

Social and systemic issues of securing farmers in old age in the Polish lands until 1990

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Abstract

The article, written from a legal perspective, presents a concise and chronological review of the legal regulations used to secure farmers in old age. The review begins with a brief discussion of the methods of securing farmers' old age at the end of the serfdom era. In the post-enfranchisement period, peasants, as full landowners, secured their old age through civil law contracts, primarily life annuity agreements and donations. In the 1960s and the first half of the 1970s, three acts were adopted concerning pensions granted to farmers in exchange for transferring their land to the state. The acts adopted in 1977 and 1982, of a pension and disability benefit nature, brought all farmers within a system of compulsory social insurance. All these acts are subjected to a synthetic analysis, with particular attention paid to their ratio legis and their stated objectives. Greater emphasis is placed on the production-related aims of these acts, which, to varying degrees, came to dominate their intended social aims. The article concludes with final remarks drawn from the analysis conducted.

Keywords: household member, life annuity, pensions, successor, agricultural pensions, contribution.

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Introduction

The agricultural population in Poland was the last social group to be covered by social insurance. Until then, Polish farmers, with varying degrees of success, attempted to secure their old age, primarily by using life annuity agreements and donation contracts. In the post-war period, after the unsuccessful attempt to socialise agriculture, several solutions were adopted in Polish agricultural legislation aimed at the full utilisation of agricultural land. This objective was pursued, among other means, through the implementation of three successive pension acts of 1962, 1968 and 1974. The pension benefit provided under these acts in exchange for land taken over by the state was supplemented by a social benefit, namely access for farmers from 1971 to free medical care, and from 1975 – compulsory accident insurance. However, the scope of these benefits was not capable of fulfilling either the production objectives expected by the state or the social objectives expected by farmers. Only the next two acts on farmers' social insurance – the Act of 27 October 1977 and the Act of 14 December 1982 – were intended to bring about an attempt to build a comprehensive system of farmers' social insurance. In both of these acts, the legislator sought to harmoniously combine social policy with the current objectives of agricultural policy, driven in particular by the need to feed the population. The main aim of this article is to demonstrate whether and to what extent the legal regulations analysed in this study achieved their intended objectives, both production-related and social. An additional aim is to attempt to answer the question of whether the analysed legal mechanisms had an impact on the shape of the currently functioning system of social insurance in agriculture.

The scope of legal regulations constituting the subject of analysis in the field of agricultural insurance is very broad; therefore, taking into account the framework of this study, only a selected part has been analysed, to the extent necessary for a proper examination of the objectives set out above.

Old age in the Polish countryside during the serfdom period

The problem of old age in the Polish countryside became apparent when the proportion of people of post-working age increased. In demographic literature, it is assumed that old age in the Polish countryside began with the loss of physical ability to work on the farm. This phenomenon began to intensify already during the serfdom period, when the lifespan of farmers began to gradually increase.

The prospect of impending old age always aroused concern about means of subsistence in the final years of life, especially during the serfdom period, which had already shaped certain family behavioural strategies in this regard. Unfortunately, they were not favourable. In the traditional culture of that time, the treatment of older people in peasant families, mainly of the nuclear type (consisting of parents and their children), remained favourable only as long as these individuals were able to earn their own living. The most privileged position in the peasant family was held by the father as the head of the household, who sought to maintain this position for as long as possible¹. When, due to lack of strength, a farmer had to transfer the farm, most often to his son, he became, at best, a lodger, with a small plot of land allocated to him. In a situation where he lost strength and was no longer able to support himself, he often had, out of necessity, to “resort to begging”. Lodgers could also be other relatives – a single brother or sister. Sometimes fate smiled upon an older person whose condition allowed them to perform certain useful tasks within the family, for example caring for small children².

The period after the enfranchisement of peasants

The event that initiated a new period in the lives of peasants in the Polish countryside was their enfranchisement in all three partitions. The individual partitioning powers introduced it in different years of the nineteenth century. Peasants were enfranchised the latest in Russia. The final stage of the reforms was their extension to Polish peasants after the fall of the January Uprising in 1864. Along with enfranchisement, peasants were granted actual personal freedom and serfdom obligations were abolished.

The full ownership rights to the land they had previously used, obtained through enfranchisement, radically changed the lives of Polish peasants. Full ownership rights covered not only the land used, but also the buildings located on it, as well as livestock and equipment. The title of ownership granted peasants full freedom to dispose of the rights conferred. The right of so-called dependent ownership (usufruct ownership) of the land used by peasants prior to enfranchisement was subject to numerous restrictions imposed by the feudal lord, who was the full owner of that land. Among various forms of land transactions, the life annuity agreement was already known, but it was

1. See C. Kuklo, *Demografia w Polsce przedrozbiorowej*, Warszawa 2009, pp. 376–383.

2. On the problems of elderly people in peasant families during the serfdom period, see especially the work by M. Koczyński, *Studia nad rodziną chłopską w Koronie w XVII–XVIII wieku*, Warszawa 1998, p. 145 et seq.; see also the literature cited therein.

rarely used, as its content was often determined by the feudal lord, i.e. its owner. This agreement constituted one of the ways of securing old age through the possibility of legally enforcing the benefits provided for in the contract. However, the attributes of the life annuity agreement could only be fully realised after the enfranchisement of peasants, when they – as full owners of their land – were able to freely shape its content and assert the rights arising from it. This was, however, only possible if the party to the life annuity agreement asserting their rights could afford to cover the costs of the proceedings (including notarial costs, court fees and legal assistance costs).

When recalling various forms of securing old age during the serfdom period, it is also worth mentioning, for completeness, that certain rudimentary forms of social assistance were already known at that time. These included, for example, hospitals (in fact shelters or hospices), where infirm elderly people and the disabled were placed. Unfortunately, there were few of them and, due to a lack of funds for their maintenance, they had a bad reputation. The largest number of such facilities existed in the Prussian partition. They were established on their estates by magnates, the Church, and cities. Government assistance could hardly be relied upon. In the countryside, older people could primarily rely on the support of their own community, including, of course, their family, although in practice such support varied.

