Pension Act [Version valid from: 1 January 2007]

Act of 7 December 2006 containing rules concerning Pensions
(Pension Act)
(Pension Act [Version valid from: 1 January 2007])
History: Bulletin of Acts, Orders and Decrees 2006, 706

We, Beatrix, by the Grace of God, Queen of the Netherlands, Princess of Oranje-Nassau, etc. etc. etc.

Greetings to all who shall see or hear these presents!
That We have considered that it is desirable to revise and modernize the regulations on pensions, in
order to ensure that the pension system will remain secure in the future;
We, therefore, having heard the Council of State, and in consultation with the States-General, have
approved and decreed as we hereby approve and decree:

CHAPTER I. Definitions and scope

§ 1.1. Definitions

Article 1. Definitions

For the purposes of this Act and the provisions based on it, the following terms are defined as follows:

- entitlement beneficiary: person who is the beneficiary for a pension that has not yet become payable;
- auditor: an auditor as referred to in article 393, first paragraph, of Book 2 of the Dutch Civil Code (Burgerlijk Wetboek);
- surrender: any action by which pension entitlements or pension rights lose their allocation as pension;
- disability pension: a financial, fixed benefit due to disability of the employee or former employee, for which entitlement is attained after the lapse of the period specified in article 29, first paragraph, of the Sickness Benefit Act (Ziektewet), or, if the employee or former employee receives a sickness benefit under that Act, after the lapse of the period specified in Article 29, fifth and ninth paragraph, of the Sickness Benefit Act;
- base pension scheme: the collective pension scheme or component of the pension scheme in which the employee is obliged to participate based on the pension agreement;
- industry-wide pension fund: a pension fund for one or more sectors or sub-sectors of an industry;
- end of scheme membership: end of the accrual of a pension based on a pension agreement other than by:
  a. the death of the scheme member; or
  b. the old-age pension becoming payable;
- competent authorities: the national authorities of member states other than the Netherlands, designated under Article 6, point g, of Directive 2003/41/EC to carry out the duties set out in that Directive;
- contribution: any financial sum paid to a pension provider within the framework of implementing pension agreements and agreements of affiliation;
- contributing company: a company or other body, regardless of whether comprising or consisting of one or more natural persons or legal entities acting as employer or self-employed persons, or a combination thereof, and which pays contributions to a pension fund, occupational pension fund, premium pension institution or pension institution from another member state;
- special partner’s pension: the entitlement to partner’s pension obtained by the former partner under Article 57, first, second or third paragraph;
- foreign institution: an institution with its domicile outside the Netherlands, not being a pension institution from another member state, an insurer with domicile outside the Netherlands, one of the European Communities or an institution as defined in Article 70, second paragraph;
scheme member: the employee or former employee who acquires pension entitlements from a pension provider on account of a pension agreement;
employment: the legal relationship between employer and employee;
director shareholder:
  a. personal holder of shares representing at least one-tenth portion of the issued share capital of the employer's company;
  b. indirect personal holder of shares representing at least one-tenth portion of the issued share capital of the employer's company; or
  c. holder of depositary receipts for shares, issued through the mediation of a trust office of which the holder represents at least one-tenth of the board, representing at least a tenth part of the issued share capital of the company;
electronic: by means of an electronic information carrier enabling the recipient to permanently store the information provided;
posted employee: an employee posted in another member state to work there, and who, under Title II of Directive (EEC) no. 1408/71 of the Council of the European Communities of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ L 149), remains subject to the legislation of the member state of origin;
group: a group as ment in Article 24b of Book 2 van the Dutch Civil Code (Burgerlijk Wetboek);
pensioner: the pensionable person for whom the old-age pension has become payable;
defered beneficiary: the employee or former employee who no longer acquires a pension under a pension agreement, and who upon termination of the scheme membership retains a pension entitlement against a pension provider;
agreement to payment of a capital sum: a pension agreement pertaining to a fixed capital that will be converted into a pension benefit no later than on the pension date;
member state: a member state of the European Union, as well as a state, not being a member state of the European Union, that is party to the Agreement on the European Economic Area;
survivor’s pension: partner’s pension or orphan’s pension;
company pension fund:
  a. a pension fund connected to a organisation or a group; of
  b. a pension fund connected to multiple organisations or groups by merger of the to the individual organisations or groups connected pension funds.
works council: the works council as defined in the Works Councils Act (Wet op de ondernemingsraden);
receiving pension provider: the pension provider to which pension value is transferred for the purposes of a transfer of pension value;
Our Minister: Our Minister of Social Affairs and Employment;
old-age pension: a financial, fixed benefit for the employee or former employee intended as a source of income at old age;
transfer value: the value established for the pension rights or pension entitlements to be transferred for the purposes of the transfer of pension value;
transferring pension provider: the pension provider transferring value to another pension provider for the purposes of a transfer of pension value;
partner: spouse, registered partner or partner in accordance with the definition in the pension agreement;
partner’s pension: a financial fixed benefit for the spouse, registered partner or the partner, the former spouse, former registered partner or former partner, resulting from the death of the employee or former employee;
partner relationship: marriage, registered partnership or partner relationship in accordance with the definition in the pension agreement;
pension: old-age pension, disability pension or survivor’s pension, as agreed between employer and employee;
pension entitlement: the entitlement to a pension that has not yet become payable, except an agreed conditional supplement;
pension fund: a legal entity which is not a premium pension institution, in which on behalf of at least two scheme members, deferred beneficiaries or their surviving dependants funds are or have been collected and are managed for the implementation of at least a base pension scheme;
- pensionable person: person for whom a pension has become payable based on a pension agreement;
- pension institution from another member state: an institution financed based on capital funding, regardless of legal form, that has its domicile in a member state other than the Netherlands and incorporated independently of any contributing company or sector with the purpose of providing work related pension benefits under an agreement entered into as follows:
  a. on an individual or group basis between one or more employers and one or more employees or their respective representatives; or
  b. with self-employed persons, and who carries out work directly related with this;
- pension agreement: the arrangements agreed upon between an employer and an employee concerning pension;
- pension right: the right to a pension that has become payable, except an agreed conditional supplement;
- pension scheme:
  a. a pension scheme based on a pension agreement; or
  b. if the contributing company has its domicile in a member state other than the Netherlands, an agreement, deed of trust or provisions stipulating to which pension benefits a commitment is made, and under what conditions;
- pension regulations: the regulations drafted by the pension provider concerning the relationship between pension provider and scheme member;
- pension provider: a company pension fund, an industry-wide pension fund, or a premium pension institution or an insurer with its domicile in the Netherlands;
- pension liabilities: liabilities of the pension provider based on the pension entitlements and the pension rights;
- premium: the periodic fixed structural compensation, in financial terms, owed to the pension provider and intended for the insurance of pension and associated costs;
- defined contribution agreement: a pension agreement pertaining to a fixed premium that will be converted into a pension benefit no later than on the pension date;
- premium pension institution: a premium pension institution that is, according to the Financial Supervision Act (Wet op het financieel toezicht) allowed to practice the operations of a premium pension institution;
- separation: divorce, dissolution after legal separation, ending of a registered partnership other than by death, disappearance of one of the partners, conversion of a registered partnership into a marriage or ending of the partner relationship within the definition of the pension agreement;
- in writing: in letters on paper;
- supplement: an increase of:
  a. a pension right;
  b. a pension entitlement of a deferred beneficiary, provided that the increase from an agreement to the payment of a capital sum does not arise from interest or profit-sharing or the increase from a defined contribution agreement does not arise from earned investment yield;
  c. a pension entitlement of a scheme member under a defined benefit agreement based on an average pay system or on a fixed pay scheme, provided that the increase is not related to an increase of the pensionable base, the increase of the years to be taken into account or an amendment of the pension agreement; or
  d. a pension entitlement of a pensioner for the benefit of his partner;
- supervisory body: the Stichting Autoriteit Financiële Markten (Financial Markets Authority) or De Nederlandsche Bank N.V. (The Dutch Central Bank), each in so far as charged with the performance of supervision in or under Article 151;
- defined benefit agreement: a pension agreement concerning a fixed pension benefit;
- agreement of affiliation: the agreement between an employer and a pension provider on the administration of one or more pension agreements;
affiliation regulation:
  a. the scheme drafted by an industry-wide pension fund concerning the relationship between
     pension provider and employer;
  b. the scheme drafted by a pension provider concerning the administration of the pension
     agreements with its employees;
compulsory industry-wide pension fund: an industry-wide pension fund in which scheme
membership is made compulsory as defined in Article 2, first paragraph, of the industry-wide
pension fund (mandatory scheme membership) Act 2000, and article 21, first paragraph of the
Public Servants' Superannuation (Privatisation) Act (\textit{Wet privatisering ABP});
insurer: an insurer allowed to operate a life or non-life insurance company in the Netherlands
under the Financial Supervision Act (\textit{Wet op het Financieel Toezicht});
conditions in relation to the partner relationship: marital terms, conditions of a registered
partnership or conditions in relation to a partner relationship within the definition of the pension
agreement;
voluntary pension scheme: the component of the pension scheme in which the employee has an
option to participate based on the pension agreement;
transfer of pension value: any action by which the value of accrued pension entitlements or
pension rights is applied for the benefit of:
  1°. other pension rights or pension entitlements with the same or a different pension provider;
  2°. the same pension rights or pension entitlements with a different pension provider;
employer: the one that has an employee carry out labour pursuant to a civil-law employment
contract or public-law appointment;
employer's premium: the component of the premium at the expense of the employer;
employee: a person who, under a civil-law employment contract or public-law appointment,
performs work for an employer, not including director shareholder and employees who fall under
the scope of a compulsory pension scheme as defined in the Mandatory Occupational Pension
Scheme Act (\textit{Wet verplichte beroepsverzekeringen});
employee's premium: the component of the premium at the expense of the employee;
orphan's pension: a financial, fixed benefit for a child of whom the deceased employee or former
employee was a parent in a family law relationship, or for the deceased or former employee's
stepchild or foster child, as a result of the death of the employee or former employee;
Domicile: the place where the legal entity has its place of establishment according to its articles of
association or rules and regulations, or, in the case of a pension fund or pension institution from
another member state, the place where this pension fund or pension institution has its place of
establishment according to its articles of association or rules and regulations and management
board, or, in the case of a pension institution from another member state that is not a legal entity or
is a natural person, the place where that pension institution or person has its management board.

\textbf{Article 2. Further provisions of definitions}

1. Our Minister may issue further rules on the definition of director shareholder by ministerial
   regulation.
2. A pension agreement is considered to be equal to:
   a. the legal relationship between an employer and an employee, following from the employment
      relationship, relating to pension in case of compulsory scheme membership in an industry-wide
      pension fund; and
   b. the legal relationship following from the employment relationship between a government
      employer and a government employee, as defined in the Public Servants' Superannuation
      (Privatisation) Act (\textit{Wet privatisering ABP}), relating to the pension, under the agreement defined
      in Articles 4 and 5 of that Act.
3. Our Minister may designate by ministerial regulation a category of persons, not being employees, who work in an employment relationship by which personal labour is performed for remuneration, to be considered equivalent to employees for the application of this Act and the provisions based on this Act.

4. A financial, fixed benefit for a former employee intended as a source of income at old age in connection with early retirement is not a pension within the definition of this Act, if this benefit:
   a. ends no later than upon the commencement date of the benefit under the Old Age Pensions Act (Algemene Ouderdomswet), upon reaching the pensionable age for the lifelong old-age pension or upon earlier death, and is based on an agreement that only provides an entitlement to a benefit to those who reach a certain age during the term of the scheme, with a maximum term of five years; or
   b. is based on the Public Servants’ Early Retirement Framework Regulation Act (Wet kaderregeling Vut overheidspersoneel).

5. A financial, fixed benefit for a former employee intended as a source of income at old age in connection with early retirement is not a pension within the definition of this Act, if the benefit is based on a scheme:
   a. leading to a benefit starting at a certain age for employees performing work classified by the employer as significantly onerous;
   b. that leads to a benefit that ends no later than upon reaching the commencement date of the benefit under the Old Age Pensions Act (Algemene Ouderdomswet), upon reaching the pensionable age for the old-age pension or upon earlier death; and
   c. is designated by Our Minister by ministerial regulation.

6. A benefit for a conscientious objector (gemoedsbezwaarde) as defined in Article 64, first paragraph, point a, of the Social Insurance Financing Act (Wet financiering sociale verzekeringen) is not a pension within the definition of this Act.

7. By Order in Council rules can be set under which supplements on a salary payment (loonaanvullingsuitkering) or a follow-up payment (vervolguiitkering) as defined in article 60, first paragraph, of the Work and income to labour capacity Act (Wet werk en inkomen naar arbeidsvermogen), that are no disability pension as referred to in article 1, can be regarded as disability pension as defined in that article.

8. The statement of a by virtue of the seventh paragraph specified Order in Council is not done within 4 weeks after the draft is submitted to both houses of the States General.

9. Our Minister may issue further rules in relation to agreements to payment of a capital sum or defined contribution agreements where the available capital on the pension date will be parted into a part of the capital that is directly used to buy temporary pension payments that start instantly and a part of the capital that will be used on a later date to buy lifelong pension payments that are to be paid directly following the temporary payments. In these rules:
   a. payments as ment above, and the pension arrangements for survivors belonging to the pension payments, are equal to a pension as ment in Article 1;
   b. can be stated that Articles 15 and 63 apply to this pension;
   c. can be stated that pension providers are obligated to enforce parting of the pension capital as described above; and
   d. rules can be set about good provision.

10. The regulations as referred to in the ninth paragraph, is only applicable if the pension date is after 31 December 2008 and the capital at the pension date is not used to buy lifelong payments yet.

11. With the merger of pension funds as referred to in the definition of company pension fund in Article 1, the condition that the separate pension funds before merger were bound to a company or a group at least for a period of five years, unless the merger occurs because the to the pension funds related companies or groups have become one company or group.

12. With a company pension fund that executes pension arrangements for multiple companies or groups as referred to in the definition in Article 1 can end an agreement of affiliation in the way that is stated in the Articles of Association.

13. Where in this Act is spoken of the Dutch Social and Labour legislation, this applies in any case to the Articles 1, 2, 4, 7 up to and including 29, 31, 35 up to and including 53, 55 up to and including 95, 97 and 98 of this Act.
§ 1.2. Scope of the Act

Article 3. Partial applicability to persons not being employee or employer that are falling under the scope of a compulsory industry-wide pension fund

1. With the exceptions of Articles 7 and 9, this Act is accordingly applicable to the person that is not an employer or an employee, who works in an employment relationship by which personal labour is performed for remuneration and who falls under the scope of a pension scheme implemented by a compulsory industry-wide pension fund.

2. With the exceptions of Articles 7 and 9, this Act is accordingly applicable to the person that, as a self-employed person, falls under the scope of a pension scheme implemented by a compulsory industry-wide pension fund.

Article 4. Partial applicability in cases of pension settlement

For pension entitlements or pension rights acquired by a spouse or registered partner entitled to settlement under Article 5 of the Settlement of Pension Rights in the event of a Divorce Act (Wet verevening pensioenrechten bij scheiding), Articles 58, 61, 71-74, 78-80 and 85-89 are not accordingly applicable.

Article 5. Relationship with insurance agreements

1. Articles 929, 935 (first paragraph), 936 (second through sixth paragraphs), 941 (fifth paragraph), 969, 972, 977 (second paragraph), 978, 979, 980 (second paragraph) and 983 of Book 7 of the Dutch Civil Code (Burgerlijk Wetboek), are not applicable to insurance agreements entered into in relation to a pension agreement as defined in this Act or to insurance agreements entered into in relation to a legal relationship deemed equivalent to a pension agreement under this Act.

2. The reduction or elimination of a benefit under an insurance agreement as referred to in the first paragraph on the basis of Article 930 (third through fifth paragraphs) of Book 7 of the Dutch Civil Code (Burgerlijk Wetboek) is not possible, unless a person with whom a pension agreement is undertaken or a person for whom a legal relationship deemed equivalent to the pension agreement under this Act applies does not comply with the notification obligation concerning the person’s risk as described in Article 928 of Book 7 of the Dutch Civil Code. In that event, the reduction or elimination of the benefit is limited to the risk relating to the person referred to in the preceding sentence. Insofar as the first sentence of this paragraph precludes a reduction or elimination of a benefit, the pension fund or insurer has a right of recovery against the employer.

3. A clause as defined in Article 941, fourth paragraph, of Book 7 of the Dutch Civil Code (Burgerlijk wetboek) is null and void if included in an insurance agreement as referred to in the first paragraph.

4. Insofar as provisions of Titles 17 and 18 of Book 7 of the Dutch Civil Code (Burgerlijk wetboek) conflict with the provisions stipulated by or under this Act, those provisions of the Dutch Civil Code are not applicable.

Article 6. Relationship with Financial Supervision Act (Wet op het financieel toezicht)

The Financial Supervision Act (Wet op het Financieel Toezicht) is not applicable to the relationship between an insurer or a premium pension institution and an entitlement beneficiary or pensionable person, unless specified otherwise by this Act.
CHAPTER II. Pension agreement

§ 2.1. The realization of a pension agreement

Article 7. Information to employee and offer of pension agreement

1. Within one month after the commencement of the work, the employer will inform the employee in writing whether he will be offering to enter into a pension agreement with the employee, and if so, specifying the pension provider and the term within which the offer will be made.

2. If pursuant to the first paragraph, the employer has notified the employee that no offer to enter into a pension agreement will be made to the employee, but at a later point in time the employer does make an offer to undertake a pension agreement, the employer will inform the employee of this offer in writing.

3. If a pension agreement is entered into but the employee does not yet acquire pension, the employer will notify the employee and state:
   a. the conditions that must be met to initiate the acquisition of pension entitlements; and
   b. the years of service relevant for the purposes of the pension agreement.

4. If the employer has not met the conditions of the first or second paragraph, and if the employee belongs to a group of employees to which the employer has already made an offer to enter into a pension agreement, then the employer is considered to have made the employee an irrevocable offer to enter into a pension agreement.

Article 8. Protection of part-timers and young employees

1. In the event an employer makes one or more employees an offer to enter into a pension agreement, this employer may not fail to make the offer to another employee based solely on the fact that the other employee works less than full time.

2. If exceeding a minimum salary threshold is a condition for the acquisition of pension entitlements under a pension agreement, then for an employee working less than full time, the salary is converted into a salary that the employee would earn at the full time rate of employment, for the application of that salary threshold.

3. For determining the entitlements to the old-age pension and survivor's pension, pension entitlements are granted to employees working less than full time, in proportion to the pension entitlements that would be acquired at the full time rate of employment.

4. For determining disability pension entitlements that may be derived from the pension agreement, making a distinction solely based on the rate of employment is not permitted, provided that in determining the disability pension a benefit under the Work and Income according to Labour Capacity Act (Wet werk en inkomen naar arbeidsvermogen) may be taken into account insofar as that benefit pertains to the same employment.

5. In the event an employer makes one or more employees an offer to enter into a pension agreement, this employer may not fail to make the offer to another employee based solely on the fact that that employee has not yet reached a certain age, unless:
   a. the employee is below the age of 21; or
   b. the pension in question is an old-age pension that only provides a benefit up to reaching the pensionable age under the Old Age Pensions Act (Algemene ouderdomswet) or until reaching the pensionable age for the lifelong old-age pension.

Article 9. Pension agreement in event of transfer of a company

In the event of the transfer of a company as defined in Article 662 of Book 7 of the Dutch Civil Code (Burgerlijk Wetboek), in the course of which the alienator has not entered into a pension agreement with the employees affiliated with that company, and the acquirer has entered into a pension agreement with its employees prior to the moment of transfer, then at the moment of the transfer the acquirer is deemed to have made an offer to undertake the same pension agreement with the employees of the alienator.
§ 2.2. Content of pension agreement

Article 10. Nature of pension agreement

The pension agreement constitutes:

a. a defined benefit agreement;

b. an agreement to payment of a capital sum; or

c. a defined contribution agreement.

Article 11. Determination of benefit, capital or premium

The benefit, the capital and the premium within the framework of a pension agreement will be determined in the lawful currency of the Netherlands.

Article 12. Reserve payment

1. Upon entering into or amending the pension agreement, the employer may reserve the right to reduce or end the premium payment, insofar as pertaining to the employer’s premium, in the event of a drastic change of circumstances.

2. Any stipulation making a reservation in regard to the premium payment, except those as described in the first paragraph, are null and void.

Article 13. Granting of supplements

The pension agreement will stipulate whether supplements will be granted and if so, the target level and the conditions applicable to the granting of the supplement.

Article 14. Limitation of age distinctions in acquisition and offer

1. The acquisition of old-age pension entitlements under a pension agreement begins no later than the employee reaching the age of 21 or if later, on the commencement date of the employment, except for old-age pensions providing solely a benefit until reaching the pensionable age under the Old Age Pensions Act or until reaching the pensionable age for the lifelong old-age pension.

2. The moment at which acquisition can commence as specified in the first paragraph may be postponed for the old-age pension by a maximum of two months if the pension agreement provides for a waiting period or threshold period, or if there is a temporary work agreement as defined in Article 690 of book 7 of the Dutch Civil Code (Burgerlijk Wetboek), till the employee has performed labour for more than 26 weeks. For the calculation of the period of 26 weeks article 691, fourth and fifth paragraph of book 7 of the Dutch Civil Code (Burgerlijk Wetboek) is accordingly applicable. Waiting periods and threshold periods are not permitted for surviving pension and disability pension.

3. In the event an employer that has not entered into any pension agreements at all, or has only entered into pension agreements with employees belonging to a certain group, and the employer proceeds to enter into one or more pension agreements, then the requirement that acquisition of pension must have commenced at the age of 21 does not apply in relation to that employer’s employees older than the age of 21 at the moment of entering into the pension agreement.

4. Any stipulation in contravention of the first and second paragraphs is null and void.

Article 15. Further requirements for old-age pension

1. If a pension agreement provides for an old-age pension, the agreement will determine that that pension will be paid out to the pensioner for life, unless the old-age pension provides solely for a benefit up until reaching the pensionable age under the Old Age Pensions Act (Algemene Ouderdomswet) or reaching the pensionable age for the lifelong old-age pension.

