



Republika e Kosovës
Republika Kosovo - Republic of Kosovo
Kuvendi - Skupština - Assembly

Law No. 04/L-131

ON PENSION SCHEMES FINANCED BY THE STATE

The Assembly of the Republic of Kosovo,

Based on Article 65 (1) and Article 51 (1) of the Constitution of the Republic of Kosovo

Approves

LAW ON PENSION SCHEMES FINANCED BY THE STATE

Article 1
Aim

1. This Law shall regulate and determine:

1.1. basic age pensions, age contribution-payer pensions, disability pensions, early pensions, family pensions and work disability pensions, as pensions of the Pillar I financed by the state;

1.2. consolidation, harmonization and unification of applicable pension schemes, currently financed by the Kosovo State Budget;

1.3. the establishment of a legal framework unified for the continued provision of these pensions to residents of the Republic of Kosovo and foreign nationals, in accordance with bilateral social insurance agreements, which shall be signed by the Republic of Kosovo with the respective states;

1.4. criteria and administrative procedures necessary to obtain the right to pension for pension payments.

Article 2

Scope

1. The Law shall include the Basic Age Pension Scheme, Age Contribution-Payer pension Scheme, Disability Pension Scheme and Early Pension Scheme, and shall regulate issues of family pension and work disability pension in the cases where contributors get hurt at work or acquire an occupational disease.
2. Creates a methodology by which the value of pensions shall be harmonized and matched with the increase of living cost.
3. Determines the administrative procedures through which individuals can apply to obtain pensions.
4. Addresses issues dealing with the excess payments and pensions arrears.
5. Creates a process according to which persons can review the criteria of acceptance for pension.
6. Creates a transition rule that belongs to persons who receive pension payments in the existing pension schemes and programs being implemented.
7. Regulates other issues of pension schemes defined in this legal act, which are in interest and favor of pension users.

Article 3

Definitions

1. Terms used in this Law shall have the following meanings:
 - 1.1. **Pension** - a regular monthly payment financed by the Budget of the Republic of Kosovo, for the person who meets the conditions of the retirement foreseen by this Law;
 - 1.2. **Pensioner** – the citizen of the Republic of Kosovo who meets the conditions to be beneficiary of one of the pension schemes in Kosovo;
 - 1.3. **Retirement age** - the retirement age, in accordance with this Law, according to the categories of beneficiaries of pension schemes;
 - 1.4. **Basic age pension** – the minimal regular monthly pension paid to all citizens of the Republic of Kosovo who have reached the age of sixty-five (65), regardless if they have been employed or not and those who meet the criteria set forth by this Law;
 - 1.5. **Age Contribution-payer pension** - regular monthly pension for employed citizens in the Republic of Kosovo, who have paid contributions in the former Kosovo Pension Fond before 01.01.1999 under the provisions of the Law on Pension and Disability Insurance No. 011-24/83 (SAPK Official Gazette No. 26. / 83) `who meet the criteria foreseen in this Law;

1.6. **Permanent Disability pension** - a regular monthly pension paid to citizens of the Republic of Kosovo, based on the decision of relevant body of the Ministry, who meet the criteria set forth by this Law;

1.7. **Early pension** - a regular monthly pension paid to miners of the complex "Trepca", and other miners employed in other mines of Kosovo, who meet the criteria set forth by this Law;

1.8. **Work Disability pension** - a regular monthly pension paid to persons who suffer injury at work or acquire occupational illness during the employment relationship, who meet the criteria set forth by this law, and invalids of work according to the Pension and Disability Law applied before the date 01.01.1999;

1.9. **Family pension** - a regular monthly pension paid to family members in case of death of the employee who has been in employment relationship, who meet the criteria set forth by this Law;

1.10. **Medical Commission** – a body of medical expertise, appointed by the Ministry to determine health status respectively the disability;

1.11. **Family members** - the spouse, marital, extramarital and adopted children;

1.12. **CLA - Cost of Living Adjustment** - the cost of living adjustment as a method of calculating the cost of daily expenses;

1.13. **Ministry** - the respective Ministry for Labour and Social Welfare (MLSW);

Article 4 **The rights established by this Law**

1. For the persons who meet the conditions and criteria defined by this Law, there shall be provided these rights:

- 1.1. the right to basic age pension;
- 1.2. the right to age contribution-payer pension;
- 1.3. the right to disability pension;
- 1.4. the right to early pension;
- 1.5. the right to work disability pension;
- 1.6. the right to family pension.

