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Legal regulation of the Pension and Social Insurance Fund of the Russian Federation

Abstract: The Russia's pension system is currently in a state of reform and modernisation. New institutions are being formed: basic pensions, pension insurance, accumulative, and occupational pensions. This entails a change in the parameters and structure of the pension system, the content of legal relations and requires the creation of new financial and organisational mechanisms. In legal regulation, the ratio of public and private principles is being transformed with reference to issues of ownership, pension savings, acquisition, and realisation of pension rights, as well as the activities of an expanding circle of subjects. In these circumstances, it is necessary to pay increased attention to international standards, compliance with which is an obligation of Russia, as well as the positive experience of foreign states. The economic stability and social efficiency of the pension system are directly affected by both long-term demographic processes and medium-term macroeconomic trends, as well as short-term purely subjective political decisions. In turn, this objectively requires permanent updating of specific legal, economic, and organisational conditions of interaction between insured persons, employers as policyholders (legal entities and individuals) with the state insurer (Social Fund of the Russian Federation). The study purpose was to analyse the legal regulation of the Pension and Social Insurance Fund of the Russian Federation and the directions of its reform. To achieve the purpose and solve the tasks set, such methods as analysis of information and legal sources, generalisation, comparison, historical and logical methods were used. In the course of the study, regulatory legal acts and a number of research works by specialists in this field were used. The author concludes that the Federal Law No. 236-FZ On the Pension and Social Insurance Fund of the Russian Federation dated June 14, 2022 left an imprint on the organisation and activities of this Fund, defined the procedure for its formation in a new way, regulated its main functions and powers in more detail.

Keywords: legal regulation, pension system of Russia, Pension and Social Insurance Fund, federal law, Russian Federation.



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**Правовое регулирование Фонда пенсионного и социального страхования
Российской Федерации**

Аннотация: Пенсионная система России в настоящее время находится в состоянии реформирования и модернизации. Происходит формирование новых институтов: базовых пенсий, пенсионного страхования, накопительных и профессиональных пенсий. Это влечёт за собой изменение параметров и структуры пенсионной системы, содержания правоотношений и требует создания новых финансовых и организационных механизмов. В правовом регулировании трансформируется соотношение публичного и частного начал применительно к вопросам собственности, пенсионных накоплений приобретения и реализации пенсионных, прав, а также деятельности расширяющегося круга субъектов. В этих условиях необходимо повышенное внимание к международным стандартам, соблюдение которых является обязательством России, а также позитивному опыту иностранных государств. На экономическую стабильность и социальную эффективность пенсионной системы оказывают непосредственное воздействие как долгосрочные демографические процессы и среднесрочные макроэкономические тенденции, так и краткосрочные чисто субъективные политические решения. В свою очередь это объективно требует перманентного обновления конкретных правовых, экономических и организационных условий взаимодействия между застрахованными лицами, страхователями-работодателями (юридическими и физическими лицами) с государственным страховщиком (Социальным Фондом РФ). Целью работы являлся анализ правового регулирования Фонда пенсионного и социального страхования Российской Федерации и направлений его реформирования. Для достижения цели исследования и решения поставленных задач были использованы такие методы как анализ информационно-правовых источников, обобщение, сравнение, исторический и логический методы. В ходе исследования использовались нормативные правовые акты и ряд исследовательских работ специалистов в данной области. Автор приходит к выводу, что Федеральный закон «О Фонде пенсионного и социального страхования Российской Федерации» от 14 июля 2022 года № 236-ФЗ наложил отпечаток в организации и деятельности данного Фонда, по-новому определил порядок его образования, более детально регламентировал основные его функции и полномочия.

Ключевые слова: правовое регулирование, пенсионная система России, Фонд пенсионного и социального страхования, федеральный закон, Российская Федерация.