Life annuity agreement

Considering that for more than a hundred years after enfranchisement the life annuity agreement constituted the dominant form of transfer of ownership of an agricultural holding, it is worth devoting some attention to it.

In European legislation, the statutory shaping of the content of the life annuity agreement was strongly influenced by the Napoleonic codification, especially Articles 1968 et seq. of Book III of the Napoleonic Code “On the different modes of acquiring property”. According to the above-mentioned provisions, the conclusion of such an agreement leads to the transfer of ownership of the property to the purchaser, who in return undertakes to maintain the transferor (life annuitant) to the extent specified in the agreement. The legal regulations of all partitioning states of the Polish lands were modelled on the legal structure of this agreement. In France, the Napoleonic codification entered into force in 1804. In the Duchy of Warsaw, it began to apply from 1807. The fundamental legal structure of this agreement has been maintained up to the current legal state under the Civil Code of 1964.

Under the current legal framework – pursuant to Article 908 of the Civil Code – unless the parties have agreed otherwise, the purchaser should accept the transferor as

a household member, provide them with food, clothing, housing, light and fuel, as well as ensure appropriate assistance and care in illness and provide, at their own expense, a funeral in accordance with local customs. The purchaser of the property may, in the life annuity agreement, additionally undertake to encumber the acquired property for the benefit of the life annuitant with usufruct, the exercise of which is limited to part of the property, a right of residence or another personal easement. They may also undertake to provide recurring benefits in money or in kind specified as to type. All these obligations form part of the content of the life annuity right.

Similarly to the French model of this agreement, Polish legal regulations also constructed the life annuity agreement on the model of a reciprocal contract. Given the scope of mutual obligations of the parties to this agreement, i.e. the purchaser of the property and the life annuitant, it might seem that it should constitute an appropriate form of security in old age for the life annuitant, as the weaker party. This view is justified by the broad protection of the rights of the life annuitant. Particular attention should be paid in this regard to the elements of the life annuity right indicated in Article 910 § 1 of the Civil Code. According to this provision, the transfer of ownership of the property to the purchaser occurs simultaneously with its encumbrance with the life annuity right. This means that the life annuitant may demand satisfaction of their right from the property encumbered with this right. It also follows from the nature of property rights that this encumbrance is effective with respect to each successive owner. It loses its force only upon the death of the life annuitant. The strength of this security also stems from the fact that a life annuitant asserting their claim has priority in its satisfaction over other personal creditors of the owner of the encumbered property³.

It should also be added that each purchaser of a property encumbered with the life annuity right bears not only in rem liability, but also personal liability for the benefits covered by this right. In the latter case, they are liable for benefits that became due after they acquired ownership of the encumbered property. If the encumbered property was acquired in co-ownership, then the co-owners are jointly and severally liable towards the life annuitant⁴.

Furthermore, a certain element of protection for the life annuitant may be the possibility, provided for in Article 913 § 1 of the Civil Code, of converting the rights arising from the life annuity into a lifelong annuity corresponding to the value of those rights, as well as the possibility of terminating the life annuity agreement. A similar request may also be made by the owner of the property encumbered with the life

3. See A. Bierć, *Zaopatrzenie emerytalne rolników indywidualnych w PRL*, Ossolineum 1979, p. 19 et seq.

4. *Ibidem*.

annuity right. This entitlement does not apply to them in the situation provided for in Article 914 of the Civil Code. This concerns the case where the purchaser of the encumbered property disposes of it. In this case, only the life annuitant may make the above request.

Termination of the life annuity agreement is possible only in exceptional cases. For example, when there is a serious breakdown of personal relations between the life annuitant and the obligated party or a complete severance of personal ties between them. When adjudicating in this matter, the court should take into account the need to protect the interests of the life annuitant as the weaker party to the agreement⁵.

In assessing the protection of the rights of the life annuitant, it should primarily be noted that a weak point of the life annuity agreement has been and continues to be the lack of proper safeguards ensuring its due performance. It should also be noted that, in essence, the only guardian of the enforcement of the life annuitant's rights has consistently been the courts. It is therefore not difficult to conclude that, given the nature of judicial acts, the courts are not capable of guaranteeing proper, and in particular effective and prompt, protection of the life annuitant's rights.

Finally, it is worth adding that the proper performance of all obligations arising from the life annuity agreement has also been and continues to be affected by negative mutual behaviours of its parties. It was the life annuitant, as the weaker party to the agreement, who in practice was most often deprived of the benefits from the purchaser to which the latter had committed in the agreement. Perhaps at the root of such behaviour lay the not particularly favourable practice in relations between parents and children accepted in the Polish countryside, which had already developed during the serfdom period. This was already mentioned at the beginning of this study.

Donation agreement

In the post-enfranchisement period, up to modern times, the second most commonly concluded civil law agreement was the donation agreement, in particular a donation with a charge. This agreement, already known under the Code of Obligations (Article 354 § 2 of the Code of Obligations), included in its content an obligation of the donee to provide a specified benefit to the donor or a third party⁶. However, it provided weaker protection of the interests of the farmer – the donor – than the

5. Such a view was expressed by the Court of Appeal in Szczecin in its judgment of 26 April 2019, I Ca 4/19; see in particular the thesis of this judgment, Legalis 2177623.

6. See more: W. Formański, *Darowizna, renta, dożywocie*, Katowice 1965, p. 5 et seq.

life annuity agreement. In the case of the latter agreement, the resulting real right of usufruct and the right of residence were secured by entry in the land and mortgage register, whereas monetary benefits were secured solely by entry in the mortgage. As regards donation, the donor does have the right to revoke it, but may do so only to the extent of the difference between the value of the donated object and the benefits provided by the donee. A donation cannot be revoked if the donee has disposed of the donated property⁷.

