pension and disability pension insurance contributions for the following:
  - 1) employees,
  - 2) individuals performing work by job
  - 3) co-operative members,
  - 4) contractors,
  - 5) members of both Houses of Parliament: the Sejm and the Senate,
  - 6) scholarship sportspeople,
  - 7) listeners of the National School of Public Administration who receive scholarships,
  - 8) individuals performing paid work on the basis of a work assignment while serving a prison sentence or being under temporary arrest,
  - 9) individuals co-operating with contractors,
  - 10) Customs Service officers,
  - 11) conscripts in substitute forms of military serviceshall be financed in equal shares by the insured and by contribution payers, from his own funds.
- 1a. The contributions for pension and disability pension insurance of individuals receiving the training allowance after employment termination shall be financed in equal shares by the insured and by the contribution payers.

2. Sick leave insurance contributions for relevant individuals specified in clause 1, items 1 through 4, 8, 9 and 11 shall be paid in full by the insured themselves, and from their own funds.

3. Workman's compensation insurance contributions for individuals specified in clause 1, items 1, and 3-10, individuals co-operating with individuals engaged in non-agricultural business activity, and the unemployed who receive scholarship, shall be paid in full by contribution payers, from their own funds.

4. Pension, disability pension, and workman's compensation insurance contributions for individuals:

1) engaged in non-agricultural business activities,

2) referred to in Articles 7 and 10,

shall be paid in full by the insured themselves, from their own funds.

5. Contributions for pension and disability pension insurance of non-professional soldiers in active military service, with the exception of soldiers in the service as candidates for professional soldiers or soldiers in the periodic service, shall be financed from the state budget component administered by the Minister of National Defence.

5a. Contributions for pension and disability pension insurance as well as sick leave insurance and workman's compensation of co-operating individuals shall be fully financed by individuals pursuing non-agricultural business activities, from their own funds.

6. Social welfare centres shall pay the entire amount of the contributions for retirement and disability pension insurance for individuals who resign from employment due to the necessity to take care personally of a seriously or chronically sick family member or a parent or sibling living separately.

6b. Contributions for pension and disability pension insurance of individuals receiving nursing allowance shall be fully financed by the rural or municipal district governor or mayor.

8. Contributions for pension and disability pension insurance of individuals on child care leave and individuals receiving maternity benefit or a benefit in the amount equal to maternity benefit shall be fully financed from the State budget through the Institution.

9. Contributions for pension and disability pension insurance of the unemployed shall be fully financed by administration district job centres from the labour fund.

10. Pension, disability pension and workman's compensation insurance of individuals referred to in Article 6, clause 1, item 10, and liable to mandatory insurance in these domains shall be financed as follows:

1) by the members of the clergy - 20% of the contribution, and from the Church Fund - 80% of the contribution,

2) from the Church Fund - 100% of the contribution amount for members of contemplative and enclosed convents and religious orders, and missionaries in the periods when they engage in work in mission territories.

10a. Pension and disability pension insurance contributions of clergymen referred to in Article 9, clause 1a, shall be financed by the Church Fund, pursuant to item 1 of clause 10, in the part calculated on the basis of the difference between the basis of the contribution rate specified in Article 18, item 5 of clause 4, and the basis of the contribution rate for retirement and disability pension insurance on grounds of employment relationship.

11. Sick leave, retirement pension and disability pension insurance contributions of clergymen for whom the said insurance is voluntary shall be financed in full by the clergymen themselves, from their own funds.

12. Contributions for pension and disability pension insurance of individuals referred to in Article 6, item 20 of clause 1 and clause 2, shall be financed in full from the State budget.

13. Contributions for social insurance of some employed handicapped individuals shall be financed, pursuant to Article 25 of the Act of August 27th 1997 on occupational and social rehabilitation and employment of the handicapped (Journal of Law No. 123, item 776, and No. 160, item 1082, and from 1998, No. 99, item 628, and No. 106, item 668).

14. The minister responsible for social insurance matters in consultation with the minister responsible for the budget, shall determine, by virtue of a decree, the type of documents which will form the basis of financial settlement of contributions, referred to in clause 13.

#### **Article 17.**

1. Pension, disability pension, workman's compensation and sick leave insurance contributions for individuals specified in Article 16, clauses 1 through 3 and 5 through 13, shall be calculated, settled and delivered to the Institution by contribution payers exclusively.

2. Contribution payers specified in clause 1 shall calculate the portion of the retirement and disability pension, and sick leave insurance contributions financed by the insured, and after deducting it from the income of the insured shall transfer them to the Institution.

2a. Retirement and disability pension insurance contributions for individuals referred to in Article 16, clause 8, shall be:

- 1) calculated by the contribution payers,
- 2) paid by the Institution.

3. Retirement and disability pension, sick leave, and workman's compensation insurance contributions for individuals not specified in clause 1, shall be calculated and transferred to the Institution by the insured themselves each month.

#### **Article 18.**

1. The basis of the retirement and disability pension insurance contribution rates for the insured specified in Article 6, clause 1, items 1 through 3 and 18a, shall be deemed to be income, as described by Article 4, items 9 and 10, in consideration of clauses 1a and 2, item 5 of clause 4 and clause 12.

1a. In the case of the insured referred to in Article 8, clause 2a, the basis of the retirement and disability pension insurance contribution rate shall also include the income earned on grounds of agency agreement, short term job contract or other contract for the provision of services to which, the provisions on job order apply under the Civil Code, or a contract of specific work.

2. The basis of the retirement and disability pension insurance contribution rates of individuals referred to in Article 6, clause 1, item 1 - 3, shall include neither remuneration paid for the period of incapacity to work due to sickness or isolation resulting from contagious disease, nor benefits.

3. The basis of the retirement and disability pension insurance contribution rates for contractors shall be defined in compliance with the provisions of clause 1, should the agency, short term job contract or other contract for the provision of services to which the provisions on mandate apply under the Civil Code, specify the amount of pay for services

thus rendered in actual monetary terms, as an amount per hour or per piece or as a commission.

4. The basis of the retirement and disability pension insurance contribution rates for the following:

- 1) members of both Houses of Parliament: the Sejm and the Senate - shall be deemed to be the remuneration amount,
  - 2) scholarship sportspeople - shall be deemed to be the scholarship amount,
  - 2a) the listeners of the National School of Public Administration - shall be deemed to be the scholarship amount,
  - 3) the unemployed - shall be deemed to be the unemployment allowance or scholarship amount,
  - 4) individuals described in Article 6, item 20 of clause 1 – shall be deemed to be the amount of social benefit or social welfare benefit or of the remuneration due to be paid during the period of eligibility for the miners' allowance or during the period of eligibility for a retraining allowance,
  - 5) non-professional soldiers in active military service, with the exception of soldiers in the service as candidates for professional soldiers or soldiers in the periodic service, in consideration of item 6 - shall be deemed to be the lowest salary rate in December of the previous year, determined pursuant to separate provisions, in consideration of clauses 9 and 10,
  - 5a) clergymen - shall be deemed to be the lowest salary rate, determined pursuant to separate provisions and hereinafter referred to as the "minimum salary rate", in consideration of clauses 9 and 10,
  - 6) soldiers serving additional terms in the army – shall be deemed to be the amount of the remuneration,
  - 7) individuals referred to in article 6, item 21 of clause 1 – shall be deemed to be the amount of the training allowance,  
together with the tax deductible costs and the amount of the tax liability described in personal income tax provisions.
- 4a. The basis of retirement and disability pension insurance contribution rates for the insured referred to in Article 6, item 8 of clause 1, shall be the remuneration for work.
- 4b. The regulation of clause 4a shall apply, respectively, to the insured performing work on grounds of employment on an employment contract when serving a prison sentence or being under temporary arrest.
- 4c. The basis of contribution rate for clergymen qualifying as the insured referred to in Article 9, clause 1a, shall be the difference between the lowest salary and the amount of the basis of contribution rate for retirement and disability pension insurance on grounds of employment on an employment contract, membership in a co-operative, or service.
- 4d. The basis of contribution rate for the retirement and disability pension insurance of the insured referred to in Article 6, clause 1, item 12, shall be the cash benefit determined pursuant to the provisions of the act of 28<sup>th</sup> November 2003 on substitute forms of military service (Journal of Law No. 223, item 2217).
5. The amount of the family per capita income criterion determined pursuant to separate provisions shall constitute the basis for the contribution rates for the retirement and disability pension insurance of individuals who resign from employment due to the

necessity to take care personally of a seriously or chronically sick family member or a parent or sibling living separately, in consideration of clause 9.

5a. The amount of nursing benefit shall constitute the basis of the contribution rates for retirement and disability pension insurance of individuals who receive a nursing benefit pursuant to the provisions on family benefits and of persons on child care leave, in consideration of clause 9.

6. The basis of the retirement and disability pension contribution rates for individuals receiving maternity benefits or another allowance equal to the maternity allowance shall be deemed to be the amount of that benefit.

7. The basis of the retirement and disability pension insurance contribution rates for the insured specified in Article 6, clause 1, item 4, as well as for the insured liable to voluntary pension and disability pension insurance, shall be deemed to be the amount declared, not lower than the minimum salary, in consideration of clauses 3, 9, and 10.

8. A declared amount, no lower than 60% of average monthly salary in the previous quarter shall comprise the basis for calculation of retirement and disability pension contribution rates referred to in Article 6, clause 1, item 5, in consideration of clause 9 and 10. The new level of the contribution becomes binding in the third month of the next quarter.

9. With regard to the month when pension or disability pension insurance obligations arose or terminated, and when they related to a month which was not a full calendar month, the basis of the lowest pension and disability pension insurance rates shall be proportionally decreased by dividing them by the number of calendar days in the given month and then multiplying by the number of days the insurance cover was in force.

10. The rules for decreasing the lowest basis for contribution rates referred to in clause 9 shall be applied respectively in the case of incapacity to work lasting for a part of a month, if the insured individual meets the criteria for being granted a benefit on this grounds.

11. On application by an insured individual, referred to in Article 6, clause 1, item 10, the basis of contribution rates may exceed the basis defined in item 5 of clause 4 and clause 4c. The part of contribution on declared income exceeding the minimum salary shall be financed by members of the clergy, and institutions of dioceses and religious orders.

12. The foreign service allowance and other allowances granted to the members of foreign service who work in a foreign agency shall not be included in the basis of the contribution rates for the retirement and disability pension, sick leave and workman's insurance of the foreign service members.

#### **Article 19.**

1. The annual basis of contribution rates for retirement and disability pension insurance of individuals mentioned in Articles 6, 7 and 10 in a given calendar year may not exceed the equivalent of thirty-fold the projected average monthly salary rate in the national economy sectors for a given calendar year as determined in the Budget Law or in its draft if the Budget Law has not yet been passed, in consideration of clause 2 and 9.

2. If the basis of average monthly salary rate referred to in clause 1 cannot be established, the salary shall be established on the basis of the average monthly salary from the third quarter of the preceding calendar year.

3. Until the amount referred to in clause 1 has been collected, the retirement and disability pension insurance contributions shall be calculated and transferred to the



Institution on the basis of the amount determined in accordance with Article 18. No retirement and disability pension contributions shall be calculated from amounts exceeding the amount mentioned in clause 1.

5. The contribution payer is obliged to cease calculating and transferring contributions for the retirement and disability pension once the insured exceeds the annual amount of the basis for the contribution rate, referred to in clause 1, in consideration of clause 6.

6. If more than one contribution payer is obliged to pay contributions for the retirement or disability pension, the insured is obliged to inform all the payers about exceeding the annual basis of contribution rates. The insured shall be responsible for the effects of an erroneous information, resulting in failure to pay the due contributions for the retirement and disability pension insurance.

6a. Article 24, clauses 6a through 8, shall apply to the contributions for the retirement and disability pension insurance paid after the annual basis for contribution rates is exceeded. The date of receiving a name-specific monthly adjustment report and a corrective settlement declaration by the Institution shall be considered the date of recognizing the unudly paid contributions.

6b. If the Institution ascertains, as a result of verifying the amount of annual basis of the contribution rate, that the contributions paid exceeded the amount specified in clause 1, the Institution shall immediately notify contribution payers and the insured individual about this fact, the latter through the mediation of the former.

7. The period in which retirement and disability pension insurance contributions are not paid due to exceeding the amount of annual basis of contribution rates as described in clause 1 during the calendar year shall be treated as an insurance period within the meaning of provisions of the act of 17<sup>th</sup> December 1998. on retirement and disability pensions payable from the Social Security Fund (Journal of Law No. 162, item 1118, with further amendments)<sup>1</sup>, hereinafter referred to as "provisions on on retirement and disability pensions payable from the Social Security Fund".

8. The regulation of clause 7 shall apply to individuals who pursuant to Articles 13 and 14, clause 2, ceased to be liable to pension and disability pension insurance, respectively, after having paid contributions calculated on the basis of the annual base rate referred to in clause 1.

9. The regulation of clause 8 shall not apply to sick leave and workman's compensation insurance liability.

10. The minister responsible for social insurance issues shall by the end of a calendar year announce in *Monitor Polski*, the Official Legal Journal of the Republic of Poland the amount constituting the limit on the basis of the contribution rates, referred to in clause 1.

#### **Article 20.**

1. The basis of the sick leave and workman's compensation insurance contribution rate shall be deemed to be the basis of the retirement and disability pension insurance contribution rate, in consideration of clauses 2 and 3 hereto.

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<sup>1</sup> Amendments to the act were announced in Journal of Law 1999: No. 38, item 360, No. 70, item 774, No. 72, item 801 and 802 and No. 106, item 1215; 2000: No. 2, item 26, No. 9, item 118, No. 19, item 238, No. 56, item 678 and No. 84, item 948; 2001: No. 8, item 64, No. 27, item 298, No. 85, item 924, No. 89, item 968, No. 111, item 1194 and No. 154, item 1792; and 2002: No. 74, item 676, No. 199, item 1673, No. 200, item 1679 and No. 240, item 2054.

2. The limitations defined in Article 19 clause 1 shall not apply when determining the basis of sick leave and workman's compensation insurance contribution rates.

3. The basis of contribution rate for the sick leave insurance of individuals covered by voluntary sick leave insurance shall not exceed, per month, 250% of the average monthly salary in the previous quarter. That amount shall be established monthly, starting from the third month of a calendar quarter, for 3 month periods, basing on the average remuneration from the preceding quarter, published for the needs of pension.

#### **Article 21.**

The minister responsible for social insurance issues shall determine, by virtue of a decree, detailed rules for the determination of the basis of contribution rates, taking into consideration the limitation referred to in Article 19, clause 1, and exclusion of some types of income from the calculation of the contribution basis.

#### **Article 22.**

1. The rates for social insurance contributions shall amount to:

- 1) 19.52 % of the basis of contribution rate - for retirement pension insurance, in consideration of clauses 3 and 4,
- 2) 13.00 % of the basis of contribution rate - for disability pension insurance,
- 3) 2.45 % of the basis of contribution rate - for sick leave insurance,
- 4) from 0.40 % to 8.12 % of the basis of contribution rate - for workman's compensation insurance.

2. The provisions of the Act on Social Insurance with regard to Accidents at Work and Occupational Diseases shall determine the rules for differentiation of workman's compensation insurance contribution rates.

3. A portion of the retirement pension insurance rate which originated from the insured individual's contributions, in the amount of 7.3% of the basis of the contribution rate, shall be transferred by the Institution to an open pension fund selected by the insured, in consideration of Article 111.

3a. A part of the contribution referred to in clause 3 shall not be transferred by the Institution to an open pension fund in the case the appropriate retirement pension body informs it about the establishment of the right to a retirement pension calculated pursuant to Article 15 or about the right to increasing it pursuant to Article 14:

- 1) the act of 10<sup>th</sup> December 1993 on retirement benefits for professional soldiers and their families (Journal of Law of 2002 No. 11, item 108, and No. 74, item 676, and of 2003 No. 56, item 498) or
- 2) the act of 18<sup>th</sup> February 1994 on Retirement Benefits for the officers of the Police, the Internal Security Agency, the Intelligence Agency, the Border Guard, the Government Security Agency, the National Fire Brigades and The Prison Service and Their Families (Journal of Law No. 53, item 214, with further amendments<sup>2</sup>).

3b. A part of the contribution, referred to in clause 3, for the retirement pension insurance of the individual who is not the payer of this contribution, due to be paid for the period until the end of the calendar month proceeding the month of filing the application for the

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<sup>2</sup> Amendments to the act were announced in Journal of Law 1995: No. 4, item 17; 1997: No. 28, item 153; 1998: No. 162, item 1118; 1999: No. 106, item 1215; 2000: No. 122, item 1313; 2001: No. 27, item 298 and No. 81, item 877; 2002: No. 74, item 676 andz 2003: No. 56, item 498.

retirement pension shall not be transferred by the Institution to an open pension fund if it is paid after the calendar month proceeding the month of filing the application.

4. Until 31st December 2008, a part of the contribution for the retirement pension insurance, determined in Article 112, clauses 2 and 3, shall be transferred by the Institution to FRD.

#### **Article 23.**

1. Late payment penalty interest shall be due from contribution payers on any contributions not paid on a timely basis, in compliance with the rules and rates determined by the provisions of the Tax Law of 29<sup>th</sup> August 1997 (Journal of Law No. 137, item 926, and No. 160, item 1083 and No. 106/1998, item 668).

1a. Late payment penalty interest is not collected if it does not exceed 6. 60 PLN.

2. Interest realised on the portion of the contribution for the retirement pension insurance, mentioned in Article 22, clause 3, shall be paid to the individual account of the insured in the open pension fund chosen by the insured.

4. The provisions of clauses 1 and 2 shall not apply to the contributions paid from the funds of the Guaranteed Employee Benefit Fund.

#### **Article 24.**

1. Should contribution payers fail to pay contributions or pay them in insufficient amounts, the Institution shall be entitled to impose an additional fee thereon, at a rate of up to 100% of any contribution payment due. The decision on the additional fee may be appealed in court according to the rules described in Article 83.

2. Contributions, as well as any late payment penalty interest and additional fees, hereinafter referred to as contribution dues, not paid in time shall be subject to collection in compliance with the administrative or court execution procedure provisions.

3. Contribution dues shall be collected in compliance with administrative execution procedures before any other dues, with the exception of: execution expenses, payroll creditors, alimony dues, and annuities paid out as compensation for inflicting a disease, rendering an individual disabled or unable to work, or causing their death, as well as costs of the terminal illness and funeral expenses of the debtor, in amounts corresponding to local custom.

4. Contribution dues shall be deemed prescribed following a period of 10 years as of the date of maturity thereof, in consideration of clause 5 through 5d.