Article 5
Provision of financial means for pension payments

Financial means for payment of all pensions set forth by this Law shall be provided from the Budget of Republic of Kosovo.

Article 6
Guarantee of the payments of pensions

Government of the Republic of Kosovo shall guarantee the realization of the rights for all types of pensions determined by this Law.

Article 7
Conditions and criteria for the recognition of the right to basic age pension

1. Basic Age Pension shall be paid to all persons who are permanent citizens of the Republic of Kosovo, who possess identification documents and who have reached the age of sixty-five (65).

2. Valid documents necessary for the recognition of the right to basic age pension shall be:

2.1. Identity Card issued by the responsible body of the Republic of Kosovo;

2.2. Certification by Civil Office that he/she is a permanent resident at the given address.

3. Besides the valid documents specified in paragraph 2 of this Article, the applicant when submitting the request for the basic age pension, should as well submit the following documents:

3.1. application sheet for pension;

3.2. bank account issued by one the banks operating in Kosovo.

Article 8
Conditions and criteria for recognition of the right to age contribution-payer pension

1. The right to age contribution-payer pension shall be realized by all persons who have citizenship of Kosovo and who:

1.1. have reached the age of sixty-five (65);

1.2. should have pension contribution-payer work experience, according to the Law on pension and disability insurance, No. 011-24/83 (Official Gazette of SAPK No.26/83) before the date 1.01.1999.

- 1.3. provide valid evidence on payment of contributions under provisions of the Law on Pension and Disability Insurance No.011-24/83 (Official Gazette of SAPK No.26/83) before 01.01.1999;
2. Categorization of users of contribution-payer pension, according to the duration of the payment of contribution according to the qualification structure and other criteria shall be defined by a sub-legal act which shall be approved by the respective Ministry.
3. Persons who meet the conditions and criteria for the age contribution-payer pension may not be users of any other pension scheme established by this Law.
4. Exceptionally, the users of the age contribution-payers pension and users of other pensions determined by this Law, may also be foreign nationals, with the state of whom the Republic of Kosovo shall conclude Bilateral Agreement for social insurance.
5. Provisions of Bilateral Agreement for social insurance which are concluded by the Republic of Kosovo with the respective states shall prevail over the provisions of this Law and other laws of the social security field.
6. With this Law there shall be recognized the work experience on contribution-payer pension for the years 1989-1999 of the employees of education, health and others who have worked in the system of the Republic of Kosovo.

Article 9

Conditions and criteria for recognition of the right to permanent disability pension

1. Permanent disability pension shall provide financial support to selected persons in accordance with criteria established by this Law and allocated means for this purpose in the Budget of the Republic of Kosovo.
2. Permanent disability pension shall be paid to all persons who are citizens of the Republic of Kosovo, who possess identification documents and who are at the age of eighteen (18) to sixty-five (65).
3. The application for permanent disability pension should be submitted to the relevant bodies of Ministry which are installed in Municipalities of Kosovo.
4. Applications for permanent disability pension shall be reviewed and assessed by the Medical Commissions, in the Regional Centres of the Pension Administration.
5. A person shall be considered with a permanent disability if he/she:
 - 5.1. provides evidence that is with the permanent disability before he/she applies for pension, by providing all the medical evidence;
 - 5.2. Medical Commission considers that there is the permanent work disability of the applicant;

5.3. Medical Commission assesses the disability during a period time of one (1), three (3) or five (5) years;

5.4. after the deadlines set out in sub-paragraph 5.3 of this paragraph the person is subject to reassessment medical procedure.