Other agreements securing a farmer's old age

The annuity agreement, currently regulated in Articles 903–907 of the Civil Code, provided even weaker security for the maintenance needs of farmers. In the case of this agreement – unlike the life annuity agreement – the scope of monetary or in-kind benefits does not have to ensure the beneficiary's full maintenance. The annuity agreement does not belong to those rights and claims that may be disclosed in the land and mortgage register. They may only be secured by including in the agreement a clause under Article 777 point 4 of the Code of Civil Procedure (this is an enforcement title in which the debtor voluntarily submits to the obligation to perform the benefits specified in the agreement). This agreement also does not constitute good security in the case of an annuity established without remuneration, to which the provisions on donation apply accordingly, including those providing for the possibility of revoking the annuity due to poverty or ingratitude.

In the post-enfranchisement period, farmers could also secure their old age through agreements such as lease and sale. Both of these forms could be considered satisfactory provided that the value of the benefits specified in these agreements ensured at least a subsistence minimum for the farmer. However, taking into account the condition of most agricultural holdings at that time, especially their size and value, it should be considered unlikely that, on their basis, a farmer could sufficiently secure a peaceful old age for themselves and their loved ones.

The civil law agreements outlined above, in a synthetic manner, did not guarantee farmers either a constant or regular inflow of material resources in old age. These agreements were also unable to ensure the generational turnover in agricultural holdings desired for production reasons. At this point, it is worth recalling an interesting postulate that appeared in post-war legal literature. Its author, Andrzej Stelmachowski,

7. A. Policiński, *Darowizna gospodarstwa rolnego*, Warszawa 1976, p. 147 et seq.

advocated the modernisation of the life annuity agreement by introducing a state guarantee of regular payment of benefits to the life annuitant⁸. However, this postulate was not fulfilled. In the 1960s, however, a new institution of transferring agricultural holdings to the state in exchange for a pension appeared.

The Act of 1962

The first act concerning pensions for transferring agricultural holdings to the state was the Act of 29 June 1962 on the takeover of certain agricultural properties for development or ownership by the State and on pension provision for the owners of these holdings and their families (hereinafter the “Act of 1962”)⁹. This Act was adopted in a new political and socio-economic reality after the Second World War. After the unsuccessful attempt at universal collectivisation of agriculture in the 1950s, Polish agriculture faced new challenges. These were associated with a significant outflow of active and more enterprising rural youth to cities, where they found employment, mainly in industry. This outflow unfortunately did not favour the desired intergenerational replacement in agricultural holdings, which had previously taken place on the basis of civil law agreements, primarily life annuity and donation agreements.

The emerging demographic trends also resulted in the problem of securing the livelihood of elderly and incapacitated farmers. Attempts were made to address this through the institution of transferring agricultural holdings to the state in exchange for a pension, regulated in the above-mentioned Act of 1962, as well as in two subsequent acts – of 1968¹⁰ and 1974¹¹. A common feature of all the aforementioned acts was, above all, the pursuit of production objectives, and only subsequently – social objectives. The basic social benefit, referred to as a pension, was paid by the Social Insurance Institution. An important social benefit was also the right to free medical services. It should be noted that the solutions adopted at that time constituted an attempt to link systemic transformations – in practice amounting to accelerating the process of taking over agricultural property by agricultural cooperatives and the state – with a system of social benefits for farmers liquidating their holdings. Of course, they

8. A. Stelmachowski, *Problemy ludzi starych na wsi w aspekcie prawnym*, “Nowe Prawo” 1972, nr 7–8, p. 1043 et seq.

9. Dz. U. nr 38 poz. 166 ze zm..

10. Ustawa z 24 stycznia 1968 r. o rentach i innych świadczeniach dla rolników przekazujących nieruchomości rolne na własność państwa, Dz. U. nr 3 poz. 15.

11. Ustawa z 29 maja 1974 r. o przekazywaniu gospodarstw rolnych na własność państwa za rentę i spłaty pieniężne, Dz. U. nr 21 poz. 118.

were far from the benefits typical of the employee system and constituted at most an indication of its future shape, while taking into account the specificity of agriculture¹².

Moving on to a brief characterisation of the adopted solutions aimed at limiting the phenomenon of neglect of a significant part of agricultural holdings, it should be noted that the Act of 1962 provided for two forms of transferring agricultural holdings to the state in exchange for pension-type provision. The first was the temporary transfer, for a period of ten years, of the entire agricultural holding for development, and the second – the transfer of the agricultural holding to state ownership. The transfer of a holding for development requested by the farmer did not give rise to an obligation on the part of the state to take it over. By transferring the holding in this manner, the farmer did not lose ownership rights, but could no longer freely dispose of it. They could only transfer ownership of the property or part thereof to the state. If, within two years from the expiry of the development period, the owner or their heirs did not apply for the return of the property and did not settle their obligations towards the state (including in particular the repayment of deferred debts to the state, reimbursement of investment outlays incurred during the development period, and compensation for amounts paid to the owner and their family as pension provision), the property was subject to takeover as state ownership under the rules applicable to the takeover of agricultural property at the request of the owner. Proceedings in this matter were regulated by Article 77 of the later Act of 27 October 1977 on pension provision and other benefits for farmers and members of their families.

In turn, the requested transfer of agricultural properties to state ownership was possible only where conditions existed for their rational development by a state agricultural holding, an agricultural production cooperative or an agricultural circle. Farmers who transferred an agricultural holding for development or to state ownership were granted the right to pension provision in accordance with the provisions on universal pension provision. In addition, these farmers were entitled to use a plot of up to 0.2 ha, as well as to retain ownership of buildings.

From an analysis of the Act of 1962, it is not difficult to draw the conclusion that it was based mainly on production considerations. Notwithstanding this, it should be noted that the solutions adopted in it constituted the first step in the development of the institution of agricultural pensions and their production-related and social function. This Act did not, however, prove effective as the intended factor in the intensification of agricultural production, mainly due to the lack of proper and intensive development of all the agricultural land taken over.