5. Contribution dues secured with mortgage or pledge shall not be prescribed, yet after the prescription term, the dues can be exacted only from the mortgaged or pledged property up to the level of the overdue contributions and late payment penalty interest counted till the day of prescription.

5a. The course of prescription shall not commence, and if commenced, it shall be suspended since the day of concluding the agreement referred to in Article 29, clause 1a, until the deadline date for the payment of the postponed contribution dues or of the last instalment.

5b. The course of prescription shall be suspended since the day of undertaking the first activity aimed at exacting the contribution dues which the debtor has been informed of, until the day of terminating the execution proceedings.

5c. The course of prescription is discontinued by the declaration of bankruptcy. The discontinued course of prescription re-commences on the day following the day of

validation of the decision finalizing the bankruptcy procedure or declaring the procedure to be discontinued.

5d. The contribution dues resulting from a decision concerning obligations of a third party or an assignee fall under prescription after 5 years since the end of the calendar year when such decision was issued.

5e. The course of the prescription shall be suspended if issuing the decision depends on the decision of another body or court concerning an initial issue. The course of the prescription shall be suspended until the date, when the decision of another body becomes final or the court judgement comes into effect, yet the suspension shall not last longer than 2 years.

6. The course of prescription defined in clause 4 shall be suspended from the date of death of the bequeather to the date of validation of the court's decision on the transfer of the estate, however no later than within two years of the death of the bequeather.

6a. Unduly paid contributions shall be appropriated *ex officio* by the Institution to the overdue or current contributions, and if there are no such contributions – to future contributions, unless the payer files an application for their reimbursement, in consideration of clauses 6c, 8 and 8d.

6b. The Institution shall notify the contribution payer of the amount of the unduly paid contributions that may be reimbursed, pursuant to clause 6a, unless they amount to less than 5% of the lowest salary.

6c. The contribution payer may file an application for the reimbursement of unduly paid contributions after he/she has found that the contributions had been paid unnecessarily, however, not later than within 7 days from the receipt of the notification referred to in clause 6b.

6d. The unduly paid contributions shall be returned within 30 days since the day of filing the application referred to in clause 6c.

6e. If unduly paid contributions are not reimbursed within the term indicated in clause 6d, they shall be increased by an interest rate equal to the late payment penalty interest for tax payment delays, counted since the day of filing the application referred to in clause 6c.

7. No insurance contributions paid unnecessarily can be claimed from the Institution for reimbursement, should 5 years have passed as of the moment of paying the same.

8. Contributions paid unnecessarily to an open pension fund shall be reimbursed appropriated to future contribution payments.

8d. If, as a result of a mistake made by an institution servicing the contribution payments, the contributions paid unnecessarily were financed from the funds of this institution, the unduly paid amount shall be reimbursed to this institution.

9. Late payment interest, execution costs and additional fees shall be fully financed by the contribution payer from his own funds.

#### **Article 25.**

1. Contribution dues shall be excluded from any reconciliation procedures as provided in the act of 28<sup>th</sup> February 2003. - the Bankruptcy and Reparation Law (Journal of Law No. 60, item 535, with further amendments<sup>3</sup>), in consideration of clauses 2 and 3.

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<sup>3</sup> Amendments to the act were announced in Journal of Law 2003: No. 217, item 2125; and 2004: No. 91, item 870 and 871 and No. 96, item 959.

2. The Institution may give its consent to cover the due contribution sums financed by the contribution payer with the reconciliation procedure.

3. The payment of due contribution sums covered with the reconciliation procedure may exclusively take the form of payment by instalments. The instalment scheme shall be defined according to the principles defined in the provisions referred to in clause 1.

#### **Article 26.**

1. The Institution has a right to put forward an application to start a mortgage register in respect of the real estate of a debtor who has failed to pay social insurance contributions, also when the debtor is a state organisational entity which is not a budgetary entity.

2. Documents issued by the Institution which testify to the existence of liabilities in respect of social insurance contributions and state their amount shall form the basis of a mortgage entry into the mortgage register of the real estate owned by the liable party. If the real estate is not accompanied by a mortgage register, the collateral takes the form of filing those documents.

3. Contribution dues shall be secured by compulsory mortgage on all real property of the debtor, in consideration of clauses 3a and 3b. The delivered decision that states the amount of contribution dues, or the responsibility of a third party or the responsibility of a legal assignee shall form the basis for establishing the mortgage.

3a. The compulsory mortgage can cover the following:

- 1) a fraction of a real estate if it belongs to the debtor,
- 2) a real estate jointly owned by the debtor and his/her spouse,
- 3) a real estate owned by a partner in a civil-law company if the company is the debtor.

3b. The compulsory mortgage shall also cover the following:

- 1) perpetual usufruct, which includes buildings and other facilities located in the relevant area and belonging to the person with the right to perpetual usufruct,
- 2) ownership right to dwelling premises within a co-operative,
- 3) co-operative right to business premises,
- 4) the right to a single house within a housing cooperative (the right to dwelling premises in a building constructed by a housing cooperative the ownership of which is to be transferred to a cooperative member),
- 5) outstandings secured with a mortgage.

3c. The provisions on real estate mortgage shall apply accordingly to the compulsory mortgage referred to in clauses 3a and 3b.

4. The relevant provisions of the Tax Law related to the compulsory mortgage shall apply to the mortgage referred to in clauses 3 through 3c, in consideration of clause 5.

5. On demand of the Institution or the manager of a local organizational unit of the Institution that is also the execution body, the debtor is obliged to provide information on the owned real estate and his property rights that can become subject to the compulsory mortgage or pledge if the evidence gathered during the proceedings indicate that the contribution dues may remain unpaid.

5a. The information referred to in clause 5 shall be provided in the form of a declaration, issued under pain of penal measures for a false testimony. Before receiving the declaration, the Institution or the manager of its local organizational unit, that is also the execution body, is obliged to inform the debtor about the penal responsibility for false testimony.

6. The demand to provide information, referred to in clause 5, shall also apply to:
- 1) the spouse, legal assignees and third parties responsible for the debts of the contribution payer,
  - 2) the persons who received undue benefits, contribution payers or other entities obliged to return the unduly paid benefits, referred to in Article 84, with the exception of the case when the benefits can be deducted from the currently paid-out benefits.

**Article 27.**

1. Contribution dues shall be secured by the statutory right to lien on movable property and transferable rights that are owned by the debtor or jointly owned by the debtor and his/her spouse.
2. Relevant provisions of the Tax Law relating to treasury liens shall apply to the lien referred to in clause 1.
- 2a. The lien, referred to in clause 1, shall be introduced into the register of the State Treasury liens, pursuant to article 43 of the Tax Law.
3. An excerpt from the lien register referred to in Article 46 paragraph 1 of the Tax Law shall be submitted free of charge following an application by the Institution.

**Art. 28.**

1. Contribution dues may be cancelled wholly or partially by the Institution, in consideration of clauses 2-4.
2. Amounts due in respect of contributions may only be cancelled in case of absolute uncollectability, in consideration of clause 3a.
3. Absolute uncollectability mentioned in clause 2 occurs when:
  - 1) the debtor has died without leaving any property, or has left movables not subject to execution on the basis of separate provisions, or has left household articles of everyday use whose total value does not exceed three times the amount of an average salary, and, simultaneously, there are no legal assignees and there exists no possibility of passing the liability on to third parties,
  - 2) a court of law has waived the motion to declare the debtor's bankruptcy or has discontinued bankruptcy proceedings for the reasons mentioned in Article 13 and in Article 361, item 1, of the Bankruptcy Law of 28<sup>th</sup> February 2003,
  - 3) business activities have been terminated, while there is no property of the debtor or the spouse or legal assignees against which the due amount can be executed, and no possibility of transferring the liability to third parties, as understood in the Tax Law of August 29<sup>th</sup> 1997 (Journal of Law No. 137, item 926 with further amendments<sup>4</sup>).
  - 4) the receivable was not settled after the liquidation proceedings had been finalised,

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<sup>4</sup> Amendments to the act were announced in Journal of Law 1997: No. 160, item 1083; 1998: No. 106, item 668; 1999: No. 11, item 95 and No. 92, item 1062; 2000: No. 94, item 1037, No. 116, item 1216, No. 120, item 1268 and No. 122, item 1315; 2001: No. 16, item 166, No. 39, item 459, No. 42, item 475, No. 110, item 1189, No. 125, item 1368 and No. 130, item 1452; 2002: No. 89, item 804, No. 113, item 984 and No. 169, item 1387; 2003: No. 130, item 1188, No. 137, item 1302, No. 170, item 1660, No. 228, item 2255 and 2256; and 2004: No. 29, item 257, No. 64, item 593, No. 68, item 623, No. 91, item 868, No. 93, item 894 and No. 116, item 1205.

- 4a) the amount of the unpaid contribution does not exceed the cost of the payment request issued within the administrative execution proceedings,
  - 5) the head of the tax office or court bailiff ascertained that there is no property against which the execution can be carried out,
  - 6) it is clear that the amounts collected via execution proceedings shall not exceed the costs of those proceedings.
- 3a. The contribution dues in virtue of the social insurance of the insured who are also payers of contributions for the insurance can be extinguished in justified cases in spite of the fact they are not totally uncollectible.
- 3b. The Minister competent for social security issues shall issue a regulation to determine detailed principles of extinguishing the dues, referred to in clause 3a, accounting for the premises that justify the remission and for important interest of the person liable to pay the contribution dues and the state of the social insurance finances.
4. The cancellation of contributions causes also cancellation of late payment penalty interest, additional fee and payment request costs.
5. In the case referred to in item 1 of clause 3, the decision extinguishing the contribution dues shall be kept in the records.

#### **Article 29.**

1. For business or any other reasons worth taking into consideration, the Institution may postpone the date of payment of any contributions due, and may divide the payment due into instalments, in consideration of the payer's ability to pay, as well as of the financial condition of the social insurance. The postponement of the date of payment may relate only to dues paid by the contribution payer.
- 1a. Postponement of the date of payment of any due contributions and division of the dues into instalments shall be effected in the form of a contract.
2. No late payment penalty interest shall be calculated on contributions divided into instalments since the date following the day of receiving the application for the relieves.
3. If the debtor fails to pay instalments within the deadlines set by the Institution, the remaining amount shall be payable immediately together with late payment interest calculated pursuant to rules set out by the Tax Law.
4. In cases referred to in clause 1, the Institution shall determine a prolongation fee according to rules and in the amount stipulated by the Tax Law for taxes which comprise income from the State budget.

#### **Article 30.**

Articles 28 and 29 shall not apply to contributions financed by insured individuals who are not contribution payers.

#### **Article 31.**

The following shall respectively apply to contribution dues: Article 12, Article 26, Article 29 § 1 and 2, Article 33, Article 33a, Article 33b, Article 51 § 1, Article 55, Article 59 § 1 items 1, 3, 4, 8 and 9, Article 60 § 1, Article 61 § 1, Article 62 § 1, 3 - 5, Article 72 § 1 items 1 and 4 and § 2, Article 73 § 1 items 1 and 5, Article 77b § 1 and 2, Article 91, Article 93, Articles 93a-93c, Article 93e, Article 94, Article 97 § 1, Article 98 § 1 and 2, items 1, 2, 5 and 7, Article 100 § 1, Article 101 § 1, Article 105 § 1 and 2, Article 106 § 1 and 2, Article 107 § 1, 1a, and 2, items 2 and 4, Article 108 § 1 and 4, Article 110 § 1, § 2 item 2, § 3, Article 111 § 1-4 and 5 item 1, Article 112, Article 113, Article 114, Article

115, Article 116, Article 116a, Article 117, Article 118 § 1 and 2 and Article 119 of the Tax Law of 29<sup>th</sup> August 1997.

### **Article 32.**

Provisions pertaining to social insurance contributions shall apply to collecting contributions, their execution, late payment interest calculations, additional fees, penal regulations and instituting securities on all real property, movables and transferable rights of the debtor as well as application of relief and write-offs with relation to contributions to the Labour Fund, Guaranteed Employee Benefit Fund, and health insurance.

## **Chapter 4.**

### **Filing Notification of Insurance Participation and Managing Contribution Payer Accounts and Rules for Contribution and Benefit Settlement**

#### **Article 33.**

1. The Institution shall be responsible for maintaining the following records:
  - 1) accounts of the insured, each of which shall be marked with an identification number assigned to the insured by the Government Information Centre of the General Electronic Population Evidencing System (Rządowe Centrum Informatyczne Powszechnego Elektronicznego Systemu Ewidencji Ludności - RCI PESEL),
  - 2) contribution payer accounts marked with the NUSP number, in consideration of clause 3,
  - 3) Central Register of the Insured,
  - 4) Central Register of Contribution Payers.
  - 5) Central Register of Members of Open Pension Funds,
  - 6) Central Register of Individuals who Receive Their Pensions from the Retirement Pension Insurance Institutions,
  - 7) other registers necessary to execute tasks subject to separate provisions.
- 1a. NUSP numbers shall not have any secret or public meaning that would allow to determine any features of the contribution payer.
2. If the insured individual referred to in clause 1, item 1 has not been assigned the PESEL number, did not inform of the number or if there are doubts as to its correctness, the account of the insured shall be marked with the NIP number or, if the insured has not been assigned a NIP number, with the passport or identity card series and number.
3. Until respective NUSP number is assigned, the contribution payer account shall be marked with the NIP number or, if the insured has not been assigned a NIP number - with the REGON (central register for identification of business entities) number, until NIP number is assigned, or - if the insured has not been assigned REGON number either - with the PESEL number or the series and number of the passport or identity card.
4. The Institution shall be entitled to use the following, free of charge:
  - 1) RCI PESEL Central Data Base,
  - 2) the data base of the National Taxpayer Evidencing System, in compliance with principles as provided in the Taxpayer Evidencing and Identification Act,
  - 3) business entity identification system REGON maintained by the Chairman of the Main Census Bureau.



5. The minister responsible for social insurance matters shall determine, by virtue of a decree, the detailed scope of data to be included in registers referred to in clause 1, items 3-7, taking into account also data relating to the profession practised by the insured who carry out work in special conditions or of special character.

#### **Article 34.**

1. The Institution shall ensure the integrity and completeness of any information collected both in the accounts of the insured and the contribution payer accounts in compliance with principles laid down in the provisions contained herein.

2. Information included in the insured individuals' accounts and in the accounts of the contribution payer maintained in an electronic form which have been transferred as a print-out or as an electronic file, shall constitute evidence in administrative and court proceedings in respect of social insurance.

3. Information contained in the accounts of the insured, the contribution payer accounts, and source data constituting the basis for these records shall be protected according to provisions on the protection of personal data.

4. Personal data and other information held in the accounts of the insured shall be accessible only as stipulated herein.

5. The Institution and an open pension fund are obliged are obliged to provide each other access to the personal data of the persons listed in the register, referred to in Article 33, point 5 of clause 1.

#### **Article 35.**

1. The following information should be given on each and every document form related to social insurance, including contribution payment, contribution settlement, the granting and payment of benefits indicated in separate provisions:

1) the insured shall provide PESEL and NIP identification numbers or, if they have not been assigned one or any of the numbers, the series and number of the passport or identity card, in consideration of clause 1a,

2) contribution payers shall provide NUSP and NIP numbers, in consideration of Article 43, clause 7.

1a. The name-specific monthly reports, referred to in article 1, should contain PESEL number or NIP number, if the former has not been assigned. If the insured has not been assigned the NIP number either, the person should provide the number of the personal ID card or passport.

2. Contribution payer's identification data in the part relating to the numbers referred to in clause 1 item 2 provided in document forms connected with social insurance shall be deemed sufficient if at least NUSP number is correct.

3. The Institution may release contribution payers from the duty to provide NIP numbers in document forms connected with social insurance.

#### **Article 36.**

1. Each and every individual with mandatory pension and disability pension insurance coverage shall be liable to file notification of participation in the social insurance scheme.

2. The duty of filing name-identified social insurance participation notification of individuals specified in Article 6, clause 1, items 1 through 4, 6 through 9, 11, 12, 18a through 21, and clauses 2 and 2a, members of the clergy who are members of convents or religious orders, as well as of any individuals co-operating in business activities, referred to in Article 8, clause 11, shall remain the sole responsibility of the contribution payer.

2a. The person who is on parental leave or receives the maternity allowance or another allowance equal to the maternity allowance is obliged to inform the contribution payer about the establishment of the right to retirement or disability pension or the liability to social security insurance for reasons other than the parental leave or maternity allowance.

3. The duty of filing notification of social insurance participation of individuals specified in Article 6, clause 1, items 5, 10 and 19, in consideration of clause 2, shall remain their responsibility.

4. The notification as specified in clauses 2 and 3 shall be filed within a period of 7 days as of the date of commencement of the insurance liability, in consideration of provisions contained in clauses 4a, 5, 5a and 9a hereto.

4a. Notifications referred to in clause 3 shall be filed by artists and individuals engaged in creative activity within 7 days from the date of receipt a decision from the Commission for Pension Security of Artists, that states the date of commencement of pursuing creative or artistic activities.

5. Any individuals liable to social insurance following the principle of voluntary participation, with the exception of individuals who intend to continue retirement and disability pension insurance, shall file a respective application for insurance coverage within a period defined at their discretion. Provisions of clause 2 and 3 shall be applied respectively.

5a. Notification of participation in the social insurance scheme of employees referred to in Article 18 clause 12 shall be filed not later than by the deadline for the settlement and payment of the contributions for the month, when the eligibility for social insurance came into force.

6. Individuals wishing to continue their retirement and disability pension insurance coverage, shall file a respective application within a term of 30 days as of the date of expiry of the social insurance liability.

7. The correctness of data included in the application for social insurance shall be confirmed by the signature of the applicant, to the exclusion of individuals referred to in Article 6, clause 1, item 19.

8. Should applications be forwarded to the Institution in the form of an electronic document, the written application with the signature of the applicant shall be kept by the payer for 5 years.

9. Any notification of social insurance participation made according to the specified format, in consideration of clause 9a, or in the form of an electronic document from a computer program made available to contribution payers by the Institution or in the form of a printout from such program, shall be filed in an organisational entity of the Institution. An account as described in Article 33, clause 1, item 1, shall be opened on the basis of the first application for the participation in social insurance.

9a. The participation in social insurance scheme of individuals referred to in Article 6, clause 1, item 19 shall be notified by including the insured individual in a name-specific monthly report.

10. A notification of social insurance participation shall include specifically the following data in respect of the individual to be insured: data referred to in Article 35, item 1, surname, first and second names, date of birth, maiden name, citizenship and sex, the insurance title, the degree of handicap, the fact of being engaged in a work in special conditions or of special character, having a predetermined right to retirement or disability

pension benefits, the permanent residential address, the temporary address if different from the permanent residential address, the address for correspondence if different from the permanent residential address and temporary address.

