

# **Act on Mandatory Pension Insurance and on the Activities of Pension Funds**

**No. 129, 23 December 1997**

Process before the Athingi. Legislative Bill.

Entered into effect on 1 July 1998, with the exception of the third paragraph of Article 14, which entered into effect on 1 May 1999.

**Amended by** Act No. 84/1998 (entered into on effect 1 January 1999), Act No. 148/1998 (entered into effect on 1 January 1999), Act No. 11/2000 (entered into effect on 28 April 2000), Act No. 56/2000 (entered into on effect 26 May 2000), Act No. 65/2002 (entered into on effect 17 May 2002), Act No. 141/2002 (entered into effect on 30 December 2002), Act No. 72/2003 (entered into effect on 10 April 2003), Act No. 70/2004 (entered into effect on 18 June 2004; *EEA Agreement: Annex VI, Directive 98/49/EC*), Act No. 129/2004 (entered into effect on 31 December 2005), Act No. 148/2004 (entered into effect on 30 December 2004), Act No. 28/2006 (entered into on effect 3 May 2006), Act No. 65/2006 (entered into effect on 27 June 2006), Act No. 108/2006 (entered into effect on 1 November 2006 pursuant to Advertisement C 1/2006), Act No. 140/2006 (entered into effect on 21 December 2006) and Act No. 167/2006 (entered into effect on 1 January 2007).

## **CHAPTER I**

### **Mandatory insurance, contributions and insurance coverage.**

#### **Article 1**

This Act shall apply to all pension funds and agreements on insurance coverage, as further provided for in this Act.

Pension funds shall refer to any entity or institution which accepts contributions towards the payment of life-long old-age pensions, disability pensions or death benefits, as further provided for in this Chapter and Chapters II and III.

Mandatory pension insurance implies membership obligation in a pension fund and payment of contributions to a pension fund and, as appropriate, to other parties pursuant to an agreement on supplementary insurance coverage.

All employees and employers or self-employed persons are obliged to ensure their pension rights through membership in a pension fund from the age of 16 until the age of 70.

## **Article 2**

Contributions towards pension rights shall be determined by special legislation, by collective wage bargaining agreements, by employment contracts or by other comparable means. Minimum pension contributions shall amount to at least [12%]<sup>1</sup> of the contribution base. [The contribution decided upon by an employee or employer or self-employed person shall go towards increasing pension rights as provided for in Chapter II or III.]<sup>2</sup>

Membership in a pension fund, payment of pension contributions and the division of the contributions between the employee and employer respectively shall be as prescribed in the collective bargaining agreement which determines the minimum terms of employment in the occupation concerned, or in a special Act, as appropriate. Should no collective bargaining agreement apply to the occupational field concerned, or if the specific terms of employment are not based on a collective bargaining agreement, the individual in question shall select a pension fund in accordance with the rules of individual funds. Pension fund membership shall be specified in a written contract of employment.

Anyone for whom payment of a contribution is made, who pays or has paid a contribution to a pension fund and is entitled to benefits from it, as further provided for in this Act, is a pension fund member. No one may be refused membership in a pension fund for reasons of health, age, marital status, family size or gender.

<sup>1</sup>Act No. 167/2006, Article 1.

<sup>2</sup>Act No. 148/1998, Article 2.

## **Article 3**

The minimum contribution to a pension fund pursuant to Article 2 shall be calculated from the total of wages paid and remuneration for any type of work, task or service. The contribution base shall be composed of all types of wages or remuneration for work subject to income tax pursuant to the first paragraph of Point 1 of Section A of Article 7 of [Act No. 90/2003 on Income and Net Worth Tax]<sup>1</sup>. The contribution base shall not, however, include benefits paid in kind, such as clothing, food or accommodation, or payments which are intended to cover cash outlays, e.g. vehicle allowances, per diem payments and food allowances. Furthermore, retirement and pension benefits paid by the State Social Security Institute or pension funds, other benefits paid by the State Social Security Institute, per diem accident and sickness payments paid by trade union health insurance funds and benefits paid by insurance companies for loss of earnings resulting from injury shall be excluded from the contribution base. The contribution base shall include unemployment benefits as provided for in the Unemployment Insurance Act. The contribution base of an individual for employment in his own business operations or self-

employment [or for employment operating a business which he controls through ownership or membership of the board]<sup>2</sup> shall be equivalent to an amount provided for in the second paragraph of Point 1 of Section A, Article 7 of [Act No. 90/2003 on Income and Net Worth Tax, as further provided for in Article 58 of the same Act].<sup>1</sup>

Pension contributions shall be allocated for minimum insurance coverage, as provided for in Article 4, and, as appropriate, for supplementary insurance coverage, as provided for in Articles 8 to 10.

<sup>1</sup>Act No. 129/2004, Article 126.

<sup>2</sup>Act No. 65/2002, Article 4.

#### **Article 4**

The minimum insurance coverage provided by a pension fund, based on a 40-year contribution period, shall amount to 56% of the monthly wages for which contribution is paid, as a monthly old-age pension for the duration of life from such time as the pension is first paid, but no later than from 70 years of age, pursuant to Article 14, and 56% of the monthly wages for which contribution is paid, as a monthly disability pension based on full rights to entitlement projection, in accordance with Article 15. Minimum insurance coverage shall, furthermore, provide for the equalisation among pension fund members of costs due to spouses' pensions pursuant to Article 16 and costs due to child pensions pursuant to Article 17.

The pension fund, in accordance with Article 24 of this Act, shall specify the contribution needed to bear the cost of the minimum insurance coverage it provides.

A pension fund may, in accordance with an actuarial valuation, determine its minimum insurance coverage in such a way that contributions are in part devoted to acquiring pension rights in individual pension accounts, in accordance with Chapter II, and in part to acquiring pension rights in mutual pension funds, in accordance with Chapter III.

#### **Article 5**

A pension fund member may decide to turn over the portion of his contribution which is to be devoted to an individual pension account, in accordance with paragraph 3 of Article 4, and the portion which is to be devoted to supplementary insurance coverage, to a party other than the pension fund which accepts his contributions.

The employer or pension fund concerned is under obligation to transfer payments in accordance with the decision of the pension fund member pursuant to the first paragraph to another party without additional charge to the pension fund member.

Should a pension fund member fail to inform his employer or pension fund with suitable notice as to where the contribution, which he is entitled to dispose of in accordance with

the first paragraph, shall be directed, this shall be credited as provided for in the Articles of Association of the pension fund concerned.

A pension fund which determines minimum insurance coverage as provided for in the third paragraph of Article 4, or a party who accepts contributions towards individual pension accounts or supplementary insurance coverage, must ensure that the part of his operations which concerns the custody and management of insurance contributions, which beneficiaries may dispose of directly in accordance with the first paragraph, is kept financially separate and is not subsidised by other operations.

## **Article 6**

The Directorate of Internal Revenue shall be responsible for ensuring that pension contributions are paid for each individual subject to mandatory pension insurance.

[Pension funds and parties listed in the third paragraph of Article 8 are required to provide the Directorate of Internal Revenue, at the end of each income year, with information on the contributions towards pension rights which have been paid to the fund for each pension fund member during that year.]<sup>1</sup>

Employers and business operators or self-employed persons, as well as others who make payments subject to contributions, must, at the conclusion of the income year, specify on their wage payment slips, or by other means prescribed by the Directorate of Internal Revenue, the amount upon which each person's contributions were based, together with the total amount of contributions paid to a pension fund [and parties listed in the third paragraph of Article 8].<sup>1</sup>

[Everyone who is obliged to be a member of a pension fund pursuant to this Act, and is required to submit an income tax return in accordance with the Act on Income and Net Worth Tax ...<sup>2</sup>, must, on his tax return, or by other means decided by the Directorate of Internal Revenue, specify the pension contributions he has paid during the year and the pension funds and parties listed in the third paragraph of Article 8 to which contributions were paid.]<sup>1</sup>

After the conclusion of the income year, the Directorate of Internal Revenue shall send each individual pension fund a statement for each person who is a member of the fund according to the information which the Directorate has received pursuant to this Article. The statement shall indicate the contribution base and contributions paid by each person and the corresponding employers' contributions. If no pension fund is specified on the tax returns or breakdown sheets submitted by employers and pension funds, the statement shall be sent to Söfnunarsjóður lífeyrisréttinda (General Pension Fund), which shall then collect the contributions.