12. The legal regulations adopted in agricultural legislation before 1991 in the field of agricultural insurance are characterised in an extensive monograph by B. Wierzbowski, *Prawo ubezpieczeń społecznych w przebudowie ustroju rolnego*, Toruń 1985.

The Act of 1968

In order to protect against the intensive use of agricultural land as the basic means of agricultural production and to counteract its waste, on 24 January 1968 the Act on pensions and other benefits for farmers transferring agricultural property to state ownership was adopted (hereinafter the “Act of 1968”)¹³. This Act abolished the possibility of the owner transferring land for development, and the rules and form of transferring holdings to the state in exchange for a pension changed significantly. Pursuant to this Act, the state could take over only such a holding whose area comprised at least 5 ha of agricultural land (under the Act of 1962 – 2 ha). Farmers who owned larger holdings and were still of working age had the possibility of transferring part of the holding to the state – an area of at least 5 ha – in exchange for a pension benefit. Although the Act increased the amount of pensions for holdings transferred to the state, their level remained low. Only such a holding whose legal status of the transferred properties had been regulated could be transferred to the state, whereas at that time a large number of holdings did not meet this condition. In a significant part of the country, where small holdings of less than 5 ha predominated, their owners – by reason of the above-mentioned area criterion (5 ha) – could not benefit from the pension provided for in the Act. Although the legislator later relaxed this area criterion, other conditions, i.e. land class, location or the farmer’s state of health, introduced in implementing regulations, meant that few holdings could benefit from these relaxations either. Consequently, the low benefits for holdings transferred to the state and the predominance of production-oriented solutions – introduced in the interest of socialised agricultural economy units – meant that this Act also failed to provide farmers with satisfactory security in old age¹⁴.

The Act of 1974

On 29 May 1974, another Act was adopted on the transfer of agricultural holdings to state ownership in exchange for pensions and cash repayments (hereinafter the “Act of 1974”)¹⁵. It was intended to constitute an expression of the state’s new social policy towards individual farmers, initiated by the granting, in December 1971, of the right to free medical care (Regulation of the Minister of Health and Social Welfare

13. Dz. U. nr 3 poz. 15.

14. See more: A. Bierć, op. cit., p. 32.

15. Dz. U. nr 21 poz. 118 ze zm.

of 14 December 1971 on the provision of medical benefits by social health service establishments to persons running agricultural holdings¹⁶).

The new Act imposed on local state administration bodies the obligation to take over every declared holding whose owner had reached retirement age or was disabled, provided that the holding met the reduced area standard – 2 physical hectares of agricultural and forest land. The newly established rules for calculating the pension determined its increase. Unlike the previous Act, which determined the size of the transferred agricultural land using the converted hectare indicator, the new Act accounted for the agricultural land taken over according to physical hectares. Farmers operating holdings on land of poorer soil quality classes benefited from this solution.

In contrast to the Act of 1968, which limited the pension to 10 converted hectares, the Act of 1974 covered every hectare of transferred land with pension benefits, with a monetary degression of the pension per hectare applied as the area of the holding increased above specified limits. Without going into detail, for the first two hectares the pension was three times, and even six times, higher than the pension for subsequent hectares. Unfortunately, such a solution did not encourage the transfer of larger holdings with more fertile land.

The Act provided for a number of pension supplements. The largest of these was granted for the good productive condition of the transferred agricultural holding (25% of the basic pension). This concerned those holdings in which agricultural production was at a level higher than the average in a given commune on similar soils.

Among other supplements, one should mention supplements for transferred forest land in the amount of PLN 100–300 per month, depending on the value of the tree stand.

In the 1970s, the state provided extensive material and financial assistance for collective forms of farming by individual farmers, cooperation in agricultural production, and for specialised and high-commodity agricultural holdings. With a view to supporting collective forms of agricultural production, the legislator provided for a favourable pension supplement for cooperation (Article 23 of the Act). Had this assistance been maintained, the supplements could have benefited mainly young farmers who, as a rule, undertook collective and cooperative activity, but only in the future, after reaching retirement age.

The Act of 1974 provided for family supplements, supplements on account of classification in disability group I, and a funeral allowance. A farmer transferring

16. Dz. U. nr 37 poz. 345.

a holding to the state still had the right to receive for use a plot of land of up to 0.5 ha and to retain ownership of buildings.

A novelty introduced by the Act was the institution of the ex officio takeover, in exchange for a pension, of holdings neglected in terms of production, whose owners had reached at least pre-retirement age (men – 60 years, women – 55 years) or were disabled.

With respect to farmers who, before the entry into force of the analysed Act, had transferred agricultural holdings in exchange for cash benefits and parts of properties in exchange for payments into a bank account, the legislator replaced these benefits with the institution of transferring agricultural holdings to the state in exchange for cash repayments.

Despite many innovative legal solutions, the Act of 1974 was not able to fully resolve the socio-economic problem of holdings run by elderly farmers and holdings without successors. In most cases, the transfer of a holding to the state was blocked by the consent of the successor required under Article 2 of the Act. As a result, the farmer remained without pension benefits, while the successor wishing to take over the holding continued to work on the holding of his father or grandfather.

Often, young people who could have taken over the holding left for cities, taking up work in industry, which was developing dynamically in the 1970s. It was precisely these circumstances that gave rise to the need to provide all elderly farmers with institutional security in old age and, within its framework, to create guarantees for the earlier takeover of holdings by the young generation¹⁷.

