

ORDINANCE on trustee councils of the additional mandatory pension insurance funds and the advisory councils to the additional voluntary pension insurance funds

Passed by virtue of Decree No 29 of the Council of Ministers dated 18 February 2005, promulgated in SG, issue 19 of 1 March 2005, in force as of 1 March 2005

Chapter One

GENERAL PROVISIONS

Art. 1. This Ordinance shall regulate:

1. the rights and obligations of trustee councils of the additional mandatory pension insurance funds;
2. the composition, rights and obligations of the advisory councils of the additional voluntary pension insurance funds.

Art. 2. The trustee and the advisory councils, hereunder referred to as the "councils" shall represent and protect the interests of the insured people and the retired people within the voluntary pension insurance funds.

Art. 3. One trustee council shall be established for each additional mandatory pension insurance fund, and one advisory council – for each additional voluntary pension insurance fund.

Chapter Two

COMPOSITION, ESTABLISHMENT OF THE COUNCILS AND MANDATE

Art. 4. (1) The composition of the trustee council shall include equal number of representatives of the nationally representative organisations of employees and employers, and one representative of the pension insurance company.

(2) Within one month as of the entry in the court register of the respective additional mandatory pension insurance fund or at the latest two months prior to the expiry of the mandate of a trustee council the pension insurance company shall invite the top management of each nationally represented organisation of employees and employers in writing to appoint their representatives to the trustee council of the fund. The representatives of the organisations of employees and employers shall be appointed by their management bodies at national level within one month as of the receipt of the invitation at the latest.

(3) The representative of the pension insurance company in the trustee council shall be appointed by virtue of decision of the management body of the company within two months as of the entry into the court register of the respective additional mandatory pension insurance fund or within one month prior to the expiry of the mandate of the trustee council at the latest.

(4) The first meeting of the trustee council shall be summoned by the pension insurance company within 3 months as of the entry in the court register of the respective additional mandatory pension insurance fund, or within 7 days after the expiry of the mandate of the previous council.

Art. 5. (1) The composition of the advisory council shall include:

1. representatives of the insured persons and the retired people of the respective additional voluntary pension insurance fund;
2. representatives of the employers and the bodies under art. 230, para 3, item 3 of the Social Security Code, who make insurance contributions to the respective additional voluntary pension insurance fund, hereunder referred to as the "insurers", and
3. one representative of the pension insurance company.

(2) The number of the members of the advisory council shall not be less than 5 and more than 11, while the number of the representatives of the insured persons and retired

people should be equal or should exceed the number of the representatives of the insurers.

(3) The representatives of the insured persons and the retired people within the advisory council shall be appointed by the pension insurance company based on random selection, while the representatives of the insured persons shall be appointed amongst the top 20 with the biggest number of personal contributions and the highest amount of funds accumulated from personal contributions to the individual batch in the respective additional voluntary pension insurance fund.

(4) The appointment under para 3 shall be made within two months as of the entry in the court register of the additional voluntary pension insurance fund or one month prior to the expiry of the mandate of the advisory council at the latest.

(5) Within one month as of the entry in the court register of the additional voluntary pension insurance fund or at the latest two months prior to the expiry of the mandate of the advisory council the pension insurance company shall invite the insurers, making contributions for the highest number of insured people in the fund to appoint their representatives within a specified deadline. If no representatives shall be appointed within the indicated deadline, the pension insurance company shall invite the insurers ranking next making contributions for the biggest number of insured people in the fund.

(6) The representative of the pension insurance company to the advisory council shall be appointed by virtue of the management body of the company within the deadline set out in para 4.

(7) The first meeting of the advisory council shall be summoned by the pension insurance company within 3 months as of the entry in the court register of the additional voluntary pension insurance fund or within 7 days after the expiry of the mandate of the previous council.

Art. 6. (1) The members of the councils should meet the following requirements:

1. they should be able individuals;
2. they should not be sentenced for any premeditated crimes of general nature;
3. they should not be deprived of the right to take positions ensuing material liability;
4. they should not be members of management or control bodies or employees of another pension insurance company;
5. they should not be members of trustee or advisory council of additional pension insurance fund managed by another pension insurance company.

(2) Within the deadline under art. 4, para 4 and art. 5, para 7 the members of the councils shall obligatory present to the pension insurance company managing the respective additional pension insurance fund, written declaration that they meet the requirements of para 1 and that they shall be obliged to notify the respective council in case of change in the declared circumstances. The declarations shall be stored at the company.

Art. 7. The mandate of the council members shall be 5 years.