11. Each and every individual who has lost social insurance eligibility shall be deleted from the register of the insured. The contribution payer shall be obliged to file a notification on the deletion within 7 days of the fact taking place, in consideration of clauses 12 and 14. The provisions of clauses 2, 3, and 9 shall be applied respectively.

12. In the case of employees referred to in clause 5a the contribution payer shall be obliged to file a notification on the deletion within 30 days from the termination date of the employment relationship.

13. The contribution payer shall be obliged to notify the Institution of any changes to the data provided in the notification filed, in compliance with clauses 10 through 12, within 7 days since the moment they occurred, or the payer identified irregularities or obtained a notification about irregularities from the Institution.

14. The contribution payer shall notify the Institution of any amendments to the data contained in the notification, referred to in clause 10, concerning the insurance title, insurance types and terms of their coming into force, and shall do so by applying for the removal of the data and re-registering the correct data in a new application for participation in the social insurance scheme.

#### **Article 37.**

2. Authorities responsible for issuing permits for engaging in non-agricultural business activities referred to in Article 8, clause 6, shall forward to the organisational entity of the Institution copies of the permits granted to physical entities and to organisational entities with no personality at law, as well as copies of decisions withdrawing those permits, if they are not obliged to be entered in the national official register of business entities REGON.

#### **Article 38.**

1. Should any dispute arise with regard to social insurance liability, the Institution shall issue its own decision both to the individual concerned and to the contribution payer.

2. Within 7 days since the date the decision referred to in clause 1 comes into force, the contribution payer is obliged to provide the Institution with the documents indicated herein and related to social insurance for the period covered by the decision.

#### **Article 39.**

1. The insured shall be obliged to conclude an agreement with an open pension fund no later than within the period mentioned in Article 36, clause 4, in consideration of Article 111.

2. If the insured does not conclude the agreement mentioned in clause 1 hereto, the Institution shall summon the insured, in writing, to conclude the agreement with an open pension fund within the following terms:

- 1) by 10<sup>th</sup> January – if less than 30 days remain from the date of receipt of the summons to the day of drawing lots, the relevant deadline shall expire on 10<sup>th</sup> July,
- 2) by 10<sup>th</sup> July - if less than 30 days remain from the date of receipt of the summons to the day of drawing lots, the relevant deadline shall expire on 10<sup>th</sup> January.

If the insured does not meet the obligation to sign an agreement in these periods, the Institution shall indicate an open pension fund by random selection from the open pension funds that acquired higher return rates than the average weighted return rates in the last two settlement periods, published according to the provisions of the act on pension fund organisation and operations, in consideration of clause 2a, and whose assets at the end of the second settlement period of the previous year did not exceed 10% of the net value of assets of all open funds. The Committee for the Supervision of Insurance Schemes and Retirement Pensions Funds shall provide the Institution with a list of open pension funds participating in the selection and shall do so not later than 10 working days before the term of drawing lots.

2a. If no open pension fund whose the assets at the end of the second settlement period in the previous year did not exceed 10% of the net value of the assets of all open funds acquired in the last two settlement period the return rates that were higher than the average weighted return rates in the respective periods, the Institution selects an open pension fund by random selection from among the open funds that acquired return rates higher than the average weighted return rates in one settlement period.

3. The Institution shall perform the drawing of lots referred to in clause 2 on the last working day of January or July, and the numbers of the insured obtaining membership in particular open funds established by way of the drawing of lots should be equal.

4. The Institution shall transfer to the insured individual's account in the allotted open pension fund the nominal value of the contributions referred to in Article 22 clause 3, which are subject to transfer to the fund, by the deadline ensuing from Article 47 clause 9, counted as of the next working day following the day of drawing lots.

5. The minister responsible for social insurance issues shall determine, by virtue of a decree, detailed rules for the drawing of lots held by the Institution, as described in clause 2 and 3.

#### **Article 40.**

1. The account of the insured shall contain information on the amount of indexed pension contributions to retirement pension insurance, with the exclusion of the contributions to open pension funds that are:

- 1) due to be paid – in the case of the insured who are not contribution payers,
- 2) paid – in the case of the insured who are contribution payers and of persons cooperating with individuals who carry out non-agricultural economic activities.

1a. If an insured person who is not a contribution payer finds out, within 3 months since the expiry of the payment term of the contribution referred to in item 1 of clause 1, that the contribution has not been paid, he/she may request the Institution for information if it has taken measures aimed at the execution of the contribution.

1b. In the case of the insured who are not contribution payers, their accounts shall store data on the indexed amount of due contributions for open pension funds that have been prescribed pursuant to article 24.

1c. In the case of the insured referred to in clause 1b, their accounts shall store the data on the indexed amount of contributions to open pension funds due to be paid for the period ending with the calendar month that proceeds the month of filing the application for a retirement pension and unpaid by the end of that month, even when the contributions have not been prescribed.

1d. The date of recording the contributions referred to in clauses 1b and 1c on the insured person's account shall be the date of recording on that account of the contributions referred to in item 1 of clause 1, due to be paid for the same calendar month.

2. Other data registered in the account of the insured shall also comprise in particular:

- 1) data included in the notification of social insurance, name-specific monthly report, and settlement declaration,
- 2) data on membership in an open pension fund and periods of transfer of contributions to the fund,
- 3) data on membership of a medical care society (kasa chorych) and on dates of transfer of contributions to this society,
- 4) data on amounts of retirement and disability pension, sick leave, workman's compensation and health insurance contributions due and paid and on the amount of contributions due and transferred to an open pension fund,
- 5) data on non-insurance facts influencing the social insurance eligibility and amounts,
- 6) information on the amount of life annuity paid by a Pension Insurance Institution,
- 7) information indispensable to award and pay out social insurance benefits and benefits financed from the State budget, and on any payments made,
- 8) data necessary to establish, re-establish or convert the initial capital,
- 9) data on the initial capital and indexed initial capital,
- 10) data necessary for the Institution to execute tasks assigned on the basis of separate provisions.

8. The Institution may refuse to introduce into an insured person's account a record of an unpaid contribution for retirement pension insurance, referred to in item 1 of clause 1, and cancel an introduced record if the insured collaborates with the contribution payer to avoid the duty of paying contributions.

8a. On the basis of a notification issued by the appropriate retirement pension body, concerning the right of the insured individual to a retirement pension pursuant to the provisions on retirement benefits for professional soldiers and their families or on Retirement Benefits for the officers of the Police, the Internal Security Agency, the Intelligence Agency, the Border Guard, the Government Security Agency, the National Fire Brigades and The Prison Service and Their Families, the Institution removes from the records the data on the due and indexed contributions for the retirement pension insurance for the service periods included in the retirement pension basis for police officers or soldiers.

#### **Article 41.**

1. A contribution payer shall submit to the Institution name-specific monthly reports after the end of each and every calendar month within the deadlines set for contribution settlements.

2. If the social insurance obligation has expired during the course of a given calendar year, the contribution payer shall provide the Institution with the report as provided for in clause 1, for the insurance period in a given month, within the term and according to the principles provided in Article 47, clauses 1 and 2.

3. A name specific monthly report shall include information on the contribution payer as determined by Article 43, clause 4 and 5, the month and year to which the report pertains and:

- 1) the insured individual's identification numbers, including the data referred to in Article 35, item 1 of clause 1,
- 2) name and surname,
- 3) work time status,
- 4) a schedule of social insurance contributions due, divided into retirement and disability pension, sick leave, and workman's compensation insurance, including data on:
  - a) the insurance title,
  - b) the contribution rate basis,
  - c) the amount of the contribution broken down by amount due from the insured, the contribution payer, and other sources of financing,
  - d) the amount by which the basis of retirement and disability pension, sick leave and worker's compensation insurance contribution rates were decreased in respect of the Act of 22<sup>nd</sup> August 1997 on employee pension programs (Journal of Law No. 139, item 932, and from 1998, No. 98, item 610),
- 5) the assessment basis and amount of health insurance contribution, divided among the entities that finance the contributions,
- 7) types and periods of discontinuities in paying social insurance contributions,
- 8) information on benefits paid and on compensation for periods of inability to perform work on the basis of the Labour Code, as well as on benefits financed from the State budget,
- 9) declaration of the contribution payer that data included in the report are consistent with the actual situation, confirmed by the signature of the contribution payer or an authorised person.

4. A name-specific monthly report shall also include the date of preparation of the monthly report and a signature of the contribution payer or a person authorised by the contribution payer.

5. Name-specific monthly reports may include data on filing by the insured of a notification on exceeding the annual basis of retirement and disability pension insurance contributions referred to in Article 19, clause 5.

6. A contribution payer shall be obliged to submit a name-specific monthly adjustment report in the form of a new document, including all data defined in clauses 3-5, if it is necessary to adjust the data provided in the name-specific monthly report due to irregularities identified:

- 1) by the contribution payer,
- 2) by the Institution.

6a. If the difference in the assessment basis for contributions found by the contribution payer or the Institution does not exceed 2. 20 PLN, the data provided in the name-specific monthly report shall not be adjusted, in consideration of clause 6b.

6b. The provision of clause 6a does not apply in the case when a declared amount constitutes the assessment basis for contributions.

7. The contribution payer is obliged to verify the correctness of the data transferred to the Institution in a name-specific monthly reports in a given calendar year by 30th April of the next calendar year. In case of irregularities, the contribution payer is obliged to follow the provisions of clauses 6 and 7a.

7a. The contribution payer shall be obliged to file a name-specific monthly adjustment report, referred to in clause 6, within 7 days since the date, when the payer identified irregularities or obtained a notification about irregularities from the Institution, in consideration of clause 7b.

7b. If the necessity to adjust the data provided in the name-specific monthly report results from identifying irregularities by the Institution by way of:

- 1) a decision, the name-specific monthly adjustment report should be filed within 7 days since the date the decision comes into force,
- 2) an inspection, the name-specific monthly adjustment report should be filed within 30 days since the date of obtaining the inspection report.

8. Information included in the reports referred to in clauses 1-6 shall be submitted by the contribution payer to the insured in writing or, in the case of individuals referred to in Article 18 clause 12, upon the consent of the insured - in an electronic form, for them to be verified.

8a. The information referred to in clause 8 should also contain the date of its preparation and the signature of the contribution payer or a person authorized by the contribution payer.

9. Provisions of clauses 1 through 8 shall apply to health insurance contributions respectively, in consideration of clauses 9a and 10.

9a. Information provided to the insured shall also include the symbol of the medical care society to which health insurance contributions are transferred.

10. If health insurance contributions are collected from retirement and disability pensions, the contribution payer is not obliged to inform the pensioner pursuant to clause 9.

11. The insured shall provide the contribution payer, in writing or by way of an entry in the official records, with an application to amend any information contained in the name-specific monthly report within 3 months of the date of receiving the information described in clause 8, should the information in question - according to the insured - not be consistent with the actual state of affairs. The Institution shall be informed by the insured of any such occurrence. Should the contribution payer not accept the complaint within one month of the date of filing thereof, on an application of the insured, the Institution shall issue a respective decision following explanatory proceedings.

12. Should the insured not question any information contained in the name-specific monthly report within a term as specified in clause 11, such information shall be deemed consistent with the actual situation unless the information pertaining to the period encompassed by the report should be questioned by the Institution upon making a decision.

13. Should the Institution question and subsequently alter any information submitted by the contribution payer, the Institution shall be obliged to inform both the insured and the contribution payer of the occurrence. Should neither the insured nor the contribution payer file an application to alter the position assumed by the Institution within the term as specified in clause 11 hereto, such information as submitted by the Institution shall be

deemed correct. Should such an application be filed, the Institution shall issue a respective decision following explanatory proceedings.

14. Provisions contained in clauses 11-13 hereto shall apply to reports described in clause 6.

#### **Article 43.**

1. Contribution payers shall be obliged to file a contribution payer notification with the Institution within a term of 7 days as of:

- 1) the date of employing the first employee or of the rise of a legal relationship which justifies inclusion of the first person in the social insurance system,
- 2) the date of the rise of a pension and disability pension insurance liability on the part of the insured who are exclusively obliged to pay contributions for their own insurance or contributions for the insurance of individuals who co-operate with them.

2. Individuals referred to in Article 6, clause 1, item 10 and individuals liable to voluntary pension and disability pension insurance, with the exclusion of individuals mentioned in Article 6, clause 1, item 5, who are exclusively obliged to pay their own social insurance contributions shall file contribution payer notification together with a notification of social insurance participation.

3. A contribution payer is obliged to file a form – an application of the contribution payer referred to in clause 1 – in the form of a written document complying with the template or of a printout from the up-to-date computer program provided by the Institution, and to do so in the organizational unit of and indicated by the Institution.

3a. The contribution payer should accompany the application form, referred to in clause 3, with copies of the tax office decisions ascribing the NIP identification number and of the census bureau certificate that ascribes the current REGON number.

4. A contribution payer notification (for a physical entity) shall include specifically the following data: NUSP number, if the contribution payer has been assigned one, as well as NIP and REGON numbers, and PESEL number or passport or identity card series and number if the contribution payer has not been assigned any or one of such numbers, the surname, first and second names, date and place of birth, citizenship, the type and number of the permit authorizing to carry out non-agricultural business activities, name of the authority and the date of issuing the permit, the date of commencing non-agricultural business activities, the short company name under which the business is run, the date of commencement of social insurance contribution liability, the listing of bank accounts, the head office address, the address of residence if it is different from the head office address, the correspondence address, the address at which the business is run.

5. A contribution payer notification (for a legal entity or an organisational entity with no personality at law) shall include specifically the following data: NUSP number, if the contribution payer has been assigned one, as well as NIP and REGON numbers, the payer's short name, the name conforming to the legal deed establishing the payer, the name of the establishing authority, the obligation to enter the payer into the business register, the name of the registration organ, the date and number of the registry entry, the date when the obligation to pay social insurance contributions arose, the listing of bank accounts, the head office address, the correspondence address and the address at which the business is run.



6. The Institution shall assign NUSP number to a contribution payer by way of a decision.

7. Until the receipt of the decision referred to in clause 6, the contribution payer shall provide NIP and REGON numbers on all documents related to social insurance or, PESEL number or passport or identity card series and number if the contribution payer has not been assigned any or one of such numbers.

8. The minister responsible for social security issues shall issue a regulation to determine the detailed rules and procedure for assigning NUSP numbers to contribution payers by the Institution, including the procedure in cases of succession, with a view to ensure correct identification of contribution payers.

#### **Article 44.**

1. The contribution payer shall be obliged to notify the organizational unit indicated by the Institution of any changes to the data provided in the notification filed, in compliance with the provisions of Article 43, within a term of 14 days as of the date of their respective occurrence, their identification by the contribution payer or reception of the relevant notification concerning such regularities from the Institution, in consideration of clauses 2 and 3.

2. The contribution payer shall inform, in the form of a written document complying with the template or of a printout from the up-to-date computer program provided by the Institution, the organizational unit indicated by the Institution about any changes concerning the numbers referred to in article 43, clause 3a, and the short name of the contribution payer, as well as the surname, the first name and the date of birth in the case of contribution payer who are natural persons.

3. The contribution payer should attach copies of the documents referred to in article 43, clause 3a, to the notification referred to in clause 2.

#### **Article 45.**

The following shall be recorded in the contribution payer's account:

1) identification data, NUSP, NIP, and REGON numbers, or PESEL number or passport or identity card series and number if the contribution payer has not been assigned any or one of such numbers, names and numbers of bank accounts, information data on the contribution payer, including the specific legal status as stated in the central register for identification of business entities (REGON), the number according to European Classification of Operations (EKD), the number according to the Polish Classification of Operations (PKD) and all other data necessary for servicing the account, specifically for the purpose of settling contribution dues and holding execution proceedings, including information on partners in partnerships, general partnerships and limited partnerships, within the scope registered by the Central Register of Taxpayers,

2) settlements of contribution dues, benefits paid by the contribution payer as well as survivorship pensions and nursing benefits included in contributions and other contributions collected by the Institution

3) data necessary for the Institution to execute tasks assigned by separate provisions.

#### **Article 46.**

1. The contribution payer shall be obliged, in accordance with the provisions of the act, to calculate contributions due for each and every calendar month, subtract them from the income of the insured, settle and transfer them to an indicated account at the Institution.
2. The settlement and clearance of the contributions as specified in clause 1 and of the benefits paid by the contribution payer in the same month as well as survivorship pensions and nursing benefits included in the settlement of contributions shall take place on the basis of a model settlement declaration form. Any benefits paid out by the contribution payer without justification shall not be included in the settlement declaration.
3. A settlement declaration and name-specific monthly reports shall be transferred by the contribution payer directly to the organisational entity indicated by the Institution.
4. A settlement declaration shall include:
  - 1) identification data of the contribution payer, and specifically the data referred to in Article 35 clause 2, short name of the firm, and the name and surname in case of contribution payers who are natural persons,
  - 2) information on the number of individuals insured,
  - 2a) information on the contribution payers' eligibility to receive benefits,
  - 3) a listing of contributions in respect of specific types of social insurance, broken down by contributions financed by the insured and by the payer, as well as by the State budget and by the State Fund for the Rehabilitation of the Handicapped (PFRON),
  - 4) amounts of benefits paid out and benefits financed by the State budget, charged to social insurance contributions and the amounts of pay for incapacity to work,
  - 5) remuneration amounts to which the payer is entitled pursuant to Article 3, clause 2,
  - 6) a listing of contributions due in respect of:
    - a) health insurance broken down into entities financing the contributions,
    - b) Labour Fund and Guaranteed Employees Benefit Fund,
  - 7) an aggregate and summary schedule of contributions due, health insurance contributions, and amounts to be paid,
  - 8) for individuals who pay insurance contributions from their own funds – the insurance title, basis for calculation and possible reductions resulting from Article 19, clause 1,
  - 9) a declaration of the contribution payer that data included in the declaration comply with the actual situation, confirmed by a signature of the contribution payer or of an individual authorised by the contribution payer or by an electronic signature.
5. Contribution payers obliged to include allowances and other benefits financed from the State budget charged to contributions or salary for incapacity to work in insurance documents, shall provide the Institution with:
  - 1) a notice containing identification data and the data about the allowances, benefits or salaries paid out between 1st December 1999 and 30th November 2000, and shall do so by the 28<sup>th</sup> February 2001,
  - 2) a notice containing identification data and the data about the allowances, benefits or salaries paid out between 1st December 2000 and 30th November 2001, and shall do so by the 31<sup>st</sup> January 2002,

6. The minister responsible for social security issues shall issue a regulation to determine the standard form of information referred to in clause 5, likewise the manner of its preparation, submitting, and correcting, guided by the need to ensure the correctness and completeness of the data collected on contribution payers' accounts and insured individuals' accounts.