The Act of 1977

The Act on pension provision and other benefits for farmers and their families, adopted on 27 October 1977 (hereinafter the “Act of 1977”)¹⁸, introduced a universal system of social insurance for the agricultural population. Individual farmers, who supported themselves exclusively through work on the land, constituted the last occupational group not yet covered by universal pension security. Such security was already enjoyed by employees of state agricultural holdings, agricultural production cooperatives, agricultural circles and dual-occupation populations (peasant-workers)¹⁹. The farmers’ pension insurance system covered farmers who supported themselves

17. A. Bierć, op. cit., p. 44.

18. Dz. U. nr 32 poz. 140 ze zm.

19. See J. Stańczyk, *Świadczenia lecznicze i emerytalne dla rolników*, Warszawa 1978, p. 32 et seq.; see also: W. Szubert, *Ubezpieczenia społeczne. Zarys systemu*, Warszawa 1987, p. 134.

exclusively through work in agriculture and were linked to the state by contracting and cooperation agreements. The still strongly emphasised production objective of the Act was to be supported by the inclusion in the system of young farmers who, by taking over agricultural holdings as successors from farmers retiring, were to ensure their better management. The growth in the marketability of agricultural holdings was to be served by a solution according to which the amount of the pension depended on the volume of production sold by the farmer to socialised economy units.

The Act of 1977 incorporated, in modified form: (1) the existing provisions on pension security for farmers transferring their agricultural holdings to the state or to a socialised agricultural economy unit, as well as (2) the provisions of the Regulation of the Minister of Health and Social Welfare of 14 December 1971 on the provision of medical benefits by social health service establishments to persons running agricultural holdings²⁰ and (3) the provisions of the Regulation of the Council of Ministers of 25 July 1975 on compulsory insurance of farmers against accidents and civil liability²¹. The Act of 1977 also covered with pension provision farmers transferring their holdings to successors from within the family circle.

The pension system covered all farmers, regardless of their right to the agricultural properties held, their area, and their remaining within pension insurance. This system covered not only farmers who had previously had no institutional security whatsoever in old age, but also farmers who already benefited from employee provision (so-called peasant-workers and peasant-intellectuals) or from other special pension systems (e.g. craftsmen, agents, creators), and finally farmers who were members of agricultural production cooperatives or agricultural circle cooperatives. The principle of universality guaranteed a statutory obligation to establish an insurance relationship from the moment of taking possession of an agricultural holding.

The Act of 1977 was intended to pursue three basic objectives. The first was a social objective consisting in guaranteeing pension and disability benefits to farmers who transferred an agricultural holding not only to the state but also to a successor. The second was a production objective, making the amount of benefits dependent on the value of agricultural products produced and sold to the state. The third, in turn, was a structural objective, aimed at preventing the fragmentation of agricultural holdings and shaping an appropriate demographic structure in the countryside²².

A new solution introduced by the Act was the obligation to pay contributions to the pension fund. The pension benefits provided for in the Act were financed from

20. Dz. U. 1971 r. nr 37 poz. 345.

21. Dz. U. 1975 r. nr 28 poz. 145.

22. W. Jagła, *30 lat ubezpieczenia społecznego rolników – uwagi i refleksje*, "Ubezpieczenia w Rolnictwie. Materiały i Studia" 2009, nr 34, p. 42.

the pension fund only in part. Indeed, the state participated in the expenditure of this fund to the extent of two-thirds. Such a significant share of budgetary resources was provided so as not to burden farmers with the full cost of maintaining the pension fund, which could have had a negative impact on the production results of holdings. The contribution was determined on the basis of the estimated income from a given holding, while the amount of pension benefits depended on the value of products produced on the holding and then sold to socialised economy units. This solution clearly indicated the production objective and was intended to encourage an increase in agricultural production, since an increase in production would not cause an increase in the contribution but would constitute the basis for a higher pension (disability pension).

The agricultural pension was an independent benefit providing material resources in old age. Polish farmers also had the right to supplements to pensions and disability pensions, sickness allowances, benefits on account of occupational diseases and accidents at work, free health service benefits, and allowances on account of the birth of a child.

Reaching retirement age, determined according to universal rules, constituted another condition for acquiring the right to pension provision. Disability was treated on an equal footing with the age condition, but only disability group I or II. This was not an appropriate or fair solution, since the provisions on universal pension provision provided for three disability groups.

In formulating the provisions concerning the payment of contributions to the pension fund (constituting another requirement for obtaining pension benefits), the legislator also took production objectives into account. As a consequence, young farmers were exempted from this obligation for a period of five years. The contribution was calculated on the basis of the annual income from the agricultural holding for the given tax year, determined according to the rules applied in assessing land tax. A three-year exemption from the obligation to pay the contribution was also provided for in the event that a farmer increased the area of the holding being run. In this case, the acquired agricultural land was not taken into account in determining the contribution assessment base.

A condition for acquiring the right to pension provision was also achieving, during the period of service (men – 25 years, women – 20 years), a specified level of commodity production, not lower than PLN 15,000 annually. When determining the amount of the pension, the average annual value of production achieved before retirement was taken into account. The absence of the required commodity production could be justified by circumstances caused by reasons not attributable to the farmer.

This requirement did not come into play where the farmer decided to transfer the holding to the state.

In the pension provision of individual farmers, both the old-age pension and the disability pension were joint in nature. These benefits were payable to both spouses, even if only one of them met the condition of retirement age or disability. They could be divided only if one of the spouses acquired an old-age pension or disability pension on another basis or submitted such a request. One of these benefits could be granted in full to one of the spouses where the other spouse had not worked on that holding during the last five years before the transfer of the holding to the successor or the state and had not remained with the farmer in a common household, as well as in the event of the death of the other spouse.

Among the pension benefits provided for in the Act, the agricultural survivor's pension, compared with an analogous benefit in the employee provision system, was characterised by a much narrower personal scope. It was payable only in the event of the death of both parents. The right to a survivor's pension – in the amount of 70% of the parents' old-age pension or disability pension – was held by unmarried children who had not reached the age of 16, and, in the case of continuing education at school, until the age of 24. The right to a survivor's pension arose only if, at the time of death, at least one of the parents had an established right to an old-age pension or disability pension, unless the death occurred as a result of an accident at work or an occupational disease.

Like employees, farmers had the right to family supplements, supplements on account of state decorations, and supplements payable in the event of classification in disability group I or reaching the age of 80. They were also entitled to supplements for other persons wholly dependent on them, apart from children – grandchildren and siblings.

