

ЗАКОНОДАТЕЛЬСТВО В СФЕРЕ ПЕНСИОННОГО СТРАХОВАНИЯ В РОССИИ ДО 1917 г.: ИСТОРИЧЕСКИЙ КОНТЕКСТ И ПЕРСПЕКТИВЫ

А. В. ЛАПАЕВА¹⁾, О. В. МОИСЕЕВА¹⁾

¹⁾ Тамбовский государственный университет им. Г. Р. Державина,
ул. Интернациональная, 33, 392036, г. Тамбов, Россия

Аннотация. Анализируются основы пенсионного обеспечения и страхования в дореволюционной России. Описываются ключевые этапы развития российского законодательства в сфере пенсионного страхования. Приводится мысль о том, что идея социальной поддержки пожилых лиц, инвалидов и вдов зародилась еще на ранних этапах развития человеческого общества и была закреплена в древних законодательных актах. К XIX в. значительно эволюционировало российское законодательство в сфере пенсионных накоплений за счет средств эмеритальных касс. Делается вывод о том, что к 1914 г. законодательство в сфере пенсионного страхования в России имело высокий уровень развития.

Ключевые слова: благотворительность; государственное призрение; пенсионное обеспечение; социальное страхование; общественная взаимопомощь; пенсия; старость; пенсионный возраст; нетрудоспособность.

ЗАКАНАДАЎСТВА Ў СФЕРЫ ПЕНСІЙНАГА СТРАХАВАННЯ Ў РАСІІ ДА 1917 г.: ГІСТАРЫЧНЫ КАНТЭКСТ І ПЕРСПЕКТЫВЫ

А. В. ЛАПАЕВА^{1*}, В. В. МАІСЕЕВА^{1*}

^{1*} Тамбоўскі дзяржаўны ўніверсітэт імя Г. Р. Дзяржавіна,
вул. Інтэрнацыянальная, 33, 392036, г. Тамбоў, Расія

Анатацыя. Аналізуюцца асновы пенсійнага забеспячэння і страхавання ў дарэвалюцыйнай Расіі. Апісваюцца ключавыя этапы развіцця расійскага заканадаўства ў сферы пенсійнага страхавання. Прыводзіцца думка аб тым, што ідэя сацыяльнай падтрымкі пажылых асоб, інвалідаў і ўдоў зарадзілася яшчэ на ранніх этапах развіцця чалавечага грамадства і была замацавана ў старажытных заканадаўчых актах. Да XIX ст. значна эвалюцыянавала расійскае заканадаўства ў сферы пенсійных назапашванняў за кошт сродкаў эмерытальных кас. Робіцца выснова аб тым, што ў 1914 г. заканадаўства ў сферы пенсійнага страхавання ў Расіі мела высокі ўзровень развіцця.

Ключавыя словы: дабрачыннасць; дзяржаўны догляд; пенсійнае забеспячэнне; сацыяльнае страхаванне; грамадская ўзаемадапамога; пенсія; старасць; пенсійны ўзрост; непрацаздольнасць.

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Авторы:

Ангелина Вячеславовна Лапаева – кандидат юридических наук, доцент; заведующий кафедрой теории и истории государства и права Института права и национальной безопасности.

Ольга Васильевна Моисеева – кандидат юридических наук, доцент; доцент кафедры теории и истории государства и права, помощник директора по воспитательной работе Института права и национальной безопасности.

Authors:

Angelina V. Lapayeva, PhD (law), docent; head of the department of theory and history of state and law, Institute of Law and National Security.

anlapaeva@gmail.com

<https://orcid.org/0000-0002-9430-5344>

Olga V. Moiseyeva, PhD (law), docent; associate professor at the department of theory and history of state and law and assistant director for educational work, Institute of Law and National Security.

moiseewaolga@yandex.ru

<https://orcid.org/0000-0002-6126-7812>

PENSION INSURANCE LEGISLATION IN RUSSIA BEFORE 1917: HISTORICAL BACKGROUND AND PROSPECTS

A. V. LAPAYEVA^a, O. V. MOISEYEVA^a

^aDerzhavin Tambov State University, 33 Internatsional'naya Street, Tambov 392036, Russia

