

# 360°Benefits | News

## Overview legislative developments and law reforms in the 2nd pillar from 2023

Various changes to the law came into force on 1 January 2023. At the same time, further revisions will come into force in the next few years, which will also have an impact on the 2nd pillar. There is currently a need for action, particularly with regard to the implementation of the AHV-reform and the revision of the Data Protection Act.

We would be happy to support you in implementing these changes. Please also feel free to contact us if you have any questions or suggestions. You can find an overview of our range of services and our legal team [here](#).

### Table of contents

<i>Changes effective from 1 January 2023</i> .....	2
1. Key figures BVG, inflation adjustment and minimum interest rate .....	2
2. Adoption leave .....	2
3. Inheritance law .....	2
4. Corporation law .....	3
<i>Changes after 1 January 2023</i> .....	4
1. Revision of the data protection law .....	4
2. Stabilisation of the AHV (AHV 21) .....	4
3. Reform of occupational benefits law (BVG 21) .....	5
4. Modernisation of supervision in the 1st pillar and optimisation in the 2nd pillar .....	5
5. Further developments .....	5

## Changes effective from 1 January 2023

### 1. Key figures BVG, inflation adjustment and minimum interest rate<sup>1</sup>

The BVG key figures were adjusted as of 1 January 2023, as the minimum AHV retirement pension for 2023 was increased slightly. The details of the key figures can be found [here](#).

The minimum interest rate in the occupational benefit scheme will remain at 1% in 2023.

The survivors' and disability pensions under the BVG mandatory scheme that have applied since 2019 will be adjusted due to inflation for the first time. The adjustment rate is 3.4%. Furthermore, pensions in payment since 2011 will be increased by 3.0% and pensions in payment since 2008 by 2.8%. All BVG mandatory pensions in payment since 1985 will also be adjusted as of 1 January 2023. You can find the respective adjustment rates [here](#).

Pensions that exceed the BVG mandatory level are adjusted in accordance with Art. 36 BVG in line with the financial situation of the pension funds. The Board of Trustees of the pension fund decides annually whether and to what extent pensions are adjusted.

**Note:** An inflation adjustment in over-mandatory pension funds is not required as long as the BVG minimum benefits are paid. Nevertheless, adjustments should be considered within the framework of the financial possibilities of the pension fund.

### 2. Adoption leave

As of 1 January 2023, a two-week adoption leave financed by the EO was introduced under certain conditions for employed parents who adopt a child under the age of four. The leave can be taken within one year after the adoption and can be divided between the eligible parents, but not taken at the same time.

**Note:** Pension funds must ensure that the previous coordinated salary remains valid during the adoption leave (Art. 8 para. 3 BVG). Depending on the situation, the plan rules must be adapted.

### 3. Inheritance law

The new inheritance law came into force on 1 January 2023. In this regard, new regulations on pillar 3a foundations have been implemented. In particular, Art. 82 BVG now regulates the recognised pension forms of pillar 3a and explicitly states a direct right of claim of the beneficiary against the pillar 3a foundations.<sup>2</sup>

**Note:** The revision of inheritance law has no influence on the 2nd pillar. As before, occupational pension benefits are not included in the estate.

<sup>1</sup> In this context, it should also be mentioned that the solidarity contribution levied on high wage components to relieve the burden on unemployment insurance will cease. This will relieve the burden on companies. You can find more details [here](#).

<sup>2</sup> In this regard, we refer to our [article](#) in the 360° Benefits I Magazine of November 2021.

## 4. Corporation law

The VegüV<sup>1</sup> was transferred to the federal laws as of 1 January 2023. The voting and disclosure obligations of pension funds are now regulated in Art. 71a and 71b BVG. Materially, the previous regulations were largely adopted. The intentional violation of the voting or disclosure obligation is punishable (fine of up to 180 daily rates, Art. 76 para. 1 lit. h BVG).

The foundation board must now annually report to the supervisory authority the total amount of remuneration paid to the foundation board and the management. Further information on the reform of corporation law and its relevance for pension funds can be found [here](#).

**Note:** The foundation board must now disclose the total remuneration of the foundation board and the management to the supervisory authority. This must be done first time for the 2023 business year. It is recommended that this information is disclosed separately and not published in the annex to the annual financial statements.

As a result of the changes regarding voting and disclosure obligations, adjustments to the investment rules may be necessary.