2. Any stipulation in contravention of the first paragraph is null and void.
Article 16. Further requirements for partner’s pension

1. If a pension agreement provides for a partner’s pension for the benefit of a partner with whom the scheme member is neither married nor has a registered partnership, then the methods of determination of the partner’s pension for this partner are subject to the same rights and obligations as for a spouse or registered partner.

2. Any stipulation in contravention of the first paragraph is null and void.

Article 17. Proportionate acquisition of pension entitlements

Pension entitlements under a defined benefit agreement or an agreement to payment of a capital sum are acquired at a rate that is at a minimum proportionate to time during the period of scheme membership.

Article 17a. Proportional passing-on of costs

Passing-on of costs in relation to a defined contribution agreement takes place proportionally in time.

Article 18. Retention of accrued entitlements in the event of lowering pensionable-earnings

1. If an employee’s pensionable base is lowered, the pension entitlements accrued under the pension agreement up to the moment of lowering the pension base are not changed.

2. If the pension base is lowered, the accrued pension entitlements are retained and the pension entitlements are determined in accordance with Article 55.

3. Any stipulation in contravention of the first or second paragraph is null and void.

§ 2.3. Change of pension agreement

Article 19. Change of pension agreement

An employer may change the pension agreement without the consent of the employee if the authority thereto is set out in the pension agreement in writing and, additionally, the situation is one of such a weighty interest on the part of the employer that the standards of reasonableness and fairness dictate that the interest of the employee that would be damaged by the change must yield to the interest of the employer.

Article 20. Consequences of change of a pension agreement

In the event of a change to a pension agreement the pension rights accrued by the entitlement beneficiaries are not changed, until the moment of the pension agreement change, except for the provisions of Articles 76, 78, 83 and 134.

§ 2.4. Employer’s obligation to provide information and hear stakeholders

Article 21. Starting letter and notification of changes

1. The employer will ensure that within three months after the commencement of the acquisition of pension entitlements, the pension provider will inform the employees with whom the employer has entered into a pension agreement and those acquiring pension entitlements about:
   a. the content of the base pension scheme;
   b. the granting of supplements;
c. the employee’s right to request the pension regulations applicable to the employee from the pension provider;

d. the existence of a voluntary pension scheme;

e. circumstances relating to the functioning of the pension provider;

f. the employee’s right to submit a request to the pension provider for a calculation of the effects of conversion on his pension entitlement.

2. The employer will inform the pension provider of any of the changes to the pension agreement enumerated in the first paragraph. In the event of any change to the pension agreement, the pension provider will inform the employee within three months after the change about that change and the option to request the new version of the pension regulations from the pension provider.

3. The first paragraph does not apply if within six months prior to entering into the pension agreement with the employee, the employer entered into a previous pension agreement with the same employee and under this previous pension agreement the employee received the information referred to in the first paragraph. Information that has changed since the previous provision of information will still be provided.

4. Rules will be set by or pursuant to an Order in Council on the content and the manner of provision of the information referred to in this Article.

**Article 22. Pensionable persons’ association, right to be heard in event of administration by insurer**

1. The employer will allow an association of pensionable persons to pronounce its judgment on a planned decision by the employer in regard to an agreement of affiliation with an insurer if:

   a. this decision is of impact on the administration or the amount of the pension rights to which the pensioner is entitled; and

   b. the sum of the number of employees and number of pensioners who have entered into a pension agreement with the employer at that moment is equal to or greater than 250.

2. An association of pensionable persons as referred to in the first paragraph must have full legal capacity and additionally meet the following conditions:

   a. its object under its articles of association must at a minimum include representing the interests of the pensioners who have been employed by the employer;

   b. at least 10% of all pensioners who have been employed by the employer is a member of the association;

   c. the association notifies the employer and the insurer of its existence.

3. The judgment of an association of pensionable persons will be requested at such a time allowing the association to have an influence on the decision referred to in the first paragraph.

4. When a judgment is requested from the association of pensionable persons, the association will be provided with a list of the motivations for the decision and the expected consequences of the decision on the scheme members, deferred beneficiaries, pensioners and other pension beneficiaries.

5. Upon request, the employer will provide to an association of pensionable persons, in a timely manner, all information and data that the association reasonably requires to be able to form its judgment. The information will be provided in writing if so requested.

6. The insurer will inform the pensionable persons receiving pension under a pension agreement with the employer referred to in the first paragraph, about the existence of the association of pensionable persons referred to in the first paragraph.
CHAPTER III. Agreement of affiliation

§ 3.1. Entering into an agreement of affiliation

Article 23. Mandatory administration by a pension provider

1. Not later than the moment at which an employee acquires pension entitlements, the employer will place a pension agreement, by immediately entering into and maintaining a written agreement of affiliation, with:
   a. a pension provider;
   b. a pension institution from another member state that both holds the appropriate license as defined in Article 199 and has notified the competent authorities in accordance with Article 199; or
   c. an insurer with a domicile outside of the Netherlands, providing that that insurer is permitted to operate a life or non-life insurance company in the Netherlands under the Financial Supervision Act (Wet op het Financieel Toezicht).

   The employer can only place a defined contribution agreement with a premium pension institution which does not bear any risk.

2. The employer's obligation set out in the first paragraph to enter into and maintain a written agreement of affiliation does not apply to administration by an industry-wide pension fund:
   a. provided that the employer is obliged or has committed to comply with the articles and rules and regulations of this industry-wide pension fund by becoming a member of an employers' association; and
   b. the industry-wide pension fund has drafted affiliation regulations that meets the requirements on the agreement of affiliation set out in Article 25.

3. The employer's obligation set out in the first paragraph to place a pension agreement and enter into and maintain a written agreement of affiliation does not apply if a pension agreement is entered into by an employer that is also a pension provider, providing that:
   a. the pension agreements of these employees are placed with the employer in its capacity as pension provider; and
   b. affiliation regulations are drafted by the employer.

4. If an employer intends to place a pension agreement with a pension institution from another member state, a premium pension institution or with a pension fund that has been exempted pursuant to Article 212 from the provisions of Articles 99-101 and 109-110, then Article 27 of the Works Councils Act (Wet op de Ondernemingsraden) is accordingly applicable.

Article 24. Premium to pension provider by employer

The employer will pay to the pension provider the premium owed, except in cases in which payment is made by the deferred beneficiary in a situation of voluntary continuation as defined in Article 54.

§ 3.2. Content of agreement of affiliation

Article 25. Requirements on content of agreement of affiliation

1. At a minimum, the agreement of affiliation will include regulations regarding the following subjects:
   a. the way in which the premium due is determined;
   b. the way in which and the terms within which the premium due must be paid in observance of Article 26;
   c. the information to be provided by the employer to the pension provider;
   d. the procedures governing non-fulfilment of premium payment obligations by the employer;
   e. the procedures applicable to drafting and changing the pension regulations in relation to entering into and changing a pension agreement;
   f. the conditions under which supplements are granted;
   g. the premises and procedures applicable in relation to the decision-making on capital deficits and capital surpluses or profit-sharing; and
h. the conditions governing termination of an agreement of affiliation entered into with an insurer or premium pension institution. In this scheme, the interests of both the insurer or the premium pension institution and the employer are safeguarded in a balanced manner from both an actuarial and a business-economic perspective by taking into account:
1°. the other conditions in the agreement of affiliation;
2°. the applicable rates; and
3°. the form of profit-sharing.
The scheme can’t contain exclusion of collective transfer of pension value.
i. the criteria which are applied by the premium pension institution at the choice for an insurer for the buy-in of retirement pay.

2. Insofar as agreed, the agreement of affiliation will include regulations regarding the following subjects:
   a. a reservation by the employer as referred to in Article 12;
   b. in the event of a premium reduction or restitution: the conditions under which a premium reduction or restitution applies, the method of determining the amount of the premium reduction or restitution and where it is used for;
   c. in the case of an additional contribution deposit obligation on the part of the employer: the conditions under which there is an additional contribution deposit obligation and how the amount of that obligation is determined;
   d. the option to voluntarily continue the pension scheme after termination of the employment;
   e. the membership criteria under which the voluntary membership in an industry-wide pension fund was undertaken; or
   f. the rights and obligations pertaining to voluntary pension schemes.

Article 26. Premium payment requirements

The agreement of affiliation will set out how the employer pays the premiums to the pension provider while adhering to the following conditions:
   a. within one month after the end of every quarter, an employer will pay to the pension provider the employer’s premium and the employee’s premium withheld from the employee’s salary due over that quarter;
   b. if the premium is determined and charged for a period longer than a quarter, this term will be at most equal to one year, and within a month after the end of every quarter the employer will pay to the pension provider one-fourth portion of the annual premium it owes, based on an estimate by the pension provider, and the employee’s premium withheld from the employee salary; and
   c. the total annual premium, consisting of the employer’s premium and the employees’ premiums, will be paid to the pension provider within six months after the end of the calendar year.

Article 27. Premium payment upon end of scheme membership

The terms referred to in Article 26 do not apply in the event of termination of scheme membership. In that event, the premium still owed at the end of the scheme membership must be paid within thirteen weeks.
Article 28. Notice from pension fund concerning premium in arrears and deficit in minimum required capital

1. Every quarter, a pension fund will notify the participants’ council or, if there is no participants’ council, the scheme members, deferred beneficiaries and pensionable persons in writing in the event of premium arrears in the amount of 5% of the total annual premium to be received by the pension fund, and also the requirements concerning the minimally required capital applicable by or under Article 131 are not met.

2. For the duration of the situation referred to in the first paragraph, each quarter the pension fund will also inform the works council of the company that still owes premium to the pension fund.

3. If a company pension fund sustains separate capitals pursuant to Article 123, second paragraph, the preceding two paragraphs are applied per separate capital.

Article 29. Notification by insurer in event of premium arrears and consequences of premium arrears

1. An insurer will inform the scheme members and the employer when the premium arrears necessitates the termination of the accrual of pension entitlements through change to non-contributory pension or by cancelling the pension entitlements without paid-up value.

2. An insurer can give the notice referred to in the first paragraph to the scheme members only if it has made demonstrable efforts to collect the premium arrears.

3. No earlier than three months after the notice referred to in the first paragraph, the insurer can terminate the accrual of pension entitlements through change to non-contributory pension or by cancelling the pension entitlements without paid-up value.

4. The effective date of the change to non-contributory pension referred to in the third paragraph may not be earlier than the date five months before the moment at which the scheme members were notified.

5. The coverage of the disability risk or mortality risk remains fully in place until three months after the notification referred to in the first paragraph.

6. In the event the pension is made non-contributory, the insurance is continued as a non-contributory insurance without settlement of premium and interest against the pension entitlements. Costs insofar as arising from making the pension non-contributory are also not settled against the pension entitlements.

7. This article is accordingly applicable to a premium pension institution.

Article 30. Applicable law

An agreement of affiliation with an insurer with its domicile outside of the Netherlands, and which opts for a choice of law other than the law of the Netherlands (either at the time of entering into the agreement or thereafter) will include the following clause:

Regardless of the choice of law, this agreement of affiliation is in any event subject to the Dutch Pension Act (Pensioenwet).

§ 3.3. Other

Article 31. Prohibition on pawning and other actions

Pledge of the rights under the agreement of affiliation by the employer or any other actions performed by the employer granting rights to persons other than the entitlement beneficiaries or the pensionable persons are null and void.
CHAPTER IV. General provisions in relation to the pension provider

§ 4.1. Duties of pension provider

Article 32. General task

A pension provider has the duty of performing a pension agreement based on an agreement of affiliation or affiliation regulations.

Article 33. Guarantee of sound management

1. A pension provider will set up its organization so as to guarantee sound management, in which, at a minimum:
   a. there is accounting to the entitlement beneficiary and pensionable persons and the employer, and an accounting body for pension funds is appointed for this purpose; and
   b. internal supervision is provided for.

2. Further rules with respect to the first paragraph may be set out by Order in Council. These rules may specifically relate to compliance with the Guidelines for pension fund governance (Principes voor goed pensioenfondsbestuur) set out in the Order in Council.

Article 34. Outsourcing

1. If a pension provider outsources activities to a third party, the pension provider will see to it that this third party complies with the rules set by or under this Act to which the outsourcing pension provider is subject.

2. By or pursuant to an Order in Council:
   a. work may be designated as work that is not allowed to be outsourced;
   b. rules may be set relating to outsourcing in relation to supervision of compliance with the provisions set by or under this Act; and
   c. rules may be set in relation to the management of the risks associated with the outsourcing.

Article 35. Drafting and content of pension regulations

1. The pension provider will establish pension regulations in accordance with the pension agreement and the agreement of affiliation or affiliation regulations.

2. At a minimum, the pension regulations will contain provisions relating to:
   a. The way in which the pension provider will deal with the incoming transfer of value for the purposes of the transfer of pension value;
   b. the amount of the conversion rate and the accrual choice rate, as referred to in Articles 60 and 61, and the surrender rate referred to in Article 66; and
   c. the reduction rule, as referred to in Article 134.

Article 36. Registering scheme membership years

1. The pension provider registers the scheme membership years of the scheme members, and provides information regarding this to the scheme members and deferred beneficiaries.

2. Further regulations with respect to the first paragraph, including the periods eligible for scheme membership years, may be set out by Order in Council.

Article 37. Reporting disability

1. The Institute for Employee Benefit Schemes, the UWV (Uitvoeringsinstituut werknemersverzekeringen), reports the disability of a scheme member to the pension provider.

2. By ministerial regulation, Our Minister will set rules in relation to the first paragraph.
Article 38. Annual provision of information to scheme members

1. Each year, the pension provider will provide the scheme member:
   a. a statement of the pension entitlements acquired;
   b. a statement of the pension entitlements that can be acquired under normal application of the pension regulations;
   c. information on the granting of supplements; and
   d. a statement of the value growth in pension entitlements ascribed to the preceding calendar year, in accordance with Article 3.127 of the Income Tax Act 2001 (Wet inkomstenbelasting 2001) and the provisions based thereon.

2. The information referred to in the first paragraph will be provided in the form of a uniform pension statement to be drafted by the pension providers.

3. In deviation of Article 49, the information referred to in the first paragraph can be made available electronically, if the acquired pension entitlement measures less than the amount by the virtue of Article 66, unless the scheme member objects to it.

4. Rules in respect of the statements and information referred to in the first paragraph and the way of providing the information may be laid down by or pursuant to an Order in Council.

Article 39. Provision of information to scheme members at end of scheme membership

1. At the end of scheme membership, the pension provider will provide the scheme member:
   a. a statement of the pension entitlements accrued pursuant to Article 55;
   b. information on the granting of supplements;
   c. information specifically relevant to the scheme member in relation to the end of scheme membership; and
   d. Information of circumstances relating to the functioning of the pension provider.

2. In deviation of Article 49, the information referred to in the first paragraph can be made available electronically, if the acquired pension claim measures less than the amount by the virtue of Article 66, unless the scheme member objects to it.

3. Rules in respect of the statement and information referred to in the first paragraph and the way of providing the information will be laid down by or pursuant to an Order in Council.

Article 40. Periodic provision of information to deferred beneficiaries

1. At least once every five years, the pension provider will provide to the deferred beneficiary:
   a. a statement of the accrued pension entitlements; and
   b. information on the granting of supplements.

2. The pension provider will inform the deferred beneficiary of a change in the supplement policy within three months after that change.

3. In deviation of Article 49, the information referred to in the first paragraph can be made available electronically, if the acquired pension claim measures less than the amount by the virtue of Article 66, unless the deferred beneficiary objects to it.

4. Rules in respect of the statement and information referred to in the first paragraph and the way of providing the information will be laid down by or pursuant to an Order in Council.

Article 41. Provision of information to former partner in event of separation

1. The pension provider will provide to the person who becomes a former partner and acquires a entitlement to a special partner’s pension:
   a. a statement of the accrued pension entitlements to partner’s pension;
   b. information on the granting of supplements; and
   c. information of specific relevance to the former partner.
2. Rules in respect of the statement and information referred to in the first paragraph and the way of providing the information will be laid down by or pursuant to an Order in Council.

**Article 42. Periodic provision of information to former partner**

1. At least once every five years, the pension provider will provide to the former partner:
   a. a statement of the accrued pension entitlements to partner’s pension accrued pursuant to Article 41; and
   b. information on the granting of supplements.
2. The pension provider will inform the former partner of a change in the supplement policy within three months after that change.
3. Rules in respect of the statement and information referred to in the first paragraph and the way of providing the information will be laid down by or pursuant to an Order in Council.

**Article 43. Provision of information to pensionable persons upon commencement of pension**

1. The pension provider will provide to those becoming pensionable persons:
   a. a statement of his pension right;
   b. if the pension scheme provides for survivor’s pension, a statement of the entitlements to accrued survivor’s pension and
   c. information on the granting of supplements.
2. Rules in respect of the statements and information referred to in the first paragraph and the way of providing the information will be laid down by or pursuant to an Order in Council.

**Article 44. Periodic provision of information to pensionable persons**

1. Each year, the pension provider will provide to the pensionable person:
   a. a statement of his pension rights;
   b. if the pension scheme provides for survivor’s pension, a statement of the accrued entitlements to survivor’s pension; and
   c. information on the granting of supplements.
2. The pension provider will inform the pensionable person of a change in the supplement policy within three months after that change.
3. Rules in respect of the statements and information referred to in the first paragraph and the way of providing the information will be laid down by or pursuant to an Order in Council.

**Article 45. Provision of information to scheme members in respect of voluntary pension scheme**

1. Prior to scheme membership in the voluntary pension scheme, the pension provider will inform the scheme member about:
   a. the content of the voluntary pension scheme;
   b. a statement of the pension entitlements that can be acquired under normal application of the regulations of the voluntary pension scheme; and
   c. the granting of supplements.
2. Rules in respect of the statement and information referred to in the first paragraph and the way of providing the information will be laid down by or pursuant to an Order in Council.
Article 46. Information upon request

1. Upon request, the pension provider will provide to the scheme member, the deferred beneficiary, the former partner and the pensionable person:
   a. the pension regulations applicable to the requestor;
   b. the pension provider’s annual report and annual account;
   c. the agreement of affiliation or affiliation regulations;
   d. the investment information relevant to the requestor; and
   e. information on other matters to be determined by Order in Council.

2. Upon request, the pension provider will provide to the scheme member, deferred beneficiary and former partner specifically relevant to that person, including an indication of the capital that may potentially be achieved on the pension date in the case of defined contribution agreements in which the premium is invested, and an indication of the amount of the periodic benefits to be purchased upon application of the capital that may potentially be achieved in the case of agreements to payment of a capital sum and defined contribution agreements.

3. Upon request, the pension provider will provide the deferred beneficiary with a statement of the amount of the deferred beneficiary’s accrued pension entitlements.

4. The pension provider will also provide the information referred to in the first paragraph upon request to representatives of scheme members, deferred beneficiaries, former partners or pensionable persons.

5. Rules in respect of the information referred to in this Article and the way of provision will be laid down by or pursuant to an Order in Council.

Article 47. Provision of information upon departure to another member state

1. The pension provider will provide to scheme members, deferred beneficiaries and pensioners who establish themselves in another member state information on their pension entitlements and pension rights and on the options available to them under the pension scheme.

2. The information provided pursuant to the first paragraph will be at least equal to the information provided to the scheme members, deferred beneficiaries and pensioners who remain in the Netherlands.

Article 48. Timely and clear information

1. The pension provider will provide the information referred to in Articles 21, 38-47 in a timely manner. The information, referred to in Articles 21, 38-45, 46, first paragraph, point d and second through fourth paragraphs and 47, will be provided in clear and comprehensible language by the pension provider.

2. The information on granting of supplements as referred to in Articles 21 and 38 through 45 will, at a minimum, be expressed in a qualitative and an expressive standard.

3. The standard referred to in the second paragraph will at least take into account:
   a. the expectations in relation to the future granting of supplements, such as those following from the continuity test and which are an element of the provisional supplement disclaimer as referred to in Article 95; and
   b. the expected supplement in the pension agreement in comparison to the minimum percentage of the average price index figure referred to in Article 144, first paragraph, point a.

4. Our Minister may set rules in relation to the second and third paragraphs.

Article 49. Information in writing unless

The pension provider will provide the information in writing, unless the scheme member, deferred beneficiary, pensionable person or former partner consents to the information being provided electronically.
Article 50. Provision of information by pension provider

1. For the provision of the information in writing as referred to in Articles 38 up to and including 44, the pension provider may use the address of the scheme member, deferred beneficiary, pensionable person or former partner as most recently known to the pension provider.

2. If this address proves to be incorrect, then the pension provider will query the municipal personal records database in the last known city of residence of the scheme member, deferred beneficiary, pensionable person or former partner.

3. If the pension provider incurs costs in relation to the activities resulting from the fact that the scheme member, deferred beneficiary, pensionable person or former partner has failed to inform the pension provider of a change of address, the pension provider may charge these costs to the person in question, but these costs may not be deducted directly from the benefit.

4. If the address known to the pension provider for the electronic provision of this information proves to be incorrect, the pension provider will provide the information in writing.

Article 51. Register of pensions

1. There is a Register of pensions, set up and maintained by the pension providers, the purpose of which is to enable the entitlement beneficiary to obtain clear and comprehensible information about his pension entitlements. Pension entitlements within the meaning of this Article is also understood to mean an entitlement of old age pension based on the Old Age Pensions Act (Algemene Ouderdomswet).

2. The pension provider will provide the entitlement beneficiary at the latter’s request in a timely way with information on his pension entitlements by means of the Register of pensions.

3. The Social Securitybank, mentioned in chapter 6 of the Work and Income Structure Implementation Organization Act (Wet structuur uitvoeringsorganisatie werk en inkomen) will, at the request of the entitlement beneficiary, provide him in a timely way with details of his insurance periods and related entitlement to an old age pension based on the Old Age Pensions Act.

