1. The provision in Section 2 (2) of the ATV has the following wording:

(2)¹ Employees pursuing scientific activities at institutions of higher education or research, who are employed on a fixed-term basis, such that, due to the duration of the fixed-term employment, they cannot fulfil the qualifying period pursuant to Section 6 (1) and who have not previously had compulsory insurance periods in the supplementary pension scheme, shall be exempt from compulsory insurance at their request in writing.

² The application must be made within two months of the commencement of the employment relationship.

³ Employees exempt from compulsory insurance in accordance with Clause 1 shall be granted pension entitlements to voluntary insurance (corresponding to Section 26 (3) clause 1) with contributions in the amount of 4% of the remuneration subject to supplementary benefits. ⁴ If the employment relationship in the sense of Clause 1 is extended or continued, compulsory insurance in lieu of voluntary insurance shall commence on the first day of the month in which the extension or continuation of the employment relationship beyond a period of five years was agreed. ⁵ Retrospective compulsory insurance from the commencement of the employment relationship shall be excluded.

2. Exemption from compulsory insurance is possible under the following conditions:

a) The employment relationship must be of fixed term and, due to the fixed term, the qualifying period of 60 months must not be fulfilled.

b) You must make the application within two months of the commencement of the employment relationship. The relevant date is the date of receipt by your employer or the LBV (Landesamt für Besoldung und Versorgung). If the application is received after the above deadline, an exemption can no longer be granted.

c) You must be engaged in a scientific activity. Scientific activities are scientific or artistic services provided by scientific or artistic personnel at institutes of higher education in accordance with Section 42 of the Hochschulrahmengesetz (German Framework Act for Higher Education – HRG). This means higher education lecturers, research assistants and teaching staff with special assignments. The determining factor for NRW is whether the activity is covered by the 5th part of the Hochschulgesetz NRW (NRW Higher Education Act – HG NRW (Sections 45-61)) or by the corresponding provisions of the Kunsthochschulgesetz (Universities and Colleges of Art Act – KHG). The prerequisite for scientific activity is normally a college or university degree.

d) The scientific activity must be carried out at an institute of higher education or research. Institutes of higher education are universities, universities of education, universities and colleges of art, universities of applied sciences and other educational institutions that are state institutions of higher education under state law.

e) You must hitherto have had no compulsory insurance periods with a civil service supplementary benefit provider.

f) The prerequisites for compulsory insurance must, in principle, have been met (to be verified by the LBV).

3. During (exempt) employment, entitlements to pension benefits are accrued from voluntary insurance.

The employer is obliged to pay contributions on your behalf, amounting to 4% of the remuneration subject to supplementary benefit, into a funded voluntary insurance policy as part of the occupational pension scheme under the VBL. The employer continues to pay contributions during maternity periods.
If the remuneration subject to supplementary benefit exceeds a maximum amount according to Section 39 (1) ATV, further contributions to the voluntary insurance policy are paid to the amount of 8 % of the remuneration exceeding the maximum amount.

In accordance to Section 3 No. 63 Einkommenssteuergesetz (German Income Tax Act – EstG), these contributions are tax-free up to the annual amount of 4 % of the social security contribution ceiling in the pension scheme. Any contributions made beyond this amount are deemed taxable remuneration and will be taxed according to your individual type of taxpayer. The contribution payments may give rise to an entitlement to an occupational pension from the VBL in the event of retirement. Furthermore, you have the option of taking out an individual voluntary insurance with the VBL and topping up the above mentioned employer contribution with payments of your own.

You can obtain information about voluntary insurance directly from

VBL
Freiwillige Versicherung
76128 Karlsruhe

Telephone 0721 93 98 93 5
Fax 0721 155 1355
E-Mail kundenservice@vbl.de
Internet www.vbl.de

4. Exemption from compulsory insurance may give rise to disadvantages in the event of subsequent compulsory insurance:

In order to receive a benefit from compulsory insurance, it is necessary to complete a qualifying period of 60 months of compulsory insurance premium/contribution payments. However, the period of voluntary insurance may count towards the qualifying period. The prerequisites of legal vested benefits must have been met.

According to Section 1b (3) in connection with Section 1b (1) Gesetz zur Verbesserung der betrieblichen Altersversorgung (Act to Improve Occupational Pensions – BetrAVG), legal vested benefits apply if the employment relationship ends before the occurrence of the insured event and if the pension commitment (the employment relationship) had been made at least 5 years before the occurrence. In case of pension commitments made after January 01, 2009, the employee must be at least 25 years old upon termination of employment. In case of pension commitments made before January 01, 2009, and after December 31, 2000, the employee must be at least 30 years old upon termination of employment. Transitional provisions apply for pension commitments made before January 01, 2001 (Section 30f (1) BetrAVG). The prerequisites for vested benefits may apply even if the employee was in an employment relationship at the time the insured event occurred.

5. Despite a valid exemption, compulsory insurance may come into effect at a subsequent point in time.

If an employment relationship is exceeded or continued beyond five years, compulsory insurance, rather than voluntary insurance, commences on the first day of the month in which the extension or continuation of the employment relationship was agreed. This ends the employer’s obligation to pay contributions into the voluntary insurance; in other respects, the voluntary insurance scheme continues to exist.

Example:
An employee is appointed on a fixed-term basis for four years on February 01, 2013. According to the contract of employment, the employment relationship is due to end on January 31, 2017. On January 10, 2017, the parties to the contract of employment agree to continue the employment relationship for an unlimited period; compulsory insurance therefore commences on January 01, 2017. According to Paragraph 2 clause 5, retrospective compulsory insurance from commencement of employment onwards is excluded. This means that, in the example above, compulsory insurance cannot apply to the period before January 01, 2017.