---

<sup>1</sup> Ordinance against excessive compensation in listed companies.

## Changes after 1 January 2023

### 1. Revision of the data protection law

On 31 August 2022, the Federal Council decided that the new Data Protection Act (DSG) and the new Data Protection Ordinance (DSV) as well as the new Ordinance on Data Protection Certifications (VDSZ) will enter into force on 1 September 2023.

For pension funds this means that they must adapt their processes and documentation (e.g., establishing a directory of data processing activities, adapting contracts, introducing data protection declarations and processes for notifications in the event of data protection violations and requests for information) in accordance with the DSG regulations.

Pension funds that (also) carry out the compulsory scheme are considered federal bodies within the meaning of data protection law and must fulfil correspondingly more extensive obligations (e.g., submitting the directory of processing activities to the Federal Data Protection commissioner (EDÖB), appointing a data protection advisor).

**Note:** As all companies in Switzerland, pension funds are also affected by the revision of the data protection law. They have to implement the new data protection regulations by 1 September 2023 and thereafter constantly monitor compliance with data protection. We are already involved in several implementation projects and would be happy to support you with a pragmatic implementation of these requirements, depending on your specific needs.

### 2. Stabilisation of the AHV (AHV 21)

The AHV reform (as well as the additional financing of the AHV through an increase in VAT) was approved by the population and the cantons on 25 September 2022 and will come into force on 1 January 2024. The reform essentially contains an increase in the retirement age for women in four steps from 64 to 65, which will be offset with compensation measures for nine transitional years. In addition, the reform makes retirement more flexible and creates new incentives to continue working after the age of 65.

**Note:** The AHV reform also has an impact on occupational pension schemes. The most important changes in the 2nd pillar are:

- Increase in the reference age for women to 65 in 4 steps
- More options for flexible retirement; (partial) early withdrawal/deferral of retirement benefits
- Improved benefits as a result of deferral of retirement have an impact on survivors' benefits

Pension funds must ensure that their plan rules are adapted to the new provisions by the time they come into force. The pension funds have a certain amount of discretion in this regard.

For further details, please refer to our [360°Benefits | News of 26. September 2022](#) AHV 21 – Reform and impacts on occupational pension schemes.

### 3. Reform of occupational benefits law (BVG 21)

This law reform was first discussed in the National Council and the Council of States in 2021. The reform will be discussed again in the National Council in the spring session of 2023. Important goals are to secure the pension level, to strengthen the financing and to improve the coverage of part-time employees.

The main controversial points are the compensation measures in connection with the reduction of the conversion rate in the mandatory system to 6% and the insurance of part-time and multi-employed persons (determination of the entry threshold and coordination offset).

**Note:** The outcome of this reform is open and is still highly discussed in public and in the media. We are following the legislative process and will inform you accordingly.

### 4. Modernisation of supervision in the 1st pillar and optimisation in the 2nd pillar

Parliament passed the modernisation of supervision in the 1st pillar and optimisation in the 2nd pillar in June 2022. Among other things, the bill contains provisions on the takeover of pensioner populations. It is foreseen that the occupational pension expert confirms that there is sufficient funding of the pension obligations. The supervisory authority has to check whether the requirements are met and has to approve the takeover before it is executed. Pensioner populations and pensioner-heavy populations can only be transferred if the corresponding obligations are sufficiently financed. The entry into force of this legal reform is still open; it is currently expected to come into force on 1 January 2024.

**Note:** This law reform will also result in adjustments to the ordinances. We are monitoring the status of the ordinance adjustments and will continue to inform you about this legislative reform.

In particular, the issue of the transfer of pensioner portfolios will continue to give rise to discussions.

### 5. Further developments

There are currently no other significant developments with regard to further legislative revisions and parliamentary motions. We will stay close to developments for you and keep you informed in a timely manner.

**Carmela Wyler-Schmelzer**

Senior Legal Consultant

[carmela.wyler-schmelzer@wtwco.com](mailto:carmela.wyler-schmelzer@wtwco.com)

+41 43 488 44 73

**Estelle Caveng**

Legal Consultant

[estelle.caveng@wtwco.com](mailto:estelle.caveng@wtwco.com)

+41 43 488 44 72

Zürich, February 2023

This publication is intended for information purposes and does not comprehensively cover the topics dealt with. It is not intended to be a substitute for advice.