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Federal Act on the Federal Pension Fund (PUBLICA Act)

of 20 December 2006 (Status as of 1 January 2012)

The Federal Assembly of the Swiss Confederation,

based on Articles 113 paragraph 1 and 173 paragraph 2 of the Federal Constitution¹,
and having examined the Dispatch of the Federal Council dated
23 September 2005²,

decrees:

Section 1 General Provisions

Art. 1 Purpose

This Act governs the organisation of the Swiss Federal Pension Fund (PUBLICA) and defines its tasks and competencies.

Art. 2 Legal form and registered office

¹ PUBLICA is an undertaking of the Swiss Confederation established under public law with separate legal personality.

² Its registered office is in Bern and it is entered in the commercial register.

Art. 3 Tasks

¹ PUBLICA insures employees against the economic consequences of old age, invalidity and death. It provides insurance cover in accordance with the Federal Act of 25 June 1982³ on Occupational Old Age, Survivors' and Invalidity Pension Provision (Occupational Pensions Act) and the Federal Act of 17 December 1993⁴ on the Portability of Occupational Old Age, Survivors' and Invalidity Pensions (Occupational Pension Portability Act). It is entered in the register of occupational pension schemes.

AS 2007 2239

¹ SR 101

² BBl 2005 5829

³ SR 831.40

⁴ SR 831.42

² The Federal Council may assign additional tasks to PUBLICA provided that these bear a direct relation to the remit defined under this Act. The Confederation bears the expenses thereby incurred.

Art. 4 Affiliation

¹ The employers affiliated to PUBLICA are those defined under Article 32*b* of the Federal Personnel Act of 24 March 2000⁵.

² Employers that are closely associated with the Confederation or which fulfil a public task on behalf of the Confederation, a canton or a commune may also be affiliated to PUBLICA. Decisions on affiliation are taken by PUBLICA.

³ An employer is affiliated to PUBLICA by means of a contract of affiliation. The pension plan regulations and the setting of administrative costs form an integral part of contracts of affiliation.

Art. 5 Recourse against liable third parties

PUBLICA is subrogated to the rights of the insured and their survivors against any liable third party up to the amount of the benefits under the regulations. The settlement and scope of this subrogation are governed by Articles 72 to 75 of the Federal Act of 6 October 2000⁶ on General Aspects of Social Security Law.

Art. 6 Data processing

¹ PUBLICA processes those personal details of the insured and their relatives that are required for providing occupational pension insurance.

² If necessary for the performance of its tasks, it may process the following personal data of a sensitive nature:

- a. health-related data;
- b. data pertaining to social welfare and debt enforcement.

³ For the purpose of checking the insured parties' details, PUBLICA may compare its own data, particularly electronic data, with that of Swiss and foreign pension schemes and social security institutions, specifically the Federal Compensation Fund, the Central Compensation Office, the Swiss Compensation Fund, Military Insurance, the Swiss National Accident Insurance Fund (Suva) and the Invalidity Insurance office for insured persons resident abroad.

⁴ The Fund Commission (Art. 10 let. a) governs:

- a. the competency for data processing;
- b. the data retention period;
- c. the organisation and operation of automated systems;
- d. data security.

⁵ SR 172.220.1

⁶ SR 830.1

Section 2 Employee Pension Funds

Art. 7 Formation of employee pension funds

¹ PUBLICA forms a separate employee pension fund for each of its affiliated employers, covering their employees as well as the pensioners assigned to them.

² PUBLICA may form a collective employee pension fund for several affiliated employers.

³ An employee pension fund may also be formed or carried on in cases where an employer is assigned pensioners only. If an affiliated employer wishes to continue an employee pension fund without employees, a new contract of affiliation must be signed.

Art. 8 Actuarial risks

¹ Each employee pension fund bears its own actuarial risks.

² For the employee pension funds taken as a whole, PUBLICA forms:

- a. a provision to be used to offset actuarial fluctuations occurring in the employee pension funds in the risks associated with death and invalidity in cases that cannot be covered by risk premiums; employee pension funds with no employees (Art. 7 para. 3) are excluded;
- b. a provision to be used for benefits in cases of particular hardship.

