

# WTP BROCHURE

## Future on Pensions Act comes into force from 1 July 2023

On 30 May last, the Future on Pensions Act ("Wtp") was passed by the Senate and will enter into force on 1 July 2023. The Wtp will result in a major change of the employment condition pension. The changes will affect the vast majority of employers, participants and pension beneficiaries, regardless of the type of pension agreement and regardless of the type of pension provider. The Wtp will enter into force on 1 July 2023 with a transition period giving social partners, employers and pension providers until 1 January 2028 to amend the pension schemes. Below is an outline of the main elements of the Wtp and legal points of interest for employers, pension providers and fiduciary managers.

## The Future on Pensions Act

### Type of pension agreements

The Wtp transitions to a new pension system where, after a transition period, pension can only be accrued in a defined contribution ("DC") scheme with an age-independent (flat) contribution. The current final and career average pay schemes will disappear in the new system. The Wtp provides for three types of pension agreements:

- a. The solidarity DC scheme
- b. The flexible DC scheme
- c. The DC capital scheme

The differences between variants of the DC schemes lie mainly in when and to what extent risks inherent to pension accrual are insured or shared collectively.

### Characteristics of pension agreements

Solidarity DC agreement	Flexible DC agreement
Age-independent contribution	Age-independent contribution
Collective investment policy, allocation of financial results by age cohort and to solidarity reserve	Individual investment policy (life-cycles)
Mandatory solidarity reserve	Risk-sharing reserve optional and mandatory for Bpfs
No cut between accrual and benefit phase (no shopping around)	Separate accrual and benefit phase (limited shopping)
Variable payment	Fixed or variable payment

## Abolition of career average pay scheme and change of tax framework for pension accrual

The Wtp changes the method of pension accrual by abolishing the career average pay scheme (age-independent contribution with age-independent accrual). From 1 January 2028, pension can only be built up in a DC scheme with an age-independent 'flat' contribution. This results in degressive accrual. Fiscally, the maximum pension contribution is capped at 30% of the pension base. For the purpose of possible compensation, the contribution cap will be temporarily increased by 3% in connection with disadvantage compensation until 1 January 2037.

DC schemes with a progressive (age-dependent) contribution entered into before 1 July 2023 are subject to transitional law. Such schemes may be continued after 1 January 2028 for current members/employees. In any case, new employees will have to participate in one of the new pension agreements with an age-independent (flat) premium from 1 January 2028.

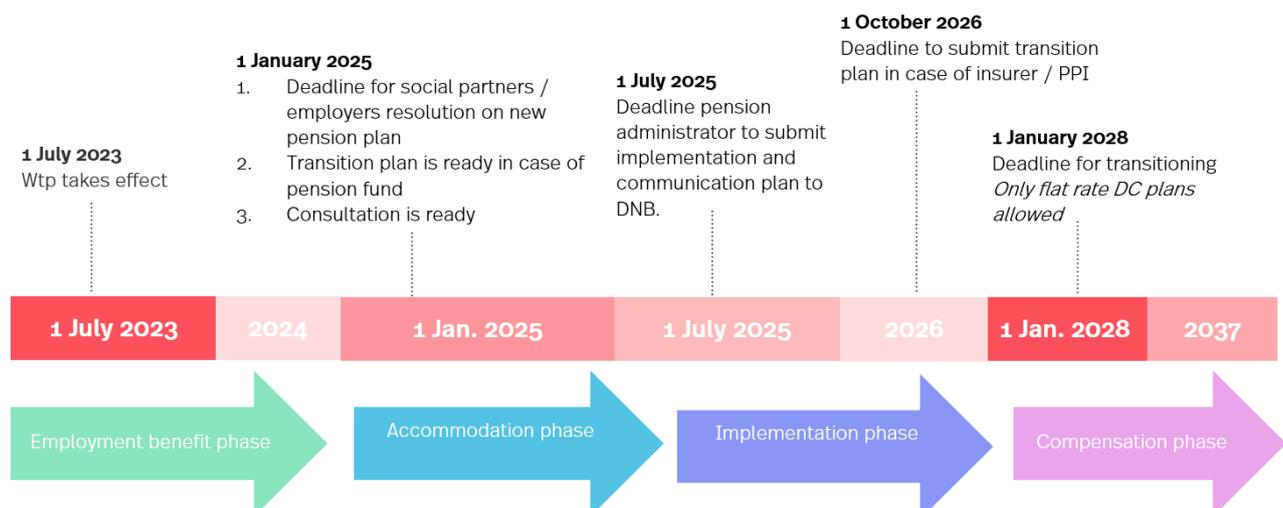
## Survivor's pension

The Wtp provides for a thorough reform of survivors' pensions. At its core, the survivors' pension will become uniform and the same system for survivors' pensions will apply to every pension scheme.

- The survivor's pension that starts in case of death after the retirement date remains on an accrual basis and amounts to a maximum of 70% of the retirement pension.
- The survivor's pension that starts in case of death before the retirement date is on a risk basis and amounts to a maximum of 50% of the salary. This means that if the employee dies before the retirement date, a survivor's pension will in principle only be paid if the employee is still employed at the time of death.

## Transition framework/timeline

A transition phase to the new pension system applies from 1 July 2023 to 1 January 2028. The Wtp distinguishes three phases during the transition period. Milestone 1 is the employment benefit phase. In this phase, social partners - or the individual employer - make agreements on the new pension scheme and a transition plan must be drawn up. This must be completed by 1 January 2025 at the latest. Milestone 2 is the accommodation phase. Pension providers must prepare an implementation plan. This must be completed by 1 July 2025. Milestone 3 is the implementation phase, which must be completed by 1 January 2028. From this date, pension accrual can only take place in a DC scheme with an age-independent 'flat' contribution.