6. Ministry or the relevant authority may authorize responsible officers for the random or systematic inspections of persons that receive permanent disability pension, in order to verify the facts given in the application and continuation of the selection to use the disability pension.

7. Application and evaluation procedures for the permanent disability pension should contain rules set forth in order to protect confidential medical information of applicants which shall be determined by sub legal acts.

Article 10 **Conditions and criteria for recognition of the right to early pension**

1. The right to early pension shall be realized by all employees of the "Trepca" complex and other mines of Kosovo, who have lost their employment until the end of the year 2004.

2. Early pensions shall be paid to all miners of the complex "Trepca" and other miners employed in the mines of Kosovo, and of other employees in mines if they:

2.1. are citizens of the Republic of Kosovo;

2.2. possess identity documents from the respective body of Republic of Kosovo;

2.3. are at the age from fifty (50) – sixty-five (65);

2.4. have at least ten (10) or more years work experience in mines;

2.5. have not concluded employment relationship or self-employed;

2.6. if they prove that their employment relationship has been terminated without their fault;

2.7. are unable to work due to deterioration of their health condition, provided that the invalidity level to be above fifty percent (50%).

3. Disability of fifty percent (50%) required in sub-paragraph 2.7 of paragraph 2 of this Article shall be evaluated by the Medical Commission of the Ministry.

4. Early Pensions shall be terminated being paid, if the person:

4.1. reaches retirement age for realization of the basic age pension;

4.2. is employed or self-employed;

4.3. health status has improved over fifty percent (50%); or

4.4. dies.

Article 11

Conditions and criteria for recognition of the right to work disability pension

1. The right to work disability pension shall be realized by all former users of disability pension, under the age of sixty-five (65) who prove the realization of this right by the Decision or check (receipts) of the pension showing that they have been users of the work disability pension, under the provisions of the Law on Pension and Disability Insurance No. 011-24/83 in the (Official Gazette of the SAPK No. 26/83) before 01.01.1999.
2. The right to work disability pension shall be recognized even to all current employees to whom there is present the full disability to work, due to work injury or occupational illness.
3. The height of work disability pension shall be the same amount with the basic age pension.
4. Verification and evaluation of injury at work and occupational diseases shall be conducted by the specialized public institutions of Labour Medicine in the Republic of Kosovo.
5. The right to work disability pension and administrative procedures for the realization of this right shall, in details, be determined by a sub-legal act issued by the Ministry.

Article 12

Conditions and criteria for recognition of the right to Family Pension

1. The right to family pension shall be realized by all former users of family pension who are under the age of sixty-five (65) and who prove the realization of this right by the Decision or pension checks showing that they were beneficiaries of family pension before the date 01.01.1999, under provisions of the Law on Pension and Disability Insurance No.011-24/83 (Official Gazette of SAPK No.26/83).
2. According to paragraph 1 of this Article, the right to family pension shall be realized by close family members of former insured person, who has died after the date of 01.01.1999, who prove that the insured person has paid for fifteen (15) years the contributions for pension experience.
3. The right to family pension shall be realized by family members of the employee, who has died after 01.01.1999, as a result of injury or occupational disease, regardless to the period of work experience.
4. The right to family pension under paragraph 2 and 3 of this Article shall be realized by:
 - 4.1. spouse up to the age of sixty-five (65), who provide evidence for marriage relation and who does not work or is self-employed.

- 4.2. spouse under the age of sixty-five (65), announced permanent invalid and disabled for work.
- 4.3. children till the age of eighteen (18), respectively twenty-six (26), if they provide relevant evidence for attending the regular university education.
5. The level of family pension under paragraph 1, 2 and 3 of this Article is the same amount of basic age pension.
6. In cases when after the death of the persons according to paragraph 2 and 3 of this Article or work disability pensioner, except the spouse, family pension users are also the children, therefore the amount of family pension for each child shall be increased for twenty percent (20%) of the age base pension.
7. If children are without parents and meet the requirements and criteria for the use of family pension, the base of the family pension is at the amount of basic age pension, and including the increase for twenty percent (20%) according to paragraph 6 of this Article.