Art. 9 Joint body

¹ Each employee pension fund has a joint body encompassing representatives of the employer and employees. Employee pension funds consisting only of pensioners are exempt from this obligation if the payment of benefits is guaranteed by the Confederation, a canton or a commune.

² The signing, amendment and termination of a contract of affiliation requires the participation and approval of the joint body.

³ The joint body assumes the tasks and competencies assigned to it under this Act, PUBLICA's rules of business and organisation and the contract of affiliation.

⁴ The employer and its employees designate their representatives within the joint body.

Section 3 Organisation

Art. 10 Governing bodies

The governing bodies of PUBLICA are:

- a. the Fund Commission;
- b. the Assembly of Delegates;

- c. the Management;
- d. the Auditors as defined under Article 53 paragraph 1 of the Occupational Pensions Act ⁷.

Art. 11 Tasks of the Fund Commission

¹ The Fund Commission is the supreme governing body of PUBLICA. It directs PUBLICA and ensures the supervision and control of its business management.

² Specifically, the tasks of the Fund Commission are to:

- a. enter into and terminate contracts of affiliation;
- b. appoint the Management;
- c. designate the Auditors and the expert in occupational pensions;
- d. approve the annual accounts;
- e. take restructuring measures;
- f. rule on the formation of provisions within the meaning of Article 8 paragraph 2;
- g. rule on the creation of collective employee pension funds (Art. 7 para. 2);
- h. designate the internal appeals body provided for under Article 35 paragraph 1 of the Federal Personnel Act ⁸.

³ In particular, the Fund Commission adopts:

- a. the rules of business and organisation;
- b. the principles of the risk management policy;
- c. the policy on provisions and reserves;
- d.⁹ the investment regulations, including the investment strategy (Art. 15 Abs. 2);
- e. the policy on data processing (Art. 6 para. 4);
- f. the policy on costs and expenses;
- g. the model pension plan regulations;
- h. the model contract of affiliation.

Art. 12 Appointment and organisation of the Fund Commission

¹ The Fund Commission consists of 16 members appointed for a tenure of four years.

⁷ SR **831.40**

⁸ SR **172.220.1**

⁹ Amended in accordance with No I 2 of the FA of 17 June 2011, in force since 1 Jan. 2012 (AS **2011** 5583; BBl **2010** 7059).

² The Fund Commission comprises representatives of both employers and employees. The number of representatives from both sides per employee pension fund is determined on the basis of the individual fund's share in PUBLICA's overall policy reserve. At least one seat is allocated each to the administrative units of the decentralised federal administration as a whole, within the meaning of Article 32a paragraph 2 of the Federal Personnel Act¹⁰ and to the affiliated employers as a whole, within the meaning of Art. 4 paragraph 2 of this Act.

³ The employees' representatives are elected by the Assembly of Delegates.

⁴ The employers designate their own representatives to the Fund Commission. They may decide to group together and designate a collective representative.

⁵ Members of the Fund Commission designated by employees and employers are not required to be insured with PUBLICA.

⁶ The Fund Commission is self-appointed. It may call upon expert consultants and set up committees, whose members need not be on the Fund Commission.

Art. 13 The Assembly of Delegates

¹ The Assembly of Delegates comprises employees of the affiliated employers. It elects the employee representatives to the Fund Commission.

² It may submit proposals to the Fund Commission on all matters concerning PUBLICA.

³ It is informed about the development of business each year by the Fund Commission and Management.

⁴ The Assembly of Delegates comprises eighty members. The number of delegates for each employee pension fund is determined on the basis of that fund's share in PUBLICA's overall policy reserve. Employee pension funds may decide to group together and designate a collective representative to the Assembly of Delegates.

⁵ Delegates are appointed for a period of four years.

Art. 14 Management

¹ The Management runs the day-to-day operations of PUBLICA. It participates in an advisory role in the meetings of the Fund Commission and its committees and may submit proposals. It appoints the staff of PUBLICA.

² The Management and other personnel of PUBLICA are subject to the provisions of the Federal Personnel Act¹¹. Their occupational pension insurance is with PUBLICA.

¹⁰ SR 172.220.1

¹¹ SR 172.220.1