

**ACT**  
**of 17 December 1998**  
**on retirement pensions and other pensions from the Social Insurance Fund**

**Section 1**

**General Provisions**

**Chapter 1**

**General scope of the Act**

**Art. 1**

1. The Act describes:
  - 1) terms and conditions for eligibility for cash benefits from retirement pension and other pension insurance,
  - 2) principles for determining the amounts of benefit allowed,
  - 3) principles and procedures for granting and paying benefits.
  
2. The terms and conditions for eligibility for retirement pension and other pensions and for other benefits subject to eligibility for retirement pension or other pension benefits, and principles for determining the amounts of these benefits for:
  - 1) professional soldiers,
  - 2) officers of the Police, State Security Bureau, Border Guard, Prison Service and National Fire Brigade,who were in service on the date the Act came into force, as well as for members of their families, shall be determined by the respective regulations for pension eligibility.
  
3. Benefits in the amounts and on the terms and conditions determined by the Act shall be vested in the individuals listed in clause 2 if the said individuals do not comply with requirements for entitlement to benefits defined in the relevant regulations on pension coverage.
  
4. Conditions for eligibility for cash benefits from workman's compensation insurance or occupational disease insurance and the amount of the benefits shall be regulated by other regulations.

**Art. 2**

Benefits awarded on the terms and conditions and in amounts determined by the Act shall be payable to:

- 1) the insured – if they comply with the requirements for eligibility for cash benefits from retirement pension and other pension cover of the Social Insurance Fund,

- 2) members of the family of the insured individual or of a deceased beneficiary of cash benefits from the Social Insurance Fund, retirement pension and other pension insurance.

### **Art. 3**

Benefits defined by the Act comprise:

- 1) retirement pension,
- 2) disability pension, including training allowance,
- 3) survivorship pension,
- 4) nursing benefit,
- 5) benefit over and above the survivorship pension for orphans bereft of both parents,
- 6) funeral allowance.

### **Art. 4**

The terms used in the Act shall be defined as:

- 1) retiree – an individual entitled to retirement pension benefit,
- 2) life annuity – a retirement pension to which one is entitled, paid out by a pension company which operates according to pension company regulations,
- 3) Fund – the Social Insurance Fund referred to in social insurance system regulations,
- 4) the insured's account – an account held by the insured individual as defined in the regulations on the social insurance system and maintained by the Social Insurance Institute, hereinafter referred to as “the Institute”,
- 5) insurance period – the period in which the retirement pension and other pension insurance has been paid plus the period in which respective payments have not been made because the annual basis of retirement pension and other pension contribution rates referred to in social insurance system regulations have been exceeded during a calendar year,
- 6) pension authority – Foreign Annuities Office or another organisational entity of the Institute defined in the social insurance system regulations and authorised to make decisions in respect of benefits,
- 7) open pension fund – a fund selected by the insured from the pension funds referred to in the regulations on the organisation and operation of pension funds,
- 8) contribution payer – a contribution payer as referred to in regulations on the social insurance system,
- 9) average monthly salary – the gross average monthly salary in the national economy sectors published in the Official Journal of the Republic of Poland *Monitor Polski* by the president of the Main Statistical Office,
- 10) other pension – disability pension and survivorship pension,
- 11) pensioner – an individual who is eligible for disability pension or survivorship pension,
- 12) retirement pension and other pension insurance – insurance referred to in the social insurance system regulations,

- 13) insured – an individual entitled to retirement pension benefits and other pension benefits governed by the social insurance system regulations, as well as an individual who was entitled to social insurance or pension insurance cover before the Act came into force, with the exclusion of individual farmers' social insurance.

## **Chapter 2**

### **Periods taken into account to determine benefit entitlement and amounts**

#### **Art. 5**

1. In determining eligibility for retirement pension and other pensions, and calculating the amounts of the said benefits the following periods shall be taken into account, in consideration of clauses 2-5:
  - 1) contribution periods referred to in Art. 6,
  - 2) non-contribution periods referred to in Art. 7.
2. In determining eligibility for retirement pension and other pensions and calculating their amounts non-contribution periods shall be included, but these shall be limited to one-third of the proven contribution periods.
3. In determining eligibility for retirement pension or other pensions the following periods shall be doubled:
  - 1) periods of military activities and activities equivalent to the said activities, as well as the periods counted as periods of those activities and periods of being subject to war and post-war repressive measures as referred to in Art. 6, clause 1, item 5,
  - 2) periods of forced labour as referred to in Art. 6, clause 2, item 2.
4. In determining eligibility for retirement pension or other pensions of contribution payers obliged to pay their own contributions to retirement pension and other pensions, the period for which contributions were not paid despite their being under an obligation to pay retirement pension and pension insurance in that period, shall not be taken into account.
5. The provisions of clause 4 shall apply to the insured who had to pay their own retirement pension and other pension contributions respectively for the period preceding the Act coming into force.

#### **Art. 6**

1. The following periods shall constitute contribution periods:
  - 1) insurance periods,
  - 2) periods for which social insurance contributions were paid in amounts defined by the social insurance organisation and financing regulations, in regulations listed in Art. 195, items 1-4 and 8, in regulations on the legal

- profession, on employment and counteracting unemployment, and in regulations on social aid,
- 3) included in clergy social insurance periods:
    - a) periods of being a member of the clergy before 1 July 1989, on the condition that contributions were paid during the whole period of being subject to that insurance,
    - b) periods in which members of the clergy were engaged as missionaries and periods in which they engaged in pastoral activities for Polish emigrants after 14 November 1991 and prior to the Act coming into force,
  - 4) active military service in the Polish Army or equivalent periods, or periods of substitute forms of the said service,
  - 5) military activities, activities equivalent to the said activities, as well as periods counted as being periods of such activities and periods of being subject to war and post-war repressive measures, defined in regulations on veterans and specific individuals subject to war and post-war repressive measures,
  - 6) periods of service in the following organisations in Poland:
    - a) the Police,
    - b) the State Security Bureau (in public security bodies),
    - c) the Border Guard,
    - d) the Prison Service,
    - e) the National Fire Brigade,
  - 7) period of receiving maternity benefits,
  - 8) period of being confined in Polish prisons after 31<sup>st</sup> December 1956 on the strength of a conviction or without being convicted for engaging in political activities,
  - 9) employment, outside Poland, of individuals who were not Polish citizens at the time, if the individuals returned to Poland after 22 July 1944 and were declared repatriated,
  - 10) work performed after 1956 for political organisations and labour unions deemed illegal within the meaning of regulations in force to April 1989.
2. The following periods, before 15 November 1991, for which social insurance contribution payments were made or in which there was no obligation to pay social insurance contributions shall also be deemed to be a contribution period:
- 1) periods of employment after attaining the age of 15:
    - a) in the territory of Poland – working on a full- or part- (but not less than half) time basis, if in the said periods the employee received remuneration or the following benefits from social insurance: sickness, maternity, or nursing benefit, or sickness pension,
    - b) of Polish citizens abroad – in Polish diplomatic agencies and consulates, permanent agencies within the United Nations Organisation, and other missions and special missions, as well as in other Polish posts, institutions or enterprises to which they have been delegated or seconded; this relates also to members of the family of the delegated or seconded employee who were employed in these entities while abroad,

- c) of Polish citizens abroad – in international organisations, foreign institutions and plants to which they have been directed as part of international co-operation or in which they were employed on approval of the relevant Polish authorities; approval is not necessary in respect of employees who left Poland before 9 May 1945,
  - d) of Polish citizens abroad – employed by other foreign employers if during their employment outside Poland social insurance contributions were paid in Poland,
- 2) forced labour:
  - a) on behalf of Nazi Germany during World War 2,
  - b) in the territory of the USSR in the period from 17 September 1939 to 31 December 1956,
  - c) on the orders of the Allied Authorities to 31 December 1956,
  - d) in coal mines, quarries and uranium ore mining and enrichment while in military service in the Polish Army,
- 3) employment of adolescents in the territory of Poland on terms and conditions defined in the regulations binding before 1 January 1975,
- 4) work performed while serving a prison sentence, being arrested for an offence or being under temporary arrest in the territory of Poland – on a full- or part- (no less than half) time basis for the said kind of work,
- 5) non-performance of work when the period of employment ceases if remuneration or compensation has been paid for the periods in accordance with the provisions of the Labour Code,
- 6) temporary unemployment in the territory of Poland due to the inability to find a job or to undertake occupational training, including periods of receiving benefits from the unemployment prevention fund, unemployment benefits or training benefits paid out by the Labour Fund,
- 7) acting as a member of the Polish Parliament,
- 8) political internment pursuant to Art. 42 of the Decree of 12 December 1981 on Martial Law (*Journal of Law* No. 29, item 154, of 1982, No. 3, item 18, and of 1989, No. 34, item 178),
- 9) engaging in creative or artistic work in the territory of Poland:
  - a) which is subject to social insurance, and for which social insurance contributions have been paid or in respect of which the individual was exempt from contribution payments,
  - b) before 1 January 1974, approved by the Committee for Pension Benefits for Individuals Engaged in Creative Work operating under the aegis of the Minister for cultural issues, on condition that the individual engaged in creative or artistic work paid social insurance contributions after 31 December 1973,
- 10) of work performed by members of the legal profession in the territory of Poland:
  - a) subject to social insurance, for which social insurance contributions have been paid or which were exempt from social insurance contribution payments,
  - b) before the date the work became subject to social insurance,
- 11) engaging in work-by-job work in the territory of Poland:
  - a) subject to social insurance, for which social insurance contributions have been paid or which were exempt from payment of social insurance contributions,

- b) before the date the work became subject to insurance, if in these periods the individual performing such work received remuneration in an amount not lower than half the lowest statutory salary defined in the Labour Code regulations,
  - 12) work in the territory of Poland in agricultural manufacturing co-operatives and other co-operatives associated with the Central Association of Agricultural Manufacturing Co-operatives, in collective farms of the co-operative of farmers' societies associated with the National Association of Farmers, Farmers' Societies and Agricultural Organisations, and work on behalf of these co-operatives:
    - a) subject to social insurance for which social insurance contributions have been paid or which were exempt from payment of social insurance contributions,
    - b) before the date the work became subject to social insurance,
  - 13) work in the territory of Poland performed on behalf of state enterprises on the basis of an agency contract, a short-term job contract and co-operation in exercising such contracts:
    - a) subject to social insurance and periods of continuing the insurance for which social insurance contributions have been paid or which were exempt from payment of social insurance contributions,
    - b) performed before 1 January 1976, if the contract was in compliance with the terms of insurance binding as at that date,
  - 14) non-agricultural business activities in the territory of Poland:
    - a) subject to social insurance and periods of continuing the insurance for which social insurance contributions have been paid or which were exempt from payment of social insurance contributions,
    - b) engaged in before the date the activities became subject to social insurance if the business activities were in compliance with the terms of insurance,
  - 15) co-operation in engaging in non-agricultural business activities in the territory of Poland, subject to social insurance, and periods of continuing the insurance, for which social insurance contributions have been paid or which were exempt from payment of social insurance contributions,
  - 16) social insurance of the clergy in the territory of Poland, for which social insurance contributions have been paid or which were exempt from payment of social insurance contributions,
  - 17) receiving sports scholarships by individuals aged over 15 engaged in competitive sports in the territory of Poland, except for periods in which individuals received scholarships while studying in elementary, high or university level schools on a day time basis.
3. Periods of employment and working periods in the territory of Poland, referred to in clause 2, shall be deemed to be:
- 1) periods of employment and periods of work performed in the territories comprising the Republic of Poland within its current frontiers,
  - 2) periods of employment and periods of work performed in the territories comprising the Republic of Poland before its current frontiers were established.

## Art. 7

The following periods shall comprise non-contribution periods:

- 1) periods of receiving:
  - a) remuneration for periods of inability to work paid on the basis of Labour Code regulations,
  - b) social insurance benefits: sickness or nursing benefits,
  - c) rehabilitation benefit,
  - d) benefits listed in items 1 b) and c) after the social insurance liability ceases to be binding,
- 2) receiving sickness pension after ceasing full-time or part- (not less than half) time employment as appropriate in the given profession or after ceasing to pay social insurance liability for other reasons,
- 3) non-performance of work after ceasing employment if compensation has been paid for these periods based on the regulations of the Labour Code,
- 4) non-performance of work in the period before 4 June 1989 due to repressive measures, but for no longer than for 5 years,
- 5) periods of childcare leave, or unpaid leave granted pursuant to regulations on unpaid leave for working mothers taking care of small children, or other types of unpaid leave granted for that purpose, as well as periods of non-performance of work due to childcare, falling before the date of being eligible for retirement pension or other pensions:
  - a) in respect of children less than 4 years old – up to 3 years for each child, or up to 6 years irrespective of the number of children,
  - b) in respect of which, due to the physical, mental or psychophysical state of the child a nursing benefit is granted – additionally up to 3 years for each child,
- 6) periods of nursing a war invalid, falling before the date of being eligible for retirement pension or other pension rights, who has been included in the 1<sup>st</sup> group of handicap or declared totally unable to work or to exist independently, by a member of his family aged over 16, who during the nursing period did not earn an income exceeding half of the lowest salary rate per month,
- 7) periods of non-performance of work, falling before the date of being eligible for retirement pension or other pension rights, up to 6 years maximum, due to the necessity to take care of a member of the family other than a child, who has been included in the 1<sup>st</sup> group of handicap or declared totally unable to work or to exist independently, by a member of his family aged over 16, who during the nursing period did not earn an income exceeding half of the lowest salary rate per month,
- 8) periods of unpaid leave and intervals in employment resulting from unpaid leave not being granted to spouses of employees seconded to diplomatic agencies, consulates, permanent representative offices of the United Nations and other special missions abroad, in institutes, information and cultural centres abroad,
- 9) periods of studying at university-level schools, at one faculty, on the condition the studies are completed within the scope stipulated by the given educational programme,
- 10) professional training of doctors in Medical Academy clinics and departments of scientific institutes on a voluntary basis for up to 1 year,
- 11) period of receiving pre-retirement social benefit or pre-retirement benefit,
- 12) period of proven inability to work for which unemployment benefits, training benefits or scholarships have been paid.

## **Art. 8**

Periods of insurance cover abroad shall be taken into account in determining the entitlement to retirement pension or other pensions and in calculating their amounts, if international treaties so stipulate.

## **Art. 9**

1. Periods of employment of Polish citizens abroad, referred to in Art. 6, clause 1, item 9 and clause 2, item 1.c), as well as periods referred to in Art. 7, item 8, shall be taken into account if the respective individual's permanent residential address is within the current frontiers of Poland, in consideration of clause 3.
2. Employment periods referred to in Art. 6, clause 2, item 1.a), and periods of forced labour referred to in Art. 6, clause 2, item 2.a) and b) shall be taken into account on condition that the respective individual's permanent residential address is within the current frontiers of Poland, in consideration of clause 3.
3. The periods referred to in clauses 1 and 2 shall not be taken into account in determining entitlement to benefits, when a pension benefit other than the pension from additional insurance is being paid out by foreign institutions in respect of those periods.

## **Art. 10**

1. In determining eligibility for retirement pension benefits and calculating their amount, in consideration of Art. 56 the following periods shall also be taken into account and shall be treated as contribution periods:
  - 1) farmers' social insurance periods, for which contributions in the amounts stipulated by other regulations have been paid,
  - 2) periods of managing a farm by individuals older than 16, falling before 1 July 1997,
  - 3) periods of farm work performed by individuals older than 16, falling before 1 January 1983,if the contribution and non-contribution periods determined pursuant to Art. 5-7 are shorter than the period required for obtaining retirement pension entitlement in the scope necessary to complete this period.
2. Periods listed in clause 1, item 1 shall also be taken into account in determining eligibility for disability pension if the contribution and non-contribution periods determined pursuant to Art. 5-7 are shorter than the period required for obtaining pension entitlement in the scope necessary for eligibility for retirement pension.
3. Periods referred to in clauses 1 and 2 shall not be taken into account if they have been included in the periods accounted for in determining eligibility for retirement pension or other pensions in accordance with the regulations on farmers' social insurance.

## **Art. 11**

Should the periods referred to in Art. 6, 7, and 10 be simultaneous, the more favourable periods shall be taken into account to determine the benefits defined in this Act.

## **Chapter 3**

### **Inability to work**

## **Art. 12**

1. Pursuant to this Act, an individual who has totally or partially lost the ability to perform paid work for health reasons and is unlikely to regain the ability to work after he has been retrained shall be deemed to be an individual unable to work.
2. An individual who has lost the ability to perform any kind of work shall be deemed to be an individual totally unable to work.
3. An individual who has to a significant extent lost his ability to perform work in keeping with his qualifications shall be deemed to be an individual partly unable to work.

## **Art. 13**

1. In assessing the degree and the permanency of inability to work and the prognosis for regaining the said ability, the following shall be taken into account:
  - 1) the degree to which the system's efficiency is impaired and the possibility of restoring it through medication and rehabilitation,
  - 2) the ability to perform current work or another kind of work and the reasonableness of occupational retraining, taking into consideration the type and nature of work performed to date, education, age and psychophysical disposition.
2. Permanent inability to work shall be declared when, based on medical knowledge, the prognosis for regaining the ability to work is nil.
3. Temporary inability to work shall be declared when the medical prognosis states that there is a chance of regaining the ability to work.
4. Maintaining the ability to work in conditions defined by the regulations on occupational and social rehabilitation and on employing the handicapped shall not prevent total inability to work being declared.
5. If the loss of health is such that it requires the individual to have permanent or long-term care and help from another individual to provide for his basic needs, the inability to lead an independent life shall be declared.

## Art. 14

1. The inability to work, the degree of the inability and the following:
  - 1) the date on which the inability commenced,
  - 2) the permanency or the period of inability to work forecast,
  - 3) the cause and effect relationship between certain circumstances and the inability to work or death of an employee,
  - 4) inability to lead an independent life,
  - 5) the reasonableness of occupational retrainingshall be determined by an authorised medical expert of the Institute, hereinafter referred to as “the medical expert”.
2. If it is not possible to determine the date on which the inability to work commenced, but the period in which the inability occurred has been determined, the date the inability commenced shall be deemed to be the date on which that period ends. If it is not possible to determine either the date, or the period, the date on which the inability to work commenced shall be deemed to be the date of filing and application for the respective benefit.
3. The decision of the medical expert shall constitute the basis for the pension authority to issue a decision on benefits as stipulated by the Act , the eligibility for which depends on determining inability to work and inability to lead an independent life.
4. Decisions made on inability to work shall be supervised by the President of the Institute.
5. Supervision as referred to in clause 4 shall include:
  - 1) controlling the correctness and uniformity of principles used for issuing decisions on the inability to work by the medical experts,
  - 2) providing the medical experts with guidelines for medical experts issuing decisions on the inability to work,
  - 3) the right to direct a case to obtain a second opinion of a medical expert should the control referred to in item 1 find the diagnosis to be inconsistent with the actual circumstances or with the guidelines for issuing the said decisions.
6. The minister for social insurance issues shall determine, by virtue of a decree:
  - 1) the organisation, detailed rules and procedures for:
    - a) issuing decisions on inability to work,
    - b) supervising the execution of the decisions,
  - 2) special occupational qualifications required of the medical experts.

## Chapter 4

### Basis of retirement pension and other pension benefits

#### Art. 15

1. The basis for assessing retirement pension and other pension benefits shall be the average basis for assessing retirement pension and other pension contribution rates or social insurance contribution rates for 10 consecutive calendar years selected by the given individual from the last 20 consecutive years directly preceding the year in which an application for retirement pension or other pension benefits was submitted, determined in the manner described in clauses 4 and 5, pursuant to Polish legal regulations, in consideration of clause 6 and Art. 176.
2. If during the 20 years directly preceding the year in which the given individual applied for a retirement pension or other pension benefit he has been receiving pre-retirement social benefit for more than 10 years, the basis for assessing retirement pension rates shall be the average basis of retirement pension and other pension or social insurance contribution rates during 10 consecutive calendar years directly preceding the year in which the said individual became eligible for the benefit.
3. The amounts of remuneration to which the insured was entitled in a given calendar year for periods of inability to work, paid according to Labour Code regulations, and sick leave, maternity, child care benefits, rehabilitation benefit, social adjustment benefit, adjustment benefit or adjustment allowance, as well as compensation certificates, shall be added to the basis for assessing retirement pensions or other pensions referred to in clauses 1 and 2. The basis for assessment shall also include unemployment benefits, training benefits or scholarships paid from the Labour Fund for the period of inability to work which has been documented.
4. In order to calculate the retirement pension or other pension assessment bases:
  - 1) the total amount of the basis of assessment of contributions and amounts referred to in clause 3 in each year of the selected calendar years by the given individual shall be calculated,
  - 2) the relation of each of those sums to the annual amount of average salary announced for the given calendar year shall be calculated, and presented as a percentage and rounded off to two places after a decimal point,
  - 3) the arithmetical mean of those percentages shall be calculated, and shall constitute the retirement pension or other pension assessment basis index, with the exception of clause 5, and
  - 4) the base amount referred to in Art. 19 shall be multiplied by the assessment basis index.
5. The index for calculation of the base amount cannot exceed 250%.

6. On application by the insured the average social insurance, or retirement pension and other pension contribution basis assessed in the manner described in clauses 4 and 5, for the 20 calendar years falling before the date of submitting the said application selected from the total period of insurance liability may be deemed to be the basis for calculation of the retirement pension or other pensions.
7. The regulations of clauses 1-6 shall be applied respectively to any individual who was a beneficiary.
8. The average basis for assessing contributions from full calendar years of insurance cover falling after 1 July 1989, until the date on which the benefit application was submitted shall be used to determine the basis of retirement pension or other pension benefit to which members of the clergy shall be entitled, however, the period shall not exceed the period defined in clause 1; on application by the insured, the basis for assessment of the respective pension benefit shall be determined pursuant to clause 1.

#### **Art. 16**

In determining the subsequent 10 calendar years referred to in Art. 15, clauses 1 and 2, consecutive calendar years shall be considered, even if the insured in some of those years for one year or for a period of less than one year was not covered by insurance.

#### **Art. 17**

1. If the basis for assessing pension benefits, as defined in Art. 15, clause 1, for an insured referred to in Art. 58, clause 1, items 1-4, may not be determined, the basis shall be calculated as the base contribution rate for the period of actual insurance liability, in consideration of clauses 2 and 3. Art. 15, clause 3 shall apply accordingly.
2. The basis for assessing pension benefit shall not be determined for the insured referred to in clause 1, if the said insured has not been liable to insurance for at least 1 calendar year.
3. The regulation of clause 1 shall be duly applied if the assessment basis of the pension benefit cannot be determined pursuant to Art. 15 clause 1, for an insured referred to in Art. 58, clause 1, item 5, due to the insured being in substitute forms of military service, in active military service or taking child care leave.

#### **Art. 18**

1. The basis for assessing retirement pension or other pension benefits for individuals whose periods of insurance cover abroad, referred to in Art. 8, were taken into account in determining eligibility for benefits, shall be calculated according to the rules set out in Art. 15-17, in recognition of clause 2.

2. If the period of 10 consecutive calendar years, referred to in Art. 15 clause 1 includes a period of insurance cover abroad, then the basis for assessing pension or retirement pension benefits shall be determined based on actual social insurance cover in Poland.

#### **Art. 19**

The base amount shall constitute 100% of the average salary decreased in line with the social insurance deductions defined in regulations on the social insurance system, in the calendar year preceding the indexation period.

#### **Art. 20**

The President of the Main Statistical Office shall announce in the form of a communique in the Journal of Law of the Republic of Poland *Monitor Polski*:

- 1) by the 10th working day of February of each year - the average salary for the preceding calendar year,
- 2) by the 7th working day of the month preceding the indexation month - the base amount referred to in Art. 19,
- 3) by the 7th working day of the second month of each quarter - the average salary for the previous quarter.

#### **Art. 21**

1. The basis of assessment of retirement pension for an individual who had earlier been eligible for a disability pension shall constitute:
  - 1) the basis of assessing the pension benefit - in an amount including revaluation and any subsequent indexation falling in the period after eligibility for the pension has been established or
  - 2) the basis for assessing the benefit determined pursuant to Art. 15.
2. The regulation of clause 1 item 1 shall be applied in calculating the basis for:
  - 1) retirement pension benefit for an individual who had already been eligible for retirement pension in accordance with the regulations specified in Art. 195,
  - 2) disability pension for an individual who had already been eligible for that pension or to retirement pension in accordance with the regulations specified in Art. 195.
3. The basis for assessing retirement pension benefit for an individual who had already been receiving pre-retirement benefit in accordance with the regulations on employment and on counteracting unemployment shall comprise the basis for assessing retirement pension benefit adopted to determine the pre-retirement benefit amount - taking into account any subsequent indexation in the period subsequent to determining eligibility for

pre-retirement benefit or the basis for assessing the pension benefit being revised pursuant to Art. 15.

### **Art. 22**

By virtue of a decree, the Council of Ministers shall determine detailed rules for calculating the basis of retirement pension and other pension benefits specifically taking into account the following:

- 1) cases whereby some payments made on behalf of an employee are taken into account in calculating the basis of retirement pension or other pension benefits if in the period before the Act came into force these payments were taken into account in calculating the basis of retirement pension or other pensions despite their having been excluded from the basis of contribution rates,
- 2) cases whereby the basis of assessment of retirement pension or other pension benefits for employees employed abroad is determined on the basis of a salary to which individuals employed in that period in Poland in a position similar to that in which the employee had been employed before leaving the country were entitled, or on the basis of lump-sum payments.

### **Art. 23**

If the basis for assessing retirement pension or other pension benefits cannot be determined pursuant to the regulations set out in the Act or in the decree referred to in Art. 22, the retirement pension or other pensions shall constitute an amount equal to the lowest retirement pension or other pensions.