The Minister shall, by means of a Regulation,<sup>3</sup> lay down detailed provisions for the implementation of this Article.

<sup>1</sup>Act No. 148/1998, Article 3.

<sup>2</sup>Act No. 129/2004, Article 127.

<sup>3</sup>Regulation No. 391/1998, pursuant also to 742/1998 and 224/2001.

### **Article 7**

Pension fund contributions, for both minimum insurance coverage and supplementary insurance coverage, shall be paid regularly each month, as provided for in paragraphs 2 to 4.

The contribution payment period shall not exceed one month, and the due date for payments shall be on the tenth day of the following month. The final due date for payments shall be on the last day of the month in which the contribution is due. In other respects, payment of contributions shall be subject to the rules laid down in the Articles of Association of the pension fund in question or in accordance with an agreement between the parties listed in Article 8.

Rights accruing from additional contributions to pension funds in excess of regular contributions shall be calculated as of the date of payment.

All employers are required to deduct pension contributions from their employees' wages and submit them to the respective pension funds together with their corresponding contributions. The same responsibility rests on the employer with regard to the collection and forwarding of contributions to the parties listed in Article 8.

Employers and persons operating their own businesses must notify the pension funds and the parties listed in Article 8 if they are not longer responsible for submission of pension fund contributions due to the termination of their activities or if their employees have left their employment.

### **Article 8**

Employees and persons operating businesses or who are self-employed may conclude an agreement with parties listed in the third paragraph for insurance coverage based on contributions which they may dispose of directly pursuant to the first paragraph of Article 5.

The contribution or portion of a contribution provided for in such a contract shall go towards the acquisition of pension rights in individual pension accounts, in accordance with Chapter II, or in mutual pension funds, in accordance with Chapter III.

A beneficiary pursuant to the first paragraph may not transfer, mortgage or in any other manner dispose of his deposit or rights pursuant to an agreement for supplementary pension coverage or pension rights in individual pension accounts except by agreement as

provided for in Points 1–3 of the third paragraph of Article 14. Rights arising from such an agreement shall not be subject to enforcement measures, and no creditor of a deceased's estate or bankruptcy estate shall be entitled to encroach upon them in any manner.

[The following parties may operate activities in accordance with Chapter II and accept contributions under a contract for supplementary insurance coverage pursuant to this Act:

1. commercial banks, savings banks and securities undertakings, as provided for in the Act on Financial Undertakings;
2. life insurance companies, as provided for in the Act on Insurance Activities;
3. pension funds, provided that they fulfil the requirements of Articles 4 and 5.]<sup>1</sup>

[Foreign commercial banks, savings banks and securities undertakings, which are established and licensed in another state within [the European Economic Area or member state of the European Free Trade Association treaty or the Faeroe Islands]<sup>2</sup>, may carry out activities as provided for in Chapter II of this Act, by establishing a branch in this country, as provided for in Article 31 of Act No. 161/2002 on Financial Undertakings, or without the establishment of a branch, as provided for in Article 32 of that same Act. The provisions of Articles 31, 32, 34 and 35 of that Act shall apply to authorisations to commercial banks, savings banks and securities undertakings to carry out activities as provided for in Chapter II of this Act as applicable.

Foreign life insurance companies, which are established and licensed in another state of [the European Economic Area or member state of the European Free Trade Association treaty or the Faeroe Islands]<sup>2</sup>, may carry out activities as provided for in Chapter II of this Act, by establishing a branch in this country, as provided for in Article 64 of Act No. 60/1994 on Insurance Activities, or without the establishment of a branch, as provided for in Article 65 of the same Act. The provisions of Articles 64 to 70 of the Act shall apply to authorisations to life insurance companies to carry out activities as provided for in Chapter II of this Act as applicable.

The Minister of Finance may establish more detailed rules as to the manner in which beneficiaries shall be ensured information on the terms and conditions of contracts on pension savings and supplementary pension benefits, concerning for instance the contents, form and rights acquired.]<sup>1</sup>

<sup>1</sup>Act No. 70/2004, Article 1.

<sup>2</sup>Act No. 108/2006, Article 16.

## **Article 9**

An agreement for supplementary insurance coverage and individual pension savings shall include the name and personal identification number of the contributor, the monthly contribution and the Rules which apply to payment of benefits and rights in other

respects. All conditions applying to the supplementary insurance coverage must be stated in the agreement. Payment of contributions pursuant to the agreement shall commence no later than two months following the conclusion of the agreement. The agreement may be terminated with six months' notice. Notice of termination is not, however, valid until the party terminating the agreement has verifiably given notice of such termination to the pension fund which receives his contributions for minimum insurance coverage. Termination does not convey the right to withdraw the deposit or rights, but the rules on insurance coverage may make provision for the deposit or rights to be transferred between the parties listed in Article 8.

A pension fund which fulfils the requirements of Articles 4 and 5 may, in the same manner as other parties listed in [Points 1 and 2]<sup>1</sup> of the third paragraph of Article 8, accept contributions only from specific pension fund members in accordance with an agreement on supplementary insurance coverage. The fund, however, must confirm the membership of the employee concerned in the pension fund which accepts his contributions for minimum insurance coverage.

<sup>1</sup>Act No. 70/2004, Article 2.

### **Article 10**

Commercial and savings banks, insurance companies, securities undertakings and pension funds desiring to offer agreements on supplementary insurance coverage and individual pension savings as provided for under the provisions of this Act must, in advance, seek confirmation from the Minister of Finance that their Rules concerning insurance coverage are in accordance with the provisions of this Act. Any amendments to the Rules must also be notified to the Minister of Finance and shall not take effect until the Minister has approved them after receiving the opinion of a public supervisory authority. A decision shall be issued on the Rules and amendments to them in writing no later than three months from the time the final application is received by the Minister. The Minister of Finance may, by means of a Regulation, establish detailed formal requirements for agreements on supplementary insurance coverage and individual pension savings.

## **CHAPTER II**

### **Pension savings.**

### **Article 11**

The first withdrawal of a deposit may be made, or a special withdrawal agreement concluded, two years after the first payment of contributions to acquire pension rights in individual pension accounts, but not before the beneficiary has fulfilled special additional requirements in accordance with paragraphs 2 to 4 of this Article.

Once a beneficiary has reached 60 years of age, payment of his pension savings and interest may commence in the form of equal annual instalments over a period of not less

than seven years, or the length of time remaining until the beneficiary reaches the age of 67 years.

In the event that a beneficiary becomes disabled and his disability is 100%, he shall be entitled to payment of pension savings and interest in equal annual payments over seven years.

In the event that the disability is less than 100%, the annual payment shall be reduced in direct proportion with the reduction in disability and the period of withdrawal lengthened accordingly.

In the event that a beneficiary dies before the deposit is fully paid out, it shall become the property of his heirs and be divided amongst them in accordance with the rules of the Inheritance Act. Any portion accruing to a child under the age of 13 years shall be divided into equal payments to be made each year until the child reaches the age of 18 years. In the event that a child has reached the age of 13 at the time of death of a beneficiary, its portion shall be paid out over a period of five years. Any portion accruing to a surviving spouse shall be divided into equal payments to be made over a period of seven years or the time remaining, at the time of the beneficiary's demise, until the spouse reaches the age of 67. In the event that a beneficiary has neither a spouse nor children, the deposit shall accrue to his estate, in which case the limitation in the second sentence of the second paragraph of Article 8 shall not apply.

A Regulation shall provide for a shorter withdrawal period in the case of moderate amounts.

## **Article 12**

Equal instalments, as provided for in Article 11, refers to equal payments distributed over the number of months of payment in such a way that the beneficiary receives, in the course of each year, a part of the balance, including interest, corresponding to the number of years remaining of the repayment period.

Notwithstanding the provisions of the first paragraph, a special agreement may be concluded providing for a monthly payment of a specific sum. In such case, the payment shall be adjusted in accordance with the consumer price index. This agreement may, in part or in full, be for a specified period, pursuant to the requirements of Article 11 on minimum length of time, or until the end of the beneficiary's life.



## **CHAPTER III**

### **Pension rights in pension funds.**

#### **Article 13**

Through contributions to earn pension entitlements in mutual pension funds, a pension fund member earns for himself, and his spouse and children as applicable, the right to old-age pension, disability pension and spouses' and children's pensions, which may not be less extensive than as provided for in this Chapter. The Articles of Association of a pension fund shall provide in greater detail for the acquisition of rights, which may vary depending upon whether contributions are made towards minimum or supplementary insurance coverage and, as the case may be, age-dependent or not.