Article 13

The height of the pension amount

Depending on budget options, Cost of Living and possible inflation at the end of each year for the next year, the Government of Kosovo upon the proposal of the Ministry of Finance with special decision shall decide for the height of pensions determined with this Law.

Article 14

Harmonization of pension with cost of living

1. Harmonization of pensions to the cost of living shall be done once a year by increasing the amount of pension payable to the same percentage based on the Cost of Living Index of the previous year.
2. Once applied the increase with resulting percentage, arising amount of the pension will be framed to the nearest complete number (expressed in Euro).
3. Cost of Living Index shall be determined by the Ministry of Finance and will reflect changes in the average of costs of living of pensioners.
4. Ministry of Finance, in accordance with the provisions of Law No. 2002/ 1 on the methodology of determining the amount of basic pension in Kosovo, shall be responsible for the calculations required by this Law and to determine the level of increase of the pension payments provided by this Law.
5. If any pension paid under this Law is increased by any other legal or sub-legal act, or by any other authorized administrative measure, then there shall not be applied CLA for two (2) calendar years, starting from the month when the increase has entered into the force.

Article 15
Benefits Subject to Fiscal Constraints

In case of financial instability and with the purpose of keeping the public fiscal discipline, there shall be applied Article 36 of the Law No. 03/L-048 on Public Financial Management and Accountability and Article 4 of the Law No.04/L-116 on amending and supplementing the Law on Public Financial Management and Accountability.

Article 16
Restrictions on the number of paid pensions

The persons who are beneficiaries of any pension of pension Schemes defined with this Law, in no circumstance, can be the beneficiaries of any pension from special pension schemes that are managed and administrated by the Ministry.

Article 17
Adjustment of retirement age

1. Ministry shall review the retirement age not less than every five (5) years, based on official data, and shall adapt it according the longevity.
2. Retirement age can be adjusted with additions of half a year.

Article 18
Duties and responsibilities of the respective Department for pension

1. The respective department for pensions of the Ministry shall be responsible for managing and administering the pension schemes established by this Law.
2. In particular, the department shall be responsible for:
 - 2.1. proposing and preparing the policy and strategies regarding the pension system in Republic of Kosovo;
 - 2.2. management and administration of application and appeal procedures by which there are enabled the persons to apply for pensions foreseen by this Law;
 - 2.3. drafting sub-legal acts that regulate and define the criteria for recognition of the rights to pension schemes laid down by this Law;
 - 2.4. administration of a process under which there are determined the rights upon appeal in accordance with paragraph 1 of this Article;
 - 2.5. management, on time, of pension payments determined by the contractual documents between the Ministry and any of the domestic banks;

- 2.6. keeping records of receipts and financial means for the payment of pensions in accordance with the Law on Public Financial Management;
- 2.7. caring and maintenance of documentation for all costs associated to the distribution of pensions;
- 2.8. monitoring the status of persons receiving pensions;
- 2.9. other issues which are determined by other sub-legal acts.

Article 19 **Administrative Procedures**

1. The right to pension shall be realized by the applicant through submission of the application in the Ministry.
2. The application should be reviewed and decided within sixty (60) days from the day of submission of application.
3. Applicant should be notified in writing, regarding the realization of the right to a pension
4. The applicant unsatisfied with the decision of the first instance has the right to exercise the appeal of the second instance body of the Ministry.
5. Complaint shall be submitted in writing within fifteen (15) days from the day of receipt of the decision.
6. The second instance body shall, within sixty (60) days from the day of receipt of the complaint, issue a decision and shall guide the party regarding the possibility of further development of judicial proceedings.
7. The party unsatisfied with the decision of the second instance body, by a suit, within thirty (30) days from the receipt of the decision in writing, may initiate an administrative dispute before the competent court.
8. Application and appeal procedures shall explicitly be regulated by sub-legal act issued by the Ministry.