Abbreviations:

SFR – Social Fund of the Russian Federation

PFR – Pension Fund of the Russian Federation

Introduction

The Russia's pension system is currently in reform and modernisation state. New institutions are being formed: basic pensions, pension insurance, accumulative, and occupational pensions. This entails a change in the parameters and structure of the pension system, the content of legal relations and requires the creation of new financial and organisational mechanisms. In legal regulation, the ratio of public and private principles is being transformed with reference to issues of ownership, pension savings, acquisition, and realisation of pension rights, as well as the activities of an expanding circle of subjects. In these circumstances, it is necessary to pay increased attention to international standards, compliance with which is an obligation of Russia, as well as the positive experience of foreign states.

The economic stability and social efficiency of the pension system are directly affected by both long-term demographic processes and medium-term macroeconomic trends, as well as short-term purely subjective political decisions (*Starovoitova, 2017*). In turn, this objectively requires permanent updating of specific legal, economic and organisational conditions of interaction between insured persons, employers as policyholders (legal entities and individuals) with the state insurer (Social Fund of the Russian Federation). It is worth adding that at the moment there is a connection between the Pension Fund of the Russian Federation and the Social Insurance Fund into the Pension and Social Insurance Fund of the Russian Federation (the Social Fund of Russia), so this issue also requires additional study (*Sazanova, 2022*).

The study purpose was to analyse the legal regulation of the Pension and Social Insurance Fund of the Russian Federation and the directions of its reform.

To achieve the study purpose, the following tasks were set:

- study theoretical issues of the formation of the Social Fund of the Russian Federation;
- characterise the legal status of the Social Fund of the Russian Federation;
- consider the main functions and powers of the Social Fund of the Russian Federation;
- determinate the budget of the Social Fund of the Russian Federation.

To achieve the study purpose and solve the tasks set, such methods as analysis of information and legal sources, generalisation, comparison, historical, and logical methods were used.

In the course of the study, regulatory legal acts and a number of research works by specialists in this field were used.

Pension and Social Insurance Fund of the Russian Federation, the procedure for its formation, reorganisation and liquidation

The Pension and Social Insurance Fund of the Russian Federation is created by reorganising a state institution – the Pension Fund of the Russian Federation with the simultaneous accession of the Social Insurance Fund of the Russian Federation to it, which follows from Article 18 of Federal Law No. 236-FZ *On the Pension and Social Insurance Fund of the Russian Federation* (2022).

It follows from the same article that the date of the Foundation's creation is January 1, 2023. The Fund retains the main state registration number, taxpayer identification number, the code of the reason for registration, the code according to the All-Russian classifier of enterprises and organisations, the code according to the all-Russian classifier of administrative-territorial division objects assigned to the Pension Fund of the Russian Federation until the day of the Foundation's creation.

According to Article 2 of Federal Law No. 236-FZ *On the Pension and Social Insurance Fund of the Russian Federation*, the fund is created by the Russian Federation for the purpose of state pension provision, compulsory pension insurance, compulsory social insurance in case of temporary disability and in connection with maternity, compulsory social insurance against industrial accidents and occupational diseases, social security, provision of social protection (support) measures to certain categories of citizens, and also for the purpose of exercising other state functions and powers assigned to the Fund in accordance with the legislation of the Russian

Federation. According to Article 17 of the Federal Law, the Fund may be reorganised or liquidated because of federal law (*On the Pension and Social Insurance Fund...*, 2022).

Legal status of the Pension and Social Insurance Fund of the Russian Federation

According to part 2 of Article 7 of the Constitution of the Russian Federation, people's work and health are protected in the Russian Federation, a guaranteed minimum wage is established, state support for family, motherhood, fatherhood and childhood, disabled and elderly citizens is provided, a system of social services is being developed, state pensions, benefits and other guarantees of social protection are being established. According to part 2 of Article 39 of the Constitution of the Russian Federation, state pensions and social benefits are established by law (*The Constitution of the Russian Federation*, 2014).