The right to pension in accordance with this Act is calculated from the time the contributions are received by the pension fund. The contributions of an employee, which an employer has demonstrably collected but not submitted to a pension fund, as well as the employer's portion, shall nevertheless be fully assessed in calculations of rights from the deadline for payment of contributions, provided the fund has received information on the obligation to pay contributions within 60 days from the date of the statement referred to in Article 18.

Pension funds shall not, however, be responsible for the rights of fund members arising from contributions which are lost through bankruptcies and for which the wage guarantee fund is not responsible according to the Act on a Wage Guarantee Fund for Bankruptcies.

#### **Article 14**

A pension fund shall begin the payment of old-age pension in accordance with the detailed provisions of its Articles of Association once a pension fund member has reached the age of 65–70. A pension fund may allow fund members the option of deferring or accelerating the commencement of their pensions by up to five years. The Articles of Association shall provide for the effects that deferment or acceleration shall have on the pension amount.

Old-age pension shall be paid in equal payments on a monthly basis until the end of life. The monthly payments shall be indexed and adjusted in accordance with changes to the consumer price index. The Articles of Association shall further provide for the amount of old-age pensions, their calculation and conditions for payment.

A pension fund member may, on the basis of an agreement between the fund member and his spouse, decide on an arrangement as referred to in Points 1-3 of this paragraph. This agreement should include, as appropriate, old-age pension payments, the value of old-age pension entitlements or the old-age pension entitlements of both parties, and provide for

mutual and equal division of rights acquired during the period that the marriage, consensual union or recognised cohabitation has existed or may exist.

1. Up to one-half of old-age pension payments accruing to a pension fund member shall accrue to his spouse or former spouse. The fund shall, in such an event, divide the payments pursuant to the decision of the fund member, but the payments shall lapse upon the demise of the member. In the event of the demise of the spouse or former spouse enjoying such payments before the demise of the Fund member, the payments shall accrue to the fund member.
2. No later than seven years prior to the earliest possible commencement of old-age pension withdrawal, and if illness or health problems do not reduce life expectancy, up to one-half of the value of a fund member's accumulated old-age pension entitlements shall be used to form independent old-age pension entitlements for his spouse or former spouse, with a corresponding reduction to the rights of the fund member. The total obligations of the pension fund shall not be increased by such a decision by the pension fund member.
3. Up to one-half of the contributions on a Fund member's behalf which accrue to old-age pension entitlements may be used to form independent entitlements for his spouse. In the disposal of contributions in respect of minimum insurance coverage and supplementary insurance coverage, it shall be understood that the contribution base of the fund member has been divided between the member and his spouse in the same manner as the contribution.

### **Article 15**

A pension fund member shall be entitled to disability pension in the event that he suffers a loss of ability assessed at 50% or more, has contributed to a pension fund for at least two years and has suffered loss of income due to the loss of ability.

Disability pension shall be adjusted in accordance with rules prescribed in detail in the Articles of Association, provided a fund member has contributed to the pension fund for at least three of the preceding four years, and for at least six months during the most recent twelve-month period, and provided his loss of ability cannot be traced to abuse of alcohol, pharmaceuticals or illicit drugs.

In the event that the right to projection earned by a fund member lapses as a result of temporary absence from the labour market owing to work abroad, study, leave of absence, maternity/paternity leave, or comparable reasons, his right to projection shall become effective once more six months from the time that he resumes work and payment of contributions to the pension fund.

If a pension fund member does not have the right to projection, the amount of the disability pension shall be based on earned rights.

Provision may be made that the payment of disability pension shall not be paid during the first three months following the loss of ability. The same shall apply if the loss of ability has lasted for less than six months.

Further provisions on disability pension, such as on the assessment of disability, the amount of disability pension, its calculation and conditions for its payment, shall be established in the Articles of Association of a pension fund.

### **Article 16**

A pension fund shall pay a pension to the spouse of a deceased fund member if the fund member contributed to the pension fund for at least 24 of the previous 36 months prior to his demise, had been receiving old-age or disability pension at the time of demise, or had acquired the right to adjustment pursuant to the third paragraph of Article 15.

Full spouses' pension shall always be paid for a period no shorter than 24 months. If the spouse supports a child under the age of 18 years who was previously supported by the pension fund member, or if the spouse is at least 50% disabled and younger than 67 years, full spouses' pension shall be paid while this situation prevails. Full spouses' pension shall amount to a minimum of 50% of the disability pension to which the pension fund member was entitled in case of 100% disability.

For the purposes of this Article, a spouse is understood to be a man or woman who was married to, or lived in registered partnership or co-habitation with, the deceased fund member upon his demise, provided their common estate had not been dissolved prior to the demise of the fund member. Co-habitation means a union between a man and woman who live together at a common domicile, who have a child together or where the woman is pregnant, or co-habitation has been continuous for at least two years. [The same applies to the union of individuals of the same gender.]<sup>1</sup> The right to spouses' pension shall lapse if the spouse remarries, establishes a union which may be equated with marriage, or enters into a registered partnership, unless otherwise provided for in the Articles of Association.

Further provisions on spouses' pension, such as concerning the amount of pension, rules on its adjustment and conditions for its payment, shall be laid down in the Articles of Association of a pension fund.

<sup>1</sup>Act No. 65/2006, Article 8.

### **Article 17**

Upon the demise of a pension fund member who has contributed to a pension fund for at least 24 of the previous 36 months, had been receiving old-age or disability pension at the time of demise, or had acquired the right to projection pursuant to the third paragraph of Article 15, his children and adopted children younger than 18 years of age shall be entitled to pension until reaching 18 years of age. Children born or adopted prior to the

loss of ability of a pension fund member receiving full disability pension have the same right to pension. If the disability is assessed at less than 100%, the children's pension shall be proportionally lower.

The minimum full child pension shall be ISK 5,500 per month for each child of a disability pensioner. On the demise of a fund member, the child pension shall be a minimum of ISK 7,500 for each child. These amounts shall be adjusted annually based on changes in the consumer price index from the base index of 173.5 points.

Further provisions on children's pension, such as concerning rules on its calculation and conditions for its payment, and on its amount in cases where spouses' pension is not paid for a child, shall be established in the Articles of Association of a pension fund.

### **Article 18**

Each pension fund must keep a register of the persons who have contributed to the fund and of those who have acquired the right to pension payments from the fund by other means than through the payment of contributions. The register shall contain the names and personal identification numbers of these persons. In addition, the register must contain information on the amount of each person's contribution, payment periods and rights earned, as well as other information which could affect pension entitlements. A pension fund member shall have access to his own information. In addition, the Directorate of Internal Revenue shall have access to necessary information from the register for supervisory purposes pursuant to Article 6.

The pension fund must, at the same time as it sends a statement of contributions and no less frequently than once each year, send information on earned and projected pension entitlements of pension fund members, on the operation and financial situation of the fund and on changes to its Articles of Association. The same information shall be sent to pension fund members who have reached pension age.

[Pension funds must send their members a summary of contribution payments at least bi-annually. The summary shall be accompanied by a request that fund members raise objections without delay if contributions verifiably collected have not been received by the fund.]<sup>1</sup>

A pension fund member shall have the right to demand that the pension fund justify in writing any decision concerning him. The reasoned decision must make mention of the right of a pension fund member to refer the decision to a board of arbitration, as provided for in Article 33.

Provision may be made, by means of a Regulation, for systematic registration of information on contributions and pension rights, as well as for the provision of information from such a register to tax authorities and other supervisory authorities.

<sup>1</sup>Act No. 56/2000, Article 1.

## **Article 19**

Provision may not be made in the Articles of Association for earned pension rights to be reduced or lost if a pension fund member ceases his contributions to a pension fund.

It shall make no difference whether a person has pension entitlements in one or more pension funds, and persons may not lose rights nor acquire greater rights as a result of their contributions being divided between two or more funds. Further provisions shall be established, by means of a Regulation, on the division of contributions between funds when pension entitlements have been formed in more than one fund, on the manner in which entitlements may be combined and on the implementation of this provision in other respects.

Contributions and, in consequence, the entitlements arising from them, may be transferred between pension funds when the receipt of pension commences for the purpose of facilitating the implementation of this Article.

