

## Employment during Retirement – New “Flexi-Pension”

Pia Pracht

Cologne, 22.12.2016

On 21 October 2016, the Bundestag adopted legislation intended to make the transition from employment to retirement more flexible (Flexi-Pension Act (*Flexirentengesetz*)), part of which will take effect on 1 January and part on 1 July 2017.

### Previous legal situation

Three possible constellations are generally involved when employees continue to work while retired: employment after premature retirement, employment after retirement at the normal age of retirement and late retirement. In the case of premature retirement, retirees have up to now been allowed to earn an additional € 450 per month. Any earnings in excess of that amount result in a gradual reduction of pension benefits. On the other hand, there is no limit to the amount employees who retire at the normal age can earn. In addition, employees who retire at normal retirement age and continue to work while receiving pension benefits no longer have to pay the employee contributions to unemployment and retirement insurance; their employers do, however, continue to pay the normal employer share, but this does not entail any increase in retirement benefits. The reason why employers have to continue to pay into the system in such cases is based on governmental labor policy; the government wants to avoid making it more economical for employers to hire pensioners instead of younger employees. Employees who continue to work after retirement also have the possibility of postponing payment of their pensions. In those cases, further payment into the system results in an increase in retirement benefits of 0.5 percent per month. In such cases, employees are also released from the obligation to contribute to the unemployment insurance system.

### “Flexi-Pension” legislation

The Flexi-Pension Act also simplifies the rules governing additional income. As of 1 July 2017, retirees who draw pension benefits before reaching official retirement age will be allowed to earn up to € 6,300 per year without deductions, while 40 percent of anything in excess of that amount will be deducted from their pensions. Where the additional earnings and the reduced pension still add up to an amount in excess of a retiree’s previous income, these excess earnings will be deducted in full from any remaining pension benefits which are still due after deduction of the aforementioned 40 percent.

Pensions of employees who retire before they reach official retirement age are to be reduced by 0.3 percent for each month prior to official retirement age. However, retirees can compensate for (part of) this reduction by making a special payment into the system. As of 1 July 2017, the Flexi-Pension Act will enable employees to retire at the age of 50 (previously at the age of 55 years) by making such compensatory payments.

As of 1 January 2017, employees who receive pension benefits while still employed will have the option of continuing to pay into the retirement insurance system once they reach official retirement age by notifying their employees accordingly. Payment of such contributions by the employee and those of the employer will result in an annual increase in retirement benefits. In such cases, employers will also no longer contribute to the unemployment insurance system.

### Conclusions

Employers will be encouraged to employ retirees since they will no longer have to pay the employer contributions to the unemployment insurance system. At the

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same time, the possibility of being able to obtain higher retirement benefits will also encourage older employees to continue to work and continue to pay into the retire

ment insurance system after they reach official retirement age. It remains to be seen, however, whether the new "Flexi-Pension" will actually have the desired effect.

## Note

This overview is solely intended for general information purposes and may not replace legal advice on individual cases. Please contact the respective person in charge with GÖRG or respectively the author Pia Pracht on +49 221 33660-524 or by email to ppracht@goerg.de. For further information about the author visit our website [www.goerg.com](http://www.goerg.com).

## Our offices

GÖRG Partnerschaft von Rechtsanwälten mbB

### BERLIN

Klingelhöferstraße 5, 10785 Berlin  
Phone +49 30 884503-0, Fax +49 30 882715-0

### COLOGNE

Kennedyplatz 2, 50679 Köln  
Phone +49 221 33660-0, Fax +49 221 33660-80

### ESSEN

Alfredstraße 220, 45131 Essen  
Phone +49 201 38444-0, Fax +49 201 38444-20

### FRANKFURT AM MAIN

Neue Mainzer Straße 69 – 75, 60311 Frankfurt am Main  
Phone +49 69 170000-17, Fax +49 69 170000-27

### HAMBURG

Dammtorstraße 12, 20354 Hamburg  
Phone +49 40 500360-0, Fax +49 40 500360-99

### MUNICH

Prinzregentenstraße 22, 80538 München  
Phone +49 89 3090667-0, Fax +49 89 3090667-90