

THE CROATIAN PARLIAMENT

1368

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby pass the
DECISION ON PROMULGATION OF THE LAW ON CHANGES AND AMENDMENTS
TO THE COMPULSORY AND VOLUNTARY PENSION FUNDS ACT

I hereby pass the Law on changes and amendments to the Compulsory and Voluntary Pension
Funds Act, passed by the Croatian Parliament on its session of 12 June 2003.

No 01-081-03-2256/2
Zagreb, 18 June 2003

President of the
Republic of Croatia
Stjepan Mesić

LAW ON CHANGES AND AMENDMENTS TO THE COMPULSORY AND
VOLUNTARY PENSION FUNDS ACT

Article 1.

In the Compulsory and Voluntary Pension Funds Act ("Narodne novine", No. 49/99. and
63/00.) in Article 2, behind Item 8, a new Item 9 is added to read as follows

"9. Informational brochure – a statement of the pension company with the complete, accurate
and objective information on the pension fund and the pension company managing that fund,
based on which the potential fund member may decide on joining the pension fund,".

In the present Item 9, that shall be renumbered as Item 10, in the third line, behind the word
"provide" the words "with the payment of" shall be added. Behind the words "duration of the
benefits," the words "compensation for discontinuation of membership in a pension scheme,"
shall be deleted.

In the present Item 10, that shall be renumbered as Item 11, behind the word "employers," the
words "and the associations of private business members," shall be added. Behind the words
"fund" the words "or selection of a particular voluntary pension scheme (sponsored scheme),"
shall be deleted.

The present Item 11 shall be renumbered as Item 12.

In the present Item 12 that shall be renumbered as Item 13, in subparagraphs 1 to 3, behind
the words "shares," the words "and rights in decision making," shall be added.

The present Item 13 shall be renumbered as Item 14.

In the present Item 14, that shall be renumbered as Item 15, the word "hundred" shall be
replaced with the word "fifty".

The present Item 15 shall be renumbered as Item 16.

Article 2

Article 3 is changed to read as follows

"In the issues not regulated with this Act, the pension insurance companies and pension funds shall appropriately be governed by the provisions of the Company Law and other legislation that regulates the issues in regard to the operation of compulsory and voluntary pension funds."

Article 3

In Article 7, the words "and 61" shall be deleted.

Article 4

In Article 11 Paragraph 1, the words "paid-up capital" shall be replaced with the words "company capital".

In Paragraph 2, the words "own capital" shall be replaced with the words "company capital".

In Paragraph 3, the words "capital" shall be replaced with the words "company capital". Behind the words "level," the comma shall be deleted and words "by the increase of capital," added.

Article 5

In Article 14 Paragraph 6, behind the words "vocation" the words "and the conditions for licence renewal" shall be added.

Article 6

In Article 15 Paragraph 3, subparagraph 3, the words "Securities Act" shall be replaced with the words "Securities Market Act".

Article 7

In Article 17, Item 1, behind the word "save", the words "securities from Article 69 Paragraph 1, Items 1 and 2 of this Act, or" shall be added.

Article 8

In Article 36 Paragraph 1, the words "eighty thousand" shall be replaced with the words "fifty thousand".

In Paragraph 2, the words "two thousand" shall be replaced with the word "two hundred".

Article 9

In Article 40 Paragraph 4, the words "Pension Insurance Act " shall be replaced with the word "Act".

Behind Paragraph 7, the new Paragraph 8 shall be added to read as follows

"(8) The provisions of this Act shall apply appropriately to the insured persons with extended insurance according to the Pension Insurance Act."

The present Paragraph 8 shall be renumbered as Paragraph 9.

Article 10

In Article 43 Paragraph 1 is changed to read as follows

"(1) If a Member of a Compulsory Fund ("the Former Fund") joins the other Compulsory Fund ("the New Fund "), he or she is obliged to report the change of Compulsory Fund to the Central Registry of Insured Persons."

In Paragraph 2, the number "5%" shall be replaced with the number "0,8%", number "2,5%" shall be replaced with the number "0,4%", the number "1,25%" shall be replaced with the number "0,2%", the words "membership" shall be followed with a period, and the words "0,62% in the fourth year of membership and 0,31% in the fifth year of membership" shall be deleted.

Article 11

In Article 44 Paragraph 2, behind the words "Article 60" the words "and 62" shall be added.

The Paragraph 3 is changed to read as follows

"(3) Central Registry of Insured Persons shall inform the new fund on the personal account balance in the former fund, calculated pursuant to Paragraph 2 of this Article."