Pension contributions of foreign nationals emigrating from Iceland may be reimbursed, provided that this is not prohibited pursuant to international agreements to which Iceland is a party. Reimbursement may not be limited to a specific portion of the contributions except on proper actuarial premises.

Provision may be made in [the Articles of Association]<sup>1</sup> for payment of lump-sum pensions in the case of small amounts.

<sup>1</sup>Act No. 56/2000, Article 2.

## **[Article 19a**

An employee coming to work in Iceland from headquarters in the European Economic Area or a member state of the European Free Trade Association treaty [or the Faeroe Islands]<sup>1</sup> shall be entitled to contribute to a pension scheme in the same manner as he would be entitled if the income were acquired in the country in which the headquarters are located and the pension scheme is not covered by Regulation No. 1408/71/EEC. If the payment of contributions to such a pension scheme is continued, as provided for in the first sentence, the employee working away from headquarters and his employer shall be exempt from all obligation to pay contributions to a comparable pension scheme in Iceland.

Employers, pension funds and depositories of pension savings shall have information available to fund members moving to other member states of the European Economic Area, or to member states of the European Free Trade Association treaty [or the Faeroe Islands]<sup>1</sup>, on their earned pension rights from pension schemes as referred to in the first paragraph, by what means such rights will be preserved, whether such rights can be transferred to foreign funds and where they should turn when benefits fall due.]<sup>2</sup>

<sup>1</sup>Act No. 108/2006, Article 17.

<sup>2</sup>Act No. 70/2004, Article 3.

## **CHAPTER IV**

### **General conditions for pension fund operation.**

#### **Article 20**

The operation of pension funds shall involve the receipt, preservation and investment of contributions and the payment of pensions. The contributions and other disposable assets of pension funds shall be pooled and invested by deposit in banks and savings banks or in negotiable securities, having regard to spreading risk and following an investment policy announced in advance. A pension fund shall not engage in activities other than those required to achieve its objectives as referred to in the second paragraph of Article 1 and the first paragraph of this Article. A pension fund may not pay out contributions for any other purpose.

[Pension funds may establish partnerships with the parties responsible for the fund for the collection of contributions for them, concurrently with the collection of pension fund contributions. Such collection may not lead to an increase in costs for the pension fund.]<sup>1</sup>

<sup>1</sup>Act No. 28/2006, Article 1.

#### **Article 21**

Pension funds may not operate without a fully valid operating permit pursuant to Chapter V or Chapter XI.

As a rule, a pension fund shall have at least 800 fund members who make regular contributions each month, unless the fund ensures risk distribution with regard to its obligations by other means commensurate with an actuarial assessment.

A pension fund may secure distribution of risk for its pension commitments, in part or in full, from insurance companies pursuant to the Act on Insurance Activities. Furthermore, funds may purchase specific insurance coverage from insurance companies or other pension funds for individual fund members. Moreover, pension funds may co-operate on individual aspects of insurance coverage. Further provisions on these aspects shall be established by means of a Regulation.

#### **Article 22**

Pension funds are obliged to use, and have the exclusive right to use, the designation "pension fund", either standing alone or in compounds with other words, or as a further explanation of their activities. Pension funds which are already in operation at the time of entry into effect of this Act, however, may retain their names unaltered.

## **Article 23**

Pension funds shall use their assets to guarantee their obligations. Contributors are not liable for any obligations of the fund beyond the payment of their contributions.

## **Article 24**

The directors of a pension fund shall have an annual actuarial valuation of the financial situation of the fund performed in accordance with Article 39 and the provisions of a Regulation established by the Minister. The Regulation shall provide for the general actuarial premises, among other things as regards the risk of mortality, the real interest rate to be used as a basis for the investigation and the required rate of return to be used in discounting future contributions, and the expected pensions to be paid by the fund. Provisions on assessing the net assets for payment of pensions in actuarial assessments shall also be established in a Regulation. Such Regulation shall also specify possible deviations from the assessment of asset items on the balance sheet, in accordance with Article 40, i.a. to allow the value of registered shares and comparable securities to be based on a weighted market value during a specified period, which may not, however, be longer than six months.

The assessment provided for in the first paragraph shall be carried out by an actuary or other person who has been recognised by the [Financial Supervisory Authority]<sup>1</sup> for such a task, as provided for in the Act on Insurance Activities.

The actuarial valuation referred to in the first paragraph shall be forwarded to the [Financial Supervisory Authority]<sup>1</sup> no later than 1 July each year.

<sup>1</sup>Act No. 84/1998, Article 7.

## **CHAPTER V**

### **Operating permits for pension funds.**

## **Article 25**

The Minister of Finance shall issue an operating permit to a pension fund provided it meets the following conditions:

1. It is demonstrated that the fund will, within three years, fulfil the conditions of the second paragraph of Article 21.
2. The Articles of Association are in accordance with the provisions of Article 27.
3. A board of directors has been elected.
4. A certified public accountant has been chosen.
5. An actuary has been chosen.

The application for an operating licence shall be made in writing. It shall be accompanied by the Articles of Association of the fund together with other information and data as

determined by the Minister. Before a decision is made on a permit, the application shall be referred to the [Financial Supervisory Authority]<sup>1</sup>.

Notification of operating permits granted to pension funds shall be published in the *Legal Gazette*.

<sup>1</sup>Act No. 84/1998, Article 7.

### **Article 26**

The decision on an operating licence shall be reasoned and forwarded to the applicant in writing no later than three months after the Minister's receipt of a complete application.

In the event that the pension fund for which an operating permit is sought does not fulfil the conditions of this Act, it shall be refused a permit.

### **Article 27**

The Articles of Association of a pension fund shall be so devised that the fund will be able to fulfil its obligations.

Among other things, the Articles of Association of a pension fund shall provide for the following:

1. the name, address and role of the fund;
2. who the pension fund members shall be;
3. general conditions for membership in the fund and for cessation of membership;
4. the annual meeting, how it is to be called, what issues are to be presented there, who shall have voting rights and how voting rights are to be determined;
5. the role of the board of directors, the number of directors and their alternates, their term of office and the manner in which the election of directors and auditor shall be carried out;
6. whether the assets administered by the fund shall be preserved as a single whole or in financially separate departments and the manner in which the assets of the fund are to be invested;
7. how contributions to the fund shall be determined and how they are to be paid;
8. the entitlement of fund members and their family members to pensions, how these rights shall be calculated and what are the further conditions for pension entitlements, and moreover, provision shall be made on the performance of pension payments;
9. the implementation of regular actuarial valuation of the finances of the fund and when such investigation is to take place, as provided for in Articles 24 and 39;
10. the manner in which amendments are to be made to the Articles of Association of the fund;
11. the obligation of the pension fund to provide information to members;
12. the role and composition of a board of arbitration.



## **Article 28**

[Any amendments to pension fund Articles of Association must be notified to the Minister of Finance and shall not take effect until the Minister has confirmed that they satisfy the provisions of this Act and the provisions of the Articles of Association currently applicable to the fund, upon receiving the opinion of the Financial Supervisory Authority.]<sup>1</sup> An association of pension funds may give notice of amendments to Articles of Association on behalf of its member funds. Announcements of amendments to the Articles of Association of pension funds must be published in the *Legal Gazette*.

In addition, the [Financial Supervisory Authority]<sup>2</sup> must be notified of changes to a pension fund's board, managing director, auditor and actuary.

<sup>1</sup>Act No. 56/2000, Article 3.

<sup>2</sup>Act No. 84/1998, Article 7.

## **CHAPTER VI**

### **Operations and internal controls.**

## **Article 29**

The board of directors of a pension fund is responsible for the operation of the fund in accordance with this Act, Regulations established hereunder and the fund's Articles of Association. The board of directors of a pension fund shall also be responsible for the general supervision of the operation of the fund, its accounts and disposal of the fund's assets. The board shall draw up its rules of procedure and propose amendments to the fund's Articles of Association at the Annual General Meeting.