## **Section II**

### **Retirement pensions**

#### **Chapter 1**

#### **Retirement pensions for insured born after 31 December 1948**

### **Art. 24**

1. An insured born after 31 December 1948 shall be eligible for retirement pension after reaching retirement age, which is no less than 60 years for women and 65 years for men, in consideration of Art. 46-50 and 184.
2. For the insured born after 31 December 1948, employed in specific conditions or in jobs of a specific nature, with the exception of the insured who are eligible for retirement pension on conditions set out in Art. 32-34, 39, 40, 46, 48-50, 184 and in Art. 88 of the Act referred to in Art. 150, bridging retirement pensions shall be established.

3. The terms, conditions and procedures for establishing retirement pensions as referred to in clause 2 shall be set out in another act.

### **Art. 25**

1. The basis for assessing retirement pension referred to in Art. 24 shall be the amount of retirement pension insurance contributions, taking into consideration indexation of contributions registered in the account of the insured to the end of the month preceding the month from which retirement pension may be paid out and the indexed initial capital defined in Art. 173-175, in consideration of Art.185.
2. The amount referred to in clause 1 shall not be subject to inheritance rights.
3. The following amounts shall be subject to indexation:
  - 1) from 1 March of the given year, the amount of contributions recorded as at 31 July of the preceding year increased by the indexation amount from 1 December of the preceding year and the amount of contributions recorded in the period from 1 August of the preceding year to 31 October of the preceding year,
  - 2) from 1 June of a given year, the amount of contributions recorded as at 31 October of the previous year increased by the indexation amount from 1 March of a given year and the amount of contributions recorded in the period from 1 November of the previous year to 31 January of the given year,
  - 3) from 1 September of a given year, the amount of contributions recorded as at 31 January of the given year increased by the indexation amount to 1 June of the given year and the amount of contributions recorded in the period from 1 February of the given year to 30 April of the given year,
  - 4) from 1 December of a given year, the amount of contributions recorded as at 30 April of a given year increased by the indexation amount from 1 September of the given year and the contributions recorded in the period from 1 May of the given year to 31 July of the given year.
4. Indexation of contributions consists in multiplying the contributions recorded in the account of the insured by the indexation ratio defined in clause 5.
5. The indexation ratio for contributions is equal to the total consumer price index in the quarter preceding the date of indexation in relation to the previous quarter increased by 75% of the difference between the basis for assessing retirement pension contribution in the quarter preceding the date of indexation in relation to the prior quarter and the total consumer price index for the period.
6. The indexation ratio for contributions shall be calculated rounded off to two places after the decimal point to the hundredth part of a percent.

7. The first indexation shall be effected on 1 September 1999.
8. The President of the Main Statistical Office shall announce in the form of a communique in the Official Journal of the Republic of Poland *Monitor Polski* by the 20th day of the first month of each quarter the total consumer price index for the previous quarter.
9. The President of the Institute shall announce in the form of a communique in the Official Journal of the Republic of Poland *Monitor Polski* by the 25th day of the month preceding the indexation, the indexation ratio for contributions for the previous quarter.

#### **Art. 26**

1. A retirement pension shall be equal to the amount calculated by dividing the basis for assessment determined in the manner described in Art. 25 by the average life expectancy of individuals who have reached the age of retirement, in consideration of clause 5 and Art. 183.
2. The retirement age of the insured shall be stated in complete years and months.
3. The average life expectancy shall be determined jointly for men and women and shall be stated in months.
4. The President of the Main Statistical Office shall announce annually, in the form of a communique in the Official Journal of the Republic of Poland *Monitor Polski*, by 31 March, life expectancy tables, taking into account clause 3, for retirement age determined pursuant to clause 2.
5. The tables referred to in clause 4, shall constitute the basis for awarding retirement pensions in respect of applications submitted by 31 March of the following calendar year.

### **Chapter 2**

#### **Retirement pension for insured individuals born before 1 January 1949.**

#### **Art. 27**

The insured born before 1 January 1949 shall be eligible for retirement pension if they satisfy both of the following conditions:

- 1) they have reached retirement age (i.e. at least 60 years for women and 65 for men),
- 2) their contribution and non-contribution periods amount to at least 20 years for women or 25 years for men.

### **Art. 28**

The insured born before 1 January 1949 shall be eligible for retirement pension if they satisfy both of the following conditions:

- 3) they have reached retirement age (i.e. at least 60 years for women and 65 for men),
- 4) their contribution and non-contribution periods amount to at least 15 years for women or 20 years for men.

### **Art. 29**

The insured born before 1 January 1949 shall be eligible for retirement pension providing the following conditions are jointly met:

- 1) for women - if after attaining 55 years of age their contribution and non-contribution periods amount to at least 30 years, or if their contribution and non-contribution periods amount to at least 20 years and they have been declared totally unable to work,
- 2) for men - if after attaining the age of 60 their contribution and non-contribution periods amount to 25 years and they have been declared totally unable to work.

### **Art. 30**

Other regulations shall apply to the principles for early retirement of individuals defined in Art. 27 who are:

- 1) war invalids, army invalids or war veterans,
- 2) state agency officers,
- 3) local government employees,
- 4) soldiers in substitute forms of service employed in coal mines, quarries and uranium ore excavation plants on a compulsory basis,
- 5) teachers at university level.

### **Art. 31**

Individuals born before 1 January 1949 who are eligible for disability pension as a result of an accident at work (or an accident when engaged in non-agricultural business activities, creative or artistic work, work on an agency or short-term employment contract, or when engaged in religious activities or activities resulting from pastoral or convent functions entrusted to members of the clergy or of convents or religious orders), on the way to or from work, or as a result of an occupational disease, may retire as follows:

- 1) women - after attaining the age of 55, if their contribution and non-contribution period is not less than 20 years,
- 2) men - after attaining the age of 60, if their contribution and non-contribution period is not less than 25 years.

### **Art. 32**

1. The insured born before 1 January 1949, who are employees as referred to in clauses 2-3, employed in specific conditions or in a job of a specific nature, shall be eligible for retirement pension before reaching the age stipulated in Art. 27, item 1.
2. Individuals employed in specific conditions shall be deemed to be individuals employed in jobs detrimental to health and extremely strenuous or requiring high psychophysical efficiency as a result of the job being dangerous to the employees or the environment.
3. Individuals employed in specific conditions shall be deemed to be:
  - 1) employees of state inspection bodies,
  - 2) employees of customs control administration,
  - 3) employees engaged in creative or artistic work,
  - 4) journalists employed in editorial offices of daily newspapers, periodicals, the radio, television or in newspaper, information, publication or photographic agencies subject to journalists' collective labour arrangements,
  - 5) teachers, educators, or other pedagogues performing the work of a teacher as described in Art. 1 of the Act of 26 January 1982 - The Teachers' Charter (*Journal of Law* from 1997, No. 56, and from 1998, No. 106, item 668),
  - 6) professional soldiers, officers of the Police, State Security Bureau, Border Guard, Prison Service and National Fire Brigade,
  - 7) employees of fire-prevention units referred to in Art. 15, item 1a5) and 8) of the Act of 24 August 1991 on Fire Prevention (*Journal of Law* No. 81, item 351, from 1994, No. 27, item 96, and No. 89, item 4141, from 1996, No. 106, item 496, from 1997, No. 111, item 725 and No. 121, item 770, and from 1998, No. 106, item 668).
4. The retirement age referred to in clause 1, the types of work or positions held, and conditions subject to which retirement pension is awarded shall be determined on the basis of current regulations.
5. Other regulations shall determine the principles of retirement irrespective of age of teachers born before 1 January 1949.

### **Art. 33**

Individuals born before 1 January 1949 and insured in respect of their engagement in creative or artistic activities shall be eligible for retirement pension at the age determined for the said individuals.

### **Art. 34**

1. The following individuals shall be eligible for a miner's retirement pension:
  - 1) who are over 55 years of age,
  - 2) whose period of mining work together with equivalent periods of work and periods considered as periods of mining work is no less than 20 years for women and 25 years for men, of which at least 5 years constitutes mining work as described in Art. 36, clause 1.
2. Women who have a proven period of at least 20 years of and men who have who have a proven period of at least 25 years of mining work, or equivalent periods or periods counted as periods mining work, of which at least 15 years constitute mining work as described in Art. 36, clause 1 shall be eligible for retirement at the age of 50.

### **Art. 35**

In determining eligibility for miner's retirement pension, periods of mining work and equivalent work and periods considered as periods of mining work which are contribution or non-contribution periods as defined by the Act, shall be taken into account, however the periods of mining work and equivalent work shall be included if the work was done on a full-time or part- (however not less than half) time basis.

### **Art. 36**

1. Mining work shall be considered as:
  - 1) employment underground, in coal, ore, precious metal, fire-resistant materials, white clay, caolin, magnesite, gypsum, anhydrate, rock salt and potassium salt, phosphorite and barite mines,
  - 2) employment underground and in constructing mining shafts in mine construction enterprises defined in item 1, and underground, in companies and other entities engaged in mining work for these mines or constructing mining shafts on their behalf,
  - 3) underground in companies involved in assembly, mining machine production plants, repair workshops and other entities engaged in underground assembly and construction works, machine repair and implementation of equipment on behalf of mines; work performed by individuals employed in these enterprises, plants, workshops and other entities shall be considered mining work in those months of employment when at least half the daily wage was earned by working underground,
  - 4) in strip mining for sulphur and brown coal in manual or mechanical mining, loading and transportation of input and deposit, in measuring for mining purposes and day-to-day servicing of aggregates and excavation equipment, as well as in solution mining for sulphur and in companies and other entities engaged in mining work for sulphur and brown coal mines, in positions determined by virtue of a decree by the

- minister for social insurance issues, in consultation with the ministers for the economy and for the State Treasury,
- 5) underground, in posts for supervising the continuity of operations and for managing the continuity of operations in mines, enterprises and other entities described in items 1-3, as well as in sulphur and brown coal mines, and in enterprises and other entities referred to in item 4, employed in posts as determined by virtue of a decree of the minister for economy, in consultation with the minister for the State Treasury and the minister for social insurance issues,
  - 6) as members of rescue brigades in mines as defined in items 1 and 4, mechanics for the equipment used by rescue brigades, and as professional rescue men in mining rescue stations,
  - 7) those employed as lift operators in shafts and as signallers in shaft tops in mines, enterprises and other entities described in items 1 and 2,
  - 8) those employed underground in mines not in operation referred to in item 1,
  - 9) as teachers (instructors) of the mining profession at training fields for underground mining and in sulphur and brown coal mines,
  - 10) in mining administration offices if the employment is connected with inspection and technical activities in mines, enterprises and other entities described in items 1-4,
  - 11) in enterprises and other entities engaged in mining or geological surveying if the employed are occupied directly in mining, geological or hydrological surveying; for individuals employed in such enterprises and entities those months of employment shall be considered to be mining work in which at least half a working day's wage has been earned working underground,
  - 12) as doctors and paramedics in mine health care establishments and in miners' ambulatories operating for specific black coal and ore mines as well as sulphur or brown coal mines if the said individuals are employed in the establishments for at least 30 hours per week and systematically control the sanitary state and hygiene of posts underground in sulphur and brown coal mines for at least 20 hours per month, and the 20 hours of sanitary and hygiene inspection underground shall include the time required to get down to the posts and back again.
2. A period of miner's leave, as described in other regulations, shall be treated equally to periods of mining work as described in clause 1.
  3. The following shall be treated as equivalent to mining work:
    - 1) occupying certain posts in labour unions of mine's employees, enterprises and other entities described in clause 1, items 1-4, as a result of being elected if the said employees directly before being elected for the posts were engaged in mining work as referred to in clause 1,
    - 2) employment in posts which require mining engineer's or technician's qualifications:

- a) in the mines', enterprises' or other entities' described in clause 1, items 1-4 administration, and in management boards of mining companies, former miners' guilds, associations and unions of these mines and enterprises,
  - b) in mining administration offices,
  - c) in the posts of teachers in mining trade and technical schools,
  - d) in major and central offices of the state administration and in local administration authorities which are the establishing bodies of the mines and enterprises described in clause 1, items 1-4, as well as in entities reporting to those bodies if the entities operate in the industries described in clause 1, items 1-4,
- on condition of having previously worked in mines, companies and other entities referred to in clause 1, items 1-4 for at least 5 years underground, in strip mining for sulphur or brown coal, or solution mining for sulphur, or in management or supervision posts for continuation of operations,
- 3) employment of individuals engaged in work described in clause 1 and in items 1, 2, and 4, at posts requiring the qualifications of a mining engineer or a technician, and transferred to major or central state administration bodies not listed in item 2d), to institutes subordinate to these bodies, to work in university level mining schools and mining and metallurgical editorial offices if the said individuals have previously worked in mines, enterprises or other entities described in clause 1, items 1-4, for at least 5 years underground in strip mining for sulphur or brown coal, or solution mining for sulphur, or in management or supervision posts for continuation of operations,
  - 4) employment in other jobs, for no longer than for 5 years, to which individuals engaged in work described in clause 1 and in this clause were transferred at their consent or by recommendation from a superior entity or in relation to the liquidation of a mine, a mining plant, enterprise or another entity as referred to in clause 1, items 1-4.
4. The following individuals shall be deemed to be individuals employed at posts which require the qualifications of a mining engineer or technician in organisational entities referred to in clause 3, items 2 and 3:
- 1) individuals who have the title of engineer or technician and are employed in accordance with their mining qualifications, or
  - 2) do not have the title of engineer or technician but have at least 5 years practice in supervision over the continuity of operations or other work underground or in sulphur or brown coal mines and perform tasks which require the qualifications of an engineer or a technician and are entrusted to engineers and technicians.
5. The periods of mining work mentioned in clause 1, items 1-4, performed outside Poland shall be treated identically as periods of such work conducted in Poland if the conditions stipulated by the Act required to include the periods for eligibility for benefits are met.

### **Art. 37**

1. In determining eligibility for a mining retirement pension for individuals employed underground and in sulphur or brown coal mines, the following periods of work in the territory of Poland shall be included using the 1.5 multiplication index:
  - 1) work at mining faces, directly in excavating and loading the excavated matter and in other tasks at the mining face, in the assembly, liquidation and transport of shaft boxing, excavating, loading and transporting machines at the working faces and in shaft digging and other shaft tasks,
  - 2) in rescue brigades,
  - 3) as mechanics of rescue equipment of the rescue brigades.
2. The periods of work referred to in clause 1, items 2 and 3 shall be included in the benefit calculation using the 1.5 multiplication index also in respect of those employed in the supervision of continuity of operations and management of continuity of operations of the mines who work at least half of all the working days in a month underground, in sulphur or brown coal mines.
3. The minister for social insurance issues in consultation with the minister for economy and the minister for the State Treasury shall determine in detail, by virtue of a decree, such posts as entitle the employee to the 1.5 multiplication index pursuant to clauses 1 and 2.
4. The minister for the economy in consultation with the minister for the State Treasury and the minister for social insurance issues shall determine, by virtue of a decree, the principles by which employees record the periods of employment at posts which entitle the employees to the 1.5 multiplication index with regard to periods of mining work in the calculation of retirement pension benefits, and in some other mining posts.
5. The provisions of clause 1 shall apply to periods of mining work performed while in military service before 1 January 1960.

### **Art. 38**

Periods to be considered as mining work periods shall be deemed to be periods as listed in Art. 6 clause 1 items 4-8 and in Art. 7, items 1-7, 9 and 12, with the reservation that only mining work and work equivalent to mining work described in Art. 36, clause 1 or clause 3, performed on a full-time or part- (but no less than half) part basis shall be considered to be employment as described in these regulations.

### **Art. 39**

An insured born before 1 January 1949 who satisfies the condition referred to in Art. 27 item 2, and who does not satisfy the conditions required to obtain mining retirement pension on the basis of Art. 34, and who has worked for at least 5 years:

- 1) as a miner, as described in Art. 36, clause 1, working underground the whole time and employed on a full-time basis, or
- 2) as a miner, as described in Art. 36, clause 1, items 4 and 5, working the whole time and on a full-time basis in strip mining for sulphur or brown coal and in solution mining for sulphur,

shall be entitled to a lower retirement age referred to in Art. 27, item 1, of six months for every year of such work, however no more than by 15 years.

#### **Art. 40**

Railway workers born before 1 January 1949 shall be eligible for railway retirement pension if all the following conditions are satisfied:

- 1) he attained retirement age, which is 55 years for women and 60 years for men,
- 2) has a contribution and non-contribution period of at least 20 years in the case of a woman and 25 years in the case of a man, including at least 15 years of employment on the railway, together with periods equivalent to periods of employment on the railway and periods considered as employment on the railway as referred to in Art. 44-45.

#### **Art. 41**

In determining eligibility for railway retirement pension periods of work on the railway and of work equivalent to work on the railway, as well as periods considered as periods of work on the railway, referred to in Art. 44-45 shall be taken into consideration.

#### **Art. 42**

1. Pursuant to this Act, railway workers shall be deemed to be individuals employed in:
  - 1) organisational entities of the enterprise *Polskie Koleje Państwowe* (Polish National Railways), with the exception of railway design offices,
  - 2) other organisational entities (units) whose employees have been subject to the current regulations on retirement pension benefits for railway workers and their families.
2. The employment of railway workers in organisational entities (units) described in clause 1, hereinafter referred to as "railway organisational entities" shall, pursuant to this Act, be understood as employment on the railway.

### **Art. 43**

1. Periods of employment on the railway shall be deemed to be periods of employment in railway organisational entities, in which the employee received a salary or social insurance benefits: sick leave, maternity, or child care benefit.
2. Each full year of employment on the railway on steam, motor or electric traction vehicles, in teams of railway guards, car handling or signalling shall be counted as 14 months of employment on the railway.

### **Art. 44**

The following shall be deemed to be periods equivalent to periods of employment on the railway:

- 1) periods of obtaining - after ceasing full-time or part- (but not less than half) time employment on the railway - a sick leave, maternity or child care benefit in respect of that employment,
- 2) periods of obtaining sick leave pension awarded by the relevant railway organisational entity,
- 3) periods of work, before 1 January 1975, in railway organisational entities on an apprenticeship or training contract or in a junior position after graduating,
- 4) periods of employment or performing duties as a result of being elected by labour unions while on unpaid leave granted to the employee for that purpose,
- 5) periods of employment, however not exceeding 5 years from ceasing employment on the railway, if the employment on the railway was terminated as a result of:
  - a) a transfer, with the approval of a railway organisational unit, to a transport department which is not considered to be work on the railway,
  - b) transfer from employment on the railway to employment in major and central state administration bodies,
  - c) commencement of employment as a result of being elected,
  - d) transfer, with the approval of the railway organisational entity, to employment on non-public railways,
  - e) transfer, with the approval of the railway organisational entity, to employment in other departments in order to organise or construct railway transport,
- 6) periods of employment, not longer than 5 years, in transport department organisational entities (units) which are not railway organisational entities if the insured was then transferred directly to employment on the railway and if the period of 5 years is not included on the basis of item 5a),
- 7) periods of employment in international railway organisations and international railway posts, after being seconded to those organisations and posts from employment on the railway,
- 8) periods of employment abroad of specialists while being employed by a railway organisational entity,
- 9) periods of not working on the railway if a salary for these periods is payable on re-employment or if compensation is granted for those periods,

- 10) periods of employment on the railways of other countries on the condition that during these periods the individual was employed by the Polish railways.

#### **Art. 45**

1. The following periods shall be deemed to be periods of employment on the railway:
  - 1) intervals in work on the railway comprising periods as specified in Art. 44, items 6 and 7,
  - 2) periods of employment outside the railway after 31 August 1939 and to 9 May 1945 of individuals who had been employed on the railway on 31 August 1939 and resumed their employment on the Polish railway after 9 May 1945,
  - 3) periods of receiving sports scholarship as a result of taking part in performance sports funded by the railway or sports club, if the individual receiving the scholarship had previously been employed on the railway.
  
2. Periods of military activities, army service, and service with:
  - 1) the Police,
  - 2) the State Security Bureau (public security authorities),
  - 3) the Border Guard,
  - 4) the Prison Service,
  - 5) the National Fire Brigade,shall be treated on equivalent terms as periods of employment on the railway.

### **Chapter 3**

#### **Specific regulations in respect of retirement pension for some insured individuals born after 31 December 1948 and before 1 January 1969**

#### **Art. 46**

1. Insured individuals born after 31 December 1948 and before 1 January 1969 shall also be eligible for retirement pension on the terms specified in Art. 29, 32, 33, and 39, if they satisfy all the following conditions:
  - 1) they have not entered an open pension fund,
  - 2) they will fulfil conditions for eligibility as defined in these regulations by 31 December 2006,
  - 3) their work contract has been terminated - in case of an insured who is an employee.
  
2. If the insured referred to in clause 1 does not conclude a contract for membership in an open pension fund by 31 December 1999, it shall be considered that the insured has not entered an open pension fund.

#### **Art. 47**

Other regulations shall determine the principles of retirement irrespective of age of teachers born after 31 December 1948 and before 1 January 1969.

#### **Art. 48**

1. Employees born after 31 December 1948 and before 1 January 1969 shall be eligible for miner's retirement pension, irrespective of age and the post held, if they have been engaged in mining work underground all the time and on a full time basis for at least 25 years, taking into consideration clauses 2 and 3, and with the exception of Art. 49.
2. Periods of mining work described in clause 1 shall also include:
  - 1) periods of inability to work as a result of an accident at work, or on the way to or from work, or as a result of an occupational disease for which salary or sick leave benefit or rehabilitation benefit has been paid out,
  - 2) periods of inability to work other than those specified in item 1, resulting from contagious disease for which salary or sick leave benefit has been paid out, not exceeding 35 days in a calendar year, which have been directly preceded by mining work performed underground all the time and on a full time basis falling within the period of employment.
3. The period of miners' leave referred to in Art. 36, clause 2, in a period not exceeding 5 years shall also be included on establishing eligibility for miner's retirement pension pursuant to clause 1.

#### **Art. 49**

1. Employees born after 31 December 1948 and before 1 January 1969 shall be eligible for miner's retirement pension referred to in Art. 34 or 48 if they satisfy all the following conditions:
  - 1) they have not entered an open pension fund,
  - 2) they comply with the conditions for eligibility as defined in these regulations before 31 December 2006,
  - 3) the contract of employment has been terminated.
2. Regulations of Art. 46 clause 2 shall be duly applied.

#### **Art. 50**

1. Railway workers born after 31 December 1948 and before 1 January 1969 shall be eligible for railway retirement pension referred to in Art. 40 if they satisfy all the following conditions:
  - 1) they have not entered an open pension fund,

- 2) they comply with the conditions for eligibility as defined in this regulation before 31 December 2006,
  - 3) the contract of employment has been terminated.
2. Regulations of Art. 46 clause 2 shall be duly applied.

## **Chapter 4**

### **Assessing the level of pensions referred to in Art. 27-50.**

#### **Art. 51.**

1. In determining the levels of miners' retirement pensions referred to in Art. 34 or 48, the following multiplication indices shall be applied, with the exception of clause 2:
  - 1) 1.5 for each year of mining work performed underground all the time and on a full-time basis,
  - 2) 1.8 for each year of work as described in Art. 37,
  - 3) 1.4 for each year of work as referred to in Art. 36, clause 1, items 1-3 and 5-11, performed on a full-time basis, partly on the surface and partly underground,
  - 4) 1.2 for each year of work as referred to in Art. 36, clause 1, items 4 and 5, performed all the time and on a full-time basis in sulphur and brown coal strip mining, in solution mining for sulphur and in companies and other entities engaged in mining work for sulphur and brown coal mines.
2. In assessing the levels of miners' retirement pensions the total period of work calculated using the multiplication indices as referred to in clause 1 shall not exceed 45 years.

#### **Art. 52**

1. In assessing the levels of retirement pensions other than those specified in Art. 51, the following multiplication indices shall be applied:
  - 1) 1.5 for each year of mining work performed underground all the time and on a full-time basis,
  - 2) 1.8 for each year of mining work performed underground, referred to in Art. 37 clause 1,  
on the condition that the work has been performed for no less than 5 years, with the exception of clause 2.
2. In assessing the levels of retirement pensions, the total period of work calculated using the multiplication indices as referred to in clause 1 shall not exceed 40 years.

### **Art. 53**

1. The retirement pension shall comprise:
  - 1) 24% of the base amount referred to in Art. 19, and
  - 2) 1.3% of the basis for retirement pension for each contribution period,
  - 3) 0.7% of the basis for retirement pension for each non-contribution period,in consideration of Art. 55.
2. In calculating the retirement pension periods referred to in clause 1 items 2 and 3 shall be rounded up to full months.

### **Art. 54**

The retirement pensions referred to in Art. 28 shall not be increased to the level of the lowest retirement pension.

### **Art. 55**

An insured who complies with the conditions for eligibility for retirement pension in accordance with Art. 27 and who continued paying retirement pension and other pension insurance after attaining the retirement age stipulated by this regulation and applied for retirement pension after 31 December 2008 may have his retirement pension level assessed in accordance with Art. 26 should such pension be higher than the retirement pension calculated pursuant to Art. 53.