Corresponding author: A. V. Lapayeva (anlapaeva@gmail.com)

Abstract. The fundamentals of pension provision and insurance in pre-revolutionary Russia are analysed. The key stages of the development of Russian legislation in the field of pension insurance are established. It is suggested that the idea of social support for the elderly, the disabled and widows originated at the early stages of the development of human society and was enshrined in ancient legislative acts. By the 19th century, Russian legislation in the field of pension provision at the expense of emerital funds. The study concludes that by 1914, legislation on pension insurance in Russia was at a high level of development.

Keywords: charity; state welfare; pension provision; social insurance; public mutual aid; pension; old age; retirement age; incapacity for work.

Introduction

Current trends in pension provision for citizens are conditioned by historical prerequisites of the economic, political, legal, and moral development of the state and society. Today's crisis in the pension system in Russia calls for a search for solutions in the depths of time, relying on the experience and traditions of ancestors. The issue of pension provision is especially acute in conditions of the demographic crisis, which further complicates and hinders the resolution of issues in social security benefits for old age, disability, or even the death of a citizen.

In light of this study aims to investigate the condition of Russian legislation on pension insurance in pre-revolutionary Russia, it is important to take into account the evolutionary features of the formation and development of social security, which makes it possible to understand the causes of the condition of pension development.

At the beginning, in Rus, social support for those in need consisted of charity and encouragement of almsgiving to the poor and those unable to work [1]. One of the first legal acts in support of those in need was the Decree of Ivan IV «On alms», which provided for the erection of specialised buildings for the infirm, elderly, and lepers, as well as the possibility of retirement from service in the event of old age, sickness, and injury [2], and retired military personnel were sent to the monastery for lifelong maintenance as state support.

The period of Peter the Great's reign was marked by the adoption of several normative acts regulating the issues of social support for military personnel, as persons who were deprived of the opportunity to actively

engage in material support due to severe wounds and injuries during hostilities, of which there were enough at this historical stage, in particular the Azov campaigns (1695–1696) and the long-lasting Northern War (1700–1721). As a result, in 1712, the Decree «On the establishment of hospitals in all provinces» was issued, focusing on the support of maimed and elderly soldiers. In 1719, an order was issued to legislate the legal position of monasteries in the upkeep of certain categories of citizens¹.

A new stage in the historical development of Russia was marked by the formation of a regular army, which required a quality solution to the issues of the legal regulation of the material provision of servicemen. The programme legal act issued to this end was the Marine Charter of 1720, which established social support measures for warriors who were injured in battle or reached an advanced age in service, as well as their widows and orphans. Considering the high importance and necessity of military activity at a specific historical stage, the state, in order to ensure the proper level of support, takes under its guardianship not only military personnel but also their dependents. Further development of pension legislation relates to the expansion of the range of people covered by it, and the addition of the grounds giving the right to state support.

During the reign of Catherine II, the sums allocated from the budget within the framework of state pension provision increased, and the range of subjects of pension legal relations expanded (now including honored soldiers and civil servants)².

¹Сенатский приказ от 29 июля 1719 года «Об отсылке не имеющих пропитание, отставных от воинской службы чинов в монастыри и о даче им жалования из монастырских доходов» // Полн. собр. законов Рос. империи : [собр. 1-е: с 1649 по 12 дек. 1825 г.]. СПб. : Тип. 2-го отд-ния собств. Е. И. В. канцелярии, 1830–1851. Т. 5, № 3409.

²Указ именной, данный Военной коллегии президенту кн. Потёмкину. О призрении заслуженных солдат от 26 февраля 1784 г. // Там же. Т. 22, № 15941.

The end of the 18th century is distinguished by a systematised approach to the processing of pensions for both military and civil service officials at the expense of the state budget. The stated period is seen as a period of legalisation of the priority of pensions over other types of social security for retired servicemen and their family members. The scheme for calculating pension payments for civil servants was based on length of service, besides, a list of preferential categories of citizens was fixed for the granting of pensions.