4. Personal information from the Register of pensions by virtue of the second and third paragraph will in that context solely be used for the purpose described in the first paragraph.

5. An institution to be appointed by Our Minister will develop and manage the Register of pensions and will ensure that the details are processed in a timely way, as referred to in the second and third paragraph, and will also ensure that the Register of pensions functions properly.

6. The institution, as referred to in the fifth paragraph, is a processor as meant in the Personal data Protection Act (Wet bescherming persoonsgegevens) for the processing of the data provided by the pension providers and the Social Securitybank, referred to in chapter 6 of the Work and Income Structure Implementation Organization Act (Wet structuur uitvoeringsorganisatie werk en inkomen), by means of the Register of pensions.

7. As part of its role as processor as referred to in the sixth paragraph, the institution referred to in the fifth paragraph will draw up regulations that will lay down rules for the development and management of the Register of pensions. These regulations will in all cases contain rules regarding the (personal) information provided, the way in which these details will be provided, and the funding and security measures for the Register of pensions.

8. The approval of Our Minister is required for the regulations and any amendment to them.

9. That which in or pursuant to chapter 7 in respect to the supervision of the implementation of this Article by pension providers also applies to the implementation of this Article by the institution, as referred to in the fifth paragraph.
Article 52. Pension provider’s duty of care in defined contribution agreements with freedom of investment

1. In the administration of a defined contribution agreement with freedom of investment, the pension provider is responsible for the investments and will act in regard thereto in accordance with Article 135.
2. The pension provider will offer the scheme member and deferred beneficiary the option to take over responsibility for the investments.
3. If the scheme member or the deferred beneficiary takes over the responsibility for the investments, the pension provider will advise the scheme member or deferred beneficiary on the spread of the investments in relation to the duration of the period up to the pension date so as to continue to reduce the investment risk as the pension date approaches.
4. At least once a year, the pension provider will review whether the scheme member’s and deferred beneficiaries’ investments lie within the limits fixed based on the third paragraph, and will inform the scheme member and deferred beneficiary of the outcome of this review.
5. Section 4.2.3 of the Financial Supervision Act (Wet op het financieel toezicht) is accordingly applicable to the defined contribution agreements referred to in this Article if the scheme member or deferred beneficiary has taken over the responsibility for the investments.
6. Rules governing the provisions of this Article may be set by or pursuant to an Order in Council.

Article 53. Provision of benefits (in other member states)

The pension provider will pay the benefit under an entitlement to a pension right at the request of the pensionable person in a member state of the European Union other than the member state where the pension provider is domiciled; incurred transaction costs may be deducted from the benefit by virtue of the pension right.

Article 54. Administration of voluntary continuation

1. A pension provider may carry out voluntary continuation of the pension scheme for a scheme member who becomes a deferred beneficiary if the voluntary continuation continues for a period not exceeding three years from the end of the employment.
2. Contrary to the first paragraph, a term of ten years, following on the termination of the employment, applies insofar as the deferred beneficiary in question enjoys profit from business activities, as defined in Article 3.8 of the Income Tax Act 2001 (Wet inkomstenbelasting 2001) during that period.
3. From the period referred to in the first paragraph may be deviated if:
   a. at the end of the employment relationship, the scheme member is disabled. In that case, the period in which voluntary continuation continues is at most three years, or the duration of the disability, whichever is longer; or
   b. after the end of the employment relationship the scheme member receives a periodic benefit as a replacement of income lost in relation to the termination of the employment, under a system agreed between one or more employers and one or more employees. In that case, the period in which voluntary continuation can apply is at most three years, or the period in which the benefit is received, whichever is longer.
4. The voluntary continuation starts at the latest nine months after the termination of the employment. Article 14, second paragraph, is not applicable on the period starting the termination of the employment up to the starting of the voluntart continuation.
§ 4.2. Retention of pension entitlements

Article 55. Retention of accrued entitlements to pension upon end of scheme membership

1. For scheme members with a defined benefit agreement or an agreement to payment of a capital sum, upon the end of the participation the deferred beneficiary retains the pension entitlements accrued up to that moment. This pension right must be fully financed at the moment of termination. If the pension is made non-contributory under Article 29, fourth paragraph, this is taken into account in the determination of the accrued rights.

2. For defined contribution agreements, at the end of the participation the determination of the pension entitlements is performed as follows: the capital generated up to that moment from the defined premiums up to the end of participation is:
   a. invested until the pension date;
   b. applied towards the purchase of an insured capital that becomes available on the pension date;
   or
   c. applied for an insured lifelong benefit as from the pension date, whether or not in combination with a right to survivor’s pension.

3. If the structure of the defined contribution agreement is such that the set available premium is applied towards a benefit or capital immediately, and not only upon the end of the participation, then the first paragraph applies.

4. Scheme members and other entitlement beneficiaries who relocate to another member state of the European Union after the end of their participation in a pension scheme retain their pension entitlement to the same degree as scheme members and other entitlement beneficiaries who remain in the Netherlands after the end of participation.

5. If the pension agreement provides for a partner’s pension on a risk basis, the scheme member who after termination of the participation is entitled to a benefit under the Unemployment Insurance Act retains a right to a partner’s pension on his partner’s behalf during the period that the person receives a benefit. The amount of the partner’s pension is determined as if the same pension had been contracted on capital basis, by which is taken into account the partner’s pension received by virtue of Article 61. This paragraph is of similar use to the beneficiary who has the right to an unemployment benefit of his country of residence, after termination of participation.

Article 56. Retention of accrued pension entitlements to partner’s pension upon leave

If the pension agreement provides for a partner’s pension, the scheme member taking unpaid leave up to a maximum of 18 months during participation will not affect the coverage for the purposes of the partner’s pension.
Article 57. Retention of accrued pension entitlements in event of separation

1. If the partner relationship of a scheme member ends through separation, the former partner of the scheme member acquires such an entitlement to the partner’s pension that the scheme member would have retained for that former partner if the scheme member had ended participation at the moment of separation.

2. If the partner relationship of a deferred beneficiary ends through separation, and the deferred beneficiary has retained an entitlement to the partner’s pension for the former partner at the end of the participation, the entitlement moves on to the former partner of the deferred beneficiary.

3. If a partner relationship of a pensioner ends through separation, the former partner of the pensioner acquires an entitlement to the partner’s pension that the pensioner retained for the partner at the commencement of the old-age pension.

4. The first, second and third paragraphs do not apply if agreed otherwise by the partners in terms relating to the partner relationship or in a written agreement relating to the separation. The terms or agreement in question is/are only valid if the pension provider has declared its willingness to abide by them and is willing to either cover the risk arising from the non-standard arrangement or to adjust the level of the benefit.

5. A deferred partner with a right to a special partner’s pension as referred to in the first, second or third paragraph, is entitled to alienate this right to an earlier or later partner of the deceased scheme member, deferred beneficiary or pensioner, providing that:
   a. the pension provider is willing to cover any risk resulting from this transfer;
   b. the alienation is irrevocable; and
   c. this is agreed by deed executed before a notary.

Article 58. Equal treatment in event of supplements

1. If a right to an old-age pension of a pensioner who was not a deferred beneficiary is increased by means of a supplement, the right to an old-age pension of a pensioner who was a deferred beneficiary in the same pension scheme will be increased by the same degree.

2. If a right to a partner’s pension of the partner of a deceased pensioner who was not a deferred beneficiary is increased by means of a supplement, then the entitlement to a partner’s pension:
   a. for the partners of deceased pensioners who were deferred beneficiaries;
   b. for the partners of deceased deferred beneficiaries;
   c. for the partners of deceased scheme members; and
   d. for the former partners with a special partner’s pension;
   are increased to the same degree, providing that these rights arise from a pension agreement based on the same pension scheme as that of the deceased pensioner who was not a deferred beneficiary.

3. If a right to an old-age pension is increased by means of a supplement, the old-age pension entitlement of a deferred beneficiary who participated in the same pension scheme is increased to the same degree.

4. If an entitlement to a partner’s pension of a pensioner who was not a deferred beneficiary is increased by means of a supplement, then the partner’s pension entitlements:
   a. for the partner of a pensioner who was deferred beneficiary;
   b. for the partner of a deferred beneficiary; and
   c. for the former partner of the deferred beneficiary with a special partner’s pension;
   are increased to the same degree, providing that these entitlements arise from a pension agreement based on the same pension scheme as the scheme of the pensioner who was not a deferred beneficiary.

5. In the granting of supplements to partner’s pensions, no distinction between partners is made.

6. For the application of this Article, “deferred beneficiary” does not include the employee as defined in Article 1, point g, of the Privatisation of FVP Act (Wet privatisering FVP) who is entitled to a contribution from the Stichting Financiering Voortzetting Pensioenverzekering.

Article 59. No limitation period in favour of the pension provider

A legal claim against a pension provider for making payment of a benefit does not expire during the life of the pensionable person.
§ 4.3. Access to pension

Article 60. Right of option for higher old-age pension or earlier start for old-age pension

1. If a pension scheme under a pension agreement provides for the accrual of an old-age pension and a partner’s pension, the pension scheme will offer to the scheme member or deferred beneficiary, pertaining to periods of accrual beginning 1 January 2002, regardless of marital status, the right, in any event as from the date on which the old-age pension starts or can start, to opt for one of the following changes to the old-age pension instead of partner’s pension:
   a. a higher old-age pension;
   b. an earlier-starting old age pension; or
   c. a higher and an earlier-starting old-age pension.

2. The first paragraph does not apply to a former partner’s right to special partner’s pension.

3. If the pension agreement does not offer the right of option referred to in the first paragraph, the scheme member or deferred beneficiary has the entitlement to choose one of these options.

4. The pension provider will ensure that when this right of option is used, no distinction is made between men and women through the establishment of a conversion rate or accrual choice rate.

5. In adopting a conversion rate or accrual choice rate, the pension provider will ensure that the requirement of group actuarial equivalence is met, which entails that the group actuarial value of the old-age pension referred to in the first paragraph chosen in the place of the partner’s pension referred to in the first paragraph is, regardless of the date on which the option is selected, at least equal to the group actuarial value of that partner’s pension calculated on the same bases.

6. A choice as referred to in the first or third paragraphs requires the permission of the partner who is the beneficiary for the partner’s pension referred to in the first paragraph.

7. The fourth and fifth paragraphs are:
   a. in relation to defined benefit agreements and agreements to payment of a capital sum, applicable to pension entitlements accrued as from 1 January 2002;
   b. in relation to defined contribution agreements, only applicable to pension entitlements accrued as from 1 January 2005.

8. Insofar as application of the first paragraph in relation to pension entitlements accrued as the result of pensions accrued during a period in which premiums are waived, the first paragraph applies if the right to that continuation arose on or after 1 January 2002.

9. Contrary to the seventh paragraph, the fourth and fifth paragraphs may apply to pension entitlements accrued before 1 January 2002 or 1 January 2005, respectively, if this is agreed in the pension agreement.

10. Any stipulation in contravention with this Article is null and void.

11. With respect to the first up to and including fifth paragraph, further provisions will be laid down in or pursuant to an Order in Council.

Article 61. Right of option for conversion of old-age pension into partner’s pension

1. If a pension agreement provides for an old-age pension, the scheme member or deferred beneficiary is entitled to opt for a partner’s pension instead of an old-age pension or portion of an old-age pension, in any event:
   a. upon end of the participation; and
   b. as of the date on which the old-age pension starts or can start;
   the amount of partner’s pension will be a maximum of 70 percent of the old-age pension remaining after the conversion.

2. If a pension agreement provides for an old-age pension, then at the end of the participation and in the last year prior to the start of old-age pension the pension provider will normally offer the option referred to in the first paragraph.

3. The pension provider will ensure that when this right of option is used, no distinction is made between men and women by the establishment of a conversion rate and accrual choice rate.
4. In adopting a conversion rate or accrual choice rate, the pension provider will ensure that the requirement of group actuarial equivalence is met, which entails that the group actuarial value of the partner’s pension referred to in the first paragraph chosen in the place of the old-age pension referred to in the first paragraph is, regardless of the date on which the option is selected, at least equal to the group actuarial value of that old-age pension calculated on the same bases.

5. Rules in respect of the content of the option, the way in which the option will be offered and the group actuarial equivalence referred to in the fourth paragraph will be laid down by or pursuant to an Order in Council.

6. The option described in the first paragraph does not pertain to the portion of an old-age pension subject to a payment entitlement as defined in Article 2 of the Equalisation of Entitlement to a Pension Benefit in the event of a Divorce Act (Wet verevening pensioenrechten bij scheiding).

7. If the scheme member or deferred beneficiary does not respond on the option offered to him pursuant to the second paragraph in the final year before the start of the old-age pension within the term to respond set by the pension provider, the pension provider will proceed to convert the old-age pension into partner’s pension if:
   a. the pension agreement does not provide for an entitlement to partner’s pension as from the date on which the old-age pension commences; and
   b. the scheme member or deferred beneficiary is married or has a registered partnership.

8. The pension scheme will set out the ratio between the old-age pension and partner’s pension after conversion as referred to the seventh paragraph.

9. If the conversion referred to in the seventh paragraph would result in the old-age pension being lower on an annual basis than the amount determined pursuant to Article 66, then the ratio between old-age pension and partner’s pension referred to in the eighth paragraph will be adjusted so that the old-age pension is higher on an annual basis than the amount determined pursuant to Article 66.

Article 62. Options for other forms of conversion

1. If the pension agreement offers the scheme member or deferred beneficiary the option to:
   a. instead of a specific type of pension, opt fully or partially for a type of pension different than the pension referred to in Articles 60 and 61;
   b. advance or postpone the start date of the old-age pension;
   c. vary the amount of the old-age pension; or
   d. elect an option other than those referred to in the preceding parts;
   the pension provider will ensure that when this option is used, no distinction is made between men and women through the adoption of a conversion rate and accrual choice rate for each right of option that meets the requirement of group actuarial equivalence.

2. Use of one of the options referred to in the first paragraph requires the consent of the partner who is the beneficiary for the partner’s pension if the use of the option results in that partner’s pension being lowered.

3. The first paragraph is:
   a. in relation to defined benefit agreements and agreements to payment of a capital sum, applicable to pension entitlements accrued as from 1 January 2002;
   b. in relation to defined contribution agreements, only applicable to pension entitlements accrued as from 1 January 2005.

4. Insofar as application of the first paragraph in relation to pension entitlements accrued as the result of continuation of non-contributory pension accrual, the first paragraph applies if the right to that continuation arose on or after 1 January 2002.

5. Contrary to the third paragraph, the first paragraph may apply to pension entitlements accrued before 1 January 2002 or 1 January 2005, respectively, if this is agreed in the pension agreement.

6. With respect to the first paragraph, further regulations will be laid down in or pursuant to an Order in Council.
**Article 63. Variation in amount of pension benefit**

1. After the commencement date of the pension, the amount of a pension may vary, providing that:
   a. the lowest benefit does not amount to less than 75% of the highest benefit; and
   b. the degree of variation is fixed no later than on the commencement date of the pension.

2. In the period between the commencement date of the pension and reaching the age of 65, the portion of the benefit that corresponds to the amount referred to in Article 18d, third paragraph, of the Income Tax Act 1964 *(Wet op de loonbelasting 1964)*, is not considered for the application of the first paragraph.

**Article 64. Prohibition on alienation and option for power of attorney**

1. Alienation or any other action by which the entitlement beneficiary or pensionable person grants any right to his pension entitlements or pension rights to another is null and void, unless:
   a. pledge is granted to establish security for obtaining a deferment of payments as defined in Article 25, fifth paragraph, of the Collection of State Taxes Act 1990 *(De Invorderingswet 1990)*;
   b. alienation is pursuant to Article 57, fifth paragraph;
   c. settlement takes place by virtue of the Divorce Act *(Wet verevening pensioenrechten bij scheiding)*;
   d. under the terms of a settlement of pension rights at divorce instead of the entitlement beneficiary or the pensionable person, his former partner alternatively his partner is designated as a beneficiary for whole or a part of the old-age pension if the pension provider agrees with it; or
   e. under the terms of a settlement of pension rights at divorce the value of the whole or a part of the old-age pension of the entitlement beneficiary or the pensionable person will be applied for an old-age pension on the life of his former partner alternatively his partner at the same pension provider, providing that the pension provider agrees with it.

2. A power of attorney for collection of benefits under an entitlement to a pension right, in any form or under any title whatsoever, is revocable at any time.

**Article 65. Surrender**

1. Surrender is only possible in the situations referred to in or pursuant to Articles 66 up to and including 69 and 134 or, in the event of application of Article 3:161 of the Financial Supervision Act *(Wet op het Financieel Toezicht)*.

2. Any stipulation in contravention with this Article is null and void.

**Article 66. Surrender of small old-age pension upon end of participation**

1. The pension provider is entitled to, at the earliest two years after the end of the participation, surrender the pension entitlements of a deferred beneficiary, if based on the entitlement to old-age pension accrued up to the moment of end of the participation, the old-age benefit will amount to less than EUR 400 [Ed: as of 1 januari 2011: EUR 427,29] per year annually on the normal commencement date of the old-age pension, unless:
   a. this right to surrender is limited or excluded in the pension agreement and agreement of affiliation; or
   b. the deferred beneficiary within two years after the end of the participation has initiated the process of transfer of pension value.

2. If the normal commencement date of the old-age pension lies before the expiry of the two-year term specified in the first paragraph, then upon the start of the old-age pension the pension provider is entitled to surrender an entitlement to old-age pension and any other entitlements for the benefit of the pensioner or his surviving dependants if the benefit of the old-age pension amounts to less than EUR 400 [Ed: as of 1 januari 2011: EUR 427,29] per year on the commencement date.
3. A pension provider that wants to use the right referred to in the first paragraph will inform the deferred beneficiary of its decision to do so within six months after the end of the two-year period after termination of participation, and proceeds to make payment of the surrender value within that six-month period.

4. A pension provider that wants to use the right referred to in the second paragraph will inform the pensioner of its decision to do so within six months after the commencement of the pension, and proceeds to make payment of the surrender value within that six-month period.

5. The pension provider will make the surrender value of the pension entitlements available to the deferred beneficiary or pensioner, with the exception of the surrender value of any special partner’s pension, which will be made available to the former partner.

6. The pension provider pays the benefit on the day the entitlements or rights become payable by virtue of surrender.

7. The pension provider may surrender the pension after the term of two years and six months referred to in the third paragraph if:
   a. the deferred beneficiary or pensioner consents thereto;
   b. the annual amount of the old-age pension is lower than the threshold amount referred to in the first paragraph as of 1 January of that year.

8. Our Minister may revise the amount specified in the first and the second paragraph by ministerial regulation effective 1 January of any year based on the consumer price index, series All Households, as established by the Central Bureau of Statistics (CBS). The revision will be determined by the percentage change that that index figure undergoes over the month of October prior to the year of adjustment as compared to the month of October of the preceding year.

9. For periods of accrual as from 1 January 2005, the pension provider will ensure that in adopting a surrender rate for the determination of the surrender value, no distinction is made between men and women, so that the requirement of collective actuarial equivalence is met.

10. Any stipulation in contravention with this Article is null and void.

11. With respect to the determination of the surrender value referred to in the sixth paragraph, further provisions may be laid down in or pursuant to an Order in Council.

**Article 67. Surrender of small partner’s pension or orphan’s pension upon start**

1. The pension provider is entitled, in relation to the surviving relatives, to surrender a right to partner’s pension or orphan’s pension for the benefit of the surviving relatives of the same scheme member, deferred beneficiary or pensioner, if on the commencement date the annual benefit of the partner’s pension or orphan’s pension amounts to less than the amount set by virtue of Article 66, unless this right to surrender is limited or excluded in the pension agreement and agreement of affiliation.

2. The pension provider that uses the right referred to in the first paragraph will inform the surviving relative within six months after the commencement date, and proceeds to make payment of the surrender value to the surviving relative within that period.

3. The pension provider may surrender the partner’s pension or the orphan’s pension after the term referred to in the second paragraph if:
   a. the surviving relative consents thereto; and
   b. as of 1 January of that year, the annual amount of the partner’s pension or orphan’s pension is lower than the threshold amount referred to in Article 66.

4. Article 66, sixth and ninth up to and including eleventh paragraphs, is accordingly applicable.
Article 68. Surrender of small special partner’s pension upon separation

1. The pension provider is entitled, in relation to the former partner, to surrender an entitlement to special partner’s pension if on the commencement date the annual benefit of the partner’s pension amounts to less than the amount set based on Article 66, unless this entitlement to surrender is limited or excluded in the pension agreement and agreement of affiliation.

2. The pension provider who wants to make use of the right referred to in the first paragraph will inform the former partner within six months after the announcing of the divorce, and proceeds to make payment of the surrender value to the former partner within that period.

3. The pension provider may surrender the pension after the term referred to in the second paragraph if:
   a. the former partner consents thereto; and
   b. as of 1 January of that year, the annual amount of the partner’s pension is lower than the threshold amount referred to in Article 66.

4. Article 66, sixth and ninth up to and including eleventh paragraphs, is accordingly applicable.

Article 69. Competence to surrender pension in excess of tax threshold

1. The pension provider is authorized to effect surrender of the portion of the pension entitlements:
   a. that, at the moment immediately prior to the commencement of the pension, is based on an amount in excess of the thresholds referred to in Articles 18a, seventh paragraph, 18b, seventh paragraph, 18c, fifth and sixth paragraph and 18e, fourth paragraph of the Income Tax Act 1964 (Wet op de loonbelasting 1964), in compliance with Article 18d, first paragraph, points a, b and d of this law; or
   b. that, at the moment immediately prior to the moment at which the scheme member or deferred beneficiary ceases to be a domestic tax subject, exceeds the thresholds referred to in point a.

2. The pension provider will make the surrender value available to the scheme member or deferred beneficiary with the exception of the surrender value of any special partner’s pension, which will be made available to the former partner.

3. The pension provider will ensure that in adopting a surrender rate for the determination of the surrender value, no distinction is made between men and women, so that the requirement of collective actuarial equivalence is met.