### **Art. 56**

1. An individual whose periods of farm work as specified in Art. 10 were included in assessing retirement pension eligibility shall have the level of benefit entitlement calculated as a portion of the benefit calculated pursuant to Art. 53 taking into account periods of farm work in proportion to contribution periods and non-contribution periods in the period comprising the total of contribution and non-contribution periods and periods of farm work included.
2. The regulation of clause 1 shall not apply to an individual who has at least 20 years (for women) or 25 years (for men) of proven contribution periods or contribution periods supplemented by non-contribution periods in an amount no higher than the amount determined in Art. 5 clause 2, however the level of retirement pension shall be calculated pursuant to Art. 53 taking into account contribution and non-contribution periods without taking into account periods of farm work.
3. A benefit whose level has been assessed pursuant to clause 1 or 2 shall be increased by an amount reflecting the contribution portion of the retirement pension assessed according to the principles specified in individual farmers' social insurance regulations taking into account the whole proven period of farm work, however, periods of managing a farm or farm work, not subject to other social insurance, engaged in after having attained the age of 16 which

fall before 1 July 1977 shall be taken into account if they fall no earlier than 25 years before becoming eligible for retirement pension.

4. If the contribution and non-contribution periods have not been supplemented by periods as specified in Art. 10, the retirement pension shall be increased for the period of paying contributions to Individual Farmers' Pension Fund, Individual Farmers' Social Insurance Fund and farmers' pension insurance. The increase shall be assessed according to the principles stipulated for the contribution portion in the regulations referred to in clause 3.
5. Individuals who are eligible for a pension pursuant to farmers' social insurance regulations shall not be eligible for the increase referred to in clause 4.
6. The increase specified in clause 4 shall be awarded on application by the interested party.
7. Retirement pensions referred to in clauses 1-4 shall be paid out from the Fund, however the cost of these pensions shall be reimbursed:
  - 1) in the part reflecting the increase by the contribution portion - in an amount calculated pursuant to clauses 3 and 4 from the pension fund defined in farmers' social insurance regulations,
  - 2) in the part reflecting the increase to the level of the lowest retirement pension - from the State Budget.

### **Section 3**

#### **Disability pensions and survivorship pensions.**

#### **Chapter 1**

#### **Disability pension.**

#### **Art. 57**

An insured shall be eligible for a disability pension if he meets all the following requirements:

1. is unable to work, and
2. fulfils the conditions in respect of contribution and non-contribution periods,
3. became unable to work within any of the periods referred to in Art. 1, clause 1, items 1, 2, 3.b), 4, 6, 7, and in Art. 9, clause 2, items 1, 3 to 8, 9.a), 10.a), 11, 12, 13.a), 14.a), 15 to 17, as well as in Art. 7, items 1 to 4, 5.a), 6, 12, or not later than within 18 months after the end of the said periods.

### **Art. 58**

1. The requirements in respect of the contribution and non-contribution periods shall be deemed to be fulfilled, pursuant to Art. 57, item 2, when both the contribution and non-contribution periods of the insured shall jointly amount to at least:
  - 1) 1 year - if the insured became unable to work before the age of 20,
  - 2) 2 years - if the insured became unable to work between the age of 20 and 22,
  - 3) 3 years - if the insured became unable to work between the age of 22 and 25,
  - 4) 4 years - if the insured returned to health between the age of 25 and 30,
  - 5) 5 years - if the inability to work was no longer recognised after the insured attained the age of 30.
2. The period referred to in clause 1, item 5 above should fall within the decade preceding either the filing of an application for a disability pension or the date of becoming unable to work. Periods of receiving disability pension, training allowance, or survivorship pension shall not be included in the said 10-year period.
3. If the insured did not meet the requirements of contribution and non-contribution periods as referred to in clause 1 above, the said requirements shall be deemed to be fulfilled if the insured was registered for insurance liability before reaching the age of 18, or within 6 months of completing secondary or university level education, and until the date of becoming unable to work met the requirements of contribution and non-contribution periods, continuously or with intervals not exceeding 6 months.

### **Art. 59**

1. An individual who has met the requirements referred to in Art. 57 shall be eligible for:
  - 1) a permanent pension - if his inability to work is permanent,
  - 2) a temporary pension - if his inability to work is temporary.
2. The pension authority shall decide on the length of the period of eligibility for temporary pension.

### **Art. 60**

1. In consideration of clauses 2 and 4, an individual shall be eligible for a training allowance for a period of 6 months if the said individual met the requirements referred to in Art. 57, thereby qualifying for occupational re-training in consideration of his inability to work in his current occupation or his inability to join the services.

2. The six-month period referred to in clause 1 above shall be extended to allow for completion of occupational retraining, but for no longer than 30 months.
3. Pension eligibility referred to in item 2 above shall be prolonged on application by the district governor (*starosta*).
4. The six-month period referred to in clause 1 may be shortened if before termination of the period the district governor informed the pension authority that:
  - 1) occupational retraining is impossible,
  - 2) the interested party does not undertake occupational re-training.

#### **Art. 61**

Eligibility for a pension which was terminated as a result of returning to health may be reinstated if within 18 months of the pension being terminated the insured has again become unable to work.

#### **Art. 62**

1. The pension of an individual who is totally unable to work shall be assessed as follows:
  - 1) 24% of the base amount referred to in Art. 19, and
  - 2) 1.3% of the basis for assessing the pension for each year of contribution periods,
  - 3) 0.7% of the basis for assessing the pension for each year of non-contribution periods,
  - 4) 0.7% of the basis for assessing the pension for each year short of the full 25 years of contribution and non-contribution periods, falling between the date on which the insured filed an application for a pension and the date on which he would have attained the age of 60.
2. The pension of an individual partially unable to work shall amount to 75% of the pension payable to an individual totally unable to work.
3. In calculating the amount of pension the periods as referred to in clause 1, items 2 to 4 taken into consideration shall be full months.

#### **Art. 63**

1. Individuals who had farm work periods as defined in Art. 10, clause 1, item 1 considered in assessing their eligibility for disability pension shall have the number of years and months of farm work periods taken into consideration in the assessment at the rate adopted for assessing pension eligibility.
2. The pensions referred to in section 1 shall be paid out by the Fund but the cost of these pensions shall be reimbursed as follows:

- 1) for the portion reflecting the periods of farm work taken into consideration - from the retirement pension and other pension funds as defined in the regulations concerning farmers' social insurance,
- 2) for the portion reflecting the increase in the pension to bring it in line with the lowest benefit - by the State budget.

#### **Art. 64**

1. A training allowance shall be 75% of the basis for assessing other pension.
2. A training allowance shall not be lower than the lowest pension payable to an individual partially unable to work.
3. An individual shall not be eligible for a training allowance if he earns an income from activities referred to in Art. 104, clauses 1 to 4, irrespective of the amount of the said income.

### **Chapter 2 Survivorship pension.**

#### **Art. 65**

1. Individuals eligible for a survivorship pension shall be deemed to be the authorised members of the family of an individual who at the moment of his death was eligible for retirement pension or disability pension, or who met the requirements for eligibility for either one of the benefits.
2. On assessing eligibility for a survivorship pension it is assumed that the deceased individual had been totally unable to work.
3. Authorised members of the family of a civil servant gone missing whilst on duty shall be eligible for a survivorship pension.

#### **Art. 66**

If an individual receiving a pre-retirement allowance or benefit dies, authorised members of his family shall also be eligible for a survivorship pension if the individual died 18 months after termination of the periods referred to in Art. 57, item 3. In such cases it shall be assumed that the deceased person met the requirements for a disability pension due to his total inability to work.

#### **Art. 67**

1. The following family members shall be eligible for a survivorship pension, provided that they meet the requirements stated in Art. 68 to 71:
  - 1) the insured's own children, the children of a second spouse and adopted children,

- 2) grandchildren, brothers, sisters and other children, including foster children who have been fostered before reaching the age of 18,
  - 3) the insured's spouse (the widow or widower),
  - 4) the insured's parents.
2. In this Act the term "parents" shall include the insured's step-father and/or step-mother, as well as foster parents (by adoption).

#### **Art. 68**

1. The insured's own children, the children of the second spouse or children adopted (fostered) by the insured shall be eligible for a survivorship pension provided that:
  - 1) they are less than 16 years old,
  - 2) they have not completed their education and are between the ages of 16 and 25 years, or
  - 3) they have, irrespective of their age, become totally unable to work and to lead an independent life, or have become totally unable to work in the periods referred to in items 1 or 2 above.
3. If the child concerned has reached the age of 25 and is a final year student in a university level school, then his eligibility for a survivorship pension shall be prolonged until the completion of that year of studies.

#### **Art. 69**

Grandchildren, brothers and sisters and other children who were fostered and provided with maintenance by the insured, as referred to in Art. 62, clause 1, item 2, shall be eligible for a survivorship pension if they meet the requirements stipulated in Art. 68, and:

- 1) they were fostered and provided with maintenance at least 12 months before the death of the insured (i.e., the retiree or pensioner), unless his death was the result of an accident, and
- 2) they are not eligible for pensions on the death of their parents, or if the said parents are still alive, but:
  - a) the parents are incapable of providing maintenance to them, or,
  - b) the insured (the retired person or pensioner) or his/her spouse was declared the legal guardian by a court.

#### **Art. 70**

1. A widow shall be entitled to a survivorship pension providing that:
  - 1) at the time of her husband's death, she has attained the age of 50, or was unable to work, or,
  - 2) she is fostering at least one of the children, grandchildren or brothers or sisters who have not reached the age of 16 and are eligible for a survivorship pension on the death of her husband, or the age of 18 if they

have not yet completed education, or is looking after a child who is totally unable to work and to lead an independent life or is totally unable to work and is eligible for a survivorship pension.

2. An insured's widow who has attained the age of 50 or has become unable to work after her husband's death is also entitled to a survivorship pension, but no later than within 5 years of the day of his death, or from the date on which individuals as specified in clause 1, item 2 above ceased being fostered.
3. A divorced wife or widow who up to the date of her husband's death did not share with him statutory joint property shall be eligible for a survivorship pension if, apart from meeting the requirements as determined in clauses 1 or 2 above, on the day of her husband's death she was entitled to alimony from the husband, awarded through the court.
4. An insured's widow who is not eligible for a survivorship pension as referred to in clauses 1 or 2 above and who does not have funds to provide maintenance for herself shall be entitled to a temporary survivorship pension in the following periods:
  - 1) for 1 year from the date of her husband's death,
  - 2) during her participation in special training to qualify for a paid job, but for no longer than for 24 months after her husband's death.
5. The regulations referred to in clauses 1 to 3 shall duly apply to widowers.

#### **Art. 71**

Parents shall be eligible for a survivorship pension provided that:

- 1) the insured (a retiree or pensioner) has contributed towards their maintenance immediately before his death,
- 2) they meet the requirements in respect of widows and widowers as specified in Art. 70, clauses 1 and 2, and the age requirements as specified in Art. 70, clause 5.

#### **Art. 72**

Should an insured's eligibility for a survivorship pension terminate as a result of his returning to health the provision referred to in Art. 61 shall duly apply.

#### **Art. 73**

1. The survivorship pension shall be assessed as follows:
  - 1) in the case of a single eligible individual - 85% of the benefit to which a deceased individual would have been entitled,
  - 2) in the case of two eligible individuals - 90% of the benefit to which a deceased individual would have been entitled,

- 3) in the case of three or more eligible individuals - 95% of the benefit to which a deceased individual would have been entitled.
2. The amount of the benefit to which a deceased individual would have been entitled is defined as the amount of a retirement pension, except for clause 3 below, or of a disability pension awarded to an individual totally unable to work.
3. If the retirement pension of the deceased individual was calculated to include the increases as referred to in Art. 56, clauses 3 and 4, then the survivorship pension shall be calculated as a percentage of the benefit for which the deceased person was eligible, the amount being reduced by the said increases, according to the number of the individuals eligible for the pension. The survivorship pension thus calculated shall be topped up to take into account the 50% increase to which the deceased individual would have been entitled.
4. The provision of clause 3 above shall duly apply in calculating the amount of survivorship pension due on the death of individuals who have been eligible for a retirement pension or disability pension, in accordance with the regulations referred to in Art. 195.
5. A survivorship pension shall be paid from the Fund but the cost shall be reimbursable as follows:
  - 1) the portion reflecting the increase referred to in clauses 3 and 4 as well as the portion reflecting periods of farm work pursuant to Art. 63, clause 1, shall be reimbursed from the retirement pension and other pensions funds as specified by the regulations concerning individual farmers' social insurance,
  - 2) the portion reflecting the increase up to the level of the lowest benefit shall be reimbursed by the State budget.

#### **Art. 74**

1. All the eligible family members of an insured shall be entitled to one joint survivorship pension, in consideration of clauses 2 to 4 below.
2. The survivorship pension shall be subject to apportionment into equal parts among all eligible individuals.
3. If circumstances should arise which result in the survivorship pension being apportioned for the first time, or the conditions for apportionment of the pension being amended due to the number of the individuals eligible changing, then the appropriate pension authority shall apportion the benefit commencing from the month in which the said circumstances were revealed. The provisions of Art. 129, clauses 1 and 2, shall duly apply.
4. Should circumstances be revealed which result in the apportionment of a survivorship pension being terminated, the provisions of Art. 133 shall duly apply.

**Section 4**  
**Additional benefits in respect of retirement pensions and other pensions.**

**Art. 75**

1. An individual eligible for a retirement pension or other pension shall be entitled to a nursing benefit if the said individual has been declared totally unable to work and incapable of leading an independent life, or has attained the age of 75, in consideration of clause 4 below.
2. The nursing benefit shall amount to Zl 106.41 monthly.
3. The amount of nursing benefit as specified in clause 2 above shall be increased in accordance with the applicable indexation ratios for retirement pension and other pensions calculated commencing in the month in which indexation came into effect.
4. An individual who is eligible for a retirement pension or other pension and is an in-patient of an old people's home or a medical-nursing institute or nursing home, shall not be eligible for a nursing benefit unless the said individual lives outside such a house or institute for more than 2 weeks in a month.

**Art. 76**

1. Orphans bereft of both parents eligible for a survivorship pension are entitled to an additional benefit for orphans bereft of both parents.
2. The additional benefit referred to in clause 1 shall amount to Zl 200 per month.
3. The amount specified in clause 2 above shall be increased in accordance with the applicable indexation ratios for retirement pension and other pensions calculated commencing in the month in which the indexation came into effect.

**Section 5**  
**Funeral allowance.**

**Art. 77**

1. A funeral allowance shall be awarded in the case of death of:
  - 1) the insured,
  - 2) an individual receiving a retirement pension or other pension,
  - 3) an individual who on the day of his death did not have his eligibility for a retirement pension or other pensions established but met the eligibility requirements,
  - 4) a family member of the individual referred to in items 1 and 2 above.

2. The family members referred to in clause 1, item 4 above shall be deemed to be the individuals specified in Art. 67, except that grandchildren, brothers and sisters shall not be required to fulfil the condition in respect of fostering and providing maintenance before reaching maturity.
3. A funeral allowance shall also be awarded in the event of death of the insured after the insurance has terminated if the death occurred in the period of receiving a sickness benefit, rehabilitation benefit or maternity benefit.
4. A funeral allowance shall only be awarded on the strength of one title.

#### **Art. 78**

1. A funeral allowance shall be awarded to the individual who covered the cost of the funeral.
2. A funeral allowance shall also be awarded to an employer, an old people's home, communal authorities, district authorities, a church or religious organisation who is a legal person, if any of these individuals or persons covered the cost of the funeral.
3. If the cost of a funeral was covered by more than one person or individual, as specified in clause 2 above, the funeral allowance shall be apportioned among the said persons or individuals, in proportion to the cost incurred.

#### **Art. 79**

1. If the cost of a funeral was covered by a person not referred to in Art. 77, clause 1, item 4, or by an employer, an old people's home, communal authorities, district authorities, or a church or religious organisation who is a legal person, the funeral allowance shall be awarded in an amount equal to the documented cost of the funeral but not exceeding the amount specified in Art. 80.
2. If the funeral cost was incurred by the State, a political or social organisation, but the individuals referred to in Art. 77, clause 1, item 4 also covered a part of the costs, the same individuals shall be entitled to an allowance in an amount specified in Art. 80.

#### **Art. 80**

1. A funeral allowance shall amount to 200% of the average salary applicable on the date of death of the individual for whose funeral the cost was borne.
2. The amount referred to in item 1 above is defined on a monthly basis commencing in the third month of a calendar quarter, for a period of 3 months, based on the average salary in the preceding quarter.
3. The amount of a funeral allowance is announced by the President of the ZUS in the form of a communique published in the Official Journal of the Republic of

Poland *Monitor Polski* by the 14th working day of the second month of each calendar quarter.

#### **Art. 81**

Eligibility for a funeral allowance shall cease if an application for the said allowance is not filed within 12 months of the date of death of the individual on whose death the allowance is payable.

### **Section 6**

#### **Benefits granted in exceptional circumstances.**

#### **Art. 82**

1. In certain exceptional and justified cases, the Prime Minister may award a retirement pension or other pensions on terms and conditions and in amounts other than those stipulated by this Act.
2. By 31 January of each calendar year the Prime Minister shall submit to the *Sejm* (lower House of Parliament) of the Republic of Poland information on retirement pensions and other pensions awarded throughout the preceding year, pursuant to clause 1 above.

#### **Art. 83**

1. The President of the ZUS may, by way of exception, award benefits, whose amounts shall not exceed those of the related benefits as provided for by the Act, to the insured and surviving members of their families who as a result of certain exceptional circumstances do not meet the requirements for eligibility for a retirement pension or other pensions, as stipulated by this Act, and are not capable due to their total inability to work or their age of taking up a job or other activity subject to social insurance, and who do not possess sufficient resources for maintenance.
2. The provision of Art. 82, clause 2, shall duly apply.

#### **Art. 84**

Benefits referred to in Art. 82 and 83 shall be financed from the State budget.

### **Section 7**

#### **Regulations concerning the amount of benefits.**

#### **Chapter 1**

#### **The upper and lower limits of the benefit amounts.**

#### **Art. 85**

1. The lowest disability pension shall be assessed as follows:

- 1) ZI 415.00 per month - for individuals totally unable to work,
- 2) ZI 319.23 per month - for individuals partially unable to work.
2. The lowest retirement pension, in consideration of Art. 54 and 87, and the lowest survivorship pension shall amount to ZI 415.00 per month.
3. The lowest benefits as referred to in clauses 1 and 2 above shall be increased in accordance with the indexation ratio referred to in Art. 89 to 94.
4. Benefits assessed in amounts lower than those specified in clauses 1 to 3 above, including those augmented by the increases referred to in Art. 56, clauses 3 and 4, and Art. 73, clauses 3 and 4, shall be increased *ex officio*, and if payment of the said benefits has been withheld the increase shall come into effect after payment is resumed.

#### **Art. 86**

1. The amount of a retirement pension or other pension, including the increases referred to in Art. 56, clauses 3 and 4, or in Art. 73, clauses 3 and 4, shall not exceed 100% of the basis for assessing the retirement pension or other pensions.
2. The amounts of retirement pensions and other pensions referred to in Art. 85 shall not be limited to 100% of their assessment basis.
3. The increases as referred to in Art. 56, clauses 3 and 4, as well as in Art. 73, clauses 3 and 4, shall not apply to benefits whose lowest amounts are assessed pursuant to Art. 23.

#### **Art. 87**

1. Should a retirement pension payable from the Fund, including the life annuity due from a retirement pension company, as referred to in Art. 26, be lower than the amount assessed pursuant to Art. 85, clauses 2 and 3, then the retirement pension due from the Fund shall be increased so that the total amount of the said benefits is not lower than the aforementioned amount, providing that the insured:
  - 1) man - has attained 65 years of age and has met the requirements in respect of contribution and non-contribution periods of not less than 25 years,
  - 2) woman - has attained 60 years of age and has met the requirements in respect of contribution and non-contribution periods of not less than 20 years,in consideration of clauses 3 to 7 below. The provisions of Art. 5, clause 2, shall duly apply.
2. The increase referred to in clause 1 above shall be reimbursed from the State budget.

3. On calculating contribution periods falling after the date the Act comes into force for the purpose of increasing the retirement pensions, pursuant to clause 1, the months in which retirement pension and other pension contributions paid have been assessed on a basis lower than the lowest employee salary shall be considered in the portion reflecting the ratio of the basis for assessment to lowest salary, in consideration of clause 4.
4. The principle referred to in clause 3 above shall not apply if the decrease in the contribution assessment basis to below the level of the lowest salary was due to a salary being received for the period of the insured's inability to work, and paid according to the Labour Code regulations, or resulted from allowances and rehabilitation benefits being received from sickness insurance or accident insurance.
5. Entitlement to the increase referred to in clause 1 shall not apply to retirees who earn an income from activities referred to in Art. 104, clauses 1 to 4, if the said income exceeds the amount of the increase.
6. The contribution period referred to in clause 1 shall include not more than 10 years of continued insurance, in accordance with the social insurance regulations.
7. In determining the excess amount referred to in clause 5, the regulations of Art. 104, clauses 1 to 8, and Art. 106 shall duly apply.

## **Chapter 2**

### **Indexation of benefits.**

#### **Art. 88**

1. Retirement pensions and other pensions shall be subject to indexation, to maintain, at the very least, their real value in relation to the total increase of consumer goods and services prices.
2. In assessing the amounts of indexed retirement pensions and other indexed pensions, it is assumed that the nominal increase of the average retirement pension and other pension shall not be lower than the projected annual average consumer goods and services price index for a given year, and increased as follows:
  - 1) in the years 1999-2000 - by 15% of the difference between the projected average monthly salary rate in the national economy sectors for a given calendar year and the annual average consumer goods and services price index for a given year, provided that the projected average monthly salary rate in the national economy sectors for a given calendar year is higher than the annual average consumer goods and services price index for a given year;
  - 2) in the year 2001 and in the following years - by 20% of the difference referred to in item 1) above.

3. The average consumer goods and services price index referred to in clause 2 above is defined as consumer goods and services price index for the households of retirees and pensioners, or as the total consumer goods and services price index if the said index is higher than the consumer goods and services price index for households of the retirees and pensioners.

#### **Art. 89**

1. If the consumer goods and services price index increased pursuant to Art. 88, clause 2, is as follows:
  - 1) 110% or more - then the retirement pensions and other pensions shall be indexed for the period from 1 March and from 1 September,
  - 2) less than 110% - then the retirement pensions and other pensions shall be indexed for the period from 1 June.
2. To perform the indexation in the periods specified in clause 1, item 1 above, two identical indexation ratios shall be determined.
3. The indexation shall encompass retirement pensions and other pensions awarded before the date defined as the indexation date.

#### **Art. 90**

1. If the real average gross pension index for the prior year is lower than the one adopted by the Budget Law, the indexation ratio as determined by the Budget Law for the nearest indexation date in the current year shall be increased.
2. The increased indexation ratio referred to in item 1 above shall be obtained by multiplying the indexation ratio adopted by the Budget Law for increasing benefits in the current year by the verification index.
3. The verification index shall be obtained by dividing the real average gross pension index which should have been adopted in the preceding year by the real average gross pension index for the preceding year, as announced by the President of the Main Statistical Office.
4. The real average gross pension index for the preceding year shall be obtained by dividing the nominal increase of the average gross pension index by the annual total average consumer goods and services price index.
5. The nominal increase of the average gross pension index is the quotient of the average gross pension from the Social Insurance Fund of the given year and for the preceding calendar year, after excluding one-off payments guaranteeing a real increase of benefits in accordance with the Budget Law.
6. If the circumstances referred to in clause 1 above arise, then retirees and pensioners awarded benefits to 31 December of the preceding year shall receive a one-off payment on the nearest indexation date in the current year.

7. The one-off payment shall be calculated as the amount necessary to increase the joint retirement pension and other pensions paid for the preceding year up to the amount obtained by applying the verification index as referred to in clause 3 above.

#### **Art. 91**

1. An indexed retirement pension and other pension shall be assessed by multiplying the retirement pension or other pension by the indexation ratio.
2. When a retirement pension and other pensions are increased concurrently, the basis for assessment shall be increased by the indexation ratio as referred to in clause 1.

#### **Art. 92**

Retirement pensions and other pensions shall be subject to indexation *ex officio*, and if their payment has been withheld, they shall be indexed once the payment is resumed, taking into consideration each subsequent indexation due for the period in which the payment was withheld.

#### **Art. 93**

1. The Budget Law shall determine:
  - 1) the increase of retirement pensions and other pensions for a given year, being equivalent to at least the amount of the increase stipulated in Art. 88, clause 2,
  - 2) The real average gross pension index in relation to the annual average consumer goods and services price index,
  - 3) the indexation ratio for retirement pensions and other pensions, on each indexation date, pursuant to Art. 89,
  - 4) the annual average consumer goods and services price index for the households of retirees and pensioners, as calculated by the President of the Main Statistical Office,
  - 5) the total average consumer goods and services price index,
  - 6) the annual average salary rate in the national economy sectors.
2. The President of the Main Statistical Office shall prepare a projection of the annual average price index referred to in clause 1, item 4, based on assumptions concerning consumer goods and services price index and planned increases in official and controlled prices, as adopted in the preparation of the draft Budget Law.
3. The President of the Main Statistical Office shall publish, the following information in the form of a communique in the Official Journal of the Republic of Poland *Monitor Polski*:
  - 1) by the 7th working day of February:

- a) the total annual average consumer goods and services price index,
  - b) the nominal increase of the average gross pension index,
  - c) the real average gross pension index;
- 2) by 15 April, or, if in a given year only one indexation is performed, by 15 July - the average gross retirement pension and other pension adjusted for the one-off payment and the adjusted real average gross pension index, as referred to in Art. 90.

#### **Art. 94**

1. The minister for social security issues shall publish in the Official Journal of the Republic of Poland *Monitor Polski*, by 10 February, the increased indexation ratio as referred to in Art. 90.
2. The President of ZUS shall publish, in the form of a communique, in the Official Journal of the Republic of Poland *Monitor Polski*, at least 12 working days before the nearest indexation date, the amounts due from that date of the following:
  - 1) the lowest retirement pension and other pensions,
  - 2) nursing benefit and benefit for orphans bereft of both parents,
  - 3) maximum decreases as referred to in Art. 104, item 9.