Article 20 **Payment of pensions**

1. All pensions paid under this Law shall begin to be paid from the day of submission of application.
2. Payments shall be made solely in the pensioner's bank account which is verified by the Ministry, in reviewing the application for pension.

Article 21
Cessation of payment of pensions

1. Payments of basic age pension and disability pension determined by this Law shall be ceased, as in the following cases:

1.1. in case of death of the pensioner, the pension payment shall be ceased next month after his/her death;

1.2. in case the beneficiary of the basic age pension and disability pension, acquires the citizenship of a state with which the Republic of Kosovo does not have Bilateral Agreement on social insurance:

1.3. if there is assessed that the applicant has committed fraud or misinterpretation during the application process or during the monitoring and inspection by responsible officials of the Ministry, there are ascertained as fraud material evidence from the pensioner.

2. Payment of pensions for users of contribution-payer pensions determined by this Law shall be ceased, as in the following cases:

2.1. in case of death of the pensioner, the pension payment shall be ceased next month after his/her death;

2.2. if there is assessed that applicant has committed fraud or misinterpretation during the application process or during the monitoring and inspection by responsible officials of the Ministry, there are ascertained as fraud material evidence from the pensioner.

Article 22
Corrections of payment of pensions

1. When a person is paid less than the amount of pension, Ministry shall pay the remaining debt at the time within the following month.

2. If the person has died, the remaining debt amounts to the person shall be paid to his/her spouse before death, or if he / she has no spouse, the amount shall be paid in equal parts children, and if the person has neither spouse nor child, then the amount shall be paid to the parents of the person or legal custodian.

Article 23
Erroneous payments and excessive pension payments

1. Each person who is receiver of any pension payment made in error in his/her bank account, or there has been paid an amount more than belongs to him/her, there shall be required to return the full amount, regardless of the reason for making the excessive or wrong payment.

2. If a person consciously receives a wrong or excessive payment of the pension, he or she should immediately inform the Ministry about the amount received.

3. If Ministry identifies any wrong or excess payment to a pensioner or other person shall notify in writing the person on payment. The notification should describe the amount of payment, date the excess payment was made and measures taken Ministry in order to improve the wrong or excessive payments. These measures can be:

3.1. deduction of the amount from future payments to ensure the improvement of the error in the shortest possible time;

3.2. written request to return the amount to the person.

4. In reviewing the manner and speed of collection of erroneous payments, the Ministry, can take into account the economic needs of the pensioner and can re-schedule the return of payments to reflect economic circumstances.

5. If a person, who receives notice regarding a wrong or excessive payment, disagrees with the paid amount claimed by Ministry, or with the method by which it requires to return the payment, he or she may request the review of the procedure.

6. If the party refuses to return the paid payments without legal basis, then Ministry, shall initiate proceedings in competent court

Article 24 Death of pensioner

1. Ministry shall take actions by which it will monitor existing information sources to identify pensioners who have died, in order to make the suspension of payment of pension as soon as possible.

2. Users of basic age pension and users of early pensions should be present at the offices designated by the Ministry once in six months with appropriate identification documents.

3. Ministry may temporarily suspend payment of pension if the pensioner fails to do so in conformity with paragraph 2 of this Article.

4. Suspension of payment of pensioners in using the pensions shall be determined by sub-legal act issued by Ministry

Article 25 Verification and monitoring of evidence of the applicant for pension

1. Ministry shall create an inspection process for monitoring the payment of pensions to ensure that persons who receive pension are qualified and upon inspection can verify that:

1.1. the person receiving such payments is alive;

- 1.2. bank account in which pension is paid shall really be the bank account of the pensioner to whom the payment shall be done;
 - 1.3. health status of the person, who receives disability pension, shall be in accordance with medical diagnoses;
 - 1.4. former employees of Trepça Mining Complex and other mines in the country that obtain early pension can not be employed or self-employed and should be over fifty percent (50%) with disabilities; and
 - 1.5. any other verification that the Ministry assesses as reasonable and necessary to ensure proper management and administration of pension;
2. When a person is considered not to meet conditions and requirements for pensions prescribed by this Law, there shall be required from him to return the amount of payments that was done to him or her.