4. The previous paragraphs are accordingly applicable to pension entitlements as referred to in Articles 38d, 38e and 38f of the Income Tax Act 1964 (Wet op de loonbelasting 1964).

5. Any stipulation in contravention with this Article is null and void.

6. Rules to govern the determination of the surrender value may be set by or pursuant to an Order in Council.

Article 70. Definition and scope of transfer of pension value

1. For the application of Articles 71 up to and including 92, the definition of receiving pension provider includes also:
   1°. an occupational pension fund as defined in Article 1 of the Compulsory Occupational Pension Schemes Act; and
   2°. the Stichting Notarieel pensioenfonds, as referred to in Article 113a, first paragraph of the Notaries Act.
2. By ministerial regulation, Our Minister may designate institutions towards which a pension provider has an obligation to the transfer of pension value.

3. Transfer of pension value is only possible in the situations specified in Articles 71 up to and including 92.

4. For the application of Articles 71 up to and including 92, the definition of a pension fund acting as a receiving pension provider also includes an occupational pension fund as defined in Article 1 of the Compulsory Occupational Pension Schemes Act or the Stichting Notarieel pensioenfonds referred to in Article 113a, first paragraph of the Notaries Act (Wet op het notarismbl).

Article 71. Obligation to transfer pension value at request of deferred beneficiary upon change of employer or joining an occupational pension scheme

1. The pension provider is obliged, after a request for transfer of pension value by a deferred beneficiary, to transfer the value of the deferred beneficiary's pension entitlements if:
   a. the employment or participation is terminated at the individual level;
   b. the transfer of pension value serves to enable the deferred beneficiary to acquire pension entitlements with the receiving pension provider of the new employer or the occupational pension scheme;
   except in the situations described in Articles 72 and 73.
   If the request of the deferred beneficiary is a request for transfer pension value of partner's pension the approval of the beneficiary partner is also required for the transfer of pension value.

2. The receiving pension provider is obliged, after a request for the transfer of pension value by a scheme member, to apply the transfer value towards acquisition of pension entitlements for that scheme member.

3. The transferring pension provider's obligation to transfer the pension value directly, and the receiving pension provider's obligation to apply the value, arises if within six months after the commencement of the acquisition of pension entitlements in the pension scheme performed by the receiving pension provider, the scheme member requests from the receiving pension provider a statement of his pension entitlements and then thereafter makes the request for the transfer of pension value to the receiving pension provider.

4. The receiving pension provider will ensure that the actuarial value of the pension entitlements to be acquired by the scheme member is at least equal to the value of the pension entitlements to be transferred as calculated on the same base.

5. The transferring and receiving pension providers will not charge the deferred beneficiary costs for the transfer of pension value.

6. Any stipulation in contravention with this Article is null and void.

7. Rules governing the calculation of the transfer value, the value of the pension entitlements to be acquired with the transfer value and the procedures to be complied with will be set by or pursuant to an Order in Council.

Article 71a. Exception to the obligation to transfer pension value in relation to surrender

The obligation as stated in Article 71 to transfer pension value does not apply if after the transfer the legislation of another state besides the Netherlands is applicable to the company pension arrangement and the abilities of surrendering the value of the transferred pension rights after the transfer are larger than in relation to this act.
Article 72. Exception to the obligation to transfer pension value in relation to financial position of pension provider or employer

The obligation to transfer pension value as referred to in Article 71 does not apply as long as:

a. the transferring or receiving pension provider is a pension fund for which the technical provisions are no longer fully covered by assets;
b. the transferring or receiving pension provider is an insurer:
   1°. subject to the emergency scheme referred to in Article 3:161 of the Financial Supervision Act (*Wet op het financieel toezicht*); or
   2°. that in bankrupt; or
c. the transferring pension provider is an insurer and supplementary contributions of the employer are necessary, but the financial position of the employer doesn’t allow the supplementary contributions according to a declaration in writing of an officially recognized accountant or auditor who is not bound to the organization.

Article 73. Exception to the obligation to transfer pension value in relation to date

The obligation to transfer pension value referred to in Article 71 does not apply in relation to pension entitlements placed with:

a. a pension fund, if participation ended prior to 8 July 1994;
b. an insurer, if the employment of the deferred beneficiary ended prior to 8 July 1994.

Article 74. Reinstatement of obligation to transfer pension value upon change of employer or joining an occupational pension scheme

1. If the circumstances specified in Article 72 no longer apply:
   a. the obligations referred to in Article 71 on the part of the transferring pension provider and the receiving pension provider are reinstated;
   b. the scheme member's obligation described in Article 71, third paragraph, to request a statement and then make a request for the transfer of pension value is extended by a term of six months after receipt of the notice referred to in the second paragraph.

2. A transferring pension provider that has received requests for the transfer of pension value in the period in which it is subject to the circumstances referred to in Article 72 will notify all scheme members who have become deferred beneficiaries in that period as well as the receiving pension providers in question when those circumstances no longer apply, indicating that the option to transfer pension value has become available.

3. A receiving pension provider that has received requests for the transfer of pension value in the period in which it is subject to the circumstances referred to in Article 72 will notify all scheme members who have made a request in that period as well as the transferring pension providers in question when those circumstances no longer apply, indicating that the option to transfer pension value has become available.

Article 75. Competence to transfer pension value at request of deferred beneficiary upon change of employer or joining an occupational pension scheme

1. If the situation referred to in Article 71 does not create an obligation to transfer pension value because:
   a. the scheme member has not met the obligation of Article 71, third paragraph, to request a statement within six months; or
   b. of the situation referred to in Article 73;
   the pension provider is authorized to transfer the pension value if the conditions referred to in Article 71, first and fourth paragraph are met.
2. If the situation referred to in Article 71 does not give rise to an obligation to transfer pension value because the termination is not individual, the pension provider is authorized to carry out the transfer of pension value if:
   a. the conditions referred to in Article 71, first paragraph, points b and second sentence and fourth paragraph are met;
   b. the transferring and receiving pension providers to which a request for the transfer of pension value is made by a group of deferred beneficiaries have registered this request in writing with the supervisory body; and
   c. within three months after the registration, the supervisory body has not imposed a prohibition on the transfer of pension value on either of the pension providers.

3. If the financing of the entitlements of the deferred beneficiary by the transferring pension provider is not yet complete in accordance with Article 55, the pension provider may, despite the lower pension value and the resulting lower pension entitlements with the receiving pension provider, transfer the pension value if the deferred beneficiary and his partner consent thereto in writing and providing that the situation referred to in Articles 72, point c, or 73 applies.

Article 76. Obligation to transfer pension value at the request of scheme member in case of different pension agreement with same employer

1. The pension provider is obliged, after a request for transfer of pension value by a deferred beneficiary, to transfer the value of the deferred beneficiary’s pension entitlements:
   a. in the case of the end of participation at the individual level in the event of new or continued employment with the same employer, and;
   b. if the transfer of pension value serves to enable the deferred beneficiary to acquire pension entitlements with the receiving pension provider;
   unless the transferring and receiving pension providers are not identical and in case of the situations described in Article 72.
   If the request of the deferred beneficiary is a request for transfer of pension value of partner’s pension the approval of the beneficiary partner is also required for the transfer pension value.

2. The receiving pension provider is obliged, after a request for the transfer of pension value by a scheme member, to apply the transfer value towards acquisition of pension entitlements for that scheme member.

3. The transferring pension provider’s obligation to transfer the pension value directly, and the receiving pension provider’s obligation to apply the value, arises if within six months after the start of the acquisition of pension entitlements in the pension scheme performed by the receiving pension provider, the scheme member requests from the receiving pension provider a statement of his pension entitlements and then makes the request for the transfer of pension value to the receiving pension provider.

4. The transfer value will be determined by the transferring pension provider such that the entitlement to a pension right to be acquired are equal for men and women, so that the requirement of group actuarial equivalence under the same bases is met.

5. The fourth paragraph:
   a. in relation to defined benefit agreements, applies to pension entitlements accrued or to be accrued as from 1 January 2002;
   b. in relation to defined contribution agreements and agreements to payment of a capital sum, applies to pension entitlements accrued or to be accrued as from 1 January 2005;
6. In deviation from the fifth paragraph, the fourth paragraph may apply to pension entitlements accrued before 1 January 2002 or 1 January 2005, respectively, if this is agreed in the pension agreement.

7. The transferring and receiving pension providers will not charge the deferred beneficiary costs for the transfer of pension value.

8. Any stipulation in contravention with this Article is null and void.

9. Rules governing the calculation of the transfer value, the value of the pension entitlements to be acquired with the transfer value and the procedures to be complied with will be set by or pursuant to an Order in Council.

Article 77. Reinstatement of the obligation to transfer pension value in case of different pension agreement with same employer

If in the situation referred to in Article 76, the circumstances specified in Article 72 no longer apply, the obligation to transfer pension value in accordance to Article 74 is reinstated.

Article 78. Competence to transfer pension value at scheme member’s request in case of different pension agreement with same employer

1. If in the situation referred to in Article 76, no obligation to transfer pension value arises because the scheme member has not met the obligation described in Article 76, third paragraph, to request a statement within six months, the pension provider is authorized to carry out the transfer of pension value if the conditions set out in Article 76, first and fourth paragraphs, are met.

2. If in the situation referred to in Article 76, no obligation to transfer pension value arises because the termination is not individual, the pension provider is authorized to carry out the transfer of pension value if:
   a. the conditions referred to in Article 76, first paragraph, points b and second sentence and fourth paragraph are met;
   b. the transferring and receiving pension providers to which a request for transfer of pension value is made by a group of deferred beneficiaries are not identical, and they have notified this in writing to the supervisory body; and
   c. within three months after the notification, the supervisory body has not imposed a prohibition on the transfer of pension value on either of the pension providers.

Article 79. Obligation to apply value in cases of right of option or option

1. At the request of the scheme member or deferred beneficiary, the pension provider is obliged to apply the value of that person's pension entitlements in the context of the right of option in accordance with Articles 60 and 61 or the options in accordance with Article 62.

2. The pension provider will not charge the scheme member or the deferred beneficiary costs for the transfer of pension value.

Article 80. Competence to transfer pension value for pension funds on the pension date by virtue of the pension agreement

1. A pension fund is authorized to, at request of the scheme member, deferred beneficiary or other entitlement beneficiaries, transfer the value of that person’s pension entitlements under an agreement to payment of a capital sum or defined contribution agreement which is covered by the payment of an appropriated capital sum on the pension date, directly to another pension provider on the pension date if:
   a. the pension agreement so allows;
   b. the transfer value will be determined by the transferring pension fund in such a way that the pension rights to be acquired are equal for men and women, so that the requirement of group actuarial equivalence under the same bases is met; and
c. if the receiving pension provider is a pension fund: the scheme member, deferred beneficiary or other entitlement beneficiaries already has pension rights against that pension fund. If the request of the scheme member or deferred beneficiary is a request for transfer of pension value of partner’s pension the approval of the beneficiary partner is also required for the transfer pension value.

2. The first paragraph, point b, applies to pension entitlements accrued as from 1 January 2005.

3. Insofar as application of the first paragraph in relation to pension entitlements accrued as the result of continuation of non-contributory pension accrual, the first paragraph, point b, only applies if the right to that continuation arose on or after 1 January 2002.

4. Contrary to the second paragraph, the terms set out in the first paragraph, point b, may apply to pension entitlements accrued before 1 January 2005 if this is agreed in the pension agreement.

5. Any stipulation in contravention with this Article is null and void.

6. Further rules to govern the determination of the transfer value may be set by or pursuant to an Order in Council.

Article 81. Obligation for transfer of pension value for insurers upon reaching pension date

1. The insurer is obliged to, at the request of the scheme member, deferred beneficiary or other entitlement beneficiaries, transfer the value of that person’s pension entitlements under an agreement to payment of a capital sum or defined contribution agreement that provides for the benefit of a capital to be applied on the pension date, as per the pension date, to another pension provider if:
   a. the transfer value will be determined by the transferring insurer such that the entitlement to a pension right to be acquired are equal for men and women, so that the requirement of group actuarial equivalence under the same bases is met;
   b. if the receiving pension provider is a pension fund, the scheme member, deferred beneficiary or other entitlement beneficiaries already has pension entitlements against that pension fund. If the request of the scheme member or the deferred beneficiary to transfer pension value is a request for transfer value of partner’s pension, the approval of the beneficiary partner is also required for the transfer pension value.

2. The first paragraph, point a, applies to pension entitlements accrued as from 1 January 2005.

3. Insofar as application of the first paragraph in relation to pension entitlements accrued as the result of continuation of non-contributory pension accrual, the first paragraph, point a, only applies if the entitlement to that continuation arose on or after 1 January 2002.

4. Contrary to the second paragraph, the terms set out in the first paragraph, point a, may apply to pension entitlements accrued before 1 January 2005 if this is agreed in the pension agreement.

5. Any stipulation in contravention with this Article is null and void.

6. Further rules to govern the determination of the transfer value may be set by or pursuant to an Order in Council.

Article 81a. Obligation of premium pension institutions to transfer pension value as at the date of conversion into pension benefit or upon reaching pension date

1. The premium pension institution is obliged to directly transfer the value of the pension entitlements of the scheme member, deferred beneficiary or other entitlement beneficiary on the date on which the entitlements are converted into a pension benefit to an insurer to be designated by the premium pension institution.

2. Contrary to the provisions of the first paragraph, the premium pension institution is obliged at the request of the scheme member, deferred beneficiary or other entitlement beneficiary to directly transfer the value of his pension entitlements as at the pension date to a pension provider designated by the scheme member, deferred beneficiary or other entitlement beneficiary.
The following conditions apply in this respect:

a. if the pension administrator designated by the scheme member, deffered beneficiary or other entitlement beneficiary is a pension, fund that the scheme member, deffered beneficiary or other entitlement beneficiary already has pension entitlements vis-à-vis that pension fund; and

b. the recipient pension provider uses the same method as the premium pension institution to comply with the requirement to treat men and women equally.

If the request by the scheme member or deffered beneficiary is for a value transfer of a partner’s pension then a further requirement imposed in respect of the value transfer of this partner’s pension is that the partner who is the beneficiary for the partner’s pension agrees to the value transfer.

3. The premium pension institution will calculate the transfer value in such a way that the pension rights to be acquired for men and women are equal, whereby the requirement of group actuarial equivalence must be satisfied on the basis of the same principles.

4. The third paragraph applies to pension entitlements accrued from 1 January 2005 onwards.

5. In so far as it relates to pension entitlements that are accrued as the result of a non-contributory continuation of these entitlements then the third paragraph applies if the entitlement to non-contributory continuation arose on or after 1 January 2002.

6. Contrary to the provisions of the fourth paragraph, the conditions set out in the third paragraph may apply to pension entitlements accrued prior to 1 January 2005 if this has been agreed in the pension agreement.

7. Any proviso that conflicts with this Article shall be null and void.

8. By or pursuant to an Order in Council, further rules may be established for calculating the transfer value.

Article 82. Transfer of pension capital on pension date

1. In the case of a transfer of pension capital on the pension date for the purchase of a periodic pension benefit, the transferring pension provider will transfer the pension capital:

   a. to the recipient pension provider designated by the scheme member or deffered beneficiary on the pension date or no later than eight weeks after the relevant request by the scheme member or deffered beneficiary if he made this request less than eight weeks before the pension date;

   b. to the recipient pension provider designated by the entitlement beneficiary, who is not the scheme member or deffered beneficiary, no later than eight weeks after the relevant request by this entitlement beneficiary.

2. The transferring pension provider is obliged to reimburse any loss that the scheme member, deferred beneficiary or other entitlement beneficiary incurs as the result of late transfer attributable to that pension provider; the loss is at least equal to the statutory interest on the pension capital transferred.
Article 83. Competence of group transfer of pension value at request of employer

1. The pension provider is authorized to transfer the pension value at group level at the employer's request, if:
   a. the transfer of pension value serves, in relation to the termination of the agreement of affiliation between the employer and the transferring pension provider, to place the pension value with the receiving pension provider with which the employer has entered into an agreement of affiliation;
   b. the employer is taken over as the result of a transfer of a company as defined in Article 662 of Book 7 of the Dutch Civil Code, and the receiving company has entered into or will enter into an agreement of affiliation with another pension provider or the same pension provider; or
   c. the transfer of pension value serves, in relation to a group amendment of the pension agreements, to apply the value of pension entitlements or pension rights to the same pension provider in accordance with those amended pension agreements.

2. A transfer of pension value at group level as defined in the first paragraph must meet the following conditions:
   a. the scheme members, deferred beneficiaries, former partners or pensionable persons have not notified the pension provider of any objections against the transfer of pension value after being informed in writing of the intention to carry out the transfer;
   b. the transfer value will be determined by the transferring pension provider such that the pension rights to be acquired are equal for men and women, so that the requirement of group actuarial equivalence under the same bases is met; and
   c. the transferring pension provider notifies the supervisory body in writing of the intention to carry out the transfer of the pension value to a pension provider, no later than three months before the intended date of transfer, and within that period the supervisory body does not impose a prohibition on the transfer.

3. The second paragraph, point b, is:
   a. for defined benefit agreements: applicable to pension entitlements accrued as from 1 January 2002;
   b. for defined contribution agreements and agreements to payment of a capital sum: applicable to pension entitlements accrued as from 1 January 2005.

4. For pension entitlements accrued prior to the dates given in the third paragraph, the requirement of individual actuarial equivalence, as set out in Article 71, fourth paragraph, applies unless the pension agreement stipulates that the conditions set out in the second paragraph, point b, apply.

5. Insofar as application of the first paragraph relates to pension entitlements accrued as the result of continuation of non-contributory pension accrual, point b of the second paragraph applies if the right to that continuation arose on or after 1 January 2002.

6. Any stipulation in contravention with this Article is null and void.

7. Rules to govern the determination of the transfer value may be set by or pursuant to an Order in Council.

Article 84. Obligation to transfer pension value at group level in event of liquidation of the pension provider

1. The pension provider is obliged to transfer the pension value to another pension provider in the event of its own liquidation.

2. In the event of a transfer of pension value as referred to in the first paragraph, the following conditions apply:
   a. the transferring pension provider notifies the supervisory body in writing of the intention to carry out the transfer of pension value to a pension provider, no later than three months before the intended date of transfer of the pension value, and within that period the supervisory body does not impose a prohibition on the transfer;
   b. the transfer value will be determined by the transferring pension provider such that the pension rights to be acquired are equal for men and women, so that the requirement of group actuarial equivalence under the same bases is met.
3. The second paragraph, point b, is:
   a. for defined benefit agreements: applicable to pension entitlements accrued as from 1 January 2002;
   b. for defined contribution agreements and agreements to payment of a capital sum: applicable to pension entitlements accrued as from 1 January 2005.
4. For pension entitlements accrued prior to the dates given in the third paragraph, the requirement of individual actuarial equivalence, as set out in Article 71, fourth paragraph, applies unless the pension agreement stipulates that the conditions set out in the second paragraph, point b, apply.
5. Insofar as application of the first paragraph relates to pension entitlements accrued as the result of continuation of non-contributory pension accrual, point b of the second paragraph only applies if the right to that continuation arose on or after 1 January 2002.
6. Any stipulation in contravention with this Article is null and void.
7. Rules to govern the determination of the transfer value may be set by or pursuant to an Order in Council.

Article 85. Obligation for transfer of pension value to a pension institution from another member state or insurer with domicile outside of the Netherlands, at request of deferred beneficiary

1. Upon a request of the deferred beneficiary to transfer the transfer value of his pension entitlements to a pension institution from another member state or an insurer with its domicile outside of the Netherlands as defined in Article 23, first paragraph, the pension provider is obliged to do so if the conditions specified in Article 71 are met, provided that:
   a. the requirement set in Article 72 with regard to the receiving pension provider does not apply;
   and providing that
   b. the options for surrender of the value of the transferred pension entitlements after transfer are not more liberal than under this Act.
2. If the obligation for transfer of the pension value temporarily ceases as a result of the circumstances identified in Article 72, but this obligation is reinstated in accordance with Article 74, then Article 74, third paragraph, does not apply.
3. The transferring pension provider will not charge the deferred beneficiary costs for the transfer of pension value.

Article 86. Obligation to transfer pension value to one of the European Communities or designated institution

1. The pension provider is obliged, after a request by a deferred beneficiary to transfer the value of the deferred beneficiaries’ pension entitlements to one of the European Communities or to an institution designated by Our Minister pursuant to Article 70, second paragraph, if:
   a. the employment or participation is terminated;
   b. the transfer of pension value serves to enable the deferred beneficiary to acquire pension entitlements with one of the European Communities or the specific designated institution; and
   c. the value is transferred directly to the European Community or designated institution in question.
   If the request of the deferred beneficiary to transfer pension value is a request for transfer value of partner’s pension, the approval of the beneficiary partner is also required for the transfer of pension value.
2. The transferring pension provider will not charge the deferred beneficiary costs for the transfer of pension value.
3. The rules governing the calculation of the transfer value set by or pursuant to an Order in Council pursuant to Article 71, seventh paragraph, are accordingly applicable.
Article 87. Competence to transfer pension value to another institution

1. A pension provider receiving a request from a deferred beneficiary to transfer that deferred beneficiary’s pension value to a foreign institution will report this request to the supervisory body.
2. Transfer of pension value to a foreign institution is only allowed if it is demonstrated to the satisfaction of the supervisory body that:
   a. the conditions referred to in Article 71, first paragraph, are met;
   b. the circumstances specified in Article 72 do not apply to the transferring pension provider;
   c. the foreign institution will carry out the pension scheme of the new employer;
   d. the foreign institution is subject to a form of governmental supervision in its country of establishment;
   e. the assets of the institution and the employer are kept separate in the legal sense by the existence of a separate legal entity of the institution, by a special preference system for the benefit of pension beneficiaries or by other means; and
   f. the options for surrender of the transferred pension entitlements after transfer are not more liberal than under this Act.