By the beginning of the 20th century, the system needed serious reorganisation. To solve this problem, legislation was supplemented by the Statute «On pensions and lump-sum allowances for military officers and their families» (1912 June 23)³. The statute delineated a list of those eligible for pension: officers and state civilian and municipal service ranks, wounded

campaigners and their families, and those with at least 25 years of service. The statute retained the provision of a pension in the amount of a full salary only after 35 years of service. If a serviceman was dismissed due to an inability to serve further, a pension of 30 % of the pay was granted for 10 years of service, and for each additional year of service, it was increased by 2 % of the allowance received. Servicemen wounded during hostilities, mutinies, and riots, i. e., those ranked in the first class, received a pension equal to 100 % of their pay, which was extended to their widows and children.

The aim of this research is to analyse the state of pension insurance legislation within the historical context of 1917, taking into account the background and peculiarities of the evolution of Russian legislation on pension provision and insurance in Russia.

Materials and methods

Issues related to social security are closely connected with the problem of protection against poverty (old age, widowhood, orphanhood – key social risks leading to poverty), as well as the overall social activities of the state. As evident from the above, ideas of social support for the elderly emerged as far back as in the era of the Ancient World, and the first legislative provisions for the protection of widows, orphans, and the elderly can be found in the oldest legal documents.

Analysis of political and legal doctrines of the 18th and 19th centuries confirms the recognised duty of the state to care for those in need but does not indicate the inclusion in the content of this duty of the right to social (including pension) security, as pointed out, in particular, by P. I. Novgorodtsev and I. A. Pokrovskii [3].

Marxism had a significant influence on the theoretical research on the problem of poverty, viewing it as a result of deepening economic differentiation, while F. Engels insisted on the need for lifelong support for incapacitated workers [4].

At the end of the 19th and the beginning of the 20th century, the concept of the welfare state received its conceptual framework, closely related to the formation of social and, in particular, pension legislation as such. In Russia, the development of the doctrine of the right to social security, as rightly noted by M. V. Lushnikova, «took place primarily in the early stages within the framework of the science of police (administrative) law and civil law, and then, with the emergence of workers'

insurance, within the framework of the emerging science of labour law»⁴ [5, p. 101].

At the turn of the 19th and 20th centuries, leading Russian legal theorists considered issues of social solidarity (and the necessity of social support for citizens by the state) in connection with the problems of the rule of law and the protection of the rights and freedoms of individuals. In particular, P. I. Novgorodtsev [6] and B. A. Kistjakovskii [7] developed the idea of the right to a dignified human existence.

Questions of providing for those in need in connection with the theory of personal rights were considered in the works of other pre-revolutionary Russian scholars: V. M. Gessen and his colleagues [8], M. M. Kovalevskii [9], S. A. Kotlyarevskii [10], G. F. Shershenevich [11].

Among the studies on social insurance issues, it is necessary to mention the works of the following scholars (not only lawyers but also economists, engineers, and doctors): B. F. Maleshevskii [12], V. G. Yarotskii [13], A. Yu. Vegner [14], N. A. Vigdorchik [15] and V. P. Litvinov-Falinskii [16].

The conceptual foundations of social security are addressed in the works of contemporary legal scholars, such as N. V. Putilo [17], G. B. Chelnokova⁵, T. Yu. Baryshnikova⁶ and M. V. Lushnikova [5].

Among the works published in recent years that address the issues of this research, we should highlight the works of the following authors: T. Ya. Khabrieva [18], N. G. Semionkina [19], A. G. Myslivchenko [20], V. A. Cherepanov [21] and others.

³Устав о пенсиях и единовременных пособиях чинам военного ведомства и их семействам (3 ПСЗ. Т. 32, № 37442. Собрание узаконений. 1912. 10 июля. Отд. 1, ст. 1225) // Программа реформ: документы и материалы : в 2 т. Т. 2 / П. А. Столыпин. М. : Росспэн, 2011. С. 325–337.