Article 12

In Article 47 Paragraph 1, behind the words "compulsory fund", the words "through the Central Registry of Insured Persons" shall be added.

In Paragraph 2, behind the words "applied," the words "if the member of the compulsory fund based on totally on the ground of the total of the assets capitalized by the day of his/her disability," shall be replaced with the words "to a member of a voluntary funds older than 50 years of age who has been a member of a compulsory fund for more than 5 years, if he/she", and behind the words "shall be transferred", the words "through the Central Registry of Insured Persons" shall be added.

Article 13

In Article 48 Paragraph 1, behind the words "the compulsory fund shall ", the words "through the Central Registry of Insured Persons" shall be added.

In Paragraph 2, behind the words "applied", the words "if the deceased member of a compulsory fund was at the time of his/her death older than 50 years and was a member of a compulsory fund for more than 5 years, and", shall be added, and behind the words "shall be transferred", the words " through the Central Registry of Insured Persons" shall be added.

Article 14

In Article 49, the Paragraph 2 is to be added and shall read

"(2) If the assets from the personal account of a deceased member of the compulsory fund have been inherited, and the family member is subsequently entitled to the family pension pursuant to the Pension Insurance Act and gains the right to a pension from the deceased fund member, the family pension is determined as the basic pension pursuant to that Act."

Article 15

In Article 56, the Paragraph 1 is changed to read as follows

"(1) The compulsory pension company shall be obliged to create an escrow account in amount one million kuna for every ten thousand members above fifty thousand fund members."

Article 16

In Article 58 Paragraphs 1 and 2, the words "one calendar year" shall be replaced with the words "previous three calendar years".

Behind the Paragraph 3, the Paragraphs 4 and 5 shall be added to read as follows

"(4) The calculation of the guaranteed return according to this Article shall be performed in January of every year, based on the data for the previous three-year period.

(5) The pension company shall pay the difference up to the amount of the guaranteed return from Paragraph 3 of this Article in the way and within the time period prescribed by Agency regulations."

Article 17

In Article 59, the Paragraph 1 is changed to read as follows

"(1) The accounting of a Pension Company and Fund must be in accordance with the international accounting standards."

In Paragraph 2, behind the words "maintaining", the words "book-keeping and" shall be deleted, and at the end of the text the period shall be deleted, and words "and pension funds" added.

Article 18

In Article 60, in the introductory sentence, behind the words "costs", the word "compulsory" is added, and behind the word "company", the word "compulsory" shall be added.

In Item 2, the number "0,8%" shall be replaced with the number "1,2%", the words "year 2000" shall be replaced with the words "year 2003", and behind the words "percentage" the words "in the first year " shall be deleted.

In Item 3, the words "five years" shall be replaced with the words "three years".

Behind Paragraph 1 the Paragraph 2 shall be added to read as follows

"(2) The compensation for covering the voluntary pension company's expenses shall be determined with the By-laws of the voluntary fund."

Article 19

Article 61 shall be deleted.

Article 20

Article 62 is changed and reads

"Any costs related to the performance of transactions for the acquisition, transfer or sales of the compulsory fund's assets shall be covered from the assets of that fund."

Article 21

In Article 69, Item 1, behind the words "deposits", the comma shall be deleted and words "and repurchase activities," added.

Item 5 is changed and reads

"5. stocks issued by joint-stock companies registered in the Republic of Croatia and stocks of closed domestic investment funds, traded in the official admission of the stock exchange registered in the Republic of Croatia, if these securities meet the Agency's criteria,".

In Item 8, behind the words "companies", the comma shall be deleted and words "and the shares of foreign closed investment funds," added.

Item 9 is changed and reads

"9. shareholdings of domestic and foreign open investment funds, being aware that these funds primarily invest in the Croatian securities of one of the OECD countries,".

Behind the Paragraph 1, the Paragraphs 2 and 3 shall be added to read as follows

"(2) The pension company may conclude time contracts on behalf of the pension fund, solely for the protection of fund's assets and obligations.

(3) The pension fund's assets in money that a pension company may keep on the pension fund's account cannot exceed 5% of fund's assets."

Article 22

In Article 71, Item 1, the word "pension" shall be replaced with the word "compulsory".

In Item 2, the number "5%" shall be replaced with the number "15%", and the word "pension" shall be replaced with the word "compulsory",

In Items 3, 4, 5 and 6, the word "pension" shall be replaced with the word "compulsory".

