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the English version is for informational purposes only.*

ACT No 129/2022

of 24 March 2022

on the pan-European personal pension product (and amending certain laws)

The National Council of the Slovak Republic has adopted this Act:

Article I

Section 1

Subject matter

This Act regulates certain conditions for the pan-European personal pension product (PEPP) as defined in other legislation.¹

Section 2

Definitions

(1) For the purposes of this Act, ‘provider’ means a provider² of a PEPP registered in a central public register³ which concludes with a PEPP saver⁴ (hereinafter a ‘saver’) a PEPP contract⁵ (hereinafter a ‘contract’).

(2) For the purposes of this Act, ‘contribution’ means funds paid by a saver in accordance with a contract.

Section 3

Saver

Only a natural person who has reached the age of majority may be a saver.

Section 4

Material scope of the PEPP

The benefits payable under the PEPP may be made in the following forms in accordance with the conditions laid down in this Act:

- (a) an annuity;
- (b) drawdown payments;
- (c) a lump sum;
- (d) an early withdrawal.

Benefit payment conditions

Section 5

Savers who request a provider to pay a benefit referred to in Section 4(a) to (c) shall be paid this benefit where:

- (a) they become entitled to the payment of an old-age pension under other legislation;⁶
- (b) they become entitled to the payment of an early retirement pension under other legislation;⁶
or
- (c) reach the age of eligibility for an old-age pension under other legislation.⁷

Section 6

Annuities and the annuity amount

(1) Providers shall pay annuities in the following forms:

- (a) lifetime annuity;
- (b) temporary annuity.

(2) Lifetime annuities shall be paid over the life of the PEPP beneficiary. Temporary annuities shall be paid for a period of at least five years.

(3) The amount of a lifetime annuity shall be determined according to the value of the saver's capital⁸ and to the saver's age from when the lifetime annuity starts being paid. The amount of a temporary annuity is determined according to the value of the saver's capital, to the saver's age from when the temporary annuity starts being paid, and to the number of years for which the temporary annuity is to be paid. The first payment of a lifetime annuity or a temporary annuity may be paid at a maximum of 25% of the value of the saver's capital. Where the first payment of a lifetime annuity or a temporary annuity is to be paid pursuant to the third sentence, the amount of the lifetime annuity referred to in the first sentence or the amount of the lifetime annuity referred to in the second sentence shall be determined from the value of the saver's capital less the amount of the first payment of the lifetime annuity or the temporary annuity.

Section 7

Drawdown payments and the drawdown payment amount

(1) Unless Section 9(3)(a) provides otherwise, drawdown payments shall be made for at least five years from when the saver reaches the age of eligibility for an old-age pension under other legislation.⁷

(2) Drawdown payments shall be paid in equal amounts determined according to the value of the saver's capital and to the number of years over which the drawdown payments are to be made.

Section 8

Lump-sum payments and the lump-sum amount

Where savers request their provider to pay them a lump sum, the provider shall pay the saver the amount requested, provided that:

- (a) the value of the saver's capital is less than four times the average nominal wage in the economy of the Slovak Republic as determined by the Statistical Office of the Slovak Republic for the penultimate year before the year in which the lump-sum payment is to be made; or
- (b) five years have passed since the saver reached the age of eligibility for an old-age pension under other legislation.⁷

Section 9

Early withdrawals and the early withdrawal amount

(1) At the request of a saver who does not meet the conditions for the payment of a benefit under Section 5, providers shall make an early-withdrawal payment to the saver, provided that the saver:

- (a) is, owing to ill health,
 - 1. disabled as defined in other legislation,⁶ by virtue of his or her capacity to engage in gainful activity having been reduced by more than 70%, and this circumstance arose after the conclusion of the contract;
 - 2. a natural person with a severe disability as defined in other legislation;⁹ or
- (b) has been registered as a jobseeker for at least 12 consecutive months pursuant to other legislation¹⁰ and has reached the age of 57.

(2) The early-withdrawal payment made to a saver under paragraph 1(a) shall be in the amount of the saver's capital. Early-withdrawal payments under the first sentence shall be paid as a lump sum, unless the saver and the provider agree otherwise in writing.

(3) The early-withdrawal payment made to a saver under paragraph 1(b) shall be in the form of:

- (a) drawdown payments made over a period of at least five years, without prejudice to the application of Section 7(2); or
- (b) a lump sum.