According to part 1 of Article 2 of Federal Law No. 167-FZ "On Compulsory Pension Insurance in the Russian Federation", the legislation of the Russian Federation on compulsory pension insurance consists of the Constitution of the Russian Federation, the Federal Law No. 167-FZ, Federal Law No. 165-FZ dated July 16, 1999, *On the Basics of Compulsory Social Insurance*, Federal Law N 400-FZ dated December 28, 2013, *On Insurance Pensions*, Federal Law No. 424-FZ dated December 28, 2013, *On Accumulative Pension* and Federal Law No. 27-FZ dated April 1, 1996, *On Individual (Personalised) Accounting in the System of Compulsory Pension Insurance and Compulsory Social Insurance*, other federal laws and regulatory legal acts of the Russian Federation adopted according to them (*On Compulsory Pension Insurance...*, 2001). Also, since January 1, 2023, Federal Law No. 236-FZ dated July 14, 2022 *About the Pension and Social Insurance Fund of the Russian Federation* has been put into effect, which directly regulates the activities of the Pension and Social Insurance Fund of the Russian Federation.

Therefore, this new Federal law will be analysed next. It is necessary to explain the main provisions of Article 2 of this federal law.

The Fund is created under the Government of the Russian Federation in the organisational and legal form of the state extra-budgetary fund, which is a type of state institution.

The functions and authority of the founder of the Foundation on behalf of the Russian Federation are exercised by the Government of the Russian Federation.

The coordination of the Fund's activities is performed by the federal executive authority responsible for the development and implementation of state policy and regulatory regulation in pension provision and social insurance, i.e., the authorised federal executive authority.

The Fund, in accordance with this Federal Law and federal laws regulating issues of compulsory social insurance, is an insurer for compulsory pension insurance, compulsory social insurance in case of temporary disability and in connection with maternity, compulsory social insurance against industrial accidents and occupational diseases, and also provides, according to the legislation of the Russian Federation, individual categories of citizens of social protection (support) measures (*On the Pension and Social Insurance Fund...*, 2022).

Competence of the Pension and Social Insurance Fund of the Russian Federation

Article 5 of Federal Law No. 236 *On the Pension and Social Insurance Fund of the Russian Federation* provides an exhaustive list of the Fund's functions and powers, which had not actually been enshrined in any normative legal acts before. These include:

- 1) appointment and payment of pensions for compulsory pension insurance and state pension provision;
- 2) provision of other types of security established in addition to insurance pensions and pensions for state pension provision, as well as other payments and compensations in accordance with the legislation of the Russian Federation;
- 3) appointment and payment of state benefits, compulsory social insurance security, and other types of security established by federal laws on specific types of compulsory social insurance;
- 4) organisation and maintenance of individual (personalized) accounting in the systems of compulsory pension insurance and compulsory social insurance;
- 5) organisation of investment of pension savings;
- 6) actuarial assessment of the financial condition of mandatory pension insurance and mandatory social insurance systems, long-term forecasting of their development;
- 7) provision of state guarantees, measures of social protection (support), social services to certain categories of citizens, including within the framework of state social assistance;
- 8) organisation of events in medical, social, and professional rehabilitation of insured persons;
- 9) other functions and powers provided for by international treaties of the Russian Federation, federal laws and other regulatory legal acts of the Russian Federation (*On the Pension and Social Insurance Fund...*, 2022).

The Fund also organises and conducts in the central office of the Fund, territorial bodies of the Fund, institutions subordinate to the Fund measures for mobilisation training, civil defense and protection of employees of the Fund and material assets from dangers arising from military conflicts or as a result of these conflicts, as well as in emergency situations of natural and man-made nature, fulfills the requirements for anti-terrorist protection of objects of the Fund and ensures their fire safety, which proceeds from part 2 of Article 5 of this federal law.

And according to Article 3, the Foundation performs functions and authority to ensure the protection of information constituting a state secret and other information, access to which is restricted by federal laws.

Budget of the Pension and Social Insurance Fund of the Russian Federation

V.D. Roik's textbook was taken as the basis for consideration of this issue, which most briefly described the procedure for drawing up the budget of the Pension Fund of the Russian Federation (*Roik, 2022, p. 85*). However, it will also be suitable for newly formed Fund, since in fact, its name will only change in the legislation in the issue considered.