#### **Article 47.**

1. The contribution payer shall pay the contribution and submit the relevant settlement declaration form and name-specific monthly reports in the same period for a given month, in consideration of clauses 1a, 2a and 2b:

1) by the 10<sup>th</sup> day of the following month – in the case of natural persons paying the contributions exclusively on their own behalf,

2) by the 5<sup>th</sup> day of the following month – in the case of budgetary entities, budgetary establishments, and auxiliary farms within the meaning of Article 18, clause 1, Article 19, clause 1, and Article 20, clause 1 of Act of 26<sup>th</sup> November 1998 on public finances (*Journal of Law* No. 155, item 1014 and 1999: No. 38, item 360, No. 49, item 485, No. 70, item 778, and No. 110, item 1255),

3) by the 15<sup>th</sup> day of the following month – in the case of the rest of the payers.

1a. Individuals engaged in creative work and artists shall submit settlement declarations and name-specific monthly reports and pay their contributions for the period of pursuing creative or artistic activity before the day when the Commission for Pension Security of Artists issues relevant decisions, within the deadline for the payment of the contribution for the month in which they received the decision.

2. The contribution payer who pays contributions entirely on his own behalf shall only submit the settlement declaration.

2a. Individuals pursuing non-agricultural business activities and paying contributions exclusively for themselves or individuals cooperating with them are released from the obligation of presenting settlement declarations or name-specific monthly reports for the next months if no change occurred, compared to the previous month, in consideration of clause 2b.

2b. Individuals referred to in clause 2a and paying contributions based on 60% of the average monthly remuneration in the previous quarter are also released from the obligation of presenting settlement declarations or name-specific monthly reports for the next month if the change, compared to the previous month, is caused exclusively by the change of the mentioned remuneration.

3. A contribution payer shall be obliged to submit, in consideration of clause 3a, an amended settlement declaration in the form of a new document, containing all the correct data, as indicated in Article 46, clause 4, and shall do so in each case referred to in Article 41, clause 6, and shall attach an amended monthly report.

3a. Name-specific monthly reports are not submitted in the case when corrections concern exclusively the data indicated in the settlement declaration.

3b. In the cases referred to in clauses 3 and 3a, the provisions of article 41, clauses 7 through 7b, respectively, shall apply accordingly.

3c. The contribution payer is obliged to store copies of settlement declarations and name-specific monthly reports and of the corresponding adjustment documents, in the form of written or electronic documents, for the period of 10 years since the day of submitting them in the organizational unit indicated by the Institution.

4. Contributions shall be paid to bank accounts indicated by the Institution, in separate payments, broken down by:

- 1) social security
- 2) health insurance,
- 3) Labour Fund and Guaranteed Employee Benefit Fund.

4a. Contribution payer shall pay the contributions referred to in clause 4 using:

- 1) bank payment documents submitted through a bank, in accordance with the standard forms referred to in Article 49, clause 3,
- 2) electronic document from a computer program made available to contribution payers by the Institution or through a printout from such a program,
- 3) electronic document from a computer program made available to contribution payers by a bank,
- 4) a document in the form agreed with the institution servicing the payment of contributions for social insurance, hereinafter referred to as "documents of payment".

4b. Contribution payers shall be obliged to pay due contributions referred to in clause 4 through cashless transactions, by way of debiting contribution payer's bank account, in consideration of clause 4c.

4c. The provision of clause 4b shall not apply to contribution payers who are natural persons if they do not pursue non-agricultural business activities within the meaning of the provisions on business activities or other special provisions.

4d. Should it be ascertained that the identification data of the contribution payer referred to in clause 4b, such data having been provided in the payment order, are inconsistent with the data from the Central Register of Contribution Payers, the Institution shall notify the entity keeping the contribution payer's bank account about the duty to conduct explanatory proceedings with a view to remove such inconsistency.

5. Information included in the documents of payment shall be transferred, in the form referred to in Article 49, clause 3a, through the interbank electronic system as a payment order for the Institution, or through the electronic inter-branch settlement system of the National Bank of Poland. The order should specifically include the information on the data referred to in Article 35 item 2 and on the title of payment and period for which the payment is made, the date of charging the payer's bank account if the payment is made in the form of a transfer order, or the date of payment if the payment is made in cash.

5a. Payment orders transferred in the form other than specified in Article 49, clause 3a, shall not be accepted.

6. A payment document shall specifically include information on the data, referred to in Article 35, item 2, as well as on the payment title and the period for which it is made.

7. The inability to identify a payment shall not be deemed to be the fault of the Institution.

8. Institutions which accept the social insurance contribution payments shall be obliged to enable their immediate transfer through the interbank electronic settlement system.

8a. Institutions servicing the payments of social insurance contributions shall be obliged to notify the Institution on the errors found out in the payment order, referred to in clause 5, in either electronic or written form.

9. The contributions shall be transferred by the Institution to an open pension fund immediately, no later than within 15 working days since the receipt of the contributions paid with the documents of payment, monthly reports and declarations.

10a. If the Institution, at its fault, fails to transfer the contributions to an open pension fund in a timely manner, the Institution shall pay late payment interests, calculated according to a variable interest rate, valid for successive quarterly periods commencing on the first day of each calendar quarter. The variable interest rate is calculated as the arithmetic average of the weighted average profitability rates of 52-weeks state treasury bonds, sold in the last four auctions, that took place by the end of the last month proceeding the beginning of a given quarter, and it is rounded off to two decimal places. For the purposes of calculating interest rates, it is assumed that a year has 365 days.

10b. The interest, referred to in clause 10a, on the contribution to open pension funds that were not transferred on time shall be calculated by the Institution for the period starting on the day following the deadline referred to in clause 9 and ending on the day of transferring the contribution to an open pension fund.

10c. In the case the Institution fails to transfer the contribution to an open pension fund on time as a result of transfer of an erroneous application for social insurance, name-specific monthly report, settlement declaration, payment document or payment order, or as a result of failure to transfer the same, the Institution shall charge the contribution payer or the institution servicing contribution payments with an additional fee.

10d. The Institution shall notify the contribution payer or the institution servicing contribution payments about failure to submit or about submitting erroneous documents referred to in clause 10c, and shall do so within 30 days, counted from the day following the expiry of the term referred to in clause 9.

10e. The Institution shall establish the additional fee, referred to in clause 10c, in the amount of the interest, referred to in clause 10a, on the amount of the contribution that has not been transferred to an open pension fund, calculated for the period commencing on the next day after the expiry of the term referred to in clause 9 and ending on the day of receiving correct documents referred to in clause 10c.

10f. Institutions servicing contribution payments and the contribution payers shall pay the additional fee at the closest due date for contribution payment, after the decision referred to in clause 10e becomes final and valid.

10g. The Additional fee which has not been paid in due time referred to in clause 10f shall be collected under the provisions on executive proceedings in administration.

10h. The interest referred to in clause 10b or the additional fee collected by the Institution, referred to in clause 10c, shall be transferred to the insured person's account in an open pension fund.

10i. The interest, referred to in clause 10a, and the additional fee, referred to in clause 10c, shall not be imposed if their amount does not exceed 6.60 PLN.

10j. The Chairman of the Social Insurance Institution shall announce the level of the interest referred to in clause 10a by publishing an announcement in *Monitor Polski* – the Official Legal Journal of the Republic of Poland.

14. The provisions of this Article shall apply, respectively, to Labour Fund, Guaranteed Employee Benefit Fund and health insurance contributions.

#### **Article 47a.**

1. Contribution payers shall file social insurance notifications referred to in Article 36, clause 10, name-specific monthly reports referred to in Article 41, clause 3, settlement declarations referred to in Article 46, clause 4, other documents necessary to keep contribution payers' accounts and the insured individuals' accounts, and corrections of such documents, through data transmission in the form of electronic documents generated in an updated computer program rendered accessible by the Institution, in consideration of clauses 1a through 3.

1a. The provisions of clause 1 shall also apply to adjusted contribution payer notification, with the exception of the cases referred to in Article 44, clause 2.

2. Contribution payers who settle contributions for 5 individuals or less may transfer the documents referred to in clause 1 in the form of a written document, compliant with the stipulated standard form, or in the form of a printout from an updated computer program rendered accessible by the Institution.

2a. The Institution covers the cost of the public key certificates issued to the contribution payers by the certifying body indicated by the Institution.

3. In justified cases, the Institution may authorise contribution payers that settle contributions or health insurance contributions for more than 5 individuals to transfer the documents referred to in clause 1 in the form of written documents, compliant with the stipulated standard form, or of a printout or on electronic carriers, in the form of electronic documents from an updated computer program rendered accessible by the Institution.

4. Documents filed in a manner inconsistent with the requirements stipulated in clauses 1 and 2 shall not be accepted by the Institution, which shall be tantamount to a failure to file the documents.

5. The Institution shall not accept documents, referred to in clauses 1 and 2, that cannot be processed with the automated reading technology used by the Institution, which shall be tantamount to a failure to file the documents.

6. The Institution shall have the right to submit the information in the form of electronic documents, through data transmission, to the contribution payers referred to in clause 1.

7. The minister responsible for social security issues shall issue a regulation to determine the requirements to be met by contribution payers, who file the documents referred to in clause 1 in the form of electronic documents through data transmission, while taking into consideration the need to ensure the correct transfer of documents.

#### **Article 48.**

1. Should the contribution payer fail to file the settlement declaration in a timely manner, the Institution shall impose the contribution amount *ex officio*, in an amount resulting from the last filed settlement declaration, not recognising any benefits, survivorship pensions or nursing benefits paid formerly, and shall notify the payer thereof.

2. Should the contribution payer file a settlement declaration form following the imposition of contributions *ex officio*, the Institution shall amend the contribution rate to the amount as shown in the settlement declaration form, in recognition of any benefits, survivorship pensions or nursing benefits as shown therein.

#### **Article 48b.**

1. The Institution may issue *ex officio* notifications of social insurance participation, notifications of deletion from the social insurance scheme, name-specific monthly reports, contribution payer notifications, notifications of deletion of a contribution payer,

settlement declarations and the corresponding adjustment documents, hereinafter referred to as "social-insurance-related documents defined herein".

2. The institution may *ex officio* correct errors identified in the social-insurance-related documents defined herein.

3. The Institution may demand contribution payers to re-submit social-insurance-related documents defined herein if the documents were not identified in the IT system of the Institution.

4. The Institution may *ex officio* introduce and correct the data directly in the accounts of the insured or in the accounts of contribution payers, while notifying the insured and contribution payers about such changes.

#### **Article 49.**

1. The Council of Ministers shall define the following by virtue of a decree:

1) the order of accepting payments for FUS and other liabilities which the Institution is obliged to collect if the payer pays and transfers them in a manner not conforming to the provisions defined herein,

2) the detailed rules and procedures binding for the settlement of contributions and paid-out benefits, survivorship pensions, and nursing benefits, as well as the order of accepting payments to particular funds,

3) detailed principles and procedure for the Institution to prepare *ex officio* social-insurance-related documents defined herein,

4) detailed principles and procedure for the Institution to correct *ex officio* errors identified in social-insurance-related documents defined herein,

5) detailed principles and procedure for the Institution to introduce and correct *ex officio* data directly in the accounts of the insured and in the accounts of the contribution payers, while accounting for the priority of satisfying the claims of the retirement pension fund.

2. The minister responsible for social insurance issues shall issue a regulation to determine the following:

1) model notification of social insurance participation form,

2) model name-specific monthly reports and name-specific adjustment monthly reports

3) model contribution payer notifications,

4) model settlement and adjustment settlement declarations,

5) other documents necessary to keep accounts of contribution payers and the insured.

3. The minister responsible for public finance in agreement with the minister responsible for social insurance issues shall determine, after consultation with the President of the Polish National Bank, by virtue of a decree, model forms for bank transfer orders to be used by contribution payers who order the transfer of social insurance contribution payments in writing.

3a. The minister responsible for social insurance issues, in consultation with the President of the National Bank of Poland and guided by the need to ensure the correctness of contribution records, shall issue a regulation to determine:

1) detailed data transferred in a payment order, referred to in article 47, clause 5, and the format of an electronic payment order.

4. Provisions of clauses 2 through 3a shall apply to other receivables collected by the Institution, respectively.

5. The minister responsible for social insurance issues may issue a regulation to determine simplified procedure of correcting insurance documents related to the collecting health insurance contributions from retirement pensions and disability pensions, while taking into account the need to reduce the number of submitted documents.

#### **Article 50.**

1. Since the year 2006, the Institution shall be obliged to present the insured born after 31<sup>st</sup> December 1948 with information on the contributions accumulated in the insured individual's account and referred to in Article 40, clause 1, according to the status on 31<sup>st</sup> December of the proceeding year, hereinafter referred to as "account status information".

1a. The account status information presented by the Institution shall additionally include the data on:

1) the amount of indexed initial capital, according to the status on 31<sup>st</sup> December of the previous year, in the case when the capital has already been calculated for the insured individual,

2) the amount of a hypothetical retirement pension, in consideration of clauses 1b through 1f and 2,

3) the amount of contributions for retirement pension insurance, with the exclusion of the contributions to open pension funds that are:

a) due to be paid – in the case of the insured who are not contribution payers,

b) paid – in the case of the insured who are contribution payers,

and these shall be nominal amounts for each of the last 12 calendar months, according to the status on 31<sup>st</sup> December of the previous year,

4) contributions to open pension funds, that are due and that have been transferred.

1b. The amount of a hypothetical retirement pension shall be presented to an insured individual, who was at least 35 years of age on 31<sup>st</sup> December of the previous year.

1c. The insured person, referred to in clause 1b, shall be informed about the amount of a hypothetical retirement pension to be received at the age of 60 (women) or 65 (men).

1d. Since 2009, the data on the amount of the hypothetical retirement pension that could be received by the insured person who retires one, two, three, four or five years after the retirement age - 60 years for women and 65 years for men - if the insured person, referred to in clause 1b, has 5 years or less to reach the retirement age.

1e. If the insured person referred to in clause 1b exceeds the retirement age of 60 years for women or 65 years for men and does not apply for the retirement pension to be determined, the hypothetical retirement pension is calculated for the current age and the following five years.

1f. A hypothetical retirement pension is not calculated for the insured person referred to in clause 1b, for whom the retirement pension amount has been determined pursuant to the principles of article 26 or 183 of the act on retirement and disability pensions payable from the Social Security Fund. A hypothetical retirement pension is not calculate in the year, when the information on the account status is sent, if the retirement pension was



determined for the insured person pursuant to the provisions within the period beginning on 1<sup>st</sup> January of the year and ending on the day of sending the information.

2. To assess the level of the hypothetical retirement pension, the sum of contributions, referred to in clause 1, and the initial capital, referred to in item 1 of clause 1a, shall be divided by the average life expectation for women at the age of 60 and for men at the age of 65, and the hypothetical retirement pension to be received when the age of 60 or 65 is exceeded shall be calculated by dividing the above by the average life expectation for the relevant years.

2a. The average life expectation is determined according to the life expectation table, published by the Chairman of the Main Census Bureau on the basis of the provisions on the act on retirement and disability pensions payable from the Social Security Fund, binding on 31<sup>st</sup> December of the last year.

2b. The Institution sends the information on the account status by ordinary mail to the correspondence address provided in the application for social insurance, referred to in Article 36, clause 10.

2c. If applications for social insurance of the insured person have been sent by more than one contribution payer, the information on the account status shall be sent to the correspondence address provided in the last application for social insurance received by the Institution.

2d. If the correspondence address is incorrect or incomplete, the Institution shall send the account status information to the permanent residential address or temporary address provided in the application for social insurance or to the permanent residential address obtained from the Central RCI PESEL Data Base.

2e. If the insured person who is not a contribution payer finds out, after receiving the account status information, that not all due retirement pension contributions have been recorded in the account or their recorded amount is incorrect, the person should file an application, in writing, for the contribution payer to correct the data transferred to the Institution in the social-insurance-related documents defined herein or to submit the missing documents, or to ask for recording such application in the report. The application shall be hereinafter referred to as the "data correction application".

2f. The contribution payer is obliged to inform the insured person in writing about the results of examining the data correction application within 60 days since its reception.

2g. In the case the data correction application is successful, the contribution payer is obliged to correct the errors or provide the missing social-insurance-related document defined herein within 30 days since the date of providing the insured person with information referred to in clause 2f.

2h. In the case the contribution payer rejects the data correction application or does not exist any longer, the contribution payer should file an application for explanatory proceedings in the organizational unit indicated by the Institution and attach documents confirming the level of the assessment basis for retirement pension insurance and a copy of the information referred to in clause 2f.

2i. The Institution should finish the explanatory proceedings, referred to in clause 2h, within 3 months, or within 6 months in the case of exceptionally complex proceedings, but not later than within 6 months since the moment of receiving the application referred to in clause 2h.

2j. The amount of the assessment basis for social insurance cannot be proven by witnesses' testimony.

2k. If the explanatory proceedings show that failure to record all retirement pension contributions or their incorrect recording in the insured person account result from:

1) erroneous data provided in the application for social insurance, the application to delete an insured person from the social insurance register, in the contribution payer notification or in the notification of deletion of the contribution payer, or from failure to submit these documents, the Institution corrects the data *ex officio* directly in the insured person's account or in the contribution payer's account if it deems it possible or after receiving adjustment documents and missing documents from the contribution payer,

2) erroneous data provided in the name-specific monthly report or settlement declaration or from failure to submit these documents, the Institution corrects the data after receiving the adjustment documents or missing documents from the contribution payer.

2l. The contribution payer is obliged to correct the errors or provide the missing documents, referred to in clause 2k, within 30 days since the moment of receiving a notification from the Institution about irregularities in the social-insurance-related documents defined herein, identified within explanatory proceedings.

2m. The contribution payer shall be obliged to file adjustment documents or missing documents, referred to in clause 2k, within 30 days from the day when:

1) the decision becomes binding if the irregularities are identified by way of a decision,

2) the inspection protocol is received if the irregularities are identified by way of an inspection.

2n. In the case the contribution payer no longer exists or it is not possible to obtain the adjustment or missing social-insurance-related documents, the Institution corrects the data *ex officio* directly in the insured person's account or in the contribution payer's account, corrects *ex officio* the errors identified in the social-insurance-related documents defined herein or prepares *ex officio* the missing documents.

2o. The provisions of clauses 2e through 2m apply accordingly to the insured person who is a contribution payer, and who finds out, having received the account status information, that not all paid retirement pension insurance contributions have been recorded in the account or their recorded amount is incorrect.

3. Any data collected in the account of the insured, referred to in Article 40, and in the account of the contribution payer, referred to in Article 45, may be rendered available to courts, prosecutors, tax inspection authorities, court bailiffs, social welfare centres, local family-aid centres and the Committee for the Supervision of Insurance Schemes and Pension Funds, in consideration of the relevant provisions related to protection of personal data.