Article 88. Competence to transfer pension value to a pension institution from another member state or insurer with domicile outside of the Netherlands, at request of deferred beneficiary upon change of employer or joining an occupational pension scheme

Upon a request of the deferred beneficiary to transfer the value of his pension entitlements to a pension institution from another member state or an insurer with its domicile outside of the Netherlands as defined in Article 23, first paragraph, the pension provider is authorized to do so if the conditions specified in Article 75 are met.

Article 89. Competence to transfer pension value to a pension institution from another member state or insurer with domicile outside of the Netherlands, upon reaching pension date under pension agreement

Upon a request of the scheme member, deferred beneficiary or other entitlement beneficiaries to transfer the value of his pension entitlements under an agreement to payment of a capital sum or defined contribution agreement as of the pension date directly to a pension institution from another member state or an insurer with its domicile outside of the Netherlands as defined in Article 23, first paragraph, the pension provider is authorized to do so if the conditions specified in Article 80 are met.

Article 90. Group transfer of pension value to pension institution from another member state or insurer with domicile outside of the Netherlands

1. Upon a request of the employer to effect a group transfer of pension value in accordance with Article 83, the pension provider is authorized to do so if the employer has entered into an agreement of affiliation with a pension institution from another member state or an insurer with its domicile outside of the Netherlands as defined in Article 23, first paragraph.
2. The obligation for transfer of pension value in the event of liquidation as set out in Article 84 can also be met by transfer of pension value to a pension institution from another member state or an insurer with its domicile outside the Netherlands as defined in Article 23, first paragraph, instead of to a pension provider.
Article 91. Obligation to cooperate with transfer of pension value

1. If a pension provider receives the request to, for the purposes of a transfer of pension value from a pension institution from another member state or an insurer with its domicile outside of the Netherlands relating to a pension agreement to which this Act does not apply up to the moment of the transfer of pension value in question, the pension provider is obliged to act as receiving pension provider for that transfer, providing that:
   a. the transfer of pension value serves to enable the requesting employee to acquire pension entitlements with the receiving pension provider;
   b. the circumstances specified in Article 72 do not apply to the pension provider; and
   c. the pension provider is not made subject to any conditions contrary to this Act for the purposes of the transfer of pension value.
   If the request of transfer of pension value concerns partner’s pension the approval of the beneficiary partner is also required for the transfer of pension value.

2. The receiving pension provider will not charge the scheme member costs for the transfer of pension value.

Article 92. Competence to cooperate with transfer of pension value

If a pension provider receives the request to, for the purposes of a transfer of pension value relating to a pension agreement to which this Act does not apply up to the moment of the transfer of pension value in question, accept pension value from a foreign institution, the pension provider is authorized to act as receiving pension provider for that transfer, providing that:
   a. the transfer of pension value serves to enable the requesting employee to acquire pension entitlements with the receiving pension provider;
   b. the circumstances specified in Article 72 do not apply to the pension provider; and
   c. the pension provider is not made subject to any conditions contrary to this Act for the purposes of the transfer of pension value.
   If the request of transfer of pension value concerns partner’s pension the approval of the beneficiary partner is also required for the transfer of pension value of partner’s pension.

§ 4.4. Rights of the pension provider in the context of administration

Article 93. Information from municipal personal records database

Information from the municipal personal records database (gemeentelijke basisadministratie) and information and extracts from the register of births, deaths and marriages that the pension provider requires for the purposes of performing its task are free of charges.

Article 94. Civilian service number, or by the omission of the civilian number, the social security number

1. The pension provider may enter the civilian service number, or by the omission of the civilian number, the social security number referred to in Article 1 of the General Provisions on the Civilian Service Number Act (Wet algemene bepalingen burgerservicenummer) into a register of persons administered by the pension provider; the civilian service number may be used when information is provided from this register.

2. The pension provider will use this civilian service number, or by the omission of the civilian service number, the social security number solely:
   a. in interactions with the person to whom the number pertains; or
   b. in contacts with persons and institutions insofar as such persons/institutions are independently authorized to enter the civilian service number, or by the omission of the civilian number, the social security number in a registration of persons.
§ 4.5. Other provisions

Article 95. Provisional granting of supplements

1. In the event of provisional granting of supplements, there must be consistency between the expectations created, the financing and the effecting of the supplements provisionally granted.

2. An interpretation is given to the definition of consistency by regulation of Our Minister, referred to in the first paragraph. A regulation as defined in the first sentence can be set within four weeks after the draft is sent to both Houses of the States General.

3. A supplement is only provisional if the pension agreement, the agreement of affiliation, the pension scheme, the statements pursuant to Articles 21, 38 up to and including 46 and the other information provided by the pension provider include a provisional supplement disclaimer.

4. Our Minister may set rules on the content of the provisional supplement disclaimer.

Article 96. Information in annual report concerning penalties and fines

A pension provider will state in its annual report whether, in the preceding financial year:

a. the pension provider has been subject to any penalties and fines, and if so, the total amount of these penalties and fines;

b. an instruction as defined in Article 171 has been given to the pension provider;

c. a conservator as defined in Article 173 has been appointed;

d. a short-term recovery plan as defined in Article 140 applies;

e. a long-term recovery plan as defined in Article 138 applies;

f. the situation referred to in Article 172, in which the exercise of authority by all or certain bodies of a pension fund is made subject to the approval of the supervisory body, has ended.

Article 97. Participation during secondment

1. A seconded employee may continue to participate in the pension scheme during secondment.

2. If during secondment in the Netherlands, the payment of contributions is continued in another member state, the employee seconded in the Netherlands and his employer are exempted from the obligation to pay contributions in the Netherlands.

3. The first and second paragraphs apply to secondments that commenced on or after 25 July 2001.

Article 98. Death as the result of an excluded cause

If a scheme member, deferred beneficiary or pensioner dies as the result of a cause excluded from the risk, and the pension is an accrual-based partner’s pension, then the pension provider will make a periodic partner’s pension benefit payment based on the paid-up value calculated as of the day prior to the date of death.

Article 98a. Execution of foreign pension scheme

The Dutch social and labour legislation is not applicable in case a pension provider executes a pension scheme to which the legislation of another state besides The Netherlands is applicable.
CHAPTER V. General provisions in relation to pension funds

§ 5.1. Pension funds general

Article 99. Composition of pension fund management board

1. The representatives of employers’ associations and of employees’ associations in the relevant sector or sectors will hold equal numbers of seats on the management board of an industry-wide pension fund.

2. If the articles of association of an industry-wide pension fund provide for voting-authorized representatives on the management board of parties other than employers’ associations or employees’ associations within the relevant sector or sectors, then for the purposes of application of the first paragraph these representatives will be deemed equivalent to the representatives of employees associations.

3. Employees’ representatives will hold at least as many seats on the management board of a company pension fund as employers’ representatives, provided that if representatives of pensionable persons hold seats, then these representatives, together with the employees’ representatives, must hold at least as many seats as the employers’ representatives.

4. If a company pension fund executes pension schemes for multiple companies or groups, every company or group will be represented by at least one employee representative and one employer representative in the board of directors.

5. The appointment of the employees’ representatives to the management board of a company pension fund takes place:
   a. after election of the representatives by and from the ranks of the scheme members;
   b. at the nomination of the representatives of the scheme members in a participants’ council as defined in Article 110;
   c. at the nomination of the works council; or
   d. in another way, providing that the works council has consented to the method of appointment.

6. If the articles of association of a company pension fund provide for voting-authorized representatives on the management board of parties other than employees or the employer, then for the purposes of application of the third and fourth paragraph these representatives will be deemed equivalent to the representatives of the employees.

7. The third up to and including sixth paragraph do not apply as far as a company or group which the pension fund was associated to has ceased to exist.

Article 100. Option of participation in company pension fund

1. A company pension fund for which:
   a. the number of pensionable persons is at least 10% of the sum of the number of scheme members and the number of pensionable persons and for which the number of pensionable persons is at least 25; or
   b. the number of pensionable persons is 1000 or more;
   will appoint a participants’ council in which representatives of pensionable persons have seats or will have a management board in which representatives of pensionable persons will have seats.

2. The company pension fund will consult the pensionable persons in writing on the method in which the participation of pensionable persons referred to in the first paragraph will be structured, unless the company pension fund already has a participants’ council and a management board in which representatives of the pensionable persons are seated.

3. In matters relating to the way in which participation of pensionable persons is structured, the company pension fund will follow the wish of the majority of pensionable persons expressing a preference, providing that at least half of the number of pensionable persons have expressed a preference, unless there are serious reasons to deviate from the choice made by the majority of the pensionable persons.
Article 101. Representatives of pensionable persons on the management board of the company pension fund

1. The seats of employees’ representatives and representatives of pensionable persons will be assigned based on the proportions of their respective numbers, with the proviso that the representatives of pensionable persons will hold no more than half of the number of seats on the management board of a company pension fund held by employees’ representatives and representatives of pensionable persons combined.

2. Contrary to the first paragraph, representatives of pensionable persons may hold more seats than employees’ representatives if the number of scheme members totals less than 10% of the sum of the number of scheme members and pensionable persons.

3. Contrary to the first paragraph, representatives of pensionable persons can occupy less seats than the amount of seats based on the proportions of their respective numbers, as defined in the first paragraph, if pensionable persons at the consultation, defined in Article 100, second paragraph, have chosen for a participants’ council and the representatives of pensionable persons already occupied seats before the consultation.

4. The appointment of the representatives of pensionable persons to the management board of a company pension fund will take place after election of the representatives by and from the ranks of the pensionable persons.

Article 102. Notification regarding the establishment of a pension fund

1. Within three months after its establishment, the pension fund will notify its establishment to the supervisory body by means of a form prescribed by the supervisory body.

2. The notification referred to in the first paragraph will be accompanied by:
   a. a valid copy of the deed of incorporation of the pension fund;
   b. a copy of the rules and the regulations of the pension fund, authenticated by management board;
   c. a copy of the agreement of affiliation, authenticated by the management board;
   d. an actuarial and technical business report as referred to in Article 145; and
   e. the agreement of re-insurance, transfer or classification (if any).

Article 103. Forwarding of amendments to official documents

The pension fund will send:
   a. a true copy of the deed of amendment to the articles of association;
   b. a copy of amendment to the rules/regulations, authenticated by the management board;
   c. a copy of amendments to the agreement of affiliation, authenticated by the management board;
   d. a copy of amendments to the actuarial and technical business report as referred to in Article 145; and
   e. a copy of amendments to the re-insurance, transfer or classification agreement (if any), authenticated by the management board;

to the supervisory body within two weeks after such amendments are effected.

Article 104. Protection of members of pension fund management board, participants’ council and accounting body

1. The employer will ensure that the employees who are on or who have been on a candidate list for the participants’ council or accounting body, as well as the members and former members of the pension fund management board, participants’ council or accounting body are not disadvantaged as employees as a result of their candidacy for or membership of the pension fund management board, participants’ council or accounting body.

2. If in its capacity as employer, the pension fund has added a secretary to the participants’ council or accounting body, the first paragraph is to that secretary accordingly applicable.

3. The first paragraph is accordingly applicable to the party taking or has taken the initiative to set up a participants’ council.
4. The participants’ council, the accounting body and an employee within the meaning of the first through third paragraphs may request the subdistrict court to determine that the employer must comply with the provisions of these paragraphs.

5. The employment contract of an employee who is a member of a management board of a pension fund, a participants’ council or an accounting body cannot be terminated by the employer. If the employer has added a secretary to a pension fund participants’ council or accounting body, the first sentence is to that secretary accordingly applicable.

6. Without the advance permission of the subdistrict court, the employer may not terminate the employment contract with an employee who is placed on a candidate list for a management board of a pension fund, a participants’ council or an accounting body or who has been a member of a management board of a pension fund, a participants’ council or an accounting body for a period less than two years.

7. The subdistrict court is being petitioned for permission. The subdistrict court will only grant its permission if the employer has plausibly demonstrated that termination is not related to a circumstance as referred to in the first paragraph. The decision may not be appealed.

8. For persons employed by the employer pursuant to a public-law appointment, a sector of the district court other than the subdistrict court will carry out this function.

9. The fifth up to and including eighth paragraphs do not apply to termination during the probationary period, for urgent reasons, if the employee consents with the termination in writing, or if the termination is effected due to the termination of the activities of the company or an element of the company in which the employee is solely or primarily active.

Article 105. Requirements in relation to policy, expertise and trustworthiness

1. Matters of everyday policy of a pension fund will be determined by at least two natural persons.

2. The persons who determine or co-determine the policy of a pension fund will, in the performance of their duties, follow the interests of the scheme members, deferred beneficiaries, other entitlement beneficiaries, the pensionable persons and the employer, and will ensure that these parties can feel that the representation of these persons is balanced.

3. The policy of a pension fund will be determined or co-determined by persons with expertise relating to the operation of the pension fund’s business.

4. Any member of the management board of a pension fund is authorized to consult an expert, or to be assisted in a meeting by an expert pursuant to a resolution of the management board by which at least one-fourth of the members of the management board has expressed an opinion.

5. The management board of a pension fund bears the responsibility for ensuring that the trustworthiness of persons co-determining the policy of the pension fund is beyond question.

6. The management board of a pension fund will report any change in the roster of persons (co-)determining the policy of the pension fund in advance.

7. A change as referred to in the sixth paragraph will not be carried out if:
   a. the supervisory body informs the pension fund within six weeks of receipt of the notification of the change that it does not consent to the proposed change; or
   b. the supervisory body has requested further information and within six weeks after receiving that information the supervisory body informs the pension fund that it does not consent to the proposed change.

8. If a change in the history of the persons occurs that is of impact on the trustworthiness of those persons, referred to in the fifth paragraph, the pension fund will immediately notify the supervisory body in writing.

9. The trustworthiness of a person is beyond question if so determined at any point by the supervisory body for the application of this Act, providing that no change in the relevant facts or circumstances gives any reasonable grounds for a new assessment.

10. Rules with respect to the third and fifth up to and including eighth paragraphs will be laid down in or pursuant to an Order in Council.
Articles 106. Articles of Association

1. The articles of association of a pension fund will contain provisions relating to:
   a. the objective of the pension fund, including a description of the scope;
   b. the designated use of the pension fund’s assets;
   c. the management of the pension fund;
   d. the income of the pension fund;
   e. the investment of the funds;
   f. the way in which the members of the management board are appointed;
   g. the way in which the members of the participants’ council are selected;
   h. the amendment of the articles of association;
   i. the liquidation of the pension fund, including the obligations of the liquidators and the designated use of the assets of the pension fund;
   j. the way in which the internal supervision is organized;
   k. the way in which the members of the accounting body are appointed and dismissed; and
   l. the way in which the agreement of affiliation is ended as referred to in Article 2, twelfth paragraph.

2. For an industry-wide pension fund, the description of the scope, as referred to in point a of the first paragraph, is provided by describing the business activities of the sector.

3. An industry-wide pension fund offering employers the option to voluntarily join the industry-wide pension fund will set out in its articles of association the conditions under which this option is allowed.

Article 107. Prohibition on age limit

Any provision that disallows membership of the management board, a participants' council or an accounting body for the reason of having reached a given age is null and void.

Article 108. Right of consent

Unless determined otherwise in this Act, any provision that entails a right of consent of a party that is not a body of the pension fund in regard to a resolution or intended resolution of the pension fund is null and void.

Article 108a. Converting a pension fund

1. To convert a pension fund into another legal entity as referred to in Article 18 of Book 2 of the Dutch Civil Code (Burgerlijk Wetboek), a certificate of incorporation is required.

2. Rules with respect to the first paragraph will be laid down in or pursuant to an Order in Council.
§ 5.2. Participants’ council

Article 109. Creation of participants’ council for industry-wide pension fund

1. An industry-wide pension fund will create a participants’ council.
2. The scheme members and the pensionable persons will be represented on the participants’ council proportionally in accordance with their respective numbers.
3. In addition to the representatives referred to in the second paragraph, one or more representatives of deferred beneficiaries may be given seats on the participants’ council based on criteria to be determined by the management board of the pension fund.
4. If the members of the participants’ council are elected by scheme members, deferred beneficiaries and pensionable persons, candidates may be proposed by one or more associations of which:
   a. at least 1% of the class of persons for which that association is proposing a candidate is a member; or
   b. at least 250 individuals of the class of persons for which that association is proposing a candidate are members.
5. Insofar as no election by the scheme members, deferred beneficiaries and pensionable persons takes place, associations that meet the criteria referred to in the fourth paragraph will be represented in the participants’ council in proportion to their number of members within the pension fund among the relevant class of persons.
6. An association as referred to in the fourth and fifth paragraphs will have full legal capacity. Its object under its articles will include looking after the interests of its members as parties with an interest in an industry-wide pension fund.
7. By order of Our Minister, associations may be designated as not subject to the fourth, fifth and sixth paragraphs for a period to be determined in that designation.

Article 110. Creation of participants’ council for company pension fund

1. The management board of a company pension fund will proceed to create a participants’ council:
   a. at the company pension fund’s own initiative;
   b. if so requested by at least 5% of the scheme members, deferred beneficiaries and pensionable persons; or
   c. if after being consulted as referred to in Article 100, the pensionable persons have opted to have a participants’ council created in accordance with Article 100, second and third paragraphs.
2. The scheme members and the pensionable persons will be represented on the participants’ council proportionally in accordance with their respective numbers. If a company pension fund executes pension schemes for multiple companies of groups, every company or group will be represented in the participants’ council by at least one scheme member and one pensionable person.
3. In addition to the representatives referred to in the second paragraph, one or more representatives of deferred beneficiaries may be given seats on the participants’ council based on criteria to be determined by the management board of the pension fund.
4. If the members of the participants’ council are elected by scheme members, deferred beneficiaries and pensionable persons, candidates may be proposed by associations and by individual scheme members, deferred beneficiaries and pensionable persons.
5. Insofar as no election by the scheme members, deferred beneficiaries and pensionable persons takes place, but the members are appointed by associations, these associations will be represented in the participants’ council in proportion to their number of members within the company pension fund among the relevant class of persons.
6. An association as referred to in the fourth and fifth paragraphs will have full legal capacity; its object under its articles will include looking after the interests of its members as parties with an interest in a company pension fund.
Article 111. Participants’ council’s right to prior consultation

1. The participants’ council will advise the pension fund on request or at its own initiative on matters concerning the pension fund.
2. At a minimum, the pension fund will allow the participants’ council to give advice on any proposed resolution of the pension fund for:
   a. taking measures of a general nature;
   b. amendment of the articles of association and regulations of the pension fund;
   c. adoption of the annual report, the annual accounts, the actuarial and technical business report as referred to in Article 145 and a long-term recovery plan as referred to in Article 138;
   d. reduction of the pension entitlements and pension rights acquired if Article 134 is applied;
   e. the determination and amendment of the supplement policy;
   f. full or partial transfer of the obligations of the pension fund or the takeover of obligations by the pension fund;
   g. liquidation of the pension fund;
   h. entering into, amending or terminating an agreement of affiliation;
   i. the repayment of premium or granting of a premium discount as referred to in Article 129;
   j. merging of pension funds as referred to in the definition of company pension fund in Article 1;
   k. the conversion of the pension fund into another legal entity, as referred to in Article 18 of Book 2 of the Dutch Civil Code (Burgerlijk Wetboek).
3. The advice of the participants’ council will be requested at such time as to allow the participants’ council to have an effective impact on the resolutions referred to in the second paragraph.
4. After the notification concerning the short-term recovery plan referred to in Article 114, opening lines and point a, the pension fund will grant the participants’ council the opportunity to advise on this short-term recovery plan.
5. When advice is requested from the participants’ council, the council will be provided with a statement of the motivations for the resolution and the expected consequences of the resolution on the scheme members, deferred beneficiaries and pensionable persons.
6. The management board of the pension fund and the participants’ council will meet at least twice per calendar year. In these meetings, the matters on which consultation is deemed desirable by the pension fund or the participants’ council will be raised.
7. Upon request, the pension fund will provide to the participants’ council, in a timely manner, all information and data that the council reasonably requires to be able to carry out its task. The information will be provided in writing if so requested.

Article 112. Further competences of participants’ council

The articles of association of the pension fund may grant the participants’ council competences further to those specified in this Act.

Article 113. Information concerning advice

The pension fund will notify the participants’ council as quickly as possible in writing if it will not be following the advice of the participants’ council or will not be following the advice in full, and that notification also informs the participants’ council why the advice or a minority advice comprised therein is not being followed.

Article 114. Information to participants’ council

A pension fund will inform the participants’ council in writing immediately concerning:

a. the obligation to establish a short-term recovery plan as referred to in Article 140;
b. the obligation to establish a long-term recovery plan as referred to in Article 138;
c. the appointment of an conservator as referred to in Article 173; and
d. the end of the situation referred to in Article 172, in which the exercise of authority by all or certain bodies of a pension fund is made subject to the approval of one or more persons designated by the supervisory body.

Article 115. Facilities of participants’ council

1. An industry-wide pension fund and a company pension fund will permit the members of a participants’ council to use the facilities available insofar as reasonably necessary for the fulfilment of their tasks.

2. With regard to the rights and competences of a participants’ council in relation to the management board of the industry-wide pension fund and company pension fund, Articles 10, 16, 17, 18 and 22 of the Works Councils Act are accordingly applicable.

§ 5.3. Separation of responsibilities

Article 116. Prohibition on ancillary activities

1. A pension fund will only carry out activities relating to pensions and work related thereto.

2. Rules governing the activities that may be performed by pension funds may be set by or pursuant to Order in Council.

Article 117. Administration of voluntary pension scheme

A pension fund may only carry out a voluntary pension scheme if this is a supplement to a base pension scheme performed by that same pension fund.

Article 118. Requirements of defined benefit agreements

1. A base pension scheme in the form of a defined benefit agreement performed by a pension fund will meet the following requirements:
   a. the employer will contribute at least 10 percent of the actuarial costs of the base pension scheme; or
   b. the employee’s premium for the base pension scheme is equal for all scheme members or will amount to an equal percentage of the salary or the portion of the salary considered for the calculation of the pension, with the proviso that different premiums may be set for different types of pension and different pension schemes.