Supervision

Section 10

(1) Národná banka Slovenska is a competent authority as defined in other legislation.¹¹ Národná banka Slovenska shall:

- (a) exercise powers in accordance with other legislation;¹
- (b) exercise supervision over the provision and distribution of PEPPs, including taking decisions for the registration of a PEPP or for the deregistration of a PEPP.

(2) Národná banka Slovenska in exercising competences under paragraph 1, applicant PEPP providers, PEPP providers, and PEPP distributors shall proceed in accordance with other legislation,¹² unless this Act or other legislation¹³ provides otherwise.

(3) In performing its tasks, Národná banka Slovenska shall take into account the common procedures and recommendations of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) in regard to the application of this Act and other legislation concerning the PEPP.

(4) The provision of information under this paragraph is not subject to the duty of confidentiality under other legislation.¹⁴ Národná banka Slovenska may provide information obtained in the course of supervision to:

- (a) the European Supervisory Authority (European Insurance and Occupational Pensions Authority) or another European Union authority, where the information is necessary for the authority or Národná banka Slovenska to perform its duties;
- (b) financial institution supervisory authorities or other public authorities from another country which are involved in the exercise of supervision, or with which Národná banka Slovenska is cooperating in the performance of its tasks in the area of financial institution supervision in accordance with other legislation or with treaties by which the Slovak Republic or Národná banka Slovenska is bound, where the information is necessary for the authority or Národná banka Slovenska to perform its duties;
- (c) central banks of the European System of Central Banks (including the European Central Bank) and other bodies with a similar function in their capacity as monetary authorities when the information is relevant for the exercise of their respective statutory tasks, including the conduct of monetary policy and related liquidity provision, oversight of payment and settlement systems and securities settlement systems, and the safeguarding of stability of the financial system.
- (d) the European Systemic Risk Board established by other legislation,¹⁵ where the information is necessary for the exercise of the Board's tasks;
- (e) courts of justice;
- (f) central government authorities, where Národná banka Slovenska is providing information about the results of the handling of a complaint relating to the provision of financial services or the undertaking of another transaction by an entity under supervision pursuant to other legislation,¹² which was made by a financial consumer or other customer of an entity under supervision pursuant to paragraph 1 and which the central government authority forwarded to Národná banka Slovenska for handling on grounds of subject matter jurisdiction;
- (g) government authorities in the field of taxes and fees in a matter of tax administration,¹⁶ where such an authority requests Národná banka Slovenska in writing for the information,
- (h) other public authorities with which Národná banka Slovenska, in the performance of its tasks related to the exercise of supervision, cooperates in accordance with other legislation¹⁷ and other public authorities specified in other legislation,¹⁸ where that cooperation or exchange of information with such authorities is necessary for Národná banka Slovenska to perform its duties; and Národná banka Slovenska may provide such information only to the extent necessary to perform its duties;
- (i) persons who under other legislation¹⁹ are required to keep confidential any facts related to the performance of their tasks for a PEPP provider, a PEPP distributor, or a depository;
- (j) lawyers, or other persons under other legislation,²⁰ representing Národná banka Slovenska, an employee of Národná banka Slovenska, or a member of the Bank Board of Národná banka Slovenska in judicial or criminal proceedings concerning a PEPP provider, a PEPP distributor, or a depository;
- (k) statutory auditors, audit firms, other persons authorised to carry out a statutory audit pursuant to other legislation,²¹ and other persons, where they perform expert activities²² or provide an expert assessment for Národná banka Slovenska for the purposes of the supervision of a PEPP; and to bodies exercising supervision over PEPP provision.

(5) Národná banka Slovenska may provide information obtained during the course of supervision to persons other than those referred to in paragraph 4 only with the consent of the entities concerned.

(6) The provisions of paragraphs 4 and 5 are without prejudice to the obligation under other legislation²³ to report or prevent the commission of a crime.