### **Chapter 3 Concurrence of benefit entitlements.**

#### **Art. 95**

1. If a single individual should be eligible for several benefits as provided for by the Act, then only one of the benefits shall be payable - the higher one or as chosen by the insured.
2. In consideration of Art. 96, the provision of clause 1 shall also apply if a single individual is concurrently eligible for a retirement pension or other pensions as stipulated by this Act and for benefits as provided for by the regulations on retirement pension benefits for individuals referred to in Art. 1, clause 2.
3. The provision of clause 1 shall also apply if a single individual is entitled to a portion of a survivorship pension and is eligible for social benefit or pre-retirement benefit.

#### **Art. 96**

1. Other regulations shall govern entitlement to benefits if a single individual is concurrently eligible for a retirement pension and for the following:
  - 1) disabled war veteran's or disabled soldier's pension, where inability to work is connected with the insured's military service,

- 2) disability pension, the related disability being caused by staying in one of the places referred to in Art. 3 and Art. 4, clause 1 of the Act of 24 January 1991 on Veterans and Certain Individuals who Became Victims of Repressive Measures in the War and Post-War Periods (*Journal of Law* of 1997, No. 142, item 950; and of 1998, No. 37, items 204, and No. 106, item 668),
  - 3) disability pension, the related disability being caused by an accident at work, an accident on the way to or from work, or an occupational disease.
2. Other regulations shall govern eligibility for benefits if a single individual is concurrently eligible for a retirement pension or other pensions and to a retirement pension or other pension from the farmers' social insurance.

#### **Art. 97**

Individuals eligible for retirement pension or other pension as well as for pension benefits from foreign institutions shall receive their benefits in amounts as stipulated in this Act, unless international treaties state otherwise.

#### **Art. 98**

1. The payment of any of the benefits referred to in Art. 95 shall be withheld on the day from which the insured becomes eligible for a higher benefit or a benefit chosen by himself.
2. If benefit entitlements are concurrent as specified in Art. 96, the benefits shall be paid from the date the individual became eligible for both benefits, but not earlier than from the month in which an application was filed.

#### **Art. 99**

Should entitlement to a funeral allowance as stipulated by this Act be concurrent with entitlement to a funeral allowance pursuant to other acts or laws, only one allowance shall be awarded.

### **Section 8** **Principles for determining benefits.**

#### **Chapter 1** **Eligibility for benefits.**

#### **Art. 100**

1. Eligibility for the benefits as determined in the Act commences on the day by which all requirements for eligibility have been met, in consideration of clause 2 below.
2. If the insured is receiving a sickness benefit, rehabilitation benefit or a salary for a period of inability to work pursuant to the provisions of the Labour Code, then

eligibility for a retirement pension, disability pension or training allowance commences on the date on which the said benefits or salary are no longer received.

3. The provision of item 2 above shall not apply to retirement pension as referred to in Section 2, Chapter 1.

#### **Art. 101**

The eligibility for benefits shall cease:

- 1) if any of the conditions required for eligibility ceases, or
- 2) on the death of the individual eligible for the benefit.

#### **Art. 102**

1. Eligibility for a benefit arising from temporary inability to work shall cease on the last day of the period for which the benefit was awarded.
2. Eligibility for a training allowance shall cease:
  - 1) on the day the 6-month period ends, if the district governor has not filed an application for the said period to be prolonged,
  - 2) on the day the district governor receives a notification stating that it is not possible to re-train the insured for another job and also if the pension- authority received the notification before the 6-month period ended,
  - 3) on the day the period ended for which the benefit has been granted on application by the district governor,
  - 4) commencing from the day a notification is received from the district governor stating that the insured is not capable of successfully completing re-training within the 6-month period or the period referred to in section 2, item 3 above.

### **Chapter 2**

#### **Withholding or decreasing of benefits.**

#### **Art. 103**

1. Eligibility for retirement pensions and other pensions shall be withheld or the said benefits shall be decreased according to the principles stipulated by Art. 104 to 106.
2. Regulation 1 above shall not apply to retirees who have reached the age of 60 (women) or 65 (men).
3. Eligibility for a retirement pension or other pensions may also be withheld on application by the retiree or pensioner himself.

4. If one of the individuals eligible for a survivorship pension files an application as referred to in clause 3, the relevant portion of his right to the pension is withheld. The portion of the pension for which the remaining members of the family are eligible shall not be changed.

#### **Art. 104**

1. Eligibility for a retirement pension or other pensions shall be withheld or the said benefits shall be decreased pursuant to the principles determined in clauses 3 to 8 below and in Art. 105 if the insured earns an income from an activity subject to social insurance, as referred to in item 2, as well as from a service as referred to in Art. 6, clause 1, item 4, and clause 1, item 6.
2. Activities subject to social insurance as referred to in clause 1 shall be deemed to be employment, service or paid work of a different sort, or a non-agricultural business activity, in consideration of clause 3.
3. The provisions of clauses 1 and 2 above shall also apply to retirees and pensioners who earn an income from an activity performed outside Poland.
4. The provisions of clauses 1 and 2 above shall also apply to individuals who are not liable to social insurance due to being awarded the right to a retirement pension or other pensions, or performing an activity not subject to mandatory social insurance as a result of the individual being liable to social insurance on the basis of a different title.
5. The provisions of clauses 1 to 4 above shall not apply to royalties due to individuals engaged in creative or artistic activity.
6. The income referred to in clause 1 shall be also deemed to be the following benefits received: sickness, maternity and childcare, as well as salary received during the insured's inability to work, paid according to the provisions of the Labour Code, as well as the amount of rehabilitation and adjustment allowance, other social-adjustment allowance and additional adjustment allowance.
7. A single individual's eligibility for a retirement pension, disability pension or survivorship pension shall terminate if the said individual earns an income higher than 130% of the average monthly salary per calendar quarter, as most recently announced by the President of the Main Statistical Office.
8. If an individual earns an income exceeding 70% of the average monthly salary for a given calendar quarter, as most recently announced by the President of the Main Statistical Office, but not exceeding 130% of the said amount, the relevant benefit shall be decreased by the excess amount, but by no more than the maximum amount of the decrease binding as at 31 December 1998, specified as follows:
  - 1) 24% of the base amount binding for the most recent indexation in 1998 - for a retirement pension or disability pension awarded to an individual totally unable to work,

- 2) 18% of the base amount as referred to in item 1 above – for disability pension awarded to an individual partially unable to work,
  - 3) 20.4% of the base amount as referred to in item 1 above - for a survivorship pension for which a single individual is eligible.
9. The maximum amounts of decreases as referred to in clause 8 above shall be recalculated using the pension indexation ratio on the subsequent indexation dates.
10. The President of ZUS shall publish the following in the Official Journal of the Republic of Poland *Monitor Polski*:
- 1) by the 14th working day of the second month of each calendar quarter - the amounts of income as referred to in clauses 7 and 8 above, rounded up to a full 10 grosz [Zł 0.1],
  - 2) by the 14th working day of a November – the applicable income limits for the calendar year.

#### **Art. 105**

1. The amount of survivorship pension for which more than one individual is eligible shall be decreased if an individual entitled to a portion of the pension earns an income amounting to more than 70% of the average salary per calendar quarter, as most recently announced by the President of the Main Statistical Office, not exceeding 130% of the said amount per month.
2. A pension shall be decreased by decreasing the portion of the pension for which the income-earning individual is eligible by the amount referred to in clause 1, but by no more than the amount referred to in Art. 104, clause 8, item 3 multiplied by the relevant portion of the survivorship pension before the decrease divided by the full amount of the said pension.
3. Any income earned by an individual eligible for a survivorship pension in excess of 130% of the average salary in a calendar quarter, as most recently announced by the President of the Main Statistical Office, shall result in the said individual's eligibility for a respective portion of the survivorship pension being withheld. The other family members eligible for survivorship pension shall receive their portion in unchanged amounts.

#### **Art. 106**

The minister for social security issues shall determine, by virtue of decree, the following:

- 1) detailed principles for withholding and decreasing benefits,
- 2) the duties of retirees, pensioners, contribution payers and tax offices,
- 3) detailed principles for annual and monthly benefit settlement,
- 4) detailed principles for withholding and decreasing benefits for individuals whose eligibility for benefits has been assessed taking into consideration insurance periods abroad.

**Chapter 3**  
**Changes in benefit eligibility and in benefit amounts.**

**Art. 107**

The eligibility for disability benefits as well as the amounts of same shall be amended if a medical examination, conducted on application or *ex officio*, shows a change in the degree of the insured's disability, or if the disability is no longer observed, or if the disability has recurred.

**Art. 108**

1. If after the date as of which the retirement pension as determined in Art. 24 has been awarded, the retiree has contributed to retirement pension and other pension insurance, then the amount of this benefit shall be re-assessed in the manner described in clause 2 below.
2. Retirement pensions calculated in accordance with the principles described in Art. 26 shall be decreased by the quotient of the contributions recorded in the insured's account after the date the retirement pension eligibility has been assessed, indexed in accordance with Art. 25, and the number of months of average life expectancy of the given insured as of the day on which he applied for re-assessment of the retirement pension, in consideration of clauses 4 and 5.
3. A retirement pension shall be re-assessed following an application filed not earlier than after one calendar year or after the termination of retirement pension and other pension insurance.
4. The contributions recorded from the date of the first retirement pension payment to the month preceding the month in which the application for re-assessment of the retirement pension was filed shall be the basis for assessing retirement pension.
5. The provision of clause 4 shall duly apply to subsequent applications for re-assessing the retirement pension.

**Art. 109**

1. On application by a retiree or pensioner, the amount of a retirement pension as determined in Art. 53 or of other pensions shall be re-assessed in accordance with the principles described in Art. 110 to 113.
2. If as a result of the re-assessment the amount of a retirement pension or other pension has decreased, the insured shall be eligible for the relevant benefit in the previous amount.

### **Art. 110**

1. The amount of a retirement pension or other pensions shall be re-calculated from the basis for assessment determined pursuant to Art. 15, in consideration of clause 3, if it was assessed, pursuant to regulations of the Polish law, based on social insurance, retirement pension or other pension contributions paid in part or in full after the benefit was awarded, and the index of the basis for assessment is higher than the previously calculated index.
2. The pensioner or retiree shall not be required to have a higher index of the basis for assessment, if the said pensioner or retiree, from the date of assessing his eligibility for the benefit to the date of filing the application for re-assessment of the benefit, has not been paid the benefit, pursuant to clause 1, as a result of having the retirement pension or other pension eligibility withheld or if the period required to calculate the basis for assessment falls fully after the benefit rights have been awarded and the index of the basis for the assessment is at least 130%.
3. The last 20 calendar year period referred to in Art. 15, clause 1 shall encompass the period falling directly before the year in which an application for re-assessment of the benefit amount was filed, in consideration of Art. 176.

### **Art. 111**

1. The amount of a retirement pension or other pensions shall be re-calculated, in consideration of clauses 2 and 3, from the assessment basis determined pursuant to Art. 15, if it was assessed, in compliance with regulations of the Polish law, based on social insurance, retirement pension or other pension contributions, as follows:
  - 1) based on consecutive calendar years and in the period indicated for calculating the previous basis for assessment of a benefit,
  - 2) based on ten consecutive calendar years selected from the twenty calendar years that have immediately preceded the year in which the application for re-assessing a retirement pension or other pensions was filed, in consideration of Art. 176,
  - 3) based on 20 years selected from the entire insurance liability period and preceding the year in which the application for re-assessing the retirement pension or other pension was filed,

whereas the index of the basis for assessment is higher than the previously calculated index.

2. The index of the basis for assessment calculated pursuant to Art. 15, is multiplied by the base amount most recently adopted for calculating a benefit.
3. The basis for assessment of a retirement pension or other pensions, calculated pursuant to clauses 1 and 2, shall be subject to any indexation applicable to the date of filing an application for re-assessment of the basis.

## **Art. 112**

1. If a retiree or pensioner applies for re-assessment of a benefit as a result of including the contribution and non-contribution periods which have not been taken into account in the previously calculated amount, then the amount of the benefit due shall be increased by adding:
  - 1) to the retirement pension as referred to in Art. 53, or to a disability pension:
    - a) 1.3% of the base amount determined as a result of indexation performed in each year of contribution periods as referred to in Art. 6,
    - b) 0.7% of the base amount determined as a result of indexation performed in each year of non-contribution periods as referred to in Art. 7;
  - 2) to the disability pension resulting from a partial disability, and to the survivorship pension - part of the increase as referred to in clause 1, established on the basis of the percentage index determined in Art. 62, clause 2, and in Art. 73, clause 1, respectively.
2. In calculating the increase as referred to in clause 1, the contribution and non-contribution periods shall be rounded up to a full month.

## **Art. 113**

Retirement pensions or a disability pensions shall be re-assessed by adding the contribution and non-contribution periods which have not been included in the base amount, on application filed not earlier than after the end of a calendar quarter, provided that the said retiree or pensioner is liable to an insurance unless the insurance has been terminated within the said calendar quarter.

## **Art. 114**

1. Eligibility for benefits and their amounts shall be re-assessed on an application filed by the interested party or *ex officio*, if, after the decision concerning the benefits has become final and valid, new evidence or circumstances that existed before the decision was issued and that influence the benefit eligibility or benefit amounts are revealed.
2. If the benefit eligibility or benefit amounts have been established by virtue of a decision of an appellate agency, then, on the basis of the evidence or circumstances as referred to in clause 1, the pension authority shall:
  - 1) issue an independent decision awarding the right to a benefit or an increase of the same,

- 2) file an application to the appellate agency for re-instituting arbitration proceedings if the evidence submitted or circumstances reveal that the said individual is not eligible for a given benefit, or that the related benefits are due in lower amounts. Such an application may be submitted by a pension authority at any time,
- 3) discontinue paying benefits, whether in part or completely, if a retiree or pensioner has previously been awarded the related benefit on the basis of forged documents or false evidence, or in other instances of ill will.

**Section 9**  
**Procedures for awarding and paying benefits.**

**Chapter 1**  
**General principles.**

**Art. 115**

1. Benefits shall be awarded and paid out by pension authorities relevant for the place of residence of the interested parties, in consideration of clauses 2 and 4.
2. The Foreign Pension Office as well as the organisational entities of ZUS appointed by the ZUS President shall issue decisions in respect of benefits and pay them out to:
  - 1) residents of foreign countries that have international treaties with the Republic of Poland concerning social insurance,
  - 2) individuals who, in establishing their retirement pension or other pension eligibility and related amounts due, have had the insurance periods included as referred to in Art. 8.
3. Decisions regarding eligibility for benefits and their payments, in respect of residents of foreign countries that have no international treaty with the Republic of Poland concerning social insurance, shall be made by the pension authorities for the last place of residence of the interested party (the insured) in Poland.
4. Decisions regarding benefits and their payment to individuals referred to in Art. 1 clause 2 shall be made by military pension authorities and authorities defined by the regulations concerning the retirement pension system.

**Art. 116**

1. On application by the interested party, proceedings concerning benefits shall be commenced, unless otherwise stated by this Act.
2. The application for a retirement pension or other pensions may be withdrawn, not later, however, than on the date the relevant decision becomes final and valid.

3. Applications for benefits shall be submitted to the pension authority, directly or via the contribution payer, in consideration of Art. 182.
4. Applications for awarding benefits to individuals referred to in Art. 115, clauses 2 and 3, shall be submitted to the pension authorities specified in the said regulations, in consideration of the provisions of international treaties.
5. An application for a benefit shall have documented evidence attached justifying eligibility for a pension as well as the pension amounts, determined by virtue of a decree issued by the Minister for social security issues.

#### **Art. 117**

1. Contribution periods as referred to in Art. 6, clause 1, items 2 to 9, and in clause 2, item 1 b) to d), item 2 d), and items 4 to 19, and non-contribution periods as referred to in Art. 7, as well as periods referred to in Art. 10, clause 1, item 1, may be considered if they have been documented (certified) or can be proven by entries in the insurance card or by a court decision, in consideration of clauses 3 and 4.
2. Contribution periods falling after the date of this Act coming into force, as referred to in Art. 6, clause 1, item 1, and non-contribution periods as referred to in Art. 7, item 1, as well as the data concerning the basis for contribution assessment and the contribution amounts paid, shall be considered on the basis of information registered in the insured's account.
3. The periods of serving a sentence in a Polish prison for political activity as referred to in Art. 6, clause 1, item 8, shall be confirmed by the President of the appropriate Provincial Court; and if the term was served without a court sentence, by the Head of the State Security Bureau.
4. The periods as referred to on Art. 6, clause 1, item 10, and art. 7, item 4, shall be proven either by the applicable documents or witnesses' testimonies. The said documents or testimonies shall be assessed, by virtue of a decision, by the Director of the Office for War Veterans and Politically Repressed Persons, in accordance with the regulations concerning war veterans and persons who have fallen victims to war-time and post-war repressive measures.
5. The minister for social security issues shall define, by virtue of a decree, the categories of evidence necessary for assessing eligibility for benefits and their amounts when no such information is included in the insured's account.

#### **Art. 118**

1. The pension authority shall issue a decision concerning benefit eligibility or its initial amount within 30 days of the date of the final circumstances necessary to issue that decision being clarified, in consideration of clauses 2 and 3 below and of Art. 120.

2. If by virtue of a decision benefit eligibility or the amount has been assessed, the pension authority shall make the payment in the period as determined in clause 1 above.
3. Should it prove impossible to assess benefit eligibility or the amounts on the basis of the evidence submitted, then the deadline for the additional period assigned by the appropriate pension authority for submitting the essential evidence, or the date on which the said evidence was submitted shall be deemed to be the date by which final circumstances, as referred to in clause 1, were clarified.
4. On paying out a benefit pursuant to a decision to re-assess eligibility for a benefit or its amount, clauses 1 to 3 shall duly apply, in consideration of clause 5 below.
5. Pursuant to a decision, as referred to in clause 4, a benefit shall be paid out on the nearest payment date, or on the following payment date, if the period between the date of clarifying the final circumstances necessary to issue the decision and the nearest payment date is less than 30 days.
6. The provisions of clauses 1 to 5 shall not apply if international treaties state otherwise.
7. The interested party has the right to appeal against the decision of the pension authority, as determined by other regulations.

#### **Art. 119**

1. The pension authority shall issue decisions on awarding temporary disability pensions for the period indicated by a medical expert.
2. If the medical report advises occupational retraining, the pension authority shall issue a decision to grant a training allowance for a 6-month period and shall direct the interested party to an employment agency of the related district authority for retraining.
3. On application by the district governor, the pension authority shall issue a decision to extend the training allowance entitlement by the period indicated in the said application, in consideration of the provision of Art. 60, clause 2.
4. The pension authority shall redirect the interested party to the medical expert if the district governor states that the said individual's occupational retraining is impossible.

#### **Art. 120**

If eligibility for benefits has been proven but the interested party has not submitted the evidence necessary to assess the amount of the benefit, then the pension authority shall award the benefit by way of an advance amount approximated to the expected benefit.

### **Art. 121**

1. Excerpts from the birth and marriage register, certificates issued for the purpose of assessing an insured's eligibility for a benefit as well as applications for having the same issued shall be free of charge.
2. Interested parties and pension authorities shall be exempt from any charges in respect of matters related to benefits as provided for by this Act.

### **Art. 122**

1. Governmental and local-governmental administrative bodies as well as employers shall be obliged to provide assistance and information to the pension authorities in respect of matters related to benefits as provided for in this Act.
2. On application by the interested party or the pension authority, the entities referred to in clause 1 shall be obliged to certify, free of charge, the authenticity of the signatures put on pension statements (declarations) and forms required for the award and payment of pensions from foreign institutions.
3. The provision of clause 2 does not violate the provisions of the Law on the Notary Public of 14 February 1991, Art. 96 *Journal of Law* No. 22/1991, item 91, and *Journal of Law* No. 28/1997, item 153).

### **Art. 123**

The minister for social insurance issues shall define, by virtue of a decree, the detailed procedures for assessing eligibility for financial benefits as provided for by this Act.

### **Art. 124**

Proceedings concerning benefits as determined by this Act, shall be governed by the provisions of the Code of Administrative Proceedings, unless this Act states otherwise.

## **Chapter 2**

### **Duties of contribution payers, beneficiaries and other entities**

### **Art. 125**

1. Employers are obliged to:
  - 1) Co-operate with the employee to collect documents necessary for granting benefits,
  - 2) issue certificates for the employee or pension authority necessary to determine eligibility to benefits and their amount,

- 3) prepare an application for a pension request and submit it with the employee's consent to the pension authority no later than 30 days before the date on which the employee intends to retire, in consideration of Art. 182,
  - 4) prepare with the employee's consent an application for a disability pension resulting from inability to work and submit it to the pension authority 30 days before the termination of sickness benefit rights,
  - 5) immediately inform the family of the deceased on the conditions for obtaining a survivorship pension, prepare an application for a pension and submit it to the pension authority,
2. The provisions of clause 1 shall duly apply to other contribution payers, with the exception of engagers, individuals who act as employers who do not pay sickness benefits and contribution payers who submit payments on behalf of themselves and other co-workers.

#### **Art. 126**

At the pension authority's request a person who has filed an application for a benefit the right to which is dependent on his inability to work and a person who is eligible to such a benefit shall have to undergo a medical examination and psychological examination if the medical expert so orders, providing such an examination is required to determine the right to a benefit as defined in the Law. The provisions of Art. 134 clause 1 item 3 shall apply accordingly.

#### **Art. 127**

1. The retiree or pensioner is obliged to notify the pension authority when undertaking activities as set forth in Art. 104 clause 1-4 and of the amount of income arising from such activities.
2. The duties defined in clause 1 are vested in the employer and engager respectively and in the case of persons employed by the services on contributors.

#### **Art. 128**

1. At the pension authority's request the retiree or pensioner is obliged to confirm by his/her personal signature the existence of extended rights to receive benefits as defined by the Law.
2. Should there be any circumstances precluding or hindering the retiree or pensioner from providing the aforementioned signature the extension of rights to receive benefits by the said pensioner can be confirmed by the signature of an authorised person who takes care of the retiree or pensioner.
3. The authenticity of signatures of persons specified in clause 1 and 2 are to be confirmed free-of-charge by a competent government administrative body or local authorities.
4. The provision of clause 3 does not infringe on the provisions of Art. 96 of the Law on the Notary Public.

5. Should there be any failure in meeting the requirement specified in clause 1 the provisions of Art. 101 and 134 shall apply accordingly.

### **Chapter 3**

#### **General terms for payment of benefits**

##### **Art. 129**

1. Benefits shall be paid from the date the right to such benefits is established, but not before the month of filing the application or issuing a statutory decision, in consideration of clause 2.
2. Should a survivorship pension application be filed during the month directly following the month of the insured, retiree or pensioners death, the survivorship pension shall be paid from the date of death, but not before the date on which pension requirements are met by authorised family members.
3. The condition for payment of retirement pension as referred to in Art. 26 for members of an open pension fund is the conclusion of a pension agreement as defined in the regulations on pension fund companies.

##### **Art. 130**

1. Benefits for each calendar month shall be paid on the date specified in the decision of the pension authority as the date of benefit payment, in consideration of clause 4.
2. Benefits shall be paid to persons eligible, through entities dealing with such operations or at the request of the person to bank accounts or to a co-operative saving and loan society, in consideration of clause 3.
3. Persons who are in prison, in military custody or those arrested for petty offence and kept in detention awaiting trial shall receive their benefits through entities dealing with such operations, which are forwarded:
  - 1) to the address of the penal institution or place of arrest,
  - 2) at the request of the person to the bank account or a person nominated by that person, after they are instructed on the circumstances referred to in Art. 138 clause 2 item 1.
4. For individuals living abroad in countries which have signed international treaties with Poland on the social security system, benefits are paid through banks on a quarterly basis on the last day of the quarter at the latest, unless international treaties specify otherwise.
5. The date of benefit payment as defined in clause 4 is the date on which this amount is remitted to the bank.

### **Art. 131**

1. A survivorship pension to which more than one person is eligible, as referred to in Art. 74 clause 2, the portion of the pension for:
  - 1) a person under 18 years of age,
  - 2) a person over 18 years of age under legal guardianship,shall be paid to the guardians of such individuals after they are instructed on the circumstances referred to in Art. 138 clause 2 item 1 with the exception of clauses 5 and 6.
2. Part of the survivorship pension to which a person over 18 is eligible, other than as specified in clause 1 item 2 shall be paid at the request of that person to another person over 18 who is entitled to a portion of the survivorship pension or to a person who was the guardian of the applicant before he/she became 18 upon instructing them on the circumstances referred to in Art. 138 clause 2 item 1.
3. Should any circumstances resulting in the need to apportion the pension for the first time or to amend the former terms for apportioning the pension be disclosed the pension authority shall pay out an adjustment benefit starting from the month such circumstances were disclosed.
4. Payments remitted before survivorship pension is apportioned for the established apportionment period:
  - 1) Shall be included in the amounts entitled from such apportionment if the aforementioned period allows for the benefit to be adjusted,
  - 2) cannot be claimed if as a result of apportionment it is determined that the benefit for that period should have been in the lower amount.
5. An orphan (bereft of both parents) staying in a special institution, children's home or educational institution shall receive survivorship pension including an orphan's benefit into a bank account indicated by the director of the entity or the guardian as established by the court.
6. Should more than one orphan staying in an institution, children's home or educational institution be entitled to a single survivorship pension then each orphan shall receive a portion of the pension and orphan's benefit. The provision of clause 5 shall apply accordingly.