2. A voluntary pension scheme in the form of a defined benefit agreement performed by a pension fund will meet the following requirements:
   a. the employer will contribute at least 10 percent of the actuarial costs of the voluntary pension scheme;
   b. the employee’s premium for the voluntary pension scheme is equal for all scheme members or will amount to an equal percentage of the salary or the portion of the salary considered for the calculation of the pension, with the proviso that different premiums may be set for different types of pension and different pension schemes; or
   c. the costs associated with the supplement policy will not be charged to the individual scheme members, but against the pension fund at the group level, and the granting of supplements is subject to the same conditions applicable to the base pension scheme.

3. If the voluntary pension scheme meets the condition referred to in point a of the second paragraph, the pension fund will notify the scheme members and the supervisory body thereof in writing.

4. The first paragraph does not apply to a compulsory industry-wide pension fund.
Article 119. Requirements of agreements to payment of a capital sum

1. A base pension scheme in the form of an agreement to payment of a capital sum performed by a pension fund will meet the following requirements:
   a. the employer will contribute at least 10 percent of the actuarial costs of the base pension scheme; or
   b. the employee’s premium for the base pension scheme is equal for all scheme members or will amount to an equal percentage of the salary or the portion of the salary considered for the calculation of the pension, with the proviso that different premiums may be set for different types of pension and different pension schemes.

2. A voluntary pension scheme in the form of an agreement to payment of a capital sum performed by a pension fund will meet the following requirements:
   a. the employer will contribute at least 10 percent of the actuarial costs of the voluntary pension scheme; or
   b. if the scheme member dies or becomes a pensioner or deferred beneficiary, the accrued capital is converted into a pension entitlement or pension right in the form of a periodic benefit if such also happens in relation to the base pension scheme or if the base pension scheme is a defined benefit agreement and subject to conditions corresponding to those governing the base pension scheme at the end of participation due to these circumstances.

3. If the voluntary pension scheme meets the condition referred to in point a of the second paragraph, the pension fund will notify the scheme members and the supervisory body thereof in writing.

4. The first paragraph is not applicable to a compulsory industry-wide pension fund.

Article 120. Requirements of defined contribution agreements

1. For a base pension scheme in the form of a defined contribution agreement performed by a pension fund, the employer’s premium must amount to at least 10 percent of the premium of the base pension scheme.

2. A voluntary pension scheme in the form of a defined contribution agreement performed by a pension fund will meet the following requirements:
   a. the employer will contribute at least 10 percent of the premium for the voluntary pension scheme; or
   b. if the scheme member dies or becomes a pensioner or deferred beneficiary, the capital generated from the sum of the defined premiums and the returns earned out of that is converted into a pension entitlement or a pension right in the form of a periodic benefit if such also happens in relation to the base pension scheme or if the base pension scheme is a defined benefit agreement and subject to conditions corresponding to those governing the base pension scheme at the end of scheme membership due to these circumstances; or
   c. if the scheme member dies or becomes a pensioner or deferred beneficiary, the capital generated from the sum of the defined premiums and the returns earned out of that is converted into an insured capital, if such also happens in relation to the base pension scheme or if the base pension scheme is an agreement to payment of a capital sum and subject to conditions corresponding to those governing the base pension scheme at the end of scheme membership due to these circumstances.

3. If the voluntary pension scheme meets the condition referred to in point a of the second paragraph, the pension fund will notify the scheme members and the supervisory body thereof in writing.

4. The first paragraph does not apply to a compulsory industry-wide pension fund.
Article 121. Voluntary affiliation with an industry-wide pension fund

An industry-wide pension fund may enter into an agreement of affiliation with an employer that does not fall under the scope of the industry-wide pension fund, but who wishes to join the industry-wide pension fund on a voluntary basis, if:

a. the salary development with this employer is at least equal to that of a sector in which the industry-wide pension fund is active and the employer participates in the social funds of the same sector;
b. there is a group relationship between the employer wishing to voluntarily join and another employer that does fall under the scope of the industry-wide pension fund; or
c. this happens immediately following a period in which the employer did fall under the scope of the industry-wide pension fund.

Article 122. Termination of affiliation with group

If a company is no longer part of a group with whom a company pension fund is affiliated, or of a group that falls under the scope of an industry-wide pension fund, this pension fund may continue to act as pension provider for that company unless the company falls under the scope of a compulsory industry-wide pension fund.

Article 123. Administration of multiple pension schemes

1. If a pension fund administers multiple pension schemes, these pension schemes are deemed to be one cohesive unit financially.

2. In contravention to the first paragraph, a company pension fund which executes pension schemes for multiple companies of groups keeps a separate capital per company or group.

3. In contravention to the first and, if applicable, the second paragraph a company pension fund is allowed to keep separate capitals for companies or groups, if the pension scheme belonging to the company or group were executed by several pension providers the are merged with the company pension fund.

Article 124. Purchase of pension accrual

A pension fund may offer the option to increase the pension entitlements if the portion of the pension entitlements arising from this purchase is treated in accordance with the pension entitlements under the base pension scheme.

Article 125. License and notification of cross-border activity

1. The pension fund is not permitted to receive contributions from a contributing company with its domicile in a member state other than the Netherlands:
   a. without a license thereto granted by the supervisory body; and
   b. without having notified the supervisory body of the intention thereto, in the way described in Article 194, and in observance of Article 196.

2. For the application of the first paragraph, Article 140, third paragraph, point b, Article 141, second paragraph, and the sections 7.4.2. and 7.4.3. is meant by receiving of contributions, receiving contributions for the implementation of a pension scheme derived from a different member state than the state where the pension fund is seated.
CHAPTER VI. Financial assessment framework for pension funds

Article 125a. Financial assessment framework in case of separate capitals
If a company pension fund persuant to Article 123, second or third paragraph, keeps separated capitals, the stated by or pursuant to the Articles 126, 128 up to and including 142, 143, as far as the continuity test went, 145, 147, and 149, will be applies per separate capital.

Article 125b. Deposit entire capital
With the merger of pension funds as referred to in the definition of company pension fund in Article 1, a participating pension fund deposits its entire capital.

Article 126. Determination of technical provisions
1. A pension fund will determine adequate technical provisions relating to the whole of pension liabilities.
2. The calculation will be performed in observance of the following principles:
   a. the technical provisions will be calculated based on market valuation;
   b. the bases used for the calculation of the technical provisions relating to death or disability and life expectancy will be based on prudent principles; and
   c. the method and the basis of the calculation of the technical provisions will remain unchanged from financial year to financial year, unless changes thereto are justified as the result of a change in the legal, demographic or economic circumstances underlying the hypotheses.
3. Rules may be set in or pursuant to an Order in Council to govern the method of calculation of the minimum amount of the technical provisions and the safety margins to be maintained, and rules may be set on the frequency at which the technical provisions are to be calculated.

Article 127. Financing of old-age pension
Old-age pension will be financed based on capital funding.

Article 128. Amount of cost-effective premium
1. A pension fund will determine a cost-effective premium, which will consist of:
   a. the actuarial premium required in relation to increase of the pension liabilities;
   b. the surcharge required at the increase of the pension liabilities belonging the funding requirements as referred to in Article 132;
   c. the surcharge required for the increase of the pension liabilities belonging to the administration costs of the pension fund; and
   d. the actuarial premium required for the purposes of granting supplements if the financing method of Article 137, points a, b or d, is chosen;
2. The cost-effective premium can be subdued.
3. With respect to the first and the second paragraphs, rules may be set by or pursuant to an Order in Council.

Article 129. Restitution or premium reduction
1. The pension fund may only grant a premium reduction on the cost-effective premium or the subdued premium if Articles 126, 132 and 133 are complied in relation to the pension liabilities and any provisional supplements can be fulfilled in accordance with Articles 95 and 137.
2. The pension fund can only make restitution if:
   a. Articles 126, 132 and 133 are met in relation to the pension liabilities;
   b. the provisional supplements in relation to the preceding ten years have been granted and may be granted in accordance with Articles 95 and 137;
   c. the reduction on pension entitlements and pension rights under Article 134 has been compensated in the preceding ten years.
Article 130. Statement of premium in annual accounts and annual report

A pension fund will state in its annual accounts and annual report:

a. the amount of the total cost-effective premium referred to in Article 128, first paragraph;
b. the amount of the total subdued premium referred to in Article 128, second paragraph; and
c. the amount of the total actual premium.

Article 131. Minimum funding requirements

1. A pension fund will have access to a minimum funding requirements, unless:
   a. a pension fund has effected full transfer, re-insurance or placement; and
   b. the supervisory body has consented to the fact that the pension fund does not have access to a
      minimum funding requirements for that reason.
2. The amount and composition of the minimum funding requirements will be stipulated in or
   pursuant to an Order in Council.

Article 132. Funding requirements

1. A pension fund will have access to a funding requirement.
2. A pension fund will set the funding requirements so that the probability of the pension fund having
   less assets at its disposal than the amount of the technical provisions within a year is reduced to
   97 1/2 percent.
3. Further rules on the calculation and composition of the funding requirements, as referred to in the
   first paragraph, and the provisions of the second paragraph, will be set in or pursuant to an Order in Council.

Article 133. Coverage by assets

The technical provisions and the loans extended to the pension fund will be fully covered by assets.

Article 134. Reduction of accrued pension entitlements and pension rights by pension fund

1. A pension fund may only reduce acquired pension entitlements and pension rights if:
   a. the technical provisions and the minimum funding requirements are no longer fully covered by
      assets;
   b. the pension fund is not able to cover the technical provisions and the minimum funding
      requirements by assets within a reasonable term without disproportionately compromising the
      interests of scheme members, deferred beneficiaries, pensionable persons, other entitlement
      beneficiaries or the employer;
   c. all other available steering instruments, with the exception of the investment policy, have been
      deployed as developed in the short-term recovery plan, referred to in Article 140.
2. A pension fund will inform the scheme members, deferred beneficiaries, pensionable persons and
   the employer in writing concerning the resolution to reduce pension entitlements and pension
   rights.
3. The reduction referred to in the first paragraph may not be effected earlier than one month after
   the scheme members, deferred beneficiaries, pensionable persons, employer and supervisory
   body have been informed thereof.
Article 135. Investment-related requirements

1. A pension fund will conduct an investment policy in accordance with the prudent person rule, and specifically based on the following premises:
   a. the assets are invested in the interest of entitlement beneficiaries and pensionable persons; and
   b. investments in the contributing company are limited to a maximum of 5% of the portfolio as a whole, and if the contributing company belongs to a group, investments in the companies belonging to the same group as the contributing company are limited to a maximum of 10% of the portfolio. If a group of companies pays premiums to the pension fund, investments in these contributing companies will be made prudently, taking into account the need for appropriate diversification;
   c. the investments are valued at market price.
2. Further rules to safeguard prudent investment policy will be set in or pursuant to an Order in Council.
3. The requirements set out in the first paragraph, opening lines and point b, and the rules set based on the second paragraph in regard to the diversification of assets do not apply to investments in government bonds.

Article 136. Loans

1. A pension fund will not take loans unless the loan is effected temporarily for liquidity purposes, and will not act as guarantor on behalf of third parties.
2. With respect to the first paragraph pertaining to the temporary nature of the loan and the purposes of liquidity, rules may be laid down in or pursuant to an Order in Council.

Article 137. Financing provisional granting of supplements

1. Pension funds may finance the provisional granting of supplements by:
   a. creating technical provisions;
   b. creating own funds above the funding requirements for the purposes of granting supplements;
   c. drawing on own funds above the funding requirements for the purposes of granting supplements;
   d. maintaining a surcharge on the premium; or
   e. excess returns.
2. With respect to the first paragraph, rules will be laid down in or pursuant to an Order in Council.

Article 138. Long-term recovery plan

1. If a pension fund foresees or can reasonably foresee that it no longer meets or will no longer be able to meet the requirements set by or pursuant to Article 132 in relation to the funding requirements, the pension fund will report this to the supervisory body immediately.
2. In the situation referred to in the first paragraph, within three months or earlier as determined by the supervisory body, the pension fund will set a concrete and feasible long-term recovery plan subject to the approval of the supervisory body. In this long-term recovery plan, the pension fund will work out how Article 132 can be complied with no later than within 15 years.
3. The pension fund will act to the long-term recovery plan immediately.
4. During the implementation of the long-term recovery plan, the pension fund will report to the supervisory body on an annual basis on whether the recovery is proceeding according to the targets of the long-term recovery plan, and indicating:
   a. the activities the pension fund has undertaken in the past year;
   b. the results these activities have had so far; and
   c. the pension funds’ current position.
5. At least once every three years, the supervisory body will evaluate whether supplemental measures are necessary in order to actually be able to achieve the long-term recovery plan.
6. Rules to govern the content and structuring of a long-term recovery plan will be set by or pursuant to an Order in Council.

**Article 139. Major changes during implementation of long-term recovery plan**

1. If, during the term of the long-term recovery plan referred to in Article 138, any major changes occur in relation to:
   a. the composition of the technical provisions; or
   b. the composition, amount and value of the investments; the pension fund will notify the supervisory body immediately.
2. The supervisory body will indicate whether:
   a. the existing long-term recovery plan can be maintained;
   b. the existing long-term recovery plan must be replaced, within three months or earlier, by a new long-term recovery plan, taking into account the period of the long-term recovery plan being replaced that has already passed. This new long-term recovery plan will be submitted to the supervisory body for approval; or
   c. the existing long-term recovery plan can be withdrawn and will not to be replaced by a new long-term recovery plan.

**Article 140. Short-term recovery plan**

1. If a pension fund foresees or can reasonably foresee that it can no longer meet or will no longer be able to meet the requirements set by or pursuant to Article 131 in relation to the minimum funding requirements, the pension fund will report this to the supervisory body immediately.
2. In the situation referred to in the first paragraph, within two months or earlier as determined by the supervisory body, the pension fund will set a concrete and feasible short-term recovery plan subject to the approval of the supervisory body. In this short-term recovery plan, the pension fund will detail how Article 131 can be complied with no later than within three years, so as to:
   a. improve the chance of recovery;
   b. keep the risks to the entitlement beneficiaries and pensionable persons from increasing; and
   c. avoid negatively affecting the chances of granting supplements.
3. Contrary to the second paragraph, the term of the short-term recovery plan will be one year if:
   a. the conditions of the second paragraph, points a, b and c, are not met; or
   b. the pension fund receives contributions from a contributing company established in another member state.
4. The pension fund will act on the short-term recovery plan immediately.
5. Rules to govern the content and structuring of a short-term recovery plan will be set in or pursuant to an Order in Council.
Article 141. Option for exemption

1. In consideration of the specific situation of the pension fund and in the interests of the entitlement beneficiary and pensionable persons, the supervisory body may, at the request of a pension fund, grant a full or partial exemption to the provisions by or pursuant to Articles 131, 132, 134, first paragraph, point a, 137 and 138 if the pension fund demonstrates that these provisions cannot reasonably be complied with and that the objectives these Articles are intended to achieve can be reached by other means.

2. In exceptional cases, in consideration of the pension fund’s specific situation and in the interest of the entitlement beneficiary and pensionable persons, the supervisory body may grant a full or partial exemption from the provisions in or pursuant to Article 140, at the request of a pension fund that does not receive contributions from a contributing company established in another member state.

3. Rules with which the holder of an exemption must comply and in relation to the granting of an exemption may be laid down in or pursuant to an Order in Council.

Article 142. Longer terms in exceptional situation

After consultation with the supervisory body, Our Minister may grant exemption to the terms of 15 alternatively three and one year(s), as referred to in Articles 138 and 140, respectively, in situations of exceptional economic circumstances such that a large number of pension funds cannot comply with the requirements set by or pursuant to this Act concerning the funding requirements and the minimum funding requirements.

Article 143. Control and integrity of business operations

1. A pension fund will set up its organization so as to warrant control and integrity in business operations.

2. With respect to the first paragraph, further regulations will be laid down in or pursuant to an Order in Council. These regulations will in any event relate to:
   a. the control of business processes and business risks;
   b. integrity;
   c. the solidity of the pension fund, which includes:
      1°. the control of financial risks; and
      2°. the control of other risks that could compromise the solidity of the pension fund;
   d. the control of the long-term financial position by producing periodic continuity analyses.

Article 144. Parameters

1. By Order in Council, rules may be set for the purposes of the calculations in Articles 126, 128, 138, 140 and 143 concerning:
   a. the minimum percentage of the average wage or price index figure;
   b. the maximum return to be enforced on fixed-yield assets; and
   c. the maximum risk premiums to be enforced on shares, real property, etc.
2. The rules referred to in the first paragraph will be reviewed every three years, taking into account past financial-economic developments and realistic insights in relation to future financial-economic expectations.

3. Before the proposal for the Order in Council referred to in the first paragraph is made, Our Minister will request the opinion of a commission consisting of a representative of the Dutch Central Bank (De Nederlandsche Bank N.V.), the Dutch Bureau for Economic Policy Analysis (Centraal Planbureau), two members nominated by the Labour Foundation (Stichting van de Arbeid) and a member appointed by Our Minister.

4. With respect to the commission referred to in the third paragraph, further regulations will be laid down in or pursuant to an Order in Council.

5. The proposal for an Order in Council to be adopted pursuant to the first paragraph will not be made earlier than four weeks after the draft is submitted to both houses of the States General.

Article 145. Actuarial and technical business report

1. The pension fund will adopt an actuarial and technical business report to include, at a minimum, a description of the method of implementation of the provisions by or pursuant to Articles 25, 95, 126 up to and including 137, and 143. The actuarial and technical business report will also comprise a statement concerning investment principles and a description of the steering instruments.

2. Rules to govern the actuarial and technical business report may be set in or pursuant to an Order in Council.

3. Insofar as risks are transferred, re-insured or placed, the description referred to in the first paragraph may be limited to a reference to the provisions thereon in the relevant agreements.

4. The statement concerning investment principles will be revised every three years and additionally immediately following any significant change in the investment policy.

Article 146. Annual accounts and annual report

A pension fund with its domicile in the Netherlands will adopt its annual accounts and annual report in accordance with Title 9, Book 2 of the Dutch Civil Code (Burgerlijk Wetboek), within six months after the end of the financial year, with the proviso Article 390 of the forecalled Act is not applicable and that the exceptions formulated in Article 360, third paragraph, 396 and 397 of the Dutch Civil Code (Burgerlijk Wetboek) are not applicable.

Article 147. Statements

1. A pension fund’s financial year will coincide with the calendar year.

2. Within the appropriate terms established thereto, a pension fund will periodically provide to the supervisory body the statements that the supervisory body requires for the correct performance of its function, as referred to in Article 151.

3. The statements will comprise exclusively:
   a. information on the organization of the pension fund;
   b. a management report;
   c. a balance sheet;
   d. information on the financial contacts and transactions of the pension fund;
   e. a profit and loss account;
   f. information on the cover ratio;
   g. information on the funding requirements;
   h. actuarial statements, authenticated by a competent actuary, including an actuarial report accompanied by an actuary’s statement;
   i. information on the scheme member file;
   j. information concerning the pension scheme implemented and any other schemes implemented by the pension fund;
   k. premium information;
   l. re-insurance information;
   m. information on obligations of the pension fund at the risk of the scheme members.
4. In his statement as referred to in point h of the third paragraph, the actuary will confirm that he has ascertained to his satisfaction that the provisions of Articles 126 up to and including 140 have been met. He is authorized to provide more detailed information on his statement or to make a reservation on any point.

5. The statements will be periodically accompanied by a statement concerning the reliability, invested by an auditor. The auditor will authenticate the statements as evidence of the auditor’s review of the statements.

6. Further regulations will be laid down in or pursuant to an Order in Council relating to:
   a. the content and models of the statements; and
   b. the way, the frequency and the terms of providing the statements.

**Article 148. Independence of actuary**

1. The competent actuary authenticating the actuarial report will be independent of the pension fund and will carry out no other work for the pension fund.

2. The authenticating actuary is not permitted to carry out the work referred to in Article 147, fourth paragraph, for a pension fund if another actuary or other expert belonging to the same organization as the authenticating actuary performs work for the same pension fund, unless the organization of the authenticating actuary has a code of conduct, approved by the supervisory authority, governing the independence of the authenticating actuary.

**Article 149. Obligation for transfer, re-insurance or placement**

The supervisory body may impose an obligation to a re-insurance obligation at an insurer, to transfer the obligation to an insurer or placement at a pension fund to a pension fund within a by the supervisory body determined period if the supervisory body deems this necessary in relation to:

a. the actuarial and technical business structure of the pension fund; or

b. the expertise and trustworthiness of the management board.
Article 150. Transfer, re-insurance or placement upon end of pension scheme

If a pension scheme terminates during the period in which a short-term recovery plan is in force:

a. the pension fund will inform the supervisory body thereof;
b. within a term to be set by the supervisory body, the pension fund will proceed to reinsure at an insurer, transfer to an insurer or placement at a pension fund of pension liabilities based on a procedure to be notified to the supervisory body and subjected to the approval of the supervisory body; and

c. the pension fund will make a general overview of the procedure referred to in point b available to the scheme members, deferred beneficiaries and pensionable persons or their representatives, in accordance with the principle of confidentiality.
CHAPTER VII. Supervision, enforcement and other tasks of supervisory body

§ 7.1. The supervisory body

Article 151. Supervisory bodies

1. The Stichting Autoriteit Financiële Markten (Financial Markets Authority) is charged with conduct supervision.

2. Conduct supervision is supervision focused on compliance with the standards regarding the provision of information by pension providers to scheme members, deferred beneficiaries, former partners and pensionable persons and the standard in regard to the advising of the scheme member or the deferred beneficiary at the implementation of defined contribution agreements with investment freedom at which the scheme member or the deferred beneficiary took responsibility for the investments.

3. De Nederlandsche Bank N.V. (Dutch Central Bank) is charged with the prudential supervision and material supervision.

4. Prudential supervision is supervision focused on the standards in relation to the financial solidity of pension funds and the contribution to the financial stability of the pension fund sector.

5. Material supervision is supervision of all standards in this Act that are not part of conduct supervision or prudential supervision.