⁴Hereinafter translated by us. – A. L., O. M.

⁵Челнокова Г. Б. Социальное законодательство, направленное на защиту от бедности в России : науч.-практ. пособие. М. : Проспект, 2009. 104 с.

⁶Барышникова Т. Ю. Право социального обеспечения. Часть особенная : учеб. пособие. Ярославль : Ярослав. гос. ун-т им. П. Г. Демидова, 2009. 123 с.

Results and discussion

Indeed, on the verge of the 20th century, particular attention was given to human social rights based on social justice and equality. Representatives of Russian political and legal thought viewed them through the prism of freedom. P. I. Novgorodtsev [6] indicates that the realisation of freedom was considered possible only as a result of assisting those in need to improve the conditions of social and industrial life. The elements of the right to a decent living include the right to work and to social security in case of inability to work, illness, or old age [22]. I. A. Pokrovskii, being a proponent of Novgorodtsev's ideas, emphasised the moral foundations of the principle of determining the amount of social aid [3].

B. A. Kistyakovskii advocated the idea of a socialist state with the solidary interests of individuals and the common good. It was also indisputable that the law must be just. Modern declarations are considered by the legal scholars A. V. Kornev and A. V. Borisov⁷ from the position of mandatory substantive proclamation, including the social rights of the citizen. Guarantees of such rights had to come from the state, emphasising the need for their legislative enshrinement and further realisation.

G. F. Shershenevich advocated for the need to establish private insurance. The scientist believed that only rendering assistance to the weakest, unprotected categories of subjects could mitigate their hatred towards the ruling class and inspire additional trust in the state [11, p. 250].

The teaching of N. M. Korkunov in the matter of social rights centres around protecting the interests of individuals, including through the provision of sanitary conditions by the state. At the same time, the state itself, taking an active part in social activities (care), nevertheless pursued its own goals and was driven by coercion. Indeed, it is first necessary to collect material resources, including forcibly, and in the future, the available funds are to be directed to public goods⁸.

Specific issues of providing social support measures to needy persons were developed in Russia within the science of police (administrative) law, particularly in the works of N. Kh. Bunge [23], V. F. Deryuzhinskii⁹, and others. The need to provide for the livelihoods of the elderly and other persons unable to work was recognised by most authors, but there were serious differences regarding the means of provision and the sources of funding for payments (funding from contributions, from the budget, from the individual's own resources, etc.).

In addition, a significant role in initiating the formation and subsequent organisation of pension legislation was played by the historical circumstances of the early 20th century, which exposed the problematic aspects of the social development vector. The revolutionary events

of 1905–1906 marked acute moments in the realisation of labour and social rights of citizens. The peasant community suffered from a shortage of land and lingering remnants of serfdom, which manifested in peasant uprisings. Many attempted to solve the problem by moving to the city, but the lack of developed industry and job opportunities did not resolve the situation; instead, it exacerbated it. The fragmentation and lack of structure in the enterprise system, a decrease in production at existing enterprises, and a rapid rise in inflation – all of these factors contributed to the increasing economic tension, and the poor harvests of 1901 and 1903 only worsened the already acute political, economic, and social situation [24].

Amid the international economic crisis, revolutionary movements grew in Russia, one of which was the consideration of the issue of social welfare for the population, guaranteeing material support in cases of disability for the able-bodied population and dependents. Revolutionary sentiments also found their reflection in mass strikes, which by 1905 had spread to almost the entire country of Russia. One of the largest sectors affected was the railway workers, joined by representatives of the energy supply complexes (lighting, water supply), as well as the media and communication sectors. The people demanded the declaration and legislative confirmation of their rights and freedoms, which was expected to contribute to the «implementation of rational principles in practical reality» [25, p. 50].

However, it is worth noting a historical paradox – despite the substantial revision of political, legal, and economic aspects following the revolutionary movement, the issue of pension insurance was not fundamentally reconsidered by the Soviet government compared to the tsarist regime. The list of grounds for pension provision remained almost unchanged. At the same time, the problem was identified, and a legal framework was established, which later became the foundation for reforming the pension system within the framework of the Prague Workers' Insurance Programme of 1912 and, by 1918, found expression in the Labour Code and the Regulation on the Social Security of Workers.