A retired farmer also had the right to use a plot of land of up to 0.3 ha. This use was a limited property right within the meaning of Articles 252–257 of the Civil Code, and was therefore a non-transferable, lifelong, free and joint right. It expired after the death of both spouses. A retired farmer who transferred an agricultural holding to a successor was also entitled to free use of residential premises and farm buildings to the extent necessary to satisfy his needs and those of the family remaining with him. The right referred to here constituted a personal easement within the meaning of Articles 296–305 of the Civil Code. The source of this easement was the Act, and its scope was defined by the agreement on the transfer of the agricultural holding to the successor. The easement of residence expired with the death of the retired farmer and his spouse. The children and parents of the deceased could continue to use the residential and farm premises provided that it had been stipulated in the agreement

or decision establishing the easement (pursuant to Article 301 § 2 of the Civil Code) that they were entitled to this right.

In the event of the death of a farmer receiving an old-age pension (disability pension), as well as the death of a family member wholly dependent on him, the Act provided for the right to a funeral allowance. Unfortunately, this right was available only where the holding had been transferred to the state.

The analysed Act also guaranteed professionally active farmers the right to benefits on account of accidents at work on an agricultural holding or occupational disease, giving statutory rank to the right to medical care and entitling the agricultural population to selected social insurance allowances, such as the care allowance or maternity allowance. The scope of these benefits was, however, less favourable than similar benefits provided under employee insurance.

Transfer of an agricultural holding to a successor

An important condition for acquiring the right to pension provision was undoubtedly the gratuitous transfer of the agricultural holding to a successor who, according to the legislator's intention, was to determine its more efficient productivity and structure. In speaking of an agricultural holding, the legislator had in mind a holding in a broader sense²³. The transfer to the successor of movable property and buildings together with agricultural properties was to condition the maintenance of continuity of production and facilitate the successor's economic start. Among the rights connected with running an agricultural holding, claims arising from economic insurance, receivables under contracting and cooperation agreements, and lease agreements, among others, passed to the successor.

The successor also took over the predecessor's obligations, such as investment credits and loans taken out for purposes connected with running the agricultural holding, tax obligations and other debts specified in the resolution of the Supreme Court of 30 August 1977²⁴. In the case of transferring a holding to the state, the obligation to transfer ownership covered only agricultural and forest land.

The analysed Act did not introduce a requirement as to the minimum area of the holding subject to transfer, justifying this on the grounds that, for production and social reasons, all agricultural properties held should be the object of transfer to the successor or the state.

The entity entitled to transfer the agricultural holding to a successor was the farmer – the owner of the holding. Pursuant to Article 75(1) of the Act, a possessor of

23. See A. Bierć, *op. cit.*, p. 89 et seq.; see also: J.St. Piątowski [in:] F. Błachuta, J.St. Piątowski, J. Policzkiwicz, *Gospodarstwo rolne. Obrót, dziedziczenie, podział*, Warszawa 1967, p. 25.

24. OSNCP, poz. 13.

a holding, both autonomous and dependent, was treated on an equal footing with the owner. In determining the nature of possession, the system of presumptions contained in the Civil Code had to be taken into account, especially the presumption concerning autonomous possession (Article 399 of the Civil Code) and the presumption of conformity of possession with the legal status²⁵.

A farmer could transfer a holding to a successor or to the state also several years after reaching retirement age, as well as before reaching it. In the latter case, a retired farmer still working on the successor's holding could, after reaching retirement age, request recalculation of the pension on the basis of the value of agricultural products sold to the state already by the successor, if it was higher than the value achieved by the farmer before transferring the holding (Article 6(1) of the Act).

When taking over an agricultural holding, the legislator established the principle of priority for the successor working on that holding (Article 43 of the Act). In Article 75, the legislator defined the circle of successors relatively broadly. Successors could include not only descendants, but also siblings, siblings' children, stepchildren and foster children, regardless of whether they had been adopted. These persons had to possess qualifications to run an agricultural holding and not have exceeded the age of 55. As a rule, the legislator left the choice of one successor to the will of the farmer transferring the agricultural holding.

However, pursuant to Article 43(2), division of the holding could be permitted in favour of successors already running separate agricultural holdings, provided that it contributed to improving the area structure and increasing the commodity production of those holdings. The Act did not establish maximum area standards for holdings that could be created after transfer to the successor or successors. In this situation, the rules set out in Articles 161–162 of the Civil Code applied.

The gratuitous transfer of ownership of an agricultural holding to a successor, pursuant to Article 51(1) and Article 58(2) of the Act, took place in a special form. This was a written agreement on the transfer of the holding drawn up by the head of the commune. This agreement produced the same legal effects as an agreement in the form of a notarial deed transferring ownership of immovable property, pursuant to Article 158 of the Civil Code. Furthermore, the agreement and the decision of the head of the commune – in the case of transferring holdings to the state pursuant to Article 52(3) of the Act – constituted the basis for ex officio disclosure of ownership status in the land register and, at the farmer's request, also in the land and mortgage register²⁶.

25. See A. Bierć, *op. cit.*, p. 94.

26. See more: A. Bierć, *op. cit.*, p. 104 et seq., and the literature cited there.

Another form of obtaining pension benefits under the Act of 1977 was the transfer of an agricultural holding to the state or to socialised agricultural economy units. The transfer of an agricultural holding to the state could take place only when the farmer had no successors or when the successors did not meet the conditions provided for in the Act for taking over that holding. This form of obtaining pension benefits significantly facilitated their accessibility. For example, the farmer transferring the holding did not have to meet the requirement of selling agricultural products of the value specified in the Act. However, he had to document that he had run the holding continuously for at least five years before its transfer. The pension granted in an amount corresponding to the first sales group (PLN 1,500 per month) was increased by a specified amount for the transferred land, buildings and forests. The farmer also had the right to retain livestock, equipment and buildings (residential and farm buildings). Ownership of these buildings was linked to a land easement within the limits necessary for their proper use.