6. The persons designated by resolution of the supervisory body are charged with the supervision of compliance with the provisions in or pursuant to this Act. Notice of a resolution as referred to in the preceding sentence will be placed in the Government Gazette.

7. By Order in Council:
   a. rules will be set on the delegation of duties and competences relating to the prudential supervision, the conduct supervision and the material supervision of this Act to the supervisory bodies;
   b. rules will be set on the method of collaboration between the supervisory bodies; and
   c. requirements will be set on the supervisory bodies, including provisions oriented towards decision-making within the supervisory body so as to guarantee independent execution of the duties and powers under this Act.

Article 152. No evaluation of individual cases

1. In the exercise of the supervision of compliance with this Act, the supervisory body will not act in the evaluation of the individual legal relationship between:
   a. an employer and an employee;
   b. a pension provider and an employer; and
   c. a pension provider and an entitlement beneficiary or pensionable person.

2. The first paragraph does not apply to the agreement of affiliation and the pension regulations.

Article 153. Quality requirements

1. In relation to the performance of its duties and competences under this Act, the supervisory body will ensure:
   a. timely preparation and administration that is known, transparent and consistent to the party under supervision;
   b. the quality of the procedures used therein;
   c. due care in the treatment of all parties with whom the supervisor comes into contact;
   d. due care in the handling of objections and complaints received.
2. The supervisory body will take steps to allow any party with whom it comes into contact the opportunity to make proposals for the improvement of working methods and procedures.

3. In the annual report referred to in Article 156, the supervisory body will report on the actions taken in administration of the first and second paragraphs.

§ 7.2. Account and accounting

Article 154. Budget

1. Each year the supervisory body will draft a budget of the for the following year forecasted profits and losses, investment expenses and income and expenditures relating to the performance of the duties charged by and pursuant to this Act and the associated activities. The budget will be drafted in such a way that the losses and expenses will be systematically covered by the profit and income.

2. Explanatory notes will be provided for the budget items.

3. Except where the work to which the budget relates to is being carried out for the first time, the budget will include a comparison to the budget for the current year and the most recent annual accounts or account accepted by Our Minister.

4. If during the year considerable discrepancies arise or threaten to arise between the actual and the budgeted profits and losses or income and expenditures, or in the policy encompassed in the budget, the supervisory body will immediately notify Our Minister, stating the discrepancies and their cause, and if necessary with submission of an amended or supplemental budget.

Article 155. Approval of budget

1. Before 1 December of the year prior to the budget year, the supervisory body will send the budget referred to in Article 154, first paragraph, and the budget referred to in Article 154, fourth paragraph, to Our Minister immediately for approval.

2. Approval of the budget may be withheld due to violation of law or the general public interest. In the event of any such violation demonstrated, approval will not be withheld before the supervisory body is given the opportunity to adjust the budget, within a reasonable term to be set by Our Minister.

3. Immediately after approval, the supervisory body will give notice of the budget in the Government Gazette, and will keep the budget available for inspection electronically for a period of at least two years after approval.

4. If Our Minister has not approved the budget before 1 January of the year to which the budget pertains, then the supervisory body may, in the interest of proper performance of its task, draw on a maximum of four-twelfths of the amounts permitted in the corresponding portions of the budget of the preceding year for the purposes of entering into obligations and making expenses.

Article 156. Annual report

1. Each year the supervisory body will draft an annual report. The annual report will describe the performance of the supervisory body’s task and the policy conducted to that end in the context of this Act over the preceding year. The annual report will also describe the quality control policy conducted.

2. The supervisory body will send the annual report to Our Minister before 1 May of the year following the financial year.

3. The supervisory body will keep the annual report available for inspection electronically for a period of at least two years.
Article 157. Annual accounts or account

1. Each year the supervisory body will draft annual accounts or an account of the tasks charged in and pursuant to this Act and the work resulting out of that. The annual account of the StichtingAutoriteit Financiële Markten (Financial Markets Authority) will be arranged as much according to Title 9, Book 2, of the Dutch Civil Code (Burgerlijk Wetboek).
2. The annual accounts or account will be accompanied by a statement concerning their reliability, invested by an auditor designated by the supervisory body.
3. The auditor will attach to the statement referred to in the second paragraph a report of his findings concerning the due collection and application of the resources by the supervisory body under this Act.
4. The auditor will also attach to the statement referred to in the second paragraph a report of his findings concerning the question whether the management and the organization of the supervisory body under this Act apply to the demands of suitability.
5. The supervisory body will send the annual accounts or account to Our Minister before 1 May of the year following the financial year.
6. Approval may be withheld due to violation of law or the general public interest.
7. After approval, the supervisory body will keep the annual accounts or account available for inspection electronically for a period of at least two years.

Article 158. Further rules

Our Minister will set further rules on the content and submission of the budget, the annual report and the annual accounts or account.

Article 159. Operating balance

1. The operating balance is the difference at the end of the budget year between the profit and income recorded by the supervisory body and the losses and expenses recorded by the supervisory body.
2. If in any financial year an operating balance arises and the supervisor wishes to involve this operating balance in the costs, as referred to in Article 160, to be charged in the running year, the supervisory body will make a proposal in this area in the annual accounts or in the accountability.

Article 160. Costs of supervision

1. The supervisory body will charge the costs of the work it performs in relation to the performance of the tasks under this Act to the pension providers in regard to which those activities are performed, insofar as these costs are not charged against the Central Government Budget. The costs include but are not limited to any costs that the supervisory body incurred in the performance of new parts of its task before these tasks were assigned to it. The costs for insurers, premium pension institution and pension funds will be charged separately.
2. The costs are based on the budget Our Minister has approved and on the operating balance, if Our Minister has approved the annual accounts or account in which a proposal as referred to in Article 159, second paragraph, has been included.
3. The revenues from fines and penalties forfeit are deducted from the budgeted costs, insofar as the supervisory body resolutions on which these are based have become irrevocable in the preceding year.
4. Further rules in respect of this Article may be laid down by or pursuant to an Order in Council, in relation to this Article, in which a distinction can be made between incidental and annual costs to be charged. The further rules will relate, in part, to the method in which the costs of supervision are calculated, the delegation of supervisory actions and costs to pension providers and the charging on of the supervision costs to the pension providers.
Article 161. Consultations on costs of supervision

1. The supervisory body will organize consultations on:
   a. the budget to be drafted by the supervisory body;
   b. the profit and loss recorded by the supervisory body, as well as the income and expenditures, and work performed;
   c. the costs for the pension providers relating to the performance of the tasks based on this Act and the work resulting thereof; and
   d. the annual accounts or accountability.

2. The meeting will be conducted by the supervisory body and an eligible representative delegation of the pension providers under its supervision. Our Minister may designate officials to attend the meeting on Our Minister’s behalf.

3. The meeting will take place at least twice per year.

4. The supervisory body will make the report of the meeting public within a reasonable term after the consultation.

Article 162. Exclusion of appeal

No appeal, as defined in Article 8:1 of the General Administrative Law Act (Algemene wet bestuursrecht), may be brought against resolutions of Our Minister concerning approval of the budget or the annual accounts or accountability.

§ 7.3. Competences of Our Minister

Article 163. Administration supervision: Work and Income Inspectorate

1. Our Minister exercises supervision on:
   a. the legitimacy of the implementation of this Act by the supervisory body;
   b. the effectiveness of the implementation of this Act by the supervisory body.

2. The supervision referred to in the first paragraph will be exercised under the authority of Our Minister by the Work and Income Inspectorate, specified in Chapter VII of the Work and Income Structure Implementation Organization Act (Wet structuur uitvoeringsorganisatie werk en inkomen), under the leadership of the head of that inspectorate. Articles 37, 38 and 44 of the Work and Income Structure Implementation Organization Act, are accordingly applicable.

Article 164. Provision of information for the purposes of supervision by Our Minister

1. Our Minister is authorized to request from the supervisory body the data or information that Our Minister deems necessary to study the way in which the supervisory body performs or has performed the tasks and powers under this Act.

2. The supervisory body will provide to Our Minister at no cost the data or information referred to in the first paragraph. If Our Minister requests the supervisory body to provide certain data or information provided or obtained under this Act concerning individual pension providers, employers or natural persons, the supervisory body is not obliged to provide this data or information if it pertains to or can be traced back to an individual pension provider, employer or natural person, except data or information relating to or traceable back to a pension provider or employer in relation to which suspension of payments has been granted, bankruptcy has been declared or which has been dissolved pursuant to a judicial decision.

3. Our Minister may commission a third party to investigate and report on the data or information provided to Our Minister pursuant to the second paragraph. In addition, Our Minister may authorize the third party acting at its commission to gather data or information on its behalf, in which case the first and second paragraphs are accordingly applicable.
4. Our Minister will use the data or information obtained pursuant to the second or third paragraphs exclusively to form an opinion on the adequacy of this Act or the method in which the supervisory body performs or has performed the tasks charged and authorities assigned in or pursuant to this Act.

5. Our Minister and those acting on commission of Our Minister are obliged to observe confidentiality in regard to the data and information obtained based on the second sentence of the second paragraph.

6. Without prejudice to the fourth and fifth paragraphs, Our Minister can notify the States General of the findings derived from the data or information and the conclusions drawn thereof and make the general conclusions of the investigation public.

7. The Government Information (Public Access) Act and the National Ombudsman Act (Wet nationale ombudsman) do not apply in relation to the data or information referred to in this Article in the possession of Our Minister or the third party working at the commission of Our Minister.

Article 165. Instruction by Our Minister

1. Our Minister may issue an instruction to the supervisory body on the performance of the tasks charged and authorities granted to the supervisory body in or under this Act if, in the opinion of Our Minister, the supervisory body fails in its performance. Our Minister will not act in individual cases.

2. The supervisory body is obliged to act in accordance with the instruction.

Article 166. Neglect of duty

1. If in the opinion of Our Minister the supervisory body is severely in neglect of one or more of its duties charged in or pursuant to this Act, Our Minister may take the necessary steps.

2. In performance of the first paragraph, Our Minister may resolve to carry out one or more elements of the duties of the supervisory body by himself, or have such elements of the duties performed by another organization. In that event, the relevant competences of the supervisory body are accorded to either Our Minister or the other supervisory body.

3. Except in situations of urgency, steps will not be taken before the supervisory body is given the opportunity to still carry out its duty properly within a term to be set by Our Minister.

4. Our Minister will immediately inform both houses of the States General of any steps taken as referred to in the first paragraph.

§ 7.4. Enforcement

§ 7.4.1. General - pension providers with domicile in the Netherlands

Article 167. Provision of information at no cost

The pension provider, the employer, the auditor and the actuary will provide to the supervisory body the information, data and documents required by the supervisory body, and will do so without charging any costs to the supervisory body.

Article 168. Authority of supervisory body to obtain information

1. For the purposes of supervision of compliance with this Act, the supervisory body may require information from any party.

2. Articles 5:13 and 5:20 of the General Administrative Law Act (Algemene Wet Bestuursrecht) are accordingly applicable.
3. Insofar as for the performance of conduct supervision in regard to pension funds to which the other supervisory body has granted a license or which are entered in the register, the supervisory body requires information on aspects of business operations as referred to in Article 143, second paragraph, points a and b, the first mentioned supervisory body will only require information from that party after that information has first been requested from the other supervisory body and that other supervisory body has proven to be unable to provide the required information.

4. The third paragraph may be deviated from, after consultation with the other supervisory body, in cases involving a reasonable suspicion of violation of the rules set in or pursuant to this Act and in which, in view of the interests involved, immediate urgency requires so.

**Article 169. Obligation to retain data for supervisory body**

1. The pension provider and the employer are obliged to have the business information and documents relating to pension schemes and other subjects regulated in or under this Act available in the Netherlands, and to keep them available for a period of at least seven years after the financial year to which they pertain.

2. The first paragraph does not apply to an insurer with its domicile in another member state of the European Union.

**Article 170. Information- and reporting obligation of auditor and actuary**

1. An auditor performing the audit of the statements referred to in Article 147, fifth paragraph, will report to the supervisory body as quickly as possible any circumstance of which he learns in the performance of the audit and which:
   a. is in contravention of this Act;
   b. threatens the fulfilment of the obligations undertaken by the pension fund; or
   c. will lead to the refusal to issue the statement concerning the reliability or to reservations being made.

2. The first paragraph, opening lines and points a and b, are accordingly applicable to the actuary performing the audit of the statements referred to in Article 147, fourth paragraph.

3. The auditor or actuary will provide to the supervisory body, as quickly as possible and at no cost, all information it may reasonably require for the supervision of the compliance with this Act. The supervisory body will grant the pension fund the opportunity to be present at the provision of information by the auditor or actuary.

4. At the request of the supervisory body, the auditor or actuary will provide the supervisory body with the records of the audit activities.

5. The auditor or actuary who has made a report or provided information to the supervisory body will not be held responsible for damage a third party incurs as a result of that, unless, considering all facts and circumstances, the report or provision of information should not reasonably have been made.

**Article 171. Instruction**

1. The supervisory body may, by means of an instruction, oblige a pension provider who is compliant with which is stipulated in or under this Act to follow a specific line of conduct in relation to the points specified in the instruction decision within a reasonable term set by the supervisory body.

2. The supervisory body may also issue an instruction as referred to in the first paragraph to a pension fund if it discovers signs of a development that could jeopardize the own funds, solvency, liquidity or business operations of the pension fund.
Article 172. Appointment of curator

1. The supervisory body may decide to appoint one or more persons as curator in relation to all or certain bodies of the pension fund if that pension fund does not comply with the stipulations under this Act.

2. The resolution pursuant to the first paragraph will only be taken:
   a. after the pension fund has not followed or not fully followed an instruction as referred to in Article 171 within the set term;
   b. if the violation referred to in the first paragraph severely jeopardizes adequate functioning of the pension fund and that pension fund is given an opportunity in advance to present its perspective on the proposed resolution; or
   c. if the violation referred to in the first paragraph severely jeopardizes the interests of the entitlement beneficiaries and pensionable persons and that pension fund is given an opportunity in advance to present its perspective on the proposed resolution.

3. Without prejudice to the first and second paragraphs, the supervisory body may decide to appoint one or more persons as curator in regard to all or certain bodies or representatives of a pension fund if it ascertains signs within that pension fund of a development that could jeopardize the own funds, solvency or liquidity of the pension fund.

4. The appointment resolution will include a description of the interests that are to dictate the curators’ actions. The supervisory body will appoint the curator for a period not exceeding two years, with the option to increase this term by successive periods not exceeding one year; the extension becomes effective immediately. As from the time at which the resolution for appointment of the curator is notified to the pension fund, the bodies or representatives in question may only exercise their authorities with the approval of the curator and in observance of the instructions of the curator.

5. After the appointment of a curator:
   a. the bodies and the representatives of the pension fund will grant the curator their full cooperation;
   b. the supervisory body may permit the relevant bodies or representatives of the pension fund to carry out certain legal acts without approval;
   c. the supervisory body may replace the curator appointed by it at any time;
   d. any person being part of the body of the pension fund performing any action in violation of a resolution as referred to in the first or third paragraph is jointly and severally liable towards the pension fund for damage resulting from such actions, unless the performance of these actions is not attributable to the person and the person was not negligent in taking measures to avert the consequences of those actions;
   e. the actions referred to in point d, insofar as these are legal acts, are subject to annulment if the counter-party knew or should have known that the required approval was lacking.

6. As soon as the circumstance referred to in the first or third paragraph no longer exists, the supervisory body will withdrawn the resolution to appoint the curator. The supervisory body will immediately notify the pension fund of the resolution revoking the appointment of the curator.

7. The supervisory body will allocate a remuneration to a person appointed pursuant to the first paragraph. The remuneration will be paid by:
   a. the pension fund, or, if the financial circumstances of the pension fund do not allow;
   b. the employer, or, if the financial circumstances of the employer do not allow;
   c. the supervisory body.

Article 173. Conservator over a pension fund

1. At the request of the supervisory body, the Enterprise Section of the Court of Justice of Amsterdam may appoint a conservator over a pension fund, if:
   a. a pension fund evidences mismanagement to such an extent that the interests of the entitlement beneficiaries and pensionable persons require an immediate measure; or
   b. there is no longer a management board.
2. The supervisory body must submit an application for the appointment of a conservator in duplicate. The registrar will forward a copy of the application to the pension fund immediately.

3. If the Enterprise Section approves the application, it will determine the duration for which the conservator will be appointed. The Enterprise Section may extend or reduce this duration at the request of the supervisory body or of the conservator. The Enterprise Section will allocate the conservator a remuneration, to be paid by:
   a. the pension fund, or, if the financial circumstances of the pension fund do not allow;
   b. the employer, or, if the financial circumstances of the employer do not allow;
   c. the supervisory body.

4. The conservator will act in the place of the management board or one or more members of the management board of the pension fund, designated by the Enterprise Section.

5. The provisional execution of the decision appointing an conservator may be ordered if the application thereto is made on one of the grounds specified in the first paragraph under points a and b.

**Article 174. Declaration of incompetence of auditor or actuary**

1. If an auditor or actuary does not offer or no longer offers the requisite security that he will be able to carry out the duties relating to the pension fund adequately, the supervisory body may determine in regard to this auditor or actuary that he is no longer competent to provide the statements relating to that pension fund as set out in this Act.

2. The supervisory body will notify the pension fund of the resolution referred to in the first paragraph.

**Article 175. Imposed penalty**

1. The supervisory body may impose a penalty in regard to a violation of the provisions set in or pursuant to this Act and of Article 5:20 of the General Administrative Law Act (*Algemene wet bestuursrecht*).

2. By order of Our Minister, rules may be set on the exercise of the authority to impose a penalty.

**Article 176. Administrative fine**

1. The supervisory body may impose an administrative fine for a violation of provisions set in or pursuant to Articles 21, first paragraph, second sentence of second paragraph and fourth paragraph, 23, 25, 26, 28, 29, first paragraph, 29, seventh paragraph, as far as the application of Article 29, first paragraph goes,34 up to and including 48, 49, 50, second and fourth paragraph, 51, 52, 58, 60, 61, 62, 63, 66, third up to and including sixth, ninth and eleventh paragraph, 67, second paragraph, 68, second paragraph, 69, second, third and sixth paragraph, 71, first up to and including fifth and seventh paragraph, 74, second and third paragraph, 76, first up to and including fourth and ninth paragraph, 83, second and seventh paragraph, 84, second and seventh paragraph, 85, first paragraph, 86, first and second paragraph, 87, 91, 94, second paragraph, 95, 96, 99, 100, 101, 102, 103, 105, first up to and including third, fifth up to and including eighth and tenth paragraph, 106, 109, 110, 111, 113, 114, 115, 116, 117, 118, first up to and including third paragraph, 119, first up to and including third paragraph, 120, first up to and including third paragraph, 125, 128, 129, 130, 134, second, fourth and fifth paragraph, 135, 136, 137, 138, first up to and including fourth and sixth paragraph, 139, 140, 143, 145, 146, 147, first up to and including third paragraph, 150, 156, 169, 170, first up to and including fourth paragraph, 171, first paragraph, 172, fifth paragraph, 194, 197, 199, 203, third and fourth paragraph and 204, and of Article 5:20 of the General Administrative Law Act.

2. With respect to the first paragraph, further provisions will be laid down in or pursuant to an Order in Council.
Article 177. Violator

[expired as of 1-7-2009]

Article 178. Culpability

[expired as of 1-7-2009]

Article 179. Amount of administrative fine

1. The amount of the administrative fine will be determined by Order in Council, with the proviso that the penalty for any individual violation will not exceed an amount of EUR 4,000,000. If at the time the violation was committed it is less than five years since the imposition of an administrative fine on the violator for the same violation then the amount of the penalty referred to in the first sentence will be doubled for an individual violation.

2. The Order in Council referred to in the first paragraph will determine the amount of the administrative fine to be imposed for each violation described therein. The violations will be grouped into categories according to the seriousness of the violation, with a basic amount, minimum amount and maximum amount being specified for each category. The following classification is used in this respect:

<table>
<thead>
<tr>
<th>Category</th>
<th>Basic amount</th>
<th>Minimum amount</th>
<th>Maximum amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>EUR 10,000</td>
<td>€ 0</td>
<td>EUR 10,000</td>
</tr>
<tr>
<td>2.</td>
<td>EUR 500,000</td>
<td>€ 0</td>
<td>EUR 1,000,000</td>
</tr>
<tr>
<td>3.</td>
<td>EUR 2,000,000</td>
<td>€ 0</td>
<td>EUR 4,000,000</td>
</tr>
</tbody>
</table>

3. Contrary to the provisions of the first and second paragraph, the supervisory body may set the amount of the administrative fine at a maximum of twice the amount of the advantage that the violator obtained from the violation if his advantage exceeds €2,000,000.

Article 180. Security (Cautie)

[expired as of 1-7-2009]

Article 181. Intention to impose penalty

[expired as of 1-7-2009]

Article 182. Decision

[expired as of 1-7-2009]
Article 183. Payment, distress warrant

[expired as of 1-7-2009]

Article 184. Suspensive effect upon penalty

1. The effect of the decision to impose an administrative fine is suspended until the term of appeal is expired or, if an appeal is brought, until a decision on the appeal is rendered.
2. Contrary to the first paragraph, the effect of the decision to impose a penalty for a violation of Article 181, second paragraph, is suspended until the term for objection is expired or, if an objection is brought, until a decision on the objection is rendered.