### **Art. 132**

At the request of a retiree or pensioner living abroad the pension shall be received by a person authorised to receive the pension, who is domiciled in Poland or into the account of the retiree or pensioner in his/her country, unless international treaties provide otherwise.

### **Art. 133**

1. In the event of eligibility for benefits or their amount being re-established by a pension authority the benefits granted or increased are paid from the month eligibility for these benefits or the increased amount was established but not before:

- 1) the month in which an application for reconsideration was filed or in which an official decision was announced,
  - 2) 3 years directly preceding the month referred to in item 1, if the refusal to grant benefits or granting of lower benefits resulted from an error made by the pension authority or appellate agency.
2. The provision of clause 1 shall duly apply also for re-considering the right to benefits or their amount resulting from renewal of the procedure in front of the appellate agency or due to annulment, whereas the month of filing an application is considered to be the month an appeal to renew the procedure or annulment is filed.

#### **Art. 134**

1. Benefit payments shall be discontinued, if:
  - 1) circumstances justifying suspension of the right to benefits or termination of that right arise,
  - 2) a person receiving benefits despite instructions or demands from the pension authority shall not provide evidence proving the continued existence of the right to benefits,
  - 3) a person entitled to benefits failed to undergo a medical or psychological examination and was unable to provide a fair reason despite the pension authority's request to do so ,
  - 4) the right to benefits did not exist,
  - 5) benefits cannot be remitted for reasons beyond the control of the pension authority.
2. Benefit payments shall be discontinued from the month:
  - 1) following the month the benefit right resulting from temporary inability to work was reversed,
  - 2) following the month the pension authority announced the decision to discontinue payment in the cases referred to in clause 1 item 1-4,
  - 3) in which an individual was entitled to a benefit not delivered in the cases referred to in clause 1 item 5.
3. The provisions of clause 2 item 2 shall duly apply if circumstances should arise justifying a decrease in the benefit payment.
4. No decisions are announced on discontinuing benefit payments in the cases referred to in Art. 102 clauses 1 and 2 items 1 and 3.

#### **Art. 135**

1. Should the reasons for discontinuing a benefit payment cease to exist the payment shall be re-established from that month, but not before the month the request to re-establish the payment was submitted or a statutory decision to re-establish the payment was announced, in consideration of clause 2.

2. In accordance with Art. 134, clause 1, item 5, payment of a benefit shall be re-established from the month it was discontinued, but for a period of not more than 3 years directly preceding the month the application to re-establish the payment was submitted.
3. If the benefit payment was discontinued due to a mistake on the part of the pension authority the payment shall be re-established from the month it was discontinued, but for a period of not more than 3 years directly preceding the month the application to re-establish the payment was filed or a statutory decision to re-establish the payment was announced.

#### **Art. 136**

1. If an individual who filed an application for statutory benefit has died, the benefits that the person was entitled to up to the date of his/her death are paid to the spouse, children living in the same household, and if no such person should exist — to the spouse and children not living in the same household, and should no such person exist to other family members entitled to survivorship pension or to the individual in whose care the person was.
2. Individuals specified in clause 1 are entitled to continue proceedings for obtaining a benefit that were not completed due to the death of the applicant.
3. Benefit claims referred to in clause 1 shall terminate 12 months after the death of the beneficiary, unless a request is submitted to continue proceedings before the aforementioned period has lapsed.

#### **Art. 137**

The Minister for social security specifies the detailed terms of benefit payments in a decree.

### **Chapter 4**

#### **Reimbursement of benefits unduly received, execution of and deductions from benefits**

#### **Art. 138**

1. An individual who has unduly received benefits must return them.
2. In accordance with clause 1 unduly received benefits are:
  - 1) benefits paid irrespective of whether there are circumstances resulting in the termination or suspension of the right to benefits, or payment of total or partial benefits if the person receiving the benefit was instructed that he/she is not entitled to the said benefit,
  - 2) benefits granted or paid on the basis of false declarations or documents or in other instances of having been intentionally misled by the benefit collector.

3. In accordance with clause 1 unduly received benefits are also benefits paid for reasons independent of the benefit authority to an individual other than specified in the decision of that authority.
4. Unduly received benefits shall not be reimbursed for a period exceeding 12 months, if the person receiving the benefit has notified the pension authority of the circumstances resulting in the termination or suspension of the right to benefits or payment of total or partial benefits and the benefits continued to be paid, and in all other cases for a period of more than 3 years with the exception of clause 5.
5. Unduly received benefits in respect of income acquired in accordance with Art. 104 clause 1 are subject to reimbursement for a period not exceeding 1 calendar year preceding the year a decision for final settlement of the benefits was issued, if the person receiving the benefit notified the pension authority on acquiring income, in other cases for a period of not more than 3 calendar years preceding the year the decision was issued.
6. The pension authority can withhold from ordering reimbursement of total or partial benefits unduly received, or can decrease the amount of the reimbursement due in accordance with Art. 140 clause 4 item 1 or can postpone reimbursement for a period of no longer than 12 months, if special circumstances should arise.

#### **Art. 139**

1. The following receivables shall be deducted from cash benefits as defined in the Law — after deducting an amount for the health insurance contribution, the down payment and other receivables arising from personal income tax, in consideration of Art. 141:
  - 1) benefits paid in advance,
  - 2) unduly received retirement pensions, other pensions and other benefits arising from:
    - a) pension benefits and social insurance covering the period before the law came into force,
    - b) social insurance as referred to in the law on social insurance systems, including penalty interest,
    - c) benefits specified in other regulations,
  - 3) sums exacted on the basis of executory decisions to cover alimony due,
  - 4) amounts of alimony due deducted at the request of the creditor in accordance with the executory decision,
  - 5) sums exacted in accordance with executory decisions to cover amounts due other than alimony,
  - 6) amounts of survivorship pensions or nursing benefits unduly received in cases in which it is not possible to deduct them from survivorship pension or nursing benefit payments, including penalty interests,
  - 7) amounts of benefit unduly received from the alimony fund,
  - 8) payment of social security benefits, providing the deduction is stipulated upon payment,

- 9) social benefits and benefits paid on the basis of employment and unemployment control regulations for the period the unemployed was granted the right to a retirement pension or other pension,
  - 10) payments made for a person's stay in old people's home, medical nursing institute or nursing home who are entitled to benefits, at the request of the managers of these institutions.
2. The amount deducted for health insurance contribution cannot exceed the advance payment and other receivables due from personal income tax.
  3. The deduction of receivables as specified in clause 1 is performed in the order set forth in this provision.
  4. The deductions referred to in clause 1 item 4 shall be made in the following order: outstanding alimony is the first to be deducted for the period indicated in the executory decision, providing a declaration is obtained from the creditor that it has not otherwise been paid by the debtor.

#### **Art. 140**

1. The deductions referred to in Art. 139 can be made with the exception of Art. 141 within the following limits:
  - 1) alimony benefits as referred to in Art. 139 clause 1 item 3 — up to 60% of the benefit,
  - 2) exaction of receivables related to:
    - a) payment for stay in old people's homes,
    - b) payment for stay in medical nursing institutes,
    - c) payment for stay in nursing homes,
 up to 50% of the benefit,
  - 3) exaction of other receivables — up to 25% of the benefit.
2. Should the sums referred to in Art. 139 clause 1 items 3 and 5 be deducted in favour of several creditors and the total deductible amount does not fully cover the said receivables, the pension authority shall transfer the deducted amounts upon the decision of an executory authority. The amounts shall remain in the Authority's deposit until the decision is announced.
3. The provisions of clause 2 shall duly apply upon concurrence of the exaction of sums referred to in Art. 139 clause 1 items 3 and 5, with the deduction of alimony due as referred to in Art. 139 clause 1 item 4.
4. With the exception of Art. 141 deductions cannot exceed:
  - 1) 50% of the monthly benefit — if the receivables referred to in Art. 139 clause 1 items 1 and 2 and in items 6-10 are subject to deduction,
  - 2) 60% of the monthly benefit — if the alimony due referred to in Art. 139 clause 1 item 4 is subject to deduction.

5. Should the alimony due referred to in Art. 139 clause 1 item 4 be deducted in favour of several creditors and the total deductible amount does not fully cover the said receivables, deductions shall be determined in proportion to the amount of each of the receivables constituting total receivables as defined in the executory decisions for current receivables.
6. In the event of there being a concurrence:
  - 1) deductions of exacted sums referred to in Art. 139 clause 1 items 3 and 5 the joint deductions cannot exceed:
    - a) 60% of the benefit if the alimony due is subject to deduction,
    - b) 50% of the benefit if receivables other than alimony due, with the exception of letter c) are subject to deduction,
    - c) 25% of the benefit if only the exacted receivables referred to in Art. 140 clause 1 item 3 are subject to deduction,
  - 2) For the deduction of exacted sums as referred to in Art. 139 clause 1 items 3 and 5 with the deduction of other receivables as referred to in Art. 139 clause 1 items 1-2, 4, 6-10 — the provision of item 1 letters a) and b) shall apply accordingly,
  - 3) For deductions as referred to in clause 4 - the provision of item 1 letters a) and b) shall apply accordingly,
7. The amount of the portion of the benefit subject to being exacted as referred to in clause 1 and deductible amounts as referred to in clause 4 as well as the amount of the deductible portion of the benefit as referred to in clause 6 are calculated based on the amount of the benefit prior to deduction of the monthly advance for personal income tax.
8. The provisions of clauses 1-7 shall duly apply when making deductions from a survivorship pension to which more than one person only is the beneficiary, whereas deduction limits are calculated in proportion to the deductible part of the pension.

#### **Art. 141**

1. Retirement pensions and other pensions exempt from exaction and deductions with the exception of clause 2 in the portion corresponding to:
  - 1) 50% of the lowest retirement pension or other pension — depending on the type of benefit received by the retiree (pensioner) - upon deduction of:
    - a) receivables as referred to in Art. 139 clause 1 item 3 including exaction costs and fees,
    - b) receivables referred to in Art. 139 clause 1 item 4,
    - c) receivables referred to in Art. 139 clause 1 item 5,
  - 2) 60% of the lowest retirement pension or other pension - upon deduction of receivables referred to in Art. 139 clause 1 item 1, 2 and 6-10.

2. The amount of retirement pensions and other pensions granted in respect of insurance periods abroad, exempt from deductions and exaction are calculated in proportion to the benefit paid.
3. Amounts exempt from deductions and exaction for retirement pensions and other pensions are calculated inclusive of all increases, additions, bonuses and other allowances paid together with the retirement pension or other pension in accordance with other regulations, with the exception of survivorship pension, additional benefit for orphans (bereft of both parents) and nursing benefit.
4. In the event of concurrence of eligibility to two or more cash benefits the amount exempt from exaction and deductions is calculated on the basis of one, higher benefit.

#### **Art. 142**

If the exaction of cash benefits is not addressed in Art. 139-141 the provisions of the Civil Code or administration executive proceedings shall apply.

#### **Art. 143**

Should benefits be granted or increased in respect of the previous period to satisfy debtor claims the pension authority shall be entitled to exact such deductions as referred to in Art. 139 clause 1 items 1 and 2, 4 and 6-10 of the adjustment amount due up to the date of the decision establishing the right to benefits or benefits in a higher amount being announced.

#### **Art. 144**

Any benefits unduly received referred to in Art. 138, clauses 2 and 3 by persons not eligible to receive benefits as specified in the law shall be subject to recovery in accordance with administrative executive proceedings on the basis of a statutory decision announced by the pension authority.

### **Section X**

#### **Amendments, interim and final regulations**

#### **Chapter 1**

#### **Amendments to existing regulations**

#### **Art. 145**

The following amendments shall be made to the Law of 16 December 1972 on Compensation Benefits for Accidents and Illnesses Related to Military Services (*Journal of Law* No. 53, item 342 of 1985 No 20, item 85 and of 1989 No. 35 item 192):

- 1) the title of the law shall be replaced by the following:

"on Benefits for Accidents and Illnesses Related to Military Services.";

- 2) in Art. 1 the words "Compensation benefits" shall be replaced by the following:  
"Benefits for accidents and illnesses related to military services";
- 3) the title of chapter 2 shall read:  
"Single Cash Indemnity and Pension Benefits";
- 4) in chapter 2 Art. 9a shall be added and shall read as follows:  
"Art. 9a 1. Soldiers called up for army service after 1 January 1999 who suffered from accidents during the performance of or in connection with service duties shall receive a disability pension, in the event of death – their family members shall receive a survivorship pension in the amount and on the terms and conditions specified in the provisions on benefits granted for accidents at work and occupational disease with the exception of clauses 2 and 3.
2. Military medical examination committees shall express opinions on disability of soldiers and the way in which such disability or death is associated with army service based on the terms and conditions specified in the provisions on pension benefits for professional soldiers and their families.
3. Benefits for individuals defined in clause 1 shall be financed from budget funds at the disposal of the Minister of Defence."

#### **Art. 146**

The following amendments shall be made to the Law of 29 May 1974 on Pension Benefits for Victims of War and Army Service and Their Families (*Journal of Law* of 1983 No.13, item 68, of 1990 No.34, item 198 and No.36, item 206 of 1991, No 104 item 450 of 1992 No 21, item 84, of 1993 No.129, item 602 of 1994, No.10 item 37 of 1995 No.4, item 17 and No.138 item 681, of 1996 No.136 item 636, of 1997 No.28, item 153 and of 1998 No.106, item 668):

- 1) in Art. 21 clause 3 shall be added after clause 2 and shall read:  
"3. The provisions of clause 1 and 2 shall apply to individuals born before 1 January 1949.";
- 2) Art. 26 shall be deleted;
- 3) Art. 40 shall read:  
"Art. 40. Eligibility to a disability pension for a disabled soldier whose inability to work is not related to army service shall be suspended or the amount shall be decreased in accordance with the terms and conditions defined in the provisions on retirement pensions and other pensions from the Social Insurance Fund.";
- 4) Art. 47 shall be deleted;
- 5) Art. 49 shall read:  
"Art. 49. Eligibility to a survivorship pension arising from a soldier's death which is not related to army service shall be suspended or the amount shall be decreased in accordance with the terms and conditions defined in the provisions on retirement pensions and other pensions from the Social Insurance Fund.";

6) in Art. 54

a) clause 2 shall be followed by clause 2a and shall read:

"2a. The provision of clause 1 shall duly apply to a retired person who receives a benefit granted because of age.",

b) clause 3 shall be followed by clause 3a which shall read:

"3a. The provision of clause 3 shall duly apply to a retired person who receives a benefit granted because of illness or loss of strength or a family benefit.",

c) in clause 4 the words "referred to in clause 1 item 2 and in clauses 2 and 3" are substituted by the words "referred to in clause 1 item 2 and in clauses 2, 2a as well as in clauses 3 and 3a";

7) Art. 64 shall read:

"Art. 64. For matters not addressed in this law Art. 12-14, 70, 74, 83. 88-93, 102, 107, 114, 126-131 and 133-144 of the law of 17 December 1998 on Retirement Pensions and Other Pensions from the Social Insurance Fund. (*Journal of Law* No. \_\_, item \_\_) shall govern accordingly."

#### **Art. 147**

1. The following amendments shall be made to the Law of 17 December 1974 on Cash Benefits from Social Insurance for Illness and Maternity Leave (*Journal of Law* of 1983 No.30, item 143, of 1985 No. 4, item 15, of 1986 No. 42, item 202, of 1989 No.4, item 21 and No.35, item 192, of 1991 No.104, item 450, No.106, item 457 and No.110, item 474 and of 1995 No.16, item 77):

1) in Art. 2 item 5 the comma at the end shall be substituted by a full stop and items 6 & 7 shall be deleted;

2) in Art. 12 clause 5 shall be added after clause 4 and shall read: "5. The basis for assessing sickness benefit shall be based on the salary after deduction of employers contributions to social insurance.";

3) chapters 7a and 8 shall be deleted;

4) Art. 48 shall read:

"Art. 48.1. Eligibility to benefits defined in the Law and their amount shall be assessed and paid by the following:

1) contribution payers which register over 20 insured for sickness insurance eligibility, with the exception of item 2,

2) Social Insurance Society (ZUS)

a) the insured which contribution payers register for sickness insurance eligibility, not exceeding 20 insured,

b) persons entitled to benefits in the period following termination of the sickness insurance.

2. The number of insured referred to in clause 1 is established for the calendar year according to the status of contribution payers on 30 November of the preceding calendar year who in the previous calendar year did not register anyone for sickness insurance — on the basis of the status for the first month such a report was submitted.
3. After 31 December Social Insurance Society shall continue to pay benefits even if the benefit payer is obliged from 1 January to pay benefits in accordance with clause 1.
4. If the basis for assessing the benefit amount is taken as being the salary for the period in which the employer, in accordance with social insurance regulations, had no obligation to submit a report by names consisting of a list of paid salary items, the information shall be forwarded by the employer in a separate certificate which has been prepared by a minister competent in social security issues.";
- 5) in Art. 51 the words "and funeral" shall be deleted;
- 6) in Art. 54:
  - a) in clause 1 the words "and educational" shall be deleted,
  - b) in clause 2 the words "and funeral" shall be deleted;
- 7) in Art. 58:
  - a) in clause 2 the words ",nursing and educational" shall be replaced by the words "and nursing",
  - b) clauses 2a and 2b shall be added and shall read:
    - 2a. Provisions of the law duly apply to persons involved in substitute forms of military service and those working on an assignment for a fee during imprisonment or temporary custody.
    - 2b. Eligibility to benefits for persons who are involved in substitute forms of military service is assessed and paid by contribution payers to sickness insurance."

#### **Art. 148.**

The following amendments shall be made to the Law of 12 June 1995 on Benefits for Accidents at Work and Occupational Disease (*Journal of Law* of 1983 No.30, item 144, of 1989 No.35, item 192 of 1990, No.36, item 206, of 1991 No. 94, item 422, of 1995 No.4, item 17, of 1996 No.24 item 110 and No 100, item 461 and of 1998 No.106, item 668):

- 1) in Art. 18 clause 4 the words "director of the regional employment office" shall be replaced by the word "district governor";
- 2) Art. 19 shall read:
 

"Art. 19. The amount of disability pension resulting from an accident at work or occupational disease is assessed in accordance with the principles on disability pension set forth in the provisions on retirement pensions and other pensions from the Social Insurance Fund, providing that:

- 2) the pension shall not be lower than:
  - a) 80% of its basis for assessment — for an individual who is totally unable to work,
  - b) 60% of its basis for assessment— for an individual who is partially unable to work,
- 3) training benefit constitutes 100% of the pension assessment basis if the inability to work in the job undertaken to date is the result of an accident or occupational disease,
- 4) the pension referred to in items 1 and 2 shall not fall below 120% of the lowest disability pension as determined and increased in accordance with the provisions on retirement pensions and other pensions from the Social Insurance Fund.";
- 3) Art. 20, 21 and 23 shall be deleted;
- 4) in Art. 24:
  - a) clause 2a shall be added after clause 2, and shall read:  
"2a. The provision of clause 1 shall duly apply to a retired person who receives a benefit granted because of age.",
  - b) clause 3 shall be followed by clause 3a and shall read:  
"3a. The provision of clause 3 shall duly apply to a retired person who receives a benefit granted because of illness or loss of strength or a family benefit.";
- 5) Art. 25a shall be added after Art. 25, and shall read:  
"Art. 25a 1. The amount of disability pension resulting from an accident at work or occupational disease shall not be suspended or decreased in the case of an income being received as referred to in Art. 104 clauses 1-4 of the Law dated 17 December 1998 on Retirement Pensions and Other Pensions from the Social Insurance Fund (*Journal of Law* No. . item \_.).  
2. If income referred to in clause 1 is received a training benefit shall not be payable irrespective of the amount of that income.";
- 6) Art. 27 shall read:  
"Art. 27.1. The amount of survivorship pension shall be assessed in accordance with the principles set forth in the provisions on retirement pensions and other pensions from the Social Insurance Fund, however the survivorship pension shall not be less than 120% of the lowest survivorship pension determined and increased in accordance with the provisions on retirement pensions and other pensions from the Social Insurance Fund;  
2. Provisions of Art. 25a shall apply accordingly.";
- 7) in Art. 29 item 2 shall be deleted;
- 8) Art. 44 shall be deleted.

## **Art. 149**

The following amendments shall be made to the Law of 18 December 1976 on Social Insurance of Individuals Conducting Business Activities and Their Families (*Journal of Law* of 1989 No.46, item 250, of 1990 No.36, item 206, of 1991 No.104, item 450 and No.110, item 474, of 1995 No.4, item 17, of 1996 No.100, item 461 and No.124, item 585, of 1997 No.28, item 153 and of 1998 No.106, item 668 and No.137, item 887):

1) in art.7:

a) in clause 5:

- the words "maternity and funeral" shall be substituted by "and maternity",
- the words "5a and" shall be added after the words "with the exception of clause" ,

b) clause 5a is shall be added after clause 5:

"5a. Benefits referred to in clause 5 shall be assessed on the basis of amounts constituting the basis for assessing sickness insurance contributions, after deduction of the amount corresponding to 18.71% of the basis for assessing insurance contributions."

c) in clause 6 the words "and clause 5a" shall be added after the words "clause 5";

2) Art. 19 shall be deleted;

3) Art. 35a shall be added after Art. 35 and shall read:

"Art. 35a. Eligibility to cash benefits in the event of sickness and maternity under the terms and conditions described in the Law shall also cover persons engaged in creative and artistic work and freelancers liable to sickness insurance as persons engaged in non- agricultural activities, pursuant to the provisions on the social insurance system."

## **Art. 150**

The following changes shall be made in the law dated 26 January 1982 — Teachers' Charter (*Journal of Law* of 1997, No.56, item 357 and of 1998 No.106, item 668):

1) in Art. 88 clause 2a shall be added after clause 2 and shall read:

"2a. Teachers born after 31 December 1948 but before 1 January 1969 shall maintain their right to a pension as referred to in clause 1 irrespective of age within 8 years of the Law on retirement pensions and other pensions from the Social Insurance Fund coming into force (*Journal of Law* , No \_ , item \_) providing they did not join the Open Pension Fund.";

2) Art. 89 shall be deleted;

3) in Art. 90 clause 5 shall be added after clause 4 and shall read:

"The President of the Social Insurance Society shall publish a communiqué in the Official Journal of the Republic of Poland *Monitor Polski* at least 12 days before

the nearest revaluation date in respect of the additional amount due from that date for providing tuition in an underground educational organisation."

#### **Art. 151**

The following amendments shall be made to the Law dated 16 September 1982 on employees of state enterprises (*Journal of Law* No 31, item 214, of 1984 No.35, item 187, of 1988 No. 19, item 132, of 1989 No.4, item 24, No.34, item 178 and 182, of 1990 No.20, item 121, of 1991 No.55, item 234, No.88 item 400 and No.95, item 425, of 1992 No.54 item 254 and No.90, item 451, of 1994 No.136, item 704, of 1995 No.132, item 640, of 1996 No.89, item 402 and No.106, item 496, of 1997 No.98, item 604, No.133, item 882 and 883 and No.141, item 943 and of 1998 No.131, item 860) in Art. 27 clause 4 shall be added after clause 3, and shall read:

"4. The provisions of clauses 1-3 shall apply to persons born before 1 January 1949".

#### **Art. 152**

The following amendments shall be made to the Common Court Law dated 20 June 1985 (*Journal of Law* of 1994 No.7, item 25, No.77, item 355, No.91, item 421 and No.105, item 509, of 1995 No.34, item 163 and No.81, item 406, of 1996 No.77, item 367, of 1997 No.75, item 471, No.98, item 604, No.106, item 679, No.117, item 751, 752 and 753, No.121, item 769, No.124, item 782 and No.133, item 882 and of 1998 No.98, item 607) in art. 78<sup>2</sup> :

- 1) in §1 the words "- payments received by a retired judge" shall be substituted by "- basis for assessment";
- 2) §1a shall be added after §1 and shall read:  
" §1a. Family benefits as referred to in §1 are assessed on the basis of the pension to which the deceased would have been eligible, due to his/her total inability to work established in accordance with the provisions on retirement pensions and other pensions from the Social Insurance Fund";
- 3) §3 shall be added after §2 and shall read:  
"§3. Should the right to survivorship pension, and retirement pension or other pension exist concurrently the beneficiary at his/her request shall receive a survivorship pension, or retirement pension or other pension".

#### **Art. 153**

In the law dated 25 July 1985 on Development and Research Centres (*Journal of Law* of 1991 No.44, item 194 and 107, item 464, of 1992 No.54, item 254, of 1994 No.1, item 3 and No.43, item 163, of 1996 No.41, item 175 and No. 89, item 402, of 1997 No.43, item 272, No.75, items 467 and 469, No.104, item 661, No.121, item 770 and No.141, item 943 and of 1998 No.117, item 756) in Art. 60 the following words shall be deleted: ", retirement pension or pension allowances".

#### **Art. 154**

The following amendments shall be made to the Law on Social Insurance for Clergymen dated 17 May 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, 1996 No.100, item 461, of 1997 No.28, item 153 and of 1998 No.137, item 887) in Art. 23:

- 1) in clause 1 the words: "and funeral benefit in the event of the death of the insured or a family member of the insured", shall be deleted,
- 2) in clause 2 the words "and funeral" shall be deleted;
- 3) clause 3 shall be added and shall read:

"3. Assessment of the benefits referred to in Art. 7 clause 1 item 2 is based on amounts constituting the assessment basis for contributions towards sickness insurance after deduction of the amount constituting 18.7% of the insurance contribution assessment basis".