[The board of directors of a pension fund may amend the fund's Articles of Association without submitting such amendments to an Annual General Meeting for approval, as provided for in Article 30 and, as the case may be, in the Articles of Association of individual funds, if the amendments are the result of mandatory provisions of Acts or Regulations.]<sup>1</sup>

The tasks of the board of directors of a pension fund include the following:

1. to hire the managing director(s), determine his or their salary and terms of employment in accordance with a formal statement of duties;
2. to hire a director of auditing, or reach an agreement with an independent supervisory party;
3. to formulate the investment policy of the pension fund, as provided for in Chapter VII;
4. to establish rules on the provision of information by the managing director to the board on operations, contributions, earning of entitlements and disposal of the fund's assets;

5. [to adopt rules of procedure on the securities trading of the pension fund, its board members and employees, and such rules must be approved by the Financial Supervisory Authority; ]<sup>2</sup>

[6.]<sup>2</sup> to decide who shall represent the pension fund on the board of an institution or commercial enterprise, unless otherwise provided for by law;

[7.]<sup>2</sup> to have an actuarial assessment carried out of the fund's financial situation, as provided for in Article 24.

<sup>1</sup>Act No. 56/2000, Article 4.

<sup>2</sup>Act No. 11/2000, Article 18.

### **Article 30**

The board of directors shall call the fund's annual meeting no later than by the end of June each year. All pension fund members have the right to attend annual meetings and to speak and make proposals. Voting rights shall be in accordance with the Articles of Association of the pension fund in question, as provided for in Article 27.

Annual General Meetings shall be called in a reliable manner.

At the Annual General Meeting, the report of the board, annual accounts, actuarial valuations, investment strategy and proposals for amendments to the Articles of Association shall be presented.

### **Article 31**

Members of a pension fund board of directors must be of legal majority, be competent to manage their own finances, and may not, during the last five years, have been convicted of any offence connected with a commercial activity which is punishable under the Penal Code or statutory law on limited liability companies, private limited liability companies, accounting practices, annual accounts, bankruptcy or public levies. [Members of the board must be residents of Iceland, of another Member State of the European Economic Area, of a member state of the European Free Trade Association treaty or of the Faeroe Islands.]<sup>1</sup>

The provisions of Chapter II of the Public Administration Act shall apply to the eligibility of board members of pension funds to manage issues.

The managing director has charge of the day-to-day operations of the fund; in this respect, he shall follow the policy and directions of the board of directors. The managing director may undertake major or extraordinary actions only with authorisation from the board of directors.

The managing director may not take part in business operations except with the permission of the board of directors. A shareholding in a company constitutes participation in an enterprise, except in the case of an insignificant holding which does not entail direct influence on the management of the company.

[The educational qualifications, work experience and previous career of the managing director shall be such as to ensure that he can fulfil his position in a satisfactory manner. In other respects, the provisions of the first and second paragraphs shall apply concerning the eligibility of the managing director.]<sup>2</sup>

<sup>1</sup>Act No. 108/2006, Article 18.

<sup>2</sup>Act No. 56/2000, Article 5.

### **Article 32**

The board of directors, managing director and other staff members, as well as the auditors of the pension fund, are subject to confidentiality concerning any information which may come to their knowledge in the course of the performance of their duties and which is confidential by law or by nature. Confidentiality shall be maintained even after termination of employment.

Minutes shall be kept of the proceedings of board meetings. All attending members of the board of directors shall sign the minutes.

### **Article 33**

A pension fund member who refuses to accept a ruling of the board in a matter which he has referred to it may refer the matter to a board of arbitration which shall be comprised of three persons, one appointed by the fund member in question, one appointed by the pension fund concerned and a third person appointed by the [Financial Supervisory Authority]<sup>1</sup> or another party as specified in the Articles of Association of the fund in question. A ruling by the board of arbitration shall be binding for both parties. The cost of arbitration shall be divided between the parties of the case, with the fund member, however, never paying more than 1/3 of the cost of arbitration. Proceedings before the board of arbitration shall be subject to the Act on Contractual Arbitration.

<sup>1</sup>Act No. 84/1998, Article 7.

### **Article 34**

An auditing department or independent supervisory body shall provide internal controls for a pension fund, [as provided for in Point 2 of the third paragraph of Article 29.]<sup>1</sup> Internal controls shall be part of the structure of a pension fund and an aspect of its supervisory system.

The independent supervisory body may be a certified public accountant or other party recognised by the [Financial Supervisory Authority]<sup>2</sup>.

A pension fund must notify the [Financial Supervisory Authority]<sup>2</sup> of any change in the supervisory body pursuant to the first paragraph.

[A pension fund must employ a person suitably qualified through education and experience to manage the assets of the fund's securities portfolios. Pension funds offering two or more options for investment of pension contributions or acquiring pension rights must have, at their service, employees capable of providing advice in this regard. Care must be taken to ensure that such advice is presented objectively and professionally, based on the interests of each fund member. Furthermore, a pension fund shall have presentational materials prepared explaining the advantages and disadvantages of individual options based on different assumptions. In its advertisements and other promotional activities, pension funds must take care to provide correct and detailed information on their activities and services.]<sup>1</sup>

<sup>1</sup>Act No. 56/2000, Article 6.

<sup>2</sup>Act No. 84/1998, Article 7.

### **Article 35**

An auditing department or supervisory body of a pension fund, as referred to in the first paragraph of Article 34, shall, among other things, carry out the following tasks:

1. ascertain that the recording of contributions and pension entitlements is carried out as provided for by law and the Articles of Association of the fund;
2. ascertain that the calculation of pension entitlements is carried out as provided for by law and the Articles of Association of the fund;
3. make proposals to the board on the organisation of internal controls and carry out special assessments of the effectiveness of such internal controls;
4. ensure that remuneration is made for all transactions with the assets of the pension fund within normal time limits;
5. monitor compliance with the investment policy is complied and that the return on investments is normal;
6. ascertain that contributions and other disposable assets of a pension fund are disposed of as provided for by law and the Articles of Association of the fund.

The [Financial Supervisory Authority]<sup>1</sup> shall establish more-detailed rules<sup>2</sup> on the tasks of the auditing departments and supervisory bodies for pension funds.

<sup>1</sup>Act No. 84/1998, Article 7.

<sup>2</sup>Regulation No. 687/2001.

## CHAPTER VII

### Investment policies of pension funds.

#### Article 36

The board of directors of a pension fund shall formulate an investment policy and invest the fund's assets, having regard for the best terms on offer at any time and taking into account returns and risk.

The board of a pension fund may formulate a specific investment policy for each department of a multi-department fund.

Pension funds may invest their assets in the following manner:

1. in Treasury bills, Treasury bonds and bonds guaranteed by the Treasury;
2. in bonds issued by local authorities;
3. in mortgage debentures amounting to a maximum of [75%]<sup>1</sup> of the assessed market value of real estate, except in the case of specialised commercial facilities, in which case the maximum shall be 35%;
4. in deposits in banks and savings banks;
5. in bonds and bills of exchange issued by banks, savings banks and other credit institutions under the supervision of [a public supervisory authority]<sup>2</sup>;
6. in equities;
7. [in unit share certificates or shares in collective investment undertakings (UCITS) or investment funds, as provided for in Act No. 30/2003 on UCITS and Investment Funds. The securities portfolio behind the certificates or shares shall be divided between the other points of this paragraph, having regard to the restrictions of the second to sixth paragraphs;]<sup>3</sup>

[8. in unit share certificates or shares of other funds for collective investment;]<sup>3</sup>

[9.]<sup>3</sup> in other securities;

[10.]<sup>3</sup> through the conclusion of derivative contracts which reduce the fund's exposure to risk.

[The securities referred to in Points 1, 2 and 5-9 of the first paragraph must have a registered buying and selling rate on a regulated market.]<sup>4</sup> A regulated market shall mean a regulated securities market in a Member State of the OECD [and Liechtenstein]<sup>5</sup> which operates on a regular basis, is open to the public and is recognised in a manner deemed valid by the [Financial Supervisory Authority]<sup>6</sup>. If the market is outside the OECD [or Liechtenstein]<sup>5</sup>, the [Financial Supervisory Authority]<sup>6</sup> shall have approved it.

[Notwithstanding the provisions of Article 2, up to a total of 10% of the net assets of a fund may be invested in securities covered by [Points 1, 2, 5, 6, 8 and 9]<sup>3</sup> of the first paragraph and which are not registered on a regulated market, provided the securities are

issued by parties in OECD states [or Liechtenstein]<sup>3</sup>. Investments in unlisted equities are only authorised, however, if there are no restrictions on trading in the equities and if the annual financial statements of the limited companies are accessible to the general public.

In the event that a pension fund's guarantor, enjoying guarantees of the state, municipal authorities or a bank, makes a deposit on his obligations to the fund by means of securities pursuant to Point 1 of the first paragraph and which are not listed on a regulated market, the fund shall then be permitted to own such securities notwithstanding the restrictions of the first sentence of this paragraph.]<sup>7]</sup><sup>2</sup>

[The assets of a pension fund in each type of security pursuant to [Points 2, 5, 6, 8 and 9]<sup>3</sup> of the first paragraph may not comprise more than 50% of the net assets of the fund.]<sup>2</sup>  
[The assets of a pension fund in equities pursuant to Point 6 of the first paragraph shall not be more than 60% of the net assets of the fund.]<sup>1</sup> [The total assets referred to in Points 6 and 8 of the first paragraph, however, may not exceed 60%]<sup>1</sup> of the fund's net assets.

Assets of a pension fund, as referred to in Point 8 of the first paragraph, in funds not subject to public supervision, may never exceed 10% of the fund's net assets.]<sup>3</sup>

[The total assets of the pension fund in securities as referred to in Points 2 to 9 of the first paragraph, issued by the same party or parties belonging to the same group, may not comprise more than 10% of the net assets of the fund. This limit shall be 5% in the case of securities referred to in Point 9. The total assets of the pension fund in securities as referred to in the first sentence and deposits as referred to in Point 4 of the first paragraph may not exceed 25% of the fund's net assets. A pension fund may not own more than 15% of the shares in any one undertaking or in the unit share certificates or shares of other funds for collective investment, nor more than 25% of the unit share certificates or shares of other funds for collective investment or unit share certificates or shares issued by any one UCITS or investment fund or individual division of the fund. However, a pension fund may own more than 15% in an undertaking which handles exclusive services for the pension funds themselves. A pension fund may not tie up more than 25% of its net assets in deposits with the same commercial bank or savings bank.]<sup>3</sup>

A pension fund must limit its total foreign currency exposure to [50%]<sup>2</sup> of the fund's net assets.

[Net assets as referred to in the third to sixth paragraphs shall mean the net assets of the pension fund for payment of pensions according to the latest audited annual accounts.]<sup>1</sup>  
The limits provided for in the third to sixth paragraphs must be complied with at all times.

[Notwithstanding the provisions of the third paragraph, pension funds that purchased unlisted securities linked to housing mortgages of the State Building Fund (*Byggingarsjóður ríkisins*) and Workers' Housing Fund (*Byggingarsjóður verkamanna*) from 1972 to 1994, may classify these as listed securities as referred to in Point 1 of the first paragraph.]<sup>2</sup>

[Pension funds may not invest or own holdings in investment funds, as referred to in Point 7 of the first paragraph, which finance themselves through borrowing or short sales.]<sup>3</sup>

<sup>1</sup>Act No. 28/2006, Article 2.

<sup>2</sup>Act No. 56/2000, Article 7.

<sup>3</sup>Act No. 70/2004, Article 4.

<sup>4</sup>Act No. 148/2004, Article 1.

<sup>5</sup>Act No. 65/2002, Article 5.

<sup>6</sup>Act No. 84/1998, Article 7.

<sup>7</sup>Act No. 140/2006, Article 1.

### **Article 37**

[A pension fund's investment policy shall be based on the classification of deposits and securities, [cf. Points 1–10 of the first paragraph of Article 36.]<sup>1</sup> In addition, each type of deposit or security shall be itemised as appropriate to indicate the currency risk and size of individual depositors or securities issuers. Pension funds must send information on their investment policy for the coming year to the Financial Supervisory Authority no later than 1 December each year.

The Financial Supervisory Authority shall establish rules<sup>2</sup> on the form and content of pension funds' investment policy reports and the manner in which they are to be submitted to the Authority.]<sup>3</sup>

<sup>1</sup>Act No. 70/2004, Article 5.

<sup>2</sup>Regulation No. 966/2001, pursuant to Regulation No. 335/2006.

<sup>3</sup>Act No. 56/2000, Article 8.

### **Article 38**

[A pension fund may not invest in real estate or chattels except to the extent that such is necessary for the activities of the fund.

Notwithstanding the provision of the first paragraph, a pension fund may without restriction appropriate assets to secure settlement of claims. Such assets must be sold no later than within 18 months of their appropriation. Further deferral of sale, however, is authorised if such deferral clearly serves the interests of the fund. Such deferral of the

sale of assets must be notified to the Financial Supervisory Authority, which may demand that the sale be made within an appropriate period.]<sup>1</sup>

A pension fund may not take out a loan except for investment in real estate necessary for the activities of the fund. A pension fund, however, may take advantage of normal trade credit in purchasing securities or take a short-term loan to equalise cash flow.

A pension fund may not grant loans to directors, their alternates, employees of the pension fund, auditors, supervisory bodies, persons carrying out actuarial valuations of the financial situation of the fund, or the spouses of these parties, unless they are members of the pension fund in question; in such case, this must be in accordance with rules that apply to loans to pension fund members in general.

<sup>1</sup>Act No. 56/2000, Article 9.

### **Article 39**

The net assets of a pension fund for the payment of pensions, together with the present discounted value of future contributions, shall be equal to the present discounted value of prospective pensions arising from contributions already paid and future contributions. A schedule of future contributions and expected pensions shall be based on pension fund members at the time of reference used by an actuarial assessment. Net assets for payment of pensions shall, at all times, be evaluated in accordance with the provisions of Article 24.

In the event that an actuarial assessment pursuant to Article 24 reveals a difference of more than 10% between asset items and pension obligations in accordance with the first paragraph, the pension fund in question must make the necessary changes to the Articles of Association of the fund. The same shall apply if the difference, according to an actuarial valuation, between asset items and pension commitments has exceeded 5% for a continuous five-year period.

The board of a pension fund must seek the opinion of an actuary as to how changes to the Articles of Association of a pension fund may affect its ability to pay pensions. An actuary of a pension fund must notify the board of the fund immediately if an actuarial valuation reveals that the fund is not capable of fulfilling its obligations. He shall submit proposals for improvements and notify the [Financial Supervisory Authority]<sup>1</sup>.

The actuary of a pension fund may not sit on its board of directors, be a member of its staff or perform other work for it apart from the actuarial valuation and advice connected to it.

<sup>1</sup>Act No. 84/1998, Article 7.



## **CHAPTER VIII**

### **Annual accounts and auditing.**

#### **Article 40**

The board of directors and managing director of a pension fund shall draw up the annual accounts for each accounting year. The annual accounts shall include a balance sheet, cash flow statement, summary of changes in net assets for the payment of pensions and notes. Furthermore, the board of directors shall prepare a report which, together with the annual accounts, shall form a comprehensive whole. The accounting year of a pension fund shall be the calendar year.

The annual accounts shall be signed by the board of directors of a pension fund and its managing director. A member of the board of directors or a managing director who contests the annual accounts shall sign them with a reservation, the nature of which shall be explained.

The annual accounts shall give a clear picture of the financial situation of the pension fund and changes in net assets for the payment of pensions. They shall be drawn up in accordance with statutory law, rules and accepted accounting practices.

The [Financial Supervisory Authority]<sup>1</sup> shall ensure, in consultation with the Icelandic Accounting Standards Board, that a definition on what is regarded as accepted accounting practices for annual accounts of a pension fund is available at all times. The [Financial Supervisory Authority]<sup>1</sup> shall issue rules,<sup>2</sup> in consultation with the Icelandic Accounting Standards Board, on the structure of annual accounts, the contents of individual items, the statement of changes in net assets for the payment of pensions, the cash flow statement and explanations, and assessment of individual items.

[Pension funds' annual financial statements shall be accompanied by a statement of the investment policy they follow. In addition, they shall be accompanied by an assessment of the return on their portfolio during the past year. The Financial Supervisory Authority shall establish more-detailed rules on the form and contents of these reports.]<sup>3</sup>

<sup>1</sup>Act No. 84/1998, Article 7.

<sup>2</sup>Regulation No. 55/2000, pursuant to Regulation No. 765/2002 and Regulation No. 1067/2004. Regulation No. 966/2006, pursuant to Regulation No. 335/2006.

<sup>3</sup>Act No. 56/2000, Article 10.

#### **Article 41**

The report of the board of directors shall contain a summary of the activities of the pension fund during the year, together with information on matters relevant to an

assessment of the fund's financial position and operating performance during the accounting year which are not presented elsewhere in the annual accounts.

The report of the board of directors, furthermore, shall provide information on the following:

1. events taking place after the settlement date which are of substantial importance,
2. the expected development of the fund and
3. actions which are of importance for its future development.

The report of the board shall provide information on the number of paying fund members during the year, the number of active fund members, i.e. fund members who as a rule contribute to the pension fund regularly each month, the number of pension recipients, the average number of employees during the accounting year, the total amount of salaries, remuneration or other payments made to employees, the board of directors and others in the service of the fund.

## **Article 42**

Audit of a pension fund's accounts shall be performed by a certified public accountant.

The auditor of a pension fund may not sit on its board of directors, be a member of its staff or perform other work for it apart from auditing and internal controls, as provided for in Article 35.

Chapter VII of the Act on Annual Accounts shall apply *mutatis mutandis* to audits of pension funds, unless otherwise indicated in the present Act.

In the event that an auditor becomes aware of substantial flaws in the operation of a pension fund, or in aspects of its internal controls, collection of contributions, security for payment of loans granted, handling of financial resources or other matters which could weaken the financial position of the pension fund, and if the auditor has reason to believe that statutory law, regulations or rules applicable to its activities have been violated, he shall immediately inform the board of directors of the fund and the [Financial Supervisory Authority]<sup>1</sup>. The provisions of this Article shall not infringe the auditor's obligations of confidentiality pursuant to Article 32 of this Act or the provisions of other Acts.

The [Financial Supervisory Authority]<sup>1</sup> shall ensure, in consultation with the Association of Certified Public Accountants and other relevant parties, that a definition on what is regarded as accepted auditing practices for auditing the annual accounts of a pension fund is available at all times. The [Financial Supervisory Authority]<sup>1</sup> shall establish rules<sup>2</sup> on the auditing of pension funds.

<sup>1</sup>Act No. 84/1998, Article 7.

<sup>2</sup>Regulation No. 685/2001.

### **Article 43**

The audited annual accounts of a pension fund, together with the report of the board of directors, shall be forwarded to the [Financial Supervisory Authority]<sup>1</sup> directly upon their signing and no later than four months after the conclusion of each accounting year. The principal results of the annual accounts shall be made public and shall be in a harmonised format as determined by the [Financial Supervisory Authority]<sup>1</sup>. Such principal results shall be available for inspection at the place of business of the pension fund in question and be accessible to fund members.

<sup>1</sup>Act No. 84/1998, Article 7.

## **CHAPTER IX**

### **Supervision.**

#### **Article 44**

The [Financial Supervisory Authority]<sup>1</sup> shall monitor that the activities of pension funds comply with the provisions of this Act, regulations and rules issued thereunder, and the approved Articles of Association of the pension funds. The [Financial Supervisory Authority]<sup>1</sup> shall have access to all documents and information from the pension funds which it considers necessary for such supervision. ...<sup>2</sup>

The [Financial Supervisory Authority]<sup>1</sup> may instruct the board of directors of a pension fund to have an actuarial valuation of the financial situation of the fund carried out based on premises other than those used in the fund's regular valuations if the [Authority]<sup>1</sup> is of the opinion that the fund's financial situation gives grounds for such.

In the event that the [Financial Supervisory Authority]<sup>1</sup> receives notification pursuant to the fourth paragraph of Article 42 or if it has, for other reasons, grounds to suspect that the operation of the pension fund and its financial situation are substantially deficient, the Authority shall demand the necessary data from the directors and auditors immediately. Such data shall be delivered within two weeks of the receipt of such demand.

If the [Financial Supervisory Authority]<sup>1</sup> deems the activities of a pension fund to be in violation of the provisions of this Act, or regulations or rules issued in accordance with it, or the approved Articles of Association of the pension fund, or to be otherwise irregular, unsound or unstable, it may grant the fund concerned a reasonable period to rectify the situation, except in the case of a serious violation.

[The Financial Supervisory Authority may demand any sort of documentation or information from pension funds' subsidiaries or affiliates, which the Financial Supervisory Authority regards as necessary in the course of its supervision of the pension fund concerned.]<sup>2</sup>

<sup>1</sup>Act No. 84/1998, Article 7.

<sup>2</sup>Act No. 11/2000, Article 19.

#### **Article 45**

[The Act on Official Supervision of Financial Operations shall apply to supervision by the Financial Supervisory Authority, as appropriate. Provisions on daily fines, administrative fines and the search and seizure of data contained in the Act may be applied to gather information and carry out supervision as provided for in this Act.]<sup>1</sup>

<sup>1</sup>Act No. 11/2000, Article 20.

### **CHAPTER X**

#### **Supervisory party, dissolution and mergers.**

#### **Article 46**

In the event that a pension fund no longer satisfies the conditions of this Act for an operating permit, as provided for in Chapter V, is no longer solvent in the opinion of the [Financial Supervisory Authority]<sup>1</sup>, violates the provisions of this Act or regulations or rules established hereunder or the approved Articles of Association of the pension fund, or its operations are deficient and demands made by the [Financial Supervisory Authority]<sup>1</sup>, as referred to in Article 44, are not responded to, the Minister may, acting upon proposals of the [Financial Supervisory Authority]<sup>1</sup>, appoint a supervisory party for a specified period.

The board of directors and managing director of the pension fund shall be relieved of their duties during the period in which the supervisory party operates. The supervisory party shall assume the rights and obligations of these parties in accordance with the detailed provisions of a formal statement of his duties issued by the Minister. Costs arising from the work of a supervisory party shall be paid by the pension fund concerned.

<sup>1</sup>Act No. 84/1998, Article 7.

### **Article 47**

The appointment of a supervisory party shall be reasoned and shall be notified to the pension fund concerned in writing. In addition, a notice of the appointment shall be published in the *Legal Gazette* and advertised in the media.

The obligation for paying contributions to the pension fund in question is suspended as of the date a notification of the appointment of a supervisory party is published in the *Legal Gazette*. If payment of contributions to the fund ceases, the insurance obligations shall be fulfilled through membership in and payment of contributions to the General Pension Fund or other pension fund approved by the Minister of Finance.

The Minister may, acting upon a proposal from the supervisory party, decide to dissolve a pension fund. In such case, the Minister shall appoint a three-member winding-up committee to handle the dissolution of the pension fund or the transfer of its activities to another pension fund. The winding-up committee shall assume all the competencies of the board of directors, which shall be suspended from that time forth. The winding-up committee shall decide whether the fund shall be dissolved by merging it with another fund or by other means, as provided for in the second and third paragraphs of Article 49.

### **Article 48**

A decision on the dissolution of a pension fund, whether by merger or other means, shall be made by its board of directors, unless otherwise provided for in the Articles of Association of the fund or the provisions of Article 47 apply.

A decision on the dissolution of a pension fund shall be immediately notified to the Ministry of Finance and the [Financial Supervisory Authority]<sup>1</sup>.

If an agreement is reached to merge the pension fund completely with another fund, a notice to creditors shall be issued in accordance with the second paragraph of Article 49 and their assets shall be kept separate until the time limit has expired and any claims submitted have been satisfied. The assets do not, however, have to be kept separate if all the creditors agree to the move or are provided with satisfactory guarantees.

The assets of the pension fund shall become the property of the pension fund with which it is merged. Care shall be taken in transferring and determining pension entitlements to ensure that none of the individual members of either fund shall suffer a loss of entitlements as the result of the merger. The Minister may, by means of a Regulation, establish further provisions for the assessment of pension entitlements in this respect.

<sup>1</sup>Act No. 84/1998, Article 7.

## **Article 49**

The directors of the fund or the party who, pursuant to the Articles of Association of the fund, has decided that the fund shall be dissolved, shall immediately appoint a three-member winding-up committee, which shall assume the duties of the board of directors and managing director of the fund, provided a winding-up committee has not already been appointed in accordance with the third paragraph of Article 47.

The winding-up committee shall have an invitation to the creditors of the fund published twice in the *Legal Gazette*, inviting them to present their claims within two months of the first publication of the invitation; it shall have the same legal effect as the notice to creditors in bankruptcy proceedings.