Section 11

(1) Where in connection with the provision or distribution of a PEPP, the PEPP provider, PEPP distributor, or a depository breaches or circumvents an obligation under this Act or other legislation,¹³ or fails to comply with a measure imposed by a final decision of Národná banka Slovenska, or obtains the registration of the PEPP through false or misleading statements or any other irregular means in infringement of this Act or other legislation,²⁴ Národná banka Slovenska may:

- (a) impose measures to eliminate and remedy the deficiencies identified, a time limit for complying with them, and an obligation to inform Národná banka Slovenska within a specified period of time that they have been complied with;
- (b) order the replacement of any member of the management or supervisory body of the PEPP provider, the PEPP distributor or the depository, or order the replacement of any other persons in management positions at the provider, distributor or depository;
- (c) order a change of depository;
- (d) impose a fine of up to
 - 1. EUR 5,000,000, in the case of a legal person;
 - 2. 10% of the total annual turnover according to the financial statements or consolidated financial statements deposited in the public part of the register of financial statements under other legislation,²⁵ where the amount so determined exceeds the amount of the fine under the first point;
 - 3. EUR 700,000, in the case of a natural person;
 - 4. twice the amount of the amount of the benefit derived from the infringement where that benefit can be determined, even if that exceeds the maximum amounts in point 1, 2 or 3;
- (e) deregister the PEPP.

(2) Národná banka Slovenska may take any of the following actions against natural or legal persons that perform an activity that only a PEPP provider, a PEPP distributor or a depository is authorised to perform:

- (a) impose a sanction or measure referred to in paragraph 1;
- (b) order the natural or legal person to cease the activity and to desist from a repetition of that activity.

(3) Where Národná banka Slovenska has a reasonable suspicion that an activity referred to in paragraph 2 is being carried out, it may request the person concerned for information, statements and other documents and explanations specified by Národná banka Slovenska, even if that person is not subject to supervision by Národná banka Slovenska under other legislation.¹² The person concerned shall, at no charge, submit the requested information, statements and other documents and explanations, being complete, accurate and true, to Národná banka Slovenska at the specified time and in the required form, format and structure; Národná banka Slovenska may verify such information, statements and other documents and explanations through an on-the-spot inspection conducted at the premises of the person concerned, and that person shall enable it to do so. In regard to the establishment and examination of a suspicion under paragraph 2, the procedure followed by Národná banka Slovenska and the person concerned is subject to the provisions of other legislation.²⁶

(4) When imposing a sanction or measure under paragraphs 1 and 2, Národná banka Slovenska shall proceed in accordance with other legislation.²⁷

(5) Sanctions or measures referred to in paragraphs 1 and 2 may be imposed separately or concurrently and repeatedly.

(6) Sanctions or measures referred to in paragraphs 1 and 2 may be imposed within two years from when the deficiency is identified, but no later than ten years after its occurrence. The imposition of sanctions or measures pursuant to this Act is without prejudice to liability under other legislation.²⁷

(7) Národná banka Slovenska may, even outside proceedings on the imposition of sanctions or measures under paragraphs 1 and 2 in relation to deficiencies under this Act, discuss deficiencies in the activities of the supervised entity with persons authorised to act on behalf of that entity, and such persons shall provide Národná banka Slovenska with the cooperation that it requests.

(8) Fines are payable within 30 days from the effective date of the decision to impose the fine.

(9) Fines imposed under this Act constitute revenue of the state budget.

(10) Where Národná banka Slovenska issues an enforceable decision to impose a sanction or measure pursuant to paragraphs 1 and 2, it shall without undue delay publish on its website the operative part of that decision, including the identification data of the person or persons on whom the sanction or measure is imposed. Národná banka Slovenska may postpone the publication of the operative part of a decision pursuant to the first sentence, or may decide not to publish such a decision or to publish it without including the identification data of the person or persons on whom the sanction or measure under paragraph 1 or 2 was imposed, if publication of the identification data of the person or persons on whom the sanction or measure under paragraph 1 or 2 was imposed would be disproportionate to the nature of the infringement or if publication of the operative part of the decision would pose a risk to the stability of financial markets or to ongoing supervision.

Section 12

(1) PEPP providers, PEPP distributors, and depositories shall provide Národná banka Slovenska with the information necessary to exercise supervision over PEPP provision and distribution in accordance with this Act and other legislation.¹³ Národná banka Slovenska may issue a decree stipulating the scope and form of the information referred to in the first sentence and when and how that information is to be submitted.