The Act of 1977, despite its landmark significance for the development of the farmers' social insurance system, also had its shortcomings. First, it provided for a joint pension benefit for both spouses. Second, the amount of the pension benefit depended on the sale of agricultural products to the state. Third, access to other benefits, such as sickness allowances, maternity allowances or disability pensions, was limited. Fourth, the system for recording production and the sale of agricultural products was bureaucratised²⁷.

The Act of 1982

The subsequent Act on the insurance of individual farmers and members of their families, adopted on 14 December 1982 (hereinafter the "Act of 1982")²⁸, was intended, on the one hand, to constitute a significant act in the state's agricultural policy towards individual farmers and, on the other, an important link in the fundamental reform of the social insurance system. In its main assumption, the Act aimed to equalise the social conditions of towns and villages and to improve the social situation of the agricultural population. With this in mind, in the field of social insurance the Act abolished almost all socially unjustified differences between farmers and other employee groups. The adopted solutions were also a consequence of changes in agricultural policy that

27. B. Wierzbowski, *Ubezpieczenia społeczne a inne systemy świadczeń w rolnictwie. XV lat ubezpieczeń społecznych rolników w Polsce*, Warszawa 1993, p. 9.

28. Dz. U. nr 40 poz. 268.

occurred at the beginning of the 1980s²⁹. Following the directives of agricultural policy, a number of solutions were adopted in the agricultural legislation of the time which took account of the principle of the durability and equal status of individual peasant farming within the socio-economic system of the national economy.

The Act of 1982 extended the principle of universality of insurance, previously adopted in the Act of 1977, to new entities. Pursuant to Article 1 of the Act, it covered all persons running individual agricultural holdings, as well as persons conducting so-called special branches on land of less than 0.5 ha of agricultural land. Social insurance also covered household members, i.e. members of the farmer's family and other persons working exclusively on the common holding.

Article 3 of the Act expressed the principle of compulsory social insurance for farmers. This meant, among other things, that the insurance covered a relatively large group of farmers who, in parallel with running an agricultural holding, were employed in other sectors of the national economy (this concerned mainly so-called peasant-workers). In introducing this principle, the legislator had regard to the fact that, in the case of peasant-workers, employee insurance did not cover all members of their family; in any event, it did not cover household members. Moreover, the peasant-worker himself was not covered by employee insurance against accidents at work on the agricultural holding which he regularly ran after working hours. Consequently, such a farmer was deprived of the possibility of obtaining certain benefits, for example a disability pension.

The equalisation of social benefits for farmers with analogous employee benefits led to the need to extend their scope in relation to the previously applicable legal position in this area. The most important change was the departure from the previous principle of granting one benefit from one agricultural holding, regardless of the number of persons running it and working on it. A solution was introduced whereby social benefits were payable separately to each person for whom running an agricultural holding or working on it constituted the main source of livelihood.

The scope of social benefits was defined by Article 4 of the analysed Act. Under it, farmers obtained the right to benefits: old-age pensions, disability pensions, including survivor's pensions and supplements to pensions and disability pensions, medical and maternity care benefits, benefits on account of accidents at work and occupational diseases, funeral allowances, birth allowances, maternity allowances and family allowances for children. Only childcare allowances remained outside the catalogue of benefits.

29. K. Maciejewska, *Narodziny systemu ubezpieczeniowego świadczeń emerytalnych w rolnictwie na przełomie lat 80.*, "Ubezpieczenia w Rolnictwie. Materiały i Studia" 2021, nr 1(75), p. 47 et seq.

As regards medical and maternity care benefits, no sickness allowances were provided for in respect of a farmer's illness, except for occupational disease and an accident at work. In the light of the Act, a sickness allowance was payable to an insured person who had suffered an accident at work on an agricultural holding or had contracted an occupational disease. This allowance was payable for each day of incapacity for work lasting continuously for at least 15 days, but not longer than 180 days, in the amount of 1/30 of the amount corresponding to the basic old-age pension. Among medical benefits, the Act of 1982 also specified the farmer's right to benefits connected with vocational rehabilitation or retraining for other work if, due to their state of health, they could no longer perform the occupation of farmer. This benefit was not provided for by the Act of 1977.

The introduction of birth, maternity and family allowances should be regarded as one of the fundamental achievements of the state's new social policy, which was equally interested in the situation of a child born both into an employee family and into a farmer's family. The birth allowance in the amount of PLN 2,500 was payable to the insured person on account of the birth of a child or the acceptance of a child up to one year of age for upbringing, with the intention of adopting the child. In turn, the maternity allowance was payable to an insured woman for 16 weeks in the case of the birth of one child or 24 weeks in the event of the birth of more than one child in one confinement. For one day, it amounted to 1/30 of the amount corresponding to the basic old-age pension. This benefit was introduced in stages, with payment beginning, respectively, after 8 or 12 weeks, from January 1983. Finally, family allowances were provided for insured persons who were not entitled to receive family allowances or supplements under other provisions and who had low income calculated per family member. These allowances were covered from the Rural Social Fund and paid from 1 July 1986.

The funeral allowance paid to the person or persons who covered the costs of the funeral was payable in the event of the death of the insured person or of family members dependent on them and meeting the conditions for a survivor's pension. Its amount was three times the basic old-age pension. This allowance was also payable in the event of the death of an old-age pensioner or disability pensioner and of family members dependent on them and meeting the conditions required to obtain a survivor's pension – it was paid in the amount of six times the basic old-age pension.

The conditions for obtaining an old-age pension or disability pension formulated in the Act of 1982 are essentially the same as in the Act of 1977. However, the new Act relaxed, extended and clarified a number of provisions contained in the previous Act. It should also be noted that, among the conditions for obtaining an old-age pension, the requirement to produce agricultural products and sell them to socialised

economy units was still retained, which continued to maintain the production function of agricultural pensions. This was understandable in the light of the state's still unmet food needs.