#### **Art. 155**

In the Co-operative Workers Act dated 22 March 1990 (*Journal of Law* of 1990 No.21, item 124, No.43, item 253, of 1994 No.98, item 471 and of 1997 No.9, item 43 and No.28, item 153) in Art. 23 clause 3 which is shall be added and shall read:

"3. The provisions of clauses 1 and 2 shall apply to persons born before 1 January 1949".

#### **Art. 156**

The following amendments shall be made to the Higher Education Act dated 12 September 1990 (*Journal of Law* of 1990 No.65, item 385, of 1992 No.54, item 254 and No.63, item 314, of 1994 No.1, item 3, No.43, item 163, No.105, item 509 and No.121, item 591, of 1996 No.5, item 34 and No.24, item 110, of 1997 No.28, item 153, No.96, item 590, No.104, item 661, No.121, item 770 and No.141, item 943 and in 1998 No.50, item 310 and No.106, item 668):

- 1) in Art. 112 clause 3 shall be added after clause 2 shall read:

"3. The provisions of clauses 1 and 2 shall apply to persons born before 1 January 1949.";

- 2) Art. 114 shall be deleted.

#### **Art. 157**

The following amendments shall be made to the Public Assistance Act dated 29 November 1990 (*Journal of Law* of 1998 No.64, item 414, No.106, item 668 and No.117, item 756):

- 1) in Art. 2a clause 1 item 2 the word "physical" shall be followed by a comma and the words "contributions to retirement pension and pension insurance and health insurance paid by social welfare centres as well as contributions towards retirement pensions, other pensions and sickness insurance are defined in other regulations," shall be added,

- 2) Former Art. 12a shall be the content defined in clause 1 and clause 2 which shall be added shall read:
- "2. The Minister competent for social security issues shall define by way of a decree the principles and forms of co-operation and financing organisations referred to in clause 1.
- 3) in Art. 27
- a) clauses 1-3 shall read:
- "1. A fixed benefit shall be payable to a person who is not employed, and is taking care of a child, requiring permanent assistance from another person in the form of direct, personal assistance and care or systematic involvement in educational, medical or rehabilitative procedures, if the child is entitled to a nursing benefit and the family's income does not exceed twice the income referred to in Art. 4.
2. As referred to in clause 1 a person is eligible to a permanent benefit also for taking care of a child who is 18 years old, providing the child is eligible to a nursing benefit.
3. The child referred to in clause 1 and 2 shall be the own child, adopted child or a foster child.",
- b) clause 3a shall be added after clause 3 and shall read:
- "3a. Should the right exist concurrently to a permanent benefit and retirement pension granted in accordance with early retirement rights of employees looking after children who require permanent assistance or in accordance with Art. 31b clause 7 a permanent benefit shall not be payable.";
- 4) Art. 31b shall read:
- "Art. 31b.1. Contributions towards retirement insurance and other insurance for individuals referred to in Art. 27 clauses 1 and 2, and in Art. 31 clause 4a shall be paid from the lowest salary base unless the said individual is liable to mandatory retirement pension and other pension insurance by virtue of other titles.
2. A social welfare centre shall pay retirement pension and other pension contributions for an individual taking care of a child as referred to in Art. 27 clauses 1 and 2, from the base amount as described in clause 1, if the families income does not exceed twice the income defined in Art. 4 unless the individual is liable to mandatory retirement pension and other pension insurance by virtue of other titles.
3. The social welfare centre shall pay retirement pension and other pension contributions for an individual who had to resign from work to look after a severely ill family member, mother, father, sister or brother not living in the same households from the basis referred to in clause 1, if the income in the family of the said individual does not exceed twice the income defined in Art. 4 and if the said individual is not liable to mandatory retirement pension and pension insurance by virtue of other titles. This also refers to individuals who had to take unpaid leave to look after the family members as specified above.

4. The father and mother referred to in clause 3 also relates to the father and mother of the spouse.
5. If a severe illness occurs as referred to in clause 3 a medical report on the condition of the patient's health is required.
6. Retirement insurance and pension insurance contributions in an amount determined by the provisions of the social security system is paid for:
  - 1) individuals referred to in Art. 27 clauses 1 and 2 and in Art. 31b clause 2 for the period required to obtain eligibility to a pension, but for no longer than 20 years,
  - 2) an individual referred to in Art. 31 clause 4a for the period during which he/she received a guaranteed temporary benefit,
  - 3) an individual referred to in Art. 31b clause 3 for a period of providing guardianship with the exception of clause 8.
7. Individuals referred to in Art. 27 clauses 1 and 2 for whom the social welfare centre paid social security contributions before 1 January 1999 gain eligibility to a pension irrespective of age, providing that on 1 January 1999 they reached the age of at least 45 and their term of insurance (contribution and non-contribution periods) is at least 20 years. The pension for such individuals is calculated in accordance with the terms and conditions on retirement pensions and other pensions from the Social Insurance Fund for which the insured born before 1 January 1949 are eligible.
8. Retirement insurance and pension insurance contributions for persons referred to in clause 6 item 3 shall be paid from 1 January 2000.

#### **Art. 158**

The following amendments shall be made to the Law of 24 January 1991 on War Veterans and Certain Individuals being Victims of War-time and Post War Repressive Measures (*Journal of Law* of 1997 No.142, item 950 and of 1998 No.37, item 204 and No.106, item 668):

- 1) in Art. 14 clause 2 shall be followed by clause 3 and shall read:
 

"3. The provisions of clauses 1 and 2 shall apply to persons born before 1 January 1949";
- 2) in Art. 15 clause 5 shall be followed by clause 6 and shall read:
 

"6. At least 12 days before the nearest revaluation date the President of the Social Insurance Society shall publish in the Official Journal of the Republic of Poland *Monitor Polski* a communiqué on war veteran benefit due from that date."

#### **Art. 159**

The following amendments shall be made to the Law of 10 December 1993 on retirement benefits for professional soldiers and their families (*Journal of Law* of 1994 No.10, item 36, of 1995 No.4, item 17, of 1996 No.1, item 1 and of 1997 No.28, item 153 and No.141, item 944):

- 1) Art. 6 shall read:

"Art. 6. Retirement pensions and pensions are subject to indexation according to the terms and conditions on the dates referred to in the provisions on retirement pensions and other pensions from the Social Insurance Fund."

- 2) Art. 40 shall read:

"Art. 40. Retirees and pensioners receiving income from employment contracts, service, other activities undertaken for profit or non-agricultural activities shall be subject to Art. 103-106 of the Law dated 17 December 1998 on Retirement Pensions and Other Pensions from the Social Insurance Fund (*Journal of Law* of 1994 No. \_\_, item \_\_.).".

### **Art. 160**

The following amendments shall be made to the Law of 18 February 1994 on Retirement Benefits for The Police, the State Security Bureau, The National Fire Brigades and The Prison Service and Their Families (*Journal of Law* No.53, item 214, of 1995 No.4, item 17 and of 1997 No.28, item 153):

- 1) Art. 6 shall read:

"Art. 6. Retirement pensions and pensions shall be subject to indexation according to terms and conditions and on the dates referred to in the provisions on retirement pensions and other pensions from the Social Insurance Fund.";

- 3) Art. 41 shall read:

"Art. 41. Retirees and pensioners receiving income from employment contracts, service, other activities undertaken for profit or non-agricultural activities shall be subject to Art. 103-106 of the law dated 17 December 1998 on retirement pensions and other pensions from the Social Insurance Fund (*Journal of Law* of 1994 No. \_\_, item \_\_.).".

### **Art. 161**

- 3) The following amendments shall be made to the Law of 2 September 1994 on Benefits and Rights Granted to Soldiers who serve in Substitute Forms of Military Service and are Forced to work in Coal Mines, Quarries and Uranium Mines (*Journal of Law* No.111, item 537 and of 1995 No.138, item 681) in Art. 2 clause 2 shall be followed by clause 3 and shall read:

"3. At least 12 days before the nearest indexation date the President of the Social Insurance Society shall publish a communiqué in the Official Journal of the Republic of Poland *Monitor Polski* on the benefit due from that date as referred to in clause 1."

## **Art. 162**

The following amendments shall be made to the Law of 1 December 1994 on Survivorship Pensions, Nursing and Child Care Benefits (*Journal of Law* of 1998 No.102, item 651 and No.106, item 668):

- 1) the title of the law shall read: "on Survivorship Pensions, Nursing and Child Care Benefits;
- 2) in Art. 14a the words "in old people's homes " shall be followed by the words ", in medical nursing institutes or nursing homes,";
- 3) in chapter 2 chapter 2a shall be added and shall read:

"Chapter 2a

- Art. 15a.
1. Child care benefit shall be payable to persons who are entitled to child-care leave.
  2. Child care benefits are financed from the state budget.
  3. The Council of Ministers shall specify by way of decree the terms and conditions, amount and procedures for granting child care benefit."

## **Art. 163**

The following amendments shall be made to the Law of 14 December 1994 on Employment and Counteracting Unemployment (*Journal of Law* of 1997 No.25, item 128, No.28, item 153, No.41, item 255, No.63, item 403, No.93, item 569, No.108, item 692, No.121, item 770, No.123, item 776 and of 1998 No.66, item 431, No.106, item 668, No.108, item 684 and No.137, item 887):

- 1) in Art. 2 in clause 1:
  - a) in item 2 letter c the words "disability pension" shall be substituted by the words "pension resulting from inability to work, training benefit",
  - b) after item 22 item 22a shall be added and shall read:

"22a) social insurance contributions — shall mean contributions towards retirement insurance, pension insurance and insurance against accidents, financed by the contributor himself,";
- 2) in Art. 16 clauses 5-7 shall read:
  - "5. During the period of training unemployed individuals enrolled for training by the municipal employment office shall be granted benefits for accidents at work and occupational disease resulting from training or occurring on the way to or from the place of training, on terms and conditions applicable to employees.
  6. Benefits referred to in clause 5 with the exception of disability pension, survivorship pension and training benefit shall be paid from

the Labour Fund by the municipal employment office on the basis of a medical certificate given by a medical expert from the Social Insurance Society after a report has been filed, prepared by a special team of the training organisation, on the circumstances and causes of the accident, or after an occupational illness has been confirmed by a state sanitary inspector.

7. Persons enrolled for training by the municipal employment office who are not considered unemployed are entitled to receive compensation for damages resulting from accidents that occurred during the training or on the way to or from the place of training.";

- 3) in Art. 23, clause 2, item 3 the word "disability" shall be substituted by the words "resulting from inability to work, training benefit";
- 4) in Art. 28, clause 2, item 3 the word "disability" shall be substituted by the words "resulting from inability to work, training benefit";
- 5) in Art. 29 clauses 1 and 2 the word "disability" shall be substituted by the words "resulting from inability to work, training benefit";
- 6) in Art. 30 clause 1 the following words shall be deleted "with the exception of periods of their being collected for a period of proven inability to work which are included as non-contribution periods";
- 7) in Art. 31 clause 3a shall read:

"3a. The unemployed entitled to a benefit or scholarship shall also receive it during a period of proven inability to work on the basis of other regulations by which the insured retain their right to remuneration or to social insurance, sickness of maternity benefits.";
- 8) in Art. 37a the words "Art. 16 clauses 4-6 and Art. 31 clauses 3a and 5" shall be substituted by the words "Art. 16 clauses 4-5 and Art. 31 clause 3a";
- 9) in Art. 37b the words "Art. 16 clauses 4-6 and Art. 31 clauses 3a and 5" shall be substituted by the words "Art. 16 clauses 4-5 and Art. 31 clause 3a";
- 10) Art. 37c shall read:

"Art. 37c. The municipal employment office shall assess and pay a contribution towards retirement insurance, pension insurance and accident insurance from grants paid in accordance with Art. 37a and 37b.";
- 11) in Art. 37j clause 6 shall be followed by clause 7 and shall read:

"7. An average monthly salary, as referred to in clause 6 paid for the period after 31 December 1998 is decreased by contributions accrued and deducted from salary paid towards retirement insurance, pension insurance and sickness insurance.";
- 12) in Art. 37k in clause 1:
  - a) in item 3 the word "or" shall be added after the comma,
  - b) in item 4 the words "the employment term with periods of equal rank and those included in the term of employment" shall be substituted by the words "has worked for a period which gives entitlement to a retirement pension constituting";

- 13) in Art. 49, clause 1 item 3 shall be deleted;
- 14) in Art. 53, clause 1 item 3 the full stop shall be substituted by a comma and the following words shall be added: "also non-professional soldiers in service, persons involved in substitute forms of military service, persons on child-care leave and receiving maternity benefits.";
- 15) in Art. 57 clause 1 item 3a shall be added after item 3 and shall read:  
"3a) benefits referred to in Art. 16 clause 5".

#### **Art. 164**

The following amendments shall be made to the Law of 6 July 1995 on the State Enterprise "Polish National Railways" (*Polskie Koleje Państwowe*) (*Journal of Law* No.95, item 474, of 1996, No.147, item 687, of 1997 No.28, item 153, No.96, item 591, No.104, item 661 and No.121, item 770 and of 1998 No.106, item 668 and No.117, item 756):

- 1) Art. 9 shall be deleted;
- 2) Art. 46 shall be followed by Art. 46a and shall read:

"Art. 46a. 1. Railway employees receiving a retirement pension or other pension arising from inability to work granted on the basis of the present regulations on retirement benefits for railway workers and their families or the provisions of 17 December 1998 on retirement pensions and other pensions from the Social Insurance Fund (*Journal of Law* No. \_\_, item \_\_) and family members of that employee receiving a survivorship pension after his/her death granted on the basis of the regulations thereof are entitled to a free coal supply allowance in the form of a cash equivalent, on terms and conditions as specified in the ordinance of a Minister competent for transport issues prepared in agreement with the Minister responsible for budget matters; right to a free coal supply allowance is not granted to a retiree or pensioner if he/she was not eligible for that right during employment which resulted in eligibility to retirement pension and other pension.

2. The cash equivalent referred to in clause 2 shall be granted and paid out with a retirement pension and other pension by the Social Insurance Fund from a defined purpose subsidy of the state budget.

3. Benefits as specified in clauses 1 and 2 are also granted to a retiree or pensioner, who receives a railway retirement pension or railway pension resulting from employment for periods equivalent to periods of employment in the railway sector and a person who was granted a railway retirement pension or railway pension in exceptional circumstances."

## Art. 165

The following amendments shall be made to the Law of 13 October 1995 on the Principles for Registering and Identifying Taxpayers (*Journal of Law* No. 142, item 702 and of 1997 No.88, item 554):

- 1) the words "and Contributors" shall be added in the title of the Law;
- 2) in Art. 1 the word "taxpayers" shall be followed by the words "tax remitters, social insurance and health insurance contributors.";
- 3) in Art. 2:
  - a) the former contents shall become clause 1 and the words "corporate bodies, organisational units with no legal status and enterprises (branches) with a legal status which are taxpayers in accordance with other regulations" shall be substituted by the following words: "corporate bodies and organisational units with no legal status which are taxpayers in accordance with other regulations",
  - b) after clause 1 clauses 2 and 3 shall be added and read:

"2. Other entities not specified in clause 1 are also subject to registration, if in accordance with other laws they are taxpayers, in particular enterprises (branches) with a legal status, and taxpayers; these entities shall also receive a Taxpayer's Identification Number (NIP).

3. Other entities are also subject to registration if in accordance with other laws they are social insurance and health insurance contributors, hereinafter referred to as "insurance contributors"; these entities shall also receive a Taxpayer's Identification Number (NIP).";
- 4) in Art. 3:
  - a) in clause 1 the word "taxpayers" shall be followed by the words "tax remitters and insurance contributors",
  - b) clauses 1a and 1b shall be added after clause 1 and read:

"1a. Procedures related to granting NIP numbers are based on the Law dated 29 August 1997 — Tax Regulations (*Journal of Law* No.137, item 926 and No.160, item 1083 and of 1998 No.106, item 668) however in matters related to invalidating decisions on granting a NIP number the date referred to in Art. 249 §§ 1, 2 and Art. 338 §1 is not applicable. In such cases the deadline for confirming the invalidity of the decision is 7 years from the date of the decision being received.

1b. Should the proceedings, in accordance with Art. 338 § 1 of the tax regulations, related to invalidating the decision on granting the NIP number be discontinued, the proceedings shall be renewed *ex officio*.",
  - c) in clause 2 the words "administrative decision of the revenue office" shall be substituted by the words "decision announced by the revenue office",

- d) in clause 3 the full stop at the end shall be substituted by a comma and the following words shall be added: "tax remitter or insurance contributor.";
- 5) in Art. 4 item 3 shall be followed by item 4 and shall read:
- "4) for tax remitters and insurance contributors who are not also taxpayers (at the same time), as referred to in items 1-3, — the relevant tax office for the home address or seat of the contributor; and in all other cases the Second Tax Office for Central Warsaw shall be the relevant tax office.";
- 6) in Art. 5:
- a) in clause 1 the full stop at the end shall be replaced by a comma and the following words shall be added: "irrespective of the type and number of taxes paid by the taxpayer, form of taxation, number and types of business activities and number of entities managed.",
- b) in clause 3:
- the words "REGON number" shall be substituted by the words "REGON identification number",
  - item 2 shall be followed by item 3 and shall read:
- "3) in the case of tax groups — details relating to companies within the group, including NIP number granted to these companies."
- c) in clause 5 the word "instructions" shall be substituted by the word "decrees",
- d) clause 5 shall be added after clause 6 and shall read:
- "6. The provisions of clauses 1-4 shall duly apply to tax remitters and insurance contributors.";
- 7) in Art. 6:
- a) in clause 1 a second sentence shall be added and shall read:
- "An identification notice is required irrespective of the registration notice, as referred to in Art. 9 clause 1 of the VAT and Excise Tax Act dated 8 January 1993 (*Journal of Law* No.11, item 50, No.28, item 127 and No.129, item 599, of 1994 No.132, item 670, of 1995 No.44, item 231 and No.142, item 702 and 703, of 1996 No.137, item 640 and of 1997 No.111, item 722, No.123, item 776 and 780, No.137, item 926, No.141, item 943 and No.162, item 1104).",
- b) in clause 6 the word "individually" shall be added after the word "or",
- c) clause 9 shall read:
- "9. Tax remitters exempt from registration as taxpayers, shall apply for identification registration no later than on the date of submitting the first tax return which must be submitted by tax remitters to the tax authority.",
- d) after clause 9 clause 10 is shall be added and shall read:

"10. Insurance contributors exempt from registration duty by virtue of their being taxpayers and tax remitters, register for identification no later than on the dates referred to in other regulations related to deadlines for notifying social insurance or health insurance.";

8) in Art. 7 the words "Art. 6 clauses 1-7" shall be substituted by the words "Art. 6 clause 1-7,9 and 10 and the word "taxpayer" shall be followed by the words "Tax remitter and insurance contributor";

9) in Art. 9:

a) in clause 1:

- in item 1 the number "60" is substituted by the number "30" and the words "information on changing data" shall be substituted by the words "notification of current amendments",
- in item 2 "information on changing data" shall be substituted by the words "notification of current amendments",
- in item 3 the words "information on changing data included in the identification notice within the deadline for submitting the annual return" shall be substituted by the words "notification of current amendments with the annual return",

b) clause 2 shall read:

"2. The obligation of taxpayers to submit a notification of current amendments as defined in Art. 6 clause 1 shall also arise if the said taxpayers lost their right to exemption from VAT or relinquished that right and changed their tax office; in such event the notification of current amendments shall be submitted to the relevant tax office for VAT together with a notification for registration as referred to in Art. 9 clause 1 of the law specified in Art. 6 clause 1.",

c) clauses 3-6 shall be added after clause 2 and shall read:

- "3. Records related to tax groups are updated by a company which is a corporate income tax remitter as indicated in the agreement. The above duty is irrespective of the duty relating to updating data which is the duty of each company included in the tax group.
4. Tax remitters exempt from the obligation of updating records submit as tax payers a notification of current amendments – no later than – directly following the circumstances due to which the entry must be updated — on the date the first tax return is submitted to the tax authority, in accordance with the tax remitters duty.
5. Insurance contributors are subject to appropriate procedures for updating data as specified in clause 1 item 1.
6. Model forms of identification notices approved by virtue of a decree issued by the Minister of Finance are used for updating information in the identification notice.";

10) in Art. 10:

- a) the former content is contained in clause 1 and the words "submission of information on changes covered in that entry" shall be replaced by the words "notification of current amendments",
- b) clause 2 shall be added after clause 1 and shall read:

"2. The Minister of Finance can specify by virtue of an ordinance:

  - 1) other deadlines for submitting notification on identification and current amendments, but no shorter than as specified in the law,
  - 2) deadlines for submitting a notification on identification by taxpayers relating to taxes other than those referred to in Art. 6 clauses 1-8,
  - 3) procedure of submitting notifications on identification and current amendments to revenue offices by taxpayers through the intermediary of a personal income tax remitter by way of large scale data transmission procedures.";

11) in Art. 11, after clause 3, clause 4 shall be added and shall read as follows:

"4. If natural persons, legal persons, organisational entities with no legal personality, and other entities which are taxpayers on the basis of Polish legal regulations and ratified international agreements which the Republic of Poland is party to, including those which reside or have their seat or management board abroad, are assigned an identification number for tax purposes or social insurance in another country, they shall be obliged to provide that number at the request of:

- 1) tax and fiscal authorities,
- 2) tax audit authorities and tax audit organisational entities,
- 3) tax remitters,
- 4) social insurance authorities and institutions.";

12) in Art. 12:

- a) in clause 2, after the word "expire," the words "by virtue of the law" shall be added,
- b) in clause 3, the figure "60" shall be replaced by the figure "30,";

13) after Art. 12, Art. 12a shall be added and shall read as follows:

"Art. 12a. The provisions of this Chapter, relating to taxpayers, shall apply to taxpayers and payers of insurance contributions respectively.";

14) in Art. 13:

a) in clause 3, a second sentence shall be added and shall read as follows:

“Both the taxpayer to which the confirmation relates and a third party which has a legal interest in filing the application can be an interested party.”

b) after clause 3, clause 4 shall be added and shall read as follows:

“4. The tax office shall issue, at the taxpayer’s request, a duplicate of the decision to assign an NIP number. The tax office shall charge a fee of Zl 3 for issuing the duplicate; the fee shall constitute the State Budget’s income.”;

15) in Art. 14, clause 2, items 1 and 2, after the word “identification,” the words “and update.” shall be added;

16) in Art. 15, clause 2, after item 4, item 5 shall be added and shall read as follows:

“5) to the Social Insurance Institute – to carry out tasks and achieve goals specified in other acts.”;

17) after Art. 15, Art. 15a shall be added and shall read as follows:

“Art. 15a The provisions of this Chapter, relating to taxpayers, shall apply to taxpayers and payers of insurance contributions respectively.”;

18) in Art. 17:

a) in clause 1, after the words “in Art. 8, clause 3, 4 or 6” the words “and Art. 9, clause 1, item 2” shall be added,

b) in clause 2, after the word “Act,” the words “and the tax remitter and the payer of insurance contributions” shall be added;

19) in Art. 22:

a) in clause 1, the figure “3” shall be replaced by the figure “4,”

b) in clause 3, the word “ordinance” shall be replaced by the word “decree.”

## **Art. 166**

In the Act of 9 May 1996 on Exercising an MP’s and Senator’s mandate (*Journal of Law* No. 73, item 350 and No. 137, item 638, and of 1997, No. 28, item 153, No. 98, item 604, No. 106, item 679, No. 121, item 770 and No. 160, item 1080), in Art. 28, clause 3 shall be deleted.

### **Art. 167**

In the Act of 31 May 1996 on the Cash Benefit for which Individuals Deported to Perform Forced Labour and Placed in Labour Camps by the Third Reich and the Soviet Union are Eligible (*Journal of Law* No. 87, item 395), in Art. 3, after clause 2, clause 3 shall be added and shall read as follows:

- “3. The President of the Social Insurance Institute shall announce - in the form of a communiqué in the Official Journal of the Republic of Poland, *Monitor Polski*, at least 12 working days before the date of the nearest indexation – the amount of the benefit referred to in clause 1, payable from that date onwards.”

### **Art. 168**

The following amendments shall be made to the Act of 22 August 1997 on Employee Pension Programs (*Journal of Law* No. 139, item 932, and of 1998, No. 98, item 610):

1) Art. 3 shall read as follows:

- “Art. 3.1. An employee pension program shall comprise company pension agreements, employee pension agreements, and, in consideration of clause 2, agreements with insurance companies or societies, agreements with investment funds or statutes of employee pension funds which define the terms for accumulating employee contributions paid in by the employer, to be disbursed at the age of retirement or if one becomes eligible for disability benefits, which meet the criteria set out in the Act.
2. If the employer is an insurance company or society, an employee pension society or an investment fund society, the terms for the accumulation of the funds referred to in clause 1 shall be specified in a company pension agreement.”;

2) in Art. 4:

- a) clause 2 shall read as follows:  
“2. An employer who, on the basis of other regulations, is to be entered in an appropriate register or business records may sign a company pension agreement a year from being entered in such a register or records. This does not apply to companies which have been formed as a result of ownership changes introduced to State-owned enterprises.”;
- b) after clause 4, clause 5 shall be added and shall read as follows:

- “5. The provisions of the Act relating to employees shall duly apply to individuals participating in employee pension programs on the basis of clause 4.”;
- 3) in Art. 7, after clause 1, clause 1a shall be added and shall read as follows:
- “1a. An employer may also sign the agreements referred to in clause 1, item 2, with various investment funds managed by the same investment fund society.”;
- 4) in Art. 11, clause 1, the words “An employee pension program may stipulate the parallel maintenance of various forms of retirement insurance” shall be replaced by “The parallel maintenance of various forms of retirement insurance is permissible”;
- 5) in Art. 14:
- a) in clause 2, item 1, after the words “investment fund,” the words “or investment funds” shall be added;
- b) in clause 4, after the word “investment fund,” the words “or in investment funds” shall be added;
- 6) in Art. 17:
- a) in clause 3, after the words “to accept the statement,” the words “and present a participant with a signed agreement” shall be added;
- b) clause 4 shall read as follows:
- “4. The agreement is concluded on presenting a participant with an agreement signed by the employer but no later than on reaching the deadline for returning the statement.”;
- 7) Art. 18 shall read as follows:
- “Art. 18.1. If a pension program is in the form of a pension fund, the employer may stipulate that the conclusion of an employee pension agreement or the opening of an account with a fund is dependent on a fund participant contributing to his account the employer’s shares which he was allotted during the privatisation process. This requirement may only apply to employees who have been allotted shares by the State Treasury and may remain valid for a period of up to 5 years from the date specified in the program. In such cases, the ban on trading in shares, specified in the provisions relating to the commercialisation and privatisation of State-owned enterprises, shall not apply.
2. A company pension agreement should specify a uniform number of shares, determined in relation to the number of shares allotted to an employee by the State Treasury, to be contributed to the

fund by all those eligible who have been allotted such shares. Determination of the percentage of shares allotted to an employee before 1 January 1999 may only relate to the shares held by the employee on that day.