The procedure for developing, reviewing, and approving budgets of state extra-budgetary funds is based on the legally established procedure for drawing up, submitting and approving them. Thus, for the Social Fund of the Russian Federation (hereinafter SFR), this procedure is regulated by law and is defined by Article 145 of the Budget Code of the Russian Federation, Article 10 of Federal Law No. 236-FZ, Chapter IV of Federal Law No. 167-FZ *On Compulsory Pension Insurance in the Russian Federation* dated December 13, 2001 and other legislative and regulatory acts.

In particular, the norms of Article 145 provide that the draft budget is created by the Board of the SFR, submitted for approval to the Ministry of Labor and Social Protection of the Russian

Federation, which is the coordinator of the activities of state extra-budgetary funds, which submits the document to the Russian Federation Government.

After considering the draft budget at its meeting, the Russian Federation Government the submits a document in the form of a draft federal law to the State Duma, where it is reviewed and adopted according to the existing procedure for reviewing and adopting draft federal laws.

According to paragraph 2 of Article 145 of the Budget Code of the Russian Federation, the budget of the SFR must be considered and approved by the Federal Assembly of the Russian Federation in the form of a federal law, simultaneously with the adoption of the federal law on the federal budget for the next fiscal year.

The Social Fund of the Russian Federation as a subject of budgetary legal relations according to Articles 13 and 144 of the Budget Code of the Russian Federation is a state extra-budgetary fund, i.e., a money fund formed outside the federal budget and budgets of the Russian Federation regions. Its purpose and functions are to implement the constitutional rights of citizens to pension provision.

The budget execution report according to the norms of Article 149 of the Budget Code of the Russian Federation is compiled by the Board of the SFR and undergoes a similar procedure as when considering the draft budget for the planning year. Such a legislative procedure makes it possible to fix the most important parameters of the actual execution of the budget, which is an important source of objective information in the dynamics of the structure of the budget of the SFR, which is a set of revenues and expenditures for a number of years. Unfortunately, a SFR code will appear only in 2023, when it is formed.

So far, e.g., Federal Law No. 250-FZ *On the Execution of the Budget of the Pension Fund of the Russian Federation for 2021* dated July 14, 2022, can be cited. He approved the revenues of the PFR for 2021 in the amount of 9,794.3 billion rubles, expenses in the amount of 10,125.1 billion rubles, budget deficit in the amount of 330.7 billion rubles. The data record not only the financial position of the PFR, but are a legally confirmed fact of the organisation of the PFR budget process for 2021, confirming compliance with the legislative establishment of the procedure for collecting and spending funds for pension insurance.

Conclusion

Thus, we have considered the emergence of a new Pension and Social Insurance Fund of the Russian Federation. The Federal Law No. 236-FZ *On the Pension and Social Insurance Fund of the Russian Federation* dated July 14, 2022, left an imprint on the organisation and activities of this Fund, defined the procedure for its formation in a new way, regulated its main functions and powers in more detail.

In the first part of the study, the procedure for the formation of the Pension and Social Insurance Fund, identified ways to reorganise and liquidate it, was analysed. In the second part of the study, the materials of studying the legislation regulating the activities of not only the Social Fund of the Russian Federation itself, but also the entire system of compulsory pension insurance in general, are presented. In the third part, the author highlights the main powers of the Pension and Social Insurance Fund according to the new Federal Law No. 236-FZ dated July 14, 2022. The fourth part briefly describes the budget process of the Pension and Social Insurance Fund of the Russian Federation.

It should also note that the educational literature has not yet adapted to the new changes in legislation, as it still appeals to the old regulations and norms of articles. Therefore, the provisions of the current Constitution of the Russian Federation were taken as the basis, as well as other Federal laws regulating the activities of the Fund, including, now the main Federal Law No. 236-FZ *On the Pension and Social Insurance Fund of the Russian Federation*.

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