4. The data referred to in clause 3 shall also be rendered available on application of natural persons and contribution payers to whom such data, collected on the accounts, refer, and this in consideration of clauses 5 and 6.

5. Until receiving the information referred to in clause 1 for the first time, the data collected on the insured individual's account, shall be rendered available orally, on oral

request expressed personally in the organisational entity of the Institution by the insured individual to whom such data, collected on the account, pertain.

6. The data collected on the insured individual's account and rendered available orally, shall be confirmed in writing by the Institution, upon an application from that insured individual.

7. In the case referred to in clauses 3 through 6, the application should contain:

1) the insured person's name and surname and the identification numbers referred to in Article 35, item 1 of clause 1 - in the case the application refers to the data contained in the insured person's account,

2) the insured person's name and surname, or the short name of the contribution payer, and the identification numbers referred to in Article 35, item 1 of clause 2 - in the case the application refers to the data contained in the contribution payer's account,

8. The Institution shall not render the data available if the application does not contain the data defined in clause 7.

9. The data gathered on accounts referred to in clause 3 shall be made accessible free of charge to courts, prosecutors, tax inspection officers, tax institutions, social welfare centres, family aid centres and the Committee for the Supervision of Insurance Schemes and Pension Funds, as well as to rural or municipal district governors or mayors to the extent indispensable for the realization of family benefits.

10. The data gathered on accounts referred to in clause 3 shall be made accessible to court bailiffs for a fee to the extent indispensable for the execution to be carried out. The minister responsible for social insurance issues shall issue a regulation to determine the fee collected by the Institution for rendering the information available to court bailiffs, and the procedure of collecting it, while considering the costs born by the Institution in connection with making the data available, which includes in particular:

1) the cost of searching the data,

2) The cost of preparing the relevant certificate.

## **Chapter 5.**

### **The Social Insurance Fund**

#### **Article 51.**

1. The Social Insurance Fund (FUS) shall be deemed to be a state-owned target fund established for the purpose of implementing tasks from within the social insurance area.

2. FUS shall be administered by the Institution.

#### **Article 52.**

1. FUS income shall be derived from:

1) social insurance contributions not subject to transfer to the benefit of open pension funds,

3) funds provided by the State budget as well as by other institutions transferred for the purpose of benefits paid by the Institution on order, with the exception of benefits financed from separate budget chapters and from the payments made by foreign institutions,

4) interest on FUS bank account funds,

4a) the investments in the participation units of the cash market funds, referred to in article 178 of the act of 27<sup>th</sup> May 2004 on investment funds (Journal of Law, No. 146, item 1546),

- 5) interest on any late FUS receivables,
- 6) reimbursement of any unrightfully received benefits, interest included,
- 7) the additional fee referred to in Article 24, clause 1, and the prolongation fee,
- 8) subsidies from the State budget,
- 9) FRD funds referred to in Article 59,
- 10) other legal titles.

2. The social insurance contribution shall be included in FUS income in the month following the month in which the contribution is due.

#### **Article 53.**

1. Within limits defined in the budget law, FUS shall be entitled to receive loans and subsidies from the State budget.

2. The loans and subsidies referred to in item 1 may be appropriated solely to providing supplementary funds for the payment of benefits guaranteed by the state, should the financial means transferred to the accounts of the funds as stipulated in Article 55 items 1-4, and those collected on reserve funds not provide full and timely payment of benefits financed from FUS income.

3. At the consent of the minister responsible for public finance, FUS may take credit and loan facilities.

#### **Article 54.**

The following shall be financed from funds accumulated in FUS:

- 1) benefit payments from pension, disability pension, sick leave, and workman's compensation insurance,
- 2) expenditure for disability pension prevention,
- 3) repayment of loans and bank loans, together with any interest, taken for the purpose of payment of benefits from FUS,
- 4) penalty interest for late benefit payment,
- 5) contribution payer receivables referred to in Article 3, clause 2,
- 6) expenses related to the execution of tasks referred to in Article 52, clause 1 item 3,
- 8) write-offs constituting income of the Institution, as described in Article 76, item 1 of clause 1.

#### **Article 55.**

The following funds can be distinguished within FUS:

- 1) pension fund for financing pension benefit payments,
- 2) disability pension fund for financing disability benefit for incapacity to work, training allowances, survivorship pension, additional survivorship pension benefits for full orphans, additional nursing benefits, funeral benefits, and benefits to be paid out by the Institution, financed from the State budget, as well as outlays on disability pension prevention,
- 3) sick leave fund for financing benefits defined in separate provisions,
- 4) workman's compensation fund for financing benefits defined in separate provisions, and accident prevention costs defined in separate provisions,

5) reserve funds:

- a) for disability pension and sick leave insurance,
- b) for workman's compensation insurance.

**Article 56.**

1. The reserve funds shall be set up as follows:

- 1) for disability pension and sick leave insurance, of amounts remaining as of December 31st of each and every year in the accounts of funds as stipulated in Article 55, items 2 and 3, reduced by amounts necessary to provide the payment of benefits due for the first month of the subsequent year,
- 2) for workman's compensation insurance, of funds remaining as of December 31st of each and every year in the accounts of workman's compensation fund, reduced by amounts necessary to provide the payment of benefits due for the first month of the subsequent year,
- 3) from interest on any invested monies from the reserve fund.

2. The reserve fund resources may only be used for the purpose of supplementing any deficit of the disability pension, sick leave, or workman's compensation funds.

3. The reserve fund resources can be invested exclusively as bank deposits and securities issued by the State Treasury or as participation units of the cash market funds, referred to in article 178 of the act of 27th May 2004 on investment funds, unless the Council of Ministers consents, on request of the Chairman of the Institution, to invest the means in a different manner.

4. The minister responsible for social insurance issues, in agreement with the minister responsible for public finance, shall determine, by virtue of a decree, detailed rules of financial management and rules for investing FUS funds.

**Article 57.**

The budget law shall define, on an annual basis, the disability pension prevention expenditure in the amount not exceeding 0.4% of the expenditure for benefits related to retirement pension, disability pension, sick leave, and workmen compensation insurance, stipulated in the financial plan of FUS for the given budgetary year.

**Chapter 6**

**Demographic Reserve Fund.**

**Article 58.**

1. The Demographic Reserve Fund shall be established for the purpose of pension insurance, from funds maintained in the pension fund account as at December 31st of each and every year, net of amounts necessary for paying out benefits relating to the first month of the following year.

2. FRD shall also receive additional funding from:

- 1) the funds mentioned in Article 22, clause 4,
- 2) funds obtained in the privatisation of State Treasury property, on the basis of separate provisions,
- 3) income on FRD funds invested pursuant to Article 63, clause 2, and Article 65, clause 2 and 4,
- 4) interest on deposit accounts maintained by the Institution which do not constitute income of the FUS or the Institution,
- 5) from other sources.

**Article 59.**

1. The FRD funds may be used only to supplement a deficit of pension fund due to demographic reasons, referred to in Article 55, item 1, in consideration of clause 3 and Article 112, clause 1.
2. The Council of Ministers on request of the Institution shall issue a decree to decide on the use of FRD funds.
3. The costs of current management of FRD funds shall be financed from FRD funds. The amount of funds designated for such management shall be defined, on an annual basis, in FRD financial plan.

**Article 60.**

1. The FRD shall have a personality at law.
2. The minister responsible for social insurance issues shall grant the statute of the FRD, by virtue of a decree.
3. The Institution constitutes an organ of the FRD.
4. The Institution shall administer FRD funds, in consideration of Articles 59 and 64.
5. The Institution shall represent the FRD in the manner defined for the representation of the Institution in its statute.
6. The seat of the FRD shall be the seat of the Institution.
7. The name FRD shall be legally protected.

**Article 61.**

1. The FRD's finances shall be managed based on a multi-year rolling forecast of the income and expenses of the pension fund.
2. Assumptions with relation to the demographic and economic position of the country, and specifically assumptions as to fertility, mortality, economic growth, the remuneration level, migration, inflation, unemployment rate, employment structure in a break-down by professional groups and groups which are not employed; social insurance contribution and benefit indexation ratios shall form the basis of the forecast mentioned in clause 1 hereto.
3. The forecast referred to in clause 1 shall be developed by the Institution's Board of Directors.
4. The forecast referred to in item 3 shall be presented to the Council of Ministers every 3 years by 31<sup>st</sup> June, together with an opinion from a licensed actuary operating by virtue of the provisions on insurance activity. The actuary shall be chosen by the minister responsible for social insurance issues, by way of a competition.
5. The forecast shall be published annually in the Information Bulletin. The scope of the publication shall be determined by the minister responsible for social insurance issues by virtue of a decree.

**Article 62.**

The FRD may not take any loans or bank loans. The State budget shall guarantee payment of pension benefits from FUS.

**Article 63.**

1. The FRD invests its funds to guarantee maximum protection and profitability.
2. Until December 31st 2001, the FRD shall invest its funds in Treasury bills and bonds and in other securities issued by the State Treasury.

**Article 64.**

1. When the means gathered by the FRD exceed 250 000 thousand PLN, the Institution may entrust an external authorised entity with the management of FRD funds, on principles determined by the Act and a management contract.
2. The FRD funds shall be managed by an entity selected via announced or unannounced negotiations. The provisions on government contracts shall be applied accordingly.

#### **Article 65.**

1. No more than the following percentage of FRD funds may be entrusted to be managed by a single entity or a group of related entities as set out by the provisions on the organisation and functioning of open pension funds:
  - 1) 40% of FRD funds if their value does not exceed 1 000 000 thousand PLN,
  - 2) 25% of FRD funds if their value exceeds 1 000 000 thousand PLN, but does not exceed 2 000 000 thousand PLN,
  - 3) 15% of FRD funds if their value exceeds 2 000 000 thousand PLN,
2. In consideration of clauses 3 and 4, the managing entity shall be responsible for investing FRD funds exclusively domestically, in:
  - 1) Treasury bills and bonds and other securities issued by the State treasury,
  - 2) securities issued by communes, commune federations, and the city of Warsaw,
  - 3) debt securities guaranteed by the State treasury,
  - 4) shares admitted for public trading,
  - 5) fully secured bonds admitted for public trading,
  - 6) fully secured bonds issued by companies whose shares have been admitted for public trading.
3. The minister responsible for social insurance issues, in agreement with the minister responsible for public finance, shall issue a regulation to determine the standard form of a contract of management, acceptable proportions for each kind of investment, and the detailed rules and procedures for establishing the costs referred to in Article 59 clause 3, and may also determine other acceptable forms of investing FRD funds, while taking into account the investment risk and the aim of establishing the FRD.
4. FRD funds may also be directly invested in participation units of investment funds selected through procedures described in Article 64, if their investment policy as defined in the statute and actually realised does not contradict the requirements as specified in clauses 2 and 3.

## **Chapter 7.**

### **Social Insurance Institution**

#### **Article 66.**

1. The Institution is a State organisational entity with legal personality. The Institution is domiciled in the city of Warsaw.
2. The minister responsible for social insurance issues shall supervise compliance of the operations of the Institution with the binding provisions.
3. The Institution shall operate on the basis of this Act and other acts regulating particular aspects of its operations.
4. Within the scope of operations which the Institution engages in, as described in Articles 68 through 71, the Institution shall be allowed to use the legal measures available to State administration bodies.

#### **Article 67.**

1. The Institution shall comprise the following:
  - 1) the head office
  - 2) local organisational entities.

#### **Article 68.**

1. The scope of operations of the Institution shall comprise, *inter alia*:
  - 1) execution of social insurance provision, which applies specifically to:
    - a) identification and determination of social insurance obligations,
    - b) determination of rights to social insurance benefits and the payment of those benefits, unless these obligations are executed by the contribution payers pursuant to separate provisions,
    - c) calculation of the contribution rate and collection of contributions for social insurance, health insurance, Labour Fund, and Guaranteed Employee Benefit Fund,
    - d) conducting settlements with contribution payers with relation to contributions due and benefits paid out, financed from social insurance funds or from other sources,
    - e) maintaining individual accounts of the insured and accounts of contribution payers,  
*[f) determining total or partial inability to perform work for the purpose of ascertaining rights to social insurance benefits,]*  
**<f) determining total or partial inability to perform work for the purpose of ascertaining rights to social insurance benefits by the medical experts and medical boards of the Institution,>**
  - 2) realisation of international contracts and treaties with relation to social insurance,
    - 2a) issuing retiree/pensioner ID cards to persons eligible for retirement and disability pensions from social security means to confirm the status of a retiree/pensioner,
    - 3) administration of social insurance funds, and the Alimony Fund means,
    - 4) preparation of actuarial analyses and forecasts with relation to social insurance,
    - 5) control over decisions determining temporary inability to perform work,
    - 6) control over the performance of social insurance duties and other tasks the Institution was instructed to perform by contribution payers and the insured,
    - 7) publication of the Information Bulletin,
    - 8) dissemination of information on social insurance.
2. During the realization of the tasks referred to in clause 1, items 1f) and 5, and the tasks related to the pronouncements of medical experts and the medical board of the Institution, aimed at establishing eligibility to benefits other than those [paid] from social insurance, the Institution issues orders for additional opinions of a medical consultant or psychologist and for the results of observation in the hospital, and does so according to the needs of medical expertise, without the scope of provisions on public procurement.
3. The provision of clause 1, item 2a, shall apply accordingly to persons eligible for retirement and disability pensions paid out by the Institution within the tasks commissioned pursuant to separate provisions.
4. The minister responsible for social security issues shall issue a regulation to determine the model of the retiree/pensioner ID card, procedure of its issuing, replacing or



returning, and the data to be contained in the ID card, and shall do so guided by the need to ensure efficiency of issuing retiree/pensioner ID cards.

**Article 69.**

1. The scope of the Institution's operations shall also comprise disability pension prevention, encompassing the following duties:
  - 1) medical rehabilitation of insured individuals threatened by total or partial inability to perform work or individuals receiving temporary disability benefits,
  - 2) examination and analyses of reasons for the inability to perform work,
  - 3) other preventive measures.
2. Within disability pension prevention activities, the Institution shall:
  - 1) direct insured individuals and the individuals referred to in clause 1, item 1, to rehabilitation centres,
  - 2) be entitled to establish and administer its own rehabilitation centres,
  - 3) order rehabilitation services in other centres,
  - 4) conduct its own research and analyses of reasons for incapacity to perform work,
  - 5) have the right to order scientific research on reasons for incapacity to work and the methods and solutions preventing such incapacity, such research to be conducted by other entities,
  - 6) have the right to finance other activities aimed at disability pension prevention.
3. The orders referred to in clause 2 item 3 shall not be subject to provisions pertaining to government orders.
4. The Council of Ministers shall determine, by virtue of a decree, detailed rules and procedures for:
  - 1) directing individuals for medical rehabilitation,
  - 3) ordering rehabilitation services.

**Article 70.**

1. The Institution shall prepare a projection of the financial standing of each fund mentioned in Article 55, items 1-5 for the subsequent financial year. The calculation shall be a schedule of expected liabilities and proceeds for a given year from contributions and other sources.
2. The Institution shall prepare a simplified technical insurance profit and loss account for 5 subsequent financial years. The provisions of Article 61, clause 2 shall be applied respectively.

**Article 71.**

1. The Institution shall also perform tasks entrusted to it on the basis of other provisions.
2. The Institution may perform other commissioned insurance or social insurance tasks.
3. Tasks referred to in clauses 1 and 2 shall be performed by the Institution against remuneration, on the basis of relevant provisions or agreements concluded with the commissioning entity.

**Article 71a.**

1. The Institution may send letters and decision by ordinary mail.
2. In case of dispute, the duty to prove the delivery of letters or decisions, referred to in clause 1, rests on Institution.

**Article 71b.**

1. The Institution may mediate in the transfer of benefits commissioned by foreign institutions to be paid out to individuals residing in Poland, and may do so by issuing foreign currency transfer orders for banks to realize these benefits.
2. The Institution shall bear the costs of payment of the benefits referred to in clause 1.

**Article 72.**

The Institution shall consist of the following bodies:

- 1) the Chairman of the Institution,
- 2) the Board of Directors, whose chairman shall ex officio be the Chairman of the Institution,
- 3) the Supervisory Board of the Institution.

**Article 73.**

1. Activities of the Institution's shall be managed by the Chairman of the Institution who shall represent the Institution.
2. The Chairman of the Institution shall be appointed and dismissed by the Prime Minister at a motion from the minister responsible for social issues after obtaining an opinion of the supervisory board of the Institution. The Prime Minister shall also determine the remuneration of the Chairman.
3. The Chairman of the Institution shall be specifically engaged in the following:
  - 1) managing the work of the Board of Directors,
  - 2) co-ordination of the Institution's co-operation with government administration offices, in particular, with the Committee for the Supervision of Insurance Schemes and Pension Funds and other bodies engaged in pension issues,
  - 3) establishment, transformation and dissolution of local organisational entities and determination of their domicile, and their territorial and functional competencies,
  - 4) appointment and removal of managers of organisational entities of the Institution, their deputies and chief accountants,
  - 5) supervision over doctors' decisions for the purpose of social insurance,
  - 6) granting exceptional benefits,
  - 7) performing the functions of an employer as defined by the Labour Code provisions,
  - 8) approval of draft documents relating to administration of FRD funds.

**Article 74.**

1. The Board of Directors of the Institution shall comprise the Chairman of the Institution and 2 to 4 individuals, appointed and dismissed by the supervisory board of the Institution on an application by the Chairman of the Institution.
2. The Board of Directors shall manage the operations of the Institution outside the scope reserved for the Chairman of the Institution.
3. The Board of Directors of the Institution shall engage primarily in:
  - 1) current management of the funds administered by the Institution,
  - 2) preparation of draft documents relating to the administration of FRD funds,
  - 3) financial management of the Institution,
  - 4) preparation of the drafts of annual financial plans for FUS and FRD, and submitting them according to procedures defined in the provisions pertaining to the preparation of the State budget draft, after obtaining opinions of the

supervisory board of the Institution, to the minister responsible for social insurance issues,

5) preparation of annual financial statements of the FUS and FRD and submitting them, having obtained an opinion from an expert auditor who is not employed by the Institution, to the minister responsible for social insurance issues,

5a) preparation of annual reports on the realization of financial plans for FUS and FRD and submitting them, having obtained an opinion from the Supervisory Board of the Institution, to the minister responsible for social insurance issues,

6) presenting the supervisory board of the Institution with information on the activities of the Institution, in the form, scope and within the deadlines stipulated by the supervisory board,

8) preparation of the financial plan of the Institution and reports on its execution as well as submitting them – after they have been approved by the supervisory board of the Institution – to the minister responsible for social insurance issues,

9) preparation of annual Directors' reports and submitting them – after they have been approved by the supervisory board of the Institution – to the minister responsible for social insurance issues,

10) prepare a long-term rolling forecast of the income and expenses of the pension fund, as referred to in Article 61 clause 3.