3. An employee pension agreement should specify the deadlines and conditions for contributing shares to a fund account and the terms and conditions for maintaining those accounts. In the statement, in situations as referred to in this Article, a participant shall state the number of employer's shares that he will contribute to his account, according to the company pension agreement.

8) in Art. 34:

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

“1a. If an employer has signed the agreements referred to in Art. 7, clause 1, item 2, with various investment funds managed by the same investment fund society, an employee pension program may only be terminated if all of those funds are liquidated.”;

- b) after clause 3, clauses 3a and 3b shall be added and shall read as follows:

“3a. The provisions of clause 3 shall duly apply as referred to in clause 1a.

3b. If an employer has signed the agreements referred to in Art. 7, clause 1, item 2, with various investment funds managed by the same investment fund society and one of the funds is liquidated, the employer shall be obliged to ensure that an agreement is signed to contribute employee contributions to one of the remaining funds.”;

9) in Art. 35, clause 2, after the word “should,” the words “be filed by the employer without delay and should” shall be added;

10) in Art. 36:

- a) in clause 2, the words “notify about” shall be changed to “register”;

- b) in clause 3, after the word “entry,” the words “of the changes referred to in clause 2” shall be added;

11) in Art. 39, clauses 3 and 4, the words “the individual” shall be replaced by the words “the employer”;

12) in Art. 45, clauses 1 and 2 shall be deleted;

13) after Art. 45, Art. 45a shall be added and shall read as follows:

“Art. 45a. If an employer and representatives of the employees intend to run an employee pension program in the form of an employee pension fund, a company pension agreement may be signed from 1 January 1999 onwards; this shall also apply to the joint, multi-employer pension program agreement.”;

14) Art. 46 shall read as follows:

“Art. 46. The Act shall come into force on 1 April 1999 except for:

- 1) Art. 45a, which shall come into force on 1 January 1999,
- 2) Art. 3-6, Art. 7, clause 1, item 1, and clause 3; Art. 9-11, 13, 14, clauses 1-3 and 5; Art. 15, 18, 27,28, and 34 as far as employee pension programs in the form of employee pension funds are concerned, which shall come into force on 1 January 1999.”

### **Art. 169**

In the Act of 27 August 1997 on Occupational and Social Rehabilitation and the Employment of the Handicapped (*Journal of Law* No. 123, item 776, No. 160, item 1082, and of 1998, No. 99, item 628, No. 106, item 668, and No. 137, item 887), Art. 5 shall read as follows:

“Art. 5. A report issued by a medical expert at the Social Insurance Institute, which states:

- 1) total inability to work, determined on the basis of Art. 12, clause 2, and inability to lead an independent existence, determined on the basis of Art. 13, clause 5, of the Act of 17 December 1998 on Retirement Pensions and Other Pensions paid out of the Social Insurance Fund (*Journal of Law...*, No. ..., item ...), shall be regarded as equivalent to a report which states substantial disability;
- 2) total inability to work, determined on the basis of Art. 12, clause 2, of the Act referred to in item 1, shall be regarded as equivalent to a report which states moderate disability;
- 3) partial inability to work, determined on the basis of Art. 12, clause 3, and the reasonableness of the reclassification referred to in Art. 119, clauses 2 and 3, of the Act referred to in item 1, shall be regarded as equivalent to a report which states slight disability.”.

### **Art. 170**

The following amendments shall be made to the Act of 28 August 1997 on the Organisation and Operation of Pension Funds (*Journal of Law* No. 139, item 934, and of 1998, No. 98, item 610 and No. 106, item 668):

- 1) in Art. 13, clause 2:
  - a) item 6 shall read as follows:
    - “6) the types, maximum amount, manner of and procedure for calculating and covering the costs incurred by a fund,”;
  - b) after item 6, item 6a shall be added and shall read as follows:
    - “6a) the types, amount, manner of calculating and covering the costs incurred by fund members, including the amount of the fees referred to in Art. 134, clause 1,”;
- 2) in Art. 35, clause 2, shall read as follows:
  - “2. If employers who are legal persons are founders of an employee society, Art. 34 shall duly apply.”;
- 3) in Art. 38, clause 4, shall read as follows:
  - “4. If a subscriber is an existing shareholder, he shall advise the Supervision Office of having subscribed shares within 14 days of their subscription. However, the subscription of shares which results in exceeding 20%, 25%, 33%, 50%, 66%, 75% or 80% respectively of voting rights at the General Meeting shall require permission from the Supervision Office.”;
- 4) Art. 47 shall read as follows:
  - “Art. 47. An individual who is a member of the management or supervision bodies or is employed or commissioned tasks or subject to any other legal relationship of a similar nature with the entities referred to in Art. 42, clause 1, items 1-7, shall not be an employee of a universal society who can decide on the manner of investing the assets of an open fund.”;
- 5) in Art. 62, clause 3, the words “In addition to the withdrawal of the licence referred to in clause 1, or the demand” shall be replaced by the words “When withdrawing the licence referred to in clause 1 or when making the demand,”;
- 6) in Art. 64:
  - a) in clause 2, the full stop at the end shall be replaced by a comma, and the words “in consideration of clause 3” shall be added.”;
  - b) after clause 2, clause 3 shall be added and shall read as follows:
    - “3. If a licence to form a universal society has been withdrawn due to there being a deficit in the open fund, the universal society which manages the

fund having the highest rate of return referred to in Art. 172 will have priority in taking over the management of the open fund.”;

7) in Art. 71, clause 6 shall be deleted;

8) in Art. 81, after clause 3, clauses 4-7 shall be added and shall read as follows:

- “4. Membership in a given open fund can also be acquired through a lottery held by the Social Insurance Institute in accordance with the principles stipulated in the provisions governing the social insurance system.
5. The Social Insurance Institute shall be obliged to communicate the results of the lottery. The interested party and the open fund which the party in question has joined shall be notified.
6. Together with the notification from the Social Insurance Institute a member shall receive the data on the open fund entered in the fund register, and the open fund shall receive the member’s essential personal data referred to in Art. 89, clause 2; the open fund may also receive the data in an electronic format.
7. Having received the notification from the Social Insurance Institute and the member’s essential personal data, in accordance with clause 6, the open fund shall confirm the membership conditions in writing without delay and shall call upon the member to meet the requirements specified in Art. 82, clause 1, and Art. 83, clause 1; it shall also inform the member of the consequences of failing to meet those requirements or mal-performing them, in accordance with Art. 132, clause 1 or Art. 83, clauses 3 and 4.”;

9) in Art. 82:

a) in clause 1:

- the words “other regulations relating to survivorship benefits payable under social insurance arrangements and in accordance with” shall be deleted,
- after the word “Fund,” the word “may” shall be added and the words “is under an obligation to” shall be deleted;

b) clause 3 shall read as follows:

- “3. A member may change his previous instructions at any time, nominating individuals entitled to receive funds after his death, other than or besides the individuals referred to in clause 1, as well as otherwise specify the share which the individuals nominated have in those funds.”;

c) in clause 4, a third sentence shall be added at the end and shall read as follows:

“However, if the deceased was the only individual nominated, the member may nominate another individual entitled to receive the funds after his death.”;

d) after clause 4, clause 5 shall be added and shall read as follows:

“5. The fund shall be obliged to inform an individual joining the open fund of the consequences of failing to meet or mal-performing the requirement referred to in clause 4, sentence three, in accordance with Art. 132, clause 1.”;

10) in Art. 83, after clause 2, clauses 3 and 4 shall be added and shall read as follows:

“3. In cases of failing to meet the requirement referred to in clause 1, sentence two, or in clause 2, it shall be assumed that there is statutory joint property of husband and wife between the spouses or that marital property relations are reflected in the agreement concluded with the open fund or the last notification sent by the open fund member in accordance with clause 2.”;

4. The open fund shall not be liable for any damage resulting from failure to meet or from mal-performing the requirement referred to in clause 1 or 2.”;

11) Art. 84 shall read as follows:

“Art. 84.1. If a member of an open fund joins another open fund, he shall be obliged to notify (in writing) the open fund to which he has been paying contributions so far of having signed an agreement with the other fund. Together with the notification, the member shall submit a declaration of will - in writing, in accordance with a proforma specified in a decree of the Council of Ministers – to terminate the existing agreement, and if he has acquired membership resulting from a lottery held by the Social Insurance Institute or upon opening an account – a declaration of will to resign membership in the current open fund, effective from the date of the transfer payment referred to in Art. 119.

2. The authenticity of the signature on the declaration of will to resign membership in the current open fund and on the declaration of approval for the deduction referred to in Art. 134, clause 1, item 3, should be attested by any organisational unit of the Social Insurance Institute or local authority for the place of residence of the open fund member or at a Polish diplomatic and consular post.”;

12) after Art. 84, Art. 84a shall be added and shall read as follows:

“Art. 84a.1. Individuals born in 1949-1953, concluding an agreement with an open fund, shall be obliged to submit a declaration in writing,

stating that they have read Arts. 24, 26, 46-50, 53, 183, 184, and 185 of the Act of 17 December 1998 on Retirement Pensions and Other Pensions paid out of the Social Insurance Fund (*Journal of Law* No. ..., item ...), which the individual concluding the agreement should confirm with his own signature.

2. An individual engaged in acquisition on behalf of an open fund in relation to the individual specified in clause 1 shall be obliged to inform that individual of the implications of the regulations referred to in clause 1, in particular of the fact that as a result of joining an open fund a retirement pension paid out of the Social Insurance Fund may be significantly lower or that one will not be eligible for a retirement pension before reaching the age specified in Art. 24 of the Act referred to in clause 1.”;

13) in Art. 85, in item 3, the full stop shall be replaced by a comma, and items 4 and 5 shall be added and shall read as follows:

- “4) the procedures and deadlines to be observed by an open fund when notifying the Social Insurance Institute of having concluded an agreement with a fund member, and the scope of data that the notification should contain;
- 5) proformas of the declarations of will referred to in Art. 84.”;

14) in Art. 89, clause 2 shall read as follows:

- “2. Essential personal data of the members referred to in clause 1 shall contain:
  - 1) first and last names,
  - 2) date of birth,
  - 3) the PESEL (“Universal Electronic Population Records System”) number, and if one does not have it or if there are doubts as to its correctness – the NIP Tax Identification Number, and the series and number of the member’s identity card or passport;
  - 4) residential address.”;

15) in Art. 93:

- a) clause 1 shall read:

- “1. Acquisition activities on behalf of an open fund, in the scope specified in Art. 92, clause 3, may only be conducted by an open fund or, at the request of that fund, by the following entities:

- 1) domestic banks as defined in the Banking Law of 29 August 1997 (*Journal of Law* No. 140, item 939),
- 2) insurance companies,
- 3) brokerage houses as defined in the regulations governing public trading in securities,
- 4) insurance agents,
- 5) entities involved in brokerage activities as defined in the regulations governing insurance activities,
- 6) "Poczta Polska," a State-owned public utility enterprise,
- 7) co-operative saving and loan societies.";

b) clause 2 shall read as follows:

- "2. An entity conducting activities in connection with the preparation and publication of advertisements, as part of its business activities, commissioned by the entities referred to in clause 1, shall not conduct acquisition activities as defined in Art. 92, clause 3.";

c) clause 6 shall read as follows:

- "6. An individual entered in the register referred to in clause 3 may conduct acquisition activities on behalf of only one open pension fund.";

16) Art. 93a shall be added after Art. 93 and shall read as follows:

- "Art. 93a. The employer or any other individual superior to employees in terms of professional hierarchy may not offer the employees any acquisition services on behalf of an open fund.";

17) in Art. 94, clause 2, a third sentence shall be added and shall read as follows:

- "The entry shall be made or refused within 1 month of the date of filing the application.";

18) in Art. 95, the words "in the pension plan" shall be replaced by the words "on the basis of the principles";

19) in Art. 99, clause 2 shall be deleted;

20) in Art. 100:

- a) in clause 1, the words "determined date" shall be replaced by the words "date determined in accordance with clause 2";

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

“1a. The value of the accounting unit on the conversion date shall be determined by dividing the fund’s net assets on the conversion date by the number of accounting units entered on that date into the accounts kept by the fund.”;

c) in clause 2, a second sentence shall be added and shall read as follows:

“As regards open funds, each working day shall constitute a conversion date.”;

d) clause 6 shall be deleted;

21) in Art. 119, clause 2 and the characters “1.” shall be deleted;

22) in Art. 122, clause 1, the words “each month which is the last month of a quarter” shall be replaced by the words “February, May, August, and November”;

23) the existing contents of Art. 123 shall be marked as clause 1, and clauses 2 and 3 shall be added and shall read as follows:

“2. A universal society which manages an open fund which has made a transfer payment shall refund the Social Insurance Institute the costs of the activities performed in connection with a member’s transfer to another open fund; it shall also refund the National Depository the costs of activities performed in connection with accounting for transfer payments.

3. The Council of Ministers may determine by decree the maximum fee referred to in clause 2.”;

24) Art. 123a shall be added after Art. 123 and shall read as follows:

“Art. 123a. The Council of Ministers shall specify by decree the deadline and procedure for making transfer payments in the circumstances referred to in Art. 70, clause 2, and Art. 119, and in the provisions of Chapters 12 and 13. In particular, the decree should specify the principles for the co-operation of the National Depository with the Social Insurance Institute and the co-operation of open pension funds with the Social Insurance Institute in accounting for transfer payments, and the manner of applying interest on funds kept in an account, transferred by open funds as part of accounting for that payment.”;

25) in Art. 124, a second sentence shall be added and shall read as follows:

“The by-laws shall also specify the amount of fees payable to the National Depository by open funds in connection with accounting for transfer payments.”;

26) in Art. 127, the words “no later than 3 months after the date when the Fund is presented” shall be replaced by the words “within the period of time referred to in Art. 122, after presenting the fund”;

27) in Art. 128, clause 1, sentence three shall read as follows:

“The fund shall immediately confirm in writing the membership conditions applicable to the eligible spouse.”;

28) in Art. 131:

- a) in clause 1, the words “, and other regulations relating to the survivor benefit payable under the social insurance arrangements do not provide otherwise” shall be deleted;
- b) in clause 2, the words “within 3 months after the date when the widowed spouse presents” shall be replaced by the words “within the period of time referred to in Art. 122, after the widowed spouse has presented”;
- c) after clause 3, clauses 4 and 5 shall be added and shall read as follows:

“4. If the deceased failed to meet the requirement specified in Art. 83, clause 1, sentence two or in clause 2, his/her spouse should confirm in writing that the property relations between the spouses, determined in accordance with Art. 83, clause 3, did not change up to the death of the fund member; if those relations did change, the spouse in question should produce relevant evidence of those changes.

5. The open fund shall not be liable for any of the consequences of failing to meet or mal-performing the requirement referred to in clause 2 or 3.”;

29) in Art. 132, clause 1:

- a) the words “other regulations relating to the survivor benefit payable under the social insurance arrangements and” shall be deleted,
- b) the words “and if there are no such individuals” shall be replaced by the words “and if there are no such individuals or none have been nominated”;

30) in Art. 134, clause 1:

- a) item 2 shall read as follows:

“2) by way of deducting, when making a transfer payment, a specific amount from the funds in a fund member’s account, on condition that such a deduction can only be made if less than 24 months have passed

between the date of entering the first contribution into a fund member's account with that fund and the date of a transfer payment to another open fund,";

b) after item 2, item 3 shall be added and shall read as follows:

"3) by way of deducting, when making a transfer payment, an amount equivalent to 4% of the lowest salary determined by the minister for labour issues, on the basis of Art. 77<sup>4</sup> of the Labour Code, irrespective of the amount referred to in clause 2.";

31) in Art. 135, the existing contents shall be marked as clause 1, and clauses 2 and 3 shall be added and shall read as follows:

"2. The following shall also be taken into consideration when determining the duration of membership in a given open fund:

1) the duration of membership in an open fund of a different type, referred to in Art. 229, clause 2, managed by the same universal society,

2) the duration of membership in another open fund if it was liquidated by having its assets transferred to that fund.

"3. Membership, in consideration of clause 2, shall start on the date of payment of the first contribution to an open fund. For the purposes referred to in clause 1, it shall cover uninterrupted membership in a given open fund, exclusive of periods of over 12 consecutive months during which no contributions were paid."

32) in Art. 141, clause 1, item 13 shall read as follows:

"13) bonds and other debt securities issued by listed companies, other than the securities referred to in items 11 and 12,";

33) in Art. 142, clause 4, in the first sentence, after the words "referred to in clause 2" the words "item 5" shall be added;

34) in Art. 146, clause 1, the words "irrespective of whether those securities are admitted to public trading." shall be replaced by the words "unless those securities are admitted to public trading.";

35) in Art. 160, clause 1 shall read as follows:

"1. An agreement with a depositary relating to storage of a fund's assets should specify the depositary and the fund's duties, the manner of their performance, the depositary's remuneration, the manner of calculating costs and collecting fees payable by the fund, as well as specify the individuals appointed by the depositary to carry out the agreement. The agreement may also specify the depositary's remuneration for

acting as the fund's representative, in accordance with Art. 64, clause 1, or the employee fund's liquidator. The agreement must not limit the depositary's statutory responsibilities.”;

36) Art. 177 shall read as follows:

“Art. 177.1 A deficit which has not been covered by a universal society's own funds, in accordance with Art. 176, clause 2, shall be covered by the Guarantee Fund resources within 21 days of the date on which the Chairman of the Supervision Office made a public announcement about the average weighted rate of return of all the open funds.

2. As a result of covering the deficit, the Guarantee Fund shall be entitled to a refund – from the universal society or its estate in bankruptcy – of the Guarantee Fund resources which were used to cover the deficit.”;

37) Art. 178 shall read as follows:

“Art. 178.1. If a universal society is not able to cover the deficit in the manner specified in Art. 176, clause 2, its Board of Directors shall be obliged to notify the Supervision Office immediately, which shall file a bill in bankruptcy in respect of that society to the relevant court.

2. If the bankruptcy of the society is declared, its estate in bankruptcy may only be used to satisfy the claims of the Guarantee Fund, referred to in Art. 177, clause 2, after the society's liabilities to other creditors have been settled in the order specified in Art. 204, § 1, items 1-2, of the Decree of the President of the Republic of Poland of 24 October 1934, the Bankruptcy Law (*Journal of Law* of 1991, No. 118, item 512, of 1994, No. 1, item 1, of 1995, No. 85, item 426, of 1996, No. 6, item 43, No. 43, item 189, No. 106, item 496 and No. 149, item 703, of 1997, No. 28, item 153, No. 54, item 349, No. 117, item 751, No. 121, item 770 and No. 140, item 940, and of 1998, No. 117, item 756), but before settling the liabilities referred to in Art. 204, § items 2a-9, of that Decree.”;

38) in Art. 185, clause 3, the words “provided that an open fund's liabilities do not exceed that amount.” shall be replaced by the words “unless the Guarantee Fund's liabilities to open pension funds exceeds that amount”;

39) in Art. 186, clause 2, after the words “the assets of the Guarantee Fund” the words “the fees paid to the National Depository for managing the Fund and the procedure for paying them,” shall be added;

40) in Art. 197, clause 1, after the words “by a universal society,” the words “or at the request of the universal society, as well as on behalf of the universal society or an open pension fund” shall be added;

41) in Art. 201, after clause 4, clause 4a shall be added and shall read as follows:

“4a. The Prime Minister shall specify by decree the principles for remunerating the individuals mentioned in clause 4, including the manner of determining the amount of funds for the remuneration referred to in clause 4.”;

42) in Art. 202, after clause 3, clause 4 shall be added and shall read as follows:

“4. When determining the fine imposed in accordance with the provisions of the Act, the Supervision Office shall be obliged to take into account the type and relative importance of the irregularities revealed.”;

43) in Art. 219, after clause 3, clause 4 shall be added and shall read as follows:

“4. Any individual who, in defiance of the prohibition specified in Art. 230a, enters into agreements or accepts statements which put him under an obligation to join a given open fund or make use of the services of a given entity when joining an open fund shall be liable to the same penalty.”;

44) after Art. 219, Art. 219a shall be added and shall read as follows:

“Art. 219a. Any individual who is engaged in acquisition activities on behalf of an open fund and who infringes the principles specified in Art. 93a shall be liable to a fine of up to Zl 20,000.”.

### **Art. 171**

In the Act of 29 August 1997, the Banking Law (*Journal of Law* No. 140, item 939), Art. 63a shall be added after Art. 63 and shall read as follows:

“Art. 63a. Banks shall be obliged to execute transfer orders without delay and transfer funds to the accounts of the Social Insurance Institute, in respect of social and health insurance contributions, as well as other contributions and payments which the Social Insurance Institute is obliged to collect.”.

### **Art. 172**

The following amendments shall be made to the Act of 13 October 1998 on the Social Insurance System (*Journal of Law* No. 137, item 887):

1) Art. 2a shall be added and shall read as follows:

“Art. 2a. 1. The Act shall be based on the principle of equal treatment of all the insured, regardless of their sex, marital status or family situation.

2. In particular, the principle of equal treatment shall relate to:
  - 1) the conditions for inclusion in the social insurance system,
  - 2) the obligation to pay and calculate social insurance contributions,
  - 3) the calculation of benefits,
  - 4) the benefit payment period and remaining eligible for benefits.
3. An insured who believes that he has not been treated in accordance with the principle of equal treatment shall have the right to put in a claim for insurance under the social insurance arrangements in court. Art. 83 shall duly apply.”;

2) in Art. 6:

a) clause 1, item 4, after the words “than 14 days,” the words “and the period of interval between two contracts does not exceed 60 days” shall be deleted, and the words “and clause 5” shall be added at the end;

b) after clause 4, clause 5 shall be added and shall read as follows:

“5. If the engaged and his co-workers who work for the same engager on the basis of agency agreements or short term contracts of less than 15 days each, and if the total of contractual periods amounts to at least 15 days and the intervals between those agreements are shorter than 60 days, they shall also be subject to the mandatory retirement pension and other pension insurance.

3) in Art. 13:

a) in item 2, at the end, the words “in consideration of item 2a” shall be added;

b) item 2a shall be added and shall read as follows:

“2a. the engaged referred to in Art. 6, clause 5 – from the first contractual day onwards if the total of contractual periods amounts to at least 15 days.”;

4) in Art. 41, clause 2, the words “within 7 days as of the fact arising” shall be replaced by the words “within the period of time and in accordance with the principles specified in Art. 47, clauses 1 and 2”;

5) in Art. 84, clause 7, a second sentence shall be added and shall read as follows:

“Art. 24, clauses 4 and 5, shall duly apply.”;

6) in Art. 85, clause 2a shall be added and shall read as follows:

“2a. Clause 1 shall also apply to contribution payers obliged, by virtue of other regulations, to pay out cash benefits under the social insurance arrangements.”;

7) in Art. 110:

a) clause 1 shall read as follows:

“1. Contribution payers shall raise any remuneration due to the insured referred to in Art. 16, clause 1, from 1 January 1999 onwards, calculating such remuneration in such a way as to ensure that after deducting retirement pension, other pension, and sick leave insurance contributions the remuneration is not lower than that paid before the recalculation.”;

b) clause 2 shall be deleted;

c) clause 3 shall read as follows:

“3. The minister for social insurance issues shall specify by decree the manner of recalculating the income referred to in clause 1.”;

d) after clause 4, clause 5 shall be added and shall read as follows:

“5. Whenever the regulations relating to the company social fund mention “the average salary in the State sectors of the national economy in the previous year or the second half of the previous year” or “the budgeted annual funds for the remuneration of those employed on the basis of contracts of employment, this shall mean:

- 1) the average salary in the State sectors of the national economy in the previous year or the second half of the previous year,
- 2) the budgeted annual funds for the remuneration of those employed on the basis of contracts of employment

less contributions to retirement pension, other pension, and sick leave insurance, deducted from the remuneration of the insured.”;

8) in Art. 111, in clause 3, after the words “but before January 1<sup>st</sup>, 1969,” the words “except for those who collect retirement pensions” shall be added;

9) Arts. 113a-113c shall be added after Art. 113 and shall read as follows:

- “Art. 113a. 1. Until the Chairman of the Institute referred to in Art. 73 is appointed, his duties shall be performed by the Chairman of the Social Insurance Institute, appointed in accordance with the act referred to in Art. 122, clause 1, item 1.
2. When the Chairman of the Institute referred to in Art. 73 is appointed, the act by virtue of which the Chairman performing his duties was appointed shall expire.
- Art. 113b. 1. Effective 1 January 1999, the acts by virtue of which the directors of the branch offices of the Institute were appointed shall expire.
2. The individuals referred to in clause 1 shall perform their duties until the managers of the regional organisational units of the Institution, referred to in Art. 67, clause 1, item 2, have been appointed.
- Art. 113c. 1. The Institution shall be party to contracts of employment signed with the individuals employed by the Social Insurance Institute which operates on the basis of Art. 7 of the act referred to in Art. 122, clause 1, item 1, and by the units referred to in Art. 117, clause 1, including clauses 4 and 5.
2. The employees referred to in clause 1 shall not be entitled to any redundancy payments or other cash benefits paid out on the basis of regulations relating to specific principles for terminating contracts of employment for reasons relating to the company and on the basis of regulations relating to State officials, in consideration of clauses 4 and 5.
3. The Institution shall notify (in writing, by 31 January 1999) the individuals employed on the basis of contracts of employment of the terms and conditions of employment and of the consequences – with regard to the terms and conditions of employment – of the change referred to in clause 1 and Art. 113b, clause 1.
4. Within 30 days of the notification stipulated in clause 3, an individual employed on the basis of a contract of employment may – without notice, by notifying the employer seven days in advance – terminate his employment. In consequence of terminating employment in this way, the employee shall be subject to the provisions of the Labour Code, concerning termination of employment by the employer for reasons relating to the company.

