

## Compulsory Explanatory Information from the Employer Concerning Possible Risks of Freeing Oneself from Having to Pay into a Compulsory Pension

According to the *Tarifvertrag Altersversorgung (ATV)* (collective pension agreement) for public sector employees, all employees covered by the ATV must have a company pension scheme. The pension is funded by premiums, paid both by the employer and the employee. The compulsory payment of the premiums ends with the termination of the employment contract.

You are only entitled to pension payments from this compulsory pension (VBLklassik) after a waiting period of 60 calendar months. Months counting towards the waiting period are months in which at least one day's earnings influence your compulsory pension (§ 6(1) ATV). All of an employee's pension schemes at additional pension scheme companies (employment contracts at different employers within the public sector) count towards the completion of the waiting period. Interruptions have no impact. If the waiting period has not been completed by the first of the month on which the employee is entitled to a full pension due to his/her age or because of a partial or fully reduced earning capacity, the premiums paid by the employer will be lapsed. The company pension scheme will then only be funded by the premiums paid previously by the employee.

In accordance with the law to implement the EU Mobility Directive, the compulsory contribution period for claims from a company insurance scheme was shortened from the previous five years to three years as of 1 January 2018.

Since 1 January 2018 employees who have paid into the compulsory pension (VBLklassik) are entitled to pension payments after making contributions for three years and therefore if the insured event occurs, they have a right to payment from the compulsory pension scheme even if the waiting period of 60 contribution months in accordance with the collective pension agreement has not been fulfilled.

Due to the shortening of the statutory contribution periods, it can now make sense to pay into a compulsory pension scheme if the employment contract lasts at least three years, instead of previously five years.

### Example:

A teaching and or research assistant starts his/her three-year fixed-term contract on 1 January 2018 and is to be employed until 31 December 2020. In accordance with the ATV, the employee shall have no right to pension payments from the compulsory pension scheme, as s/he has only contributed for 36 months.

### However:

The shortened statutory contribution period (three years) is fulfilled between 1 January 2018 and 31 December 2020, meaning the employee is entitled to payments from the compulsory pension.

If the employee decides to set up a voluntary pension scheme, the contributions made will consist of the costs for the employer for the compulsory pension scheme and the employee's premium for the compulsory pension of a total of 4 % of the determining gross pay.

However, employees with voluntary pension schemes may receive fewer entitlements than those with a compulsory pension:

- if your working capacity is reduced or you die during employment you will not earn any additional pension points
- the highest interest rate is lower than in the compulsory pension scheme
- certain social components of the compulsory pension scheme, e.g. added pensionable periods for parental leave are not included in the voluntary pension scheme.

The advantage of the voluntary pension scheme is that no waiting period has to be completed. You are entitled to the payment of your pension even without completing a waiting period. All of the contributions that have been made, even those from the employer, remain intact.

If, due to an extension of an initially fixed-term contract, an employee with a voluntary pension fulfils the waiting period or if, following termination of the initial fixed-term contract, at a later date there is a new employment contract in which payment into a pension scheme is compulsory, it is not possible to backdate a compulsory pension scheme (§ 2(2) Sentence 5 ATV), i.e. the voluntary pension scheme cannot be changed into a compulsory pension scheme. The contributions made to the voluntary pension scheme remain where they are. They will not have any effect on the compulsory pension, i.e. they cannot be counted towards the completion of the waiting period in the compulsory pension scheme.

**Example:**

Upon request, an employee with a fixed-term contract of four years is freed from having to pay into the compulsory pension scheme. At the end of those four years, his employment contract is extended for an unlimited period. From then on, contributions have to be paid into the compulsory pension scheme. The previous voluntary pension is turned into a non-contributory pension. If the employee is declared as having fully reduced earning capacity after 50 further months of work on the unlimited contract, he will receive the pension payments from the voluntary pension scheme based on the premiums paid by him and his employer over the four previous years. Due to the shortened statutory contribution periods, he is also entitled to pension payments from the compulsory pension scheme.

**Notes:**

If an employee with a voluntary pension scheme has his/her contract extended for an unlimited period and thus has to pay into a compulsory pension, he can still continue to pay into his voluntary pension as his own pension and in addition to the compulsory scheme.

If the employment contract is terminated after the fixed term has been completed, employees can only continue their voluntary pension scheme as their own pension if they have requested this within three months after the termination of the employment contract.

For further details, please contact the *Versorgungsanstalt des Bundes und der Länder* (VBL) per telephone on +49 (0) 721 93 98 93 5, per email: [kundenservice@vbl.de](mailto:kundenservice@vbl.de) or visit their website at [www.vbl.de](http://www.vbl.de)

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