3a. The reports on the realization of the financial plan of the Institution, referred to in item 8 of clause 3, shall also contain information on the amount of due contributions, referred to in article 40, item 1 of clause 1, that failed to be paid by the contribution payers.

4. The Board of Directors' operating procedures shall be determined by by-laws passed by the Supervisory Board of the Institution.

5. The minister responsible for social insurance issues, on request of the Chairman of the Institution and after obtaining the opinion of the Supervisory Board of the Institution, shall issue a decree granting a statute to the Institution, which shall describe in particular:

1) the organisational structure and the territorial and functional scope of operations of local organisational entities of the Institution,

2) operating procedures and cognizance of the bodies of the Institution.

#### **Article 75.**

1. The Supervisory Board of the Institution shall be appointed by the Prime Minister for a five-year term of office, in consideration of clauses 1a and 1b, while:

1) 4 members including the chairman of the board, shall be appointed at an application by the minister responsible for social insurance issues filed in consultation with the minister responsible for public finance,

2) 1 member shall be appointed at the motion of each employers' organization, that is representative according to the act of 6<sup>th</sup> July 2001 on the Trilateral Committee for Social and Economic Issues and provincial committees for social dialog (Journal of Law No. 100, item 1080), hereinafter referred to as "the act on the Trilateral Committee for Social and Economic Issues",

3) 1 member shall be appointed at the motion of each trade union organization, that is representative according to the act on Trilateral Committee for Social and Economic Issues,

- 4) 1 members shall be appointed at the motion of nation-wide pensioners' organisations.
- 1a. A member of the Supervisory Board of the Institution may be recalled by the Prime Minister before his term in the case the member files his/her resignation or on request of the organ or organization that proposed his candidature.
- 1b. The Prime Minister supplements the make-up of the Supervisory Board of the Institution according to the appointment procedure.
2. The Supervisory Board of the Institution shall engage in particular in:
  - 1) setting up operational by-laws for the Board of Directors of the Institution,
  - 2) determining the remuneration of the Board members, with the exclusion of the Chairman of the Institution,
  - 3) periodical evaluation - in accordance with self-imposed procedures - of the operation of the Board of Directors,
  - 4) approving the draft of the annual financial plan for the Institution and the report on its realisation, as well as the annual report on the operation of the Institution,
  - 5) expressing opinions on drafts of financial plans for FUS and FRD, and on reports on their realisation,
  - 6) expressing opinions on drafts of legal provisions pertaining to social insurance and presenting relevant initiatives directed to the minister responsible for social insurance issues,
  - 8) selecting an incorporated auditor to audit annual financial statements of the Institution, FUS and FRD,
  - 9) expressing opinions on the candidate for the Chairman of the Institution,
  - 10) expressing opinions on the draft of the Institution statute.
3. The Prime Minister shall determine, by virtue of a decree:
  - 1) the procedure for presenting candidates for members of the Supervisory Board of the Institution,
  - 2) the by-laws and rules governing the remunerations for the Supervisory Board of the Institution.

#### **Article 75a.**

The Institution organs cooperate with the Head of the National Centre of Criminal Records to the extent indispensable for the completion of his statutory tasks.

#### **Article 76.**

1. The Institution shall obtain income from:
  - 1) write-offs from funds referred to in Article 55; the amount of the write-off shall be determined annually in the Budget Law on the basis of the FUS financial plan, upon the authorisation of the minister responsible for social insurance issues, operating in agreement with the minister responsible for budget issues,
  - 2) receivables pertaining to the costs of collection and execution of contribution dues to:
    - a) health insurance from the National Health Fund,
    - b) Guaranteed Employee Benefit Fund,
    - d) the Labour Fund,in amounts stipulated by separate provisions,
  - 3) receivables pertaining to the expenses incurred on the collection and execution of open pension fund contributions in the amount that does not exceed 0.8% of

- the contributions for this insurance that have been transferred to open pension funds, on the stipulation that the amounts of receivables shall be determined each year by the Budget Law, 4) income from other tasks commissioned to the Institution,
- 5) subsidies from the State budget,
  - 6) receivables related to other current activity costs incurred by the Institution pertaining to:
    - b) servicing benefits paid out from FUS which are financed from the State budget.
    - c) servicing social-welfare disability pensions, financed from the State Budget means,
  - 6b) interest rate on the Institution's funds collected in bank accounts,
  - 7) other income.
2. Receivables with relation to costs incurred, mentioned in clause 1, item 6, shall be refunded from the State budget in proportion to the number of benefits paid out from these sources.
4. Costs pertaining to telecommunications transmission, bank services, purchase of licences, and amortisation and depreciation, shall be determined on the basis of current prices and needs.

#### **Article 77.**

1. The Institution shall administer its own assets and engage in independent financial operations within the scope of funds available.
2. The following shall be covered from the income mentioned in Article 76:
  - 1) expenses with regard to salaries and contributions calculated from the basis of the salaries,
  - 2) expenses for the purchase of goods and services,
  - 3) expenses with regard to current operations of the supervisory board of the Institution,
  - 4) other current expenses of the Institution,
  - 5) investment expenditure,
  - 6) expenses with regard to training and dissemination of information within the scope of social insurance,
  - 7) costs of servicing benefits financed from the FUS and realised by the Individual Farmers' Social Insurance Fund,
  - 8) costs of benefit payments including those realised on the basis of international treaties.
3. The Institution shall have at its disposal funds in foreign currencies from payments made by foreign organisations and transferred to Poland to finance the payments of foreign benefits to authorised individuals residing in Poland.
4. The Institution reimburses the cost of travel to individuals requested to appear personally in the offices in connection with issues of social security benefits and other benefits paid out by the Institution. The minister for social security issues shall issue a regulation to determine the types and amounts of costs to be reimbursed and the conditions for their reimbursement, while taking into account the justified interest of the summoned individuals and the financial capacity of the Institution.

5. While examining issues related to social security benefits, the Institution has the right to use medical documentation of health care centres free of charge.

**Article 78.**

The financial statement of the Institution shall be audited and published in compliance with provisions on accountancy.

**Article 79.**

Personal data obtained by the Institution from the insured and contribution payers shall be deemed to be the Institution's professional secret. The following individuals will be obliged to keep the information confidential:

- 1) employees of the Institution,
- 2) members of the Supervisory Board of the Institution.

**Article 79a.**

Employees of the Institution shall be protected as stipulated in the Penal Code for public officials, unless they complete exclusively servicing tasks.

**Chapter 8.**

**Duties of the insured and appeal procedures**

**Article 80.**

The insured, in order to establish their right to benefits and to their amount, shall be obliged to:

- 1) present actual information which has an impact on the rights to or amounts of benefits,
- 2) inform of all changes which may have an impact on the benefit,
- 3) present evidence on demand,
- 4) personal appearance if the circumstances so warrant,
- 5) undergo medical examination, treatment or rehabilitation if it is expected that the treatment or rehabilitation will enable the individual to resume work or will not cause the ability to work to be impaired.

**Article 81.**

The regulation of Article 80 shall not apply if:

- 1) The Institution has the possibility of determining circumstances necessary to grant and pay out benefits at a lower cost than the insured.
- 2) Examination of the insured could lead to a detriment of health or pose a threat to the insured's life.

**Article 82.**

If the insured does not fulfil the duty to co-operate thus impeding the explanation of all circumstances of the case, the Institution may delay payment of a benefit or suspend investigations until co-operation is resumed.

**Article 83.**

1. The Institution shall issue decisions in situations stipulated by the law, with relation to particular issues pertaining, in particular, to the following:

- 1) filing social insurance notification,
- 2) insurance history,
- 3) determining the amount and collection of social insurance contribution dues, as well as write-off of contribution receivables,
- 4) determination of rights to social insurance benefits,

- 5) the level of benefits from social insurance.
2. The decision of the Institution may be appealed in the relevant court of justice within a period and according to rules set out in the Code of Civil Procedure.
3. The appeal shall also be allowed should the Institution not make a decision within 2 months from the date of submitting an application for a benefit or another claim.
4. No appeals shall be made from the decisions granting or refusing to grant such benefits by way of exception. The same applies to decisions on extinguishing the contribution dues in virtue of the social insurance.
5. An appeal shall be lodged in writing to an organisational entity of the Institution which made the decision, or by way of an entry in the official records prepared by the entity.
6. If the Institution deems an appeal to be justified, it amends or reverses the decision immediately or within 30 days since the moment of filing such appeal. In that case the appeal shall have no further course.
7. Should the appeal not be complied with in full, the Institution shall submit the case to court immediately, however no later than within 30 days of the appeal being lodged, together with a justification.

#### **Article 83a.**

1. Eligibility for benefits or liability [to contributions] shall be re-assessed on application filed by the interested party or *ex officio* if new evidence or circumstances are revealed after the decision concerning the benefits has become final and valid, and they existed before the decision was issued and influence the benefit eligibility or liability.
2. The final decisions of the Institution, that have not been appealed to appropriate court of law, may be revoked, changed or cancelled *ex officio* by the Institution, pursuant to the provision of the Code of Administrative Procedure.
3. The Institution shall act as stated below in the cases resolved by the judgement of the appropriate court of law, on the basis of the evidence or circumstances referred to in clause 1:
  - 1) the Institution issues an independent decision, awarding the right to a benefit or defining the liability if it is advantageous for the interested party,
  - 2) the Institution files an application to the appropriate court of law for re-instituting arbitration proceedings if the evidence or circumstances indicate that the eligibility does not obtain or the liability is higher than the one defined in the decision.
4. Provisions of clauses 1 through 3 shall not apply to proceedings of establishing the eligibility for and amount of the retirement and disability pensions.

#### **Article 83b.**

1. If the Code of Administrative Procedure provides for a decision that terminates the proceedings, the Institution issues the relevant decision in such cases.
2. No appeal can be made from other decisions of the Institution issued within such proceedings.

#### **Article 83c.**

1. In the case of appealable decisions issued by the head of a local organization unit of the Institution acting as the execution organ pursuant to provisions on execution proceedings in administration, can be appealed to the head of the tax clearing house.
2. No appeal can be made from the decisions concerning the creditor's position and issued by the Institution within executive proceedings.

## **Chapter 9.**

### **Return of Unrightfully Received Benefits and Interest on Delayed Benefit Payments**

#### **Article 84.**

1. Any individual who has unrightfully collected any social insurance benefit shall be obliged to return it, including interest, in the amount and on the principles determined by the civil law provisions, in consideration of clause 11.
2. The following shall be deemed to be amounts of unrightfully received benefits:
  - 1) benefits paid despite circumstances arising causing an expiry of benefit eligibility rights, or the suspension of the payment thereof in part or in whole, should the person collecting the said benefit have been duly informed of a lack of eligibility rights,
  - 2) any benefits granted or paid on the basis of false statements or forged documents, or in other cases of the individual collecting benefits having purposefully misinformed the authority responsible for benefit payment.
3. The Institution shall not be entitled to demand any return of amounts of unrightfully collected social insurance benefits for a period exceeding 12 months if the individual collecting benefits had informed the authority responsible for benefit payment about any circumstances causing an expiry of benefit eligibility rights, or the suspension of payment thereof, whereas the benefit payment had continued; in any other cases, that period shall not exceed 3 previous years.
4. Any amounts of unrightfully received benefits, as defined by a legally valid decision, and the interest rates and cost of payment requests, hereinafter referred to as the "outstandings in virtue of unrightfully received benefits", shall be subject to deduction from the benefits due to be paid, and should there be no right to benefits payment - such amounts shall be collected according to the provisions applicable to execution proceedings in administration, in consideration of clause 8c.
- 4a. Unrightfully received benefits can be secured with compulsory mortgage and statutory right to lien, with the exception of cases, when they can be deducted from the currently paid-out benefits. The provisions of articles 26 and 27 shall apply respectively.
5. The provisions of clauses 2 through 4 and 8 hereto shall not apply, should any specific provisions on granting benefits and payment provide otherwise.
6. If the collection of unrightfully received benefits has resulted from submitting of false information by the contribution payer or another entity, which had impact on the benefit eligibility rights or the actual amounts thereof, the contribution payer or another entity, respectively shall bear the sole responsibility for returning any such benefits together with the interest rate, referred to in clause 1.
7. Any receivables due to unrightfully received benefits shall be prescribed following the period of 10 years, as of the date when the relevant decision providing for the said receivable becomes valid. The provisions of article 24, clauses 5 through 5c, shall apply accordingly.
8. The Institute may withdraw the demand to recover any amounts of unrightfully received benefits in part or in whole, defer the term of the payments or divide into instalments, if:
  - 1) specifically justified circumstances should occur or



- 2) the amount of unrightfully received benefits does not exceed the cost of payment request in execution proceedings in administration.
- 8a. Since the date of submitting the application for the below-mentioned relieves, no interest is calculated for the amounts of unrightfully received benefits that have been divided into instalments or the payment of which has been deferred.
- 8b. The payment of the outstandings in virtue of unrightfully received benefits is postponed or divided into instalments through an agreement.
- 8c. If the debtor fails to pay instalments within the deadlines set by the Institution, the remaining amount shall be payable immediately together with late payment interest, calculated pursuant to rules the set out by the civil law.
- 8d. The outstandings in virtue of unrightfully received benefits, the payment of which has been deferred or divided into instalments, shall not be deducted from the paid-out benefits.
- 8e. If a payment on account of the outstandings in virtue of unrightfully received benefits does not cover the entire due amount, the payment shall firstly cover the entire cost of payment request and execution, and the rest shall cover proportionately the amount of unrightfully received benefits and the interest, according to the ratio of the amount of the unrightfully received benefits to the amount of the interest on the day of payment.
9. The provisions of clauses 1 through 8 shall apply to cash benefits other than social insurance benefits, paid by the Institution pursuant to separate provisions.
10. The provision of clause 8 shall apply respectively to benefits paid out directly by the employer.
11. If the individual receiving the benefits notifies the authority, which pays out such benefits, about circumstances resulting in the cessation of eligibility for benefits or suspension of their payment and this authority has not suspended the payment of the said benefits despite such notification, the amounts of unrightfully received social insurance benefits shall be returned without late payment interest.

#### **Article 85.**

1. Should the Institution - within the deadlines defined by the provisions concerning the granting and payment of social insurance benefits or of benefits to be paid by virtue of separate provisions or international treaties - fail to determine the benefit eligibility rights, or to pay any such benefits, the Institution shall be obliged to pay interest on such payment, at the statutory rate as laid down by Civil Law provisions. The aforementioned shall not apply when the delay in benefit granting or payment has resulted from circumstances beyond the control of the Institution.
- 1a. The interests referred to in clause 1 shall not be subject to provisions on public finances.
2. The minister responsible for social insurance issues in co-operation with the minister responsible for public finance shall determine, by virtue of a decree, detailed rules on the payment of interest.
- 2a. The provisions of clause 1 shall also apply to contribution payers who are obliged, by virtue of separate provisions, to pay allowances from social insurance.

### **Chapter 10.**

## **Social Insurance Task Performance Audit**

#### **Article 86.**

1. Authorised employees of the Institution shall bear sole responsibility for auditing the performance of any social insurance duties by contribution payers.
2. The audit tasks may include the following, in particular:
  - 1) notification of social insurance participation,
  - 2) correctness and integrity of calculation, withholding, and payment of contributions and other contributions and payments which the Institution is obliged to collect,
  - 3) determination of eligibility for social insurance benefits and payment of those benefits, as well as settlements in respect thereof,
  - 4) accuracy and punctuality of processing applications for retirement and disability pension benefits,
  - 5) issuing certificates or filing data for social insurance purposes,
  - 6) inspection of component assets of the contribution payers who are in default with the payment of due contributions.

**Article 87.**

1. In the course of any audit, the audit inspector of the Institution shall be entitled to do the following:
  - 1) examine all books, financial and accounting documents and personal files, as well as any other information carriers covered by the audit,
    - 1a) inspect of component assets of the contribution payers who are in default with the payment of due contributions,
  - 2) preserve all evidence,
  - 3) request information from the contribution payer and the insured,
  - 4) verify identification documents of individuals to ascertain their identity, if necessary for audit purposes,
  - 5) hear witness statements,
  - 6) hear the statement of the contribution payer and the insured who shall be a party to the case if due to a lack of or insufficient evidence some circumstances which have an impact on the audit procedures remain unexplained,
2. The audit inspector of the Institution shall use information derived from the insured individuals' accounts and contribution payer accounts for inspection purposes.

**Article 88.**

1. Contribution payers shall be obliged to:
  - 1) make available all books, documents and other information carriers related to the scope of the audit which are kept on the payer's premises and with third parties who have been entrusted with some activities on the basis of separate agreements,
    - 1a) enable the inspection of component assets whose inspection falls within the scope of the audit, if they are in default with the payment of due contributions,
  - 2) prepare and submit copies of documents pertaining to the subject matter of the inspection and determined by the audit inspector of the Institution,
  - 3) ensure proper conditions for audit procedures, including making available communications (not transport) media and other technical facilities necessary to perform audit procedures which are at the disposal of the payer,
  - 4) provide explanations to the inspector,

- 5) submit a translation into Polish of any financial, accounting and personal information prepared in a foreign language delivered by the contribution payer.
2. The payer shall be obliged to perform the procedures described in clause 1 free of charge.
3. The contribution payer shall be obliged, within a set deadline, to provide the audit inspector of the Institution with documents requested for performance of audit procedures.

#### **Article 89.**

1. The audit inspector of the Institution shall commence to conduct the audit on the contribution payer's premises after presenting the official identity card and authorisation to perform the audit.
  - 1a. The authorisation referred to in clause 1 should contain at least the following data:
    - 1) the legal foundation,
    - 2) the organisational entity of the Institution,
    - 3) date and place of issuing,
    - 4) name and surname of the audit inspector of the Institution and the number of his official identity card,
    - 5) the identity of the audited contribution payer,
    - 6) the date of audit commencement and the expected term of its termination,
    - 7) the scope of the audit,
    - 8) the signature of the authorizing person and his/her post or function,
    - 9) instruction on the rights and obligations of the audited contribution payer.
2. The audit procedure shall begin on the day of delivering the audit authorization to the contribution payer.
3. Should the contribution payer be absent, audit procedure may begin after presenting documents referred to in clause 1 to an individual authorised to represent the payer or manage the payer's business. A protocol shall be prepared of these procedures and shall be immediately delivered to the contribution payer.
4. A contribution payer who is present at the time of the audit as well as an individual indicated by him shall be entitled to participate in audit procedures.
5. A contribution payer should be informed of the place and date of obtaining evidence from witness testimonies or inspection in a manner enabling him to participate in obtaining the evidence, no later than directly before the commencement of these procedures.
6. The provisions of clause 5 shall not apply if actual circumstances justify immediate commencement of the procedures in the absence of the payer. The absence of the payer shall be noted in the audit protocol.