Political-legal thought, represented by its brightest figures, undoubtedly had a significant impact on the further formation of social foundations. The turn of the 20th century was marked by the development of the basis of private pension provision for civil servants, which appeared to be one of the first recognised experiments of such a system in Russian legal realities. There were two models of such provision, namely, the emerital model – from 3 to 6 % of compulsory deductions from the salary, through which citizens' personal funds were

⁷Корнев А. В., Борисов А. В. Правовая мысль и юридическое образование в дореволюционной России. М. : Эксмо, 2005. 284 с.

⁸Там же. С. 127.

⁹Дерюжинский В. Ф. Полицейское право : пособие для студентов. Петроград : Сенат. тип., 1917. 524 с.

accumulated (with the insurance element being the basis), and the savings and assistance model.

Those who had contributed for 20 to 30 years were entitled to the full amount of the emerital pension (this model was applied to ground forces, zemstvo emeritals, clergy, etc.)¹⁰. The first experience with insurance-type pension funds was that of private railroads in 1888¹¹. What distinguished the emeritus and savings-assisted models were both the manner in which pension rights were secured and the principles themselves, namely, pay-as-you-go and contributory.

Further on, in 1900, the Ministry of National Education organised a pension fund for teachers of primary public schools who were considered the least advantaged. The rules of allocation of emerital pensions were regulated by such regulations as the Statute of the Emerital Pension Fund of the Ministry of Justice, the Statute of the Emerital Pension Fund of Mining Engineers, the Statute of the Emerital Pension Fund of Railway Engineers, etc.¹²

Emeritus funds operated in Russia successfully until the October Revolution. According to the Russian Pension Fund, as of 1917, there were about 200 of them¹³. The creation of emeritus funds was a justified step towards the expansion of pension support for citizens. This was the first experience with state administration of contributory pension capital. In this regard, it is important to emphasise that the operation of pre-revolutionary emeritus funds was similar to that of today's private pension funds.

The predominantly agricultural nature of the Russian economy in the period considered predetermined the fact that the country never achieved a well-developed industrial system of mutual assistance. As rightly noted by N. A. Vigdorchik, «the development of voluntary insurance was hindered by the agricultural character of the country, which only in the last quarter of the 19th century began to change noticeably towards capitalism» [26, p. 141].

One of the first normative acts to regulate the issues of social insurance were the regulations of 1861¹⁴, which enshrined the need to create special partnerships under large mining factories and mines to provide for workers who reached old age or developed diseases. Temporary and permanent allowances and pensions were to be paid from the auxiliary funds of these part-

nerships not only to the members of the partnerships but also to their family members. In the upcoming decades, similar normative acts were adopted with respect to workers in other occupations, and the legislative provisions enacted provided for both voluntary and compulsory participation in pension funds for workers or employees.

A new phase in the development of pension legislation came in the 1880s, when a decision was made on the need to create government commissions to delegate to them the mission of developing projects of compulsory insurance [26].

The year 1901 marked the adoption of temporary rules for granting pensions to workers of state mining factories and mines who had lost the ability to work, as well as their family members¹⁵.

The adoption of laws (in the strict sense of the word) on social insurance became possible after the establishment of the Russian parliament, the State Duma, in 1906. The result of many years of work on draft laws on social insurance was a package of laws adopted in 1912 June 23: «On the provision of workers in case of sickness», «On the insurance of workers against accidents at work», «On the approval of the workers' insurance board», «On the establishment of the workers' insurance presence». The totality of these acts provided, in particular, for the establishment of health insurance funds. By paying contributions to these funds, workers became entitled to sickness, injury, death, and maternity benefits.

