

OASI 21: What impact will it have on the OPA?

(scheduled to enter into force on 1 January 2022)

In its meeting on 28 August 2019, the Federal Council adopted the dispatch concerning this reform known as OASI 21. The reform provides that pension levels should be maintained and sufficient funding for OASI would be secured until 2030.

Increase in regular retirement age for women to 65 (reference age)

The OASI 21 reform proposes harmonising the retirement age for men and women by increasing the retirement age for women to 65. The progressive increase will start one year after the revision of the OASI act comes into effect, specifically on 1 January 2023. From 1 January 2026 onwards, the reference age for women will be 65.

Impact on the OPA

Article 13 (1) OPA is amended and stipulates the same reference age as the reference age specified in Art. 21 (1) OASI act. Pension funds (hereinafter PFs) that provide more extensive pension coverage will be able to set a different statutory reference age.

Conclusions

Thus, in both Pillar 1 and Pillar 2, the reference age for women and men will be fixed at 65 once the reform has entered into effect. On the basis of preceding parliamentary discussions, some combined-pillar PFs have however already harmonised the statutory retirement age.

More flexible drawing of OASI pension

With the reform, it will be possible to draw all or part of the OASI retirement pension and the occupational pension between age 62 and 70. The option of bringing forward or deferring part of the retirement pension should also be enshrined in occupational pension provision. An insured person who remains in gainful employment after reaching the reference age can increase the amount of their OASI pension by making contributions after the reference age.

Impact on the OPA

- Pursuant to Article 13 (2) OPA (*amended*), insured persons may access their retirement benefits from age 62 or defer this until age 70 (upper threshold). It is up to PFs to set the conversion rate in its plan rules. Paragraph 3 of this provision additionally gives PFs the option of providing early retirement from age 58 in their plan rules (Art. 1i BVV2/OPP2).

- The objective of Article 13a OPA (*new*) is to make it possible to take gradual retirement by aligning OASI and occupational pension provision to the specific requirements of the modern working world. This would also protect PFs against an excessive fragmentation of withdrawals and the significant costs this would entail.

In addition, the insured person would be able to draw their retirement benefits in the form of a pension in up to three stages. PFs would be able to authorise a number of stages greater than three (Art. 13a (1) OPA). It should be noted that the level of employment before the first stage is not authoritative.

If the retirement benefit is drawn as a lump sum, the number of lump-sum withdrawals is limited to three. This provision also applies if the salary received from an employer is insured with various PFs (Article 13a (2) OPA) so as not to reduce progressive taxation. This limit is critical. The first partial withdrawal must amount to at least 20% of the retirement benefits. PFs can authorise a lower initial payment. The OPA does not specify a minimum share for cases where the insured person later increases the withdrawal of their retirement benefit (Article 13a (3) OPA). Furthermore, PFs can stipulate in their plan rules that, if an insured person has reduced their gainful employment to the extent that their salary falls below the statutory entry threshold and they thus can no longer be insured as an active member, the insured person must draw their remaining retirement benefits in their entirety (Article 13a (4) OPA).

- It should again be noted that the share of the retirement benefit drawn before the statutory reference age may not exceed that of the reduction in salary (Article 13b (1) OPA). The insured person may only access part or all of their retirement benefits before reaching the statutory reference age if the salary they are paid by the affiliated employer has effectively been reduced to the same extent. Finally, the reduction in salary must be permanent in nature.

PFs can stipulate in their plan rules that the total withdrawal benefit remains in the PF in the case of a reduction in salary after age 62. They can also propose to maintain the pension benefits at the level of the most recent insured salary as defined by Art. 33a OPA. If the retirement benefits are deferred, the tax benefits from a pension perspective can only benefit the insured person provided they continue to receive an income. Thus, the retirement benefit can only be deferred if the insured person remains in gainful employment.

Conclusions

This reform will make it possible to transition from working life to retirement in a more flexible manner while providing clear regulatory provisions concerning deferring and staggering retirement benefits. By limiting in the OPA the number of lump-sum withdrawals to three, tax practice will be furnished with the required legal base and will protect PFs against overuse of partial lump-sum withdrawals.

Finally, it should be noted that Articles 13 (2), 13a and 13b OPA apply to more extensive pension coverage (Article 49 (2.2) OPA).

Moreover, the following provisions of the OPA will be amended: Art. 17 (1), 2e ph, Art. 21 (1), Art. 37 (2) (and Art. 79b (2))

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