#### **Article 90.**

1. The audit procedures shall be conducted at the seat of the contribution payer and on the premises where the payer conducts his business, as well as on the premises where third parties entrusted to perform specific operations on the basis of separate contracts conduct business operations.
2. The audit inspector of the Institution shall be authorised to enter and move on the premises of the payer and business premises on the basis of documents referred to in Article 89, clause 1, without the need to obtain a pass and without undergoing personal search stipulated by by-laws of the contribution payer.

3. An audit inspector of the Institution shall be subject to safety-at-work provisions, binding on the premises where the audit procedures are being conducted.
4. Audit procedures may be conducted outside the premises described in clause 1 if the conditions referred to in Article 88, clause 1, item 3 are not ensured by the contribution payer and when the nature of the procedures so warrants.
5. In cases described in clause 4 a contribution payer shall be obliged to present documents specified by the audit inspector of the Institution on demand, as described in Article 88, clause 1, item 1, for a period necessary to conduct the audit procedures, however no longer than for 3 weeks. Such operations shall be conducted at a local organisational entity of the Institution. A protocol shall be prepared on the issuance of the documents which shall be signed also by the contribution payer.
6. The Institution shall ensure the contribution payer has access to the issued documents at his request.

#### **Article 91.**

1. The audit findings shall be described in the audit protocol which should include:
  - 1) the identity of the territorial organisational entity of the Institution,
  - 2) the identity of the audited contribution payer,
  - 3) the identity of the audit inspectors of the Institution who perform the audit procedures,
  - 4) the description of the audit scope,
  - 5) the audio duration, indicating the commencement and termination dates of the audit and the break days in the audit,
  - 6) a description of findings, quoting the legal basis,
  - 7) presentation of evidence,
  - 8) instruction on a right to express reservations,
  - 9) a stamp and signature of the audit inspector of the Institution.
  - 10) information on the record in the audio book.
2. The protocol shall be prepared in two identical copies, of which one shall be delivered to the payer under audit or an individual authorised to represent him or manage his business operations.
3. A contribution payer shall have the right to submit written reservations as to the findings of the audit within 14 days of the receipt of the protocol, simultaneously indicating the appropriate evidence.
4. An audit inspector of the Institution shall be obliged to examine the reservations expressed and, if necessary, engage in additional audit procedures, and inform of the method of examination of the contribution payer's reservations in writing.
5. The audit protocol shall form the basis for issuing a decision in the scope and according to procedures described in Article 83.

#### **Article 91b.**

The provisions of article 87, point 1a of clause 1, article 88, point 1a of clause 1, and article 89, clause 5, shall apply accordingly to:

- 1) legal assignees and third parties responsible for the debts of the contribution payer,
- 2) the persons who received undue benefits, contribution payers or other entities obliged to return the unduly paid benefits, referred to in Article 84, with the

exception of the case when the benefits can be deducted from the currently paid-out benefits.

**Article 92.**

1. The audit inspector of the Institution shall be excluded from participation in the audit if circumstances occur which may affect the impartiality of his proceedings.
2. The audit inspector of the Institution shall be obliged to keep any information he obtained in the course of official proceedings confidential. The confidentiality clause shall be binding also after he ceases to be employed as the audit inspector of the Institution.

**Article 93.**

1. The post an audit inspector may only be occupied by an employee who:
  - 1) is solely a Polish citizen and is entitled to full civil and civic rights,
  - 2) has an impeccable opinion and has never been convicted for a purposeful crime,
  - 3) has university level education,
  - 4) has been employed in the head office or in a territorial organisational entity of the Institution for at least two years,
  - 5) took qualification examinations for the post of an audit inspector of the Institution and achieved positive results before a commission called by the chief audit inspector of the Institution.
2. The audit inspector shall be appointed by the Chairman of the Institution at the request of the chief audit inspector of the Institution.
3. In special cases the Chairman of the Institution at the request of the chief audit inspector of the Institution, may appoint an individual who does not comply with the conditions described in clause 1, items 3 and 4, an audit inspector of the Institution.
4. On the request of the chief audit inspector of the Institution, the Chairman of the Institution shall recall an audit inspector from his post if the inspector:
  - 1) has resigned from his post,
  - 2) does not comply with conditions defined in clause 1, items 1 and 2,
  - 3) has lost the physical or mental capabilities to perform work at the post, confirmed by a medical certificate,
  - 4) received a negative qualification evaluation confirmed by another negative evaluation made no earlier than after 3 months and no later than within a year of the previous evaluation,
  - 5) has a determined right to pension or disability pension.
5. The employees of the Institution entitled to perform audit procedures before the Act comes into force, who comply with conditions described in clause 1, items 1, 2, and 4, shall retain their rights to audit the contribution payers if they take the exam referred to in clause 1, item 5 within 18 months.

**Article 94.**

1. The Chairman of the Institution shall appoint and recall the chief audit inspector of the Institution after obtaining an opinion of the Institution's supervisory board.
2. The chief audit inspector of the Institution and audit inspectors of the Institution authorised by him shall order audits of contribution payers, and the Chief inspector of the Institution shall supervise the audits on behalf of the Chairman of the Institution.

**Article 96.**

1. Tax chambers and offices shall be obliged to give information on identified instances of violation of social insurance provisions.
2. Control, inspection and audit authorities operating in government and local government administration shall be obliged to render the results of the audit performed by these authorities accessible to the Institution upon request.

**Article 97.**

The Council of Ministers shall determine, by virtue of a decree, the detailed rules and procedures of auditing contribution payers.

**Chapter 11.**

**Social Insurance Act Infringement Liability**

**Article 98.**

1. A contribution payer or an individual obliged to act on behalf of the contribution payer who:

- 1) fails to fulfil the obligation of paying social insurance contributions within the dates stipulated by appropriate provisions,
- 2) fails to file the data stipulated by the Act, files false data, provides false clarification or refuses to provide clarification related thereto,
- 3) prevents audit procedures or hinders the course thereof,
- 4) fails to fulfil the obligation to pay out social insurance benefits and social welfare allowances financed from the State budget, or pays them unrightfully,
- 5) fails to maintain documentation pertaining to the calculation of contributions and payment of social insurance benefits,
- 6) fails to fulfil the obligation to transfer the settlement declarations and name-specific monthly reports within the stipulated period,
- 6a) fails to identify irregularities in the name-specific monthly report within the term referred to in article 41, clause 7,
- 7) fails to fulfil the obligation to submit the documents pertaining to social insurance and health insurance in the form specified in Article 47a, clauses 1 and 2, shall be liable to a fine of up to 5,000 PLN.

2. The same penalty shall be applied to individuals who commit deeds defined in clause 1 while paying contributions or making payments on grounds of other titles which the Institution is obliged to collect.

**Chapter 12.**

**Amendments to Valid Regulations**

**Article 99.**

In the Act of March 20th 1950 on the taking over of the mortmain estate by the State, guaranteeing the ownership of farms by parish priests and the establishment of the Church Fund (Journal of Law No. 9, item 87 and No. 10, item 111, from 1969, No. 13, item 95, and from 1975, No. 17, item 94) the following amendments shall be made to Article 9, clause 1:

- 1) item 3 shall be deleted,
- 2) item 4 shall read as follows:

"4) payment of social insurance contributions on behalf of members of the clergy in amounts defined by the Act of October 13th 1998 on the social insurance system (Journal of Law No. . . . . item. . . . . ). "

**Article 100.**

In the Act of November 23<sup>rd</sup>, 1990 on telecommunications (*Journal of Law* of 1995, No 117, item 564, of 1996, No. 106, item 496, of 1997, No. 43, item 272, No. 88, item 154, No. 106, item 675, No. 121, item 770, and No. 137, item 926) in Article 60a after clause 2 clause 3 shall be added and shall read as follows:

"3. The regulations of clauses 1 and 2 shall apply to contribution receivables in respect of social insurance, the Labour Fund, the Guaranteed Employee Benefit Fund and health insurance, and to payments to the State Fund for the Rehabilitation of the Handicapped, respectively. "

**Article 101.**

The following amendments shall be made to the Personal Income Tax Act of July 26<sup>th</sup> 1991 (*Journal of Law* of 1993, No. 90, item 416, and No. 134, item 646; of 1994, No. 43, item 163, No. 90, item 419, No. 113, item 547, No. 123, item 602, and No. 126, item 626; of 1995, No. 5, item 25, and No. 133, item 654; of 1996, No. 25, item 113, No. 87, item 395, No. 137, item 638, No. 147, item 686, and No. 156, item 776, and of 1997, No. 28, item 153, No. 30, item 164, and No. 71, item 449, No. 85, item 538, No. 96, item 592, No. 121, item 770, No. 123, item 776, No. 137, item 926, No. 139, item 932, 933 and 934, and No. 141, item 943 and 945, and from 1998, No. 66, item 430, No. 74, item 471, No. 108, item 685 and No. 117, item 756):

1) Article 26, clause 1, item 2 shall read:

"2) pension, disability pension, and sick leave insurance contributions paid or withheld by the contribution payer and associated with sources of income, as defined in social security regulations, if they have not been included in tax-deductible costs,"

2) in Article 32, clause 2, after the words "2a" the following words shall be added: "and after subtracting pension and disability pension, as well as sick leave insurance contributions, referred to in Article 26, clause 1, item 2,";

3) in Article 33, in clause 3, in the first sentence the full stop shall be replaced by a comma, and the following words shall be added: "reduced by pension and disability pension, as well as sick leave insurance contributions withheld by the contribution payer in a given month as defined in Article 26, clause 1, item 2,"

4) in Article 35, clause 1, item 3 shall read as follows:

"3) employment institutions - on benefits paid from the Guaranteed Employees Benefit Fund, net of any contributions withheld by the payer in a given month for pension, disability pension, and sick leave insurance, as well as of benefits paid from the Labour Fund. "

5) in Article 37, clause 1a, after the word "payer" the following words shall be added: "pension, disability pension and sick leave insurance contributions, referred to in Article 26, clause 1, item 2",

6) in Article 39, clause 1, after the words "income and" the following words shall be added: "pension, disability pension and sick leave insurance referred to in Article 26, clause 1, item 2".

### **Article 102.**

In the Act on Corporate Income Tax of February 15<sup>th</sup>, 1992 (*Journal of Law* of 1993, No. 106, item 482, and No. 134, item 646, of 1994, No. 1, item 2, No. 43, item 163, No. 80 item 368, No. 87, item 406, No. 90, item 419, item 113, No. 547, No. 123, item 602, No. 127, item 627, of 1995, No. 5, item 25, No. 86, item 433, No. 96, item 478, No. 133, item 654, No. 142, item 704, of 1996, No. 25, item 113, No. 34, item 146, No. 90, item 405, No. 137, item 639, No. 147, item 686, and of 1997, No. 9, item 44, No. 28, item 153, No. 79, item 484, No. 96, item 592, No. 107, item 685, No. 118, item 754, No. 121, item 770, No. 123, item 776 and 777, and No. 137, item 926, No. 139, item 923, 933, and 934, No. 140, item 939, No. 141, item 945, and from 1998, No. 60, item 383, No. 108, item 685, and No. 117, item 756) in Article 6, clause 1, item 11 the full stop shall be replaced by a comma, and item 12 shall be added and shall read as follows:

"12) The Social Insurance Institution referred to in the Act of October 13<sup>th</sup> 1998 on the Social Insurance System (*Journal of Law* No. . . . . , item. . . . . )".

### **Article 103.**

In the Act of December 29<sup>th</sup>, 1993 on Protection of Employee Rights in Case of Insolvency of the Employer (*Journal of Law* from 1994, No. 1, item 1, and of 1995, No. 87, item 435, and of 1996, No. 5, item 34, and of 1997, No. 28, item 153 and No. 123, item 776 and from 1998, No. 106, item 668) the following amendments shall be made:

1) in Article 4:

- a) in clause 1 after the words "remuneration not paid for work performed" the following words shall be added: "for a period no longer than 1 month, simultaneously ordering a loan to be granted to the employer in the amount equivalent to the social insurance contribution amount on remuneration payable to the employees for that period, but not paid out. ",
- b) in clause 1a the words "the conditions for its repayment by the employer shall be determined" shall be replaced by the words "and of granting a loan to the employer, the conditions for their repayment by the employer shall be determined",
- c) in clause 2 a third sentence shall be added and shall read as follows: "Art. 6a clause 2a shall apply respectively. ";

2) in Article 6:

- a) in clause 2 after item 3 item 4 shall be added and shall read:  
"4) social insurance contributions due from employers, referred to in the Act of October 13<sup>th</sup> 1998 on the Social Insurance System (*Journal of Law* No. . . . . , item. . . . . )".
- b) in clause 4 after the words "letters a-d" the following words shall be added "and item 4".

3) in Article 6a:

- a) in clause 2 after the words "Article 4, clause 2" the following words shall be added "in recognition of clause 2a. ",
- b) after clause 2, clause 2a shall be added and shall read as follows:  
"2a. If the remuneration due to the employee exceeds the amount mentioned in clause 2, in the calculation of respective receivables the amount of social insurance contributions financed from the employee's funds, on the difference between the remuneration due



to the employee and the amount of average monthly remuneration referred to in Article 4, clause 2, shall be taken into account. "

4) Clause 1 of Article 18 shall read as follows:

"1. Contributions to the Fund shall be determined on payments comprising the basis of pension and disability pension insurance rates without applying the limitation referred to in Article 19, clause 1 of the Social Insurance System Act. "

#### **Article 104.**

In the Act on Employment and Counteracting Unemployment of December 14<sup>th</sup>, 1994 (*Journal of Law* No. 25, item 128, No. 28, item 153, No. 41, item 255, No. 63, item 403, No. 93, item 568, No. 107, item 692, No. 121, item 770, No. 123, item 776, and of 1998, No. 66, item 431, No. 106, item 668, and No. 108, item 684) the following amendments shall be made:

1) in Article 31:

- a) in clause 1, item 1 the words "and funeral" shall be deleted,
- b) clause 5 shall be deleted;

2) in Article 37 m:

a) after clause 1, clause 1a shall be added and shall read:

"1a. Individuals receiving pre-pension welfare benefits or pre-pension benefits shall be entitled to funeral allowance in accordance with respective procedures stipulated for employees. ",

b) in clause 2, after the words "referred to in" the words "clause 1a and" shall be added;

3) in Article 48, clause 2, item 2 shall be deleted;

4) in Article 49, clause 1, item 2 shall be deleted;

5) in Article 53:

a) in clause 1 the words "social insurance and pension benefits" shall be replaced by the words "pension and disability pension insurance without the limitations referred to in Article 19, clause 1 of Act of October 13<sup>th</sup> 1998 on the Social Insurance System (*Journal of Law* No. . . . . , item. . . . . )",

b) in clause 3 the words "for social insurance shall be" shall be replaced by the words "determined pursuant to clause 1, shall be";

6) in Article 56, clause 1 shall read as follows:

"1. Contributions to the Labour Fund shall be paid for the period of the pension and disability pension insurance cover according to procedures and rules stipulated for social insurance contributions. "

#### **Article 105.**

In the Act of February 6<sup>th</sup>, 1997 on universal health insurance (*Journal of Law* No. 28, item 153, No. 75, item 468, and of 1998, No. 117, item 756) the following amendments shall be made:

1) in Article 7:

a) in item 21 in the first sentence after the words "as a result" the words "in recognition of item 21a" shall be added,

b) after item 21, item 21a shall be added and shall read as follows:

"21a) children authorised to receive survivorship pension shall also be deemed to be members of the family,";

2) in Article 8, item 10, after the words "or disability pension", the words "with the exception of individuals referred to in Article 7, item 21a" shall be added;

3) in Article 8a, clause 3a shall be added and it shall read:

"3a. Membership in a medical care society of an individual referred to in clause 2 shall not expire in the period when this individual receives benefits awarded on the basis of sick leave insurance or workman's compensation insurance which are not included in the basis of health insurance contribution rates. ";

4) in Article 21:

a) clauses 1 and 2 shall read as follows:

"1. Regulations defining pension and disability pension contribution rates shall be applied to set the basis of health insurance benefits of individuals referred to in Article 8, item 1a), and c)- h), in recognition of clause 2b, 2c, and 3a.

2. Regulations defining pension and disability pension contribution rates shall be applied to set the basis of health insurance benefits of individuals referred to in Article 8, items 2-7, liable to pension and disability pension insurance, in recognition of clause 2b, 2c, and 3a. ",

after clause 2, clauses 2a-2c shall be added, and shall read as follows:

"2a. The basis of contributions for individuals referred to in Article 8, items 2-7 who are not liable to pension and disability pension insurance shall be an amount equivalent to their remuneration.

2b. In determining the basis of health insurance contributions of individuals referred to in clause 1 any remuneration exclusions due to sick leaves and the limitation referred to in Article 19, clause 1 of the Social Insurance System Act (*Journal of Law* No. . . . . item. . . ) shall not apply.

2c. The basis of health insurance contributions shall be decreased by the amounts of pension, disability pension and sick leave insurance contributions withheld by the payer from the funds of the insured in accordance with social insurance system regulations. ",

c) in clause 3, item 1, the comma shall be deleted and the following words shall be added: "reduced by the pension and disability pension insurance contributions withheld by the payers from the funds of the insured, in accordance with social insurance system regulations,",

5) Article 26a shall read as follows:

"Article 26a. The costs of collection and recording health insurance contributions shall be withheld by the Social Insurance Institution in the amount of 0. 5% by the Individual Farmers Social Insurance Fund in the amount of 0. 25% of the contributions transferred to medical care societies";

6) in Article 169c the current text shall be marked as clause 1, and clauses 2 and 3 shall be added as follows:

"2. Until June 30<sup>th</sup> 1999 regulations of Article 26 clause 4 shall not apply. The Social Insurance Institution and the Individual Farmers Social

Insurance Institution shall divide the funds from health insurance contributions collected between the medical care societies according to a financial plan prepared by the Plenipotentiary.