Art. 8. (1) The mandate of the members of the trustee councils shall be terminated early:

1. if they shall no longer meet any of the requirements of art. 6, para 1;
2. in case of lasting physical impossibility to carry out their obligations for a period exceeding 6 months;
3. in case of disclosure of facts or information, which shall not be in the public domain, that they became aware of during or in relation to exercising their functions in the council;
4. by virtue of decision of the management bodies of the nationally represented organisations of employees and employers, or by virtue of decision of the management body of the pension insurance company – in the case of their appointed representative.

(2) Upon termination of the mandate of a member under the provisions of para 1, items 1 – 3 the chairperson of the trustee council shall notify the body appointing the dismissed member of the council and shall invite it to appoint a new representative within one month as of receipt of the invitation.

(3) Simultaneously with the decision for termination of the mandate of a member under the provisions of para 1, item 4, the respective body shall appoint a new representative to the trustee council.

(4) The duly appointed representative replacing the early dismissed member of the trustee council shall finish the mandate of the latter.

Art. 9. (1) The mandate of the members of the advisory councils shall be terminated in advance:

1. if they shall no longer meet any of the requirements of art. 6, para 1;
2. in case of lasting physical impossibility to carry out their obligations for a period exceeding 6 months;
3. in case of disclosure of facts or information, which shall not be in the public domain, that they became aware of during or in relation to exercising their functions in the council;
4. at their written request to the respective council – for the representatives of the insured persons and the retired people;
5. by virtue of decision of the insurer or the management body of the pension insurance company – in the case of their appointed representative.

(2) Upon termination of the mandate of a member under the provisions of para 1, items 1 – 4 the chairperson of the advisory council shall notify the insurer or the pension insurance company to appoint a new representative within one month under the conditions and as provided for in art. 5, paras 3, 5 and 6.

(3) Simultaneously with the decision for the dismissal of a member as provided for in para 1, item 5 the insurer, respectively the pension insurance company, shall appoint a new representative to the advisory council.

(4) The duly appointed representative replacing the early dismissed member of the advisory council shall finish the mandate of the latter.

Chapter Three

STRUCTURE, ACTIVITY AND FUNCTIONS OF THE COUNCILS

Art. 10. (1) Each trustee and advisory council shall appoint one of its members as chair person and deputy chair person. The chair person and the deputy chair person shall have a mandate of one year.

(2) The chair person:

1. shall represent the council;
2. shall summon and chair the meetings of the council;
3. shall organise and control the work of the council
4. shall sign the minutes of the council meetings.

(3) The functions of the deputy chair person shall be set out in the rule book under art. 12.

Art. 11. The councils shall be serviced by a technical secretary, appointed by the respective pension insurance company, who:

1. shall be responsible for the records keeping and storage of the documentation of the council;
2. shall carry out the operational records keeping work related to the preparation and holding of the council meetings;
3. shall prepare and sign the minutes from the council meetings;
4. shall notify the interested parties as to the decisions made by the council in relation to any filed complaints, requests and signals addressed to the council.

Art. 12. Each trustee and advisory council shall pass a rule book regulating its activities within 3 months as of its first meeting.

Art. 13. (1) The councils shall hold meetings at least once every three months in a manner and order stipulated in their rule books.

(2) The meetings of the councils shall be regular if at least two thirds of their members shall be present.

(3) Representatives of the Financial Supervision Commission, the respective pension insurance company, experts in relation to specific issues discussed, as well as representatives of other bodies and organisations may be present at the meetings at the invitation of the councils.

Art. 14. (1) Each member of a trustee or advisory council shall have the right to one vote.

(2) The councils shall make decisions by virtue of majority of more than half of their members.

(3) The decisions of the councils shall be of recommended nature for the pension insurance companies.

Art. 15. (1) Each trustee and advisory council shall carry out the following functions:

1. it shall monitor the compliance of the obligations of the pension insurance company to the insured people and retired persons of the respective voluntary pension insurance fund;

2. it shall review complaints, requests and signals related to violations of the rights of the insured persons and retired people by the respective voluntary pension insurance fund, and requests to the pension insurance company and / or other institutions and organisations related thereto, and it shall facilitate the settlement of disputes arising;

3. it shall discuss the annual financial statements of the respective additional pension insurance fund;

4. it shall make written proposals for the improvement of the organisation and operations of the pension insurance company in relation to the servicing of the insured persons and retired people of the respective additional pension insurance fund;

5. it shall make written proposals on other aspects of the operations of the pension insurance company, which shall be related to the rights of the insured persons and retired people of the respective voluntary pension insurance fund;

6. it shall draft annual report on its activities and shall submit the latter to the pension insurance company managing the respective voluntary pension insurance fund and the Financial Supervision Commission by 30 April of the following year, and for a council the mandate of which shall expire – by the date of expiry of its mandate.

