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Protection of employees close to retirement

At the same time as the introduction of paternity leave and the introduction of the federal law on improving the reconciliation of work and care for relatives, 2021 also sees the introduction of a new Article 47a BVG, which aims to strengthen the protection of employees close to retirement.

Since January 1st, 2021, and the introduction of the new Article 47a of the Federal Law on Occupational Retirement, Survivors' and Invalidation Pension Plans (LPP), an employee close to retirement whose employment contract is terminated may decide to maintain his or her LPP insurance.

Article 47a BVG (RS831.40) provides that "an insured person who, after reaching the age of 58, ceases to be subject to compulsory insurance due to the dissolution of employment relationships by the employer may maintain his insurance pursuant to Article 47, or require that his insurance be maintained to the same extent as before with the same pension institution pursuant to paras. 2 to 7 of this Article".

Thus, a dismissed employee who is 58 years of age or older may now decide to maintain his occupational pension plan or his old-age pension plan alone. He may also maintain his death and disability benefit.

This possibility may be offered from the age of 55 if the pension institution so provides in its regulations.

If the dismissed employee decides to continue his insurance, he can increase his old-age pension by paying contributions.

The termination benefit remains with the pension institution even if the dismissed employee no longer increases his old-age pension.

He may also join a new pension institution.

In this case, the previous pension institution must pay the termination benefit to the new institution "to the extent that it can be used to purchase the full regulatory benefits".

If the dismissed employee decides to continue his insurance, he has "the same rights as those who are insured with the same collective on the basis of an existing employment relationship, in particular with regard to interest, the conversion rate and payments made by their last employer or a third party".

It should be borne in mind, however, that "if the continuation of the insurance has lasted more than two years, the benefits are paid in the form of an annuity". In other words, the pension capital is converted into a retirement pension.

In addition, “early withdrawal or pledging of the termination benefit to purchase a home for one’s own needs is no longer possible”.

It should also be borne in mind that the dismissed employee, who decides to maintain his insurance, must pay the “employee share” but also the “employer share” (which is paid by the latter when the employment relationship exists). This can therefore be a not insignificant amount when the person’s income normally suffers a drop.

While the possibility of maintaining one’s BVG insurance certainly offers advantages (maintaining coverage in the event of death or disability, maintaining savings on one’s pension assets, etc.), the decision whether or not to maintain this insurance must be well thought out and well anticipated, as it has a cost, and our advice is to obtain prior advice from savings specialists and to check with the pension institution to decide whether or not to change the institution.

Source : <https://www.wg-avocats.ch/en/news/labour-law/protection-employees-close-retirement/>