As already mentioned, the Act of 1982 covered so-called household members with social insurance. The conditions for obtaining an old-age pension or disability pension by them were easy to meet. In the case of disability, an accident at work or an occupational disease, it was sufficient to have any period of running an agricultural holding or working on an agricultural holding. In the latter case, this regulation therefore had a clearly social character.

When analysing the Act of 1982, it is also worth presenting several other remarks concerning the transfer of agricultural holdings. The Act introduced the principle that an agricultural holding should be transferred primarily to one successor. Only in the absence of a successor, or where the successor did not meet the conditions for taking over the agricultural holding or refused to take it over, could the holding – at the farmer's request – be taken over by the state. At this point, it should be added that the Act significantly broadened the circle of successors, which clearly limited the flow of agricultural land to the state.

Another element of protection of the agricultural holding as a basic component of agricultural production was the introduction of the form of a notarial deed for the transfer of an agricultural holding where the transferor was its owner. In this situation, the transfer could take place on the basis of an agreement drawn up by a local state administration body of the basic level. The transfer of an agricultural holding to the state took place by way of a decision of a local state administration body. From a holding transferred to the state, the farmer could exclude and retain ownership of a plot of land together with buildings or part of them. The farmer also had the right to use a plot of agricultural land not exceeding 0.3 ha. The Act also introduced the principle of adjusting the amount of benefits to changing costs of living (so-called indexation of pension and disability benefits).

The analysed Act also had its shortcomings. In particular, attention should be drawn to the lack of a relationship between the amount of the contribution paid and the amount of the benefits due. Another shortcoming identified is the lack of changes in the principles of financing the agricultural insurance system, which, in conditions of high inflation at the turn of the 1980s and 1990s, as well as the rising costs of maintaining the system, negatively affected its assessment³⁰.

30. D. Puślecki, *Społeczne ubezpieczenie wypadkowe rolników. Zagadnienia prawne*, Warszawa – Poznań, Polskie Wydawnictwo Prawnicze "IURIS", 2011, p. 48.

In 1989, the Act of 1982 was amended³¹, weakening its non-insurance functions. These changes were intended to prepare the ground for a general reform of the farmers' social insurance system, which was introduced by the Act of 20 December 1990³² – still in force today. The solutions adopted in the above-mentioned amendment were, among others, a harbinger of this reform. Thus, the requirement to sell agricultural products, on which the right to an old-age pension or disability pension had previously depended, was abolished. The obligation of double social insurance for dual-occupation persons (peasant-workers) was also abolished, introducing a solution allowing periods of insurance to be mutually credited towards pension and disability pension entitlements. The amended Act allowed the possibility of transferring an agricultural holding for consideration to any other natural or legal person under a lease in the absence of a successor or refusal by the successor to take over the agricultural holding. The farmer also had the possibility of leasing the agricultural holding to persons outside the circle of statutory successors. The changes also covered the rules for calculating the amount of agricultural pensions. The lowest agricultural pension was equalised with the lowest employee pension, and from March 1986 annual indexation of pensions was introduced³³.

Conclusion

The analysis conducted in this study of the changing system of agricultural pensions allows the following general conclusions to be formulated:

1. In the period preceding the first pension act of 1962, farmers had to take care of securing their old age themselves. Especially after the enfranchisement of peasants, for more than 100 years, they primarily used two civil law contracts – the life annuity agreement and the donation agreement. However, this method of security did not always guarantee them a peaceful old age.
2. The pension acts of 1962, 1968 and 1974, in accordance with the directives of the agricultural policy of the time, were intended to pursue its main objective – the rational development of agricultural land. Land taken over by the state in exchange for what were in fact low pension benefits was transferred to socialised agricultural

31. Ustawa z 24 lutego 1989 r. o ubezpieczeniu społecznym rolników indywidualnych i członków ich rodzin, Dz. U. nr 10 poz. 53.

32. B. Wierzbowski, *Status socjalny rolnika*, in: Prawo rolne, ed. A. Stelmachowski, Warszawa 2009, p. 311 et seq.

33. See more broadly: K. Maciejewska, op. cit., p. 14 et seq.

- economy units in the belief that it would be better developed by them. However, the social objective of the acts was implemented only to a minimal extent.
3. The two subsequent acts of 1977 and 1982 introduced the principle of universality and the principle of compulsory participation in the farmers' pension system. Both of these acts still indicated economic objectives of the farmers' pension system as a priority, although the scope of pension benefits was gradually increased. The incentives for more intensive agricultural production formulated in both acts, consisting in the possibility of reducing the contribution and increasing the amount of the old-age pension/disability pension, proved effective essentially only in relation to high-commodity holdings. The social aspect was strengthened in particular by the Act of 1982 (in terms of the number of entitled entities and benefits), thanks to which agricultural insurance clearly moved closer to employee insurance.
 4. Along with significant changes in the state's agricultural policy, the acts also evolved, as did the solutions contained in them, directed not only towards production objectives but also towards social objectives characteristic of the social insurance system. The fundamental systemic changes initiated in 1989 justified the need to reassess the objectives of agricultural insurance, especially the production-related ones, which could be abandoned thanks to the rapid resolution of food problems, mainly influenced by the marketisation of agricultural product prices.
 5. In conclusion, it is worth formulating the main finding: the evolution of the agricultural insurance system was determined by forced changes in the state's agricultural policy in the post-war period. The unsuccessful attempts to socialise Polish agriculture forced, in the 1970s, the need to cover individual farmers with compulsory agricultural insurance, although still narrow in scope. The crisis of the 1980s led to further changes in socio-economic policy. On the wave of these changes, the new Act of 14 December 1982 brought agricultural insurance significantly closer to the employee social insurance system. This Act, and in particular its amendment of 1989, prepared the ground for covering individual farmers with a new social insurance system. This occurred pursuant to the Act of 20 December 1990 on farmers' social insurance, which remains in force to this day.

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received: 14.10.2025
accepted: 24.02.2026

