



The occupational benefit scheme in the event of divorce.

The aim of Swiss divorce law is to fundamentally ensure that both spouses are economically independent following a divorce. The way this is decided is primarily dependent on how tasks were allocated during the marriage. If one spouse dedicated him/herself to childcare and running a household for many years at the expense of full or part-time employment, his/her second pillar retirement provision will be insufficient or even non-existent. In the event of divorce this missing or insufficient provision is taken into account in the division of the pension fund assets.

What is divided up in the event of divorce?

- That part of the termination benefit (often known as the “vested benefit”) accrued between marriage and divorce is divided. Those assets that existed prior to the marriage (including the interest earned) remain untouched, however.

Calculation of termination benefit to be divided in the event of divorce

$$\begin{array}{r} \text{Termination benefit at time of divorce} \\ - \text{Termination benefit at time of marriage, plus interest earned until time of divorce} \\ \hline = \text{assets earned during marriage to be divided} \end{array}$$

- This division is independent of the chosen property regime.
- If both spouses are insured in the occupational benefit scheme and if they both have entitlements, only the difference is divided.
- If the spouses have reached agreement on the division, the employee benefit institutions concerned are requested to confirm the feasibility and the amount of the relevant pension assets. If the spouses cannot agree on the division of the assets, the divorce court shall decide on the proportions of the division and shall transfer the case to the relevant insurance court.

Single premiums financed by the insured person’s own assets during the marriage are excluded from the division.

An advance withdrawal to finance residential property during the marriage must be considered separately. In this case the court shall decide on the form of compensation.

When is there no division?

- According to the law, a division is not possible if an insurance case (retirement or disability) has already occurred before the divorce for one or both spouses. In such cases the court is obliged to consider the pension adjustment in a different way (e.g. through the award of appropriate compensation).
- The spouses may voluntarily decide against a full or partial division if the retirement and disability provision of both parties is guaranteed.
- The divorce court can refuse to make a division if it would clearly result in an unjust economic situation following the divorce.

How are the assets transferred to the spouse?

The termination benefit to be ceded is transferred to the spouse's employee benefit institution. If said spouse is not gainfully employed it is transferred to a vested benefits policy or a vested benefits account. Helvetia offers both options; in the case of a vested benefits account Helvetia also offers the option of securities-linked saving. In exceptional cases (e.g. if a spouse becomes self-employed) the amount may also be withdrawn in cash.

What impact does the division have on benefit coverage?

Gaps in benefit coverage occur when part of the termination benefit is transferred to the divorced spouse. The amount of original benefit coverage can be regained through the payment of single premiums. These payments may be deducted from tax.

What impact does a divorce have on survivors' pensions?

If the former spouse dies, the divorced partner is entitled to a spouse's pension if the marriage lasted at least ten years and the divorced person was granted a pension or a lump-sum settlement for a life-long pension in the divorce decree. The pension provides compensation for the entitlement to maintenance in the divorce decree. It is reduced if, together with other social insurance benefits, it exceeds this entitlement.

What happens in the case of the dissolution of a registered partnership?

Everything in this information sheet applies mutatis mutandis for the dissolution of a registered partnership.

So simple. Just ask us.

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