(2) PEPP providers, PEPP distributors, and depositories shall also provide Národná banka Slovenska, at its request, with any other information and explanations that Národná banka Slovenska needs in order to exercise its powers under this Act and other legislation.²⁴

Section 13

Common provision

Unless otherwise provided by other legislation regulating the PEPP¹ or by this Act, the activities of PEPP providers and PEPP distributors in regard to PEPP provision or distribution, the activities of depositories, and the supervision of these activities, are subject to other legislation.²⁸

Article IV

This Act takes effect on the date of its promulgation, with the exception of Article II, which takes effect on 1 January 2023.

Zuzana Čaputová [signed]

Boris Kollár [signed]

Eduard Heger [signed]

Endnotes

- ¹ Regulation (EU) No 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 27.7.2012), as amended.
- ² Article 2(15) of Regulation (EU) 2019/1238, as amended.
- ³ Article 13 of Regulation (EU) 2019/1238, as amended.
- ⁴ Article 2(3) of Regulation (EU) 2019/1238, as amended.
- ⁵ Article 2(4) of Regulation (EU) 2019/1238, as amended.
- ⁶ Act No 461/2003 on social insurance, as amended.
- ⁷ Section 65 of Act No 461/2003, as amended.
- ⁸ Article 2(24) of Regulation (EU) 2019/1238, as amended.
- ⁹ Act No 447/2008 on financial contributions to compensate severe disability (and amending certain laws), as amended.
- ¹⁰ Section 8(1)(c) of Act No 5/2004 on employment services (and amending certain laws), as amended.
- ¹¹ Article 2(18) of Regulation (EU) 2019/1238, as amended.
- ¹² Act No 747/2004 on financial market supervision (and amending certain laws), as amended.
- ¹³ For example: Regulation (EU) 2019/1238, as amended; Commission Implementing Regulation (EU) 2021/897 of 4 March 2021 laying down implementing technical standards for the application of Regulation (EU) 2019/1238 of the European Parliament and of the Council with regard to the format of supervisory reporting to the competent authorities and the cooperation and exchange of information between competent authorities and with the European Insurance and Occupational Pensions Authority (OJ L 197, 4.6.2021).
- ¹⁴ For example: Sections 7 and 41 of Act No 566/1992 on Národná banka Slovenska, as amended; Sections 2, 3, 17 and 24 of Act No 747/2004, as amended.
- ¹⁵ Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010), as amended.
- ¹⁶ Act No 479/2009 on government authorities in the field of taxes and fees (and amending certain laws), as amended.
Act No 563/2009 on the administration of taxes (and amending certain laws) (the Tax Code), as amended.
- ¹⁷ For example: Act No 297/2008 on the prevention of money laundering and terrorist financing (and amending certain laws).
- ¹⁸ For example: Act No 35/2019 on financial administration (and amending certain laws), as amended.
- ¹⁹ For example: Act No 483/2001 on banks (and amending certain laws), as amended; Act No 566/2001 on securities and investment services (and amending certain laws) (the Securities Act), as amended; Act No 650/2004 on the supplementary pension scheme (and amending certain laws), as amended; Act No 203/2011 on collective investment, as amended; Act No 39/2015 on insurance (and amending certain laws), as amended.
- ²⁰ Act No 586/2003 on the legal profession (and amending Act No 455/1991 on small business activity (the Trading Act), as amended), as amended.
- ²¹ Act No 423/2015 on statutory audit (and amending Act No 431/2002 on accounting, as amended), as amended.
- ²² Act No 382/2004 on experts, interpreters and translators (and amending certain laws), as amended.
- ²³ Sections 340 and 341 of the Criminal Code.
- ²⁴ For example: Regulation (EU) 2019/1238, as amended; Commission Implementing Regulation (EU) 2021/897; Act No 747/2004, as amended.
- ²⁵ Act No 431/2002 on accounting, as amended.
- ²⁶ For example: Act No 483/2001, as amended; Act No 566/2001, as amended; Act No 650/2004, as amended; Act No 747/2004, as amended; Act No 203/2011, as amended; Act No 39/2015, as amended.
- ²⁷ Article 68(2) of Regulation (EU) 2019/1238, as amended.
Act No 747/2004, as amended.
- ²⁸ For example: Act No 483/2001, as amended; Act No 566/2001, as amended; Act No 650/2004, as amended; Act No 747/2004, as amended; Act No 186/2009 on financial intermediation and financial advisory services (and amending certain laws) as amended; Act No 203/2011, as amended; Act No 39/2015, as amended.