## Points of attention and action for employers

The consequence of the Wtp is that almost all Dutch pension schemes have to be adjusted by 1 January 2028, regardless of the pension provider. This applies to employers who have placed their pension scheme with both a pension fund or an insurer. Although that date still seems far away, it is very important that employers take action! In brief, the points of attention and action for employers.

### Points of attention

- Social partners or individual employers will have to choose one of the new pension agreements. If they have placed the pension scheme with a pension fund, they will also have to make an agreement on whether or not to keep together pension entitlements and rights that have already been accrued to be converted in the new pension scheme (in Dutch: 'invaren'). The main rule is conversion.
- Social partners or individual employers will have to draw up a transition plan by 1 January 2025.
- Before amending the pension scheme, the co-determination obligations should be identified. In principle, the consent of the works council is required for amending the pension scheme and drawing up the transition plan, unless the pension scheme is placed with a mandatory industry-wide pension fund or is exhaustively regulated in the collective labour agreement.
- After completion of the co-determination process, the amendment to the pension scheme will have to be implemented in every individual pension agreement concluded between employer and employee. The Wtp stipulates that this must be done by 1 January 2025 at the latest. The amendment process is a crucial first step for employers. It is important that employers first legally amend the pension agreements with its employees, dormant workers and pensioners. If doubts would arise about this, compliance with the current pension agreement could still be claimed. The main rule is that the employee's consent is required. A thorough and balanced amendment process is very important.

### Action points:

- Start on time, preferably now.
- Together with your intermediary and legal advisor, review your current pension scheme, the agreement with the pension provider and the renewal date of that agreement.
- Involve your legal advisor and intermediary in the context of switching to a new pension scheme, the options and implementation actions to be taken.
- Check retirement age in current pension scheme. From 1 January 2024: 18 years.
- Analyse potential scenarios and costs for new pension scheme.
- Check whether compensation is necessary.
- Involve the works council at an early stage. The consent of the works council is required for changing the pension scheme and preparing the transition plan. Such consent process can take a long time.
- Changes to the pension scheme may require individual consent of employees.
- Finalise the process by 1 October 2027 by signing the pension provider's offer and sending the transition plan to the pension provider.

## Points of attention for pension providers

The Wtp aims to make the pension scheme in the Netherlands more future-proof and personalised. While the Wtp promises many benefits for employees and pensioners, it also brings significant consequences for pension providers. Below, we explain some of the consequences and the potential impact on pension providers.

**Changes in the collective character:** the Wtp marks a shift from a collective to a more individual character of the pension system. Pension providers will be required to create individual pension pots, with each participant managing his or her own accrued assets. This will require significant adjustments in pension providers' administrative systems and processes, as well as the development of new communication strategies to inform individual participants about their personal pension situation.

**Investment policy adjustments:** the Wtp will give participants more freedom of choice when investing their pension assets, depending on the type of pension agreement. Pension providers will have to offer different investment profiles and ensure sufficient flexibility to meet participants' individual preferences and risk appetite. This will require a review of investment policies and possibly additional investment in investment expertise and technology.

**Changing role and responsibility of pension providers:** the Wtp places greater emphasis on transparency and good governance within the pension sector. Pension providers will become responsible for providing clear information to participants about their pension schemes, costs and returns, and the risks involved in investing. Moreover, they will have to make efforts to represent the interests of participants and strike a balance between achieving returns and managing risks.

**Conversion:** the Wtp allows for the value of existing pension entitlements and rights (as accrued under the current system) to be converted into the amended pension scheme via a collective value transfer (in Dutch: 'invaren'). The Wtp removes obstacles for pension funds to incorporate by cancelling the individual right of objection to an internal collective value transfer as currently included in Section 83 of the Pension Act ("Pw"). The process around whether or not to board existing accruals must be carried out in a careful and balanced manner. An important part of the decision-making process will be the calculation method in the context of balanced decision-making.

**Possible consolidation of pension funds:** the Wtp may also lead to an increase in mergers and acquisitions within the pension sector. Due to the required adjustments and higher requirements for scalability and efficiency, smaller pension providers may struggle to comply with the new regulations. As a result, they may choose to merge with other parties or merge into larger organisations. This may result in a consolidation of pension providers, potentially reducing the number of players in the industry.

#### Action points for pension funds

- Define pension funds' own role and risk attitude.
- Determine the pension fund's risk appetite.
- In case of conversion: determine the calculation method and application of the transition ftk.
- Test the social partners' transition plan for balance and feasibility!

#### Points of attention for fiduciary managers

The Wtp also creates a new challenge for fiduciary managers. They will have to go through a transition together with pension funds and their pension administrators, preparing, among other things, for a new IT infrastructure and an adjusted investment policy. This will require a thoughtful analysis (and adjustment) of existing contractual documentation, outsourcing relationships and how data is exchanged. It will also be necessary to discuss with the pension fund (and pension administrator) the extent to which it is desirable to make use of a transition ftk and whether (and if so, when) to convert the accrued pensions into the new system.

#### Questions?

The Simmons & Simmons Pensions team is here for you! We are happy to assist you in (all phases of) the process and can always provide more information. Our contact details are below.



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