In Item 7, the number "5%" shall be replaced with the number "15%", and the word "pension" shall be replaced with the word "compulsory".

Item 9 is changed and reads

"9. Forward contract may be used only for protection of assets and obligations of the fund, and can be used to protect not more than 30% of fund's assets,".

Behind the Item 9 the Item 10 shall be added to read as follows

"10. The investments into assets outside of the Republic of Croatia may not exceed 20% of the voluntary fund's assets."

Behind the Paragraph 1, the Paragraph 2 shall be added to read as follows

"(2) Exceptionally from the provisions of Paragraph 1 of this Article and Article 69 of this Act, in case of severe disturbance on the securities market that immediately jeopardizes the pension fund's assets, the Agency may decide, with the approval of the Croatian Government, to prohibit or change the limits of investing into one asset type, and on possible investment into another asset type."

Article 23

At end of the text in Article 72, Item 1, the words "except for the share in open investment funds," shall be added.

Item 6 shall be deleted.

The present Item 7 shall be renumbered as Item 6.

Article 24

In Article 74, Item 1, behind the first subparagraph, the new subparagraph shall be added to read as follows

"-shareholders, i.e. shareowners in the pension company,"

Behind the Item 3, the Item 4 shall be added to read as follows

"4. Acquiring, transfer and sale of assets with the brokerage of an affiliated person."

Article 25

In Article 76 Paragraph 1, behind the words "may", the words "invest and " shall be added.

The Paragraph 2 is changed to read as follows

"(2) The total amount of money invested and borrowed by a pension company on the money market may not exceed a percentage of the value of Fund assets as specified by the Agency."

In Paragraph 3 behind the words "relating to", the words "investment and" shall be added.

Behind the Paragraph 3, the Paragraph 4 shall be added to read as follows

"(4) Other conditions for investment of pension fund assets on the money market are prescribed by the Agency."

Article 26

In Article 82 Paragraph 1, behind the words "at least" the words "six months" shall be replaced with the words "60 days".

Article 27

In Article 85 Paragraph 2, the words "year 2000" shall be replaced with the words "year 2002".

Article 28

In Article 86 Paragraph 3, the words "Bureau for Money Transfers," shall be replaced with the words "Financial Agency,".

Article 29

In Article 87, the Paragraph 1 is changed to read as follows

"(1) Central Registry of Insured Persons shall at least once a year deliver to the pension company, for each member of the compulsory fund, the information on the assets on his or her account, payment dates and contribution amounts the member had in a particular period. At least once a year, the pension company is obliged to provide such information in written form to each member of the compulsory fund."

Article 30

In Article 90 Paragraph 1, Item 1 is changed to read as follows

"1. Annual financial reports, audited by an auditing company and signed by a certified auditor,".

Item 2 shall be deleted.

The present Items 3 to 8 shall be renumbered as Items 2 to 7.

Article 31

In Article 92 Paragraph 1, the words "participants in voluntary pension schemes " shall be replaced with the words "customers of voluntary pension schemes".

In Paragraph 2, Item 4, behind the words "fund" the word "and" shall be added, and the words "in connection with schemes offered and connections with " shall be deleted. At the end of the text the period shall be deleted and words "in connection with the pension schemes they offer" added.

Article 32

Behind Article 92, the Article 92a shall be added to read as follows

"Article 92a

(1) The Agency and bodies responsible for monitoring other financial institutions in the Republic of Croatia are obliged to deliver, upon the request of a monitoring body, all data and information about the monitored person necessary for the procedure of supervision and the issuing of work permits.

(2) The Agency and bodies responsible for monitoring other financial institutions need to mutually exchange information about the irregularities identified during the supervision, if such findings are of importance to the operation of another supervisory body.

(3) The Agency cooperates and exchanges information from Paragraphs 1 and 2 of this article with the similar institutions in the countries in the European Union, that are necessary for the procedure of supervision and the issuing of work permits.

(4) The Agency and other supervisory bodies shall appoint persons especially for the exchange of data and information in accordance with this Article.

(5) The exchange of data and information according to this Article shall not be considered as disclosing of a trade secret."

Article 33

In Article 93 Paragraph 1, the Item 1 shall be deleted and words "in regard to the pension insurance based on individual capitalized saving " added.

Behind the Paragraph 4, the Paragraph 5 shall be added to read as follows

"(5) The Agency's regulation shall define in detail the supervision procedure and methods."

Article 34

In Article 95 Paragraph 1, behind the words "Agency Council", the words "with the approval of the Croatian Government " shall be added.

Article 35

Article 101 is changed to read as follows

"(1) The Director of the Agency, Deputy Director, Assistants to the Manager and other members of the Agency Council shall not accept any compensation, position or employment during their mandate, nor provide services related to

- pension company or pension fund it manages,
- custodian of assets of a certain Fund, and
- custodian bank of a certain fund.

(2) The persons mentioned in Paragraph 1 of this Article may not own stock or owner's share in the pension company and custodian bank.

(3) Limitations stated in Paragraph 1 of this article shall be valid within the period of one year after the cessation of duty or employment in the Agency, and shall applied to the following

- Management and Supervisory Board of the Pension Company,
- custodian of assets of a certain Fund, and
- custodian bank of a certain fund,

as well as the limitation from Paragraph 2 of this Article.

(4) During their mandates, the Director of the Agency, Deputy Director, Assistants to the Manager and other members of the Agency Council, may not be elected, appointed or perform duties in the bodies of the state authority or units of local and regional self-government. If they are elected or appointed to one of the duties in the state authority or units of local and regional self-government, they are obliged to choose whether they will keep their duties in the Agency or accept one of the said duties."

Article 36

In Article 105 Paragraph 1, the words "funds" shall be followed by a period, and the words "and voluntary pension schemes " shall be deleted.

The Paragraph 2 shall be deleted.

The present Paragraph 3 shall be renumbered as Paragraph 2.

The present Paragraph 4, that shall be renumbered as Paragraph 3, is changed to read as follows

"(3) Voluntary pension funds are offered by the voluntary pension funds based on different investment principals."

In the present Paragraph 5, that shall be renumbered as Paragraph 4, the word "Croatia" shall be followed by a period, and the words "and of age, as well as who accepts the voluntary pension scheme" shall be deleted.

The present Paragraph 6, that shall be renumbered as Paragraph 5, is changed to read as follows

"(5) The voluntary pension fund may be of a closed kind, established for the needs of particular employers, union and associations of private businesses, and administered by a voluntary pension company."

The present Paragraph 7 shall be deleted.

Article 37.

Article 106 is changed to read as follows

"(1) Voluntary pension company is obliged to make the informational brochure for each voluntary pension fund it offers on the market.

(2) The informational brochure of the voluntary pension fund has to be given to persons before they become members in the voluntary pension fund.

(3) The Agency shall prescribe and approve the contents and the form of the brochure from the Paragraph 1 of this article, and approve all subsequent changes made to it."

Article 38

In Article 107, the Paragraph 1 is changed to read as follows

"(1) Members of the voluntary pension fund may not acquire the rights from the voluntary pension insurance before the age of 50, based on the voluntary pension scheme offered by the pension insurance company in accordance with the law."

In Paragraph 2, the words "set out in relevant pension scheme " shall be replaced with the words "from the contract mentioned in Article 109 Paragraph 1 of this Act".

Article 39

In Article 108 Paragraph 1, the words "Pension insurance company," shall be deleted, and the word "voluntary" shall be replaced with the word "Voluntary".

In Paragraph 3, at the end of subparagraph 2, instead of the period, a comma shall be put, and the following subparagraph added to read as follows

"– members of associations of private businesses sponsoring the voluntary pension fund."

Article 40

In Article 109, the Paragraph 1 shall be deleted.

The present Paragraph 2, that shall be renumbered as Paragraph 1, is changed to read as follows

"(1) Membership in the voluntary pension fund shall be established by concluding a contract with the selected pension company and opening an individual account in a voluntary pension fund."

The present Paragraph 3 shall be renumbered as Paragraph 2.

In the present Paragraph 4, that shall be renumbered as Paragraph 3, the words "for certain pension scheme," shall be deleted.

Article 41

The Paragraph 1 in Article 110 is changed to read as follows

"(1) A member may withdraw from membership in a voluntary pension fund in accordance with the contract mentioned in Article 109 Paragraph 1 of this Act."

Article 42

Article 112 shall be deleted.

Article 43

In Article 113 Paragraph 2, the words "pension scheme" shall be replaced with the words "voluntary pension fund", and behind the words "contribution" the words "from salary for that scheme" shall be replaced with the words "from salary from that fund".

Article 44

Article 114. is changed and reads

"An employer, trade union and association of members of private businesses which sponsors a voluntary pension funds shall restrict membership in that fund only to employees, former employees, members of associations of private businesses and former members of these associations, as well as the members of their families who may use the funds on the personal account in case of fund member's death. "

Article 45

Article 115. shall be deleted.

Article 46

In Article 122 Paragraph 1, the new Items 5, 6 and 7 shall be added behind Item 4 to read as follows

"5. if they do not report the Agency about the established value of the pension fund, in accordance with the Article 53 Paragraph 1 of this Act,

6. if they do not pay the guarantee deposit for every ten thousand new members, in accordance with the Article 56 of this Act,

7. if they do not keep their own bookkeeping and accounting for the pension fund, in accordance with the Article 59 of this Act and the Agency regulations,".

In the present Item 5, that shall be renumbered as Item 8, the words "i 61." shall be deleted.

The present Items 6 and 7 shall be renumbered as Items 9 and 10.

Behind Item 10, the Item 11 shall be added to read as follows

"11. if the authority for managing the pension fund assets is transferred to an unauthorized person, contrary to the Article 75 Paragraph 1 of this Act,"

The present Items 8, 9 and 10 shall be renumbered as Items 12, 13 and 14.

The present Item 11 shall be deleted, and Items 12 to 16 shall be renumbered as Items 15 to 19.

In Paragraph 4, the words "8, 9 and 10" shall be replaced with the words "12, 13 and 14".

Article 47

In Article 124, the Paragraph 1 shall be added to read as follows

"(1) The custodian bank shall be fined with HRK 10.000,00 to HRK 100.000,00, and the responsible person in the bank shall be fined with HRK 1.000,00 to HRK 10.000,00, if the bank charges and collects the fee for custodian activities contrary to the provisions of Article 85 Paragraph 2 of this Act."

The present Paragraph 1 shall be renumbered as Paragraph 2.

Article 48

(1) If compulsory fund member has met all the requirements for the old-age pension, early old-age pension or disability pension due to the general incapability to work under the condition of age or the pension years (with the extended duration insurance years) that are favorable than the general conditions established by the Pension Insurance Act ("Narodne

novine", No. 102/98., 127/00., 59/01., 109/01. and 147/02.), or his or her pension is determined in the way that is more favorable than the way established with that Act, until the passing of the special law, the total capitalized assets on the compulsory fund member's personal account shall be transferred through the Central Registry of Insured Persons to the Croatian Institute for Pension Insurance who will determine the pension as if he or she was insured only in the compulsory pension insurance system based on generation solidarity.

(2) If the compulsory fund members dies before acquiring the pension right in accordance with the Paragraph 1 of this Article, and if his/her family members are entitled to family pension pursuant to the Pension Insurance Act, before a special law is passed, the compulsory fund shall transfer the total capitalized assets from that member's account through the Central Registry of Insured Persons to the Croatian Institute for Pension Insurance, which shall determine the amount of the family pension, as if the deceased insured person was insured only within the compulsory pension insurance system based on generation solidarity.

Article 49

Pension companies are obliged to adjust their business operations and pay the escrow account within one year after this Act comes into effect.

Article 50

(1) The voluntary pension company that began operating before this Act came into effect shall adjust its business operations with the provisions of this Act, and shall offer the informational brochure to the voluntary fund members in accordance with the provisions of this Act, within three months after this Act comes into effect.

(2) A voluntary fund member who does not accept the offered brochure may terminate the membership and approach another voluntary pension company within six months after this Act comes into effect.

(3) In cases stated in Paragraph 2 of this Article, the formed voluntary fund is obliged to transfer the assets from the member's personal account to the new voluntary fund, with the fee that may not exceed the amount prescribed by the Agency.

Article 51

Until the three years for the calculation of the reference return in accordance with the Article 16 of this Act have expired, the reference return shall be calculated based on the information on business operations of compulsory pension funds in the years 2002 and 2003.

Article 52

In the entire text of the Compulsory and Voluntary Pension Funds Act ("Narodne novine", No. 49/99. and 63/00.) the word "employee" in appropriate case shall be replaced with the word "worker" in the appropriate case. The words "units of local self-government and units of local government and self-government " shall be replaced with the words "units of local and regional self-government ", and the words "Croatian National Parliament " shall be replaced with the words "Croatian Parliament" in appropriate case.

Article 53

Within three months after the enactment of this Act, the Agency for supervising the pension funds and insurance shall pass the regulations when it is authorized by this Act.

Article 54.

This Act shall come into effect on the eighth day after its publication in "Narodne novine", and the provision of Article 48 shall be applicable from the 1 January 2002.

Class 402-09/02-01/01

Zagreb, 12 June 2003

THE CROATIAN PARLIAMENT

President of the
Croatian Parliament
Zlatko Tomčić