5. The Institution shall present to – in writing, by 31 January 1999 – the individuals employed on the appointment basis the new terms and conditions of employment and remuneration, with compensation in an amount no lower than the one to date. The employees should (within 30 days) submit statements in which they accept or refuse to accept the proposed terms and conditions. If the parties fail to agree on the terms and conditions, the current contract of employment shall be terminated after a period of time equivalent to a period of notice, starting from the date on which the employee submitted the statement in which he refused to accept the terms and conditions proposed or from the date by which he should have submitted that statement. Terminating employment in this way will lead to application of the provisions of the Act on State Officials, relating to termination of employment due to liquidation of an office.
6. The Chairman of the Institution shall specify the principles for remunerating the Institution's employees and the amount of funds available for remuneration until a collective employment agreement is signed.

10) in Art. 122, clause 1 shall read as follows:

“1. The following regulations shall lose effect:

- 1) the Act of 25 November 1986 on the Organisation and Financing of Social Insurance (*Journal of Law* of 1989, No. 25, item 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, of 1995, No. 4, item 17 and No. 85, item 426, of 1997, No. 121, item 770, and of 1989, No. 106, item 668 and No. 108, item 684);
- 2) Art. 1, Art. 8, Art. 14 of the Act of 27 September 1973 on Retirement Pensions for Individuals Involved in Creative Work and Their Families (*Journal of Law* of 1983, No. 31, item 145, 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) Arts. 1-5, Arts. 25-32, Art. 34 of the Act of 19 December 1975 on the Social Insurance for Individuals Working on the Basis of Agency Agreements or Short Term Contracts (*Journal of Law* of 1995, No. 65, item 333 and No. 128, item 617, of 1996, No. 100, item 461, and of 1997, No. 28, item 153);
- 4) Arts. 1-4, Arts. 22-26, Art. 28, Art. 32 of the Act of 18 December 1976 on the Social Insurance for Individuals Engaged in Business Activities and Their Families (*Journal of Law* of 1989, No. 46, item 250, of 1990, No. 36, item 206, of 1991, No. 104, item 450 and No. 110, item 474, of 1995, No. 4, item 17, of 1996, No. 100, item 461

and No. 124, item 585, of 1997, No. 28, item 153, and of 1998, No. 106, item 668);

- 5) Chapter 8 of the Act of 28 April 1983 on Retirement Pensions for Railway Workers and Their Families (*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) Arts. 1-6, Arts. 27-32, Art. 34 of the Act of 17 May 1989 on the Social Insurance for the Clergy (*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, of 1996, No. 100, item 461, and of 1997, No. 28, item 153).”.

## **Chapter 2**

### **Transitional provisions**

#### **Art. 173.**

1. The amount of initial capital shall be determined for the insured born after 31 December 1948, who had been paying social insurance contributions or had contribution payers pay contributions for them before the date on which the Act comes into force.
2. Initial capital shall be equivalent to an amount calculated in accordance with the principles specified in Art. 174, multiplied by the average subsequent duration of life, expressed in months, determined in accordance with Art. 26, clause 3, for individuals aged 62.
3. The value of the initial capital shall be determined at the date on which the Act comes into force.
4. The first indexation of the initial capital shall be performed starting on 1 June 1999 onwards, by multiplying that capital by the ratio of the increase in the average remuneration in the first quarter of 1999 – less calculated contributions to retirement pension, other pension, and sick leave insurance, deducted from the remuneration of the insured – to the average remuneration in the second quarter of 1998.
5. The second indexation, which comes into effect from 1 September 1999, and subsequent indexations shall be performed in accordance with the principles specified in Art. 25, clauses 3-6.
6. Initial capital shall be recorded in the account of the insured.

## Art. 174

1. Initial capital shall be determined in accordance with the principles specified in Art. 53, including clauses 2-12.
2. When determining the initial capital, the contribution periods completed before the date on which the Act comes into force, referred to in Art. 6, and the non-contribution periods referred to in Art. 7, shall be included within the limit specified in Art. 5, clause 2.
3. The basis for assessing the initial capital shall be determined in accordance with the principles specified in Arts. 15, 16, 17, clauses 1 and 3, and Art. 18, selecting a period of 10 consecutive calendar years within the period from 1 January 1980 to 31 December 1998.
4. In order to calculate the amount of initial capital to be had by an individual eligible for other pension as a result of being unable to work, the basis for assessing the other pension shall be applied, as agreed upon when the eligibility for the benefit was granted for the first time or when the amount of the other pension was re-assessed, without taking account of the indexation of that basis. If the other pension was granted before 15 November 1991, the assessment basis determined through revaluation shall be applied in order to determine the amount of initial capital, unless the basis in question was re-assessed after that date.
5. If one has not been able to determine the basis for assessing the other pension and, in consequence, the amount of that benefit has been determined as equivalent to the lowest other pension, the basis for assessing initial capital shall include the lowest remuneration the employee received in the period referred to in Art. 15, clause 1.
6. The provisions of clause 5 shall be duly applied to determine the initial capital to be had by those regarded as repatriated.
7. In order to calculate the amount of initial capital, the base amount shall be applied, which constitutes 100% of the average salary in the 2<sup>nd</sup> calendar quarter of 1998.
8. When calculating the amount of initial capital, part of the base amount, constituting 24% of that amount, shall be multiplied by an index proportional to the age of the insured and the contribution and non-contribution period completed by 31 December 1998.

The following formula shall be used to calculate the index:

$$p = \sqrt{\frac{\text{age of the insured} - 18}{\text{retirement age} - 18} \times \frac{\text{duration of the insurance}}{\text{required membership}}}$$

where:

“p”	-	stands for the index;
age of the insured	-	stands for the age on 31 December 1998;
retirement age	-	stands for 60 for women and 65 for men;
duration of the insurance	-	stands for proven contribution and non-contribution period;
required membership	-	stands for 20 for women and 25 for men;

in consideration of clause 12.

9. The duration of the insurance referred to in clause 8 shall be expressed in full years; however, if the duration in questions exceeds the number of full years by more than 6 months, it shall be rounded up.
10. The age of the insured referred to in clause 8 shall be expressed in full years; however, if the age of the insured on 31 December 1998 exceeds the determined age by more than 6 months, his age shall be rounded up.
11. If the insured did not turn 18 at the time of first being insured, the figure 18 in the formula referred to in clause 18 shall be replaced by the actual age at which the insurance obligation arose.
12. The index referred to in clause 8:
  - 1) shall be rounded off to two digits after the decimal point,
  - 2) must not exceed 100%.
13. The value of the index calculated on the basis of clause 8, depending on the sex and age of the insured and the duration of the insurance on 31 December 1998, is given in the table which constitutes an attachment to the Act.

### **Art. 175.**

1. The insured and contribution payers shall be obliged to present the Institution, within the period of time and following the procedure determined by a pension authority, with documentation enabling one to determine the amount of initial capital no later than within 5 years of the date on which the Act comes into force. The provisions of Art. 115, clauses 1-3, Art. 116, clause 5, Arts. 117, 121, 122, clause 1, Arts. 123, 124, and 125 shall duly apply.
2. For those not insured as at the date on which the Act comes into force, the amount of initial capital shall be determined at their (properly documented) request.
3. The amount of initial capital shall be determined by a decision on the part of a pension authority within 6 months of obtaining the last piece of information

necessary for calculating that capital. The interested party shall have the right to appeal against the decision of the pension authority as specified in other regulations.

4. The amount of initial capital shall be re-assessed in the circumstances specified in Art. 114.
5. The minister for social insurance issues shall specify by decree detailed principles for the co-operation of the Institution with the insured and contribution payers with regard to the determination of the amount of initial capital.

#### **Art. 176**

The average basis for assessing the social insurance contribution – determined in the manner specified in Art. 15, clauses 4 and 5 – in a period of 10 consecutive calendar years selected by the interested party out of the last 19 calendar years directly preceding the year in which he applied for a retirement pension or other pension or for re-assessing the level of those benefits, shall be the basis for assessing the retirement pension and the other pension in 1999.

#### **Art. 177**

On the date on which the Act comes into force, the base amount shall constitute 100% of the average salary in the 2<sup>nd</sup> calendar quarter of 1998 and shall equal Zl 1,220.89.

#### **Art. 178**

In the period from 1 January 1999 to 31 May 1999, the contribution paid by the insured to retirement pension, other pension, and sick leave insurance shall not be included in the income referred to in Art. 104, clause 8.

#### **Art. 179**

From 1 January 1999 onwards, retirement pensions and other pensions granted on the basis of the remuneration earned before that date, on the basis of the regulations relating to retirement pensions for the individuals referred to in Art. 1, clause 2, shall be subject to additional indexation, using the index of 104.3%.

#### **Art. 180**

1. The individuals who, on the date on which the Act comes into force, are eligible for retirement pensions, other pensions in respect of inability to work, and survivorship pensions on the basis of:
  - 1) the regulations referred to in Art. 195,

- 2) Art. 19a of the Act of 24 May 1990 on Amendments to Certain Retirement Pension Regulations (*Journal of Law* No. 36, item 206, No. 66, item 390 and No. 92, item 540),
- 3) the Act of 14 December 1990 on Revaluation of Retirement Pensions and Other Pensions for Individuals Who Have Turned 80 and on Amendments to Certain Retirement Pension Regulations (*Journal of Law* No. 92, item 540)

shall remain eligible for those benefits in the amount determined before the date on which the Act comes into force, in consideration of clause 2-5 and including clauses 6-9.

2. The level of benefits for the individuals specified in clause 1, items 1 and 3, who apply for the increase specified in Art. 56, shall be calculated by adding that increase to the amount of increase for which the individuals in question are eligible. The level of a retirement pension or other pension, including those increases, must not exceed 100% of the assessment basis. The provisions of Art. 73, clauses 3 and 4, shall duly apply.
3. If the individual referred to in clause 2 is eligible for a retirement pension or other pension in the amount equivalent to the lowest benefit, the increase referred to in Art. 56 shall be added to the lowest amount before increasing the level of the benefit.
4. The provisions of Arts. 74 and 131 shall be duly applied in determining the level and the payment of the survivorship benefits that one is eligible for on the date on which the Act comes into force.
5. The benefits referred to in clauses 1 and 2 shall be paid out of the Fund; however, the cost of those benefits – i.e. the portion of that cost which corresponds to the contribution portion of the farmer's retirement pension or other pension, to the increase due to the payment of contributions to the farmers' social insurance for the whole proven period of work on a farm, including the period which occurred more than 25 years before determining eligibility for the retirement pension or other pension, and to raising the benefit to the level of the lowest retirement pension or other pension – shall be duly refunded out of the retirement pension and other pension fund specified in the regulations governing social insurance for farmers.
6. The retirement pension and other pension referred to in clause 1 shall be subject to indexation in accordance with the principles specified in the Act.
7. If one applies for the level of a benefit to be re-assessed:
  - 1) by adding the contribution or non-contribution periods which have not been included in the calculation of the benefit, Arts. 112 and 113 shall apply;

- 2) by changing the period which provides the basis for assessing the contribution that forms the basis for assessing the benefit, Arts. 110 or 111 respectively shall apply.
8. The provisions of Arts. 51 or 52 shall be duly applied to determine the level of benefits for the individuals specified in clause 1, item 1, who request the application of indexes to periods of working in a mine.
9. If an individual who has already been eligible for other pension due to being unable to work is granted a retirement pension, all the periods taken into consideration when making the decision to grant the individual pension due to inability to work or to re-assess its level shall be taken into account.

### **Art. 181**

A widow who remarried before the date on which this Act comes into force shall remain eligible for the miners' survivorship pension determined on the basis of the provisions of the Act referred to in Art. 195, item 6, if:

- 1) she raises at least one of the children, grandchildren or brothers or sisters eligible for the survivorship pension due to her husband's death,
- 2) reaches the age of 50 or becomes unable to work after this Act comes into force if she does not raise at least one of the children, grandchildren or brothers or sisters eligible for the survivorship pension due to her husband's death.

### **Art. 182**

The insured born after 31 December 1948, to which Arts. 46-50 do not apply, shall file applications for a retirement pension directly with a pension authority.

### **Art. 183**

1. The retirement pension granted on the basis of an application filed by an insured individual born after 31 December 1948, except for the insured who have collected retirement pensions on the basis of the provisions of Arts. 46 or 50, provided the individual in question has not been a member of an open pension fund, submitted in the calendar year 2009, shall amount to:
  - 1) 80% of the retirement pension calculated on the basis of Art. 53, and
  - 2) 20% of the retirement pension calculated on the basis of Art. 26.
2. The retirement pension granted on the basis of an application filed by the insured individual referred to in clause 1, submitted in the calendar year 2010, shall amount to:

- 1) 70% of the retirement pension calculated on the basis of Art. 53, and
  - 2) 30% of the retirement pension calculated on the basis of Art. 26.
3. The retirement pension granted on the basis of an application filed by the insured individual referred to in clause 1, submitted in the calendar year 2011, shall amount to:
- 1) 55% of the retirement pension calculated on the basis of Art. 53, and
  - 2) 45% of the retirement pension calculated on the basis of Art. 26.
4. The retirement pension granted on the basis of an application filed by the insured individual referred to in clause 1, submitted in the calendar year 2012, shall amount to:
- 1) 35% of the retirement pension calculated on the basis of Art. 53, and
  - 2) 65% of the retirement pension calculated on the basis of Art. 26.
5. The retirement pension granted on the basis of an application filed by the insured individual referred to in clause 1, submitted in the calendar year 2013, shall amount to:
- 1) 20% of the retirement pension calculated on the basis of Art. 53, and
  - 2) 80% of the retirement pension calculated on the basis of Art. 26.
6. Art. 108 shall be applied to re-assess the retirement pension referred to in clauses 1-5, as a result of being subject to retirement pension and other pension insurance after the date on which the retirement pension was granted.

#### **Art. 184**

1. The insured born after 31 December 1948 shall be eligible for a retirement pension having reached the age stipulated in Arts. 32-34, 39, and 40, if on the date on which this Act comes into force they completed:
  - 1) the period of employment in the specific working conditions or in a specific position, required by the existing regulations to become eligible for a retirement pension at the age of less than 60 for women and 65 for men, and
  - 2) the contribution and non-contribution period referred to in Art. 27.
2. An individual shall be eligible for the retirement pension referred to in clause 1 on condition that he does not join an open pension fund and his employment is terminated (applicable to the insured who is an employee).

### **Art. 185**

1. When determining the level of a retirement pension for individuals who become eligible for a retirement pension at the age specified in Art. 184, initial capital shall be subject to recalculation by adding – to contribution periods – the period equivalent to the difference between the retirement age referred to in Art. 24 and the age at which a given individual actually retires. The recalculated initial capital shall be subject to the provisions of Art. 173, clause 3-6.
2. The contribution periods referred to in clause 1 shall be expressed in full months.

### **Art. 186**

1. The following applications shall be processed on the basis of the Act:
  - 1) filed by individuals who did not meet the conditions for becoming eligible for a retirement pension or other pension based on the existing regulations if those individuals satisfy the conditions for obtaining benefits on the basis of the Act,
  - 2) filed by individuals who have produced new evidence that has an influence on their eligibility for benefits or their level.
2. The provisions of the Act shall apply to applications for benefits filed:
  - 1) from the date on which the Act comes into force – onwards,
  - 2) before the date on which the Act comes into force if at least one of the conditions for becoming eligible for the benefit has been met, from that date onwards.
3. Applications filed by individuals born before 1 January 1949, who did not apply for a retirement pension before the date on which the Act comes into force even though they had met the conditions for becoming eligible for that benefit – shall be subject to the provisions of the acts and the decree mentioned in Art. 195, relating to the conditions for becoming eligible for a retirement pension, unless the provisions of the Act are more favourable to those individuals.
4. A Member of Parliament or a senator who (by 31 December 1997) met the conditions for being granted the retirement pension specified in Art. 28, clause 3, of the act referred to in Art. 166, in the wording remaining in effect until this Act comes into force, shall remain eligible for that pension.

### **Art. 187**

Reporting on issues relating to the inability to work, with regard to individuals eligible for other pension on the basis of the provisions in force on 31 August 1997, if those individuals are to undergo scheduled medical examinations to determine the degree of their inability to work, shall be subject to the provisions of Arts. 12-14.

### **Art. 188**

Outstanding contributions to the social insurance for the insured who is also a contribution payer – for the period preceding the eligibility for the received retirement pension, other pension due to the inability to work, or survivorship pension granted due to the death of the insured in question – determined before the Act comes into force, shall be deducted in accordance with the principles specified in the Act, relating to benefits in the form of advance payments.

### **Art. 189**

Until the Polish zloty becomes an externally convertible currency, benefits transferred abroad on the basis of international agreements, shall be translated from zlotys into a foreign (convertible) currency at the exchange rate for that currency in force on the date of the translation performed by a pension authority.

### **Art. 190**

1. The members of the family of a retiree or pensioner, who is serving a prison sentence on account of a court verdict, who have been paid the benefits granted to the retiree or pensioner in full or in part, shall be regarded – from the date on which this Act comes into force onwards – as the individuals referred to in Art. 130, clause 3, item, without having to be nominated by the individual eligible for the benefits.
2. The individuals in question shall be paid the benefits specified in the Act after advising them of the circumstances referred to in Art. 138, clause 2, item 1.
3. If the retiree or pensioner is acquitted or the proceedings against them are discontinued, the retiree or pensioner shall be paid the portion of the benefit – for the whole period of imprisonment before the date on which the Act comes into force – whose payment was suspended on the basis of Art. 85, clauses 1 or 4, of the act mentioned in Art. 195, item 5.

### **Art. 191**

1. The level of the benefit shall be re-assessed – with the new contribution periods referred to in Art. 6, clause 2, item 8, being taken into account – on the basis of an application submitted by the interested party; however, higher benefits shall be paid for the first time in the month in which the application was filed and no sooner than on the date on which the Act comes into force.
2. Instead of the provisions of Arts. 103-106, the provisions of Arts. 24 and 25 of the act referred to in Art. 195, item 9, shall apply to retirement pensions and other pensions subject to suspension or reduction due to an individual earning an income in 1998.
3. The deductions and the execution concerning cash benefits specified in the Act, performed on the basis of the existing regulations, from the date on which the Act comes into force onwards, shall be subject to the provisions of Arts. 139-141, 143, and 144.

### **Art. 192**

Whenever regulations refer the individual to the regulations governing retirement pensions for employees and their families and the revaluation of retirement pensions and other pensions, the principles for determining retirement pensions and other pensions, and amendments to certain acts, they refer the individual to the regulations relating to retirement pensions and other pensions paid out of the Social Insurance Fund.

### **Art. 193**

1. The sickness allowance, the eligibility for which – specified in the regulations mentioned in Arts. 147, 149, Art. 154, Art. 195, items 2 and 3 – arose before the date on which the Act comes into force, shall be paid out in the amount and in accordance with the principles specified in the current regulations, for the whole period of uninterrupted inability to work due to an illness.
2. Clause 1 shall apply to the social adjustment allowance, maternity allowance, childcare allowance, and the rehabilitation benefit.
3. In determining the level of the rehabilitation benefit granted after one has stopped receiving the sickness allowance determined in accordance with the current regulations, the basis for assessing the sickness allowance, determined in accordance with the current principles, shall be included.

## **Art. 194**

Until the executive regulations stipulated in the Act are issued, the executive regulations issued on the basis of the acts and the decree mentioned in Art. 195 shall remain in force, unless they contradict the provisions of this Act.

## **Chapter 3**

### **Final and annulling provisions**

## **Art. 195**

The following shall lose effect:

- 1) Art. 2, item 1, letters a) and e), Art. 3, Art. 4, clause 1, item 3, and clause 6, Art. 6, item 1, Art. 7, clause 1, clause 2, item 3, and clause 3, Art. 9, Art. 10, Art. 11, Art. 12, Art. 13, Art. 17, Art. 18, Art. 19, item 1, and Art. 20, of the Act of 27 September 1973 on Retirement Pensions for Individuals Involved in Creative Work and Their Families (*Journal of Law* of 1983, No. 31, item 145, 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);
- 2) Art. 6, clause 1, items 4 and 7, clause 2, item 3, Arts. 15-18, Art. 24, Art. 33, clauses 1-3, and Art. 41, of the Act of 19 December 1975 on Social Insurance for Individuals Working on the Basis of the Agency Agreement or the Short Term Contract (*Journal of Law* of 1995, No. 65, item 333, and No. 128, item 617, of 1996, No. 100, item 461, and of 1997, No. 28, item 153);
- 3) Arts. 1, 2, 3, item 3, Arts. 5 and 9, clause 2, item 3, and clause 3, Arts. 13-16, Arts. 18-20, Art. 22, Art. 25, Art. 26, Art. 28, of the Decree of 4 March 1976 on Social Insurance for Members of Agricultural Manufacturing Co-operatives and Co-operatives of Farmers' Societies, and Their Families (*Journal of Law* of 1983, No. 27, item 135, 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);
- 4) Art. 5, items 4 and 7, Art. 9, Art. 11, clause 1, item 3, and clause 2, Art. 12, Art. 15, clauses 2 and 3, Art. 16, Art. 17, Art. 21, Art. 29, Art. 31, of the Act of 18 December 1976 on Social Insurance for Individuals Engaged in Business Activities and Their Families (*Journal of Law* of 1989, No. 46, item 250, of 1990, No. 36, item 206, of 1991, No. 104, item 450, and No. 110, item 474, of 1995, No. 4, item 17, of 1996, No. 100, item 461, and No. 124, item 585, of 1997, No. 28, item 153, and of 1998, No. 106, item 668);
- 5) the Act of 14 December 1982 on Retirement Pensions for Employees and Their Families (*Journal of Law* No. 40, item 267, of 1984, No. 52, items 268

and 270, of 1986, No. 1, item 1, of 1989, No. 35, item 190 and 192, of 1990, No. 10, item 58 and 61, No. 36, item 206, No. 66, item 390, and No. 87, item 506, of 1991, No. 7, item 24, No. 80, item 350, and No. 94, item 422, of 1992, No. 21, item 84, and No. 64, item 321, of 1994, No. 74, item 339, and No. 108, item 516, of 1995, No. 4, item 17, of 1996, No. 100, item 461, No. 136, item 636, and No. 147, item 687, of 1997, No. 28, item 153, No. 93, item 569, and No. 111, item 725, and of 1998, No. 106, item 668, and No. 117, item 756);

- 6) the Act of 1 February 1983 on Retirement Pensions for Miners and Their Families (*Journal of Law* of 1995, No. 30, item 154, of 1997, No. 28, item 153, and of 1998, No. 74, item 473);
- 7) the Act of 28 April 1983 on Retirement Pensions for Railway Workers and Their Families (*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);
- 8) Art. 7, clause 1, items 4 and 7, clause 2, item 3, Art. 11, Art. 12, item 3, Art. 17, Art. 21, Art. 22, Art. 24, Art. 25, Art. 33, Art. 34, Art. 36, and Art. 37 of the Act of 17 May 1989 on Social Insurance for the Clergy (*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, of 1996, No. 100, item 461, and of 1997, No. 28, item 153);
- 9) the Act of 7 October 1991 on the Revaluation of Retirement Pensions and Other Pensions, on the Principles for Determining Retirement Pensions and Other Pensions, and on Amendments to Certain Acts (*Journal of Law* No. 104, item 450, of 1992, No. 21, item 84, of 1993, No. 127, item 583, and No. 129, item 602, of 1994, No. 84, item 385, of 1995, No. 4, item 17, No. 95, item 473, and No. 138, item 681, of 1996, No. 87, item 395, No. 100, item 461, No. 136, item 636, and No. 147, item 687, of 1997, No. 30, item 164, No. 106, item 676, No. 111, item 725, and No. 141, item 943, and of 1998, No. 55, item 351);
- 10) Arts. 2-4 of the Act of 30 June 1994 on Amendments to the Act on Retirement Pensions for Miners and Their Families, and on Amendments to Certain Other Acts (*Journal of Law* No. 84, item 385);
- 11) the Act of 25 October 1996 on Indexation of Retirement Pensions and Other Pensions, and on Amendments to Certain Acts (*Journal of Law* No. 136, item 636).

### **Art. 196**

The Act shall come into force on 1 January 1999, except for Art. 182, which shall come into force on 1 January 2004.

PRESIDENT OF THE REPUBLIC OF POLAND