3. The Social Insurance Institution and the Individual Farmers Social Insurance Institution shall transfer the funds referred to in clause 2 to the appropriate medical care society no later than within 3 working days of the date of receipt of health insurance contributions. "

#### **Article 106.**

In the Occupational and Social Rehabilitation and Employment of the Handicapped Act of August 27<sup>th</sup>, 1997 (*Journal of Law* No. 123, item 776 and No. 160, item 1082, and from 1998, No. 99, item 628 and No. 106, item 668) the following amendments shall be made:

1) Article 25 shall read as follows:

"Article 25, clause 1. Contributions for social insurance of individuals handicapped to a large or medium degree, employed by an employer who employs less than 25 people on a full time basis, and of handicapped individuals employed in a special enterprise employing disabled individuals (*zakład pracy chronionej*) or an occupational activity enterprise (*zakład aktywności zawodowej*) shall be calculated according to rules defined by the Social Insurance System Act of October 13<sup>th</sup> 1998 (*Journal of Law* No. . . . item. . . . ), in recognition of clauses 2 and 3.

2. In enterprises employing less than 25 people, in respect of employees handicapped to a large or medium degree:

1) a part of the remuneration equivalent to the pension insurance contribution due from the employee shall be financed by the State Fund for the Rehabilitation of the Handicapped.

2) a part of the labour costs of the employer equivalent to the pension insurance contribution due from the employer shall be financed by the State budget.

3. In special enterprises employing disabled individuals and in occupational activity enterprises, the following shall be binding in respect of the handicapped:

1) a part of the remuneration equivalent to the pension and sick leave insurance contributions due from the employee shall be financed by the State Fund for the Rehabilitation of the Handicapped, 2) a part of the employer's labour costs equivalent to the pension and disability pension insurance contribution due from the employer shall be financed by the State budget, and in the part equivalent to the workman's compensation insurance contribution shall be financed by the State Fund for the Rehabilitation of the Handicapped. "

4. The Social Insurance Fund shall inform the institutions referred to in clause 2 and 3 of the transfer of a part of the employee's remuneration equivalent to the social insurance contribution due, financed by the State Fund for the Rehabilitation of the Handicapped, within 7 days of its receipt.

5. Employees referred to in clause 2 and 3 shall be deemed to be employees and individuals engaged in outwork.

6. Detailed rules and procedures for calculation of social insurance contributions, taking into account subsidies from the State Fund for the Rehabilitation of the Handicapped and

the State budget, shall be determined by virtue of a decree, the minister responsible for social insurance issues.

7. The difference between the social insurance contribution withheld on behalf of a handicapped individual employed in the enterprises referred to in clauses 2 and 3, and the part of the social insurance contribution transferred to the Social Insurance Institution shall remain in those enterprises. ";

2) In Article 31:

a) in clause 3, item 1a after the words "in the amount of 10%", the words "in recognition of clause 3a" shall be added.

b) clause 3a shall be added after clause 3 and shall read:

"3a. The manager of an enterprise employing handicapped individuals may be granted an exemption from payments to the State Fund for the Rehabilitation of the Handicapped in accordance with procedures defined in Article 49, also when funds from the company fund for the rehabilitation of the handicapped do not suffice to finance the contribution referred to in Article 25, clause 3, item 2. "

## **Chapter 13.**

### **Transitional and Final Provisions**

#### **Article 107.**

1. Contribution payers shall be obliged to submit a notification of the names of all individuals for whom they are obliged to pay social insurance contributions as at December 31<sup>st</sup> 1998 and as at January 1<sup>st</sup> 1999, no later than on January 31<sup>st</sup> 1999.

2. Contribution payers who pay social insurance contributions on their own behalf as at December 31<sup>st</sup> 1998 and as at January 1<sup>st</sup> 1999 shall also be obliged to submit the notification referred to in clause 1, by January 31<sup>st</sup> 1999.

3. Contribution payers referred to in clauses 1 and 2 shall be obliged to notify the contribution payer by January 31<sup>st</sup> 1999.

#### **Article 108.**

Social insurance or health insurance contribution payers who as at the date of the Act coming into force have not been assigned a NIP identification number or have not applied for the assignment of the same, shall be obliged to apply for an identification number within one month of this Act coming into force, according to procedures defined in a separate act on the rules for registration and identification of tax payers.

#### **Article 109.**

Contribution payers shall be obliged to settle and pay contributions on the basis of current regulations in respect of social insurance contributions and survivorship pension and nursing benefits due for the period ending on December 31<sup>st</sup> 1998.

#### **Article 110.**

1. Contribution payers shall raise any remuneration due to the insured referred to in Article 16, clause 1 as of January 1<sup>st</sup> 1999, calculating such remuneration in a manner ensuring that, following the deduction of pension, disability pension, and sick leave insurance contributions, such remuneration is not lower than before the calculation.

3. The minister responsible for social insurance issues shall, by virtue of a decree, determine the manner of calculating the remuneration referred to in clause 1.

4. The minister responsible for social insurance issues shall announce the level of the minimum employee remuneration upon the restatement performed in a manner defined in the decree referred to in clause 3.

5. Whenever the regulations on the employing establishment's social benefit fund refer to "average monthly salary in the national economy in the preceding year or the second half of the preceding year" or "planned annual funds designated for personal salaries", it shall mean:

- 1) average monthly salary in the national economy in the preceding year or the second half of the preceding year,
- 2) planned annual funds designated for personal salaries - minus pension, disability pension, and sick leave insurance contributions deducted from the insured.

#### **Article 111.**

1. The contribution transfer mentioned in Article 22, clause 3 is mandatory for the insured born after December 31<sup>st</sup>, 1968.

2. The insured mentioned in clause 1 hereto shall be obliged to conclude agreements with an open pension fund no later than by September 30<sup>th</sup>, 1999. Regulations of Article 39, clause 2, shall be applied respectively.

3. Those insured who were born after December 31<sup>st</sup>, 1948, but before January 1<sup>st</sup>, 1969, to the exclusion of those who receive pension, may, at their own request and upon concluding a contract, join the chosen open pension fund.

4. The insured referred to in clause 3 may conclude a contract with an open pension fund by December 31<sup>st</sup> 1999, in recognition of clause 6.

5. The access of the insured referred to in clause 3 to an open pension fund shall be deemed to be an irrevocable declaration of will in respect of the selection of pension insurance according to principles defined for individuals born after December 31<sup>st</sup> 1968.

6. The deadline referred to in clause 4 shall be deemed to be kept if the individual born in the period described in clause 3 was not liable to social insurance in 1999, but accessed an open pension fund within 6 months of the insurance liability arising, after December 31<sup>st</sup> 1999, and on the date of the liability arising was not yet 50 years old.

7. The whole amount of the contribution for pension and disability pension insurance of the insured who have not filed an application to join an open pension fund shall be transferred to FUS.

8. The contribution mentioned in Article 22, clause 3 shall be transferred to an open pension fund beginning from the nearest pension contribution payment term falling after the date of receiving by ZUS from an open pension fund the notification, however no later than by August 1999.

9. The contribution of the insured referred to in clause 1 shall be transferred to open pension funds on terms and conditions described in clause 8, however in the event of the insured individual not having concluded a contract within the deadline stipulated by clause 2, the contributions beginning with the employment related contribution from October 1999 set aside for an open pension fund shall be transferred to the open pension fund immediately after membership in the open fund has been gained. Regulations of Article 39, clause 4, shall apply accordingly.

#### **Article 112.**

1. The FRD funds may not be used before the year 2009.

2. The interest referred to in Article 22, clause 1 item 1 and clause 4, shall be decreased by 1% of the basic contribution amount beginning in the calendar year referred to in clause 1.

3. In this case, the Institution shall acquire the right of perpetual usufruct of land and the property right to buildings and constructions or other component parts situated on the said land.

#### **Article 113.**

The term of office of the current supervisory boards of Social Insurance Institution, appointed on the basis of Article 20 and 21 of the act referred to in Article 122, clause 1, item 1 shall end with the date of appointment of the Institution's supervisory board, referred to in Article 75.

#### **Article 113a.**

1. Until the President of the Institution, referred to in Article 73, is appointed, the function of the President shall be performed by the President of the Social Insurance Institution appointed by virtue of the Act referred to in Article 122 clause 1, item 1.

2. The appointment of the President performing the function of the Institution's President shall expire as at the date of appointment of the President of the Social Security Institution referred to in Article 73.

#### **Article 113b.**

1. Appointments of directors of the Institution branches shall expire as of January 1<sup>st</sup> 1999.

2. Individuals referred to in clause 1 shall perform their duties until the date of appointment of the heads of local organisational entities of the Institution, referred to in Article 67, clause 1, item 2.

#### **Article 113c.**

1. The Institution shall become a party to the employment relationship with employees employed in the Social Insurance Institution operating by virtue of Article 7 of the Act referred to in Article 122, clause 1, item 1 and in the entities referred to in Article 117, clause 1, in recognition of clauses 4 and 5.

2. Employees referred to in clause 1 shall not be eligible to any severance pay or other financial benefits paid by virtue of the regulations on special rules for termination of employment relationships with employees due to reasons concerning the employment establishment and by virtue of the regulations on state officials, in recognition of clauses 4 and 5.

3. By January 31<sup>st</sup> 1999, the Institution shall notify, in writing, its employees employed on the basis of employment contracts on the labour conditions and the effects, within the scope of employment relationship, pertaining to the change referred to in clause 1 and in Article 113b, clause 1.

4. Within 30 days from the notification referred to in clause 3, an employee employed on the basis of employment contract may, without notice of termination, upon 7-day notice, dissolve employment relationship. For the employee, the effects of the dissolution of employment relationship under the above procedure shall be those stipulated by the labour law regulations for the dissolution of employment relationship by the employer due to reasons pertaining to the employment relationship.

5. By January 31<sup>st</sup> 1999, the Institution shall propose, in writing, new labour and remuneration terms, stipulating the salary not lower than the previous one, to employees

employed on the basis of appointment. Within 30 days, employees shall make declarations on acceptance or rejection of the terms proposed. If the terms are not agreed, the previously-binding employment relationship shall be terminated at the elapse of the period equal to the period of notice, counted from the date on which an employee made a declaration on rejecting the terms proposed, or from the date on which the employee should have made such declaration. The effects of termination of employment relationship under this procedure shall be equal to those stipulated by the regulations of the Act on state officials for the termination of employment relationship due to liquidation of the office.

6. Until a collective labour agreement is concluded, the rules for remunerating the Institution employees and the amount of funds designated for their remuneration shall be determined by the Institution President.

#### **Article 114.**

1. With the date of this act coming into force any assets managed by the Institution which are owned by the State Treasury shall become the property of the Institution.

2. By virtue of the law, the acquisition of ownership rights to property constituting a part of the assets referred to in clause 1 shall be determined on the strength of the law, by virtue of a decision by the province governor.

3. Within the scope of activities defined in the Act the Institution shall be exempt from real estate tax and from stamp duty and legal fees.

4. Within the scope of the pursuing the activities stipulated in the Act, the Institution shall pay no stamp duties or court fees.

5. The regulations of clauses 1-4 shall respectively apply to real estates in respect of which the Institution acquired the right of perpetual usufruct for the benefit of the State Treasury before January 1<sup>st</sup> 1999. In this case, the Institution shall acquire the right of perpetual usufruct of land and the property right to buildings and constructions or other component parts situated on the said land.

#### **Article 115.**

1. The Institution is the legal successor of the following institutions operating from the year 1950: The Social Insurance Institution, social insurers and insurance funds in respect of social insurance, and is entitled, if that does not infringe any third party rights, to demand the return of real property constituting, in the given period, the property of those legal entities.

2. The Institution shall request the real estate to be returned if the real estate is indispensable for the completion of its tasks.

3. The identification of the Institution as the legal successor of a real estate owner, according to the understanding of clause 1, as well as the statement confirming the return of the real estate to the Institution shall be made by an administrative decision issued by the governor of the province.

4. The final decision of the governor of the province, referred to in clause 3, provides the basis for an entry in the land and mortgage register.

5. The decision referred to in clause 3 is not required if the only proprietor revealed in the land and mortgage register is the Social Security Institution, social insurance company or insurance fund, operating up to 1950, for whom the Institution is the legal successor, and the land and mortgage register does not contain records on perpetual usufruct of third

parties. The property right of the Institution is recorded in the land and mortgage register on the unilateral request of the Institution.

6. Applications for commencing the relevant proceedings are filed by 31<sup>st</sup> December 2010.

#### **Article 116.**

1. The Social Insurance Fund established on the basis of the act referred to in Article 122, clause 1, item 1 shall be liquidated as of January 1<sup>st</sup> 1999, and its cash, receivables and payables shall be taken over by the pension fund separated from the FUS, in accordance with Article 55.

2. Current and investment assets and liabilities of the Social Insurance Institution acting on the basis of the act referred to in clause 1 shall as of January 1<sup>st</sup> 1999 become the assets and liabilities of the Institution.

3. The pension fund shall finance the Institution's expenses on a temporary basis. The refund of those expenses to the pension fund shall take place after the funds referred to in Article 55 earn income from social insurance contributions.

#### **Article 117.**

1. The Institution shall take over the responsibilities of railway organisational entities responsible for the determination and payment of benefits, acting under the Act of April 28<sup>th</sup> 1983 on pension benefit entitlement of railway employees and their families (*Journal of Law* No. 23, item 99, from 1985, No. 20, item 85, from 1990, No. 36, item 206, from 1997, No. 43, item 272 and from 1998, No. 66, item 431).

2. The railway organisational entities referred to in item 1 shall pay out benefits in 1998 and shall transfer any documentation necessary for the Institution to pay out benefits for the period from the Act coming into force, and any documentation necessary to assign or recalculate benefits, as well as documentation necessary to perform the annual calculation of income tax for physical entities for 1998.

3. The minister responsible for transport issues shall transfer to the Institution property rights and tangible assets within the scope necessary to take over tasks referred to in clause 1.

4. Detailed rules and procedures for the take-over shall be determined by a decree of the minister responsible for transport issues in co-operation with the minister responsible for social insurance issues.

#### **Article 118a.**

In 1999, the total amount of loans granted to FUS from the State budget shall not exceed 4,000,000 thousand PLN.

#### **Article 119.**

Banks shall be obliged to prepare and ensure access to the payment order forms described by the Act to contribution payers by December 15<sup>th</sup> 1998.

#### **Article 120.**

The tasks defined in the act which are necessary for the functioning of the Institution as of January 1<sup>st</sup> 1999 until that date shall be performed by the Social Insurance Institution referred to in Article 7 of the act referred to in Article 122, clause 1 item 1.

#### **Article 121.**

1. The interest rate in respect of workman's compensation insurance for the period from January 1<sup>st</sup> to December 31<sup>st</sup> 1999 shall amount to 1.62% of the basis for calculation.



2. From January 1<sup>st</sup> 2001 to December 31<sup>st</sup> 2002, the interest rate in respect of workman's compensation insurance shall amount to 1.62% of the basis for calculation.

**Article 122.**

1. The following legal regulations shall hereby become invalid:

1) the Social Insurance Organisation and Funding Act of November 25<sup>th</sup>, 1986 (*Journal of Law* of 1989: No. 25 items 137 and No. 74 item 441, of 1990: No. 36 item 206, of 1991: No. 7 item 24, No. 104 item 450, and No. 110 item 474, of 1994: No. 84 item 385, and of 1995: No. 4 item 17, No. 85 item 426 and of 1997, No. 121, item 770, and from 1998, No. 106, item 668, and No. 108, item 684),

2) Articles 1, 8, and 14 of the Pension Benefits for Artists and their Family Members Act of September 27<sup>th</sup>, 1973 (*Journal of Law* of 1983: No. 31 item 143, of 1986: No. 42 item 202, of 1989: No. 35 item 190, of 1990: No. 36 item 206, of 1995, No. 4, item 17, of 1996, No. 100, item 461, and of 1997, No. 28, item 153),

3) Articles 1-5 and Article 25-32 of the Social Insurance of Individuals Employed on Basis of an Agency or Short-term Job Contract Act of December 19<sup>th</sup>, 1975 (*Journal of Law* of 1995: No. 65 item 333 and No. 128 item 617, of 1996, No. 100, item 461, of 1997, No. 28, item 153),

4) Articles 1-4, Article 22-26, Article 28, and Article 32 of the Social Insurance of Sole Proprietor and their Family Members Act of December 18<sup>th</sup> 1976 (*Journal of Law* of 1989, No. 46 item 250, of 1990: No. 36 item 206, and of 1991: No. 104 item 450 and No. 110 item 474, of 1995, No. 4, item 17, of 1996, No. 100, item 461, No. 124, item 585, and of 1997, No. 28, item 153, and from 1998, No. 106, item 668),

5) Chapter 8 of the Pension Benefits of State Railway Employees and their Family Members Act of April 28<sup>th</sup> 1983 (*Journal of Law* No. 23 item 99, of 1985, No. 20, item 85, of 1990 No. 36 item 206, of 1997, No. 43, item 272, and of 1998, No. 66, item 431),

6) Articles 1-6, 27-32, and 34 of the Clergy Social Security Act of May 17<sup>th</sup> 1989 (*Journal of Law* No. 29 item 156, of 1990, No. 36, item 206, of 1991, No. 104, item 450, of 1995, No. 4, item 17, and of 1996, No. 100 item 461, and of 1997, No. 28, item 153).

2. Until the date of issuing executive regulations as provided for by this Act, the provisions of executive regulations issued by virtue of the Act stipulated by clause 1 item 1 hereto shall remain applicable, unless proven as contrary to any provisions of this Act.

3. Wherever the regulations:

1) refer to provisions relating to the organisation and financing of social insurance or to regulations on social insurance or to employees' social insurance regulations, it shall mean a reference to the social insurance system regulations.

2) refer to the Social Insurance Institution or the Foreign Annuities Office as to the relevant body, it shall mean the Institution's organisational entity.

**Article 123.**

Regulations of the Civil Code shall apply to legal procedures in cases regulated by the Act, unless the Act stipulates otherwise.

**Article 124.**

The regulations of Article 50, clause 1 in the part relating to informing of data collected in an account shall apply as of January 1<sup>st</sup> 2000.

**Article 126.**

Provisions of Article 50, clause 1 in the part relating to hypothetical pension shall apply as of January 1<sup>st</sup>, 2004.

**Article 127.**

This Act shall come into force on January 1<sup>st</sup>, 1999, with the exception of:

- 1) Article 24-31, 33, 73 clause 2, Article 74, clauses 1 and 5, Article 75, clause 1 item 1, 2, 9, and 10, and clause 3, Article 109, 117, clause 2-4, Article 119 and 120 which shall come into force within 14 days of the Act coming into force,
- 2) Article 108 which shall come into force as of December 1<sup>st</sup>, 1998.
- 3) Article 39, clause 1-4 which shall come into force as of October 1<sup>st</sup>, 1999.
- 4) Article 15, clause 2, Article 22, clause 1, item 4 and clause 2 which shall come into force as of January 1<sup>st</sup>, 2000.
- 5) Article 22, clause 4 which shall come into force on January 1<sup>st</sup>, 2002.