The Law of the Russian Empire «On insurance of workers against workplace accidents»¹⁶ secured disability pensions for workers injured in accidents and, in the event of a worker's death, a survivor's pension for their family members. Upon the occurrence of an insured event, payments to victims were made from the funds of insurance partnerships as benefits and pensions, and payments to their family members – only in the form of pensions, the amount of which was determined as a proportion of the employee's annual allowance [27].

The bill drafted by the Ministry of Finance in 1905, which laid down provisions on social insurance for disability and old age, was not implemented due to the dissolution of the State Duma. This topic was developed further only by 1912 as «the bill on the state insurance

¹⁰Гусаков Д. Б. История пенсионного обеспечения и социального страхования в России : учеб. пособие. СПб. : С.-Петербург. гос. ин-т психологии и соц. работы, 2010. 259 с.

¹¹Устав эмеритальной кассы при Московском учетном банке : утв. 7 авг. 1895 г. М. : Тип. Т. И. Гаген, 1895. 18 с.

¹²Свод законов Российской империи. Т. 3, кн. 4. Уставы эмеритальных касс гражданского ведомства. СПб. : Гос. тип., 1886. 108 с.

¹³История Социального фонда России // Социальный фонд России : сайт. URL: <https://sfr.gov.ru/about/history/> (дата обращения 08.05.2023).

¹⁴Положение о горнозаводском населении казенных горных заводов ведомства Министерства финансов от 8 марта 1861 года. СПб. : [б. и.], 1861. 14 с.

¹⁵Временные правила о пенсиях рабочим казенных горных заводов и рудников, утративших трудоспособность на заводских или руднических работах // Полн. собр. законов Рос. империи : [собр. 1-е: с 1649 по 12 дек. 1825 г.]. СПб. : Тип. 2-го отд-ния собств. Е. И. В. канцелярии, 1830–1851. Т. 21, № 20087.

¹⁶Закон Российской империи от 23 июня 1912 года «О страховании рабочих от несчастных случаев» (3 ПСЗ. Т. 26, № 37447. Собрание узаконений. 1912. 11 июля. Отд. 1, ст. 1230) // Программа реформ: документы и материалы : в 2 т. Т. 1 / П. А. Столыпин. М. : Росспэн, 2011. С. 517–535.

of workers for old age and disability, developed in 1905, disappeared» [28, p. 133]. Thus, pre-revolutionary legislation in Russia was marked by a lack of compulsory pension insurance for old age, and pension provision for disability was available only in cases resulting from a work accident [15].

A drawback of the 1912 Law of the Russian Empire «On insurance of workers against workplace accidents» was that its scope was limited to the European part of

the country and the Caucasus and to enterprises with a specific number of workers and with specific equipment, thus covering about 15 % of the total number of workers in Russia¹⁷. Social insurance became prevalent only in 1917 when several thousand insurance funds were established in Russia. It is noted that in these years, «our country was not only not an outsider in the field of compulsory social insurance, but occupied a respectable place among civilised states»¹⁸.

Conclusions

The analysis of historical prerequisites that created the possibility of state social security for needy citizens, as well as the economic, political, legal, and social situation at the historical turning point of 1917, allowed for the assessment of the state and determination of the prospects for the development of pension insurance legislation in pre-revolutionary Russia. It was precisely at this juncture that objective conditions emerged, necessitating a complete replacement of the state's indirect support for the destitute citizens through charity with genuine state legal provision and legislative regulation of pension-related matters.

By 1917, the foundation for the subsequent development of the pension provision sector had been laid, and the initial attempts to legislatively establish citizens' pension rights had been made. However, the list of individuals

falling under the state's protection was limited, and the normative regulation was predominantly sector-specific.

The above-mentioned factors not only characterise the historical state of legal regulation of pension insurance in 1917 but also explain the complexity of a detailed analysis of the legal support for pension provision, as there is a lack of systematic normative establishment of the fundamentals of legal regulation.

The perspective of this study is expressed in identifying the patterns of the legislative and legal implementation processes at a specific historical juncture, determined by economic, political, legal, and social prerequisites. These patterns allow for the identification of stable connections between the legal experience and the practice of implementing legal provisions and socially conditioned expectations.

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