

PROVISIONS OF BELGIAN SOCIAL AND LABOUR LAW
RELEVANT TO OCCUPATIONAL PENSIONS

Pursuant to Article 20 of Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision¹, the latter institutions are permitted to carry out cross-border activities within the limits of the social and labour law in the host Member State.

In accordance with Article 20, paragraph 5, of the Directive, the competent authorities of the host Member State are required to inform the competent authorities of the home Member State of the provisions of social and labour law relevant to the field of occupational pensions in the host Member State. This exchange of information takes place in compliance with the principles of the Budapest Protocol.

The list below concerns the provisions of Belgian social and labour law that apply to Belgian pension schemes. These provisions thus apply to foreign institutions for occupational retirement provision that carry out activities in Belgium.

This overview is not exhaustive and is without prejudice to the obligation, when carrying out activities in Belgium, to respect provisions in Belgian law that are not mentioned below.

It should also be noted that Directive 2003/41/EC regulates only the activities of institutions for occupational retirement provisions. It does not apply to individual or collective relationships among organisers, employers and employees. As regards Belgian pension schemes, those relationships are governed exclusively by Belgian law, even if the pension scheme is managed by a foreign institution for occupational retirement provision.

Finally, the FSMA stresses that pursuant to Article 54 of the WAP/LPC², Article 62 of the WAPZ/LPCI³ and Article 51 of the WAPBL/LPCDE⁴, pension institutions may not cooperate in pension schemes that are contrary to the WAP/LPC, the WAPZ/LPCI, the WAPBL/LPCDE or their implementing decrees. Those provisions, the violation of which may give rise to penal sanctions, apply equally to foreign institutions for occupational retirement provision in respect of any Belgian pension scheme they may manage.

The complete Belgian legislation may be consulted on the following websites: http://www.ejustice.just.fgov.be/cgi_loi/loi.pl. The legislation that applies specifically to supplementary pensions can also be consulted via the links provided below.

¹ Amended by Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009, by Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010, and by Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011.

² Law of 28 April 2003 on supplementary pensions and on the tax regime applicable to such pensions and to certain additional social security benefits (see list below).

³ Title II, Chapter I, Section 4, of the Programme Law (I) of 24 December 2002 (see list below).

⁴ Title 4 of the Law of 15 May 2014 containing various provisions (see list below).

A. Legislation applicable to all pension schemes

A.1. DB2P Database of supplementary pensions

- Title XI, Chapter VII of Programme Law (I) of 27 December 2006⁵.
- Royal Decree of 25 April 2007 implementing Article 306 of the Programme Law of 27 December 2006.

Information regarding the obligations of pension institutions in respect of this database is available on the following site: <http://www.db2p.be/>.

A.2. General anti-discrimination legislation

- Law of 30 July 1981 designed to sanction certain actions motivated by racism and xenophobia.
- Law of 10 May 2007 designed to fight certain forms of discrimination.
- Law of 10 May 2007 designed to fight discrimination between women and men.

A.3. Other legislation

- Article 54 of the Law on mandatory health care insurance and indemnities, consolidated on 14 July 1994.

B. Supplementary pensions for employees

B.1. Legislation specifically regarding supplementary pensions

- Title II of the [Law of 28 April 2003](#) on supplementary pensions and on the tax regime applicable to such pensions and to certain additional social security benefits (abbreviated WAP/LPC).
- [Royal Decree of 14 November 2003](#) implementing the Law of 28 April 2003 on supplementary pensions and on the tax regime applicable to such pensions and to certain additional social security benefits.
- [Royal Decree of 14 November 2003](#) establishing the solidarity benefits linked to social supplementary pension schemes.
- [Royal Decree of 14 November 2003](#) establishing the rules concerning the financing and management of solidarity commitments.

B.2. The most important other laws

a) Labour legislation

- Law of 20 September 1948 organizing economic activity.
- Law of 7 January 1958 on social security funds.
- Law of 12 April 1965 on the protection of employee remuneration.
- Law of 5 December 1968 on collective labour agreements and joint committees.

⁵ Amended by Article 69 of the Programme Law of 23 December 2009.

- Collective Labour Agreement no. 32bis of 7 June 1985 on the safeguarding of employees' rights in the event of a change of employer resulting from the legal transfer of an undertaking and regulating the rights of employees who are taken over in the event of a transfer of assets following a bankruptcy, rendered mandatory by the Royal Decree of 25 July 1985.

b) Anti-discrimination legislation

In addition to the general provisions regarding discrimination referred to under point A.2 and in addition to the specific provisions of the WAP/LPC regarding discrimination⁶, the following legislation also applies:

- Collective Labour Agreement no. 25 of 15 October 1975 on equal pay for male and female employees, rendered mandatory by the Royal Decree of 9 December 1975.
- Law of 5 March 2002 on the principle of non-discrimination toward part-time employees.
- Law of 5 June 2002 on the principle of non-discrimination toward employees with a fixed-term employment contract.

c) Language legislation

- Royal Decree of 18 July 1966 consolidating the laws on the use of languages for administrative purposes.
- Decree of 19 July 1973 on the use of languages in relations between employers and employees, as well as in company documents and papers that are required by law and by regulation, adopted by the Cultural Council of the Flemish Community.
- Decree of 30 June 1982 on protecting the freedom of language use and of the use of the French language in relations between employers and employees, as well as in company documents and papers that are required by law and by regulation, adopted by the French Community.

C. Supplementary pensions for the self-employed

C.1. Legislation specifically regarding supplementary pensions for the self-employed (WAPZ/LPCI)

- Title II, Chapter 1, Section 4, of the [Programme Law \(I\) of 24 December 2002](#) (abbreviated WAPZ/LPCI).
- [Royal Decree of 15 December 2003](#) establishing the solidarity benefits linked to social supplementary pension agreements.
- [Royal Decree of 15 December 2003](#) establishing the rules for the financing and management of a solidarity scheme linked to a social pension agreement.
- [Royal Decree of 12 January 2007](#) on supplementary pension agreements for self-employed workers.

⁶ Articles 14, 14/1, 14/2, 14/3, and 14/4 of the WAP/LPC.

C.2. Legislation specifically regarding supplementary pensions for self-employed company directors

- Title 4 of the [Law of 15 May 2014](#) containing various provisions.

C.3. The most important other laws

Social legislation

- Royal Decree no. 38 of 27 July 1967 organizing social security for self-employed workers.
- Royal Decree no. 72 of 10 November 1967 on retirement pensions and survivors' pensions for self-employed workers.
- Royal Decree of 19 December 1967 laying down general rules for the implementation of Royal Decree no. 38 of 27 July 1967 organizing social security for self-employed workers.
- Royal Decree of 20 July 1981 implementing Article 52bis, § 1, of Royal Decree no. 72 of 10 November 1967 on retirement and survivors' pensions for self-employed workers.
- Royal Decree of 31 July 1981 on the organization of the supplementary pension scheme for self-employed workers.

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