Article 185. Concurrence of prosecution

[expired as of 1-7-2009]

Article 186. Limitation period

[expired as of 1-7-2009]

Article 187. Separation of functions

[expired as of 1-7-2009]

Article 188. Option to publication

1. In consideration of the protection of the interests of the pensionable persons or entitlement beneficiaries, the supervisory body may publicate the following information, stating the considerations leading up to the publication of that information if and insofar as required:
   a. violation of the prohibitory clauses of this Act and the violations referred to in Article 201;
   b. the circumstance in relation to which an instruction is given, the violated prescription, the fact that the instruction has been given and the line of conduct to be followed by the pension provider, as well as the name, address and place of establishment of the pension provider to which the instruction is given;
   c. the circumstance in relation to which a cease and desist order or administrative fine is imposed, the violated prescription, the fact that the cease and desist order or administrative fine has been imposed, as well as the name, address and place of establishment of the violator against which the cease and desist order or administrative fine is given;
   d. the fact that a recovery plan as referred to in Article 138 or Article 140 has been submitted, as well as the name, address, and place of establishment of the pension fund that has submitted the recovery plan.
2. By order of Our Minister, rules may be set on the exercise of the authority to impose administrative penalties, as referred to in the first paragraph.
Article 189. Notification of publication and content of decision

1. If the supervisory body resolves to promulgate the public release of information as referred to in Article 188, it will notify the pension provider in question of the resolution.
2. The decision will state, at a minimum, the violation observed, the content of the information released, the grounds on which the resolution is based and the method in which and term after which the information will be released publicly.

Article 190. Suspensive effect upon publication

1. Information will not be released before the lapse of five working days after notification of the decision to the party involved, as described in Article 189.
2. If the party involved requests a provisional measure as referred to in Article 8:81 of the General Administrative Law Act (Algemene wet bestuursrecht), the effect of the decision is suspended until a ruling by the administrative judge of the district court.

Article 191. Obligation to publication

The supervisory body will release a resolution to appoint a conservator pursuant to this Act after notice of this resolution has been given, unless the release of the resolution is or could be in violation with the objective of the supervision of compliance with this Act to be exercised by the supervisory body.

§ 7.4.2. Granting of licenses and supervision of cross-border activities of pension funds with domicile in the Netherlands

Article 192. Licensing

The license referred to in Article 125, point a, will be granted by the supervisory body upon request if the pension fund:

a. is registered in the register referred to in Article 210; and
b. is in compliance with Articles 105, 126, 143 and 147, second paragraph and Article 11 of Directive 2003/41/EG.

Article 193. Further prescriptions and withdrawing of license

The supervisory body may withdraw the license referred to in Article 125, point a, in whole or in part, or may attach further prescriptions thereto, if:

a. the pension fund is no longer in compliance with Article 192;
b. the information provided with the application is incorrect or incomplete and the provision of the correct or complete information would have led to a different decision on the license application;
c. the granting of the license was otherwise incorrect and the fund knew this or should have known this; or
d. the license has not been used for a period of two years after the date of the decision granting the license.

Article 194. Notification of intention to conduct cross-border activity

1. A pension fund will inform the supervisory body of an intention to receive contributions from a contributing company with domicile in a member state other than the Netherlands.
2. The notification referred to in the first paragraph will be accompanied by a statement of:
   a. the member state of which the social and labour legislation applicable to occupational retirement provision applies to the legal relationship between the contributing company and the employees or those practicing a profession;
b. the name of the contributing company; and
c. the main characteristics of the pension scheme to be performed for that company.

Article 195. Review and announcement of notification

1. Within three months after receiving the information referred to in Article 194, second paragraph, the supervisory body will give notice of this information to the competent authorities of the member state of which the social and labour legislation applicable to occupational retirement provision applies to the legal relationship between the contributing company and the employees, unless the pension fund does not possess the license referred to in Article 125, or the supervisory body has reasons to doubt that the administrative structure or the financial position of the pension fund or the expertise and trustworthiness of the persons leading the fund, are appropriate to the activities intended in that member state.

2. At the same time, the supervisory body will notify the fund that the information has been provided to the competent authorities referred to in the first paragraph.

3. The supervisory body will notify the fund of the information on the applicable provisions of social and labour law received from the competent authorities referred to in the first paragraph.

Article 196. Administration of cross-border activity

1. After receipt of the notification referred to in Article 195, third paragraph, or after two months following receipt of the notification referred to in Article 195, second paragraph, a pension fund may begin the administration of the intended pension scheme.

2. In the administration of the pension scheme, the pension fund must comply with the social and labour law applicable to occupational retirement provision and the prescriptions that must be complied with pursuant to Articles 11 and 18, seventh paragraph of Directive 2003/41/EC. The social and labour law of the Netherlands is not applicable to the administration of the pension scheme.

Article 197. Prohibition on administration of cross-border activity

1. The supervisory body prohibits a pension fund from receiving contributions from a company with its domicile in another member state if the supervisory body has reason to doubt, as referred to in Article 195, first paragraph, whether the fund holds a license as referred to in Article 125, point a.

2. The supervisory body may prohibit a fund from receiving further contributions from a contributing company with its domicile in another member state if the competent authorities of the member state of which the social and labour law apply to occupational retirement provision has given notice of violation by the fund of the applicable social and labour law.

3. The supervisory body will impose a prohibition as referred to in this Article in the form of an instruction as referred to in Article 171.

Article 198. Measures against violation of social and labour law

In coordination with the competent authorities of the member state of which the social and labour law applicable to occupational retirement provision applies to the pension scheme, the supervisory body will take the measures necessary to ensure that a pension fund ends any violation of the applicable law observed.

§ 7.4.3. Supervision of cross-border activities of pension institutions from another member state

Article 199. Conditions of administration of Dutch pension scheme

A pension institution from another member state is not permitted to receive contributions from a contributing company with its domicile in the Netherlands without:

a. a license granted thereto from the competent authorities of the member state where the pension institution from another member state has its domicile; and
b. the competent authorities of the member state where the pension institution has its domicile have been notified of the intention to carry out a pension scheme for a contributing company established in the Netherlands.

**Article 200. Information on applicable social and labour law**

1. Within two months after the date of receipt of information as referred to in Article 194, second paragraph, the supervisory body will inform the competent authorities of the member state where the pension institution from another member state has its domicile, and which has provided this information, of the provisions of the social and labour law of the Netherlands applicable to the pension scheme to which the contributing company with its domicile in the Netherlands contributes.

2. The supervisory body will inform the competent authorities referred to in the first paragraph of any significant change in the social and labour law applicable to the pension scheme that may have an impact on the characteristics of the pension scheme.

**Article 201. Non-compliance with applicable regulations**

If the supervisory body ascertains that in the administration of a pension scheme of a pension fund with its domicile in the Netherlands, to which a contributing company with its domicile in the Netherlands contributes, a pension institution from another member state acts in violation of Dutch social and labour law, the supervisory body will immediately inform the competent authorities of the member state in which the pension institution has its domicile, and informs the pension institution from another member state accordingly.

**Article 202. Enforcement competences**

1. If a pension institution from another member state continues to violate the Dutch social and labour law applicable to the pension scheme, in defiance of the measures taken by the competent authorities of the member state in which the pension institute from another member state has its domicile, or because those competent authorities have not taken appropriate measures, then after notifying the competent authorities thereof, the supervisory body may take appropriate measures to end the violation of the applicable regulations by the pension institution and, insofar as strictly necessary, stop the pension institution from performing activities for the Dutch contributing company.

2. In the implementation of the first paragraph, the supervisory body may apply the competences referred to in Articles 171, 175 and 176.

3. After application of Article 201, the supervisory body may apply the competences referred to in Articles 171, 175 and 176 if a pension institution from another member state does not comply with Article 199.
§ 7.5. Other tasks and competences

Article 203. Provision, collection and processing of policy information
1. Upon request, the supervisory body will provide to Our Minister, at no cost, all data and information necessary for the policy to be implemented by Our Minister and the study into the adequacy of this Act.
2. For the performance of the task referred to in the first paragraph, the supervisory body will maintain a database, draft an information plan and a control plan and send these plans to Our Minister. The supervisory body will send changes in the information plan and the control plan to Our Minister.
3. Upon the request of the supervisory body, pension providers and employers will provide to the supervisory body, at no cost, all data and information it requires for the performance of the task described in the first paragraph.
4. Rules may be set in or pursuant to an Order in Council concerning the data and information it requires for the performance of the task described in the first paragraph.

Article 204. Confidentiality obligation
1. Anyone who under the application of this Act or resolutions adopted under this Act performs or has performed any duty is prohibited from making further or other use of confidential data or information provided or obtained pursuant to this Act or pursuant to Section 5.2 of the General Administrative Law Act (Algemene wet Bestuursrecht), or received from a person or institution as defined in Article 203, third paragraph, or Article 205, first paragraph, or to otherwise give any publicity thereto except as required for the performance of his task or as required by law.
2. Contrary to the first paragraph, the supervisory body may make disclosures involving confidential data or information obtained in the performance of its task under this Act, if this data or information cannot be traced back to individual persons.

Article 205. Provision of data or information to other supervisory bodies
1. Contrary to Article 204, first paragraph, the supervisory body may provide confidential data or information obtained in the performance of its task under this Act to the other supervisory body or a supervisory institution, unless:
   a. the purpose for which the confidential data or information will be used is insufficiently specified;
   b. the intended use of the confidential data or information does not fit in the context of the supervision of pension providers;
   c. the provision of the confidential data or information would be a violation of Dutch law or the public order,
   d. the confidentiality of the confidential data or information is not adequately guaranteed;
   e. according to reasonable standards the provision of the confidential data or information is or could be in violation with the interests that this Act is intended to protect; or
   f. there are insufficient guarantees that the confidential data or information will not be used for a purpose other than for which they were provided.
2. Insofar as the data or information, referred to in the first paragraph, are obtained from a supervisory institution, the supervisory body will not provide this data or information to the other supervisory body or another supervisory institution unless the supervisory institution from which the data or information was obtained has explicitly consented to the provision of the data or information, and, when occurring, has consented to the use for a purpose other than that for which the data or information was provided.
3. If a supervisory institution requests the supervisory body that has provided the confidential data or information pursuant to the first or second paragraph to allow it to use that confidential data or information for a purpose other than that for which it was provided, the supervisory body will only grant that request:
   a. if the intended use is not contrary to the first or second paragraph; or
b. insofar as that supervisory institution could obtain that data or information in a way other than as provided for in this Act from the Netherlands in observance of the procedures applicable under the law for that other purpose; and 
c. after consultation with Our Minister of Justice, if the request referred to in the opening lines relates to an investigation of an offence.

4. Either the Dutch Authority for the Financial Markets (de Stichting Autoriteit Financiële Markten) or the organizational unit of The Dutch Central Bank (De Nederlandsche Bank N.V.) charged with the task specified in Article 151, third paragraph, can provide confidential information or data to the organizational unit of De Nederlandsche Bank N.V. charged with the performance of its financial task, insofar as the confidential data or information are beneficial to the performance of that task.

5. The first up to and including third paragraphs are accordingly applicable to the exchange of confidential data or information between the organizational units of the supervisory body charged with the various tasks.

**Article 206. Provision to others with duty under this Act**

1. Contrary to Article 204, first paragraph, the supervisory body may provide confidential data or information obtained in the performance of the task charged to it under this Act to a person as referred to in points a, b, c, d or e, insofar as the data or information is beneficial to the performance of his task:
   a. a conservator appointed pursuant to Article 173;
   b. an examining judge appointed pursuant to Article 223a of the Bankruptcy Act (Faillissementswet);
   c. a conservator appointed pursuant to Article 215, second paragraph, of the Bankruptcy Act;
   d. an examining judge appointed pursuant to Article 14 of the Bankruptcy Act;
   e. a curator appointed pursuant to Article 14 of the Bankruptcy Act.

2. The supervisory body will provide no confidential data or information as referred to in the first paragraph:
   a. if the provision of the confidential data or information is, by reasonable standards, in violation of or could violate the interests that this Act is intended to protect;
   b. if the confidential data or information is obtained from the other supervisory body or a supervisory institution, and that other supervisory body or the supervisory institution does not consent to the provision of the confidential data or information.

3. The curator appointed in the bankruptcy of a pension provider may, contrary to Article 204, first paragraph, provide confidential data or information as referred to in the first paragraph to the district court, insofar as not relating to a company involved in or which has been involved in an effort to allow the pension provider to continue its activities.

4. Article 204, first paragraph, is without prejudice to the applicability of the provisions of the Code of Civil Procedure relating to the provision of a statement as a witness or as a party in an appearance of parties or as an expert in civil matters concerning data or information obtained in the performance of the task charged to it under this Act insofar as concerning confidential data or information concerning a pension provider declared bankrupt or dissolved pursuant to a judicial decision. The preceding sentence does not apply to confidential data or information relating to a company involved in or which has been involved in an effort to enable the pension fund in question to continue its activities.

**Article 207. Provision of information for purposes of criminal investigation**

1. Contrary to Article 204, the supervisory body may provide confidential data or information obtained in the performance of the task charged to it under this Act to an institution charged with the performance of criminal law powers or to an expert given an assignment by such an institution, insofar as the required data or information is necessary for the performance of that assignment.

2. If the institution referred to in the first paragraph has the intention to apply the competence to claim from the supervisory body the surrender of an object subject to seizure or the competence to demand inspection of or a copy of documents as referred to in Article 96a, 105 or 126a of the
Criminal Code, or Article 18 or 19 of the Economic Offences Act, and the claim concerns confidential data or information as referred to in Article 204, first paragraph, then prior to the exercise of its authority the institution will give the supervisory body the opportunity to notify the institution of its perspective on the matter.

**Article 208. Provision to others**

1. Contrary to Article 204, first paragraph, the supervisory body may provide confidential data or information obtained in the performance of the task charged to it under this Act to:
   a. an auditor performing the audit of the statements referred to in Article 147, fifth paragraph, or who is charged with the statutory audit of the annual accounts of a pension provider, insofar as the confidential data or information relate to that pension provider and are necessary for the audit; or
   b. an actuary performing the audit of the statements referred to in Article 147, fourth paragraph, or who is charged with the statutory audit of a pension provider, insofar as the confidential data or information relate to that pension provider and are necessary for the audit.

2. The supervisory body will provide no confidential data or information under the first paragraph if:
   a. the purpose for which the confidential data or information will be used is insufficiently specified;
   b. the intended use of the confidential data or information does not fit in the context of the supervision of pension providers;
   c. the provision of the confidential data or information would be a violation of Dutch law or the public order;
   d. the confidentiality of the confidential data or information is not adequately guaranteed;
   e. according to reasonable standards the provision of the confidential data or information is or could be in violation of the interests that this Act is intended to protect; or
   f. there are insufficient guarantees that the confidential data or information will not be used for a purpose other than for which they were provided.

3. Insofar as the data or information, referred to in the first paragraph, are obtained from a supervisory institution, the supervisory body will not provide this data or information to the other supervisory body or another supervisory institution unless the supervisory institution from which the data or information was obtained has explicitly consented to the provision of the data or information, and, when occurring, has consented to the use for a purpose other than for which the data or information was provided.

4. If an institution or person as referred to in the first paragraph requests the supervisory body that has provided the confidential data or information pursuant to that paragraph to allow it to use that confidential data or information for a purpose other than for which it was provided, the supervisory body will only grant that request:
   a. if the intended use is not contrary to the first, second or third paragraph; or
   b. insofar as that institution or person could obtain that data or information in a way other than as provided for in this Act in observance of the procedures applicable under the law for that other purpose; and
   c. after consultation with Our Minister of Justice, if the request referred to in the opening lines relates to an investigation of an offence.

**Article 209. Periodic consultation with stakeholders**

The supervisory body will organize a meeting with stakeholders relating to pensions at least once per year.

**Article 210. Administration of pension fund register**

The supervisory body will maintain a register in which all pension funds with domicile in the Netherlands will be registered. The entry in the register will state, if applicable, the member states in which a fund performs pension schemes.
Article 211. Cooperation with supervisory bodies of other member states and European Commission

The supervisory body is obliged to work closely with the European Commission and the competent authorities of member states other than the Netherlands, in accordance with Directive 2003/41/EC.

Article 212. Exemption

1. In exceptional cases, upon request the supervisory body may grant an exemption from the provisions in or under Article 147, first and second paragraph, if the supervisory body takes the view that the interests of the persons involved in a pension scheme are sufficiently guaranteed.
2. In exceptional cases, upon request the supervisory body may grant an exemption from the provisions in or under Articles 99, 100, 101, 109 and 110, if the pension fund also performs pension schemes subject to the social and labour law of another member state.
3. The exemption will be granted by decision.

Article 213. Further rules concerning exemption

1. The exemption may be granted under restrictions.
2. Prescriptions may be attached to the exemption.
3. The exemption may be withdrawn if:
   a. one or more of the reasons for which it was granted have expired;
   b. after the granting of the exemption, facts or circumstances have arisen or been revealed of such nature that, if they had been known at the time the exemption was granted, the exemption would not have been granted or not in that form;
   c. one or more of the prescriptions attached to the exemption are not complied with.
4. The supervisory body will set policy rules on the granting of the exemption.

§ 7.6. Other provisions

Article 214. Provision of information to States General

1. Each year, Our Minister will send to the States General the annual report, the account and all other relevant supervision reports issued by the supervisory body to Our Minister, in the form submitted to Our Minister, and if necessary accompanied by Our Minister’s opinion.
2. Every five years, Our Minister will report to the States General on the efficiency and effectiveness of the functioning of the supervisory body.

Article 215. Criminal law sanctions

1. Violation of Articles 23, 102, 167, 169, 170, first paragraph up to and including fourth paragraph, and 172, fifth paragraph, point a, is subject to a financial penalty of the second category. Violation of Article 171, first paragraph, is subject to a financial penalty of the fourth category.
2. Violation of prescriptions given pursuant to this Act by Order in Council, insofar as explicitly designated as an offence in the sense of this Act, are subject to a financial penalty of the second category.
3. The offences defined as such in or pursuant to this Article are offences.
CHAPTER VIII. Legal proceedings

§ 8.1. Civil-law disputes

Article 216. Civil-law disputes in general

Matters pertaining to claims under a pension agreement, an agreement of affiliation, affiliation regulations or pension regulations will be treated and adjudicated by the subdistrict court.

Article 217. Appeal of participants' council to Enterprise Section

1. The participants' council may appeal to the Enterprise Section of the Court of Justice of Amsterdam against a decision on a matter as referred to in Article 111, first paragraph, if:
   a. in relation to that resolution, the participants’ council was not given an opportunity in advance to give advice;
   b. that resolution is not in accordance with the recommendation of the participants’ council; or
   c. facts and circumstances have become known that, if they had been known to the participants’ council at the time it produced its advice, could have constituted grounds to not make the advice as given.
2. The appeal will be submitted by application within eight weeks after the participants’ council is informed of the resolution.
3. The pension fund will be notified of the appeal instituted.
4. The application will be declared inadmissible if the supervisory body has issued an instruction in relation to the same matter.
5. The appeal can only be instituted on a matter in relation to which the pension fund would not reasonably have been able to come to its resolution in consideration of the interests involved.
6. The Enterprise Section will treat the application with the highest priority. Before making its decision, it may (ex officio or otherwise) hear experts and/or persons employed by the pension fund. If the Enterprise Section deems the appeal well-founded, it may, if so requested by the participants’ council, take one or more of the following measures:
   a. imposing the obligation on the pension fund to withdrawn the resolution, in whole or in part, as well as to undo any specified consequences of that resolution;
   b. impose an injunction against the pension fund to perform actions or have actions carried out in performance of the resolution or elements thereof.
7. The pension fund must comply with the measure taken; a measure may not, however, vitiate any rights acquired by third parties.
8. The Enterprise Section may hold on to its decision on an application for taking measures for a term to be determined by the Enterprise Section, if both parties so request, or if the pension fund takes it on itself to withdrawn or change the appealed decision or to reverse specific consequences of the decision.
9. After the application is submitted, the Enterprise Section may take provisional measures immediately if necessary. The sixth paragraph, third sentence and seventh paragraph are accordingly applicable.
10. A decision of the Enterprise Section may only be appealed to the court of cassation.
11. The costs of litigation by the participants’ council will be borne by the pension fund if those costs are reasonably necessary for the fulfilment of the task of the participants’ council and the pension fund is notified in advance of the costs to be incurred. In litigation between the pension fund and the participants’ council, the participants’ council cannot be ordered to pay the costs of the proceedings.
Article 218. Appeal of classes of members of participants’ council to Enterprise

Section
1. A class of membership of the participants’ council may appeal to the Enterprise Section of the Court of Justice of Amsterdam against a resolution by the pension fund as referred to in Article 111, second paragraph, point f or g, if that resolution is not in accordance with the recommendations of the participants’ council.
2. Article 217, second up to and including eleventh paragraphs, are accordingly applicable.

Article 219. Right of inquiry

1. The accounting body as referred to in Article 33, first paragraph, point a, may submit an application to the Enterprise Section of the Court of Justice of Amsterdam for the purposes of the right of inquiry as set out in Section 2 of Title 8 of Book 2 of the Dutch Civil Code (Burgerlijk Wetboek), if prior to the submission of that application the internal supervision as referred to in Article 33, first paragraph, point b, has expressed an opinion thereon.
2. Articles 346 up to and including 359 of Book 2 of the Dutch Civil Code (Burgerlijk Wetboek) are accordingly applicable.
3. The costs relating to the submission of an application as referred to in the first paragraph will be borne by the pension fund if those costs are reasonably necessary for the fulfilment of the task of the accounting body and the pension fund is notified in advance of the costs to be incurred.

§ 8.2. Administrative law disputes

Article 220. Proceedings before Court of Rotterdam

Contrary to Article 8:7 of the General Administrative Law Act, the Court of Rotterdam is competent to hear any disputes instituted against a resolution under this Act.
CHAPTER IX. Other provisions, concluding provisions

Article 221. Evaluation provision

Within five years after this Act becomes effective, Our Minister will send the States General a report on the effectiveness and impact of this Act in practice in the areas of communication, supervision and administrative burden.

Article 222. Coming into force

The Articles of this Act become effective on a date to be determined by Royal Decree, which may be ordained differently for the various Articles or parts thereof.

Article 223. Official title

This Act is called: Pension Act.
Ordain and order that this Act be entered in the Bulletin of Acts and Decrees and that all Ministers, authorities, bodies and civil servants whom it may concern will see to its accurate implementation.

Done at The Hague, 7 December 2006

The Minister of Social Affairs and Employment,
A. J. de Geus

Published on the twenty-second of December 2006
The Minister of Justice,
E. M. H.Hirsch Ballin

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