2021 Pension Regulations – significant content-related changes

Article 12 “Withdrawal from compulsory insurance after reaching the age of 55”

As a result of the amended Federal Act on Benefits supplementary to the Old Age, Survivors’ and Invalidity Insurance, which enters into force on 1 January 2021, Art. 47a was added to the Occupational Pensions Act (OPA). This article also applies to pension institutions which pay more than the minimum benefits specified under OPA. The new legal regulations are set out in this article.

The new opportunity created by the legislator to remain insured is only legally possible if the employer terminates the employee’s employment contract. The legislation does not permit the application of this provision if the employee terminates their employment contract. The Board of Trustees has decided to fully exhaust the freedom legally provided to it by amending its regulations to make this continuation of insurance cover possible from as early as the age of 55.

Article 31 “Buying into early retirement schemes”

The legal regulations provide the regulatory freedom to issue provisions for buying into early retirement schemes (Art. 1b of the Occupational Pension Ordinance (OPO 2)).

Art. 1b(2) OPO 2 stipulates the following restriction:

Pension institutions which permit policyholders to buy into early retirement schemes must structure their pension plans in such a way that if policyholders waive their right to retire early, the regulatory benefit target is exceeded by no more than five per cent.

In accordance with the current regulatory version, the following maximum deposits may be made into the separate account for early retirement:

- The sum of the interest-free savings contributions which would be payable in the last seven years before reaching the regulatory reference age,
- plus the sum of the OASI bridging pensions to be drawn.

The article is more precisely formulated. When buying into early retirement schemes, the insured person must now specify at what age they want to take early retirement (planned early retirement age). In addition, the reduction to a benefit level of 105% of the regulatory benefit target (pursuant to Art. 1b(2) OPO 2) must be stipulated in the regulations. This applies if the insured person does not take early retirement in spite of having financed early retirement.

Article 36(8) “Retirement benefits” (lump sum settlement)

In case of the lump sum option, the spouse’s signature must (where applicable) now be officially certified or be made in person in the Foundation’s offices including presentation of the passport or ID.

Unfortunately, in practice cheating occurs from time to time where this is concerned. A pension institution can only protect itself against the danger of double payments if it carefully checks the necessary signatures, which under certain circumstances is only possible with an official certification.

Art. 47(7) “Spouse’s pension” (lump sum settlement)

In regulatory terms, the full or partial withdrawal of a spouse’s pension is now possible. This only applies in case of the death of an active insured person or a disabled person prior to their 65th or 64th birthday respectively.

Art. 48 “Partner’s pension” (prerequisites)

The current regulatory requirements stipulate, amongst other things, “significant support” as a prerequisite for paying a partner’s pension. The implementation provisions go into greater detail about the “significant support”, specifying that it means assuming at least half of household costs.

“Significant support” is no longer provided for in the new regulations. The partner is deemed equivalent to the spouse, insofar as the former lived together with the deceased in a long-term relationship without any interruptions in the five years leading up to their death (shared official place of residence). In addition, the partner must have been registered in writing (now with officially certified signatures).

Article 51 “Lump sum death benefit”

Strict limits apply to the payment of a lump sum death benefit (Article 20a OPA). The Board of Trustees spoke out in favour of ranking the surviving spouse ahead of children entitled to an orphan's pension, unlike the current version.

Article 66(3) “Cash payment”

If the insured person is married, a cash payment is only permissible if the spouse gives their written consent by means of an officially certified signature. Instead of the official certification, the signature can be made in person in the Foundation’s offices including presentation of the passport or an identity card.

Article 82(2) “Prerequisites and evidence” in case of early withdrawal under legislation encouraging home ownership

In case of the encouragement of home ownership option, the spouse’s signature must (where applicable) be officially certified or be made in person in the Foundation’s offices including presentation of the passport or ID.

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