Article 26

Current pension beneficiaries

1. All current users of basic age pension, contribution-payer pensioners, the disability pensions, which are determined by earlier legal and sub-legal acts, from the date of entry into force of this Law shall be considered qualified and they will not be required to apply for pensions determined by this Law.
2. Notwithstanding paragraph 1 of this Article, current users of early pensions should apply according to the provisions of this Law, from the date of entry into force.

Article 27

Repeal of applicable legal provisions

1. Upon entry into force of this Law there shall be repealed these Laws and sub-legal acts:
 - 1.1. Article 3 and 4 of UNMIK Regulation No. 2001/35 on pensions in Kosovo,
 - 1.2. Article 2, 3 and 4 of UNMIK Regulation No. 2005/20 on amending and supplementing the Regulation. No. 2001/35 on pensions;
 - 1.3. Law No. 2003/23 on Pensions of Persons with Disabilities (UNMIK Regulation No. 2003/40);
 - 1.4. Administrative Instruction No. 10/2007 for early retirement for workers of "Trepça" complex under UNMIK administration of mines with underground mining in Kosovo;
 - 1.5. Administrative Instruction No. 11/2007 on Implementation of Government Decision No.13/2007;

- 1.6. Administrative Instruction No. 7 / 2004 for determining the amount of Basic Pension in Kosovo for the year 2004;
- 1.7 Administrative Instruction No. 15/2009 for the Increase of Pensions for the Implementation of Government Decision No. 02/51;
- 1.8. All other sub-legal acts which are inconsistent with the provisions of this Law.

Article 28

Sub-legal acts applicable until the issuance of new sub-legal acts

1. Provided they are not inconsistent with this Law and until the issuance of new sub-legal acts for a fair and full implementation of this Law, the current applicable sub-legal acts shall remain into force, as following:

- 1.1. Administrative Instruction No. 6 / 2003 on the Establishment of Pension Administration Department;
- 1.2. Administrative Instruction No. 13/2004 on Administration of payments of pension scheme for persons with disabilities;
- 1.3. Administrative Instruction No.15/2004 on the implementation of the Law of pension for persons with Disabilities;
- 1.4. Administrative Instruction No. 03/2005 on procedures for monitoring and review of the right to disability pensions;
- 1.5. Administrative Instruction No. 07/2005 on Administrative procedures for the return of payments from the users of disability pension;
- 1.6. Administrative Instruction No. 09/2005 on amending and supplementing the Administrative Instruction No. 09/2004 on the application procedures for the disability pension;
- 1.7. Administrative Instruction No. 10/2009 on amending and supplementing the Administrative Instruction No. 09/2004 on the application procedures for Disability Pension;
- 1.8. Administrative Instruction No.11/2009 on Administration of payments of pension schemes;
- 1.9. Administrative Instruction No. 13/2009 on Administration Procedures of Payments Return by Users of pension schemes;
- 1.10. Administrative Instruction no. 06/2010 on Procedures for Reapplication for Pensions of Persons with Disabilities;

1.11. Administrative Instruction No. 11/2010 for announcement, suspension, reactivation, reapplication and interruptions payment of basic pension after the death of the pensioner.

Article 29
Issuance of sub-legal acts

For the right and full implementation of this Law, within six (6) months from the day of entry into force of this Law, the Ministry shall issue respective sub-legal acts.

Article 30
Special implementation of the Law

The provisions of Article 11, 12 of this Law shall begin to be implemented from 01.01. 2015, in line with the available budgetary funds.

Article 31
Entry into force

This Law shall enter into force (15) days after publication in the Official Gazette of the Republic of Kosovo.

Law No. 04/L-131
6 May 2014

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI