

Revision of the Pension Fund Rules 2017: Adjustments to reflect the amended divorce law as well as other clarifications and changes

Dear SVE Insured Members

The statutory provisions on the division of acquired occupational pension entitlements in the event of divorce have long been heavily criticized; hence Parliament's amendments to the divorce law on 1 January 2017. Assets from occupational pension schemes will be split between spouses on a fairer basis from now on. The most important change is an extension of the division of pension assets to those cases in which the insured event of old age or disability has already occurred.

These amendments to the law have implications for the Rules of the SVE. The Board of Trustees has accordingly adopted various changes and additions. The **most important changes** are:

- Calculation of vested benefits upon retirement or disability during the divorce proceedings (paragraph a);
- Adjustments to the disability pension following the pension benefits settlement (paragraph b);
- Implications of dividing up the retirement pension (paragraph c);
- Method of transferring a life-long pension (paragraph d);
- Protecting current children's pensions (paragraph e);
- Preventing unjustified advantages (paragraph f).

a) Calculation of vested benefits upon retirement or disability during the divorce proceedings – Art. 31 par. 1 of the Rules

This provision governs the procedure and calculation of the vested benefits to be divided up in cases where the active insured retires or becomes disabled between the initiation of the divorce proceedings and the legally binding court ruling on the pension benefits settlement: the insured member receives a retirement or disability pension from the SVE from the date of retirement or disability; this is calculated on the basis of the undivided retirement assets, since a transfer for the settlement of pension benefits has not yet taken place. If, as part of the pension benefits settlement, a portion of this balance subsequently has to be transferred to the other spouse, the originally calculated retirement or disability pension is too high and the SVE has therefore paid too high a retirement or disability pension. This excess amount is now repaid to the SVE in that the vested benefit to be transferred is reduced and the retirement or disability pension is also reduced.

b) Adjustments to the disability pension following the pension benefits settlement – Art. 31 par. 2 and Art. 15 par. 9 of the Rules

In cases where pension assets of a disabled insured person are withdrawn upon divorce for the settlement of pension benefits, it would be unacceptable if the current disability pension were to remain at the same level as prior to the settlement of the pension benefits. The law thus provides for the possibility of adjusting the disability pension in line with the reduced retirement account balance and being curtailed accordingly. With this in mind, the new provisions in the Rules define the adjustment of the current disability pension and its calculation.

c) Implications of dividing up the retirement pension – Art. 31 par. 3 of the Rules

A division of the retirement pension upon divorce results in a permanent reduction in benefits for the affected insured member. For legal reasons, the insured member is not entitled to repay the transferred portion of his retirement pension. This legal situation is shown in the Rules for reasons of transparency.

d) Method of transferring a life-long pension – Art. 31 par. 4 and Art. 23 par. 5 of the Rules

If pension benefit entitlements in the form of a retirement pension are divided up in the event of divorce, the portion of the retirement pension awarded by the court is transferred to the entitled spouse. The new provisions of the Rules set out the details for this transfer. In particular, provision has been made for opting for a transfer in the form of a lump sum rather than the pension, given that – depending on the individual situation – it may be reasonable for spouses to receive a lump-sum transfer rather than a pension.

e) Protecting current children's pensions – Art. 14 par. 2 and Art. 16 par. 2 and Art. 19 par. 4 of the Rules

Division of the pension benefit entitlements of parents upon divorce does not have any implications for current children's pensions. Current children's pensions will continue to be paid at the same level. They do not need to be reduced, because they were already funded within the SVE prior to the division of the parents' pensions.

f) Prevention of unjustified advantages – Art. 24 par. 2 of the Rules

Where there is a benefits obligation on the part of multiple social insurers, the benefits will be coordinated. This means that pension funds may reduce their benefits to avoid excessive compensation of insured persons. If, in the event of a divorce, pension assets of a disabled insured whose current disability pension has been reduced due to overcompensation are withdrawn, the transferred pension assets will continue to be included in the overcompensation calculation in accordance with the new provision of the Rules. If they are not included, the divorced spouses would regularly receive greater benefits following divorce than would have been the case without a divorce. This would be unfair to other SVE insured members.

Other changes to the Rules

Other provisions were clarified and/or adjusted in the course of amending the Pension Rules. Most of the changes relate to legal requirements. The **most important changes** are:

- Clarification that an increase in the expected spouse's pension from 60% to 100% of the retirement pension paid is only possible on condition that the benefits paid at least correspond to the minimum statutory benefits. In addition, the spouse must in future agree to the spouse's 100% option, since to fund the higher spouse's pension the retirement pension must be calculated using a lower conversion rate (Art. 11 par. 2 [2] of the Rules);
- With the amendment of the Accident Insurance Act ("Unfallversicherungsgesetz; UVG") effective 1 January 2017, a reduction in the lifelong disability pension paid under the accident insurance scheme upon reaching normal retirement age was introduced. To avoid a situation where reductions in pensions under accident insurance schemes result in additional compensatory benefits under occupational pension schemes, the Federal Council issued corresponding coordination provisions, and these are being implemented by the SVE (Art. 24 par. 2 [5] of the Rules).

We will be pleased to answer any questions you may have regarding the amendments to the Rules. Feel free to call us (Martina Ingold, tel. 052 262 41 20; Peter Strassmann, tel. 052 262 41 05).

Kind regards
Sulzer Pension Plan (SVE)



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