



Impact of divorce law on
occupational benefit schemes

Divorce and occupational benefit schemes



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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. This lack of or insufficient benefit coverage is compensated in the event of divorce by the division of entitlements from the occupational benefit scheme.

What is divided up in the event of divorce if neither of the spouses is already drawing a retirement pension?

The part of the termination benefit (also known as the “vested benefit”) accrued between marriage and initiation of the divorce proceedings is divided. The principle that each spouse is entitled to half of this termination benefit of the other spouse applies. Mutual entitlements of the spouses are offset correspondingly; only the differential amount is split. 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

- Termination benefit at the time divorce proceedings begin
- Termination benefit at the time of the marriage, bearing interest up to the time divorce proceedings begin

= Assets earned during marriage to be divided

How are funds transferred to spouses if termination benefits are involved?

The termination benefit to be ceded is transferred to the entitled spouse’s employee benefit institution. If said spouse is not gainfully employed it is transferred to a vested benefit policy, a vested benefit account or substitute occupational benefit institution.

What is divided in the event of divorce if one of the spouses is already drawing a retirement pension?

If one spouse or both draw a retirement pension, it is also divided. The court decides at its own discretion about the division of the pension; in this regard, in particular the duration of the marriage and pension needs of both spouses are taken into account.

How are funds transferred to spouses if portions of a pension are involved?

The assigned portions of the pension are paid out to the entitled spouse, taking their respective benefit coverage into account.

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.

What must be kept in mind when the entitlements from the employee benefit scheme are divided?

- Single premiums financed by the insured person's own assets during the marriage are excluded from the division.
- Advance withdrawals for financing residential property that occurred during the marriage are subject to division if no complete disability exists.
- This division is independent of the chosen property regime.
- The initiation of the divorce proceedings is the decisive time for the calculation of the pension claims to be divided.

When is there no division?

- The spouses may voluntarily decide against a full or partial division if the retirement and disability provision of both parties is guaranteed and the court approves this.
- The divorce court can refuse to make a division if it would clearly result in an unjust economic situation following the divorce.

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 for ongoing maintenance. The pension is intended to balance the maintenance claim from the divorce verdict as long as this is due. 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 to the dissolution of a registered partnership.

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