(2) Each trustee and advisory council shall make its proposals, enquiries and requests under para 1 to the management body of the pension insurance company managing the respective voluntary pension insurance fund.

(3) The managing body of the pension insurance company shall be obliged to discuss the proposals, enquiries, requests and the annual report under para 1 at its first meetings after their receipt by the company, to make decisions thereon and to notify in writing the chair person of the respective council as to its decisions within 7 days as of the date of the meeting.

Art. 16. (1) Each trustee and advisory council shall carry out its functions in the seat of the pension insurance company managing the respective voluntary pension insurance fund, and its correspondence address shall be the address of management of the company.

(2) The costs related to the performance of the operations of each council shall be at the expense of the pension insurance company managing the respective voluntary pension insurance fund.

(3) The members of the councils shall not receive any remuneration for their activities.

Chapter Four

RIGHTS AND OBLIGATIONS OF THE COUNCILS

Art. 17. Each trustee and advisory council shall have the right to access to the documentation of the respective pension insurance company, related to the performance of the functions under art. 15, para 1, as well as:

1. to send its members to meetings of the management body of the pension insurance company, when issues on which it has made proposals, enquires and requests shall be discussed;

2. to make well-grounded proposals in writing to the pension insurance company for amendments and supplementations in the rule books on the organisation and operations of the respective voluntary pension insurance fund;

3. to make well-grounded proposals in writing to the pension insurance company for improvement of the activities on the additional pension insurance in the respective fund;

4. to use premises, technical equipment and other tangible utilities of the pension insurance company needed for the performance of the functions under art. 15, para 1 free of charge;

5. to require assistance from the pension insurance company in performance of its functions;

6. to inform appropriately the public as to the results of its work, including on the website of the respective pension insurance company.

Art. 18. Each trustee and advisory council shall be obliged:

1. to study the complaints, requests and signals received and to undertake the steps necessary as per its functions and to respond in writing to the respective people within the deadline set out in art. 174, para 2 of the Social Security Code;

2. to notify immediately the deputy chair person of the Financial Supervision Commission in charge of Social Security Supervision Division, in case of justified doubt as to any breaches by the pension insurance company, its employees or insurance intermediaries of the social security legislation.

Chapter Five

AVOIDANCE OF CONFLICTS OF INTERESTS IN THE WORK OF THE COUNCILS

Art. 19. (1) The council members may not:

1. disclose facts and information, which shall not be in the public domain, which they have become aware of upon or in relation to their functions under art. 15, para 1;

2. use their position to their personal benefit in order to obtain any gain, special privileges, exemption from their obligations or avoidance of the consequences of their own or somebody else's illegal acts;

3. render personal services or represent or protect the interests of an individual or a legal entity in their work or before the company, unless this shall be in the best interest of the insured persons and retired people of the voluntary pension insurance fund or unless it shall stem from the law and the provisions of this Ordinance.

(2) The members of the councils shall sign a declaration that they are informed of their obligation not to disclose to any third parties any facts or information, which shall not be in the public domain, which they shall become aware of upon or in relation to the fulfilment of their functions. The declarations shall be submitted to the respective company within the deadline set in art. 4, para 4 and art. 5, para 7 and shall be stored by the company

Chapter Six

ADMINISTRATIVE PENAL LIABILITY

Art. 20. (1) The pension insurance company or its employees who shall commit or allow violation of the Ordinance, shall be subject to penalty in accordance with art. 351 of the Social Security Code.

(2) The violations of the provisions of the Ordinance shall be established by virtue of acts drawn up by officials, authorised by the deputy chair person of the Financial Supervision Commission, in charge of Social Security Supervision Division.

(3) The penal pronouncements shall be issued by the deputy chair person of the Financial Supervision Commission in charge of the Social Security Division or an official authorised by the latter.

(4) The finding of the violations, the issuance, appeal and enforcement of the penal pronouncements shall be made as provided for in the Law on Administrative Violations and Penalties.

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 1. Within 6 months as of the entering into force of the Ordinance the pension insurance companies shall be obliged to bring in line with its requirements the composition and operations of the trustee and advisory councils of the voluntary pension insurance funds managed by them, to make the respective amendments in their rule books on the organisation and operations of the funds and to submit the required documents to the Financial Supervision Commission.

§ 2. The activities of the trustee and advisory councils of the additional pension insurance funds appointed until the entering into force of this Ordinance shall be terminated within the deadline set out in § 1 with the constitution of the new councils as provided for in art. 4 and 5.

§ 3. This Ordinance was passed on the grounds of art. 155, para 3 and art. 242, para 2 of the Social Security Code and shall enter into force as of 1 March 2005.

§ 4. The Financial Supervision Commission shall provide guidelines as to the implementation of the Ordinance.