The assets of a pension fund remaining when its debts have been discharged shall accrue to the General Pension Fund. The entitlements of fund members and pension recipients, moreover, shall be equated with entitlements in the General Pension Fund in direct proportion to the relationship between the assets of the fund accruing to the General Pension Fund and the total pension obligations of the fund, as evaluated in accordance with the provisions of this Act. The Minister may, by means of a Regulation, establish further provisions for the assessment of pension entitlements in this respect.

## **CHAPTER XI**

### **Pension funds in operation at the time of entry into effect of this Act.**

## **Article 50**

Pension funds operating in accordance with special legislation shall be exempt from the provisions of Article 21 and the provisions of Chapters V and X. Moreover, they shall be exempt from the provisions of Article 3 and Chapter III, provided that the legislation concerned provides for the contribution base and entitlements. The provisions of the third paragraph of Article 14 shall, however, apply to these funds.

## **Article 51**

[Pension funds guaranteed by state or local authorities or banks shall be exempt from the provisions of Articles 21, 23 and 39.]<sup>1</sup>

<sup>1</sup>Act No. 56/2000, Article 11.

## **Article 52**

Pension funds intending to continue to receive contributions after the entry into effect of this Act shall, within one year of its entry into effect, send an application for an operating permit to the Ministry of Finance. The application shall be accompanied by the Articles

of Association of the fund, an actuarial valuation, together with other information determined by the Minister. If a fund does not have a sufficient number of fund members as provided for in Article 21, the application shall indicate when and how the fund intends to comply with the requirement of the Article, as provided for in Article 25. In other respects, the provisions of Chapter V, on operating permits, shall apply to the granting of an operating permit.

In the event that a pension fund has not submitted an application for an operating permit, together with the required documentation, within the time limit prescribed in the first paragraph, the fund shall be regarded as not complying with the provisions of this Act to acquire an operating permit and its case shall be handled in accordance with the provisions of Chapter X.

### **Article 53**

Pension funds operating on the entry into effect of this Act and which intend to pay only pensions for entitlements already earned, shall notify the Ministry of Finance of such intention within one year of the entry into effect of the Act. Such funds shall be granted operating permits for this purpose, upon receipt of the opinion of the [Financial Supervisory Authority]<sup>1</sup>. [The entitlement of fund members to pension payments from funds operating in accordance with the Article shall be governed by the regulations applicable to the funds in question on the entry into effect of this Act. Provisions on members' entitlement, however, may be altered to accord with an agreement between employees' and employers' organisations, provided that such change neither violates Chapter III of the Act nor is deemed to illegitimately curtail the relative entitlements earned by individual members or others enjoying entitlements, nor to have a significant financial impact with regard to the funds' assets and pension obligations. In assessing this, account shall be taken, among other things, of the opinion of the actuary of the fund in question, which must accompany any request for changes. Changes to provisions on entitlements must be indicated in the approved Articles of Association for the funds concerned. In other respects, this Act shall apply *mutatis mutandis* to the funds concerned as appropriate.]<sup>2</sup>

<sup>1</sup>Act No. 84/1998, Article 7.

<sup>2</sup>Act No. 56/2000, Article 12.

### **Article 54**

Pension funds operating in accordance with an approved regulation issued in accordance with Act No. 55/1980 and guaranteed by state or local authorities or [banks, or which enjoyed such guarantees as of 31 December 1997, may continue to operate on an unchanged basis with regard to contributions and]<sup>1</sup> entitlements provided with respect to those persons who are members upon the entry into effect of this Act. [A pension fund pursuant to the first sentence, which no longer enjoys guarantees, is under obligation to make the necessary amendments to its Articles of Association in accordance with the

provisions of the second paragraph of Article 39. Such amendments shall take account of the provisions of Article 4 on minimum insurance coverage].<sup>2</sup> [Pension funds guaranteed by the state or local authorities choosing to continue to operate on an unchanged basis with regard to entitlements, however, may change their references with respect to drawing pensions on the basis of successor, as provided for in the funds' regulations, so that their pensions will change in accordance to average changes to daytime salaries of public servants in accordance with the wage index of Statistics Iceland, while pension funds guaranteed by banks may use other wage indices published by Statistics Iceland, provided the partners to the collective bargaining agreements of the fund member concerned have reached an agreement thereto.]<sup>3</sup>

The pension fund must notify the Ministry of Finance of such intention within one year of the entry into effect of this Act and shall be granted an operating permit for such purpose.

In the event that the fund chooses to accept contributions from new fund members, these persons shall be members of a special department of the fund, the Articles of Association of which shall comply with the requirements of this Act. An application for an operating permit for such a department must be made within the same time limits as prescribed in the first paragraph.

For at least one year following the entry into effect of this Act, persons who are members of a pension fund covered by the provisions of this Article shall be given the option of membership in an entitlement system or other pension fund which complies with the requirements of this Act, [provided such a option has not been offered prior to the entry into effect of the Act.]<sup>1</sup>

<sup>1</sup>Act No. 148/1998, Article 4.

<sup>2</sup>Act No. 167/2006, Article 2.

<sup>3</sup>Act No. 141/2002, Article 1.

## **CHAPTER XII**

### **Miscellaneous provisions.**

#### **Article 55**

Violations of the provisions of this Act shall be subject to fines or imprisonment for a term of up to one year, if no greater penalties are stipulated for such infringements under the General Penal Code. In the event of violations on behalf of legal entities, the above-mentioned penalties may be imposed on their management and, in addition, legal entities may be fined.



## **Article 56**

The Minister of Finance is responsible for the implementation of this Act and may establish further provisions for such implementation by means of a Regulation.<sup>1</sup>

<sup>1</sup>Regulation No. 391/1998, pursuant to 742/1998, 224/2001, 293/2003 and 961/2006; Regulation No. 698/1998, pursuant to 9/1999; Regulation No. 589/2000; Regulation No. 590/2000, Regulation No. 830/2000, Regulation No. 882/2001, Regulation No. 523/2002, Regulation No. 357/2003, Regulation No. 781/2004, Regulation No. 12/2006.

## **Article 57**

The cost of publishing announcements under this Act shall be borne by the pension fund concerned.

## **Article 58**

This Act shall enter into effect on 1 July 1998. ...

### **Temporary provisions.**

#### **I.**

Until such time as operating permits pursuant to Chapter XI are granted, the activities of pension funds shall be governed by the approved regulation which applied upon the entry into effect of this Act, provided that the authorisation for the operation of the pension funds has remained in effect.

#### **II.**

In 2001, the Minister of Finance shall have a report prepared on developments in pension affairs proceeding from the adoption of this Act. The report shall particularly examine the manner in which pension funds have altered their Articles of Association and offered fund members additional options in the composition of their pension rights, as provided for in Article 4, given that one of the objectives of the Act is to increase the options open to fund members. In the event that it becomes apparent that pension funds have generally not offered additional options, taking into account the minimum requirements as provided for in Article 4, the Minister of Finance shall, in consultation with interested parties, prepare a draft bill amending this Act in order to achieve its objective.

### [III.]

Notwithstanding the provisions of Article 36, pension funds operating on the entry into effect of Act No. 129/1997 are not required to sell assets in order to satisfy the requirements provided for in that Article. Pension funds that have acquired unlisted securities on the basis of Point 9 of the first and third paragraph of Article 3 of Article 36 of Act No. 129/1997, are not required to sell unlisted securities acquired prior to the entry into effect of this Act. Bonds pursuant to the third paragraph of Article 33 of Act No. 1/1997, which the Pension Fund for State Employees has accepted, as well as bonds which the Pension Fund of Employees of the City of Reykjavík has accepted, as payment of obligations prior to the entry into effect of Act No. 129/1997, are exempt from the restrictions of the second paragraph of Article 36.]<sup>1</sup>

<sup>1</sup>Act No. 56/2000, Temporary Provisions.

### [IV.]

Notwithstanding the provisions of the third and sixth sentences of the fifth paragraph of Article 36, a pension fund may own or bind a higher proportion of its net assets in deposits and securities than provided for therein until 1 January 2006.]<sup>1</sup>

<sup>1</sup>Act No. 70/2004, Article 6.

### [V.]

Currents collective wage agreements stipulate that the minimum contribution to a pension fund shall be 10%, in which case it is permitted to continue to refer to the proportional number 10% contained in the first sentence of the first paragraph of Article 2 of this Act until such time as a new collective wage agreement enters into effect.]<sup>1</sup>

<sup>1</sup>Act No. 167/2006, Article 3.